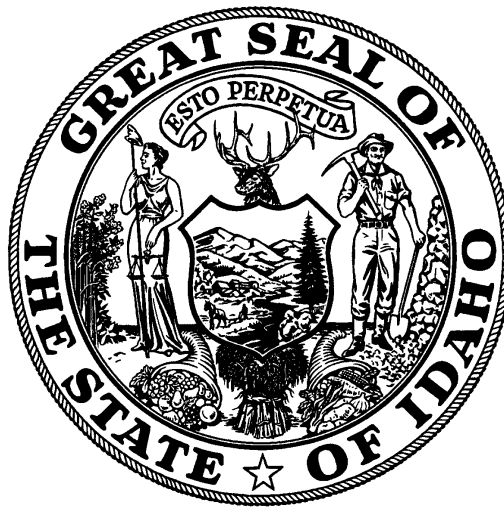


PENDING FEE RULES

COMMITTEE RULES

REVIEW BOOK

Submitted for Review Before
Senate Education Committee
63rd Idaho Legislature
First Regular Session



Prepared by:

*Office of the Administrative Rules Coordinator
Department of Administration*

January 2015

SENATE EDUCATION COMMITTEE

ADMINISTRATIVE RULES REVIEW

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**IDAPA 08 - IDAHO STATE BOARD OF EDUCATION
REGENTS OF THE UNIVERSITY OF IDAHO**

08.05.01 - RULES GOVERNING SEED AND PLANT CERTIFICATION

DOCKET NO. 08-0501-1401 (NEW CHAPTER)

NOTICE OF RULEMAKING - ADOPTION OF PENDING FEE RULE

EFFECTIVE DATE: The effective date of the amendment to the temporary rule is November 24, 2014. This pending rule has been adopted by the agency and is now pending review by the 2015 Idaho State Legislature for final approval. Pursuant to Section 67-5224(5)(c), Idaho Code, this pending rule will not become final and effective until it has been approved by concurrent resolution of the legislature because of the fee being imposed or increased through this rulemaking. The pending rule becomes final and effective upon adoption of the concurrent resolution unless the rule is rejected.

AUTHORITY: In compliance with Section 67-5224 and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a pending fee rule and amended a temporary rule. The action is authorized pursuant to Section 22-1504, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and amending the temporary rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

In 1959 the Idaho legislature passed the "Seed and Plant Certification Act of 1959" (the "1959 Act"). This act vested in the Regents of the University of Idaho, through the College of Agriculture or its agent, the authority for certification of seeds, tubers, plants and plant parts in the state of Idaho. The 1959 Act called for establishing and maintaining reasonable rules and regulations for this purpose. At that time the process for establishing the rules and regulations called for them to be filed with the Department of Agriculture where they would be available for public inspection. Amendments made to the Act in 1990 authorized the adoption of rules and regulations for the purposes of certification of seeds, tubers, plants and plant parts through the Idaho Administrative Rules process. The proposed changes would create a new administrative rule chapter and incorporate by reference the procedures of the Idaho Crop Improvement Association Standards, acting as an agent of the University of Idaho, into this new administrative rule chapter.

There has been one change between the proposed and pending rule. The change updated the fee schedule incorporated by reference into the rule to the most current fee schedule of the Idaho Crop Improvement Association.

The text of the pending rule has been amended in accordance with Section 67-5227, Idaho Code. Rather than keep the temporary rule in place while the pending rule awaits legislative approval, the Board of Regents of the University of Idaho (Board of Education) amended the temporary rule with the same revisions which have been made to the pending rule. Only the sections that have changes that differ from the proposed text are printed in this bulletin. The original text of the proposed rule was published in the June 4, 2014 Idaho Administrative Bulletin, [Vol. 14-6, pages 50 through 53](#).

