

# CONCISE SUMMARY OF ECONOMIC IMPACT STATEMENT

## STATE OF MISSISSIPPI

### DEPARTMENT OF AGRICULTURE AND COMMERCE

**Specific Legal Authority Authorizing the promulgation of Rule:**

Miss. Code of 1972, Sec. 69-25-7

**Reference to Rules repealed, amended or suspended by the Proposed Rule:**

Subpart 3 - Bureau of Plant Industry  
Chapter 01 – Plant Diseases, Insects and Weeds  
Sec. 140.01 through 140.09

An Economic Impact Statement is required for this propose rule by Section 25-43-3.105 of the Administrative Procedures Law. This is a Concise Summary of the Economic Impact Statement which must be filed with the Notice of Proposed Rule Adoption in the Secretary of States Office. The full text of the Economic Impact Statement may be obtained from the agency contact person at the above address.

Persons may present their views by submitting written comments on the proposed rule adoption to the agency contact person at the above address. Additional information on where, when and how persons make may present their views or demand an oral proceeding on the proposed rule are included in the Notice of Proposed Rule Adoption to which this is attached.

**a. Description of the need for and the benefits of the proposed rule:**

To prevent the introduction into Mississippi and spread of Bakanae disease of rice, also known as foolish seedling disease of rice from infested areas. The fungal disease is caused by *Gibberella fujikuroi* spp.

**b. Cost estimate to the agency and other state or local government entities:**

Initial costs to the agency for implementing and enforcing the rule will be minimal. Paperwork will be minimal and the cost/benefit ratio well justifies the manpower needed in the field and office for enforcement. It is estimated that it would not take over 40 man-hours annually to implement and enforce the rule in rice growing areas of Mississippi. Surveys for the disease are already done on an annual basis.

**c. Estimate of the cost or economic benefit to all persons:**

Only a few major seed companies will be affected. Medium grain rice seed from California are the main concern; however, conditions for growing rice are not optimum in Mississippi. They are susceptible to rice blast disease and conditions for this disease limit production in Mississippi. Said rule therefore is inacted as a precaution to prevent farmers from importing seed from California in the future. Losses in rice production in California from this disease range from 20 to 50% annually.

**d. Analysis of the impact on small business:**

Farmers and importing seed dealers are relatively small businesses. The need for medium grain rice from California is currently very low or nil as explained above. However, should varieties of rice be developed which are resistant to rice blast, the interest in importing and growing medium grain rice will likely increase in Mississippi.

**e. Comparison of the costs and benefits of the proposed rule to the probable costs and benefits of not adopting the rule:**

Should Bakanae disease of rice be introduced, the losses in production would equal or exceed those incurred in California.

**f. Determination as to whether less costly or less intrusive methods exist to achieve the purpose of the rule:**

There are no other less costly or less intrusive methods available to accomplish the needed purpose.

**g. Description of reasonable alternative methods and reasons for rejection of the alternative methods:**

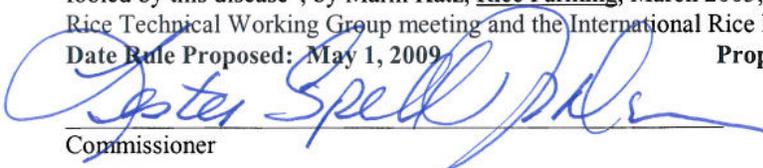
N/A

**h. Data and methodology in making the estimates in the economic impact statement:**

The economic impact statement was determined by conferring with research and Cooperative Extension specialists in rice production. Figures on losses and economics are taken from research and extension publications as follows: (1) "Don't be fooled by this disease", by Marni Katz, Rice Farming, March 2003; (2) Abstracts of Papers on Plant Protection from the 2002 Rice Technical Working Group meeting and the International Rice Research Institute.

Date Rule Proposed: May 1, 2009

Proposed Effective Date of Rule: May 27, 2009

  
Commissioner

**MISSISSIPPI DEPARTMENT OF AGRICULTURE AND COMMERCE  
BUREAU OF PLANT INDUSTRY  
P.O. BOX 5207  
MISSISSIPPI STATE, MS 39762**

**QUARANTINE REGULATIONS**

140.01 NOTICE OF QUARANTINE: The Bureau of Plant Industry has found and determined and does hereby declare the fungus *Gibberella fujikuroi* (bakanae strains), causal agent of the rice disease Bakanae, commonly known as “foolish seedling disease”, a public nuisance, a pest and a menace to the rice industry. In order to protect the welfare of the public’s food supply, the following quarantine is established to prevent the introduction and dissemination of *Gibberella fujikuroi* (bakanae strains) into rice production areas of Mississippi. The movement of regulated articles cited below in section 140.04 from infested areas into Mississippi is hereby restricted. The Commissioner of Agriculture and Commerce through the Bureau of Plant Industry (BPI), in accordance with Section 69-25-7 paragraph (2), Section 25-43-7, Mississippi Code 1972 and laws amendatory thereto, and Subpart 3- Bureau of Plant Industry, Chapter 1; section 102(2)(e) of the regulations adopted there under, does declare and give public notice of the establishment of a quarantine setting forth the following:

