

TITLE 22  
AGRICULTURE AND HORTICULTURE

CHAPTER 5  
SEED POTATOES

22-501. DEFINITIONS. When used in this chapter:

- (1) "Department" means the department of agriculture of the state of Idaho.
- (2) "Certified potatoes" means potatoes certified according to [chapter 15, title 22](#), Idaho Code, the seed and plant certification act or a similar act of another state or country.
- (3) "Director" means the director of the Idaho department of agriculture.
- (4) "Distribute" means to offer for sale, sell, barter or otherwise supply potatoes or to supply, furnish or otherwise provide potatoes to a person.
- (5) "Person" means any individual, partnership, corporation, firm, association or agent.
- (6) "Potatoes" means potatoes (*Solanum tuberosum*) that may be sold for or used as seed potatoes.

[22-501, added 1939, ch. 144, p. 261, no section number; am. 1996, ch. 215, sec. 1, p. 700; am. 2000, ch. 141, sec. 1, p. 369.]

22-502. PACKING AND TAGGING. All potatoes sold or offered for sale as "Idaho certified seed potatoes" must be packed, tagged and sealed in accordance with the Idaho rules of certification as authorized under [chapter 15, title 22](#), Idaho Code.

[22-502, added 1939, ch. 144, sec. 2, p. 261; am. 1965, ch. 6, sec. 1, p. 8; am. 1996, ch. 215, sec. 2, p. 701.]

22-503. POTATOES FOR PLANTING. (1) All potatoes offered for sale, sold or delivered under contract or distributed into or within the state of Idaho for planting in the state of Idaho by any person from any state, territory, or country shall be certified and shall be accompanied by a certificate of inspection and a plant health certificate, and shall include the description of the grade, the findings of all inspections of each lot of seed, noting the name and amount of any disease observed, and generation of the potatoes and shall show that the potatoes were packed, sealed, and tagged under the certification standards of the state, territory, or country in which they were produced. Seed being imported into Idaho shall meet or exceed the Idaho certification standards for certified seed potatoes according to the Idaho rules of certification as authorized under [chapter 15, title 22](#), Idaho Code. Imported seed lots that exceed tolerances for that specific generation required for Idaho seed, shall be downgraded to the next acceptable generation tolerances until rejection. Potatoes imported from any other state, country, or territory shall be certified and also be in compliance with other applicable rules of the department pertaining to potatoes.

(2) Idaho growers shall be allowed to plant uncertified potatoes grown by them as a part of their farming operation provided that they are no more than one (1) generation from their own certified parent seed potatoes. Uncertified potatoes planted by Idaho growers as provided for under this sec-

tion must comply with all testing and any other conditions as set forth under this chapter and any rules promulgated pursuant to this chapter.

[22-503, added 1939, ch. 144, sec. 3, p. 261; am. 1971, ch. 118, sec. 1, p. 401; am. 1979, ch. 181, sec. 1, p. 536; am. 1996, ch. 215, sec. 3, p. 701; am. 2000, ch. 141, sec. 2, p. 369; am. 2003, ch. 108, sec. 1, p. 347.]

22-504. PENALTY FOR VIOLATIONS. (1) Any person who violates or fails to comply with any of the provisions of this chapter shall be guilty of a misdemeanor and upon conviction thereof shall be fined not more than ten dollars (\$10.00) per hundred weight of potatoes in violation or be imprisoned in the county jail for not more than six (6) months or be subject to both such fine and imprisonment.

(2) Any person who violates or fails to comply with any of the provisions of this chapter or any rules promulgated under this chapter may be assessed a civil penalty by the department or its duly authorized agent of not more than ten dollars (\$10.00) per hundred weight of potatoes in violation for each offense and shall be liable for reasonable attorney's fees. Assessment of a civil penalty may be made in conjunction with any other department administrative action. No civil penalty may be assessed unless the person charged was given notice and opportunity for a hearing pursuant to [chapter 52, title 67](#), Idaho Code. If the department is unable to collect such penalty or if any person fails to pay all or a set portion of the civil penalty as determined by the department, it may recover such amount by action in the appropriate district court. Any person against whom the department has assessed a civil penalty under the provisions of this chapter may, within thirty (30) days of the final action by the agency making the assessment, appeal the assessment to the district court of the county in which the violation is alleged by the department to have occurred. Moneys collected for violations shall be remitted to the agricultural inspection account.

(3) Nothing in this chapter shall be construed as requiring the director to report minor violations for prosecution when he believes that the public interest will be best served by suitable warnings or other administrative action.

[22-504, added 1939, ch. 144, sec. 4, p. 261; am. 1996, ch. 215, sec. 4, p. 701.]

22-505. RULES. The department is hereby authorized to promulgate rules that may be necessary for the efficient enforcement of the provisions of this chapter including, but not limited to, requirements for planting, testing, sampling, inspection, and compliance verification procedures. The department may by rules, establish a schedule of fees for services performed by the department in the administration of the rules. Receipts of these fees shall be deposited in the agricultural inspections account created pursuant to section [22-105](#), Idaho Code.

