

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.  
42-0101-1601);

IDAPA 42.01.01 - Rules of the Idaho Wheat Commission - Proposed Rule (Docket No.  
42-0101-1602).

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 11/28/2016. 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 12/26/2016.

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:** Deputy Division Manager - Katharine Gerrity

**DATE:** November 07, 2016

**SUBJECT:** Idaho Wheat Commission

IDAPA 42.01.01 - Rules of the Idaho Wheat Commission - Proposed Rule (Docket No. 42-0101-1601)

IDAPA 42.01.01 - Rules of the Idaho Wheat Commission - Proposed Rule (Docket No. 42-0101-1602)

#### **1. IDAPA 42.01.01 - Rules of the Idaho Wheat Commission**

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 clarify how the first purchaser of wheat reports compliance with the statute and the amount of wheat tax collected. The commission notes that the rule clarifies that the first purchaser of wheat shall complete and return the Report of Tax on Wheat, or equivalent, to the commission office at the end of each production year (July 1 - June 30). The commission goes on to state that the report shall include the name and address of the grower and seller.

The commission states that negotiated rulemaking was conducted. The rulemaking appears to be authorized pursuant to Section 22-3309, Idaho Code.

#### **2. IDAPA 42.01.01 - Rules of the Idaho Wheat Commission**

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 clarify how the first purchaser of wheat reports compliance with the statute and the amount of wheat tax collected. The commission notes that the rule clarifies that the first purchaser of wheat shall complete and return the Report of Tax on Wheat, or equivalent, to the commission office at the end of each production year (July 1 - June 30). The commission goes on to state that the report shall include the number of bushels of wheat purchased and the total wheat tax withheld from each purchase.

I contacted the commission to get more information regarding these two proposed rules in that the proposed rules are very similar and are in the same subsection of the existing rule. According to the commission, the reason they submitted two proposed rules was based on some concerns from grain growers regarding the reporting of volume information.

Mike Nugent, Manager  
Research & Legislation

Cathy Holland-Smith, Manager  
Budget & Policy Analysis

April Renfro, Manager  
Legislative Audits

Glenn Harris, Manager  
Information Technology

The commission states that negotiated rulemaking was conducted. 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. 42-0101-1601**  
**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:** A public hearing concerning this rulemaking will be held as follows:

**Tuesday, November 8, 2016 - 3:00 PM**

**CHS Primeland  
1200 Snake River Avenue  
Lewiston, ID**

The hearing site 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 clarify how the first purchaser of wheat reports compliance with the statute and the amount of wheat tax collected. The rulemaking clarifies that the first purchaser of wheat shall complete and return the Report of Tax on Wheat, or equivalent, to the Commission office at the end of each production year (July 1 – June 30). The report shall include the name and address of the grower and seller.

**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 as a result of this rulemaking: N/A

**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 June 1, 2016 Idaho Administrative Bulletin, [Vol. 16-6, pages 53-54](#), and in the October 5, 2016 Administrative Bulletin, [Vol. 16-10, pages 750-751](#).

**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: N/A

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Blaine Jacobson, Executive Director, at (208) 332-1612 or at [blaine@idahowheat.org](mailto:blaine@idahowheat.org).

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 November 23, 2016.

DATED 20th day of October, 2016.

Blaine Jacobson, Executive Director  
Idaho Wheat Commission  
821 W. State St.  
P. O. Box 82720  
Boise, ID 83720-0099  
Phone: (208) 334-2353 / Fax: (208) 334-2505

**THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 42-0101-1601**  
**(Only Those Sections With Amendments Are Shown.)**

**300. WHEAT UNDER COMMODITY CREDIT CORPORATION LOANS.**

**01. Payee.** The Commission will be named as payee to receive three and one half cents (\$.3½) per bushel when the producer's note and loan agreement is executed by the Farm Service Agency (FSA). In such cases, the lending agency will send the tax directly to the Commission. When the producer's note and loan agreement shows that the tax has been deducted and sent to the Commission, it will not be necessary for the buyer to deduct the tax when the wheat is purchased. (3-14-16)

**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 Commission. (3-14-16)

**03. Delivery of Documents to Commission.** The first purchaser of wheat shall complete and return the Report of Tax on Wheat, or equivalent, to the Commission office at the end of each production year (July 1 through June 30). The report shall be due on the same date as the final quarter wheat tax as specified in Section 22-3315(1), Idaho Code, and shall include the following: ( )

**a.** Name or names of the grower and seller; and ( )

**b.** Address or addresses of the grower and seller. ( )

**IDAPA 42 – IDAHO WHEAT COMMISSION**  
**42.01.01 – RULES OF THE IDAHO WHEAT COMMISSION**  
**DOCKET NO. 42-0101-1602**  
**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:** A public hearing concerning this rulemaking will be held as follows:

**Tuesday, November 8, 2016 - 3:00 PM**

**CHS Primeland  
1200 Snake River Avenue  
Lewiston, ID**

The hearing site 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 clarify how the first purchaser of wheat reports compliance with the statute and the amount of wheat tax collected. The rulemaking clarifies that the first purchaser of wheat shall complete and return the Report of Tax on Wheat, or equivalent, to the Commission office at the end of each production year (July 1 – June 30). The report shall include the number of bushels of wheat purchased, and the total wheat tax withheld from each purchase.

**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 as a result of this rulemaking: N/A

**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 under Docket No. 42-0101-1601 in the June 1, 2016 Idaho Administrative Bulletin, [Vol. 16-6, pages 53-54](#), and under Docket No. 42-0101-1601 in the October 5, 2016 Administrative Bulletin, [Vol. 16-10, pages 750-751](#).

**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: N/A

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Blaine Jacobson, Executive Director, at (208) 332-1612 or at [blaine@idahowheat.org](mailto:blaine@idahowheat.org).

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 November 23, 2016.

DATED 20th day of October, 2016.

Blaine Jacobson, Executive Director  
Idaho Wheat Commission  
821 W. State St.  
P. O. Box 82720  
Boise, ID 83720-0099  
Phone: (208) 334-2353 / Fax: (208) 334-2505

**THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 42-0101-1602**  
**(Only Those Sections With Amendments Are Shown.)**

**300. WHEAT UNDER COMMODITY CREDIT CORPORATION LOANS.**

**01. Payee.** The Commission will be named as payee to receive three and one half cents (\$.3½) per bushel when the producer's note and loan agreement is executed by the Farm Service Agency (FSA). In such cases, the lending agency will send the tax directly to the Commission. When the producer's note and loan agreement shows that the tax has been deducted and sent to the Commission, it will not be necessary for the buyer to deduct the tax when the wheat is purchased. (3-14-16)

**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 Commission. (3-14-16)

**03. Delivery of Documents to Commission.** The first purchaser of wheat shall complete and return the Report of Tax on Wheat, or equivalent, to the Commission office at the end of each production year (July 1 through June 30). The report shall be due on the same date as the final quarter wheat tax as specified in Section 22-3315(1), Idaho Code, and shall include the following: ( )

- a.** The number of bushels of wheat purchased; and ( )
- b.** The total wheat tax withheld from each purchase. ( )