

# IDAPA 02 – IDAHO STATE DEPARTMENT OF AGRICULTURE

## 02.02.12 – BONDED WAREHOUSE RULES

### DOCKET NO. 02-0212-2401 (ZBR CHAPTER REWRITE)

#### NOTICE OF RULEMAKING – PROPOSED RULE

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 69-231, Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 16, 2024.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

**DESCRIPTIVE SUMMARY:** The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

This rule is being presented for authorization as part of the ISDA’s plan to review each rule every 5 years. Redundant language that is verbatim in statute has been removed, consistent with the Governor’s [Zero-Based Regulation Executive Order](#).

The rule was reviewed over the course of two negotiated rulemaking meetings, and that review benefited from the participation of program stakeholders. No negative comments were submitted as part of this rulemaking process.

This rule clarifies the procedure for licensing and monitoring warehouses in the state of Idaho, maintaining electronic records, and remedies of the Department for non-compliance.

**FEE SUMMARY:** The following is a specific description of the fee or charge imposed or increased: There is no change in fee or charge.

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state General Fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking:

There is no fiscal impact on the state General Fund greater than ten thousand dollars (\$10,000).

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the July 3, 2024 Idaho Administrative Bulletin, [Volume 24-7, Pages 18 and 19](#).

**INCORPORATION BY REFERENCE:** Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule:

There are no documents incorporated by reference.

**IDAHO CODE SECTION 22-101A STATEMENT:** Pursuant to 22-101A(1), for any rule promulgated or adopted by the director which is broader in scope or more stringent than federal law or regulations, or which regulates an activity not regulated by the federal government, the director shall identify the portions of the adopted rule that are broader in scope or more stringent than federal law or rules, or which regulate an activity not regulated by the federal government. The following sections of the rule are broader in scope, more stringent than federal law or regulations, or regulate an activity not regulated by the federal government:

The federal government does not regulate state licensed warehouses. This activity is defined in Idaho Code.

The detailed 22-101A analysis can be found on the agency’s website at [www.agri.idaho.gov](http://www.agri.idaho.gov).

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Lloyd Knight at [lloyd.knight@isda.idaho.gov](mailto:lloyd.knight@isda.idaho.gov).

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 23, 2024.

DATED this 2nd day of October, 2024.

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**THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 02-0212-2401**  
**(ZBR Chapter Rewrite)**

**02.02.12 – BONDED WAREHOUSE RULES**

**000. LEGAL AUTHORITY.**

~~This chapter is adopted under the legal authority of~~ Section 69-231, Idaho Code. (3-15-22)(    )

**001. ~~TITLE AND SCOPE.~~**

**01. ~~Title.~~** The title of this chapter is IDAPA 02.02.12, “Bonded Warehouse Rules.” (3-15-22)

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

**002. -- 009. (RESERVED)**

**010. DEFINITIONS.**

The definitions set forth in Section 69-202, Idaho Code, and the following apply: (3-15-22)

**01. Cash Sale.** Payment to the producer by the warehouse or dealer contemporaneously with the transfer of commodity to the warehouse or dealer. (3-15-22)

**02. Commodity Indemnity Fund (CIF).** Commodity Indemnity Fund is a trust fund. (3-15-22)

**03. Credit-Sale Contract.** An agreement in writing containing the provisions of Section 69-249, 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. (3-15-22)

**04. Dealer.** Is limited to dealers licensed by the state of Idaho. (3-15-22)

**05. Deposit for Service.** Deposit of a commodity by a person for cleaning, processing, reconditioning or the rendering of other similar services by a warehouse, but does not include either a cash sale, credit-sale, or open

storage. (3-15-22)

**06. NPE.** (No price established contract) A contract containing no readily calculable sale value of the commodity for the producer. (3-15-22)

**07. Open Storage.** The deposit of commodity by the producer for a period of time with the subsequent disposition of the same commodity or a fungible commodity as agreed to by the parties. (3-15-22)

**08. Warehouse.** Is limited to warehouses licensed by the state of Idaho. (3-15-22)

**011. (RESERVED)**

**012. LICENSING.**

**01. Posting of License.** Immediately upon receipt of the license or any renewal, extension or modification thereof under Title 69, Chapter 2, Idaho Code, the licensed warehouseman shall post the license in a conspicuous place in each place of business or in any other place as the Director may determine. The Department will issue a duplicate license for each additional facility as needed. (3-15-22)

