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## **Requirements for Grain Dealers**

**State of Idaho**

*Bonding*

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## Requirements for Grain Dealers

### STATE OF IDAHO

*Current through the 2014 2<sup>nd</sup> Reg. Sess. Of the 62<sup>nd</sup> Idaho Legislature*

#### **I.C. § 69-503**

#### **§ 69-503. License requirements--Financial responsibility**

- (1) A person shall not engage in the business of a commodity dealer in this state without having obtained a license issued by the department.
- (2) The type of license required shall be determined as follows:
  - (a) A class 1 license is required if the commodity dealer purchases agricultural commodities by credit-sale contract or if the value of the agricultural commodities purchased by the commodity dealer from producers during the previous twelve (12) month period exceeds two hundred and fifty thousand dollars (\$250,000), or if the value of the agricultural commodities expected to be purchased by the commodity dealer from the producers during the succeeding twelve (12) month period will exceed two hundred and fifty thousand dollars (\$250,000). Any other commodity dealer may elect to be licensed as a class 1 commodity dealer.
  - (b) A class 2 license is required for any commodity dealer if the value of the agricultural commodities purchased by the commodity dealer from producers during the previous twelve (12) month period exceeds ten thousand dollars (\$10,000) and is less than two hundred and fifty thousand dollars (\$250,000), or if the value of the agricultural commodities expected to be purchased by the commodity dealer from producers during the succeeding twelve (12) month period will be more than ten thousand dollars (\$10,000) but less than two hundred and fifty thousand dollars (\$250,000). A class 2 licensee whose purchases from producers exceed two hundred and fifty thousand dollars (\$250,000) in value during any twelve (12) month period shall immediately apply for a class 1 license. If a class 1 license is denied, the person shall immediately cease doing business as a commodity dealer.
- (3) An application for a license to engage in business as a commodity dealer shall be filed with the department and shall be on a form prescribed by the department. A separate license is required for each location at which records are maintained for transactions of the commodity dealer.
- (4) A license application shall include the following:
  - (a) The name of the applicant;
  - (b) The names of the officers and directors if the applicant is a corporation;
  - (c) The names of the partners if the applicant is a partnership;
  - (d) The location of the principal place of business; and
  - (e) Any other reasonable information the department finds necessary to carry out the provisions and purposes of this chapter.
- (5) A license applicant shall further provide a sufficient and valid bond as specified in section 69-506, Idaho Code.
- (6) A license applicant shall further provide a complete financial statement setting forth the applicant's assets, liabilities and net worth. This financial statement shall be prepared by an independent certified

public accountant or a licensed public accountant according to generally accepted accounting principles. The commodity dealer shall have and maintain current assets equal to or greater than current liabilities. Assets shall be shown at original cost less depreciation. Upon written request filed with the department, the director may allow asset valuations in accordance with a competent appraisal.

(7) In order to receive and retain a commodity dealer's license the following additional conditions must be satisfied:

(a) For a class 1 license a commodity dealer shall have and maintain a net worth of at least fifty thousand dollars (\$50,000) or maintain a bond in the amount of two thousand dollars (\$2,000) for each one thousand dollars (\$1,000) or fraction thereof of net worth deficiency; however, a person shall not be licensed as a class 1 commodity dealer if the person has a net worth of less than twenty-five thousand dollars (\$25,000). A bond submitted for purposes of this subsection shall be in addition to any bond otherwise required under the provisions of this chapter.

(b) For a class 2 license a commodity dealer shall have and maintain a net worth of at least twenty-five thousand dollars (\$25,000) or maintain a bond in the amount of two thousand dollars (\$2,000) for each one thousand dollars (\$1,000) or fraction thereof of net worth deficiency; however, a person shall not be licensed as a class 2 commodity dealer if the person has a net worth of less than ten thousand dollars (\$10,000). A bond submitted for purposes of this subsection shall be in addition to any bond otherwise required under the provisions of this chapter.

(8) The department may require additional information or verification regarding the financial resources of the applicant and the applicant's ability to pay producers for agricultural commodities purchased from them.

(9) Any commodity dealer that accepts physical delivery of a commodity purchased directly from producers, for which the producers have not been paid, must insure the value of all commodities in his possession at full market price for insurable physical perils until all liabilities to producers have been paid.

### **I.C. § 69-506**

#### **§ 69-506. Bonding requirements--Cancellation--Irrevocable letter of credit or certificate of deposit in lieu of bond--Single bond**

Except as provided in chapter 2, title 69, Idaho Code, an applicant for a license to operate as a commodity dealer shall, before a license will be issued, file with the department a bond in favor of the commodity indemnity fund with a corporate surety approved by the department with the condition that the applicant will pay the purchase price of any agricultural commodity to the seller. The aggregate annual liability of the surety shall in no event exceed the sum of the bond.

