

Dear Senators BAIR, Guthrie, Durst, and
Representatives ANDRUS, Boyle, Pence:

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

IDAPA 53.01.01 - Rules of the Idaho Barley Commission (Docket No. 53-0101-1301).

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 11/21/2013. 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 12/20/2013.

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 334-4845, or send a written request to the address on the memorandum attached below.



Jeff Youtz
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: November 01, 2013

SUBJECT: Idaho Barley Commission

IDAPA 53.01.01 - Rules of the Idaho Barley Commission (Docket No. 53-0101-1301)

The Idaho Barley Commission submits notice of proposed rule at IDAPA 53.01.01 - Rules of the Idaho Barley Commission. The commission notes that the tax rate was revised during the 2012 legislative session, increasing the barley assessment tax rate from two cents to up to four cents per hundredweight. That change is reflected in Section 22-4015, Idaho Code. The commission notes that this change gives them flexibility to adjust the barley assessment tax upon a vote of the commission. The commission indicates that on July 1, 2013, it voted to make a change in the assessment tax rate and the rules are being changed to reflect the change. In reviewing the minutes from the Idaho Barley Commission meetings, it appears that the actual motion for an increase to three cents per hundredweight was made during the February 20, 2013 commission meeting. In addition, several standard sections such as appeal provisions, office location provisions, etc. have been added.

The commission states that negotiated rulemaking was not conducted because the rulemaking implements changes authorized by statute. We contacted the commission to enquire how the increase in tax was conveyed to interested parties. Personnel at the commission indicate that they have had direct contact with growers and first handlers, notifying them of the change. The rule appears to be authorized pursuant to Sections 22-4009 and 22-4015, Idaho Code.

cc: Idaho Barley Commission
Kelly Olson

IDAPA 53 - IDAHO BARLEY COMMISSION
53.01.01 - RULES OF THE IDAHO BARLEY COMMISSION
DOCKET NO. 53-0101-1301
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 22-4009, 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 November 20, 2013.

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:

Pursuant to Senate Bill 1304 (2012 Session - Chap. 363, 2012 Session Laws) the fixed barley tax rate is being removed from this rule. SB 1304 raised the taxable rate up to \$.04 per hundredweight on all barley grown in Idaho. Removing the tax rate from rule gives the Commission the flexibility to adjust the barley assessment tax upon a vote of the commission as provided for in state law. The Idaho Barley Commission voted on July 1, 2013 to make a change in its barley assessment tax rate, and the rules need to reflect this change. Required sections have also been added to the rule and statutory references corrected.

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: N/A

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was not conducted. Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because the rulemaking implements the changes made to the authorizing Idaho statute.

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:

There are no documents incorporated by reference in this rule.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Kelly Olson, Administrator, 208-334-2090.

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 27, 2013.

DATED this 16th day of October, 2013.

Kelly Olson
Idaho Barley Commission Administrator
821 W. State Street
Boise, ID 83702
Phone: 208-334-2090
Fax: 208-334-2335

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 53-0101-1301

000. LEGAL AUTHORITY.

In accordance with Section ~~67-5206(1)~~ 22-4009, Idaho Code, the Idaho Barley Commission ~~shall~~ has promulgated rules implementing the provisions of ~~Sections 67-5203, 67-5204, and 67-5205~~ Chapter 40, Title 22, Idaho Code. (7-1-93)()

001. TITLE AND SCOPE.

These Rules shall be cited as IDAPA 53.01.01, "Rules of the Idaho Barley Commission," IDAPA 53, Title 01, Chapter 01. These rules ~~constitute the minimum style, format and numbering requirements for administrative rules in Idaho~~ provide the means for the protection, promotion, study, research, analysis and development of markets concerning the growing and marketing of Idaho barley. (7-1-93)()

(BREAK IN CONTINUITY OF SECTIONS)

003. ADMINISTRATIVE APPEALS.

Administrative appeals before the Idaho Barley Commission are provided for in Chapter 52, Title 67, Idaho Code. ()

