

Dear Senators CORDER, Winder & Malepeai, and
Representatives TRAIL, Andrus & Pence:

The Legislative Services Office, Research and Legislation, has received the enclosed
rules of the Idaho State Dept. Of Agriculture:

IDAPA 02.03.03 - Pesticide & Chemigation Use & Application

(Docket #02-0303-0901).

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
9-9-09. 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 10-7-09.

_____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 334-2475, or send a written request to the
address or FAX number indicated on the memorandum enclosed.

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 20, 2009

SUBJECT: Idaho State Department of Agriculture

IDAPA 02.03.03 – Idaho Department of Agriculture Rules Governing Pesticide and Chemigation Use and Application – Docket No. 02-0303-0901

The Idaho State Department of Agriculture submits notice of proposed rule at IDAPA 02.03.03 – Idaho Department of Agriculture Rules Governing Pesticide and Chemigation Use and Application. The Department states that representatives of the Idaho seed industry have requested the addition of seven seed crops to the section of the rules that exempt crops from the need for a pesticide tolerance. The Department notes that this will allow the added crops to have additional pesticide products registered for use to control pests, but will also have additional restrictions on the disposal of seed screenings and the feeding of treated plant parts. The seven additional seed crops are chicory seed, coriander/cilantro seed, kale seed, leek seed, pollinating rows of hybrid canola seed, rutabaga seed and turnip seed.

The Department states that, although negotiated rulemaking was not conducted, several informal meetings were held with the Idaho Seed Advisory Council.

The action appears to be authorized pursuant to Section 22-3421, Idaho Code.

cc: Idaho State Department of Agriculture
Brian Oakey

IDAPA 02 - DEPARTMENT OF AGRICULTURE

02.03.03 - IDAHO DEPARTMENT OF AGRICULTURE RULES GOVERNING PESTICIDE AND CHEMIGATION USE AND APPLICATION

DOCKET NO. 02-0303-0901

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 22-3421, 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 September 16, 2009.

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:

Representatives of the Idaho seed industry have requested the addition of seven (7) seed crops to the section of the rules that exempt crops from the need for a pesticide tolerance. This will allow the added crops to have additional pesticide products registered for use to control pests, but will also have additional restrictions on the disposal of seed screenings and the feeding of treated plant parts.

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: N/A

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, formal negotiated rulemaking was not conducted because informal meetings were held with the Idaho Seed Advisory Council on April 10, 2009 and June 5, 2009 to discuss and revise the rule.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact George Robinson at (208) 332-8593.

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 September 23, 2009.

DATED this 17th day of July, 2009.

Brian J. Oakey, Deputy Director
Idaho State Department of Agriculture
2270 Old Penitentiary Road
P.O. Box 790
Boise, Idaho 83701
Phone: (208) 332-8500
Fax: (208) 334-2170

THE FOLLOWING IS THE PROPOSED TEXT FOR DOCKET NO. 02-0303-0901

800. PESTICIDE USE ON ~~ALFALFA SEED, CARROT SEED, ONION SEED, RADISH SEED, AND CLOVER SEED~~ CROP FIELDS.

01. Nonfood and Nonfeed Site Conditions. For purposes of pesticide registration, all alfalfa seed, carrot seed, ~~chicory seed, clover seed, coriander/cilantro seed, kale seed, leek seed, onion seed, pollinator rows of hybrid canola seed, radish seed, rutabaga seed, and ~~elover~~ turnip~~ seed crop fields are considered nonfood and nonfeed sites for pesticide use and the following conditions shall be met: (4-5-00)(____)

a. No portion of the seed alfalfa, carrot seed, ~~chicory seed, clover seed, coriander/cilantro seed, kale seed, leek seed, onion seed, pollinator rows of hybrid canola seed, radish seed, rutabaga seed, or turnip~~ seed ~~elover~~ plant, including but not limited to seed screenings, green chop, hay, chaff, combine tailings, pellets, meal, whole seed and cracked seed, may be grazed, used, or distributed for food or feed purposes. (4-5-00)(____)

b. The seed conditioner shall keep records of individual growers' alfalfa seed, carrot seed, ~~chicory seed, clover seed, coriander/cilantro seed, onion seed, pollinator rows of hybrid canola seed, radish seed, rutabaga seed, and ~~elover~~ turnip~~ seed dirt weight and clean weight for three (3) years and shall furnish the records to the Director forthwith upon request. (4-5-00)(____)

c. All seed screenings shall be disposed of at a sanitary landfill, incinerator, or other equivalent disposal site or by a procedure approved by the Director. (3-23-98)

d. The seed conditioner shall keep seed screening disposal records for three (3) years from the date of disposal and shall furnish the records to the Director forthwith, upon request. Disposal records shall consist of documentation from the disposal site and shall show the total weight of disposed screenings and the date of disposal. (3-20-97)

e. All alfalfa seed, carrot seed, ~~chicory seed, clover seed, coriander/cilantro seed, kale seed, leek seed, onion seed, pollinator rows of hybrid canola seed, radish seed, rutabaga seed, or ~~elover~~ turnip~~ seed grown or conditioned in this state shall bear a tag or container label which forbids the use of the seed for human consumption or animal feed. (4-5-00)(____)

f. No alfalfa seed, carrot seed, ~~chicory seed, clover seed, coriander/cilantro seed, onion seed, pollinator rows of hybrid canola seed, radish seed, rutabaga seed, or ~~elover~~ turnip~~ seed grown or conditioned in this state shall be distributed for human consumption or animal feed. (4-5-00)(____)

g. All portions of the seed alfalfa, seed carrot, ~~seed chicory, seed clover, seed coriander/cilantro, seed onion, pollinator rows of hybrid canola seed, seed radish, seed rutabaga, or seed ~~elover~~ turnip~~ plant, including but not limited to seed screenings, pellets, meal, whole seed and cracked seed may be composted. All composted material may be applied to agricultural crop land as approved by the Director. (4-5-00)(____)

02. Exemption. Alfalfa seed, kale seed and radish seed crops grown for human consumption shall be exempt from the requirements of Subsection 800.01 provided: (3-20-97)(____)

a. All pesticides used are labeled for use on alfalfa seed, kale seed, and radish seed crops and have established residue tolerances which allow food or feed use; and (3-20-97)(____)

b. All producers maintain for three (3) years complete records of all pesticides applied as specified in Pesticide Use and Application Rules Subsection 150.02. These records shall be ready to be inspected, duplicated, or submitted when requested by the Director. (3-20-97)