FEE SUMMARY: Pursuant to Section 67-5226(2), the Governor has found that the fee or charge being imposed or increased is justified and necessary to avoid immediate danger. This fee or charge is being imposed pursuant to Section 22-1504, Idaho Code. The following is a specific description of the fee or charge imposed or increased:

Section 22-1504, Idaho code allows that the University of Idaho or the agent of the University of Idaho is authorized to administer the provisions of Title 22, Chapter 15, Seed and Plant Certification including the establishment of reasonable rules and regulations and standards for seed and plant certification. As an agent of the University of Idaho, the Idaho Crop Improvement Association, Inc has established application fees necessary to defray the costs of seed testing and administration of the seed certification program. Those fees are incorporated by reference into the this rule and vary depending on the crop being certified.

Pursuant to Section 67-5224(5)(c), Idaho Code, this pending rule will not become final and effective until it has been approved by concurrent resolution of the legislature because of the fee being imposed or increased through this rulemaking.

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: NA

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact Tracie Bent, Chief Planning and Policy Officer, at (208) 332-1582 or tracie.bent@osbe.idaho.gov.

DATED this 28th Day of November, 2014.

Tracie Bent
Chief Planning & Policy Officer
Office of the State Board of Education
650 W State St.
PO Box 83720
Boise, ID 83720-0037
Tel: (208) 332-1582
Fax: (208) 334-2632

**THE FOLLOWING NOTICE WAS PUBLISHED WITH
THE TEMPORARY AND PROPOSED FEE RULE**

EFFECTIVE DATE: The effective date of the temporary rule is May 14, 2014.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Section 22-1504, 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 June 18, 2014.

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 the required finding and concise statement of its supporting reasons for adopting a temporary rule and a nontechnical explanation of the substance and purpose of the proposed rulemaking:

In 1959 the Idaho legislature passed the "Seed and Plant Certification Act of 1959" (the "1959 Act"). This act vested in the Regents of the University of Idaho, through the College of Agriculture or its agent, the authority for certification of seeds, tubers, plants and plant parts in the state of Idaho. The 1959 Act called for establishing and maintaining reasonable rules and regulations for this purpose. The process for establishing the rules and regulations called for them to be filed with the Department of Agriculture where they would be available for public inspection. Amendments made to the Act in 1990 authorized the adoption of rules and regulations for the purposes of certification of seeds, tubers, plants and plant parts through Idaho Administrative Rules. The proposed changes would create a new administrative rule chapter and incorporate by reference the procedures of the Idaho Crop Improvement Association Standards into this new administrative rule.

TEMPORARY RULE JUSTIFICATION: Pursuant to Section 67-5226(1), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons:

Certification of varieties or strains of seeds, tubers, plants and plant parts raised in the state of Idaho and offered or intended to be offered for sale is in the public interest and is a critical component of crop production in the state of Idaho; thus necessary for the protection of the public health and welfare. Additionally, this rule confers a benefit on the Idaho potato industry through enhanced inspection and sample analysis, which is needed for an effective overall disease management program, and aligns the Idaho Crop Improvement Association standards with Title 22, Chapter 15, Idaho Code.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased:

This rule adopts the current fee schedule of the Idaho Crop Improvement Association Standards.

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:

Fees charged by the ICAI are to offset the costs of seed testing and the costs administering the seed certification program. ICIA cannot properly function without the ability to charge these fees. The public would be in immediate danger from the failure of the seed certification program absent the ability to charge these fees.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was not feasible because of the need to adopt a temporary rule and make it immediately effective.

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:

This rule incorporates by reference the standards of the Idaho Crop Improvement Association. The Association is the duly authorized agent of the Regents of the University of Idaho to administer and conduct seed certification in Idaho pursuant to the Seed and Plant Certification Act (Title 22, Chapter 15, Idaho Code). As such ICIA promulgates seed certification standards. This rule will bring the Seed Certification Standards of the Idaho Crop Improvement Association, Inc. into compliance with Idaho Code by incorporating such standards into the Idaho Administrative Code. Certification of varieties or strains of seeds, tubers, plants and plant parts raised in the state of Idaho and offered or intended to be offered for sale is in the public interest and is a critical component of crop production in the state of Idaho.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Donn Thill, Associate Dean, College of Agriculture and Life Sciences, at (208)885-6214, or dthill@uidaho.edu.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before June 25, 2014.

