



Terri Kondeff
Director

Legislative Services Office Idaho State Legislature

Serving Idaho's Citizen Legislature

MEMORANDUM

TO: Senators BURTENSHAW, Bayer, Nelson and,
Representatives KAUFFMAN, Andrus, Toone

FROM: Katharine Gerrity - Deputy Division Manager

DATE: August 04, 2021

SUBJECT: Temporary Rule

IDAPA 53.01.01 - Notice of Omnibus Rulemaking (Fee Rule) - Adoption of Temporary Rule \ Rescission of Previous Temporary Rule - Docket No. 53-0101-2100F

We are forwarding this temporary rule to you for your information only. No analysis was done by LSO. This rule is posted on our web site. If you have any questions, please call Katharine Gerrity at the Legislative Services Office at (208) 334-4845. Thank you.

Attachment: Temporary Rule

Kristin Ford, Manager
Research & Legislation

Paul Headlee, Manager
Budget & Policy Analysis

April Renfro, Manager
Legislative Audits

Glenn Harris, Manager
Information Technology

Statehouse, P.O. Box 83720
Boise, Idaho 83720-0054

Tel: 208-334-2475
www.legislature.idaho.gov

IDAPA 53 – IDAHO BARLEY COMMISSION
DOCKET NO. 53-0101-2100F (FEE RULE)
**NOTICE OF OMNIBUS RULEMAKING – ADOPTION OF TEMPORARY RULE **
RESCISSION OF PREVIOUS TEMPORARY RULE

EFFECTIVE DATE: The effective date of the temporary rule being adopted through this omnibus rulemaking as listed in the descriptive summary of this notice is July 1, 2021. The rescission of previous temporary rule under docket 53-0101-2000F is effective July 1, 2021.

AUTHORITY: In compliance with Sections 67-5226, Idaho Code, notice is hereby given this agency has adopted a temporary rule and rescinded a previous temporary rule. The action is authorized pursuant to Section 22-4009, Idaho Code.

DESCRIPTIVE SUMMARY: The following is the required finding and concise statement of its supporting reasons for adopting a temporary rule and rescinding a previous temporary rule:

This temporary rulemaking adopts and republishes the following existing rule chapter previously submitted to and reviewed by the Idaho Legislature under IDAPA 53, rules of the Idaho Barley Commission:

IDAPA 53

- IDAPA 53.01.01, *Rules of the Idaho Barley Commission.*

Rescission of previous temporary rule aligns this chapter wholly with the administrative code effective 7-1-21.

TEMPORARY RULE JUSTIFICATION: Pursuant to Sections 67-5226(1)(a-c) and 67-5226(2), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons:

This temporary rule is necessary to protect the public health, safety, and welfare of the citizens of Idaho and confer a benefit on its citizens. The temporary rule implements the duly enacted laws of the state of Idaho, provides citizens with the detailed rules and standards for complying with those laws, and assists in the orderly execution and enforcement of those laws. The expiration of this rule without due consideration and processes would undermine the public health, safety and welfare of the citizens of Idaho and deprive them of the benefit intended by this rule. An inability to collect the Barley Tax would jeopardize funding for critical research, market development, education and information programs, causing the programs to be suspended and significantly negatively impacting Idaho barley growers.

FEE SUMMARY: Pursuant to Section 67-5226(2), the Governor has found that the fees or charges being imposed or increased are justified and necessary to avoid immediate danger and the fees are described herein:

The fees or charges, authorized in Section 22-4015, Idaho Code, are part of the agency's 2022 budget that relies upon the existence of these fees or charges to meet the state's obligations and provide necessary state services. Failing to reauthorize these temporary rules would create immediate danger to the state budget, immediate danger to necessary state functions and services, and immediate danger of a violation of Idaho's constitutional requirement that it balance its budget. The following is a specific description of the fees or charges:

Idaho barley growers pay a Barley Tax that is currently three cents (\$.03) per hundredweight of barley marketed, which is collected at point of first purchase and remitted to the Idaho Barley Commission. Section 22-4015, Idaho Code, allows for the Barley Tax of up to four cents (\$.04) per hundredweight.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the adoption of temporary rule and rescission of temporary rule, contact Laura Wilder, Executive Director, Idaho Barley Commission at 208-608-4519.