**02. Return of Suspended or Terminated License.** If a license issued to a warehouseman has lapsed or is suspended, revoked or canceled by the Director, the license shall be returned to the Department. (3-15-22)

**03. Suspension Due to Neglect.** If, through inspection or other information, it is revealed or indicated that the commodities in storage are deteriorating due to the warehouseman's or operator's neglect, the license may be suspended until the matter has been corrected to the satisfaction of the Director. (3-15-22)

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

**05. Sign to Be Posted.** Each licensed warehouseman shall maintain suitable signs on the licensed property in such manner as will give ample public notice of his tenancy. These signs shall be painted on the warehouse or elevator in letters not less than six (6) inches in height and contain the following words: "State No. \_\_\_\_." The number of each warehouse will be assigned by the Director. (3-15-22)

**06. Bins Labeled.** All storage areas licensed for the storage of agricultural commodities shall be numbered and have a diagram of the storage areas kept in the office showing the exact dimensions and the maximum capacity of the storage area. (3-15-22)

**07. Insurance Calculations.** The director may approve a request to reduce the insurance calculation for a facility provided the request is in writing and evidence is supplied that all agricultural commodities that are stored at any given point in time are insured pursuant to Title 69, Chapter 2, Idaho Code. (3-15-22)

**013. -- 049. (RESERVED)**

**050. RECEIPTING.**

**01. Every Warehouseman.** Every warehouseman shall issue a negotiable warehouse receipt when requested to do so by the depositor. All storage and handling charges are due and payable on or before July 1 following the date of the issuance of the receipt, or as agreed upon by the parties. (3-15-22)

**02. Form of Nonnegotiable Warehouse Receipts.** Nonnegotiable warehouse receipts that contain the essential terms for warehouse receipts as set forth in Section 28-7-202, Idaho Code, and Section 69-223, Idaho Code, are deemed sufficient for all purposes. Copies of all nonnegotiable warehouse receipts shall be kept as permanent records by the warehouseman issuing them. (3-15-22)

~~**03. Lost Negotiable Warehouse Receipt.** To cancel an outstanding warehouse receipt or issue a new~~

~~warehouse receipt supplementing one that has been lost or destroyed, the licensed warehouseman shall require the depositor or other applicant to submit to the warehouseman:~~ (3-15-22)

~~a. An affidavit showing that he is lawfully entitled to the possession of the original receipt, that he has not negotiated or assigned it and how the original receipt was lost or destroyed; and~~ (3-15-22)

~~b. A bond in the amount double the market value of the agricultural commodity represented by the lost or destroyed receipt. The market value shall be determined at the time this bond is submitted for the lost receipt. A duplicate warehouse receipt shall clearly state that it is a duplicate receipt, the number of the receipt the duplicate is replacing, and the license number under which the original receipt was issued.~~ (3-15-22)

**043. Electronic Warehouse Receipts.** ~~An electronic version of a warehouse receipt generated by a provider licensed and approved by the United States Department of Agriculture (USDA) that contains the same information as the paper version of a warehouse receipt may be issued instead of a paper document. The electronic version of a warehouse receipt carries the same rights and obligations as the paper version. At no time may a paper receipt and an electronic receipt represent the same lot of commodity. Electronic warehouse receipts shall be numbered and issued consecutively starting with the number specified to the provider by the department.~~ (3-15-22)( )

**054. Agreements.** Prior to entering into an agreement with an electronic warehouse receipt provider to issue such receipts, a warehouse licensee must provide a copy of the proposed agreement to the department for review and approval. A warehouse operator shall not issue electronic negotiable warehouse receipts until and unless the department approves its agreement with an electronic warehouse receipt provider and notifies the licensee of such approval. A provider shall be independent of any outside influence or bias in action or appearance. In order to be approved by the department, an electronic warehouse receipt provider agreement shall: (3-15-22)

a. Only be with a provider that is first approved as an electronic warehouse receipt provider by the USDA pursuant to the provisions of 7 CFR Part 735. Upon department request, a provider shall provide a copy of the provider's executed USDA Form WA-460 and any addenda, and any other documentation requested by the department to confirm that the provider is a USDA-approved provider in good standing. (3-15-22)

