

Dear Senators MORTIMER, Thayn, Buckner-Webb, and  
Representatives VANORDEN, McDonald, Kloc:

The Legislative Services Office, Research and Legislation, has received the enclosed rules of the  
State Board of and State Department of Education:

IDAPA 08.05.01 - Rules Governing Seed and Plant Certification - Proposed Rule (Docket No.  
08-0501-1801).

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 12/06/2018. 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 01/07/2019.

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 334-4854, or send a written request to the address on the  
memorandum attached below.



Eric Milstead  
Director

# Legislative Services Office

## Idaho State Legislature

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*Serving Idaho's Citizen Legislature*

### MEMORANDUM

**TO:** Rules Review Subcommittee of the Senate Education Committee and the House Education Committee

**FROM:** Principal Legislative Drafting Attorney - Elizabeth Bowen

**DATE:** November 16, 2018

**SUBJECT:** State Board of and State Department of Education

IDAPA 08.05.01 - Rules Governing Seed and Plant Certification - Proposed Rule (Docket No. 08-0501-1801)

#### Summary and Stated Reasons for the Rule

This rule incorporates by reference the most recent version of the Idaho Potato Certification Standards. The Standards were revised as part of an effort to standardize terminology nationwide.

#### Negotiated Rulemaking / Fiscal Impact

Negotiated rulemaking was conducted, and there is no anticipated negative fiscal impact on the state general fund.

#### Statutory Authority

I.C. 22-1504.

cc: State Board of and State Department of Education  
Tracie Bent

#### \*\*\* PLEASE NOTE \*\*\*

Per the Idaho Constitution, all administrative rules must be reviewed by the Legislature during the next legislative session. The Legislature has 3 options with this rulemaking docket: **1)** Approve the docket in its entirety; **2)** Reject the docket in its entirety; or **3)** Reject the docket in part.

**IDAPA 08 – STATE BOARD OF EDUCATION**  
**08.05.01 – RULES GOVERNING SEED AND PLANT CERTIFICATION**  
**DOCKET NO. 08-0501-1801**  
**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 22-1504, 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 October 17, 2018.

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 proposed amendment updates the current, incorporated version of the Idaho Potato Certification Standards to the standards adopted by the Idaho Crop Improvement Association on January 16, 2018. The amendment to the standard standardizes the terminology used, changing “generation” to “field year.” Amending the terminology is intended as a first step in standardizing the terminology across states and thereby eliminating the current need for an equivalency table to keep track of the differences. “Nuclear” would become “field year” (FY) 1. “Gen 1” would be “FY2.” “Gen 2” would be “FY3” and so forth through “Gen 6,” which would become “FY7.”

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

**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: None.

**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 4, 2018, Idaho Administrative Bulletin, [Vol. 18-7, page 56](#).

**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:

The amendments are to an existing document that is already incorporated by reference and is not adding a new document. The seed and crop standards are incorporated by reference due to formatting that is not consistent with the standard administrative rule format, additionally incorporation by reference is consistent with how the University of Idaho Board of Regents treats other types of standards.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Tracie Bent at (208) 332-1582 or [tracie.bent@osbe.idaho.gov](mailto:tracie.bent@osbe.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 24, 2018.

Dated this 31st day of August, 2018.

Tracie Bent, Chief Planning and Policy Officer  
State Board of Education  
Phone: (208) 332-1582  
Fax: (208) 334-2632

650 W. State Street  
P.O. Box 83720  
Boise, Idaho 83720-0037

**THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 08-0501-1801**  
**(Only Those Sections With Amendments Are Shown.)**

**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. (4-6-15)

**01. Prohibited Noxious Seed in Idaho Certified Seed.** The standard Prohibited Noxious Seed in Idaho Certified Seed of the Idaho Crop Improvement Association, Inc., as last modified and approved on March 17, 2015. (3-25-16)

**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. (4-6-15)

**03. Idaho Alfalfa Certification Standards.** The Idaho Alfalfa Certification Standards adopted by the Idaho Crop Improvement Association, Inc., as last modified and approved on March 17, 2015. (3-25-16)

**04. Idaho Bean Certification Standards.** The Idaho Bean Certification Standards adopted by the Idaho Crop Improvement Association, Inc., as last modified and approved on March 17, 2015. (3-25-16)