**140.02 QUARANTINE IMPLEMENTATION:**

1. The Bureau of Plant Industry will implement the *Gibberella fujikuroi* (bakanae strains)/Bakanae or Foolish Seedling Disease of Rice-quarantine immediately upon adoption of the regulations.
2. Pest - *Gibberella fujikuroi* (bakanae strains)/Bakanae or Foolish Seedling Disease of Rice.
3. Quarantined Areas- The entire state of California and any other state wherein Bakanae disease is found to occur.

**140.03 DEFINITIONS:**

1. **Certificate-** A document issued or authorized by the Bureau of Plant Industry or regulatory official of the state of origin, indicating that a regulated article is not contaminated with *Gibberella fujikuroi* (bakanae strains), or has been treated in such a manner as to eliminate the organism. Such articles may be moved to any destination.
2. **Compliance Agreement-** A written agreement between the Bureau of Plant Industry and any person engaged in growing, dealing in or moving regulated articles wherein the latter agrees to comply with conditions specified in the agreement to prevent the dissemination of *Gibberella fujikuroi* (bakanae strains).
3. **Exemptions-** Provisions contained in these Regulations which allow for modifications in conditions of movement of regulated articles from regulated areas under specified conditions.
4. **Farm Operator-** Person responsible for the production, sale and distribution of a rice seed, rice straw, rice grain, or other rice plant derivatives on any individual farm.
5. **Infected-** Presence of the causal organism on or in seed or any plant part that may or may not sustain and support the living and reproduction of the organism.

6. **Infested-** Actually infested with the organism or so exposed to infestation that it would be reasonable to believe that an infestation exists.
7. **Inoculum-** Spores or any other part of the causal organism that might serve to cause the organism to survive and reproduce on any plant or plant part that it comes into contact with.
8. **Inspector-** Any authorized employee of the Bureau of Plant Industry, or any other person authorized by the Mississippi Department of Agriculture and Commerce to enforce the provisions of these rules.
9. **Limited Permit-** A document issued or authorized by the Bureau of Plant Industry or a designated regulatory official to provide for the movement of regulated articles to restricted destination for limited handling, utilization or processing or for treatment.
10. **Mill Operator-** A person responsible for the operation of a manufacturing plant, and all facilities of that plant, involved in the processing, packaging or handling of rough rice and rice products.
11. **Milled Rice-** Rice that has been subjected to processing to produce products from rough rice.
12. **Milling Rice-** Rice that has been produced, handled, acquired and destined for processing through a mill.
13. **Person-** Any individual, corporation, company, society, association or other business entity.
14. **Regulated Area-** Any state or any portion of such state that is known to be infested with *Gibberella fujikuroi* (bakanae strains).
15. **Research Rice-** Any rice seed or rice plant parts that are to be used in a recognized research project conducted by a state or federal program under the supervision of a trained and accredited professional staff person utilizing proper safety programs to prevent the accidental release and/or spread of the disease.
16. **Rice Mill-** Any manufacturing plants and all associated facilities that are involved in processing rough rice to produce rice related products.
17. **Rice-** All parts of rice and wild rice plants of the genera *Oryza*.
18. **Rice Hulls-** The outer covering of the rice seed that usually is removed in the milling process.
19. **Rice Production Area-** Any area utilized in the growing of rice plants for production of the plant and/or subsequent seed for harvesting.
20. **Rice Products-** Any commodity or product that has been produced from any part of the rice plant and may contain parts of the original plant structure or they may be unrecognizable as having originated from the rice plant because of being subjected to additional processing.
21. **Rice Mill Waste-** Any trash or discarded material that was originally contained or in contact with rice plants, seed or other plant parts utilized in a milling process.
22. **Rough Rice-** Rice seed harvested, handled and transported in the same form it was in immediately following harvest and removal from the rice plant.
23. **Seed Assay-** Any test available to be applied to a sample, lot or other quantity of seed to determine the presence of *Gibberella fujikuroi* (bakanae strains).
24. **Seed Rice-** Seed removed from the rice plant and subjected to such processing as to make the seed suitable for planting for subsequent rice crops. This processing may include but is not limited to cleaning, treating and bagging. Depending on the handling and products applied to this seed it may or may not be suitable for human consumption.
25. **Treatment-** Any scientifically proven and effective process that may be applied to rice seed or other plant parts to modify/or affect the presence of *Gibberella fujikuroi* (bakanae strains).
26. **Used Rice Equipment-** Any equipment previously used to harvest, strip, transport, destroy or process rice.