b. Provide for the department to become a joint holder on all open electronic negotiable warehouse receipts if the issuing warehouse operator's license is relinquished or revoked. (3-15-22)

c. ~~Require the p~~Provider to provide security as required by its provider agreement with the USDA regarding on-site security, data authorization, security plans, and facility vulnerability. (3-15-22)( )

d. ~~Prohibit the provider~~Refrain from deleting or altering any electronic negotiable warehouse receipts in the centralized filing system unless such actions are authorized by the department. (3-15-22)( )

e. Allow the department unrestricted access to the central filing system for electronic warehouse receipts issued on behalf of warehouse operators licensed by the department. The electronic warehouse receipt data shall be maintained for six (6) years after cancellation of the receipts. Access shall be free of charge and made available in a manner that allows interaction with department warehouse examinations. (3-15-22)

f. ~~Require the provider, w~~When a warehouse operator changes provider, to supply the new provider and the warehouse operator with a complete list of all the current holders of open electronic negotiable commodity warehouse receipts prior to the intended transfer date. (3-15-22)( )

**065. Change in Provider.** A warehouse operator shall issue electronic warehouse receipts through only one (1) approved provider at a time. (3-15-22)

a. A warehouse operator may change providers only once a year unless otherwise approved by the department. (3-15-22)

b. A warehouse operator shall notify the department of the exact date of the proposed transfer thirty (30) calendar days prior to the intended date of any transfer to a new provider. The operator must also, thirty (30)

days prior to the intended transfer date, send notices of the change to the holders of all open electronic negotiable warehouse receipts specifying the date and time period during which access to receipts will not be available. (3-15-22)

**051. -- 079. (RESERVED)**

**080. FORWARDING AGRICULTURAL COMMODITIES.**

Warehouses licensed under Title 69, Chapter 2, Idaho Code, receiving agricultural commodities for shipment to terminals or to other warehouses for storage or processing within the state or outside the state shall have in their possession a statement authorizing the shipment of agricultural commodities to another location for storage or processing that is signed by the owner or producer of the agricultural commodity. The receiving warehouse shall be a state or federally licensed and bonded warehouse or have a Commodity Credit Corporation storage agreement. When requested to do so by an Idaho Warehouse Examiner, the shipping warehouse shall promptly procure from the terminal or storage warehouse a statement or negotiable warehouse receipt on a form approved by the director describing the quantity, class and grade of all agricultural commodities so shipped and in storage. The shipping warehouse shall have such forms promptly forwarded and returned to the Idaho Department of Agriculture, Bureau of Warehouse Control, within fifteen (15) days of issuance. (3-15-22)

**081. -- 099. (RESERVED)**

**100. OFFICE RECORDS.**

A warehouseman shall maintain complete and sufficient records to show all deposits, purchases, sales contracts, storage obligations and loadouts of the warehouse in this state that are subject to Department inspection during normal business hours. Office records as set forth in Title 69, Chapter 2, Idaho Code, include, but not limited to, the following: (3-15-22)

**01. Daily Position Record.** This 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. (3-15-22)

**02. Storage Ledger.** This shows the name and address of the depositor, the date purchased, the terms of the sale, and the quality and quantity of the agricultural commodity purchased by the warehouseman. When applicable, the storage ledger shall also show the tare, grade, size, net weight, and unsold amount of agricultural commodities. (3-15-22)

**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. (3-15-22)

**04. Receipts and Tickets.** Receipts and tickets in the warehouseman's possession that have not been issued. (3-15-22)

**05. Receipts and Tickets Issued by the Warehouseman.** Receipts and tickets issued by the warehouseman. (3-15-22)

**06. Receipts and Tickets Returned and Cancelled.** Receipts and tickets returned to and cancelled by the warehouseman. (3-15-22)

**07. Insurance Documentation.** (3-15-22)

**08. Electronic Records.** If any electronic records are maintained outside of the state of Idaho, the Department is entitled to examine them at any reasonable time and place as determined by the Department. (3-15-22)

**101. -- 129. (RESERVED)**

**130. LICENSE APPLICATION AND CONDITIONS OF ISSUANCE.**

**01. License Application.** Application for a license to operate a warehouse under the provisions of Title 69, Chapter 2, Idaho Code, shall be on a form prescribed by the Department and include: (3-15-22)

**a.** The full name of the person applying for the license and whether the applicant is an individual, partnership, association, corporation or other entity. (3-15-22)

