

AGRICULTURE AFFAIRS COMMITTEE

ADMINISTRATIVE RULES REVIEW

Table of Contents

2013 Legislative Session

IDAPA 02 - DEPARTMENT OF AGRICULTURE

02.02.14 - Rules for Weights and Measures
Docket No. 02-0214-12012

02.03.03 - Rules Governing Pesticide and Chemigation Use and Application
Docket No. 02-0303-12015

02.04.08 - Rules Governing Grade A Milk and Milk Products
Docket No. 02-0408-120110

02.04.19 - Rules Governing Domestic Cervidae
Docket No. 02-0419-120114

02.04.21 - Rules Governing the Importation of Animals
Docket No. 02-0421-120118

02.06.12 - Rules Pertaining to the Idaho Fertilizer Law
Docket No. 02-0612-120126

**02.06.13 - Rules Relating to Rapeseed Production and Establishment of Rapeseed Districts
In the State of Idaho**
Docket No. 02-0613-120129

02.06.14 - Rules Governing Annual Bluegrass (*Poa annua*)
Docket No. 02-0614-120133

02.06.16 - Rules Governing Honey Standards
Docket No. 02-0616-1201 (New Chapter)37

02.06.31 - Noxious Weed Free Forage and Straw Certification Rules
Docket No. 02-0631-120145

02.06.35 - Rules Governing Rough Bluegrass (*Poa trivialis*)
Docket No. 02-0635-120158

02.06.41 - Rules Pertaining to the Idaho Soil and Plant Amendment Act of 2001
Docket No. 02-0641-120162

IDAPA 46 - BOARD OF VETERINARY MEDICINE

46.01.01 - Rules of the State of Idaho Board of Veterinary Medicine
Docket No. 46-0101-120165

IDAPA 02 - DEPARTMENT OF AGRICULTURE

02.02.14 - RULES FOR WEIGHTS AND MEASURES

DOCKET NO. 02-0214-1201

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2013 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 71-111, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

To adopt by reference the 2013 edition of the National Institute of Standards and Technology Handbook 44, Specifications, Tolerances, and Other Technical Requirements for Weighing and Measuring Devices. NIST documents are available online at <http://www.nist.gov/pml/wmd/index.cfm>.

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the [July 4, 2012 Idaho Administrative Bulletin, Vol. 12-7, pages 17 and 18](#).

IDAHO CODE SECTION 22-101A STATEMENT: This rule does regulate an activity not already regulated by the federal government, because the federal government does not regulate specifications, tolerances and other technical requirements for weighing and measuring devices. The rule is, however consistent with national standards by the National Institute of Standards and Technology.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: ISDA does not anticipate any fiscal impact from the changes to be made to the Rule during this rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Kevin Merritt, Section Manager at (208) 332-8692.

DATED this 31st day of August, 2012.

Brian Oakey
Deputy Director
Idaho State Dept. of Agriculture

2270 Old Penitentiary Road
P.O. Box 790, Boise, ID 83701
Phone: (208) 334-8500/Fax: (208) 334-2170

THE FOLLOWING NOTICE WAS PUBLISHED WITH THE PROPOSED RULE

AUTHORITY: In compliance with Section 67-5220(2), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 71-111, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than July 18, 2012.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

To incorporate by reference the 2013 edition of the National Institute of Standards and Technology Handbook 44, Specifications, Tolerances, and Other Technical Requirements for Weighing and Measuring Devices. NIST documents are available online at <http://www.nist.gov/pml/wmd/index.cfm>.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: N/A

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking:

ISDA does not anticipate any fiscal impact from the changes to be made to the Rule during this rulemaking.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because of the simple nature of the proposed amendment.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule:

This document is recognized nationally as the primary reference document, incorporating the most current version promotes uniformity throughout the United States.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Kevin Merritt, Section Manager at (208)332-8692.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before July 25, 2012.

DATED this 8th day of June, 2012.

THE FOLLOWING IS THE TEXT OF DOCKET NO. 02-0214-1201

004. INCORPORATION BY REFERENCE.

01. Required Reference Materials. The 201~~2~~³ edition of Handbook No. 44 of the National Institute of Standards and Technology, United States Department of Commerce, "Specifications, Tolerances, and Other Technical Requirements for Weighing and Measuring Devices," hereby incorporated by reference, shall be the specifications, tolerances and other technical requirements for commercial weighing and measuring devices, unless otherwise stated in these rules. (~~3-29-12~~)()

02. Required Reference Materials for Checking Prepackaged Commodities. The 4th Edition of Handbook No. 133 of the National Institute of Standards and Technology, United States Department of Commerce, "Checking the Net Contents of Packaged Goods," hereby incorporated by reference, shall be the authority in checking packaged commodities, unless otherwise stated in these rules. (2-13-04)

03. Specifications for Diesel Fuel and Biodiesel Fuel. American Society of Testing and Materials (ASTM) D975-07a, "Standard Specification for Diesel Fuel Oils," and ASTM D6751-07a, "Standard Specification for Biodiesel Fuel (B100) Blend Stock for Distillate Fuels," intended for blending with diesel fuel are hereby incorporated by reference and are the specifications for diesel fuel and biodiesel fuel blend stock (B100 biodiesel). (4-2-08)

04. Specifications for Gasoline. American Society of Testing and Materials (ASTM) D 4814-07a, "Standard Specification for Automotive Spark-Ignition Engine Fuel", dated October 17, 2007, is hereby incorporated by reference and is the specification for gasoline. (5-8-09)

05. Local Availability. Copies of the incorporated documents are on file with the Idaho State Department of Agriculture, 2216 Kellogg Lane, Boise, Idaho 83712. Copies of NIST documents may be purchased from the Superintendent of Documents, Government Printing Office, Washington, D.C. 20402. Copies are available for downloading at <http://www.nist.gov/pml/wmd/index.cfm>. Copies of ASTM specifications are on file with the Idaho State Department of Agriculture or may be purchased from <http://www.astm.org>, 100 Barr Harbor Drive, PO Box C700, West Conshohocken, PA, 19428. (4-7-11)

IDAPA 02 - DEPARTMENT OF AGRICULTURE
02.03.03 - RULES GOVERNING PESTICIDE AND CHEMIGATION
USE AND APPLICATION

DOCKET NO. 02-0303-1201

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2013 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 22-3421, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the October 3, 2012 Idaho Administrative Bulletin, [Vol. 12-10, pages 25 through 27](#).

IDAHO CODE SECTION 22-101A STATEMENT: This rule does not regulate an activity not regulated by the federal government, nor is it broader in scope or more stringent than federal regulations.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: ISDA does not anticipate any fiscal impact from the changes to be made to the Rule during this rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Ben Miller, Bureau Chief, (208) 332-8593.

DATED this 30th day of October, 2012.

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

THE FOLLOWING NOTICE WAS PUBLISHED WITH THE PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 22-3421, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 17, 2012.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is a non-technical explanation of the substance and purpose of the proposed rulemaking:

Due to recent changes to soil fumigation labels by the USEPA, all private applicators who want to purchase or apply soil fumigation products will have to attend training every three (3) years, specific to the soil fumigation product they wish to purchase. The USEPA will allow any private applicator with a soil fumigation category on their pesticide license to purchase soil fumigation products without the required training. IDAPA 02.03.03.050.01.c., "Rules Governing Pesticide and Chemigation Use and Application," will be amended to add a new soil fumigation license category for private applicator licenses.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: N/A

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year:

ISDA does not anticipate any fiscal impact from the changes to be made to the rule during this rulemaking.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the July 4, 2012 Idaho Administrative Bulletin, [Vol. 12-7, Page 19](#). A negotiated rulemaking meeting was held at the Idaho State Department of Agriculture on July 10.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: N/A

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Ben Miller, Bureau Chief, 208-332-8593.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to Ben Miller and must be delivered on or before October 24, 2012.

Comments can be delivered via email to Ben.Miller@agri.idaho.gov or via regular mail to Ben Miller's attention at the address listed below.

DATED this 31st day of August, 2012.

THE FOLLOWING IS THE TEXT OF DOCKET NO. 02-0303-1201

050. PRIVATE APPLICATOR LICENSING.

01. Applying for a Private Applicator's License. Applicants who wish to obtain a private applicator's license shall: (3-20-97)()

a. Fill out an application prescribed by the Department; and (3-20-97)()

b. Take an examination based on the Environmental Protection Agency (EPA) core manual and score a minimum of seventy percent (70%). The examination procedure shall be the same as for professional applicators (Subsection 100.03), except private applicators shall not be assessed an examination fee. (3-20-97)

02. License Categories. ()

ea. Private applicators shall be certified and licensed in one or both more of the following categories: (3-20-97)()

i. Restricted Use Pesticide (RU). For persons who use or supervise the use of restricted use pesticides to produce agricultural commodities or forest crops on land they or their employer(s) own(s) or operate(s). (3-20-97)

ii. Chemigation (CH). For persons who apply chemicals through irrigation systems on land they or their employer(s) own(s) or operate(s). (3-20-97)

iii. Soil Fumigation (SF). For persons who apply soil fumigants on land they or their employer(s) own(s) or operate(s). In order to be certified and licensed in this category, private applicators must pass both the RU examination and the SF examination. ()

dh. Non-reading applicators may be certified to purchase and apply a single restricted

use pesticide when they have demonstrated their competence in the safe and proper use of such pesticide to the Director or other designated agent. (3-20-97)

023. License Recertification. In order for a private applicator's license to be renewed, the license holder must complete the recertification provisions of this section. Beginning July 1, 1996, licenses belonging to private applicators with last names beginning with A through L, inclusive, shall expire on the last day of the month listed on the chart in Subsection 050.023.a. in every odd-numbered year, and licenses belonging to private applicators with last names beginning with M through Z, inclusive, shall expire on the last day of the month listed on the chart in Subsection 050.023.a., in every even-numbered year. The recertification period shall be concurrent with the licensing period. Those persons who are currently licensed as a private applicator or chemigator on June 30, 1996, shall be reissued a private applicator license with the appropriate categories. Those persons who are currently licensed as a private applicator or chemigator on June 30, 1996, shall be grandfathered into the licensing schedule at Subsection 050.023.a. Any person with less than thirteen (13) months in the initial licensing period shall not be required to obtain recertification credits for the initial period. Upon issuance of the replacement license, the previous license shall be null and void. Any private applicator license without an expiration date shall be null and void on December 31, 1996. Recertification and relicensing may be accomplished by complying with either Subsection 050.023.b. or 050.023.c. (3-23-98)()

a. Licensing schedule.

Last Name		Month to License
Odd Year	Even Year	
A-D	M-P	March
E-H	Q-T	July
I-L	U-Z	October

(3-20-97)

b. A person shall accumulate recertification credits by attending Department-accredited pesticide instruction seminars. (3-20-97)

i. A minimum of six (6) credits shall be earned during each recertification period. (3-23-98)

ii. Guidelines for obtaining recertification credits shall be the same as for professional applicators, as described in Subsections 100.04.a.ii. through 100.04.a.v. Any credits accumulated beyond the required six (6) in a recertification period may not be carried over to the next recertification period. (3-23-98)

iii. Upon earning the recertification credits as described above, a person shall be considered by the Department to be recertified and eligible for license renewal for the next licensing period. (3-20-97)

c. A person shall pass the Department's private applicator recertification examination(s) for all categories in which the person intends to license with a minimum score of seventy percent (70%). (3-20-97)

i. Recertification examinations may be taken by a person beginning the thirteenth (13th) month of the license period. (3-20-97)

ii. The examination procedures as outlined in Subsection 100.03 shall be followed, except that an examination fee shall not be assessed. (3-20-97)

iii. Upon passing the recertification examinations, a person shall be considered by the Department to be recertified and eligible for license renewal for the next licensing period. (3-20-97)

IDAPA 02 - DEPARTMENT OF AGRICULTURE

02.04.08 - RULES GOVERNING GRADE A MILK AND MILK PRODUCTS

DOCKET NO. 02-0408-1201

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2013 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 37-308, -314, -401, -403, -708, and -803, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the May 2, 2012 Idaho Administrative Bulletin, [Vol. 12-5, pages 43 through 45](#).

IDAHO CODE SECTION 22-101A STATEMENT: This rule does not regulate an activity not regulated by the federal government, nor is it broader in scope or more stringent than federal regulations.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: No fee or charge is being imposed or changed as a result of this rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Marv Patten, Bureau Chief, Dairy and CAFO Programs, 208-332-8550 or marv.patten@agri.idaho.gov.

DATED this 30th day of October, 2012.

Brian J. Oakey
Deputy Director
Idaho State Department of Agriculture
2270 Old Penitentiary Road, Boise, ID 83712
P.O. Box 790, Boise, ID 83701-0790
Phone: (208) 332-8500
Fax: (208) 332-4062

**THE FOLLOWING NOTICE WAS PUBLISHED WITH
THE TEMPORARY AND PROPOSED RULE**

EFFECTIVE DATE: The effective date of the temporary rule is **June 1, 2012**.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed regular rulemaking procedures have been initiated. The action is authorized pursuant to Sections 37-308, -314, -101, -403, -708, and -803, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than May 16, 2012.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is the required finding and concise statement of its supporting reasons for adopting a temporary rule and a nontechnical explanation of the substance and purpose of the proposed rulemaking:

Effective January 1, 2012, the new international somatic cell count standard is 400,000 per mL. To ensure marketability of Idaho dairy products internationally, the Idaho Dairymen's Association (IDA) and the Idaho Milk Processors Association (IMP) requested the Idaho State Department of Agriculture to amend the existing somatic cell count standard from 500,000 mL to 400,000 mL.

Four (4) documents incorporated by reference are being updated to include the most recent publications dates. These documents are: 1) 2011 Pasteurized Milk Ordinance, 2) 2011 Methods of Making Sanitation ratings of Milk Shippers, 3) 2011 Evaluation of Milk Laboratories, and 4) 2011 Procedures Governing the Cooperative State Public Health Service/ Food and Drug Administration Program of the National Conference on Interstate Milk Shipments.

TEMPORARY RULE JUSTIFICATION: Pursuant to Sections 67-5226(1)(b) and 67-5226(1)(c), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons:

This is a temporary rulemaking with an effective date of June 1, 2012, because new milk quality standards for individual dairy farm milk supplies became effective January 1, 2012. The IDA and the IMP requested that the amendments to the state's Grade A milk rule be in effect on June 1, 2012. These changes will benefit the dairy industry and consumers of milk and milk products.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased:

No fee or charge is being imposed or changed as a result of this rulemaking.

FISCAL IMPACT: There is no fiscal impact to the general fund. The program is funded by a mill levy assessment paid by the dairy industry, pursuant to Section 37-407, Idaho Code.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because the affected parties, specifically the Idaho dairy industry, has requested this change to ensure their products can be sold to international markets and the incorporated reference documents are being updated to the most recent publication dates.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule:

This temporary and proposed rule is incorporating the latest editions which are the 2011 publication dates of the aforementioned documents. There are no new documents being incorporated into the temporary and proposed rule.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Marv Patten, Bureau Chief, Dairy and CAFO Programs, 208-332-8550 or marv.patten@agri.idaho.gov.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before May 23, 2012.

DATED this 3rd day of April, 2012.

