

Dear Senators RICE, Bayer, Ward-Engelking, and
Representatives ANDRUS, Boyle, Pence:

The Legislative Services Office, Research and Legislation, has received the enclosed rules of
the Idaho Wheat Commission:

IDAPA 42.01.01 - Rules of the Idaho Wheat Commission - Proposed Rule (Docket No.
42-0101-1501).

Pursuant to Section 67-454, Idaho Code, a meeting on the enclosed rules may be called by the
cochairmen or by two (2) or more members of the subcommittee giving oral or written notice to Research
and Legislation no later than fourteen (14) days after receipt of the rules' analysis from Legislative
Services. The final date to call a meeting on the enclosed rules is no later than 08/25/2015. If a meeting is
called, the subcommittee must hold the meeting within forty-two (42) days of receipt of the rules' analysis
from Legislative Services. The final date to hold a meeting on the enclosed rules is 09/23/2015.

The germane joint subcommittee may request a statement of economic impact with respect to a
proposed rule by notifying Research and Legislation. There is no time limit on requesting this statement,
and it may be requested whether or not a meeting on the proposed rule is called or after a meeting has
been held.

To notify Research and Legislation, call 334-4834, or send a written request to the address on the
memorandum attached below.



Eric Milstead
Director

Legislative Services Office

Idaho State Legislature

Serving Idaho's Citizen Legislature

MEMORANDUM

TO: Rules Review Subcommittee of the Senate Agricultural Affairs Committee and the House Agricultural Affairs Committee

FROM: Principal Legislative Research Analyst - Katharine Gerrity

DATE: August 05, 2015

SUBJECT: Idaho Wheat Commission

IDAPA 42.01.01 - Rules of the Idaho Wheat Commission - Proposed Rule (Docket No. 42-0101-1501)

The Idaho Wheat Commission submits notice of proposed rule at IDAPA 42.01.01 - Rules of the Idaho Wheat Commission. According to the commission, the purpose of the rulemaking is to update the format and terminology of the rule. In addition, the changes reflect the assessment rate increase that occurred in 2013 for the purpose of investing more in research and industry infrastructure. The commission notes that quarterly return forms create an administrative burden for the commission and will no longer be provided. In addition, the commission states that elevator operator reporting is being clarified.

The Commission notes that negotiated rulemaking was not conducted due to the simple nature of the changes but that significant feedback was provided by industry stakeholders through regular meetings of the commission. The rulemaking appears to be authorized pursuant to Section 22-3309, Idaho Code.

cc: Idaho Wheat Commission
Blaine Jacobson

IDAPA 42 - IDAHO WHEAT COMMISSION
42.01.01 - RULES OF THE IDAHO WHEAT COMMISSION
DOCKET NO. 42-0101-1501
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 Section 22-3309, 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 August 19, 2015.

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:

The changes are necessary to update the rules to proper format and to clarify terminology. The assessment rate was increased in 2013 after surveying wheat growers and finding support was 3-to-1 in favor of a higher tax for the purpose of investing more in research and industry infrastructure. The quarterly return forms create an administrative burden for the Commission and will no longer be provided. The rule changes increase the amount per bushel from \$.02 to \$.03½ cents to the Commission under commodity credit loans; bring rules in line with required rules format; correct terminology; clarify elevator operator reporting; and delete reference to the quarterly return forms.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: None.

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: NA

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because the rule changes are simple in nature. Additionally, significant feedback was provided by industry stakeholders through regular meetings of the Commission.

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: NA

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Blaine Jacobson, Executive Director, at (208) 334-2353.

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 August 26, 2015.

DATED this 10th Day of July, 2015.

Blaine Jacobson, Executive Director
Idaho Wheat Commission
821 W. State St.
P. O. Box 83720
Boise, ID 83720-0099
Tel: (208) 334-2353
Fax: (208) 334-2505

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 42-0101-1501
(Only those Sections being amended are shown.)

000. LEGAL AUTHORITY.

~~These~~ In accordance with Section 22-3309, Idaho Code, the Idaho Wheat Commission has promulgated rules ~~are~~ authorized by implementing the provisions of Title 22, Chapter 33, Idaho Code. (7-1-93)()

001. TITLE AND SCOPE.

01. Title. These rules shall be ~~known~~ cited in full as IDAPA 42.01.01, "Rules of the Idaho Wheat Commission," IDAPA 42, Title 01, Chapter 01. ()