**b.** The full name of each member of the firm or partnership, or the names of the officers and directors of the company or limited liability company, association, or corporation. (3-15-22)

**c.** The address of the principal place of business. (3-15-22)

**d.** Information relating to any judgments against the applicants. (3-15-22)

**e.** The location of each warehouse the applicant intends to operate and the commodities expected to be stored. (3-15-22)

**f.** A current financial statement as specified by Section 69-206, Idaho Code. (3-15-22)

**g.** A sketch or drawing as specified in Section 69-206, Idaho Code. (3-15-22)

**h.** A bond as required by Section 69-208, Idaho Code. (3-15-22)

**i.** Proof of insurance as required by Section 69-206, Idaho Code. (3-15-22)

**j.** The license fee as prescribed by Section 69-211, Idaho Code. (3-15-22)

**k.** Any other reasonable information the Department finds necessary to carry out the purpose and provisions of Title 69, Chapter 2, Idaho Code. (3-15-22)

**02. Modification.** If a licensee wishes to add additional capacity to an existing license, the Director may modify the license if all requirements of Section 69-206, Idaho Code, are met. (3-15-22)

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

~~**01. Bonding Requirement.** The amount of bond to be furnished shall be fixed at a rate pursuant to Section 69-208A, Idaho Code. (3-15-22)~~

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

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

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

**132. -- 149. (RESERVED)**

**150. WAREHOUSES TO BE KEPT CLEAN.**

Each warehouseman is required to use such precautions and surveillance as is necessary to provide for the safe and adequate storage of all commodities stored in his warehouse and to prevent these commodities from being

contaminated in any way from chemicals, pesticides, fertilizers, adulterated seeds, animals, birds or any such thing as may contaminate or reduce the quality of stored goods. (3-15-22)

**151. -- 179. (RESERVED)**

**180. WAREHOUSEMAN RESPONSIBILITIES.**

**01. Warehouse Receipts -- Quality.** A warehouseman licensed under Title 69, Chapter 2, Idaho Code, shall maintain in the facility of issuance of any negotiable warehouse receipt, for as long as the receipt is outstanding and has not been canceled, like variety, quantity, and quality of the agricultural commodity stated on the receipt. No warehouseman shall remove, deliver, direct or permit any person to remove or deliver any agricultural commodity from any warehouse for which warehouse receipts have been issued and are outstanding, without receiving and canceling the warehouse receipt that was issued for the commodity, except if the Director determines an emergency storage situation exists. A warehouseman may then forward agricultural commodities to other licensed warehouses for storage without canceling the outstanding warehouse receipt, provided the following conditions are met: (3-15-22)

**a.** The warehouseman obtains written approval from the Department prior to forwarding agricultural commodities. (3-15-22)

**b.** The warehouseman provides written guidelines to the Department establishing how he will be back in position within the time limits set and granted by the Department. (3-15-22)

**c.** The warehouseman maintains and makes available to the Department records of positions concerning the forwarding of agricultural commodities. (3-15-22)

**d.** The receiving warehouse is a state or federally licensed and bonded warehouse or have a Commodity Credit Corporation storage agreement. (3-15-22)

**e.** The shipping warehouse has in its possession a statement signed by the bearer of the warehouse receipt authorizing the shipment of agricultural commodities represented by such receipt to another location for storage. (3-15-22)

**f.** When requested to do so by the Department, the shipping warehouseman shall promptly procure from the receiving warehouseman a statement describing the quantity, class and grade of all agricultural commodities so shipped and in storage on a form approved by the Director. The shipping warehouseman shall have such forms promptly forwarded to the receiving warehouseman for verification of quantity, class and grade of agricultural commodities forwarded and return the verification to the Department within fifteen (15) days of issuance. Failure to provide this statement to the Department in the above specified time, will result in a short position for the warehouseman with penalties as prescribed by law. (3-15-22)

**02. Rights and Duties of Licensees -- Unlawful Practices.** It is unlawful for a warehouseman to: (3-15-22)

**a.** Issue a warehouse receipt in excess of the amount of the agricultural commodity held in the licensee's warehouse to cover such receipt. (3-15-22)