THE FOLLOWING THE TEXT OF DOCKET NO. 02-0408-1201

004. INCORPORATION BY REFERENCE.

The Idaho State Department of Agriculture incorporates by reference the following documents in this chapter. Copies of these documents may be obtained at the Idaho State Department of Agriculture central office. (4-7-11)

01. Grade "A" Pasteurized Milk Ordinance. The Grade "A" Pasteurized Milk Ordinance, ~~2009~~ 2011 revision, published by the U. S. Department of Health and Human Services, Public Health Service, Food and Drug Administration, except the bacterial limit standard and the somatic cell count standard in Section 7 of the document. Available online at <http://www.fda.gov/downloads/Food/FoodSafety/Product-SpecificInformation/MilkSafety/>

NationalConferenceonInterstateMilkShipmentsNCIMSMModelDocuments/UCM291757.pdf.
(4-7-11)()

02. Evaluation of Milk Laboratories. The Evaluation of Milk Laboratories, ~~2007~~ 2011 revision, published by the U. S. Department of Health and Human Services, Public Health Service, Food and Drug Administration. Available online at <http://www.fda.gov/downloads/Food/FoodSafety/Product-SpecificInformation/MilkSafety/NationalConferenceonInterstateMilkShipmentsNCIMSMModelDocuments/UCM293265.pdf>.
(4-7-11)()

03. Methods of Making Sanitation Ratings of Milk Shippers. The Methods of Making Sanitation Ratings of Milk Shippers, ~~2009~~ 2011 revision, published by the U. S. Department of Health and Human Services, Public Health Service, Food and Drug Administration. Available online at <http://www.fda.gov/downloads/Food/FoodSafety/Product-SpecificInformation/MilkSafety/NationalConferenceonInterstateMilkShipmentsNCIMSMModelDocuments/UCM290758.pdf>.
(4-7-11)()

04. Interstate Milk Shipments. The Procedures Governing the Cooperative State-Public Health Service/Food and Drug Administration Program of the National Conference on Interstate Milk Shipments, ~~2009~~ 2011 revision, published by the U. S. Department of Health and Human Services, Public Health Service, Food and Drug Administration, and the National Conference on Interstate Milk Shipments. Available online at <http://www.fda.gov/downloads/Food/FoodSafety/Product-SpecificInformation/MilkSafety/NationalConferenceonInterstateMilkShipmentsNCIMSMModelDocuments/UCM283586.pdf>.
(4-7-11)()

(BREAK IN CONTINUITY OF SECTIONS)

008. MILK QUALITY STANDARDS.

The following standards shall be substituted for the bacterial limit standard and the somatic cell count standard for Grade A raw milk and milk products for pasteurized, ultra-pasteurization or aseptic processing in Section 7 of the Grade "A" Pasteurized Milk Ordinance. (4-7-11)

01. Bacterial Limit Standard. The bacterial limit standard is eighty thousand (80,000) per mL. (4-7-11)

02. Somatic Cell Count Standard. The somatic cell count standard is ~~five~~ four hundred thousand (~~5~~400,000) per mL. (4-7-11)()

03. Out of State Milk. Milk from other states, if processed in Idaho, shall comply with the Idaho somatic cell count standard. ()

IDAPA 02 - DEPARTMENT OF AGRICULTURE
02.04.19 - RULES GOVERNING DOMESTIC CERVIDAE

DOCKET NO. 02-0419-1201

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2013 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 25-221, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

Amend section 011.04. The acronym AZA, defined as the American Zoological Association, is incorrect. The correct definition for AZA is the Association of Zoos and Aquarium.

Amend section 450.01 to allow the Administrator to grant exemptions to the change of ownership tuberculosis (TB) testing requirement for domestic cervidae on a case-by-case basis, based upon individual circumstances. This would allow cervidae farms that maintain their herd to conform to all TB testing requirements to be sold to another producer without losing their test status. The new owner of the herd may then be granted an exemption as the herd test status will not have changed, only the ownership of the animals.

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the October 3, 2012 Idaho Administrative Bulletin, [Vol. 12-10, page 28 and 29](#).

IDAHO CODE SECTION 22-101A STATEMENT: This rule does not regulate an activity not regulated by the federal government, nor is it broader in scope or more stringent than federal regulations.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: N/A

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking:

ISDA does not anticipate any fiscal impact from the changes to be made to this Rule during this rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Dr. Scott Leibsle, Deputy Administrator, 208-332-8540.

DATED this 29th day of November, 2012.

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

THE FOLLOWING NOTICE WAS PUBLISHED WITH THE PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 25-221 Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 17, 2012.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

Amend Subsection 011.04. The acronym AZA, defined as the American Zoological Association, is incorrect. The correct definition for AZA is the Association of Zoos and Aquarium.

Amend Subsection 450.01 to allow the Administrator to grant exemptions to the change of ownership tuberculosis (TB) testing requirement for domestic cervidae on a case-by-case basis, based upon individual circumstances. This would allow cervidae farms that maintain their herd to conform to all TB testing requirements to be sold to another producer without losing their test status. The new owner of the herd may then be granted an exemption as the herd test status will not have changed, only the ownership of the animals.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: N/A

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal

impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking:

ISDA does not anticipate any fiscal impact from the changes to be made to the Rule as a result of this rulemaking.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the August 1, 2012 Idaho Administrative Bulletin, **Vol. 12-8, page 14**. A negotiated rulemaking meeting was held at the Idaho State Department of Agriculture on August 15, 2012 and there were no visitors in attendance.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: N/A

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: Technical questions concerning the proposed rule may be directed to Dr. Scott Leibsle, Deputy Administrator, 208-332-8540.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 24, 2012.

Comments can be delivered via email to Scott.Leibsle@agri.idaho.gov or via regular mail to Dr. Scott Leibsle's attention at the address listed below.

DATED this 31st day of August, 2012.

THE FOLLOWING IS THE TEXT OF DOCKET NO. 02-0419-1201

011. ABBREVIATIONS.

01. AAVLD. American Association of Veterinary Laboratory Diagnosticians. (4-2-03)
02. APHIS. Animal and Plant Health Inspection Service. (4-2-03)
03. AVIC. Area Veterinarian in Charge. (4-2-03)
04. AZA. ~~American Zoological~~ Association of Zoos and Aquariums. ~~(4-2-03)~~()
05. CFR. Code of Federal Regulations. (4-2-03)

- 06. CWD. Chronic Wasting Disease. (4-2-03)
- 07. CWDP. Chronic Wasting Disease Program. (4-2-03)
- 08. ISDA. Idaho State Department of Agriculture. (4-2-03)
- 09. NAEBA. North American Elk Breeders Association. (4-2-03)
- 10. NVSL. National Veterinary Services Laboratory. (4-2-03)
- 11. TB. Tuberculosis. (4-2-03)
- 12. UM&R. Uniform Methods and Rules. (4-2-03)
- 13. USDA. United States Department of Agriculture. (4-2-03)
- 14. VS. Veterinary Services. (4-2-03)

(BREAK IN CONTINUITY OF SECTIONS)

450. TUBERCULOSIS.

01. Change of Ownership. All domestic cervidae that are sold, or are in any way transferred from one person to another person in Idaho are required to be tested negative for TB within ninety (90) days prior to the change of ownership or transfer, except: (4-2-03)

a. Animals originating from an accredited, qualified or monitored herd, as described in “Bovine Tuberculosis Eradication, Uniform Methods and Rules,” effective January 22, 1999, if they are accompanied by a certificate signed by an accredited veterinarian or the Administrator stating such domestic cervidae have originated directly from such herd; or (4-2-03)

b. Those domestic cervidae consigned directly to an approved slaughter establishment or domestic cervidae approved feedlot. (4-2-03)

c. The Administrator, following an evaluation, may grant exceptions to the provisions of this Section on a case-by-case basis. ()

02. Rules and UM&R. Owners of domestic cervidae ranches shall comply with IDAPA 02.04.03, “Rules of the Department of Agriculture Governing Animal Industry,” that apply to domestic cervidae, and the Bovine Tuberculosis Eradication, UM&R, Effective January 22, 1999. (4-2-03)

IDAPA 02 - DEPARTMENT OF AGRICULTURE

02.04.21 - RULES GOVERNING THE IMPORTATION OF ANIMALS

DOCKET NO. 02-0421-1201

NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2013 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 25-221, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

Amend Subsection 011.03. The acronym AZA, defined as the American Zoological Association, is incorrect. The correct definition for AZA is the Association of Zoos and Aquariums.

Amend Subsection 601.01. To more clearly define the current brucellosis testing requirement as a single blood sample from which two (2) different diagnostic tests for brucellosis shall be performed. This will clarify that the producers need only work their elk once to collect blood.

Amend Subsection 601.02. To expand the list of testing exemptions for Red Deer Gene Factor (RDGF) to include any state or province that has implemented an approved RDGF prevention program for domestic cervidae. The existing rule identifies Montana as the only state that would qualify for a testing exemption because at the time the original rule was written, Montana was the only state to have implemented an approved RDGF program.

Amend Subsection 606. To expand the tuberculosis (TB) testing exemptions to include any cervidae moving between the Association of Zoos and Aquarium accredited facilities and those facilities that have a USDA exhibitor permit. The existing rule requirements are redundant to require TB testing for movement between these facilities which are both federally regulated for TB prevention. The change would prevent a producer from having to re-test an animal that is moving between these types of facilities.

Clarify and condense portions of the rule for purposes of simplification and maintaining consistency.

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the October 3, 2012 Idaho Administrative Bulletin, [Vol. 12-10, pages 30 through](#)

34.

IDAHO CODE SECTION 22-101A STATEMENT: This rule does not regulate an activity not regulated by the federal government, nor is it broader in scope or more stringent than federal regulations.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: N/A

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking:

ISDA does not anticipate any fiscal impact from the changes to be made to this Rule during this rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Dr. Scott Leibsle, Deputy Administrator, 208-332-8540.

DATED this 29th day of November, 2012.

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

THE FOLLOWING NOTICE WAS PUBLISHED WITH THE PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 25-221 Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 17, 2012.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

Amend Section 011.03 - the acronym AZA, defined as the American Zoological Association,

is incorrect. The correct definition for AZA is the Association of Zoos and Aquariums.

Amend Subsection 601.01 - more clearly define the current brucellosis testing requirement as a single blood sample from which two (2) different diagnostic tests for brucellosis shall be performed. This will clarify that the producers need only work their elk once to collect blood.

Amend Subsection 601.02 - expand the list of testing exemptions for Red Deer Genetic Factor (RDGF) to include any state or province that has implemented an approved RDGF prevention program for domestic cervidae. The existing rule identifies Montana as the only state that would qualify for a testing exemption because at the time the original rule was written, Montana was the only state to have implemented an approved RDGF program.

Amend Section 606 - expand the tuberculosis (TB) testing exemptions to include any cervidae moving between the Association of Zoos and Aquarium accredited facilities and those facilities that have a USDA exhibitor permit. The existing rule requirements are redundant to require TB testing for movement between these facilities which are both federally regulated for TB prevention. The change would prevent a producer from having to re-test an animal that is moving between these types of facilities.

Clarify and condense portions of the rule for purposes of simplification and maintaining consistency.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: N/A

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking:

ISDA does not anticipate any fiscal impact from the changes to be made to the Rule as a result of this rulemaking.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the August 1, 2012 Idaho Administrative Bulletin, [Vol. 12-8, pages 15 and 16](#). A negotiated rulemaking meeting was held at the Idaho State Department of Agriculture on August 15, 2012 and there were no visitors in attendance.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: N/A

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: Technical questions concerning the proposed rule may be directed to Dr. Scott Leibsle, Deputy Administrator, 208-332-8540.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 24,

2012. Comments can be delivered via email to Scott.Leibslle@agri.idaho.gov or via regular mail to Dr. Scott Leibslle's attention at the address listed below.

DATED this 31st day of August, 2012.

THE FOLLOWING IS THE TEXT OF DOCKET NO. 02-0421-1201

011. ABBREVIATIONS.

- | | | |
|-------------|--|-----------------|
| 01. | APHIS. Animal and Plant Health Inspection Service. | (4-2-08) |
| 02. | AVIC. Area Veterinarian in Charge. | (5-3-03) |
| 03. | AZA. American Zoological Association of Zoos and Aquariums. (5-3-03) (<u> </u>) | |
| 04. | CF. Complement Fixation Test. | (3-30-07) |
| 05. | CFR. Code of Federal Regulations. | (5-3-03) |
| 06. | CWD. Chronic Wasting Disease. | (5-3-03) |
| 07. | EIA. Equine Infectious Anemia. | (5-3-03) |
| 08. | EVA. Equine Viral Arteritis. | (5-8-09) |
| 09. | NAEBA. North American Elk Breeders Association. | (5-3-03) |
| 10. | NPIP. National Poultry Improvement Plan. | (5-3-03) |
| 11. | PCR. Polymerase Chain Reaction. | (4-2-08) |
| 12. | <u>RDGF.</u> <u>Red Deer Genetic Factor.</u> | (<u> </u>) |
| 123. | TB. Tuberculosis. | (5-3-03) |
| 134. | UM&R. Uniform Methods and Rules. | (5-3-03) |
| 145. | USDA. United States Department of Agriculture. | (5-3-03) |
| 156. | VHSV. Viral Hemorrhagic Septicemia Virus. | (4-2-08) |
| 167. | VS. Veterinary Services. | (5-3-03) |

(BREAK IN CONTINUITY OF SECTIONS)

102. EXTENDED VALIDITY EQUINE CERTIFICATES.

Equidae from other states may enter the state of Idaho for shows, rides or other equine events and return to the state of origin on an extended validity equine certificate provided there is a written agreement between the Administrator and the chief livestock sanitary official of the state of origin. (5-3-03)

01. Valid for One Animal. An extended validity equine certificate shall be valid for only one (1) animal. Each animal shall have a separate certificate. (5-3-03)

02. Contents. Extended validity equine certificates shall contain the following information: name and address of the owner, location at which the animal is stabled, housed, pastured or kept, if different from that of the owner, an accurate description and identification of the animal, date of veterinary inspection, dates and results of EIA or other required tests or vaccinations, EVA statement, if applicable, and signature of inspecting veterinarian. (5-3-03)()

03. Period of Validity. Extended validity equine certificates shall be valid for no longer than six (6) months from date of veterinary inspection for the certificate. (3-30-07)

04. Travel Itinerary. Recipients of extended validity equine certificates shall submit a completed travel itinerary to the Division of Animal Industries within ten (10) working days of the end of the six (6) month period of validity of the certificate. The travel itinerary shall provide a listing of all travel into the state of Idaho, including travel dates, purpose for travel and destinations, during the period of validity of the certificate. (5-3-03)

05. Cancellation. Extended validity equine certificates may be canceled at any time by the Administrator in the event of serious or emergency disease situations or for non-compliance with the provisions of these rules. (5-3-03)

(BREAK IN CONTINUITY OF SECTIONS)

202. WHEN PERMITS ARE REQUIRED FOR CATTLE.

01. Dairy. For all intact male and female cattle of dairy breeds not consigned directly to an approved slaughter establishment, or to a specifically approved livestock market. Dairy cattle three hundred sixty-five (365) days of age or older shall be officially identified as provided in IDAPA 02.04.20. The Administrator may require the identification of dairy cattle less than three hundred sixty-five (365) days of age. (5-3-03)

02. Beef Bulls. All bulls of beef breeds not consigned directly to an approved

slaughter establishment, or to a specifically approved livestock market, except intact male calves accompanying their dams. (5-3-03)

03. Female Beef Cattle. All intact female cattle of beef breeds not consigned directly to an approved slaughter establishment or to a specifically approved livestock market that are: (5-3-03)

- a. From states or areas that are not Brucellosis Class Free; or (5-3-03)
- b. Not officially vaccinated pursuant to IDAPA 02.04.20, "Rules Governing Brucellosis," except calves over one hundred twenty (120) days of age accompanying their dam; or (4-11-06)
- c. Under one hundred twenty (120) days of age, except calves accompanying their dam. (5-3-03)

04. Restricted Areas. All cattle from areas or states on which Idaho or USDA has imposed restrictions. (5-3-03)

05. Domestic Bison. All domestic bison imported into Idaho shall require an entry permit from the Division of Animal Industries prior to importation and be in compliance with the same requirements as cattle contained in this chapter and Title 9, Parts 71, 77, and 78, CFR. ()

056. Canadian Cattle and Canadian Domestic Bison. All cattle and Canadian domestic bison imported into Idaho from Canada, except those imported directly to slaughter, must have an import permit prior to importation. (5-8-09)()

067. Other. Cattle of any classification that do not meet other entry requirements. (5-3-03)

(BREAK IN CONTINUITY OF SECTIONS)

261. -- 289. (RESERVED)

290. DOMESTIC BISON.

01. Shipment. ~~All domestic bison imported into Idaho shall be in compliance with the same requirements as cattle contained in this chapter and Title 9, Parts 71, 77, and 78, CFR.~~ (5-3-03)

02. Permits. ~~A permit is required from the Division of Animal Industries prior to importation of domestic bison.~~ (5-3-03)

291. — 299. (RESERVED)

300. ~~HORSES, MULES, ASSES AND~~ EQUIDAE.

