

Idaho State Department of Agriculture
IDAPA 02.06.27 Rules Governing Bacterial Ring Rot
July 9, 2014
Lloyd Knight, Facilitator

Present: Celia Gould, ISDA; Jared Stuart, ISDA; Wyatt Penfold, ICIA/Farmer; Lloyd Knight, ISDA; Chad Neibaur, ICIA/Seed; Phillip Nolte, University of Idaho; Alan Westra, ICIA; Mike Telford, ICIA/Farmer; Dirk Parkinson, ICIA/Farmer; James Tiede, NPC/Farmer; Boyd Foster, IPC/Farmer; Travis Blacker, IPC; Ritchey Toeves, IPC/Farmer; Klaren Koompin, Koompin Farms; Angel O'Brien, ISDA recording.

Via Telephone: Angela Kaufmann, OAG/ISDA; Pamm Juker, ISDA; Dennis Tanikuni, Idaho Farm Bureau; Jeff Harper, IPC/Grower.

AGENDA ITEMS

WELCOME

Lloyd Knight convened the meeting at 10:15 a.m. and meeting participants introduced themselves. Mr. Knight provided a working copy of the rule text on the projection screen.

Mr. Knight directed the group to Section 101, "Reporting of BRR." He then opened this section up for discussion.

Director Gould stated that as an agency, it is not feasible for the Department to conduct trace back investigations on voluntary reporting.

Jeff Harper asked what would happen if there was a voluntary report with positive BRR tests.

Director Gould replied that on the mandatory reporting, the Department will conduct a traceback. If the industry wants to report on the voluntary side, that is fine. But there will not be any trace back by the Department of Agriculture.

Mr. Knight directed the group to Section 103, "Trace back Investigation, Sampling and Testing." Based upon Director Gould's comments, ISDA will delete "voluntary" from the first sentence of Section 103. The second paragraph was added to the section based upon comments from the last meeting on June 9th. Mr. Knight asked there were any comments. No comments were given.

Mr. Knight directed the group to Section 150, "Testing for BRR."

Wyatt Penfold stated that after discussion with the seed growers and the Department, ICIA would recommend that Subsection 150.02, "Seed Potatoes to Be Exported Tested", be amended to read as follows: "Seed Potato tubers being exported from Idaho to a foreign country as seed potatoes for planting must meet all Idaho Crop Improvement Association requirements for certification and export

tag placement as well as requiring all importing country phytosanitary certificate requirements. All cost for sampling, transport and testing shall be borne by the exporter.”

There was discussion regarding certified phytosanitary certificate requirements and importing country requirements.

Mr. Knight recapped the discussion by reiterating if there are additional testing requirements above meeting the certification process, then ISDA would pull those samples as part of its phytosanitary work at the time of certification. He then asked for comments or questions.

Mr. Knight directed the group to Section 400, “Hold Orders.”

Mike Telford commented that he did not have a problem with the language in the section, but that was just not how it works. If a shipping point inspector finds anything, the facility will be shut down immediately until everything is resolved

Mr. Knight clarified that hold orders will focus on seed potatoes after they leave the grower’s facility.

Dirk Parkinson directed the group back to page 2 of the definitions. He wanted to make sure the definition in Section 010.02, “Export shipment”, did not conflict with anything discussed or changed in throughout the rulemaking process.

Mr. Knight clarified “export shipment” was originally included in the definition section of the Rules because that term was used in Section 150. It has been removed from 150 and therefore a definition of that term is no longer necessary. He asked if everyone was comfortable with deleting “export shipment” from the definition section. There was no disagreement.

Karen Koompin asked about the definition of bacterial ring rot and whether the subspecies was too specific.

Dr. Nolte stated that the definition was accurate.

There was a question about the requirement on the tests for export to different countries and whether the ICIA certification process and PCR testing used here will conflict with other countries’ requirements.

Jared Stuart answered that many countries do not require a specific test.

Mike Telford asked for clarification on once the lot is tested. Does the test result stay with that lot, or is a retest necessary each time a phytosanitary certificate is issued.

Mr. Stuart replied that the policy for USDA is when you have a lab test in hand, that lab test is good for that remaining lot.

Mr. Knight added as long as there is some sort of identification for the test, the identification will stay with the seed lot.

Mr. Lloyd asked Angela Kaufmann when the Department's deadline would be for publishing as a temporary and proposed rule.