**b.** Sell, encumber, ship, transfer, remove or permit to be sold encumbered, shipped, transferred or removed from a warehouse any agricultural commodity received by him for deposit, shipment or handling for which scale weight tickets have been issued without the written approval of the holder of the scale weight ticket and such transfer shall be shown on the individual depositor's account and the inventory records of the warehouseman. (3-15-22)

**e.** ~~Remove or permit any person to remove any agricultural commodity from a warehouse when the amount of any fairly representative grade or class of an agricultural commodity in the warehouses of such licensee is reduced below the amount for which a warehouse receipt or scale weight ticket for the particular agricultural commodity is outstanding, except as provided for in Section 69-223(2), Idaho Code, and Rule 180.01.~~ (3-15-22)

**dc.** Issue a warehouse receipt or scale weight ticket that exceeds the amount of agricultural commodities delivered for storage. (3-15-22)

**ed.** Issue a warehouse receipt showing a grade or description different from the grade or description of the agricultural commodities delivered and for which such warehouse receipt is issued. (3-15-22)

**fe.** Fail to deliver agricultural commodities as required by Section 28-7-402, Idaho Code. (3-15-22)

**gf.** Knowingly accept for storage any agricultural commodity destined for human consumption that has been contaminated, if such agricultural commodities are commingled with any uncontaminated agricultural commodity. (3-15-22)

**hg.** Terminate storage of an agricultural commodity in the warehouse without giving reasonable notice to the depositor as provided in Section 28-7-206, Idaho Code. (3-15-22)

**ih.** Alter, falsify, or withhold records from the warehouse examiner. (3-15-22)

**181. -- 199. (RESERVED)**

**200. INSURANCE SETTLEMENT.**

When the commodities within a licensed warehouse have been damaged or destroyed, the warehouseman shall make complete settlement to all depositors having agricultural commodities stored in the warehouse within ten (10) days after a settlement with the insurance company. Failure of the warehouseman to make such settlement is grounds for revocation of the license. However, such settlement need not be made within the ten (10) days period if the warehouseman and the depositor agree to other terms. In the case of commingled agricultural commodities where only a portion is damaged, settlement may be made on a pro rata basis to the owners of all agricultural commodities stored within the warehouse. (3-15-22)

**201. -- 229. (RESERVED)**

**230. AGRICULTURAL COMMODITIES -- WAREHOUSE OBLIGATIONS.**

Any agricultural commodity deposited for storage that is not sold by contract or otherwise, as shown by documentation, is open storage and shall be considered a warehouse obligation. (3-15-22)

**231. -- 299. (RESERVED)**

**300. FINANCIAL STATEMENTS.**

In order to obtain a bonded warehouse license, the applicant shall submit a current financial statement that has been prepared not more than ninety (90) days prior to the date of application and conform to the applicable requirements of Title 69, Chapter 2, Idaho Code, as to annual financial statements. (3-15-22)

**01. Statement Compliance.** Each licensed warehouseman shall submit to the Department an annual financial statement that has been audited or reviewed by an independent certified public accountant or independent licensed public accountant and be submitted to the Department no later than ninety (90) days after the end of the warehouseman's fiscal year. ~~The warehouse license may be suspended or revoked for failure to comply with licensing requirements stated in Bonded Warehouse Rule Section 300 and Section(s) 69-206(6) and (7), Idaho Code.~~ (3-15-22)( )

**a.** The Department may grant an extension of no more than sixty (60) days, provided sufficient cause of an exceptional nature is provided, in writing, to the Department by a certified public accountant or a licensed public accountant and made prior to the date the financial statement is due. (3-15-22)

**b.** 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. (3-15-22)

**02. Statement Content.** The acceptable statement includes: (3-15-22)



- a. A balance sheet. (3-15-22)
- b. An income statement that includes annual gross sales of commodities purchased from producers covered under the act. (3-15-22)
- c. A statement of cash flows. (3-15-22)
- d. All accompanying notes to the financial statement. (3-15-22)

**301. -- 329. (RESERVED)**

**330. AMENDING TARIFF.**

Tariffs may be amended by the licensed warehouseman by filing a new tariff with the Department. The previous tariff continues to apply on all commodities received prior to the effective date of the amended tariff until the anniversary date of deposit. The amended tariff applies to any commodities received after the effective date of the amendment and on any commodities stored under the previous tariff commencing on the anniversary date of the storage period. (3-15-22)

