Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 22, 2014.

DATED this 8th Day of September, 2014.

Brian J. Oakey, Deputy Director
Idaho State Department of Agriculture
2270 Old Penitentiary Rd.
P.O. Box 790
Boise, ID 83701
Phone: (208) 332-8500
Fax: (208) 334-2170

THE FOLLOWING IS THE PROPOSED TEXT OF FEE DOCKET NO. 02-0627-1402

IDAPA 02
TITLE 06
CHAPTER 27

02.06.27 - RULES GOVERNING BACTERIAL RING ROT CAUSED BY (*CLAVIBACTER MICHIGANENSIS* SUBSP. *SEPEDONICUS*) OF POTATO

000. LEGAL AUTHORITY.
This chapter is adopted under the legal authority of Title 22, Chapters 1, 5, 19 and 20 Idaho Code. ( )

001. TITLE, SCOPE, AND INVESTIGATIONS.

01. Title. The title of this chapter is IDAPA 02.06.27, "Rules Governing Bacterial Ring Rot Caused By (*Clavibacter michiganensis* subsp. *sepedonicus*) of Potato." ( )

02. Scope. These rules are to prevent the introduction and/or spread of *Cms* and subsequently bacterial ring rot into and through Idaho and the United States. These rules govern mandatory and voluntary reporting, mandatory testing, trace back, inspection, investigation, sampling and laboratory analysis of samples. Further, these rules will help ensure that, along with all other Idaho agricultural commodities, commercial potatoes grown in and exported from Idaho and, in particular, that seed potatoes being grown for planting in, exported from or imported into Idaho are of the highest quality. The official citation of this Chapter is IDAPA 02.06.27.000 et seq. For example, this section's citation is IDAPA 02.06.27.001. ( )

03. Trace Back Investigations. The public disclosure of information obtained during an investigation conducted under this rule shall be subject to disclosure to the public only insofar as it is allowed by Title 9, Chapter 3, Idaho Code. ( )

002. WRITTEN INTERPRETATIONS.
There are no written interpretations of these rules. ( )

003. ADMINISTRATIVE APPEAL.
There is no provision for administrative appeal before the Idaho State Department of Agriculture under this chapter. Persons may be entitled to appeal agency actions authorized under these rules pursuant to Title 67, Chapter 52, Idaho Code. ( )

004. INCORPORATION BY REFERENCE.
Copies of the following document may be viewed at the Idaho State Department of Agriculture, 2270 Old Penitentiary Road, PO Box 790, Boise, Idaho 83701. IDAPA 02.06.27 incorporates by reference: ( )

01. IDAPA 08.05.01.000 et seq., "Rules Governing Seed and Plant Certification" and materials incorporated therein by reference. A copy of which may be accessed online at: http://adminrules.idaho.gov/rules/current/08/index.html. ( )

005. ADDRESS, OFFICE HOURS, TELEPHONE, AND FAX NUMBERS.

01. Physical Address. The central office of the Idaho State Department of Agriculture is located at 2270 Old Penitentiary Road, Boise, Idaho 83712-8266. ( )

02. Office Hours. Office hours are 8 a.m. to 5 p.m., Mountain Time, Monday through Friday, except holidays designated by the state of Idaho. ( )

03. Mailing Address. The mailing address for the central office is Idaho State Department of Agriculture, P.O. Box 790, Boise, Idaho 83701-0790. ( )

04. Telephone Number. The telephone number of the central office is (208) 332-8500. ( )

05. Fax Number. The fax number of the central office is (208) 334-2170. ( )

006. PUBLIC RECORDS ACT COMPLIANCE.
These rules are public records and are available for inspection and copying at the Idaho State Department of Agriculture central office. ( )

007. -- 009. (RESERVED)

010. DEFINITIONS.
In addition to the definitions in Sections 22-1904 and 22-2005, Idaho Code, the following definitions shall apply in the interpretation and the enforcement of this rule: ( )

01. Bacterial Ring Rot. Caused by a bacterium, *Clavibacter michiganensis* subsp. *sepedonicus* (*Cms*). ( )

02. Contact Lot. A seed lot produced on a farming operation using common production and handling equipment and/or storage facilities. ( )

03. Department. The Idaho State Department of Agriculture. ( )

04. Director. The Director of the Idaho State Department of Agriculture. ( )

05. Idaho Crop Improvement Association, Inc. A grower association of certified seed producers and conditioners. In 1959, the Regents of the University of Idaho appointed the Idaho Crop Improvement Association, Inc. as its duly authorized agent to administer and conduct seed certification in Idaho. ( )

06. Person. An individual, partnership, corporation, firm, association, agent, grower, processor, shipper or inspector. ( )

07. Seed Lot. A field or a group of fields producing seed potatoes or the potatoes (tubers) harvested from a seed potato field, identified with a certification number and a North American Plant Health Certificate, enabling identity preservation and tracking. ( )

08. Seed Potato Certification Process. The process, timing and requirements for the certification of

seed potatoes in Idaho, as set forth in IDAPA 08.05.01, Rules Governing Seed and Plant Certification and the materials incorporated therein by reference. ( )