02. Scope. ~~It shall be Pursuant to Section 22-3301, Idaho Code, the policy rules of the Idaho Wheat Commission to promote the public health and welfare of the citizens of our state by providing means for the protection, promotion, study, research, analysis and development of markets concerning the growing and marketing of Idaho wheat. To implement this policy, the Idaho Wheat Commission will utilize all existing information and all agencies, private, state, or federal, having to do with protection, marketing or utilization of wheat. It will not duplicate nor usurp the functions of other agencies, but will rather assist and coordinate their activities. It will attempt to develop additional functions not now included in the work of other agencies.~~ Pursuant to Section 22-3301, Idaho Code, the policy rules of the Idaho Wheat Commission to promote the public health and welfare of the citizens of our state by providing means for the protection, promotion, study, research, analysis and development of markets concerning the growing and marketing of Idaho wheat. To implement this policy, the Idaho Wheat Commission will utilize all existing information and all agencies, private, state, or federal, having to do with protection, marketing or utilization of wheat. It will not duplicate nor usurp the functions of other agencies, but will rather assist and coordinate their activities. It will attempt to develop additional functions not now included in the work of other agencies. (7-1-93)()

002. WRITTEN INTERPRETATIONS.

The Commission may have written statements which pertain to the interpretation of the rules of this chapter, or to the documentation of compliance with the rules of this chapter. These documents are available for public inspection at the Commission office. ()

003. ADMINISTRATIVE APPEALS.

The Idaho Rules of Administrative Procedure of the Attorney General on contested cases, IDAPA 04.11.01, "Idaho Rules of Administrative Procedure," Section 100, et seq., shall apply. ()

004. INCORPORATION BY REFERENCE.

There are no documents that have been incorporated by reference into these rules. ()

005. OFFICE INFORMATION.

01. Street Address. The office is located at 821 W. State Street, Boise, Idaho 83702. ()

02. Mailing Address. The mailing address is P. O. Box 83720, Boise, Idaho 83720-0099. ()

03. Telephone Number. The telephone number is (208) 334-2353. ()

04. Facsimile Number. The fax number is (208) 334-2505. ()

05. Website Address. The website address is www.idahowheat.org. ()

06. Office Hours. The office hours are 8 a.m. to 5 p.m., Mountain Time, Monday through Friday, excluding state holidays. ()

006. PUBLIC RECORDS ACT COMPLIANCE.

Commission records are subject to the provisions of the Idaho Public Records Act, Title 9, Chapter 3, Idaho Code. ()

007. - 009. (RESERVED)

010. DEFINITIONS.

The definitions set forth in Section 22-3303, Idaho Code, shall apply to this chapter. ()

~~002~~11 -- 099. (RESERVED)

100. ~~TIME OF FILING~~ **WHEAT TAX RETURNS FORM.**

01. **Forms.** Wheat ~~assessment~~ **Tax Return** forms ~~will be~~ **are** available at the ~~Idaho Wheat~~ Commission office for use by the first purchaser (buyer) of Idaho grown wheat in transmitting the Idaho wheat ~~assessment tax~~ to the ~~Idaho Wheat~~ Commission. (7-1-93)()

02. **Procedures.** At the end of each quarter, buyers, shall execute the Wheat Tax Return (~~F~~form ~~Number 1~~). One (1) copy of the form and a check covering the entire amount of all wheat tax collections made during the quarter shall be mailed to the Executive Director, ~~Idaho Wheat of the~~ Commission, ~~821 W. State St., Boise, Idaho, 83702,~~ not later than the fifteenth day of the month at the end of each quarter (October 15, January 15, April 15, and July 15, respectively) of each calendar year. If no wheat has been purchased during any quarter, one (1) copy of ~~the~~ **Wheat Tax Return** ~~F~~form ~~Number 1~~ declaring that no wheat has been purchased, shall be signed and mailed to the Executive Director of the ~~Idaho Wheat~~ Commission. (7-1-93)()

[Proposed Sections 101 through 105 are being moved and renumbered from Codified Sections 303 through 307 respectively]

~~303~~101. **MIXTURES.**

When the grain is ~~bought~~ **purchased** as wheat, the tax must be collected on the full net weight of the grain ~~bought~~ **purchased**. The tax must also be collected on any mixtures containing fifty percent (50%) or more of wheat. (7-1-93)()

~~304~~102. **NET WEIGHT.**

The tax ~~is to~~ **must** be collected on the net weight of the wheat after deduction of dockage and smut, and not upon the gross weight. (7-1-93)()

~~305~~103. **TRUCKERS.**

When a trucker ~~buys~~ **purchases** wheat from a grower, it is his responsibility under the law to deduct the tax and remit the amount to the Commission. The trucker in such instances is liable for the deduction of tax. Those who purchase wheat from such truckers are not directly liable for the deduction of tax, but buyers should make sure that the trucker has in fact ~~bought~~ **purchased** the wheat from a grower and is not the person who produced the wheat. (7-1-93)()