DATED this May 20, 2014.

LSO RULES ANALYSIS MEMO

THE FOLLOWING IS THE TEXT OF FEE DOCKET NO. 08-0501-1401

IDAPA 08
TITLE 05
CHAPTER 01

08.05.01 - RULES GOVERNING SEED AND PLANT CERTIFICATION

000. LEGAL AUTHORITY.

This chapter is adopted under the authority of Title 22, Chapter 15, Idaho Code. ()

001. TITLE AND SCOPE.

01. Title. The title of this chapter is IDAPA 08.05.01, "Rules Governing Seed and Plant Certification," by Idaho Crop Improvement Association, Inc. ()

02. Scope. These rules shall govern the standards and procedures for the certification of seeds, tubers, plants, or plant parts in the state of Idaho by the Regents of the University of Idaho through the Idaho Agricultural Experiment Station in the College of Agricultural and Life Sciences and its duly authorized agent, Idaho Crop Improvement Association, Inc., as an agent and instrumentality and servant of the State. ()

002. WRITTEN INTERPRETATIONS.

In accordance with Section 67-5201(19)(b)(iv), Idaho Code, any written interpretations of the rule of this chapter will be made available at the Idaho State Board of Education office. ()

003. ADMINISTRATIVE APPEAL.

There is no provision for administrative appeals before the Board under this chapter. Hearing and appeal rights are set forth in Title 67, Chapter 52, Idaho Code. ()

004. INCORPORATION BY REFERENCE.

The following documents are incorporated by reference into this rule. The Idaho Seed and Plant Certification Standards are adopted by the Idaho Crop Improvement Association. Copies of the following documents may be obtained from the Idaho Crop Improvement Association, Inc. website at <http://www.idahocrop.com/index.aspx>, or from the Idaho Crop Improvement Association, Inc. office. ()

01. General Seed Certification Standards. The General Seed Certification Standards of the Idaho Crop Improvement Association, Inc., as last modified and approved on February 25, 2014. ()

02. Seed Certification Fee & Application Schedule. The Seed Certification Fee and Application Schedule of the Idaho Crop Improvement Association, Inc., as last modified and approved on *July 11, 2014*. ()

03. Interagency Certification Regulations and Procedures. The Interagency Certification Regulations and Procedures of the Idaho Crop Improvement Association, Inc., as last modified and approved on April 6, 2006. ()

04. Alfalfa Certification Regulations in Idaho. The Alfalfa Certification Regulations adopted by the Idaho Crop Improvement Association, Inc., as last modified and approved on April 6, 2006. ()

05. Beans Certification Regulations in Idaho. The Beans Certification Regulations adopted by the Idaho Crop Improvement Association, Inc., as last modified and approved on December 12, 2009. ()

06. Red Clover Certification Regulations in Idaho. The Red Clover Certification Regulations adopted by the Idaho Crop Improvement Association, Inc., as amended and approved on April 6, 2006. ()

07. Chickpea (Garbanzo Beans) Certification Regulations in Idaho. The Chickpea (Garbanzo

Beans) Certification Regulations adopted by the Idaho Crop Improvement Association, Inc., as amended and approved on April 6, 2006. ()

08. Grain Certification Regulations in Idaho. The Grain Certification Regulations adopted by the Idaho Crop Improvement Association, Inc., as amended and approved on March 10, 2014. ()

09. Grass Seed Certification Regulations in Idaho. The Grass Seed Certification Regulations adopted by the Idaho Crop Improvement Association, Inc., as amended and approved on March 10, 2014. ()

10. Canola, Mustard and Rapeseed Certification Regulations in Idaho. The Canola, Mustard and Rapeseed Certification Regulations adopted by the Idaho Crop Improvement Association, Inc., as amended and approved on January 29, 2014. ()