**331. -- 379. (RESERVED)**

**380. LICENSE -- DURATION.**

Licenses issued under the provisions of Title 69, Chapter 2, Idaho Code, expire annually on April 30th. (3-15-22)

**381. -- 399. (RESERVED)**

**400. INSURANCE DEDUCTIBLE.**

The maximum deductible allowed for insurance required by Section 69-206(1), Idaho Code, shall be five thousand dollars (\$5,000). However, a larger deductible may be allowed at the discretion of the Director. (3-15-22)

**401. -- 429. (RESERVED)**

**430. 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 Department may require the licensee to post a bond or other additional acceptable security in the amount of~~ The amount of bond or additional security pursuant to 69-260 is two thousand dollars (\$2,000) for each one thousand dollars (\$1,000) or fraction thereof of deficiency. (3-15-22)(    )

**431. -- 479. (RESERVED)**

**480. COMMODITY INDEMNITY FUND.**

The Commodity Indemnity Fund applies to entities governed by Chapter 2, Title 69, Idaho Code, and Chapter 5, Title 69, Idaho Code, warehouses and dealers, respectively, unless otherwise specified. (3-15-22)

**01. Rate of Assessment.** The rate of assessment is two-tenths of one percent (.2%) of the total value at the time of sale of the commodities pursuant to Section 69-257(2), Idaho Code. The maximum rate of assessment shall not exceed two-tenths of one percent (.2%) of the total gross dollar amount, without deductions, due the producer. 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. (3-15-22)

a. The rate of assessment on commodity withdrawn by its producer from open storage is one cent (\$.01) per hundredweight (CWT) of commodity at the time of withdrawal. (3-15-22)

b. If the amount of the assessment for a producer on all deposits made in a calendar year is calculated to be less than fifty cents (\$.50), no assessment will be collected. If deposits exceed the fifty cent (\$.50) limit, all assessments will be collected. (3-15-22)

**02. Exemptions to Assessments.** Producers are not eligible to participate in CIF and no assessments can be collected in the following cases. (3-15-22)

**a.** If a producer has a financial or management interest in a licensed warehouse or licensed commodity dealer, except members of a cooperative marketing association qualified under Title 22, Chapter 26, Idaho Code. (3-15-22)

**b.** If a producer sells to another producer, none of which are a licensed warehouseman or a licensed commodity dealer. (3-15-22)

**c.** If a producer deposits or delivers commodity to an unlicensed entity pursuant to Title 69, Chapters 2 or 5, Idaho Code. (3-15-22)

**d.** 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. (3-15-22)

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

~~Assessments shall be collected by all warehouses from all producers who deposit commodities for storage or sale.~~ Assessments are calculated as follows: (3-15-22)( )

**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. (3-15-22)

**02. Open Storage or Deposit for Service.** When commodity is withdrawn from storage by the producer, the assessment will be one cent (\$.01) per hundred weight (CWT) at the time of withdrawal. (3-15-22)

**03. 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. (3-15-22)

**04. 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. (3-15-22)

**482. 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. (3-15-22)

**02. Payment ~~Due Dates~~ of Assessment by Mail.** ~~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. 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.~~ (3-15-22)( )

**03. Notice.** The notice and rate of assessment or a copy of the official notice of suspension of assessment are to be posted in a conspicuous place in the warehouse or dealer facility. (3-15-22)

**483. 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. (3-15-22)

**484. PENALTIES FOR FAILURE TO COLLECT, ACCOUNT FOR, OR REMIT ASSESSMENTS.**

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

(3-15-22)

**485. RETURN OF COMMODITY DUE TO FAILURE.**

In the event of failure, the Department may:

(3-15-22)( )

**01. Identifiable Commodity.** Return specifically identifiable commodity or as much as is available to its producer in full or partial satisfaction of indebtedness; or (3-15-22)

**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 (3-15-22)

**03. Shortfall in Commodity Distribution.** Any shortfall in commodity distribution may be submitted as a claim against the CIF. (3-15-22)

**486. -- 500. (RESERVED)**

**501. NO PRICE ESTABLISHED (NPE) CONTRACT CLAIMS ON THE FUND.**

NPE contracts shall be executed in writing, dated, and signed by all parties to the contract.

(3-15-22)( )

**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." (3-15-22)

**02. NPE Contract List.** A warehouseman 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. (3-15-22)

**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.~~ (3-15-22)( )

**502. -- 999. (RESERVED)**