004. INCORPORATION BY REFERENCE.

There are no documents incorporated by reference into this rule. ()

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

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

02. Office Hours. The office hours of the Idaho Barley Commission are between the hours of 8:00 a.m. and 5:00 p.m. each day except Saturdays, Sundays and holidays. ()

03. Telephone and Fax. The telephone number of the office is (208) 334-2090, Fax: 208-334-2335. ()

04. Website. The Commission's official website is <http://barley.idaho.gov/>. ()

006. PUBLIC RECORDS ACT COMPLIANCE.

These rules have been promulgated in accordance with the Administrative Procedure Act, Title 67, Chapter 52, Idaho Code, and are a public record. ()

~~007.~~ -- 009. (RESERVED)

(BREAK IN CONTINUITY OF SECTIONS)

100. FIRST PURCHASER RULES.

In accordance with Section 22-4015(1), Idaho Code, the Commission shall designate the quarters (three (3) month periods) for the purpose of collecting the tax imposed (~~two cents (\$.02) per hundredweight~~) on all barley grown, delivered into, or stored within the state of Idaho and sold or contracted in the state. (7-1-98)()

01. Designated Quarters. The quarters designated by the Commission for payment of tax, as required in Section 22-4015 (1), Idaho Code are: (7-1-93)

a. The Commission's first quarter will begin on the first day of July and end the thirtieth day of September. The first quarter barley tax shall be due on or before the fifteenth day of October. (7-1-93)

b. The Commission's second quarter will begin on the first day of October and end the thirty-first day of December. The second quarter barley tax shall be due on or before the fifteenth day of January. (7-1-93)

c. The Commission's third quarter will begin on the first day of January and end the thirty-first day of March. The third quarter barley tax shall be due on or before the fifteenth day of April. (7-1-93)

d. The Commission's fourth quarter will begin on the first day of April and end the thirtieth day of June. The fourth quarter barley tax shall be due on or before the fifteenth day of July. (7-1-93)

02. Barley Tax Return (Form Number 1). The first purchaser of barley shall be required to complete and send the Barley Tax Return (Form Number 1) to the commission office each and every quarter on or before the dates specified in IDAPA 53.01.01, Subsection 100.01. The Barley Tax Return (Form Number 1) shall be provided to the first purchaser by the Commission. The Barley Tax Return (Form Number 1) shall, at a minimum, require the following legible information: (7-1-93)

a. The tax reporting period. (7-1-93)

b. The name and address of the barley purchaser. (7-1-93)

c. The net weight of the barley purchased (if any) in pounds or hundredweights. (7-1-93)

d. The total amount of tax deducted (if any) from sellers by the purchaser. (7-1-98)

e. The tax withheld by Commodity Credit Corporation loans. (7-1-93)

f. The total amount of tax due the Commission (if any). (7-1-93)

03. Delivery of Documents to Commission (Form Number 2). The first purchaser of barley shall complete and return the Report of Tax on Barley (Form Number 2), or equivalent, to the commission office each and every quarter on or before the dates specified in IDAPA 53.01.01, Subsection 100.01. The Commission shall provide blank copies of Form Number 2 to the first purchaser. Form Number 2, or equivalent, shall, at a minimum, require the following legible information: (7-1-93)

a. The name and address of the purchaser. (7-1-93)

b. The quarter the barley was purchased. (7-1-93)

c. The name or names and address or addresses of the grower and seller. (7-1-93)

d. The number of pounds of barley purchased. (7-1-93)

e. The total barley tax withheld from each purchase. (7-1-93)

04. Deduction of Tax on Net Weight of Barley. The first purchaser shall deduct the barley tax on the NET weight of the barley after deduction of dockage. (7-1-93)

05. Late Payment Penalty (As specified in Section 22-4018 (2), Idaho Code). Any person or firm who makes payment to the Commission at a date later than prescribed in Section 22-4015, Idaho Code, shall be subject to a late payment penalty of fifteen percent (15%) per annum on the amount due. (7-1-93)