11. Rules of Certification for Seed Potatoes in Idaho. The Rules of Certification for Seed Potatoes adopted by the Idaho Crop Improvement Association, Inc., as amended and approved on April 21, 2014. ()

12. Pre-Variety Germplasm Certification Regulations in Idaho. The Pre-variety Germplasm Certification Regulations adopted by the Idaho Crop Improvement Association, Inc., as amended and approved April 11, 2014. ()

13. Miscellaneous Crop Certification Regulations in Idaho. The Miscellaneous Crop Certification Regulations adopted by the Idaho Crop Improvement Association, Inc., as amended and approved April 6, 2006. ()

005. OFFICE -- OFFICE HOURS -- MAILING ADDRESS AND STREET ADDRESS.

01. Physical Addresses. The main office of the Idaho Crop Improvement Association, Inc. is located at 429 SW 5th Avenue, Suite 105, Meridian, ID 83642. The branch offices are located at: 1680 Foote Drive, Idaho Falls, ID 83402; 5920 N Government Way, Suite 10, Dalton Gardens, ID 83815; 2283 Wright Avenue, Suite C, Twin Falls, ID 83303. ()

02. Office Hours. Office hours are 8 a.m. to 5 p.m., Mountain Time, Monday through Friday, except holidays. These office hours apply to each branch. ()

03. Mailing Addresses. The mailing address for the Idaho Crop Improvement Association, Inc. main office is 429 SW 5th Avenue, Suite 105, Meridian, ID 83642. The branch offices mailing addresses are: 1680 Foote Drive, Idaho Falls, ID 83402; 5920 N Government Way, Suite 10, Dalton Gardens, ID 83815; 2283 Wright Avenue, Suite C, Twin Falls, ID 83303. ()

04. Telephone Numbers. The telephone number for the Idaho Crop Improvement Association, Inc. main office is (208) 884-8225. The telephone numbers for the branches are: Idaho Falls (208) 522-9198; Dalton Gardens (208) 762-5300; Twin Falls (208) 733-2468. ()

05. Fax Numbers. The fax number for the Idaho Crop Improvement Association Inc. main office is (208) 884-4201. The fax numbers for the branches are: Idaho Falls (208) 529-4358; Dalton Gardens (208) 762-5335; Twin Falls (208) 733-4803. ()

006. PUBLIC RECORDS ACT COMPLIANCE.

These rules are public records available for inspection and copying at the Idaho Crop Improvement Association Inc., and the State Law Library. ()

007. -- 009. (RESERVED)

010. DEFINITIONS.

In addition to the definitions set forth in Title 22, Chapter 15, Idaho Code, the definitions found in the standards of the Idaho Crop Improvement Association, Inc., incorporated by reference in Section 004 of these rules, shall apply to these rules. ()

011. (RESERVED)

012. APPLICABILITY.

These rules shall apply to all seeds, tubers, plants, or plant parts located in, imported into, or exported from the state of Idaho that have an application for certification properly filed with a seed certification agency. ()

013. OFFICIAL IN CHARGE OF CERTIFIED SEED.

The Idaho Legislature, at its 35th Session, enacted Senate Bill No. 107, the "Seed and Plant Certification Act of 1959". This Act designated the Regents of the University of Idaho, through the Agricultural Experiment Station of the College of Agriculture, as the seed certifying agency for the State. This Act further gives the Regents of the University of Idaho the authority to designate an agent to administer and conduct the certification program. The Regents of the University of Idaho on April 27, 1959, appointed the Idaho Crop Improvement Association, Inc., as its duly authorized agent to administer and conduct seed certification in Idaho as provided by the Seed and Plant Certification Act of 1959. ()

014. SEED CERTIFICATION FEE AND APPLICATION SCHEDULE.

The Idaho Crop Improvement Association may assess a fee to defray the costs of seed testing and administration of the seed certification program. Fees are established through the Idaho Crop Improvement Association, Inc. ()

015. -- 999. (RESERVED)