All horses, mules, asses and **other** equidae that are to be transported or moved into the state of Idaho shall be accompanied by an official certificate of veterinary inspection or extended validity equine certificate, from the state of origin, stating that the equidae are free from evidence of any communicable disease and have completed EIA test requirements, except as provided in this section. ~~(5-3-03)~~()

01. EIA Test Requirements. An official EIA test is a blood test conducted by a USDA approved laboratory, within twelve (12) months prior of entry of the equidae into Idaho. (3-30-07)

a. Entry of equidae into Idaho shall not be allowed until the EIA test has been completed and reported negative. Equidae which test positive to the EIA test shall not be permitted entry into Idaho, except by special written permission from the Administrator. (5-3-03)

b. A nursing foal less than six (6) months of age accompanied by its EIA negative dam is exempt from the test requirements. (5-3-03)

02. Working Horses Included on Grazing Permits. “Working horses” used for seasonal ranching purposes may be exempt from the requirements of this section if the horses have been included on a current grazing permit which has received prior approval from the Administrator and the chief livestock sanitary official in a western state which reciprocates with Idaho in honoring grazing permits. (5-3-03)

03. Slaughter Horses. Equids being moved to an approved equine slaughter establishment may be exempted from EIA test requirements. (5-3-03)

04. Equine Feeding Facilities. Equids being fed for slaughter in an equine feeding facility approved by the Administrator may be exempt from EIA test requirements. (5-3-03)

05. Reciprocal Agreements. The Administrator may enter into cooperative reciprocal agreements with neighboring states which exempt EIA testing requirements for movement of equidae between the cooperating states. (5-3-03)

(BREAK IN CONTINUITY OF SECTIONS)

601. TESTING REQUIREMENTS.

All cervidae imported into Idaho shall meet the following test requirements, except cervidae that do not originate from a CWD or Tuberculosis endemic area, as determined by the administrator, may be imported directly to an approved slaughter establishment for immediate slaughter without meeting the test requirements. (4-2-08)

01. Brucellosis. Animals six (6) months of age and older shall be negative to at least two (2) different official brucellosis tests **from a single blood sample**, one (1) of which shall be **either** the rivanol, or the CF, within thirty (30) days prior to entry, or the animals shall originate

directly from a Brucellosis certified free herd or a brucellosis class free state for cervidae.

~~(3-30-07)~~()

02. Red Deer Genetic Factor. Elk shall have either tested negative for red deer genetic factor **(RDGF)** by a laboratory approved by the Division of Animal Industries, or shall have been registered with NAEBA or the Canadian Food Inspection Agency, or ~~the Montana Department of Livestock~~ **a state with an ISDA approved RDGF prevention program.**

~~(5-8-09)~~()

(BREAK IN CONTINUITY OF SECTIONS)

606. MOVEMENT OF CERVIDAE BETWEEN AZA AND USDA FACILITIES.

Movement of cervidae between ~~accredited~~ **facilities that are either AZA facilities is accredited or hold a USDA exhibitor permit are** exempt from the tuberculosis testing requirements of this rule. All other movement **to or** from **facilities that are not** AZA-accredited **facilities or hold a USDA exhibitor permit** shall comply with the tuberculosis testing requirements.

~~(5-3-03)~~()

(BREAK IN CONTINUITY OF SECTIONS)

650. FISH.

No person shall import, transport, receive or otherwise bring into the State of Idaho any live fish or viable hatching eggs that are listed as Deleterious Exotic Animals in IDAPA 02.04.27 "Rules Governing Deleterious Exotic Animals," **or Invasive Species as listed in IDAPA 02.06.09, "Rules Governing Invasive Species."**

~~(4-2-08)~~()

IDAPA 02 - DEPARTMENT OF AGRICULTURE

02.06.12 - RULES PERTAINING TO THE IDAHO FERTILIZER LAW

DOCKET NO. 02-0612-1201

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2013 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 22-604, Idaho Code.

DESCRIPTIVE SUMMARY: The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the July 4, 2012 Idaho Administrative Bulletin, [Vol. 12-7, pages 21 and 22](#).

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year:

ISDA does not anticipate any fiscal impact from the changes to be made to the Rule as a result of this rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Kathryn Mink, Agriculture Section Manager at (208) 332-8564.

DATED this 31st day of August, 2012.

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

THE FOLLOWING NOTICE WAS PUBLISHED WITH THE PROPOSED RULE

AUTHORITY: In compliance with Section 67-5220(2), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 22-604, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than July 18, 2012.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

To incorporate by reference information and updates contained in the 2013 Official Publication of the Association of American Plant Food Control Officials (AAPFCO) as they pertain to the methodology and practice of conducting regulatory fertilizer registration and label review.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: N/A

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking:

ISDA does not anticipate any fiscal impact from the changes to be made to the Rule during this rulemaking.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because of the simple nature of the proposed amendments.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule:

The Association of American Plant Food Control Officials (AAPFCO) Official Publication and the Official Methods of Analysis (OMA) published by the Association of Official Agricultural Chemists (AOAC) International are the recognized and primary reference books of approved fertilizer terms, ingredient definitions and policies used by the fertilizer industry and all state and Federal fertilizer control officials and regulators.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Kathryn Mink, Agriculture Section Manager at (208) 332-8564.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before July 25, 2012.

DATED this 8th day of June, 2012.

THE FOLLOWING IS THE TEXT OF DOCKET NO. 02-0612-1201

004. INCORPORATION BY REFERENCE.

Copies of these documents may be viewed at the Idaho State Department of Agriculture, 2270 Old Penitentiary Road, PO Box 790, Boise, Idaho 83701. IDAPA 02.06.12 incorporates by reference: (4-7-11)

01. The Association of American Plant Food Control Officials (AAPFCO) Official Publication. The Terms, Ingredient Definitions, and Policies, as published in the “2012~~3~~ Official Publication” of AAPFCO where those terms and ingredient definitions, and policy statements do not conflict with terms and ingredient definitions, and policy statements adopted under Title 22, Chapter 6, Idaho Code, and any rule promulgated thereunder. The AAPFCO Official Publication is a copyrighted publication and not available in electronic format. A copy may be purchased online from the AAPFCO website at: http://www.aapfco.org/pdf/publication_order_form.pdf. (~~3-29-12~~)()

02. The Merck Index. The “2006 Merck Index,” 14th Edition as published by Merck Research Laboratories Division of Merck & Co., Incorporated. The Merck Index is a copyrighted publication and not available in an electronic format. A copy may be purchased online from Merck & Co., Inc. at: <http://www.merckbooks.com/mindex/index.html>. (4-7-11)

03. The Association of Official Agricultural Chemists (AOAC) International. The “2005 Official Methods of Analysis (OMA) of the AOAC,” 18th Edition, a copyrighted publication, is maintained and published by the AOAC International. The AOAC OMA is available in electronic format at: www.EOMA.AOAC.org. A copy may be purchased online from AOAC International. (3-29-12)

IDAPA 02 - DEPARTMENT OF AGRICULTURE

02.06.13 - RULES RELATING TO RAPESEED PRODUCTION AND ESTABLISHMENT OF RAPESEED DISTRICTS IN THE STATE OF IDAHO

DOCKET NO. 02-0613-1201

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2013 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. This action is authorized pursuant to Section 22-108, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the October 3, 2012 Idaho Administrative Bulletin, **Vol. 12-10, pages 36 through 38.**

IDAHO CODE SECTION 22-101A STATEMENT: This rule does regulate an activity not already regulated by the federal government, because the federal government does not regulate specifications, tolerances and other requirements for rapeseed production.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: ISDA does not anticipate any fiscal impact from the changes to be made to the Rule during this rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Michael E. Cooper, Bureau Chief at (208) 332-8620.

DATED this 30th day of October, 2012.

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

THE FOLLOWING NOTICE WAS PUBLISHED WITH THE PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 22-108, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 17, 2012.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is a non-technical explanation of the substance and purpose of the proposed rulemaking:

1. Amending Section 004 to update definitions; and
2. Amending section 150.01b to revise an outdated testing method.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: N/A

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: ISDA does not anticipate any fiscal impact from the changes to be made to the Rule as a result of this rulemaking.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the July 4, 2012 and August 1, 2012 Idaho Administrative Bulletins, **Vol. 12-7, Page 23** and **Vol. 12-8, Page 17**. A negotiated rulemaking meeting was held at the Idaho State Department of Agriculture on August 9, 2012 and there were no visitors in attendance at the meeting.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: N/A

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Michael E. Cooper, Bureau Chief, 208-332-8620.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to Michael E. Cooper and must be delivered on or before October 24, 2012. Comments can be delivered via email to Mike.Cooper@agri.idaho.gov or via regular mail to Michael E. Cooper's attention at the address listed below.

DATED this 31st day of August, 2012.

THE FOLLOWING IS THE TEXT OF DOCKET NO. 02-0613-1201

004. DEFINITIONS.

- 01. Department.** The Department of Agriculture of the state of Idaho. (7-1-93)
- 02. Director.** The Director of the Department or his duly authorized agent. (7-1-93)
- 03. Person.** A natural person, individual, firm, partnership, corporation, company, society, association, cooperative, two (2) or more persons having a joint or common interest, or any unit or agency of local, state, or federal government. (7-1-93)
- 04. Producer.** Any person who is the owner, tenant, or operator of land who has an interest in and is entitled to receive all or any part of the proceeds from the sale of any commodity produced on that land. (7-1-93)
- 05. Rapeseed.** Those species of *Brassica napus*, *Brassica rapa* (formerly *Brassica campestris*), and *Brassica juncea*. (7-1-93)()
- 06. Types.** Those species and varieties of rapeseed classified as follows: (7-1-93)
- a. Edible:** (7-1-93)
- i. Low Erucic Acid Rapeseed -- Low Glucosinolates (LEAR-LG), commonly called "canola,"** shall be the seed of the species *Brassica napus*, *Brassica juncea*, or *Brassica campestris rapa*, the oil components of which seed contain less than two percent (2.0%) erucic acid and the seed meal will contain less than thirty (30) micromoles of any one (1) or any mixture of 3-butenyl glucosinolate, 4-pentenyl glucosinolate, 2-hydroxy - 3-butenyl glucosinolate, and 2-hydroxy - 4-pentenyl glucosinolate per gram ($\mu\text{m/g}$) of air dry, oil free solid as determined by any approved method. (7-1-93)()
- ii. Low Erucic Acid Rapeseed -- High Glucosinolates (LEAR-HG) Rapeseed** varieties shall contain less than two percent (2.0%) erucic acid in the oil of the rapeseed and more than thirty (30) micromoles per one (1) gram ($\mu\text{m/g}$) glucosinolates in the rapeseed meal. (7-1-93)()

b. Industrial: (7-1-93)

i. High Erucic Acid Rapeseed -- Low Glucosinolates (HEAR-LG) Rapeseed shall be rapeseed varieties used for production of industrial oil which shall contain erucic acid levels above forty percent (40%) in the oil of the rapeseed and less than thirty (30) micromoles per one (1) gram ($\mu\text{m/g}$) glucosinolates in the meal of the rapeseed. (~~7-1-93~~)()

ii. High Erucic Acid Rapeseed -- High Glucosinolates (HEAR-HG) Rapeseed shall be rapeseed varieties used for production of industrial oil which shall contain erucic acid levels above forty percent (40%) in the oil of the rapeseed and more than thirty (30) micromoles per one (1) gram ($\mu\text{m/g}$) glucosinolates in the meal of the rapeseed. (~~7-1-93~~)()

07. Volunteer Rapeseed. A plant that arises from accidental or unintentional scattering of seed. (7-1-93)

08. Condiment Mustard. Varieties of *Brassica juncea* produced for seed to be used for spice or condiment. ()

09. Green Manure Rapeseed. Varieties of rapeseed used as a cover crop to be plowed down prior to flowering and maturity. ()

(BREAK IN CONTINUITY OF SECTIONS)

150. REQUIREMENTS FOR ALL BRASSICA SEEDS TO BE PLANTED IN IDAHO.

01. Requirements. All *Brassica* seeds to be planted in Idaho shall meet the following requirements. (9-1-94)

a. *Brassica* seeds shall be treated with an EPA and State registered fungicide for the control of blackleg (*Leptosphaeria maculans*). (9-1-94)

b. *Brassica* seed lots produced outside Idaho shall be accompanied by a phytosanitary certificate stating that the seed is free (zero tolerance) from blackleg based on a laboratory test of a minimum of ~~one and three-tenths~~ two point nine (~~1.3~~2.9) ~~ounces~~ grams or ~~ten~~ one thousand (10,000) seeds. (~~9-1-94~~)()

02. Exemptions. The following are not subject to the provisions of Subsections 150.01.a. and 150.01.b. (9-1-94)

a. *Brassica* seeds sold in lots of two (2) pounds or less. (9-1-94)

b. *Brassica* seeds produced in Idaho. (9-1-94)

IDAPA 02 - DEPARTMENT OF AGRICULTURE

02.06.14 - RULES GOVERNING ANNUAL BLUEGRASS (*POA ANNUA*)

DOCKET NO. 02-0614-1201

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2013 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. This negotiated rulemaking action is authorized pursuant to Section 22-2006, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the October 3, 2012 Idaho Administrative Bulletin, [Vol. 12-10, pages 39 and 40](#).

IDAHO CODE SECTION 22-101A STATEMENT: This rule does regulate an activity not already regulated by the federal government, because the federal government does not regulate specifications, tolerances and other requirements for Annual Bluegrass.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: ISDA does not anticipate any fiscal impact from the changes to be made to the Rule during this rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Michael E. Cooper, Bureau Chief at (208) 332-8620.

DATED this 30th day of October, 2012.

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

THE FOLLOWING NOTICE WAS PUBLISHED WITH THE PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 22-2006, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 17, 2012.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is a non-technical explanation of the substance and purpose of the proposed rulemaking:

Amending Section 200 - Rules Governing the Planting of Regulated Articles - to allow for the use of a certificate of analysis in lieu of tags.

Amending Section 300 - Application for Nursery Inspections - to allow for inspection by the Idaho Crop Improvement Association.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: N/A

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year:

ISDA does not anticipate any fiscal impact as a result of this rule change.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the July 4, 2012 Idaho Administrative Bulletin, [Vol. 12-7, Page 24](#). A negotiated rulemaking meeting was held at the Idaho State Department of Agriculture on July 17, 2012 and there were no visitors in attendance at the meeting nor did the department receive comments.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: N/A

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact

Michael E. Cooper, Bureau Chief, 208-332-8620.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to Michael E. Cooper and must be delivered on or before October 24, 2012.

