AGRICULTURAL AFFAIRS COMMITTEE

ADMINISTRATIVE RULES REVIEW

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IDAPA 02 - IDAHO DEPARTMENT OF AGRICULTURE

02.01.04 - RULES GOVERNING THE IDAHO PREFERRED® PROMOTION PROGRAM

DOCKET NO. 02-0104-1001

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2011 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 22-122, 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 non-food product qualifications will be changed to be more consistent with the processed food product qualifications which were revised in 2008. Currently, processed food products require that the ingredients be 20% agricultural content by weight grown or raised in Idaho and that the product must be processed in Idaho. Yet the non-food category such as soaps and compost must have 50% agricultural content from product grown or raised in Idaho.

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the October 6, 2010 Idaho Administrative Bulletin, Vol. 10-10, pages 21 through 23**.**

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: N/A

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact Laura Johnson, Section Manager at (208) 332-8533 or Leah Clark, Trade Specialist at (208) 332-8684.

DATED this 1st day of November, 2010.

Brian J. Oakey, Deputy Director
Idaho State Department of Agriculture
2270 Old Penitentiary Rd
P.O. Box 790, Boise, ID 83701
Phone: (208) 332-8503
Fax: (208) 334-2170

THE FOLLOWING NOTICE 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 22-112, 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 20, 2010.

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 non-food product qualifications will be changed to be more consistent with the processed food product qualifications which were revised in 2008. Currently, processed food products require that the ingredients be 20% agricultural content by weight grown or raised in Idaho and that the product must be processed in Idaho. Yet the non-food category, such as soaps and compost, must have 50% agricultural content from product grown or raised in Idaho. In addition, the qualifications for processed pork products will be changed to allow for ground pork or sausage to be produced from hogs over one year of age.

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: N/A

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 7, 2010 Idaho Administrative Bulletin, Volume 10-7, page 15**. A total of three industry meetings were held. Consensus was only reached on a**

portion of the proposed changes to the pork and pork products qualifications. Therefore, the only rule changes moving forward are a change to the non-food product qualifications and a change to the age of the animal for ground pork or sausage.

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 Leah Clark, Trade Specialist, at (208) 332-8684.

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 27, 2010.

DATED this 26th day of August, 2010.

THE FOLLOWING IS THE TEXT OF DOCKET NO. 02-0104-1001

200. PRODUCT QUALIFICATION.

01. Authority of Determination. The Director shall have the sole authority in determining the eligibility of a product for participation in the program. (3-16-04)

02. General Product Qualifications. Except as specified in this chapter, or by written order of the Director, products must meet or exceed the following criteria: (3-16-04)

a. Fresh produce and commodities bearing the Idaho Preferred® logo shall be one hundred percent (100%) Idaho grown or raised. (4-2-08)

b. Processed foods and beverages shall contain a minimum of twenty percent (20%) agricultural content by weight that has been grown or raised in Idaho and shall be processed in the state of Idaho. (4-2-08)

c. Non-food agricultural products must be at least ~~*fifty*~~ twenty percent (~~5~~20%) agricultural content by weight ~~*and*~~ that ~~*agricultural content must have*~~ has been grown or raised in Idaho and processing must occur in Idaho. ~~*(3-16-04)*~~( )

03. Potatoes. Only certification marks owned or administered by the Idaho Potato Commission may be branded on potatoes grown in Idaho unless prior Idaho Potato Commission approval in writing is secured and granted for the use of additional words or designs. Any person or participant applying to the Idaho Preferred® program, with the intention to promote Idaho-

grown potatoes or products made from Idaho-grown potatoes, shall provide proof of such permission prior to making application with the Department. (3-30-07)

04. Wine. Wines shall contain a minimum of ninety-five percent (95%) Idaho grapes. (4-6-05)

05. Nursery Stock. Nursery stock shall have been grown in Idaho a minimum of one (1) growing season or growing cycle. (4-6-05)

06. Beef and Beef Products. Beef and beef products shall come from cattle that: (4-6-05)

a. Were born, raised and harvested in the United States. No cattle that originate from outside the United States may qualify for the Idaho Preferred® logo. (3-30-07)

b. Reside in Idaho at least twelve (12) months prior to harvest. The twelve (12) months need not be contiguous, but must be verifiable. (4-6-05)

c. Reside their entire lives in Idaho if harvested prior to twelve (12) months of age. (4-6-05)

d. Are processed in federally inspected plants and meet marbling and age requirements for USDA grade Select or better. (4-6-05)

07. Lamb and Lamb Products. Lamb and lamb products shall come from sheep that: (5-8-09)

a. Are born, raised and harvested in the United States. No lambs that originate from, or reside for any portion of their life outside the United States may qualify for the Idaho Preferred® logo. (5-8-09)

b. Have grazed or been fed in Idaho at least three (3) months prior to harvest. The three (3) months need not be contiguous, but must be verifiable. (5-8-09)

c. Are processed at approximately one (1) year of age or less and qualify as lamb or carcasses from older animals, identified as mutton by USDA inspectors, may qualify if they have met requirements in Subsection 200.07.b. (5-8-09)

08. Pork and Pork Products. Pork and pork products shall come from hogs that: (5-8-09)

a. Are born, raised and harvested in the United States. No hogs that originate from, or reside for any portion of their life outside the United States may qualify for the Idaho Preferred® logo. (5-8-09)

b. Are raised in or processed in Idaho. (5-8-09)

c. Are processed at less than one (1) year of age unless used exclusively for ground

pork or sausage products, and are processed in a federally inspected plant. ~~*(5-8-09)*~~( )