#### 140.04 REGULATED AND NON-REGULATED ARTICLES ASSOCIATED WITH RICE:

1. Regulated articles from regulated area(s)
  - a. The causal agent, *Gibberella fujikuroi* (bakanae strains), in any living stage of development.
  - b. Wild Rice
  - c. Rough Rice
  - d. Seed Rice
  - e. Research Rice
  - f. Milling Rice
  - g. Rice Hulls
  - h. Rice Mill Waste
  - i. Used Rice Equipment
  - j. Any other products, articles or means of conveyance, upon notification of the owner of such and after determined by an inspector they present a hazard of spread of *Gibberella fujikuroi* (bakanae strains).
2. Non-regulated articles from regulated area(s).
  - a. Milled/processed rice bagged and labeled for human consumption.
  - b. Bagged and labeled animal feed containing regulated articles not destined for rice production areas.

#### 140.05 CONDITIONS GOVERNING THE MOVEMENT OF REGULATED ARTICLES:

1. A certificate or limited permit is required to transport regulated articles from a regulated area into or through any rice production area.
2. A certificate or limited permit for movement of regulated articles may be obtained from the Bureau of Plant Industry or an authorized cooperator/collaborator agency.
3. A certificate or limited permit may be issued by an inspector if a regulated article:
  - a. Has originated in the non-infested area of this state or in a non-infested area of any other state and has not been exposed to infestation at any time; or
  - b. Has been treated to eliminate infestation; or
  - c. Has been subjected to a seed assay to determine if the causal agent is present and none is found; or
  - d. Has been grown, manufactured, stored or handled in such a manner that in the judgment of the inspector no infestation will be transmitted thereby.
4. Limited permits may be issued by an inspector to allow the movement of non-certified regulated articles for specified handling, utilization, processing or treatment in accordance with approved procedures, provided the inspector has determined that such movement will not result in the spread of *Gibberella fujikuroi* (bakanae strains).
5. When certificates or limited permits are required, they shall be securely fastened to the regulated article or to the outside of the container in which the regulated article is being moved.
6. Any certificate or limited permit which has been issued or authorized may be withdrawn by the inspector if he determines that the holder thereof has not complied with any conditions for the use of such documents or with any conditions contained in a compliance agreement.

7. Persons requesting certification or a limited permit must request the services from an inspector(s) at least 48 hours before the services are needed. The regulated articles must be assembled at the place and manner in which the inspector designates outside the rice production area. The following information must be provided at the time the request is submitted:
  - a. The quantity of the regulated article to be moved.
  - b. The location of the regulated article.
  - c. The names and addresses of the consignee and consignor.
  - d. The method of shipment.
  - e. The scheduled date of shipment.

140.06 INSPECTION AND DISPOSAL: An inspector is authorized to stop and inspect any regulated article moving into a rice production area. Any article found to be infested with *Gibberella fujikuori* (bakanae strains) or having originated in an area where *Gibberella fujikuori* (bakanae strains) is known to occur and not certified, shall be subject to treatment or confiscation and destruction, without compensation, as required by the Bureau of Plant Industry.

140.07 COMPLIANCE AGREEMENT:

1. As a condition of issuance of certificates or limited permits for the movement of regulated articles, any person engaged in purchasing, assembling, exchanging, handling, processing, utilizing, treating or moving such articles may be required to sign a compliance agreement stipulating that he/she:
  - a. Maintain such safeguards against the establishment and spread of any infestation.
  - b. Comply with such conditions as to the maintenance of identity, handling and subsequent movement of such articles.
  - c. Cleaning and treatment of means of conveyance and the containers used in the transportation of such articles as may be require by the inspector.
2. Any compliance agreement may be cancelled by the inspector who is supervising its enforcement whenever he finds, after notice and opportunity to present views has been accorded to the other party thereto, that such other party has failed to comply with the conditions of the agreement. Any compliance agreement may be cancelled when compliance is no longer required.

140.08 REMOVAL OF QUARANTINE MAY BE ACCOMPLISHED BY ONE OF THE FOLLOWING:

Said quarantine, upon approval by the Advisory Board, may be removed if the Commissioner determines that *Gibberella fujikuori* (bakanae strains) are endemic and no regulatory mechanisms will prove effective in preventing further dissemination of *Gibberella fujikuori* (bakanae strains) within Mississippi.

140.09 PENALTIES:

1. Persons found in violation of state requirements shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not more than one thousand dollars (\$1,000) per violation or by imprisonment for not more than six (6) months or by both such fine and imprisonment at the discretion of the court having jurisdiction.

2. Each illegal shipment or sale transaction within the state shall be considered a separate violation and subject to prosecution accordingly.