Ms. Kaufmann replied that the rule may be adopted as a temporary rule by ISDA any time the Director is ready. The agency's deadline would be August 8th to publish in the September issue of the Administrative Bulletin, and August 29th would be the last deadline in order to get the temporary and proposed rule published in time to be submitted for consideration by the 2015 Legislature.

Jeff Harper asked that the 3rd scheduled meeting [scheduled for August 5, 2014] not be cancelled because he would like to take the rule back to the Idaho Potato Commission commissioners and make sure this is what they want.

Mr. Knight asked Ms. Kaufmann whether, if the group reached consensus with the temporary rule, the Department would be able to post the temporary rule on ISDA's website before the publication deadline.

Ms. Kaufmann answered that the temporary rule could be posted on ISDA's website before the publication deadline if the Director adopted it. Once an agency adopts a temporary rule, it needs to be published in the next available bulletin.

Mr. Telford requested clarification from Director Gould regarding the voluntary reporting. He stated the reason voluntary reporting was added to the rule in the first place [during the current negotiated rulemaking process] was to have a two way protection for the seed grower. In most cases the buyer and seller work out their problems or issues. Most of the ring rot has been found with the processors and samples.

Director Gould confirmed from the Department's perspective, it does not have the resources or the tools to do the trace back on voluntary reporting. If the consensus is that there will be mandatory reporting, the Department will do it, but the voluntary reporting and trace back will not work.

There was discussion about whether or not there should be mandatory testing of the commercial growers.

Director Gould reminded the group that it is up to the industry to decide what they want to do.

Mr. Knight added that in the last six to ten months, the Department has dealt with eight or nine reports of ring rot and nearly all of the reports originated when processors sent samples of commercial potatoes in to be tested.

Director Gould stated that fundamentally the industry has to decide how far it wants to go with BRR, and whether the testing be mandatory or voluntary.

Boyd Foster commented that he had been a participant in the process over the past year and was impressed with how the industry came together to resolve the issue. He also stated he was impressed

with how Idaho Crop Improvement stepped up with their rules, regulations and policies. He would like to see mandatory testing at the seed level and voluntary testing at the commercial level.

Mr. Koopin suggested that testing at the commercial level be voluntary.

Mr. Neibaur stated that every one of the mandatory tests at the commercial level ended up being a dead end. It was just a lot of work with no definitive answers.

Mr. Penfold stated it was too big of a headache running around looking at voluntary commercial reports.

Director Gould clarified and emphasized that the Department obtained a great deal of information from the reporting and testing, even though it could not always reach a definitive answer regarding the source of BRR.

Discussion continued regarding mandatory and voluntary reporting.

The group reached a consensus to remove the voluntary reporting subsection of the rule and retain mandatory reporting in Section 101.

More discussion followed regarding trace backs of commercial growers and mandatory versus voluntary reporting.

Mr. Tiede stated he was in favor of mandatory reporting with no trace back.

Director Gould clarified that the consensus was that reporting is be mandatory when BRR is confirmed in seed potatoes that are still on the farm and prior to certification, with trace back.

Mr. Knight recapped the proposed changes to the rule text, as a result of today's discussion:

- In Section 010, "Definitions, delete "Cutting Operation" and "Export Shipment" and leave "Seed Potato Certification Process" in.
- In Section 101.02, retain "mandatory reporting" and delete "Voluntary Reporting."
- In Section 103, delete "or voluntary".
- In Section 150, "Testing for BRR," amend to read: "Seed Potato tubers being exported from Idaho to a foreign country as seed potatoes for planting must meet all ICIA requirements for certification and export tag placement as well as all importing country's phytosanitary certification requirements." The language remaining after that, until the last sentence, will be stricken. The last sentence, reading "[a]ll cost for sampling, transport and testing shall be borne by the exporter" Will be retained.
- Section 300, "Cutting Operations", will be deleted in its entirety.
- Section 400, "Hold Orders," will not be changed.

Mr. Knight stated that the next steps in the process will be to keep the third meeting currently scheduled next month. The Idaho Potato Commission will meet on July 22nd and discuss the rule further.

Mr. Knight asked that all meeting resolutions regarding this rule be forwarded to the Department for the rulemaking record. He further stated that once the proposed rule is published, written comments are essential for the rulemaking record.

Lloyd Knight adjourned the meeting at 12:21 p.m.

The next negotiated rulemaking meeting is scheduled for August 5, 2014, at 10:00 a.m. at the Idaho Farm Bureau, 275 Tierra Vista Drive, Pocatello, Idaho.

Respectfully submitted by Angel O'Brien