DATED this 1st day of July, 2021.

Laura Wilder, Executive Director
Idaho Barley Commission
821 W. State Street
Boise, ID 83702

(208) 334-2090 Office
(208) 608-4519 Office Mobile (preferred)
lwilder@barley.idaho.gov

IDAPA 53 – IDAHO BARLEY COMMISSION

53.01.01 – RULES OF THE IDAHO BARLEY COMMISSION

000. LEGAL AUTHORITY.

In accordance with Section 22-4009, Idaho Code, the Idaho Barley Commission has promulgated rules implementing the provisions of Chapter 40, Title 22, Idaho Code. (7-1-21)T

001. SCOPE.

These rules provide the means for the protection, promotion, study, research, analysis and development of markets concerning the growing and marketing of Idaho barley. (7-1-21)T

002. -- 099. (RESERVED)

100. FIRST PURCHASER RULES.

In accordance with Section 22-4015(1), Idaho Code, the Commission will designate the quarters (three (3) month periods) for the purpose of collecting the tax imposed on all barley grown, delivered into, or stored within the state of Idaho and sold or contracted in the state. (7-1-21)T

01. Designated Quarters. The quarters designated by the Commission for payment of tax are: (7-1-21)T

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 is due on or before the fifteenth day of October. (7-1-21)T

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 is due on or before the fifteenth day of January. (7-1-21)T

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 is due on or before the fifteenth day of April. (7-1-21)T

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 is due on or before the fifteenth day of July. (7-1-21)T

02. Barley Tax Return (Form Number 1). The first purchaser of barley is 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 these rules. The Barley Tax Return (Form Number 1) shall be provided to the first purchaser by the Commission and, at a minimum, require the following legible information: (7-1-21)T

a. The tax reporting period. (7-1-21)T

b. The name and address of the barley purchaser. (7-1-21)T

c. The net weight of the barley purchased (if any) in pounds or hundredweights. (7-1-21)T

d. The total amount of tax deducted (if any) from sellers by the purchaser. (7-1-21)T

e. The tax withheld by Commodity Credit Corporation loans. (7-1-21)T

f. The total amount of tax due the Commission (if any). (7-1-21)T

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 these rules. The Commission will provide blank copies of Form Number 2 to the first purchaser. Form Number 2, or equivalent, will, at a minimum, require the following legible information: (7-1-21)T

a. The name and address of the purchaser. (7-1-21)T

b. The quarter the barley was purchased. (7-1-21)T

- c. The name or names and address or addresses of the grower and seller. (7-1-21)T
- d. The number of pounds of barley purchased. (7-1-21)T
- e. The total barley tax withheld from each purchase. (7-1-21)T

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. (7-1-21)T

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, is subject to a late payment penalty of fifteen percent (15%) per annum on the amount due. (7-1-21)T

101. -- 199. (RESERVED)

200. EXEMPTIONS.

In accordance with Section 22-4015, Idaho Code, the barley assessment shall be imposed on all barley grown, delivered into or stored within, and sold or contracted in Idaho. If a barley assessment that serves a comparable purpose to the Idaho assessment was previously paid in a jurisdiction outside Idaho, the seller of the barley is exempt from payment of the Idaho barley assessment. The Commission will determine jurisdictions outside of Idaho that collect an assessment that serves a comparable purpose, which includes, as a minimum, funding for research and market development programs. In order to qualify for the exemption, the seller must demonstrate to the first purchaser in the state of Idaho that an assessment has been previously paid to such a jurisdiction. (7-1-21)T

201. -- 999. (RESERVED)