Comments can be delivered via email to Mike.Cooper@agri.idaho.gov or via regular mail to Michael E. Cooper's attention at the address listed below.

DATED this 31st day of August, 2012.

THE FOLLOWING IS THE TEXT OF DOCKET NO. 02-0614-1201

200. RULES GOVERNING PLANTING OF REGULATED ARTICLES.

01. Requirements. Prior to any person planting any grass species seed stock in Idaho, that person shall comply with the following requirements: (3-30-01)

a. Submit ~~for~~ an official laboratory analysis ~~of~~ a representative sample showing freedom from annual bluegrass based on a five (5) gram sample for bentgrass or redtop, a twenty-five (25) gram sample for bluegrass, or a fifty (50) gram sample for other grasses; or
(~~3-30-01~~)()

b. Have a representative sample submitted for testing. (3-30-01)

02. Tags. Upon receipt by the Director of an official seed laboratory analysis showing freedom from annual bluegrass, sequentially numbered tags will be issued for each bag found free of annual bluegrass from those lots according to Subsection 010.06. (5-3-03)

03. Analysis Certificate. In lieu of tags, a seed analysis certificate from an official seed laboratory showing each lot being planted to be free from annual bluegrass must be kept on file for a minimum of one (1) year after all of the inventory of that lot's harvested seed has been sold. ()

201. -- 249. (RESERVED)

250. INFESTED SEED STOCK.

Each lot of seed found to contain annual bluegrass shall be placed under a "Hold Order" pursuant to Section 22-103(22), Idaho Code, to be released only for shipment out of Idaho or for planting in nurseries of two (2) acres or less under supervision of the Director. The nursery shall be seeded in rows spaced twenty-four (24) inches apart and it shall be the duty of the person receiving such seed to rogue this increase area or chemically treat to eradicate the annual bluegrass. Seed increases shall be inspected by the department or the Idaho Crop Improvement Association at

least three (3) times during the seedling year. Any areas not passing inspection shall not be harvested but shall be destroyed upon the order of the Director at the owner's expense.

~~(4-6-90)~~()

251. -- 299. (RESERVED)

300. APPLICATION FOR NURSERY INSPECTION.

A person shall make application for nursery inspection to the Idaho Department of Agriculture or the Idaho Crop Improvement Association at least fourteen (14) days prior to planting.

~~(4-6-90)~~()

IDAPA 02 - DEPARTMENT OF AGRICULTURE

02.06.16 - RULES GOVERNING HONEY STANDARDS

DOCKET NO. 02-0616-1201 (NEW CHAPTER)

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2013 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. This action is authorized pursuant to Section 22-2807, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the October 3, 2012 Idaho Administrative Bulletin, [Vol. 12-10, pages 41 through 45](#).

IDAHO CODE SECTION 22-101A STATEMENT: This rule does regulate an activity not already regulated by the federal government, because the federal government does not regulate specifications or tolerances for honey.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: ISDA does not anticipate any fiscal impact from the changes to be made to the Rule during this rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Michael E. Cooper, Bureau Chief at (208) 332-8620.

DATED this 30th day of October, 2012.

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

THE FOLLOWING NOTICE WAS PUBLISHED WITH THE PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 22-2807, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 17, 2012.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is a non-technical explanation of the substance and purpose of the proposed rulemaking:

A new rule chapter would be developed that would mirror existing standards adopted by other states relative to the identity, quality and labeling of honey, complaint procedures and enforcement criterion.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: N/A

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year:

ISDA does not anticipate any fiscal impact to the state general fund from the promulgation of this rule. Any funding will come from the Idaho Honey Advertising Commission account.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the July 4, 2012 and August 1, 2012 Idaho Administrative Bulletins, [Vol. 12-7, Page 25](#) and [Vol. 12-8, Page 18](#). A negotiated rulemaking meeting was held at the Idaho State Department of Agriculture on August 9, 2012 and there were eight visitors in attendance at the meeting.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule:

The United States Standards for Grades of Extracted Honey adopted by the Agriculture Marketing Service, United States Department of Agriculture effective May 23, 1985, are hereby

adopted as the standards for the purposes of this rule. These standards also serve as a basis for the inspection and grading of Honey by the Federal inspection service. This manual contains detailed interpretations of the grade standards and provide step-by-step procedures for grading the product. In all instances, a grade can be assigned based on final product factors or characteristics. In addition to the U.S. grade standards, grading manuals or instructions for inspection of several processed fruits and vegetables are available.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Michael E. Cooper, Bureau Chief, 208-332-8620.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to Michael E. Cooper and must be delivered on or before October 24, 2012.

Comments can be delivered via email to Mike.Cooper@agri.idaho.gov or via regular mail to Michael E. Cooper's attention at the address listed below.

DATED this 31st day of August, 2012

THE FOLLOWING IS THE TEXT OF DOCKET NO. 02-0616-1201

**IDAPA 02
TITLE 06
CHAPTER 16**

02.06.16 - RULES GOVERNING HONEY STANDARDS

000. LEGAL AUTHORITY.

This chapter is adopted under the legal authority of Section 22-2808, Idaho Code. ()

001. TITLE AND SCOPE.

01. Title. The title of this chapter is IDAPA 02.06.16, "Rules Governing Honey Standards. ()

02. Scope. These rules apply to all honey produced by honey bees from nectar and covers all styles of honey presentation that are processed and ultimately intended for direct consumption, and to all honey packed, processed or intended for sale in bulk containers as honey that may be repacked for retail sale or for sale or use as an ingredient in other foods. The official

citation of this chapter is IDAPA 02.06.14.000 et seq. For example, the citation for this section is IDAPA 02.06.14.001. ()

002. WRITTEN INTERPRETATIONS.

There are no written interpretations of these rules. ()

003. ADMINISTRATIVE APPEAL.

There is no provision for administrative appeal before the Department of Agriculture under this chapter. Hearing and appeal rights are pursuant to Title 67, Chapter 52, Idaho Code. ()

004. INCORPORATION BY REFERENCE.

01. United States Standards for Grades of Extracted Honey, Effective Date May 23, 1985. The United States Standards for Grades of Extracted Honey adopted by the Agriculture Marketing Service, United States Department of Agriculture effective May 23, 1985 are hereby adopted for the purposes of this rule for extracted honey grades. See Section 018 of this rule. A copy of such federal standards is available at the following USDA Website <http://www.ams.usda.gov/AMSV1.0/getfile?dDocName=STELDEV3011895>. ()

005. OFFICE -- OFFICE HOURS -- MAILING ADDRESS AND STREET ADDRESS.

01. 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. ()

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

03. Street Address. The central office is located at 2270 Old Penitentiary Road, Boise, Idaho 83712. ()

006. PUBLIC RECORDS ACT COMPLIANCE.

These rules are public records available for inspection and copying at the Idaho State Department of Agriculture Central Office. ()

007. -- 009. (RESERVED)

010. DEFINITIONS.

The Department adopts the definitions set forth in Section 22-2803, Idaho Code. In addition, as used in this chapter, the following definitions apply: ()

01. Air Bubble. The small visible pockets of air in suspension that may be numerous in the honey and contribute to the lack of clarity in filtered style. ()

02. Bees. Honey-producing insects of the genus *Apis* and includes the adults, eggs, larvae, pupae or other immature stages thereof. ()

03. Comb. The wax-like cellular structure that bees use for retaining their brood or as storage for pollen and honey. ()

04. Crystallize. The spontaneous solidification of the natural glucose content from solution as the monohydrate. ()

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

06. Floral Source. The flower from which the bees gather nectar to make honey. ()

07. Food. ()

a. Articles used for food or drink, including ice, for human consumption or food for dogs and cats; ()

b. Chewing gum; and ()

c. Articles used for components of any such article. ()

08. Food Additive. Any substance the intended use of which results or may reasonably be expected to result, directly or indirectly, in its becoming a component of or otherwise affecting the characteristics of any food, including any substance intended for use in producing, manufacturing, packing, processing, preparing, treating, packaging, transporting, or holding food. It also includes any source of radiation intended for any such use, if such substance is not generally recognized, among experts qualified by scientific training and experience to evaluate its safety, as having been adequately shown through scientific procedures or experience based on common use in food to be safe under the conditions of its intended use. 'Food additive' does not include: ()

a. A pesticide chemical in or on a raw agricultural commodity; ()

b. A pesticide chemical to the extent that it is intended for use, or is used in the production, storage or transportation of any raw agricultural commodity; or ()

c. A color additive. ()

09. Granulate. The initial formation of crystals in honey. ()

10. Honey. The natural sweet substance produced by bees resulting from the harvest of plant nectar or plant secretions that has been collected and transformed by the deposition, dehydration, and storage in comb to ripen and mature. ()

11. Pollen Grain. The granular, dust-like microspores that bees gather from flowers. Pollen grains in suspension contribute to the lack of clarity in filtered style. ()

011. COMPLAINT PROCESS.

01. Complaint Contents. Complaints shall be directed to the department, in writing, and contain the following information: ()

- a. The name, address and contact information of the complainants; and ()
- b. The location and brand name of the product which is the subject of complaint. ()

02. Initial Review. The department will forward written complaints to the commission for initial review. ()

03. Sampling and Analysis. Upon review, the commission may request the department to acquire an official sample of the product, in accordance with Title 22, Chapter 28, Idaho Code, and send it to an analytical laboratory that possesses the ability to analyze honey for adulteration, or other testing deemed appropriate in accordance with the nature of the complaint. The laboratory analysis shall be reviewed by the commission and the department for compliance with Title 22, Chapter 28, Idaho Code, and these rules. ()

04. Violations. If, after investigation, the commission and the department find that a violation of title 22, Chapter 28, Idaho Code and/or these rules has occurred the commission and the department shall confer and agree on an appropriate course of action as authorized by Section(s) 22-2811 or 22-2812, Idaho Code. ()

012. -- 014. (RESERVED)

015. STANDARDS OF IDENTITY - HONEY.

Honey sold as such shall not have added to it any food additives, nor shall any other additions be made other than honey. It shall not have begun to ferment or effervesce and no pollen or constituent unique to honey may be removed except where unavoidable in the removal of foreign matter. ()

01. Treatments. Chemical or biochemical treatments shall not be used to influence honey crystallization. ()

02. Moisture Content. Honey shall not have a moisture content exceeding twenty-three percent (23%). ()

03. Sugars Content. ()

a. The ratio of fructose to glucose shall be greater than zero point nine (0.9). ()

b. Fructose and glucose (Sum of Both) shall not be less than 60g/100g. ()

c. Sucrose content for honey not listed below shall not be more than 5g/100g. ()

i. Honey from Alfalfa (*Medicago sativa*), Citrus spp., False Acacia (*Robinia pseudoacacia*), French Honeysuckle (*Hedysarum*), Menzies Banksia (*Banksia menziesii*), Red Gum (*Eucalyptus camaldulensis*), Leatherwood (*Eucryphia lucida*), and Eucryphia milligani shall have sucrose levels not to exceed 10g/100g. ()

ii. Honey from Lavender (*Lavandula* spp.) and Borage (*Borago officinalis*) shall have sucrose levels not to exceed 15g/100g. ()

04. Name of the Food. Products conforming to the standard of identity as adopted in this rule shall be designated “honey”. Foods containing honey and any flavoring, spice, or other added ingredient or honey that is processed in such a way that materially changes the flavor, color, viscosity or other material characteristics of pure honey, shall be distinguished from honey in the food name by declaration of the food additive or modification. ()

a. Honey may be designated according to floral or plant source if it comes predominately from that particular source and has the organoleptic and physicochemical properties corresponding with that origin. ()

b. Where honey has been designated according to floral or plant source, as stated in Paragraph 015.04.a., then the common name or the botanical name of the floral source shall be used in conjunction with or joined with the word “honey”. ()

c. Honey may be designated according to the following styles, which style shall be declared on packaging: ()

i. “Honey” - this is honey in liquid or crystalline state or a mixture of the two (2); ()

ii. “Comb Honey” - this is honey stored by bees in the cells of freshly built brood-less combs and which is sold in sealed whole combs or sections of such combs. ()

iii. “Cut Comb in Honey,” “Honey with Comb,” or “Chunk Honey” - this is honey containing one (1) or more pieces of comb honey. ()

016. TYPES AND STYLES OF HONEY.

01. Extracted Honey. Honey that has been separated from the comb by centrifugal force, gravity, straining, or other means. It is identified in the following types: ()

a. Liquid Honey. Honey that is free of visible crystals; ()

b. Cystallized Honey. Honey that is solidly granulated or crystallized, irrespective of whether candied, fondant, creamed or spread types of crystallized honey; and ()

c. Partially Crystallized Honey. Honey that is a mixture of liquid honey and crystallized honey. ()

02. Styles. Extracted honey styles are: ()

a. Filtered Honey. Honey of any type defined in these standards that has been filtered to the extent that all or most of the fine particles, pollen grains, air bubbles, or other materials normally found in suspension, have been removed. Honey shall not be filtered to less than one point zero (1.0) micron. ()

b. Strained Honey. Honey of any type defined in these standards that has been strained to the extent that most of the particles, including comb, propolis, or other defects normally found in honey, have been removed. Pollen grains, small air bubbles, and very fine particles are not normally removed from strained honey. ()

c. Unfiltered/Unstrained - Unfiltered/Unstrained Honey. Honey that has not been filtered or strained by United States Standards for Grades of Extracted honey and may include extracted or non-extracted honey. ()

d. Raw Honey. Honey that has not been pasteurized. ()

017. -- 022. (RESERVED)

023. MISBRANDING.

Food labeled as a honey product, but not meeting the provisions of this rule may be subject to a stop sale order as authorized under Section 22-2812, Idaho Code. ()

024. PENALTY.

Any person violating the provision of these rules shall be subject to the penalty provisions of Title 22, Chapter 28, Idaho Code. ()

025. -- 999. (RESERVED)

IDAPA 02 – DEPARTMENT OF AGRICULTURE

02.06.31 - NOXIOUS WEED FREE FORAGE AND STRAW CERTIFICATION RULES

DOCKET NO. 02-0631-1201

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2013 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 22-2403, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the October 3, 2012 Idaho Administrative Bulletin, [Vol. 12-10, pages 46 through 55](#).

IDAHO CODE SECTION 22-101A STATEMENT: This rule does not regulate an activity not regulated by the federal government, nor is it broader in scope or more stringent than federal regulations.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: ISDA does not anticipate any fiscal impact from the changes to be made to the Rule during this rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Dan Safford, Program Specialist, (208)-332-8592.

DATED this 29th day of November, 2012.

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

THE FOLLOWING NOTICE WAS PUBLISHED WITH THE PROPOSED RULE

AUTHORITY: In compliance with 67-5220(1) and 67-5220(2), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 22-2403, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 17, 2012.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

The scope and purpose of the program will be clarified to address all possible activities of certified forage and straw products and to add that these products are intended for use on Idaho public lands.

A color of certification twine that is no longer used will be deleted from the rules. Add the year on forage tags and the date on the tag must accurately reflect the year in which the bale was produced. Correct typographical errors of plant scientific names and amend several sections to correct a contradiction of when transit certificates need to be issued.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: Not applicable.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year:

ISDA does not anticipate any fiscal impact from the changes to be made to the Rule during this rulemaking.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the July 2012 Idaho Administrative Bulletin, **Vol. 12-7, page 26**. A negotiated rulemaking meeting was held at the Idaho State Department of Agriculture on July 19, 2012. No one attended the meeting, however three favorable written comments were received.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into

this rule: Not applicable.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Dan Safford, Noxious Weed Specialist, 208-332-8592.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to Dan Safford and must be delivered on or before October 24, 2012 via email to dan.safford@agri.idaho.gov or via regular mail to Dan Safford's attention at the address listed below.

