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. 08-0501-1701).

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 11/02/2017. 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 12/04/2017.

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.
MEMORANDUM

TO: Rules Review Subcommittee of the Senate Education Committee and the House Education Committee
FROM: Deputy Division Manager - Katharine Gerrity
DATE: October 16, 2017
SUBJECT: State Board of and State Department of Education

IDAPA 08.05.01 - Rules Governing Seed and Plant Certification - Proposed Rule (Docket No. 08-0501-1701)

The State Board of Education submits notice of proposed rule at IDAPA 08.05.01 - Rules Governing Seed and Plant Certification. According to the board, the purpose of the rulemaking is to amend the Idaho Grain Certification Standards "Land Requirements" to allow irrigated fields producing certified class seeds to be used if they have not produced small grain for the previous crop year unless the small grain was of an equal or higher class of the same variety being planted. The board notes that additional changes would amend the Potato Certification Standards, removing "corky ring spot" from the Seed Lot Disqualifying Conditions and specifying that seed lots with a greater than 1.0% of "Well Defined Mosaic" are not eligible for re-certification.

The board indicates that negotiated rulemaking was conducted. The board also notes that seed and crop standards are incorporated by reference due to formatting that is not consistent with the standard administrative rule format and adds that incorporation by reference is consistent with how the University of Idaho Board of Regents treats other types of standards. The rulemaking appears to be authorized pursuant to Section 22-1504, Idaho Code.

cc: State Board of and State Department of Education
    Tracie Bent
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 18, 2017.

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 rule would amend the Idaho Grain Certification Standards “Land Requirements” to allow irrigated fields producing certified class seeds to be used if they have not produced small grain for the previous crop year unless the small grain was of an equal or higher class of the same variety being planted. The current standard restricts the land use to fields that have not produced visually indistinguishable grain for the two prior crop years unless the grain is of an equal or higher class of the same variety or unless a seedling inspection is conducted. Additional changes would amend the Potato Certification Standards, removing “corky ring spot” from the Seed Lot Disqualifying Conditions and specifying that seed lots with a greater than 1.0% of “Well Defined Mosaic” are not eligible for re-certification.

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


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 seed and crop standards are incorporated by reference due to formatting that is not consisting 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, Chief Planning and Policy Officer, at (208)332-1582 or 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 25, 2017

DATED this 31st day of August, 2017.
THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 08-0501-1701
(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.

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.

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.

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.


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.


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)


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)


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. 08-0501-1701

The proposed rule would amend the Idaho Grain Certification Standards “Land Requirements” to allow irrigated fields producing certified class seeds to be used if they have not produced small grain for the previous crop year unless the small grain was of an equal or higher class of the same variety being planted. The current standards restricts the land use to field that have not produced visually indistinguishable grain for the two prior crop years unless the grain is of an equal or higher class of the same variety or unless a seedling inspection is conducted.

Additional changes would amend the Potato Certification Standards, removing “corky ring spot” from the Seed Lot Disqualifying Conditions and specifying that seed lots with a greater than 1.0% of “Well defined Mosaic” are not eligible for recertification.