[22-505, added 1996, ch. 215, sec. 5, p. 702.]

22-506. ADVISORY COMMITTEE. In order to maintain close contact between the department and the potato industry there is hereby established an advisory committee to be appointed by the director. Any person or organization recognized by the potato industry may provide a nomination list of no more than two (2) individuals to the director. The committee shall be comprised

of no more than twelve (12) individuals, one (1) of whom must be from the university of Idaho, and one (1) from the department.

[22-506, added 1996, ch. 215, sec. 6, p. 702.]

22-507. CROP MANAGEMENT AREAS. Nothing in this chapter shall be interpreted in such a manner as to interfere with the enforcement or implementation of provisions of section [22-2017](#), Idaho Code, crop management areas, or rules promulgated thereunder.

[22-507, added 1996, ch. 215, sec. 7, p. 703; am. 2007, ch. 51, sec. 1, p. 123.]

22-508. EXEMPTIONS. Upon application to the director, potato plantings of one (1) acre or less per variety are exempted from the certification requirements of this chapter. However, such plantings may at the discretion of the director be subject to any laboratory testing or field inspections as provided for by rule, at the owner's expense.

[22-508, added 1996, ch. 215, sec. 8, p. 703.]

22-509. TITLE. This chapter shall be known as: "The Idaho Seed Potato Act of 1996."

[22-509, added 1996, ch. 215, sec. 9, p. 703.]

22-510. SEED POTATO ARBITRATION. (1) Requirement of arbitration. When any buyer claims to have been damaged by the failure of seed potatoes to perform as represented, or when any buyer claims to have been damaged by the failure of any seed potato to produce or perform as represented by the required label to be attached to such seed as prescribed in rules, or by warranty, or as a result of negligence, the buyer shall submit the claim to arbitration as provided in this section.

(2) Notice of required arbitration. In addition to the certification tag required under section [22-502](#), Idaho Code, conspicuous language calling attention to the requirement for arbitration under this section shall be referenced or included on a notice of required arbitration tag, or otherwise attached to the seed bag or package. A notice in the following form, or equivalent language, shall be sufficient.

#### NOTICE OF REQUIRED ARBITRATION

Under the seed laws of certain states, arbitration is required as a precondition of maintaining certain legal actions, counterclaims or defenses against a seller of seed. The buyer must file a complaint, along with the filing fee, with the State Department of Agriculture within such time as to permit inspection of the crops and notify seller of complaint by certified mail.

Arbitration shall not be required unless this notice is attached to the seed bag or package.

(3) Establishment of arbitration panel. Any individual or organization recognized by the potato industry in Idaho may provide a nomination list of five (5) names to the director. From that list of nominations, the director shall comprise a list consisting of fifteen (15) names from which the arbitration panel may be established.

(4) Procedures:

(a) Commencement. A buyer may invoke arbitration by filing a sworn complaint with the director together with a nonrefundable filing fee of one hundred dollars (\$100). The buyer shall serve a copy of the complaint upon the seller by certified mail. Except in cases of seed which has not been planted, the complaint shall be filed within such time as to permit effective inspection of the plants under field conditions.

(b) Seller's answer. Within twenty (20) days after receipt of a copy of the complaint, the seller shall file with the director an answer to the complaint and serve a copy of the answer upon the buyer by certified mail.

(c) Referral to arbitration panel. The complaint and answer shall be referred to a three (3) person arbitration panel. Each party shall select one (1) arbitrator from the arbitration panel established under the provisions of subsection (3) of this section. Those arbitrators shall select a third arbitrator from the director's list of nominees. Upon request by the chairman, the department may provide administrative support to the arbitration panel.

(d) Findings and recommendations. The panel is empowered, upon review of the buyer's complaint and the seller's answer, to conduct an investigation and make findings and recommendations.

(e) Investigation. Upon referral of a complaint for investigation, the panel shall make a prompt and full investigation of the matters complained of and report its findings and recommendations to the director within sixty (60) days of such referral or such later date as parties may determine.

(f) Scope of report. The report of the panel shall include findings and recommendations as to costs, if any, for settlement of a complaint.

(g) Authority of panel. In the course of its investigation, the panel or any of its members may:

(i) Question the buyer and the seller and any other person having knowledge of the matter under investigation.

(ii) Grow to production a representative sample of the seed through the facilities of the director or a designated university.

(iii) Submit seed samples for testing by the state seed laboratory or other appropriate laboratory.

(iv) Hold informal meetings or hearings at such time and place as the chairman may direct upon reasonable notice to all parties.

(v) Assess the cost of conducting the investigation to the non-prevailing party of a given complaint.

(h) After the investigation and the report of the panel has been released, either party may request at their own expense, a final determination by an independent mediator. If the parties cannot come to an agreement through mediation, no record of the arbitration findings will be discussed or used in a court of law against either side.

[22-510, added 1996, ch. 214, sec. 3, p. 698.]