DATED this 31st day of August, 2012.

THE FOLLOWING IS THE TEXT OF DOCKET NO. 02-0631-1201

001. TITLE AND SCOPE.

01. Title. The title of this chapter is the "Noxious Weed Free Forage and Straw Certification Rules." (3-19-07)

02. Scope. This chapter has the following scope: these rules shall govern the inspection, ~~and~~ certification, ~~and marking~~ of noxious weed free forage and straw to allow for the transportation and ~~safe use~~ of forage and straw into ~~Idaho~~ and ~~through~~ states where regulations and restrictions are placed on such commodities. The official citation of this chapter is IDAPA 02.06.31.000 et seq. For example, the citation for this section is IDAPA 02.06.31.001.

~~(3-10-00)~~()

(BREAK IN CONTINUITY OF SECTIONS)

010. DEFINITIONS.

The definitions found in Section 22-2402, Idaho Code, apply to this chapter. In addition, as used in this chapter: (7-1-94)

01. Agent. Any instrumentality or entity authorized by the director of the department, and acting on behalf of the department, to administer the provisions of this rule. Any designated agent shall act in an official capacity for the department and under the supervision of the director of the department. The principal purpose of the agent is to establish, conduct, and maintain a uniform and reasonable system of inspection and certification of forage and straw crops to determine if such crops are noxious weed free. (3-19-07)

02. Approved Inspector. An individual who has been accredited by the department or

by the department's agent in the noxious weed free forage and straw certification program.

(3-19-07)

03. Bale. A mechanically compressed package of forage or straw bound by string or wire, or other binding material. (3-19-07)

04. Bale Tag. A tag or label which is attached to the string or wire, or other binding material of a bale of certified forage or straw, and identifies the bale as being certified noxious weed free. (3-19-07)

05. Certificate of Inspection. A record of inspection issued by an approved inspector that states the results of a field or commodity inspection. The certificate shall document that the inspected field or commodity is Idaho State Noxious Weed Free, North American Noxious Weed Free, or that the field or commodity contains noxious weeds. (5-8-09)

06. Certification. The process whereby an approved inspector conducts field or commodity inspections to determine that the field or commodity is noxious weed free. (3-19-07)

07. Certification Markings. Bale tags, ~~blue and orange colored twine~~, purple and yellow colored twine, compressed forage bale binding material, and forage cubes/pellets container tags/labels. ~~(5-8-09)~~()

08. Certified Compressed Forage Bale Binding Material. An ISDA approved binding material which is attached to a compressed forage bale of certified noxious weed free forage and identifies the bale as being certified to the North American Standards. (5-8-09)

09. Compressed Forage Bale. A bale that has been twice compressed, once in the field by a forage baler and then recompressed a second time and bound by string, wire or other binding material. (3-19-07)

10. Department. The Idaho State Department of Agriculture. (3-19-07)

11. Field. The land on which a forage or straw crop is grown and is not divided by streams, public roads, other crops, or other barriers. (3-19-07)

12. Field Certification Inspection. An on-site inspection of forage or straw in the field, and areas adjacent to the field, for the presence of noxious weeds. The inspection shall be conducted prior to cutting or harvesting. (3-19-07)

13. Forage. Alfalfa, grain, and grass hay, and/or combinations of alfalfa, grain, or grass hay; the term "forage" includes forage cubes, compressed forage bales, and pellets. (3-19-07)

14. Forage Cubes. Forage that is harvested from a field certified to North American Standards and is mechanically compacted into wafers or cubes. (3-19-07)

15. Forage Cube/Pellet Tag. A tag, label, or statement which is attached or printed on a container of certified noxious weed free forage cubes or pellets, and identifies the container as

being certified to the North American Standards. (5-8-09)

16. Idaho State Noxious Weed Free. Forage and straw inspected for weeds designated by the director as noxious as defined in Section 22-2402(15), Idaho Code, and determined to be free of such weeds. (3-19-07)

17. Idaho State Noxious Weed Free Standards. Forage and straw that meets the requirements Idaho State Noxious Weed Free. (3-19-07)

18. North American Noxious Weed Free. Forage and straw inspected for, and determined to be free of, weeds designated as noxious by the director as defined in Section 22-2402(15) Idaho Code and noxious weeds listed on the North American Weed List. (3-19-07)

19. North American Weed Free Forage Certification Program. The North American Weed Management Association standard for forage certification. (3-19-07)

20. North American Twine. Purple and yellow colored twine that is used to mark bales as certified to the North American Standards. (5-8-09)

21. North American Standards. Requirements of the North American Weed Free Forage Certification Program. (3-19-07)

22. Noxious Weed Free. No noxious weeds with viable seed, injurious portions, or propagating parts were found during inspection procedures. (3-19-07)

~~**23. Official Sample.** A sample taken by an approved inspector. (3-19-07)~~

~~**243. Pellets.** Forage that is harvested from a field certified to North American Standards and is manufactured into an agglomerated feed, formed by compacting and forcing through die openings by a mechanical process. (3-19-07)~~

~~**254. Straw.** The dried stalks or stems remaining after grain is harvested. (3-19-07)~~

~~**265. Transit Certificate.** A document completed by an approved inspector to *authorize the certify products proposed for* movement *of as certified* noxious weed free *certified forage bales or straw bales into or through areas which* into states that require noxious weed free forage and straw certification. The transit certificate must be in the possession of the transporter. If individual bales are tagged with an approved bale tag, a transit certificate is not required.~~

~~(3-19-07)()~~

(BREAK IN CONTINUITY OF SECTIONS)

100. VOLUNTARY NOXIOUS WEED FREE FORAGE AND STRAW CERTIFICATION PROGRAM.

01. Purpose. The noxious weed free forage and straw certification program is a voluntary program, the purpose of which is to provide a means for the inspection, ~~and~~ certification, and marking of forage and straw as noxious weed free. The program will be managed by the department and may be implemented through an agent of the department. The program will allow for the ~~transportation, possession, storage, and sale~~ preparation of a transit certificate for the purpose of interstate transport or shipping of forage and straw into and through states which place regulations and restrictions on such commodities. The program is intended to reduce the exportation, importation, growth, and spread of noxious weeds. (3-19-07)()

02. Certifying Authority. The department or its agent is the certifying authority. The certifying authority shall appoint, as needed, approved inspectors throughout the state, who may issue certificates of inspection. (3-10-00)

03. Certification Training. The department shall determine minimum training and accreditation standards for approved inspectors. Training will be provided annually by the department or its agent. Attendance at annual training will certify accreditation for the inspector for that calendar year. Approved inspectors will be issued a certificate of training for the calendar year. Annual training shall include: (3-19-07)

- a. Field inspection techniques and procedures; (3-19-07)
- b. ISDA and North American Noxious weed list plant identification; (3-19-07)
- c. ISDA and North American certification standards and guidelines; (3-19-07)
- d. Knowledge of weed management, including: (3-19-07)
 - i. Burning; (3-19-07)
 - ii. Mowing, cutting or roguing; (3-19-07)
 - iii. Mechanical methods; and (3-19-07)
 - iv. Herbicides. (3-19-07)
- e. Inspection forms. (3-19-07)

04. Certification Program. (3-10-00)

- a. The department or its agent shall: (3-10-00)
 - i. Coordinate forage and straw inspections within the state; (3-10-00)
 - ii. Select, train, and supervise persons who serve as approved inspectors; (3-10-00)
 - iii. Issue certificates of inspection, transit certificates, North American Twine, forage cubes/pellets tags/labels, certified compressed forage bale binding material, and bale tags to qualifying participants; (3-19-07)

- iv. Maintain a record of inspections performed and certificates and tags issued; (7-1-94)
 - b. Under the direction of the department or its agent an approved inspector may perform inspections and issue certificates of inspection, transit certificates, North American Twine, forage cubes/pellets tags/labels, and bale tags within the state at cost. (3-19-07)
- 05. Application for Certification.** (7-1-94)
 - a. Application for certification inspection shall be made on forms available from the department or its agent and submitted to the department or its agent. (5-8-09)
 - b. An applicant's signature on the application for certification is verification of the accuracy of the information submitted, and signifies the applicant's intent to comply with the post-certification and distribution requirements. (3-10-00)
- 06. Field Inspection Procedures.** (7-1-94)
 - a. Forage or straw shall be inspected within ten (10) days prior to harvest in the field of origin for each field and cutting to be certified. (3-19-07)
 - b. Each field inspected shall be identified by the name of the owner and a field name or number. The certification inspection may be performed on an entire field or a portion of a field, if the portion is plainly marked and identified prior to inspection. (3-10-00)
 - c. Field inspections must take place prior to any operation that will limit the approved inspector's ability to properly inspect and certify the field. Fields that have been cut or harvested prior to inspection are ineligible for certification. (3-19-07)
 - d. There shall be a minimum of two (2) entry points per field. (3-19-07)
 - e. There shall be minimum of one (1) entry point per each ten (10) acres. (3-19-07)
 - f. Each point of entry shall be at least one-hundred fifty (150) feet into the field, and each additional one-hundred fifty (150) feet traveled shall constitute an entry point. Travel shall be uninterrupted, proceeding through the field being inspected. (3-19-07)
 - g. The entire field border shall be physically inspected. (3-19-07)
 - h. The field inspection will include all ditches, fence rows, roads, easements, rights-of-way, or buffer zones surrounding the field. (3-19-07)
 - i. Forage which contains any noxious weeds as identified in Section 22-2402(15) or noxious weeds listed on the North American Noxious Weed List, may be certified if the following requirements are met: (3-19-07)
 - i. Field upon which the forage was produced was treated to prevent seed formation

or seed ripening to the degree that there is no danger of dissemination of the seed, or any injurious portion thereof from such noxious weeds, or undesirable plant species, or the propagating parts of the plant are not capable of producing a new plant; (3-19-07)

ii. Noxious weed(s) were treated not later than rosette to bud stage, or boot stage for grass species classified as noxious weeds, prior to cutting or harvesting; and (3-19-07)

iii. Treatment method can include, but is not limited to burning, mowing, cutting or roguing, mechanical methods, or chemicals. (3-19-07)

j. An inspection certificate shall document that the above requirements have been met. (3-19-07)

k. Baling equipment must be cleaned of any noxious weeds prior to harvesting certified forage. If the baling equipment is not cleaned, the first three (3) small square bales or the first large round or square bale produced shall be considered non-certified. (3-19-07)

l. Interstate shipment of baled forage and straw shall be accompanied by an original transit certificate issued by the approved inspector in the county of origin. If individual bales are tagged with an approved bale tag, a transit certificate is not required. The storage area shall also be inspected and shall be free of noxious weeds. ~~(3-19-07)~~()

m. An approved inspector may not inspect fields of which said inspector has ownership or financial interest. (3-19-07)

07. Certification Standards. After completing an inspection, the approved inspector shall complete a certificate of inspection. (3-10-00)

a. If the field or commodity inspected is certified as North American Noxious Weed Free, the approved inspector shall issue a certificate of inspection for that harvest or cutting. If the field or commodity contains North American Noxious Weeds, but does not contain Idaho State noxious weeds, it may be certified as Idaho State noxious weed free, and such certification shall be noted on the certificate of inspection. (3-19-07)

b. If the field or commodity inspected is certified as noxious weed free, as defined in these rules, the approved inspector may also issue, upon request, any of the following documents: (3-19-07)

i. Transit certificates. (7-1-94)

ii. Bale tags. The date on the bale tag must accurately reflect the year in which the bale was produced. ~~(7-1-94)~~()

iii. North American Twine only if the field or commodity is certified as North American Noxious Weed Free. (3-19-07)

iv. Forage cube/pellet tag/labels only if the field or commodity is certified as North American Noxious Weed Free. (3-19-07)

v. Certified compressed forage bale binding material only if the field or commodity is certified as North American Noxious Weed Free. (3-19-07)

c. Certificates of inspection, transit certificates and bale tags shall be on forms prescribed by the department or its agent. (3-10-00)

d. North American Twine and bale tags must be purchased from the department or its agent. (5-8-09)

08. Copy of Inspections and a List of Approved Inspectors. Upon request, the agent shall provide the department with a copy of certificates of inspections issued and a current list of approved inspectors. (3-10-00)

09. Reciprocity. Forage or straw certified under a reciprocal agreement between the department and another state, and certified as North American Noxious Weed Free according to the other state's approved certification standards, may be shipped into the state of Idaho and shall be considered to meet the requirements of the Idaho program. (3-19-07)

10. Exports. Certification under these rules does not qualify a commodity for export from the United States. Applications for certification for export should be made directly to the Division of Plant Industries within the department. (3-10-00)

11. Voluntary Posting. After certification, a producer may post signs, or other forms of notification, on the certified commodity indicating that the commodity is certified as noxious weed free. (3-10-00)

12. Post-Certification and Distribution Requirements. After a producer's commodity has been inspected and certified, the producer shall: (3-19-07)

a. Take reasonable and prudent steps to protect the certified commodity from contamination; (7-1-94)

b. Keep the certified commodity separated from all uncertified commodity;(3-10-00)

c. Attach bale tags, certified compressed forage bale binding material, or North American Twine to each bale of certified forage or straw intended for sale as noxious weed free forage or straw prior to the bales leaving the producers stack yard or storage area; and (3-19-07)

d. Attach cube/pellet tag/label to each container of certified forage cubes/pellets intended for sale as noxious weed free forage prior to the containers leaving the producer's facility. (3-19-07)

e. Provide the shipper, trucker, or transporter with the appropriate number of transit certificates. If individual bales are tagged with an appropriate bale tag, a transit certificate is not required. (~~3-10-00~~)()

13. Cancellation for Failure to Comply. Any person who provides false information

on an application for inspection or who fails to comply with the post-certification and distribution requirements may, upon order of the director, be suspended for a period of up to two (2) years from participating in the forage and straw certification program. (7-1-94)

14. Enforcement and Cancellation. Harvested lots of forage or straw from certified fields may be checked at any time by an approved inspector. Manufactured lots of forage cubes, pellets, and compressed forage bales may be checked at any time by an approved inspector. Evidence that forage, straw, forage cubes/pellets, or compressed forage bales are not from a certified field or that any lot has not been protected from contamination shall be cause for cancellation of certification. (3-19-07)

15. Misuse of Transit Certificate and Certification Markings. Using a transit certificate or certification marking for forage from a field that has not been certified shall constitute a violation of these rules. (3-19-07)

16. Certification Fees. A minimum of thirty dollars (\$30) per inspection shall be charged for up to ten (10) acres, and three dollars (\$3) per acre thereafter, for fields up to ninety-nine (99) acres. Fields that are one-hundred (100) acres or larger in size, the fee is three dollars (\$3) per acre for the first one-hundred (100) acres and two dollars (\$2) per acre thereafter. The agent is authorized to assess a general fee of thirty dollars (\$30) per year to recover overhead costs. The agent may waive the general fee if the applicant has already been assessed a similar fee for other types of crop inspections. (3-19-07)

101. -- 149. (RESERVED)