09. Seed Stock. Seed potatoes intended for use as a planting source for certification that are "Identity Preserved" with a certification number and a North American Plant Health Certificate. ( )

10. Sister Lot. Seed lots originating from the same lot of seed stock. ( )

011. ABBREVIATIONS.

01. BRR. Bacterial Ring Rot. ( )

02. *Cms*. *Clavibacter michiganensis* subsp. *sepedonicus*. ( )

03. ISDA. Idaho State Department of Agriculture. ( )

04. ICIA. Idaho Crop Improvement Association. ( )

012. APPLICABILITY.
These rules apply to the reporting, trace back, investigation, inspection, sampling, lab analysis and testing related to *Cms* and *Cms*-caused BRR in Idaho. ( )

013. -- 019. (RESERVED)

020. REGULATED PEST - BACTERIAL RING ROT.
Caused by a bacterium, *Clavibacter michiganensis* subsp. *sepedonicus* (*Cms*). ( )

021. -- 100. (RESERVED)

101. REPORTING OF BRR.

01. Mandatory Reporting. It is mandatory for any person, including but not limited to a grower, processor, shipper, laboratory staff member, field inspector, and/or shipping point inspector, to immediately report the presence of BRR to the Department when: ( )

a. The BRR is discovered or observed in seed potato plants or tubers prior to final seed potato certification by ICIA; and ( )

b. The presence of BRR is confirmed via laboratory testing; and ( )

c. The positive tubers or plant parts are still in the possession of the original seed grower. ( )

02. Contents. All reports shall, to the best of the reporter's ability, contain the following information: ( )

a. The field, facility or other location at which *Cms* was found; ( )

b. The date of discovery; ( )

c. The location at which the suspect potatoes were grown; ( )

d. The variety and generation of the suspect potatoes; ( )

e. The laboratory submission report and test results; ( )

f. The certification tags and origin of the seed potatoes used to produce the suspect crop; ( )

g. North American Plant Health Certificate. ( )

03. Methods of Reporting. The report shall be made by phone, in person or in writing (which may include electronic mail sent to BRR@agri.idaho.gov). Full Department headquarters contact information is listed in Section 005 of this rule. ( )

102. HOLD HARMLESS.
Reporting parties and those parties participating in and cooperating with the Department's trace back investigation of any alleged *Cms* contaminated potatoes will be held harmless from any civil penalties the Department has authority to issue under Section 500 of these Rules. ( )

103. TRACE BACK INVESTIGATION, SAMPLING, AND TESTING.

01. Trace Back and Investigation. The department shall, upon receiving a mandatory report of Cms infected potatoes, investigate the origin and destination of such potatoes. Trace back and investigation activities may include, but not be limited to: ( )

a. A review of all inspection, certification, shipping and production records held by any person for the potatoes in question; ( )

b. Inspection and sampling at the reporting operation as well as points for origin, storage and destination related to that operation; and ( )

c. Laboratory testing records of any samples. ( )

02. Mutual Cooperation. The Department and the Idaho Crop Improvement Association shall mutually cooperate with each other in trace back investigations where appropriate. ( )

03. Testing Positive for *Cms*. If certified seed potatoes in a lot test positive for Cms after they have left the control of the grower of that lot, ISDA's trace back investigation may include Cms testing any remaining seed from that lot that is still at the seed potato grower's facility. The testing level will be at a rate, depending on lot size, up to a maximum of four hundred (400) randomly selected tubers. ( )

104. RESTRICTION ON THE USE OF INFECTED POTATOES.
Those potatoes found to be infected with *Cms* may not be utilized for planting as seed. ( )

105. -- 149. (RESERVED)

150. TESTING FOR BRR.

01. Compliance With Certification Standards. Seed potato tubers for planting for commercial production or for seed certification in Idaho or being imported into Idaho as seed potatoes for commercial production or certification as seed for planting must comply with the ICIA Rules of Certification for Seed Potatoes in Idaho as they relate to *Cms*, as incorporated in Section 004 of this rule. ( )

02. Seed Potatoes to Be Exported Tested. 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 phytosanitary certification requirements of the importing country. All costs for sampling, transport and testing shall be borne by the exporter. ( )

151. -- 399. (RESERVED)

400. HOLD ORDERS.
The Director may authorize Hold Orders restricting the movement of infested or suspect potatoes until investigation, trace back, and sample analysis are complete. Hold Orders may require verification that said potatoes will not be utilized for any purposes not authorized in writing by the Department. When potatoes from a certified seed potato lot

are sampled and test positive for BRR after the seed potatoes have left the seed potato grower's facility, the department will not issue a hold order on any seed potatoes from that lot that remain on the seed potato grower's facility unless and until potatoes from the affected lot are sampled at the seed potato grower's facility and test positive for BRR. ( )

401. -- 449. (RESERVED)

450. FEES.
Fees for samples for laboratory testing for *Cms* shall be those normally charged by the approved laboratory doing the testing. ( )

451. -- 499. (RESERVED)

500. VIOLATIONS.
Any person violating any provisions of these rules or not cooperating with investigations conducted under the authority of this rule shall be subject to the provisions of Section 22-504, 22-1913 and 22-2020, Idaho Code. ( )

501. -- 999. (RESERVED)