At the discretion of the director, any person required to submit a bond to the department in accordance with this chapter, may give to the department a certificate of deposit or irrevocable letter of credit payable to the commodity indemnity fund in lieu of the bond required herein. The principal amount of the certificate of deposit or irrevocable letter of credit shall be the same as that required for a surety bond pursuant to this chapter. Accrued interest upon the certificate of deposit shall be payable to the purchaser of the certificate. The certificate of deposit or irrevocable letter of credit shall remain on file with the department until it is released, canceled or discharged by the director. The provisions of this chapter that apply to a bond required pursuant to this chapter apply to each certificate of deposit or irrevocable letter of credit given in lieu of such bond. The certificate of deposit or irrevocable letter of credit shall remain on file with the department until it is released, canceled, or discharged by the

director, or until the director is notified ninety (90) days in advance, by registered or certified mail, return receipt requested, that the certificate of deposit or irrevocable letter of credit is renewed, canceled or amended. Failure to notify the director may result in the suspension or revocation of the commodity dealer's license. Under the provisions of this chapter, an irrevocable letter of credit or certificate of deposit shall not be accepted unless it is issued by a national bank or federal thrift institution in Idaho or by a state-chartered bank or thrift institution authorized to conduct business in Idaho and insured by the federal deposit insurance corporation. A certificate of deposit shall be submitted with an audited or reviewed financial statement prepared in accordance with the rules of the department by an independent Idaho certified public accountant or Idaho licensed public accountant. The amount of bond to be furnished for each commodity dealer shall be fixed at whichever of the following amounts is greater:

- (1) The combined total indebtedness paid and owed to producers for agricultural commodity and seed crop for the previous license year; or
- (2) The indebtedness owed and estimated to be owed to producers for agricultural commodity and seed crop for the current license year.

Subsequent to determining whichever of the preceding amounts is greater, and based on that amount, the amount of bond shall be calculated as follows:

Gross Dollars:	Amount of Bond:
\$0 - \$450,000	\$20,000 bond or 6% of the gross dollars, whichever is less
\$450,001 - \$1,000,000	\$40,000 bond
\$1,000,001 - \$8,000,000	\$100,000 bond
Over \$8,000,000	\$500,000 bond

In any case, the amount of the bond shall not be more than five hundred thousand dollars (\$500,000). A surety shall notify the commodity dealer and the department by certified mail at least ninety (90) days prior to the cancellation of a bond issued under the provisions of this chapter. The liability of the surety shall cover purchases made by the commodity dealer during the time the bond is in force. A commodity dealer's bond filed with this department shall be continuous until canceled by the surety upon ninety (90) days' notice. The director reserves the right to waive the ninety (90) day cancellation period.

If a commodity dealer is licensed pursuant to chapter 51, title 22, Idaho Code, that same commodity dealer may obtain a single bond, certificate of deposit or irrevocable letter of credit as a surety under chapter 5, title 69, Idaho Code, and chapter 51, title 22, Idaho Code. If a single bond, certificate of deposit or irrevocable letter of credit is written covering chapter 5, title 69, Idaho Code, and chapter 51, title 22, Idaho Code, the bond, certificate of deposit or irrevocable letter of credit shall be made out in favor of the commodity indemnity fund and the seed indemnity fund. In the event a commodity dealer fails as defined in section 69-202(8), Idaho Code, and a single bond, certificate of deposit or irrevocable letter of credit is written in favor of the commodity indemnity fund and seed indemnity fund, the proceeds of the bond, certificate of deposit or irrevocable letter of credit will be allocated based on the dollar amount of the verified claims approved pursuant to chapter 2, title 69, Idaho Code, and chapter 51, title 22, Idaho Code.

**I.C. § 69-522**

**§ 69-522. Action on bond, certificate of deposit or irrevocable letter of credit by producers injured**

Any producer injured by the breach of any obligation for which a bond, certificate of deposit or irrevocable letter of credit is written, under the provisions of section 69-506, Idaho Code, must petition the director to make demand upon the commodity dealer, certificate of deposit, irrevocable letter of credit or bond. The director may thereupon make demand for payment of such damages and in the event such damages are not promptly paid the director may commence an action to enforce payment of such damages. The liability of the bank on a certificate of deposit or irrevocable letter of credit, and the surety upon the bond required to be given by a commodity dealer as provided by section 69-506, Idaho Code, for any one (1) annual licensing period shall be limited to the amount specified in the bond, certificate of deposit, or irrevocable letter of credit and in case of recoveries had by two (2) or more producers for violation of the conditions of this chapter in excess of the amount of the bond, certificate of deposit, or irrevocable letter of credit, such recovery shall be prorated and the total recovery for any one (1) annual licensing period shall not exceed the amount of the bond, certificate of deposit, or irrevocable letter of credit. In the event the director sues and obtains a judgment against the commodity dealer and/or his surety or bank for payment of such damages under this chapter, he shall be entitled to recover a reasonable attorney's fee.