



## Proposed/Temporary Administrative Rules Form

### Section 1 (To be Completed by Agency)

Agency Name: Agriculture		STARS Agency Code: 210	Fax Number: 334-2283	Date: 12/23/2013
Contact Person: Brian Oakey	Title: Deputy Director	Phone: 332-8500	Email: Brian.Oakey@agri.idaho.gov	
Person Authorizing Rule: Celia Gould	Title: Director	Phone: 332-8500	Email: Celia.Gould@agri.idaho.gov	
Statutory Authority for the rule making (Idaho Code, Federal Statute or Regulation): This chapter is adopted under the legal authority of Sections 22-103, 22-505, 22-1907 and 22-2006, Idaho Code				
Title, Chapter, and Possible Docket (IDAPA) Number: 02.06.23 - RULES REGARDING BACTERIAL RING ROT ( <i>Clavibacter michiganensis</i> subsp. <i>sepedonicus</i> ) OF POTATO				
This rule is: <input type="checkbox"/> Proposed <input checked="" type="checkbox"/> Temporary			Effective Date: January 15, 2014	

If this is a temporary rule:

- Necessary to protect the public health, safety, or welfare; or
- Compliance with deadlines in amendments to governing law or federal programs; or
- Conferring a benefit.

Please explain:

The industry, ISDA, and the University of Idaho have recently been made aware of an increase in the amount of Bacterial Ring Rot (BRR) of potato present in Idaho seed and commercial potato production. The prevalence of this disease presents a real threat to the health of the Idaho potato crop, as well as to the ability to ensure that certified seed potatoes and table stock exported from Idaho are free from the disease. BRR present in stored potatoes is easily spread to the next crop if those potatoes are used for seed, and BRR potatoes can also spread to those potatoes marketed commercially.

Inspection and sample analysis of potatoes currently in storage needs to be facilitated over the next few months and cannot be completed within a time frame that would accommodate the normal proposed rulemaking process. The short time frame is important because of the movement of potatoes from storage to growers for seed that will occur in the next few months. In the next few months, there will also be movement of potatoes to export markets outside of Idaho and the United States. Finding and eliminating diseased potatoes is a priority, as is protecting markets receiving Idaho potatoes for seed and commercial use.

BRR is a serious potato disease and can dramatically affect the quality of the potato during production and particularly during storage. The disease can evade detection during the growing season and harvest, but cause the potatoes to rot during winter storage. This means that BRR may become evident only when the potatoes are removed from storage for processing or planting, at which point the economic losses can be staggering. Inspection and the collection of samples are most effectively completed when potatoes are removed from storage for shipment. Disease confirmation in an approved lab can be attained through ELISA or PCR (DNA) testing for Bacterial Ring Rot. Mandatory reporting is an essential component of an effective overall disease management program.

ISDA received a resolution from the Idaho Potato Commission, requesting that ISDA conduct rulemaking regarding BRR.

If this is a temporary rule which imposes a fee or charge, provide justification as described in Idaho Code 67-5226(2): A fee schedule will be developed that will allow for fees to be collected to cover the cost of inspection, investigation, sample collection, and lab analysis of samples in state, university, or private laboratories. Where ever possible the fees will be consistent with current fees charged by the Department or approved laboratories for similar services or activities.

Agency has determined according to Idaho Code 67-5220(1):

- This rule is to be negotiated  Negotiation of this rule is not feasible at this time.

If rule is negotiated:

Agency certifies that the rule  has been or  will be negotiated with interested persons as outlined in Idaho Code 67-5220(3). *(indicate which)*

If rule negotiation is not feasible, the agency has determined:

- Rule is temporary; or  Lack of identifiable representatives of affected interests; or  
 Rule is simple in nature; or  Affected interests are not likely to reach consensus; or  
 Other.

**Please explain:** The discovery of Bacterial Ring Rot in Idaho potatoes has been identified only recently, and inspections and sample analysis need to be facilitated as potatoes are removed from storage in the next few months. This tight timeline does not allow for a normal negotiated rulemaking process prior to the development of a fee schedule and notification of regulated industry. The potential infestation of Bacterial Ring Rot is a serious and immediate threat to the Idaho potato industry that needs to be addressed in the short term of the next few months.

While time does not allow for the formal negotiated rulemaking process, ISDA does plan to review the text of the temporary rule with industry prior to adoption. In addition, should the need for this rule continue, ISDA will undertake the formal, negotiated, and proposed rulemaking process following expiration of the proposed rulemaking moratorium at the end of the 2014 legislative session.

**Provide a fiscal impact statement for all programs affected. Be sure to reflect both positive and negative impacts and to include all fund sources including both the General Fund and dedicated funds:**

There is no impact to the General Fund. A fee schedule will be developed in the rule that will provide adequate funding for all BRR program activities – inspection, investigation, sampling, and laboratory analysis.

**Provide a short explanation of the need for this rule:**

Bacterial Ring Rot is a serious disease of potato and can dramatically affect the quality of the potato during production and particularly during storage. The disease can manifest itself (causing the potatoes to rot) during winter storage, and become evident only when the potatoes are removed from storage for processing or planting, at which point the economic losses can be staggering. Inspection and the collection of samples are most effectively completed when potatoes are removed from storage for shipment. Disease confirmation in an approved lab can be attained through ELISA or PCR (DNA) testing for Bacterial Ring Rot.

Bacterial Ring Rot can survive in infected potatoes and potato residue and can be easily transmitted by potato seed and contaminated equipment. This disease has become increasingly difficult to control and cleanse from the Idaho potato production system. Industry has appealed to ISDA, through an Idaho Potato Commission resolution, for help in getting control of this disease prior to and in conjunction with the upcoming 2014 growing season.

**Provide a short summary of the changes this rule makes:**

This will be a new rule that will require and outline the procedures for the mandatory reporting of Bacterial Ring Rot or suspect Bacterial Ring Rot infestations by any person. It will also include mandatory testing of all seed potatoes entering or exiting the state for planting purposes.

**Provide a list of those persons or interest group(s) affected by this rule:**

The Idaho Potato Industry, including growers, shippers, and custom seed cutting operations.

**Section 2 (To be Completed by DFM)**

**DFM Analyst Comments:**

The temporary rule is necessary to protect future Potato crops from this new disease. Rule will be given to industry to review.

**DFM Analyst Fiscal Impact Review:**

The fee will be sufficient to cover the cost of these inspections.

**DFM Analyst Signature & Date:**

Anita Hamann, January 9, 2014

**Recommend:**

Yes  No

**Gov Special Assistant Signature & Date:**

Cally Younger, January 9, 2014

**Recommend:**

Yes  No

**DFM Administrator Action:**

- Approved  
 Authorized to Advance Rulemaking Process, DFM to review draft rule prior to publication (See Section 3)  
 Not Approved

**DFM Administrator Signature & Date:**

 1/15/2014

**Section 3 ( To Be Completed By DFM if Required)**

**DFM Analyst Signature & Date:**

**Recommend:**

Yes  No

**DFM Administrator Signature & Date:**

**Approved:**

Yes  No

Return via email to: [info@dfm.idaho.gov](mailto:info@dfm.idaho.gov)

DFM Tracking No. 2014-210-1