150. NORTH AMERICAN NOXIOUS WEED LIST.

Common Name	Scientific Name
Absinth wormwood	<i>Artemisia absinthium</i>
Bermudagrass	<i>Cynodon dactylon</i>
Buffalobur	<i>Solanum rostratum</i>
Canada thistle	<i>Cirsium arvense</i>
Common burdock	<i>Arctium minus</i>
Common crupina	<i>Crupina vulgaris</i>
Common tansy	<i>Tanacetum vulgare</i>
Dalmatian toadflax	<i>Linaria dalmatica</i>
Diffuse knapweed	<i>Centaurea diffusa</i>
Dyers woad	<i>Isatis tinctoria</i>
Field bindweed	<i>Convolvulus arvensis</i>
Hemp (marijuana)	<i>Cannabis sativa</i>
Henbane, Black	<i>Hyoscyamus niger</i>
Hoary cress	<i>Cardaria spp.</i>

Common Name	Scientific Name
Horsenettle	<i>Solanum carolinense</i>
Houndstongue	<i>Cynoglossum officinale</i>
Johnsongrass	<i>Sorghum halepense</i>
Jointed goatgrass	<i>Aegilops cylindrica</i>
Leafy spurge	<i>Euphorbia esula</i>
Matgrass	<i>Nardus stricta</i>
Meadow knapweed	<i>Centaurea pratensis</i>
Medusahead	<i>Taeniatherum caput-medusae</i>
Milium	<i>Milium vernale</i>
Musk thistle	<i>Carduus nutans</i>
Orange hawkweed	<i>Hieracium aurantiacum</i>
Oxeye daisy	<i>Chrysanthemum leucanthemum</i>
Perennial pepperweed	<i>Lepidium latifolium</i>
Perennial sorghum	<i>Sorghum almum</i>
Perennial sowthistle	<i>Sonchus arvensis</i>
Plumeless thistle	<i>Carduus acanthoides</i>
Poison hemlock	<i>Conium maculatum</i>
Puncturevine	<i>Tribulus terrestris</i>
Purple loosestrife	<i>Lythrum salicaria</i>
Quackgrass	<i>Agropyron repens</i>
Rush skeletonweed	<i>Chondrilla juncea</i>
Russian knapweed	<i>Centaurea repens</i>
Scentless chamomile	<i>Matricaria perforata</i> or <i>M. milaceum</i>
Scotch broom	<i>Cytisus scoparius</i>
Scotch thistle	<i>Onopordum acanthium</i>
Sericea Lespedeza	<i>Lespedeza cuneata</i>
Silverleaf nightshade	<i>Solanum elaeagnifolium</i>
Skeletonleaf bursage	<i>Ambrosia tomentosa</i>
Spotted knapweed	<i>Centaurea maculosa</i>
Squarrose knapweed	<i>Centaurea virgata</i>
St. Johnswort	<i>Hypericum perforatum</i>
Sulfur cinquefoil	<i>Potentilla recta</i>
Syrian beancaper	<i>Zygophyllum fabago</i>
Tansy ragwort	<i>Senecio jacobaea</i>

<u>Common Name</u>	<u>Scientific Name</u>
Toothed spurge	<i>Euphorbia dentata</i>
Wild oats	<i>Avena fatua</i>
Wild proso millet	<i>Panicum miliaceum</i>
Yellow hawkweed	<i>Hieracium pratense</i>
Yellow starthistle	<i>Centaurea solstitialis</i>
Yellow toadflax	<i>Linaria vulgaris</i>

(5-8-09)()

(BREAK IN CONTINUITY OF SECTIONS)

250. CERTIFICATION MARKING.

Each certified bale or container shall be marked by one (1) of the following: (3-19-07)

01. North American Twine. Only one (1) strand is required per bale. (3-19-07)

02. Forage Tag. The following information shall be shown on baled forage and straw: (5-8-09)

a. The words - “North American Weed Free Forage Certification Program” or “Idaho State Noxious Weed Free Forage & Straw Certification Program”; (3-19-07)

b. Bale tag serial number; (3-19-07)

c. County of origin identification; (3-19-07)

d. ISDA emblem; (3-19-07)

e. ISDA telephone number; and (3-19-07)

f. A statement that the product is “Certified to the North American Standards” or “Certified to the Idaho State Noxious Weed Free Standards.” (3-19-07)

g. Year the bale tag was issued. ()

03. Forage Cube/Pellet Tag/Label. Certification tags/labels shall be attached to or a statement with the following information shall be printed on each container of noxious weed free product: (3-19-07)

a. The words - “North American Weed Free Forage Certification Program”; (3-19-07)

- b.** ISDA forage manufacturer identification number; (3-19-07)
- c.** ISDA emblem; (3-19-07)
- d.** ISDA telephone number; and (3-19-07)
- e.** A statement that the product is “Certified to the North American Standards.” (3-19-07)

04. Certified Compressed Forage Bale Binding Material. The following information shall be printed in purple ink on yellow binding material. Two (2) consecutive vertical purple lines approximately one-eighth of an inch (1/8”) wide, spaced approximately one and one-quarter inches (1 1/4”) apart, placed before and after written text which includes the acronym “ISDA NWFFS” and can include the manufacturer’s name. (5-8-09)

IDAPA 02 - DEPARTMENT OF AGRICULTURE

02.06.35 - RULES GOVERNING ROUGH BLUEGRASS (*POA TRIVIALIS*)

DOCKET NO. 02-0635-1201

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2013 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. This negotiated rulemaking action is authorized pursuant to Section 22-2006, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the October 3, 2012 Idaho Administrative Bulletin, [Vol. 12-10, pages 61 and 62](#).

IDAHO CODE SECTION 22-101A STATEMENT: This rule does regulate an activity not already regulated by the federal government, because the federal government does not regulate specifications, tolerances and other requirements for Rough Bluegrass.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: ISDA does not anticipate any fiscal impact from the changes to be made to the Rule during this rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Michael E. Cooper, Bureau Chief at (208) 332-8620.

DATED this 30th day of October, 2012.

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

THE FOLLOWING NOTICE WAS PUBLISHED WITH THE PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 22-2006, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 17, 2012.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is a non-technical explanation of the substance and purpose of the proposed rulemaking:

Amending Section 101 - Qualification of Regulated Articles for Quarantine Release - to allow for the use of a certificate of analysis in lieu of tags.

Amending Section 102 - Rough Bluegrass Quarantine Inspections - to allow for inspection by the Idaho Crop Improvement Association.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: N/A

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year:

ISDA does not anticipate any fiscal impact as a result of this rule change.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the July 4, 2012 Idaho Administrative Bulletin, **Vol. 12-7, Page 28**. A negotiated rulemaking meeting was held at the Idaho State Department of Agriculture on July 17, 2012; there were no visitors in attendance at the meeting, nor were any comments received.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: N/A

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact

Michael E. Cooper, Bureau Chief, 208-332-8620.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to Michael E. Cooper and must be delivered on or before October 24, 2012.

Comments can be delivered via email to Mike.Cooper@agri.idaho.gov or via regular mail to Michael E. Cooper's attention at the address listed below.

DATED this 31st day of August, 2012.

THE FOLLOWING IS THE TEXT OF DOCKET NO. 02-0635-1201

101. QUALIFICATIONS OF REGULATED ARTICLES FOR QUARANTINE RELEASE.

01. Planting Seed Stock of Regulated Articles. Any person planting seed stock of regulated articles shall comply with the following requirements: (3-30-01)

a. Submit to the Director an official laboratory analysis of a representative sample showing freedom from rough bluegrass based on a five (5) gram sample for bentgrass or redtop, a twenty-five (25) gram sample for bluegrass, or a fifty (50) gram sample for other grasses; or (3-30-01)

b. Submit to the Director a representative sample for laboratory analysis. (3-30-01)

02. Quarantine Release Tag. Upon receipt of an official seed laboratory analysis, the Director may upon request issue sequentially numbered tags for each bag of regulated article found free of rough bluegrass. (3-30-01)

03. Analysis Certificate. In lieu of tags, a seed analysis certificate from an official seed laboratory showing each lot being planted to be free from rough bluegrass must be kept on file for a minimum of one (1) year after all of the inventory of that lots harvested seed has been sold. ()

102. ROUGH BLUEGRASS QUARANTINE - INSPECTIONS.

The Director shall cause inspections to be made in accordance with the provisions of Section 22-2007, Idaho Code. (5-3-03)

01. Infested Seed Stock. Lots of turf seed stock contaminated with rough bluegrass seeds may be planted in an approved nursery of two (2) acres or less under the supervision of the Director. The nursery shall be seeded in rows spaced twenty-four (24) inches apart and it shall be the duty of the person receiving such seed stock to rogue the planting or chemically treat to

eradicate the rough bluegrass. The approved nursery shall be inspected by the Department or the Idaho Crop Improvement Association at least three (3) times during the seedling year. Any approved nursery not passing inspection shall not be harvested but shall be destroyed upon the order of the Director at the owner's expense. ~~(3-20-97)~~()

02. Application for Nursery Inspection. A person shall make application for nursery inspection to the Director or the Idaho Crop Improvement Association at least fourteen (14) days prior to planting. ~~(3-20-97)~~()

IDAPA 02 - DEPARTMENT OF AGRICULTURE

02.06.41 - RULES PERTAINING TO THE IDAHO SOIL AND PLANT AMENDMENT ACT OF 2001

DOCKET NO. 02-0641-1201

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2013 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 22-2204, Idaho Code.

DESCRIPTIVE SUMMARY: The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the July 4, 2012 Idaho Administrative Bulletin, [Vol. 12-7, pages 29 and 30](#).

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year:

ISDA does not anticipate any fiscal impact from the changes to be made to the Rule as a result of this rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Kathryn Mink, Agriculture Section Manager at (208) 332-8564.

DATED this 31st day of August, 2012.

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

THE FOLLOWING NOTICE WAS PUBLISHED WITH THE PROPOSED RULE

AUTHORITY: In compliance with Section 67-5220(2), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 22-2204, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than July 18, 2012.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

To incorporate by reference information and updates contained in the 2013 Official Publication of the Association of American Plant Food Control Officials (AAPFCO) as they pertain to the methodology and practice of conducting regulatory fertilizer registration and label review.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: N/A

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking: ISDA does not anticipate any fiscal impact from the changes to be made to the Rule during this rulemaking.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because of the simple nature of the proposed amendments.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule:

The Association of American Plant Food Control Officials (AAPFCO) Official Publication and the Official Methods of Analysis (OMA) published by the Association of Official Agricultural Chemists (AOAC) International are the recognized and primary reference books of approved fertilizer terms, ingredient definitions and policies used by the fertilizer industry and all state and Federal fertilizer control officials and regulators.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Kathryn Mink, Agriculture Section Manager at (208) 332-8564.

Anyone may submit written comments regarding this proposed rulemaking. All written

comments must be directed to the undersigned and must be delivered on or before July 25, 2012.

DATED this 8th day of June, 2012.

THE FOLLOWING IS THE TEXT OF DOCKET NO. 02-0641-1201

004. INCORPORATION BY REFERENCE.

Copies of these documents may be viewed at the Idaho State Department of Agriculture, 2270 Old Penitentiary Road, PO Box 790, Boise, Idaho 83701. IDAPA 02.06.41 incorporates by reference: (4-7-11)

01. The Association of American Plant Food Control Officials (AAPFCO) Official Publication. The terms, ingredient definitions and policies as published in the “2012~~3~~ Official Publication” of AAPFCO where those terms and ingredient definitions, and policy statements do not conflict with terms and ingredient definitions, and policy statements adopted under Title 22, Chapter 22, Idaho Code, and any rule promulgated thereunder. The AAPFCO Official Publication is a copyrighted publication and not available in electronic format. A copy may be purchased online from the AAPFCO website at: http://www.aapfco.org/pdf/publication_order_form.pdf. (~~3-29-12~~)()

02. The Merck Index. The “2006 Merck Index,” 14th Edition, as published by Merck Research Laboratories Division of Merck & Co., Incorporated. The Merck Index is a copyrighted publication and not available in an electronic format. A copy may be purchased online from Merck & Co., Inc. at: <http://www.merckbooks.com/mindex/index.html>. (4-7-11)

03. The Association of Official Agricultural Chemists (AOAC) International. The “2005 Official Methods of Analysis (OMA) of the AOAC,” 18th Edition, a copyrighted publication, is maintained and published by the AOAC International. The AOAC OMA is available in electronic format at: www.EOMA.AOAC.org. A copy may be purchased online from AOAC International. (3-29-12)

IDAPA 46 - BOARD OF VETERINARY MEDICINE

46.01.01 - RULES OF THE STATE OF IDAHO BOARD OF VETERINARY MEDICINE

DOCKET NO. 46-0101-1201

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2013 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 54-2105, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the September 5, 2012 Idaho Administrative Bulletin, [Vol. 12-9, pages 205 through 217](#).

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year:

The Board of Veterinary Medicine is a dedicated fund agency; therefore the General Fund will not be impacted by this rulemaking. It is estimated that the Board's dedicated fund account either will not be impacted, or that there will be a minimal positive impact of less than \$2,000/year.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Karen Ewing, Executive Director, at (208) 332-8588.

DATED this 1st day of October, 2012.

Karen Ewing, Executive Director
Board of Veterinary Medicine
2270 Old Penitentiary Rd.
P. O. Box 7249
Boise, ID 83707
Phone: (208) 332-8588
FAX: (208)334-2170

THE FOLLOWING NOTICE WAS PUBLISHED WITH THE PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 54-2105, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 19, 2012.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

The rulemaking will expressly authorize convenient methods for filing documents, allow the Board to more fully recover expenses incurred when an application for certification is withdrawn, and streamline and clarify certain obligations and procedures required of Certified Euthanasia Agencies and Certified Euthanasia Technicians for safe, efficient and accountable practice. The rulemaking makes a “housekeeping” change by adding the Board’s website and e-mail information and simplifying filing requirements; adopts an updated version of the American Veterinary Medical Association’s principles of ethics; makes all certified veterinary technician application fees nonrefundable; reorganizes existing provisions applicable to a Certified Euthanasia Agency (CEA) and a Certified Euthanasia Technician (CET); streamlines and clarifies procedures for a CEA and CET; eliminates any potential ambiguity in the grounds for discipline against a CEA or CET; and provides clarity to the procedures and requirements for addressing deficiencies found during an inspection of a CEA.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: None.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking:

The Board of Veterinary Medicine is a dedicated fund agency; therefore the General Fund will not be impacted by this rulemaking. It is estimated that the Board’s dedicated fund account either will not be impacted, or that there will be a minimal positive impact of less than \$2,000/year.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because it was not feasible for several reasons.

First, some of the rulemaking is of a simple, non-controversial nature (e.g., putting the Board's website and e-mail information in rule and simplifying filing options).

Second, the change to make all veterinary technician application fees nonrefundable is consistent with a suggestion made to the Board by a legislative committee during 2012 rulemaking; and the change is also consistent with an identical change in statute for veterinarian application fees (thereby treating the two groups the same).

Third, the amendments to the euthanasia rules were essentially the product of the Certified Euthanasia Task Force, an entity comprised of veterinarians and technicians involved in animal euthanasia practices in the state; therefore, input, comments and recommendations from these professionals in the affected field was considered in drafting the rulemaking.

Fourth, the changes clarify arguably ambiguous or vague procedures, thereby benefiting certificate holders.

Fifth, the rulemaking has been posted and discussed at two Board meetings, thereby allowing notice and opportunity for comments from the public and licensees.

Finally, because the agency is very small (employing only two full-time employees) and has an extremely tight budget, any minimal benefit that might result from holding meetings on the rulemaking for further comment from potentially affected persons does not justify the additional expense and burden placed on the Board, its staff and financial resources.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule:

An updated version of the Principles of Veterinary Medical Ethics of the American Veterinary Medical Association (AVMA), as adopted and revised November 2010, is being incorporated.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Karen Ewing, Executive Director, at (208) 332-8588.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 26, 2012.

DATED this 25th day of July, 2012.