**05. Idaho Red Clover Certification Standards.** The Idaho Red Clover Certification Standards adopted by the Idaho Crop Improvement Association, Inc., as amended and approved on March 17, 2015. (3-25-16)

**06. Idaho Chickpea Certification Standards.** The Idaho Chickpea Certification Standards adopted by the Idaho Crop Improvement Association, Inc., as amended and approved on March 17, 2015. (3-25-16)

**07. Idaho Grain Certification Standards.** The Idaho Grain Certification Standards adopted by the Idaho Crop Improvement Association, Inc., as amended and approved on February 28, 2017. (3-28-18)

**08. Idaho Grass Certification Standards.** The Idaho Grass Certification Standards adopted by the Idaho Crop Improvement Association, Inc., as amended and approved on March 17, 2015. (3-25-16)

**09. Idaho Rapeseed/Canola/Mustard Certification Standards.** The Idaho Rapeseed/Canola/Mustard Certification Standards adopted by the Idaho Crop Improvement Association, Inc., as amended and approved on April 26, 2016. (3-29-17)

**10. Idaho Potato Certification Standards.** The Idaho Potato Certification Standards adopted by the Idaho Crop Improvement Association, Inc., as amended and approved on ~~February 28, 2017~~ January 16, 2018.  
(~~3-28-18~~)(    )

**11. 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 March 17, 2015. (3-25-16)

**12. Idaho Lentil Certification Standards.** The Idaho Lentil Certification Standards adopted by the Idaho Crop Improvement Association, Inc., as amended and approved March 17, 2015. (3-25-16)

**13. Idaho Blue Flax Certification Standards.** The Idaho Blue Flax Certification Standards adopted by the Idaho Crop Improvement Association, Inc., as amended and approved March 17, 2015. (3-25-16)

**14. Idaho Milkvech Certification Standards.** The Idaho Milkvech Certification Standards adopted by the Idaho Crop Improvement Association, Inc., as amended and approved March 17, 2015. (3-25-16)

**15. Idaho Pea Certification Standards.** The Idaho Pea Certification Standards adopted by the Idaho Crop Improvement Association, Inc., as amended and approved March 17, 2015. (3-25-16)

**16. Idaho Sanfoin Certification Standards.** The Idaho Sanfoin Certification Standards adopted by the Idaho Crop Improvement Association, Inc., as amended and approved March 17, 2015. (3-25-16)

**17. Idaho Birdsfoot Trefoil Certification Standards.** The Idaho Birdsfoot Trefoil Certification Standards adopted by the Idaho Crop Improvement Association, Inc., as amended and approved March 17, 2015. (3-25-16)

**18. Idaho White Clover Certification Standards.** The Idaho White Clover Certification Standards adopted by the Idaho Crop Improvement Association, Inc., as amended and approved March 17, 2015. (3-25-16)

**19. Idaho Penstemon Certification Standards.** The Idaho Penstemon Certification Standards adopted by the Idaho Crop Improvement Association, Inc., as amended and approved March 17, 2015. (3-25-16)

## **INCORPORATION BY REFERENCE SYNOPSIS**

In compliance with Section 67-5223(4), Idaho Code, the following is a synopsis of the differences between the materials previously incorporated by reference in this rule that are currently of full force and effect and newly revised or amended versions of these same materials that are being proposed for incorporation by reference under this rulemaking.

The following agency of the state of Idaho has prepared this synopsis as part of the proposed rulemaking for the chapter cited here under the docket number specified:

***State Board of Education***  
***IDAPA 08.05.01 - Rules Governing Seed and Plant Certification***  
***Proposed Rulemaking - Docket No. 08-0501-1801***

Variation in terminology between states has prompted the need for an equivalency table just to keep track of the differences. It is believed that a “Field Year” system would be less confusing to growers and seed buyers. The recommended standards revisions would change the terminology used from generation to field year. The nomenclature would be changed to the following:

Generation would be Field Year (FY)

Nuclear would be FY1

Gen 1 would be FY2

Gen 2 would be FY3

Gen 3 would be FY4

Gen 4 would be FY5

Gen 5 would be FY6

Gen 6 would be FY7”