~~306~~104. **WHEAT DELIVERED ON ACCOUNT OR EXCHANGED FOR OTHER WHEAT.**

When wheat is delivered and credited to the account of a grower who is purchasing mixed feeds and other commodities, such transactions are really sales of the wheat delivered. In these cases, the buyer must deduct the tax from the amount credited to the grower and remit to the Commission just as though the sale had been made for cash. On the other hand, if the grower delivers the wheat in exchange for other wheat and no sale of the wheat is involved, the tax should not be deducted. (7-1-93)

~~307~~105. **END USE.**

Idaho wheat is subject to tax when it is first sold or contracted into "commercial channels." Beside traditional uses of wheat for flour milling, domestic and export, commercial channels include sale of wheat for use as feed, or any industrial or chemurgic use. (7-1-93)()

~~107~~6 -- 199. (RESERVED)

200. **PENALTY FOR LATE PAYMENT OF WHEAT TAX.**

01. **Interest Penalties.** Any person or firm who makes payment of wheat tax collections to the ~~Idaho~~ **Wheat** Commission at a date later than the fifteenth day of the month at the end of each quarter as prescribed in Subsection 100.02 of these rules, shall be subject to a late payment penalty of fifteen percent (15%) per annum on the amount due, unless that person or firm, within fifteen (15) days of the date, notifies the ~~Idaho Wheat~~ Commission in writing of any delay in payment and submits the payment of wheat tax collections within thirty (30) days of the

prescribed due date.

~~(7-1-93)~~()

02. Additional Penalties. The ~~Idaho Wheat~~ Commission shall be entitled, in addition to the penalty of fifteen percent (15%) per annum, to recover from the buyer, all costs, fees, and reasonable attorney's fees incurred in collecting the wheat tax collections and penalty as prescribed in Section 22-3315, Idaho Code. ~~(7-1-93)~~()

201. -- 299. (RESERVED)

300. WHEAT UNDER COMMODITY CREDIT CORPORATION LOANS.

01. Payee. The ~~Wheat~~ Commission will be named as payee to receive ~~two~~ **three and one half** cents (\$.23½) per bushel when the producer's note and loan agreement is executed by the ~~County Agricultural Stabilization and Conservation Farm Service office Agency (FSA)~~. In such cases, the lending agency will send the tax directly to the ~~Wheat~~ Commission. When the producer's note and loan agreement shows that the tax has been deducted and sent to the ~~Wheat~~ Commission, it will not be necessary for the buyer to deduct the tax when the wheat is purchased. ~~(7-1-93)~~()

02. Tax. Since the legislature has made the tax a lien prior to all other liens and encumbrances of the wheat, it is necessary for the grain buyer to make sure the tax has been paid in order to obtain clear title to the wheat. The tax should be deducted in all cases where there is not evidence that the tax was previously paid by a lending agency. In case errors occur and the tax is deducted by a lending agency and again deducted by a grain buyer, refund will be made by the ~~Idaho Wheat~~ Commission. ~~(7-1-93)~~()

[Codified Section 301 is being moved and renumbered to Proposed Section 400]

~~301. -- 399. (RESERVED)~~

~~302. WHEAT COMMISSION FORM NUMBER 1.~~

~~Form Number 1 shall be used to file quarterly returns required by these rules. One (1) copy to be sent to the Commission at the end of each quarter.~~ ~~(7-1-93)~~

[Codified Sections 303 through 307 are being moved and renumbered to Proposed Sections 101 through 105 respectively]

[Proposed Section 400 is being moved and renumbered from Codified Section 301]

~~301~~400. INVOICES AND RECORDS.

01. Invoices. Pursuant to Section 22-3316, Idaho Code, ~~provides for~~ **the Purchaser shall issue separate** invoices to ~~be delivered to~~ the grower for each purchase. The ~~Wheat~~ Commission ~~is will~~ not provide ~~ing~~ a special form for this purpose and suggests that buyers use the final settlement vouchers of accounts of sale commonly used in Idaho. The amount of the Idaho state wheat tax deducted must ~~be~~ shown on each settlement voucher. ~~(7-1-93)~~()

02. Final Settlement Vouchers. Buyers are not required to send the Commission copies of their settlement vouchers issued to individual growers, but should keep copies available for examination by representatives of the Commission ~~at a later date upon request~~. Where it is not the practice to issue settlement vouchers of accounts of sale, buyers should be sure that they have accurate records of all wheat ~~bought~~ **purchased** from growers and the amount of wheat ~~bought~~ **purchased** from each grower. ~~(7-1-93)~~()

03. Elevator Operator Reports. Elevator operators must submit to the Commission, at least annually, **a report listing the growers who delivered wheat to their elevator each year. Such reports must include the name and contact information for each grower.** ()

~~308~~401. -- 999. (RESERVED)