THE FOLLOWING IS THE TEXT OF DOCKET NO. 46-0101-1201

004. GENERAL PROVISIONS.

- 01. Office.** (7-1-97)
- a.** The office of the Board is located at 2270 Old Penitentiary Road, Boise, Idaho 83712. (7-1-97)
- b.** The office mailing address is P.O. Box 7249, Boise, Idaho 83707. (7-1-97)
- c.** The office telephone number is (208) 332-8588. (7-1-97)
- d.** The Board's facsimile (FAX) number is (208) 334-2170. (4-7-11)
- e.** The Board's e-mail address is bovminfo@agri.idaho.gov. ()
- f.** The Board's website address is <http://www.bovm.idaho.gov>. ()
- eg.** Office hours are 8 a.m. to 5 p.m., Mountain Time, Monday through Friday, except holidays designated by the state of Idaho. (7-1-97)

02. Communications. All written communications and documents concerning any matter covered by these rules should be addressed to the office of the Board, and not to individual members of the Board or the Board's staff. All communications and documents are deemed to be officially received only when delivered to the Board office during office hours. (7-1-97)

03. Filing of Documents. All written communications and documents that are intended to be part of an official record for decision in a rulemaking or contested case must be filed with the executive director of the Board. Filing can be accomplished by personal delivery, mail, facsimile transmission (FAX), or electronic mail (e-mail). FAX and e-mail filings submitted after Board office hours will be deemed filed as of the next business day the Board office is open. ()

a. In a rulemaking submission, the original and one (1) copy of all documents must be filed with the Board. ()

b. In a contested case proceeding, filing is sufficient if ~~one~~ one (1) original is ~~sufficient for submission~~ delivered to the executive director, one (1) copy for the Board, one (1) copy for the hearing officer, and one (1) copy submitted to the opposing party, as applicable. Whenever documents are filed by FAX ~~transmission or e-mail~~, originals and copies required under this rule shall be deposited in the mail the same day or hand delivered the following business day to the executive director, the Board, the hearing officer, and opposing parties, as applicable. (4-7-11)()

005. INCORPORATION BY REFERENCE.

01. Documents Incorporated. The following documents are incorporated herein by reference in accordance with the provision of Section 67-5229, Idaho Code. A copy of each of these documents may be obtained or electronically accessed via the Board of Veterinary

Medicine's website at <http://www.bovm.idaho.gov>. (3-29-10)

a. The Principles of Veterinary Medical Ethics of the American Veterinary Medical Association (AVMA), as adopted and revised ~~April 2008~~ **November 2010**. (~~3-29-10~~)()

b. The Educational Commission for Foreign Veterinary Graduates Information for Graduates of Colleges of Veterinary Medicine Outside the United States and Canada (ECFVG), adopted May 1, 2000. (3-30-01)

c. The American Association of Veterinary State Boards' (AAVSB) Program for the Assessment of Veterinary Education (PAVE), adopted August 15, 2002. (3-30-07)

(BREAK IN CONTINUITY OF SECTIONS)

100. CERTIFICATION OF VETERINARY TECHNICIANS.

Any person representing himself as a veterinary technician, licensed veterinary technician, registered veterinary technician, or certified veterinary technician, shall hold a valid, unexpired certificate to practice veterinary technology in the state of Idaho. (3-30-07)

01. Application for Certification -- Contents -- Examinations. An individual desiring to be certified as a veterinary technician shall make written application to the Board upon a form furnished by the Board. A complete application shall be valid and maintained at the Board office for a period of one (1) year, contain the applicant's notarized signature, and include: (3-30-01)

a. A copy of a birth certificate or current passport proving that the applicant is eighteen (18) years of age or older. (4-2-08)

b. Notarized affidavits issued during the year preceding certification from two (2) individuals, personally acquainted with the applicant, attesting to the fact that the applicant is of good moral character. (3-30-01)

c. Documentation of education/training/experience as follows: (3-30-01)

i. A certified copy of a diploma or transcript, or a letter verifying graduation from a veterinary technology program, accredited by the American Veterinary Medical Association; (3-29-10)

ii. A certified copy of a diploma or transcript, or a letter verifying graduation from a veterinary technology program equivalent to a program accredited by the American Veterinary Medical Association, or from another college or institution approved by the Board; (3-29-10)

iii. A certified copy of a diploma or transcript, or a letter verifying the award of a D.V.M. or V.M.D. degree or equivalent, from an accredited school of veterinary medicine; or (3-29-10)

iv. If a foreign veterinary graduate, notarized verification of having been awarded a D.V.M. or V.M.D. degree or equivalent in a program of veterinary medicine from a foreign school of veterinary medicine or the veterinary department of a foreign university or another college or institution that is approved by the Board. (3-30-07)

d. Verification of a criterion-referenced passing score reported by the Professional Examination Service or its designee, or by other designated test vendors or their designees approved by the American Association of Veterinary State Boards on the Veterinary Technician National Examination (VTNE) or other national examination approved by the American Association of Veterinary State Boards or its designated test vendor or by the Board. If such a score is not available, the passing score shall be as reported by the Professional Examination Service or its designee, or by other designated test vendors or their designees approved by the American Association of Veterinary State Boards or by the Board and shall be considered equal to or greater than one and five-tenths (1.5) standard deviation below the mean score of the examination. (3-30-01)

i. The VTNE or other national examination approved by the American Association of Veterinary State Boards or its designated test vendor or by the Board may have been taken at any time. (3-30-01)

ii. Scores for the VTNE or other national examination approved by the American Association of Veterinary State Boards or its designated test vendor or by the Board are to be provided to the Board by the Professional Examination Service or its designee or by other designated test vendors or their designees approved by the American Association of Veterinary State Boards. (3-30-01)

e. A passing score for the jurisprudence examination, which should be ninety percent (90%) or such score as deemed appropriate by the Board. The jurisprudence examination, as prepared by the Board or its designee, may be taken more than once, at three-month intervals. (3-29-10)

02. Application for Certification -- Fee -- Deadline -- Validity. (3-30-01)

a. A completed application, other required documents, and first year's certification fee in the amount established by the Board shall be received at the Board office by the first day of January or June. All application and certification fees are nonrefundable. ~~(3-30-01)()~~

b. The Board will review applications and issue certifications in January and June of each year. Veterinary Technician Certifications shall be consecutively numbered beginning with the number one (1) and all numbers shall be prefixed with the letters CVT. If an applicant is found not qualified, the Board shall notify the applicant in writing of such finding and grounds therefor. An applicant denied certification may request a hearing pursuant to the procedures set forth in Title 67, Chapter 52, Idaho Code. ~~Any applicant who is denied certification shall be allowed the return of the certification fee portion of the application fee.~~ ~~(3-30-01)()~~

~~e. Any applicant taking and passing the Idaho Veterinary Technician Jurisprudence Examination and not wanting to be certified at the next review by the Board shall be allowed the~~

~~return of the certification fee portion of the application fee only.~~

~~(3-30-01)~~

(BREAK IN CONTINUITY OF SECTIONS)

204. CERTIFIED EUTHANASIA AGENCY.

A certified euthanasia agency is a law enforcement agency, an animal control agency, a humane society, or ~~a society for the prevention of cruelty to an~~ animals shelter that has been inspected and certified by the euthanasia task force or the Board, Section 54-2103(8), Idaho Code. In order to be certified to purchase and store approved drugs, certified euthanasia agencies shall be inspected by the CETF or the Board and shall meet the following criteria: ~~(3-30-01)()~~

01. Approved Drugs. Approved drugs shall be kept in a locked cabinet securely attached to the building in which it is housed. (3-30-01)

a. Each agency shall maintain a current written list of CET(s). ~~(3-30-01)()~~

b. Access to the drug storage cabinet shall be limited to licensed veterinary supervisors and assigned CET. Such persons shall be responsible for the security of the approved drugs and shall allow withdrawal of the approved drugs only to a person certified by the Board and registered with the Idaho Board of Pharmacy to administer such drugs. (3-30-01)

c. All approved drugs shall be prepared according to the manufacturer's instructions. (7-1-97)

d. Needles in a range of sizes that are the appropriate gauge for the intended use. Needles shall be of medical quality, and shall not be used if they are dirty, clogged, barbed, or might otherwise cause unnecessary discomfort for the animal. ~~Needles shall not be used more than five (5) times.~~ ~~(3-29-10)()~~

~~fe. Used n~~Needles and syringes ~~that are to~~ shall not be reused ~~shall be kept in the same secure or temporary storage as the approved drugs.~~ ~~(7-1-97)()~~

~~ef.~~ Three (3) different syringe sizes are required: three (3), six (6), and twelve (12) cc. An agency may have other syringe sizes according to its needs. Syringes shall be of medical quality. ~~They may be reused if they are properly cleaned.~~ ~~(3-30-01)()~~

g. Spent needles and syringes shall be disposed of in a manner that makes their re-use impossible. (7-1-93)

02. Proper Storage. When no CET is on duty, proper storage for approved drugs is in a locked storage cabinet. (3-30-01)

a. The cabinet shall be of such material and construction that it will withstand strong attempts to break into it. A metal safe is preferred. (7-1-93)

- b. The cabinet shall be securely attached to the building in which it is housed. (7-1-93)
- c. The temperature and environment in the storage cabinet shall be adequate to assure the proper keeping of the drug. (7-1-93)
- 03. Proper Labeling.** ~~Proper labeling of approved drugs shall include:~~ (7-1-97)
- ~~a. Shipment records showing receipt of the approved drugs shall be maintained and include all information required by federal law, the date the shipment was received, the amount, the source, and the invoice number.~~ Upon removal from the shipment carton, each individual container of an approved drug shall be labeled with the drug name and strength, the date the drug was prepared, a drug hazard warning label and the name and address of the agency owning the drug. (7-1-97)()
- ~~b. Administration records showing the date an approved drug was administered, weight, species of animal and dosage of each drug administered for euthanasia and restraint, identification of the person who dispensed the approved drugs and if applicable identification of the veterinarian or CET who supervised the dispensing shall be maintained.~~ (3-30-01)
- ~~c. Records of wastage shall be maintained and signed by the person administering the approved drug and the CET responsible for security.~~ (3-30-01)
- ~~d. A weekly record of the approved drugs on hand, minus the amounts withdrawn for administration, signed by the CET or person responsible for security.~~ (3-30-01)
- ~~e. Disposal records of any expired or unwanted approved drugs shall be maintained. Disposal of unwanted drugs and the containers, instruments and equipment used in the administration of the approved drugs shall be in conformance with the Idaho Board of Pharmacy law and rules and the Code of Federal Regulations.~~ (3-30-01)
- 04. Temporary Storage.** When a CET is on duty and when animals are being euthanized throughout the workday, approved drugs may be kept in a temporary storage cabinet. When approved drugs are transported in a vehicle, the temporary storage cabinet shall be securely bolted to the vehicle. The cabinet shall be constructed of any strong material and shall be securely locked when not in use. The key to this cabinet shall be secured by a licensed veterinary supervisor or the lead CET designated on the DEA controlled substance registration, and made available only to the licensed veterinary supervisor and designated CET(s) performing euthanasias that day. (3-29-10)()
- 05. Record Keeping.** Proper record keeping of approved drugs shall include the following: (7-1-97)()
- a. Shipment records showing receipt of the approved drugs shall be maintained and include all information required by federal law, the date the shipment was received, the amount, the source, and the invoice number. ()
- b. Administration records showing the date an approved drug was: ()

- i. Administered; ()
- ii. Weight and species of animal; ()
- iii. Dosage of each drug administered for pre-euthanasia sedation, euthanasia, and remote chemical capture restraint; ()
- iv. Identification of the person who dispensed the approved drugs; and, if applicable; ()
- v. Identification of the veterinarian or CET who supervised the dispensing shall be maintained. ()
- c. Records of wastage shall be maintained and signed by the CET administering the approved drug and the CET responsible for security. ()
- d. A weekly record of the approved drugs on hand, minus the amounts withdrawn for administration, signed by the CET responsible for security. ()
- e. Disposal records of any expired or unwanted approved drugs shall be maintained. Disposal of unwanted drugs and the containers, instruments, and equipment used in the administration of the approved drugs shall be in conformance with the Idaho Board of Pharmacy law and rules and the Code of Federal Regulations. ()
- af. All records shall be filed in chronological order in a binder that is labeled with the name of the agency. (7-1-93)
- bg. All records shall be kept for a period of three (3) years from the calendar date on the record. (7-1-93)
- 06. Proper Sanitation.** The euthanasia area shall be clean and regularly disinfected. (3-30-01)
- 07. Other Site Conditions.** Other site conditions relevant to the proper euthanasia environment. (7-1-93)
- a.** Each agency shall have a specific area designated for euthanasia. The area shall be: (7-1-93)

 - i.** A separate room; or (7-1-93)
 - ii.** An area that is physically separated from the rest of the agency by a wall, barrier or other divider; or (7-1-93)
 - iii.** An area that is not used for any other purpose while animals are being euthanized. (7-1-93)

- b.** The euthanasia area shall meet the following minimum standards: (7-1-93)
- i. Lighting shall be bright and even; (7-1-93)
 - ii. The air temperature shall be within a reasonable comfort range for both the personnel and animals. A minimum sixty (60) degrees F and maximum ninety (90) degrees F is recommended; (7-1-93)
 - iii. The area shall have adequate ventilation that prevents the accumulation of odors. At least one (1) exhaust fan vented directly to the outside is recommended; and (7-1-93)
 - iv. The floor of the area shall provide dry, non-slip footing to prevent accidents. (7-1-93)
- c.** The euthanasia area shall have the following equipment: (7-1-93)
- i. A table or other work area where animals can be handled while being euthanized. (7-1-93)
 - ii. A cabinet, table or work bench where the drugs, needles, syringes and clippers can be placed. (7-1-93)
- d.** The following items and materials shall either be kept in the euthanasia area or brought to the area each time an animal is euthanized: (3-29-10)
- i. A first aid kit that meets minimum first aid supply standards; (7-1-93)
 - ii. One (1) or more tourniquets; (7-1-93)
 - iii. Standard electric clippers with No. 40 blade; (7-1-93)
 - iv. Animal control stick for dogs and animal net for cats (if the agency handles cats); (7-1-93)
 - v. Stethoscope; (7-1-93)
 - vi. Disinfectant. (3-29-10)
 - vii. The current certification cards for the CEA and all CETs working at the CEA, which shall be kept together. The CEA is strongly encouraged to keep all DEA and Idaho Board of Pharmacy registration cards together with the certification cards. (3-29-10)
- e.** All equipment shall be in good working order. (7-1-93)
- 08. Equipment Stored.** All equipment shall be stored so that it does not create a safety hazard for the personnel. All drugs and other chemical agents used in the euthanasia area shall be clearly labeled as specified by Subsection 204.03 of these rules. (3-30-01)

09. Certification Renewal. Certifications may be renewed upon successful completion of a facility inspection by a CETF member, a member of the Board or other individual appointed by the CETF and payment of the annual renewal fee. (3-30-01)

205. CERTIFIED EUTHANASIA TECHNICIAN.

01. Training and Examinations. The CETF or the Board shall develop training sessions and materials that shall include, but not be limited to, the following topics: (3-30-01)

- a. Euthanasia:** (3-30-01)
 - i. The theory and history of euthanasia methods; (3-30-01)
 - ii. Animal anatomy; (3-30-01)
 - iii. Proper animal handling to ease trauma and stress; (3-30-01)
 - iv. Dosages of chemical agents, record keeping and documentation of usage, storage, handling, and disposal of out-dated drugs and their containers, instruments and equipment used in their administration in accordance with the Idaho Board of Pharmacy law and rules and the Code of Federal Regulations; (3-30-01)
 - v. Proper injection techniques; and (3-30-01)
 - vi. Proper use and handling of approved euthanasia drugs and equipment; (3-30-01)
 - vii. Examination. Following the euthanasia training, a written examination shall be given. Those passing the written examination will be eligible for the practical examination. (3-30-01)
- b. Remote Chemical Capture:** (3-30-01)
 - i. An overview of remote chemical capture; (3-30-01)
 - ii. Description and basic mechanism of action of approved drugs; (3-30-01)
 - iii. Laws, regulations and rules governing remote chemical capture; (3-30-01)
 - iv. Post-injection care; (3-30-01)
 - v. Proper use and handling of approved restraint drugs and equipment; (3-30-01)
 - vi. Human safety; (3-30-01)
 - vii. Tactics and strategy; and (3-30-01)
 - viii. Delivery systems and equipment. (3-30-01)

02. Certification Standards. Applicants for certification as a CET shall be eighteen (18) years of age or older and demonstrate proficiency in compliance with the following standards: (4-7-11)

a. Demonstrate ~~efficiency~~ **competency** in euthanasia techniques in the presence of a CETF or Board member, or a person approved by the Board: ~~(4-7-11)~~()

i. CETs are fully responsible for all actions that take place in the euthanasia area when an animal is brought to the area including, but not limited to, animal handling, use of the proper restraint technique, the proper drug dosage, and drug handling; (3-30-01)

ii. CETs shall be able to ~~properly~~ **competently** perform intravenous injections on dogs and intraperitoneal injections on both dogs and cats. Intravenous injections on cats shall not be required as part of the certification process, but when performed, shall meet the standards listed in Subparagraph 205.02.a.ii.(1) of these rules. Intracardiac injections on dogs and cats shall not be required as part of the certification process, but when performed, are restricted to the limitations listed in Subparagraph 205.02.a.ii.(3) of these rules. ~~(4-7-11)~~()

(1) Intravenous Injections: The CET shall be able to ~~properly and efficiently~~ **competently** insert the needle into an animal's vein ~~in no more than two (2) attempts on ninety percent (90%) of the~~ **when an** animals **is** injected by this method. A minimum of two (2) people shall be required for any IV injection. One (1) person shall be a CET and one (1) or more people shall be the handler. The handler does not need to be a CET, but the handler should be trained in human safety and animal handling techniques; ~~(4-7-11)~~()

(2) Intraperitoneal Injections: The CET shall be able to ~~efficiently~~ **competently** insert the needle into the proper ~~injection site in no more than two (2) attempts on ninety five percent (95%) of the~~ **area of the peritoneal cavity when an** animals **is** injected by this method. It is recommended that animals injected by this method be placed into a cage **or carrier** with no other animals. The ~~front of the~~ cage **or carrier** shall be covered with cloth or other material that can keep the ~~cage~~ **injected animal** isolated from the normal activities in the euthanasia area. Intraperitoneal injections may be administered by a CET without a handler. ~~(4-7-11)~~()

(3) Intracardiac Injections: Intracardiac injection shall be performed only on an anesthetized animal. CETs shall be able to ~~efficiently~~ **competently** insert the needle into the heart of an **anesthetized** animal, ~~in no more than two (2) attempts on ninety percent (90%) of the animals injected by this method.~~ **and** ~~f~~intracardiac injections may be administered by a CET without a handler. ~~(3-30-01)~~()

iii. No other **euthanasia** injection procedures are permitted in any type of animal **with the exception of intramuscular and subcutaneous injections for pre-euthanasia sedation**; ~~(3-30-01)~~()

iv. Oral administration of approved **euthanasia** drugs is permitted for any animal that cannot be captured or restrained without serious danger to human safety; ~~(3-30-01)~~()

b. Demonstrate proper record keeping. A record of all approved drugs received and used by the agency shall be kept. The record shall contain the following information: (3-30-01)

- i. A weekly verification of the drug stock on hand, minus the amounts withdrawn for administration, signed by the CET responsible for security; ~~(3-30-01)~~()
 - ii. An entry of the date that a new bottle of any approved drug is opened and the volume of the bottle, signed by the CET responsible for security; ~~(3-30-01)~~()
 - iii. The species and approximate weight of each animal administered a drug; (3-30-01)
 - iv. The amount of the drug that was administered; (3-30-01)
 - v. The date the drug was administered; ()
 - vi. The signature of the CET who administered the drug; (3-30-01)
 - vii. A record of the amount of the drug wasted, if any, signed by the CET administering the drug and the CET responsible for security; and ~~(3-30-01)~~()
 - viii. A record of any disposal of expired or unwanted approved drugs, other chemical agent or the containers, instruments and equipment used in their administration, signed by the CET and disposed of in accordance with the Idaho Board of Pharmacy law and rules and the Code of Federal Regulations. (3-30-01)
- c.** Demonstrate understanding and concern for the needs and humane treatment of individual animals: (4-7-11)
- i. All animals shall be handled in a manner that minimizes stress to the animal and maximizes the personal safety of the CET and the handler. Each animal shall be handled with the least amount of restraint necessary, but human safety shall always be the primary concern. Handling includes all aspects of moving an animal from one (1) area to another; (4-7-11)
 - ii. The use of control sticks and other similar devices shall be limited to fractious or potentially dangerous animals; and (3-30-01)
 - iii. Animals shall not be placed in cages or kennels with other breeds or species that are incompatible with the animal in question. Animals shall not be overcrowded in a cage or kennel. (7-1-93)
- d.** Demonstrate ability to verify death. The animal should become unconscious and show terminal signs within sixty (60) minutes of drug administration. If any animal does not show any of these signs within the designated time period, the CET shall re-administer the drug. An animal that has received an approved drug orally may be injected with the same or another approved drug after it has become unconscious. Verification is the responsibility of the CET and shall be made by physical examination of the individual animal. One (1) of the following two (2) standards for death shall be met: (4-7-11)
- i. Rigor mortis; or (7-1-93)

ii. Complete lack of heartbeat (as checked with a stethoscope), complete lack of respiration, and complete lack of corneal and palpebral reflexes. (4-2-08)

e. Demonstrate ability to communicate with handlers during the euthanasia process. (3-18-99)

03. Certification. An individual shall not be certified as a CET until such time as he has demonstrated proficiency in the practical examination that shall be conducted following the successful passing of the written exam. Training courses and written and practical examinations will be given as needed. Certification and renewal training sessions and examinations will be conducted prior to July 1 of each year at a place selected by the CETF or the Board. (3-29-10)

a. An individual who has passed the written exam, but has not attended a training session and has not passed the practical examination, may serve as a probationary euthanasia technician under the direct supervision of a currently certified CET until such time as the next training course, practical exam and certification are conducted by a CETF or Board member. (3-30-07)

b. An individual who has not passed the written exam may not serve as a euthanasia technician. (4-7-11)

c. An individual who attends a training session and passes the written exam but fails the practical exam may serve on probation until the CETF member re-examines the individual. If the individual fails to pass the practical exam a second time and wishes to apply again, the individual shall attend the next regular training session and written exam. (3-30-01)

d. Upon termination from an agency as defined in Section 204 of these rules, a CET's certification immediately becomes invalid and the CET shall not perform animal euthanasia until employed by another certified euthanasia agency, at which time the certification may be reinstated. (4-7-11)

e. The agency shall notify the Board office in writing within thirty (30) days from the date the CET's employment at that agency is terminated. (3-29-10)

f. If a CET is employed again by a CEA prior to the expiration of his certification, the CEA employer may request reinstatement of the CET's certification. If a CET has not attended a euthanasia training in the three (3)-year period preceding recertification, the CET may not be recertified and will need to reapply for certification, at CETF discretion. (4-7-11)

g. All certifications expire on July 1 of each year ~~and are effective for no longer than twelve (12) months from the date of certification.~~ (3-30-01)()

04. Certification Renewal. (4-7-11)

a. Certifications may be renewed each year by payment of the annual renewal fee, provided that, every third year following the date of certification, the CET will need to attend a euthanasia training and pay the current training and certification fee prescribed by Section 014 of

these rules. (4-7-11)

b. In addition to the above euthanasia training recertification requirement, CETs classified as law enforcement personnel who use chemical capture must recertify in remote chemical capture every third year following their original remote chemical capture certification. (4-7-11)

05. Duties. The duties of a CET shall include, but are not limited to: (7-1-97)

a. Preparing animals for euthanasia; (7-1-97)

b. Accurately recording the dosages for drugs that are administered and amounts for drugs wasted; (3-30-01)

c. Ordering supplies; (7-1-93)

d. Maintaining the security of all controlled substances and other approved drugs; (3-30-01)

e. Directly supervising probationary CET; (7-1-97)

f. Reporting to the Board violations or suspicions of a violation of these rules or any abuse of drugs; (3-30-01)

g. Humanely euthanizing animals; and (3-30-01)

h. Proper and lawful disposal of euthanized animals and expired or unwanted drugs, other chemical agent or the containers, instruments and equipment used in the administration of approved drugs. (3-30-01)

206. GROUNDS FOR DISCIPLINE -- CEAS AND CETs.

The Board may refuse to issue, renew, or reinstate the certification of a CEA or CET, or may deny, revoke, suspend, sanction, place on probation, or require voluntary surrender of the certification of a CEA or CET, impose other forms of discipline, and enter into consent agreements and negotiated settlements with CEAs and CETs pursuant to the procedures set forth in Title 67, Chapter 52, Idaho Code, for any of the following reasons: (3-30-01)

01. Failure to Carry Out Duties. Failure to carry out the duties of a CEA or CET. (3-30-01)

02. Abuse of Chemical Substances. Abuse of any chemical substance by: (3-30-01)

a. Selling or giving chemical substances away; or (7-1-97)

b. Stealing chemical substances; or (7-1-97)

c. Using The diversion or use of any chemical substances for other than legitimate chemical capture or euthanasia purposes; or ~~(3-18-99)~~()

- d. Abetting anyone in the foregoing activities. (7-1-97)
- 03. Euthanizing of Animals Without Proper Supervision.** Allowing uncertified individuals or probationary CETs to euthanize animals or personally euthanizing animals without proper supervision. (3-30-01)
- 04. Administration of Approved Drugs Without Proper Supervision.** Allowing uncertified individuals or probationary CETs to administer approved drugs or personally administering approved drugs without proper supervision. (3-30-01)
- 05. Euthanizing of Animals Without Proper Certification.** Allowing individuals or probationary CETs to euthanize animals or personally euthanizing animals without being properly certified to do so. (3-30-01)
- 06. Fraud, Misrepresentation, or Deception.** The employment of fraud, misrepresentation of a material fact, or deception by an applicant or certificate holder in obtaining certification securing or attempting to secure the issuance or renewal of a certificate.
(~~3-30-01~~)()
- 07. Unethical or Unprofessional Conduct.** Unethical or unprofessional conduct means to knowingly engage in conduct of a character likely to deceive or defraud the public and includes, but is not limited to: (3-30-01)
- a. Working in conjunction with any agency or person illegally practicing as a CEA or CET; (3-30-01)
- b. Failing to provide sanitary facilities or apply sanitary procedures for the euthanizing of any animal; (3-30-01)
- c. Euthanizing animals in a manner that endangers the health and welfare of the public. A CET shall not euthanize animals if his ability to practice with reasonable skill and safety is adversely affected by reason of illness, excessive use of alcohol, drugs, narcotics, chemicals, or any other substance or as a result of any mental or physical disability; (3-30-01)
- d. Gross ignorance, incompetence or inefficiency in the euthanizing of animals as determined by, but not limited to, the practices generally and currently followed and accepted by persons certified to practice as CETs in this state; (3-30-01)
- e. Intentionally performing a duty, task or procedure involved in the euthanizing of animals for which the individual is not qualified; and (3-30-01)
- f. Swearing falsely in any testimony or affidavits relating to practicing as a CEA or CET. (3-30-01)
- 08. Conviction of Violating Any Federal or State Statute, Rule or Regulation.** Conviction of a charge of violating any federal or state statute or rule or regulation regulating narcotics, dangerous drugs or controlled substances. (3-30-01)

09. Conviction of a Charge or Crime. Being found guilty, convicted, placed on probation, having entered a guilty plea that is accepted by the court, forfeiture of bail, bond or collateral deposited to secure a defendant's appearance, or having received a withheld judgment or suspended sentence by a court of competent jurisdiction in this state or any other state of one (1) or more of the following: (3-30-01)

a. Any felony, as defined by Title 18, Chapter 1, Idaho Code; or (3-30-01)

b. Any crime constituting or having as an element the abuse of any drug, including alcohol. ()

b.c. Any other criminal act that in any way is related to practicing as a CEA or CET as defined by Section 54-2103(8) and (9), Idaho Code. (3-30-01)

10. Improper Record Keeping. Failure to follow proper record keeping procedures as outlined in the rules of the Board. (3-30-01)

11. Improper Security for Approved Drugs. Failure to provide and maintain proper security for approved euthanasia and restraint drugs as outlined in the rules of the Board. (3-30-01)

12. Improper Storage of Equipment and Approved Drugs. Failure to properly store equipment or approved drugs as outlined in the rules of the Board. (3-30-01)

13. Improper Disposal of Approved Drugs and Equipment. Failure to properly dispose of approved drugs and the containers, instruments and equipment used in their administration as outlined in the rules of the Board. (3-30-01)

14. Improper Labeling of Approved Drugs. Failure to properly label approved euthanasia and restraint drugs as outlined by the rules of the Board. (3-30-01)

15. Revocation, Suspension, Limitation or Subjection Restriction. The revocation, suspension, limitation, or subjection restriction of a license, certificate or registration or any other disciplinary action by another state or U.S. jurisdiction or voluntary surrender of a license, certificate or registration by virtue of which one is licensed, certified or registered to practice as a CEA or CET in that state or jurisdiction on grounds other than nonpayment of the renewal fee. ~~(3-30-01)~~()

16. Failure to Cooperate. (3-30-01)

a. Failure of any applicant or certificate holder to cooperate with the Board during any investigation, even if such investigation does not personally concern the applicant or certificate holder; or (3-30-01)

b. Failure to comply with the terms of any order, negotiated settlement, or probationary agreement of the Board; or (3-30-01)

c. Failure to comply with the terms for certification renewal or to timely pay certification renewal fees. (3-30-01)

17. Aiding and Abetting. Knowingly aiding or abetting an uncertified agency or person to practice as a CEA or CET. (3-30-01)

18. Current Certification. Practicing as a CEA or CET without a current certification. (3-30-01)

19. Improper Drug Preparation. Preparing approved drugs, contrary to manufacturer's instructions. (3-30-01)

20. Violation of any Law, Rules or Orders. Violating or attempting to violate, directly or indirectly, or assisting or abetting the violation or conspiracy to violate any provisions of the veterinary law and rules or a written order of the Board issued pursuant to Title 54, Chapter 21, Idaho Code, the Idaho Board of Pharmacy law and rules, or the Code of Federal Regulations. (3-30-01)

207. INSPECTION DEFICIENCIES.

If there are inspection deficiencies with either a CEA or CET, a CETF member or the Board shall document in writing areas for correction. The CEA or CET, or both, shall make corrections within ~~ten (10) days of receipt of~~ **the time period specified in the** notice of deficiency, and **correction shall be verified by** a CETF or Board member ~~shall re-inspect within ninety (90) days of the date of the initial notice of~~ **as recorded on the** deficiency **documentation**. If the deficiency has not been corrected, the certification may be revoked by the Board, and the Idaho Board of Pharmacy will be notified. (3-30-01)()