09. Poultry and Poultry Products. Poultry and poultry products shall come from fowl that: (5-8-09)

a. Are hatched, raised and harvested in the United States. No fowl that originate from, or reside for any portion of their life outside the United States may qualify for the Idaho Preferred® logo. (5-8-09)

b. Are raised and processed in Idaho. Fertile eggs, also known as hatching eggs, or chicks less than three (3) days of age that originate outside of Idaho, but are raised and processed in Idaho, may qualify for Idaho Preferred®. (5-8-09)

c. Are processed in a facility that is approved through a District Health Department for retail sales, or in a federally inspected plant. (5-8-09)

10. Game Meat. Game meat shall: (5-8-09)

a. Come from domestic elk that are born, raised and processed in Idaho and originate from a facility licensed by the Idaho State Department of Agriculture. (5-8-09)

b. Come from domestic buffalo that are born, raised and processed in Idaho. (5-8-09)

c. Be processed in a federally inspected plant. (5-8-09)

11. Apicultural Products. Products produced by honey bees including raw honey, wax, pollen, and propolis shall be one hundred percent (100%) Idaho origin. Processed honey shall be eighty percent (80%) Idaho origin. (4-6-05)

12. Exceptions. The Director shall have the authority to establish product qualification requirements specific to individual products and commodities by written order. (3-16-04)

IDAPA 02 - DEPARTMENT OF AGRICULTURE

02.02.14 - RULES FOR WEIGHTS AND MEASURES

DOCKET NO. 02-0214-1001

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2011 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.

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the August 4, 2010 Idaho Administrative Bulletin, Vol. 10-8, pages 16 and 17**.**

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: N/A

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

DATED this 26th day of August, 2010.

Brian Oakey
Deputy Director
Idaho State Dept of Agriculture
2270 Old Penitentiary Road
P.O. Box 790
Boise, Idaho 83701
Phone: (208) 332-8500
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THE FOLLOWING NOTICE 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 August 18, 2010.

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 adopt by reference the 2011 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://ts.nist.gov/WeightsAndMeasures **and ASTM documents may be purchased online at** http://astm.org**.**

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: N/A

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, informal 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 reason to update this reference document is to maintain uniformity throughout western state jurisdictions and to update the local availability section with the current physical and internet addresses.

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 August 25, 2010.

DATED this 23rd day of June, 2010.

THE FOLLOWING IS THE TEXT OF DOCKET NO. 02-0214-1001

004. INCORPORATION BY REFERENCE.

01. Required Reference Materials. The 201~~0~~1 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. ~~(3-29-10)~~( )

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~~, or~~. Copies of NIST documents may be purchased from the Superintendent of Documents, Government Printing Office, Washington, D.C. 20402. Copies are available for downloading on the internet by going to http://ts.nist.gov/WeightsAndMeasures. Copies of ASTM specifications are on file with the Idaho State Department of Agriculture or may be purchased from ASTM International, 100 Barr Harbor Drive, PO Box C700, West Conshohocken, PA, 19428. Copies are available for purchase on the internet by going to http://astm.org. ~~(5-8-09)~~( )

IDAPA 02 - DEPARTMENT OF AGRICULTURE RULES

02.04.08 - RULES GOVERNING GRADE A MILK AND MILK PRODUCTS

DOCKET NO. 02-0408-1001

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2011 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 Sections 37-332f, 37-405, 37-516, 37-708, and 37-803, 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:

This rulemaking will consolidate four rules that each address an aspect of Grade A milk into one rule. IDAPA 02.04.09, Rules Governing Methods of Making Sanitation Ratings of Milk Shippers; IDAPA 02.04.10, Rules Governing Cooperative State-Public Health Service/ Food and Drug Administration Program for Certification of Interstate Milk Shippers; and IDAPA 02.04.11, "Rules Governing the Evaluation of Milk Laboratories, will be consolidated into IDAPA 02.04.08, Rules Governing Grade A Milk and Milk Products. IDAPA 02.04.09, IDAPA 02.04.10, and IDAPA 02.04.11 each incorporate by reference a different document, and the incorporated document is the entire substance of each rule. The rules will be consolidated by incorporating by reference all the documents into IDAPA 02.04.08.

To adopt the most current requirements of the U.S. Department of Health and Human Services, Public Health Service, and Food and Drug Administration for interstate shipments of Grade A milk and milk products, this rulemaking will also incorporate the most current version of the documents currently incorporated by reference in IDAPA 02.04.08, IDAPA 02.04.09, IDAPA 02.04.10, and IDAPA 02.04.11. The latest version of the following documents will be incorporated by reference into IDAPA 02.04.08: 1) Grade "A" Pasteurized Milk Ordinance, 2) Methods of Making Sanitation Ratings of Milk Shippers, 3) Evaluation of Milk Laboratories, and 4) Procedures Governing the Cooperative State Public Health Service/Food and Drug Administration Program of the National Conference on Interstate Milk Shipments.

The bacteria plate count and the somatic cell count standards of raw milk for pasteurization set forth in the Pasteurized Milk Ordinance will not be incorporated by reference in the proposed rule. Idaho Code § 37-314 requires that the bacteria plate count standard will be set at 80,000 per mL, and this will be the standard set forth in IDAPA

02.04.08. As for the somatic cell count standard, the Idaho Dairymen's Association ("IDA") requested that the Idaho State Department of Agriculture amend the existing somatic cell count standard in an effort to meet standards for international trade, as well as reduce risk of residues and potential pathogens, and enhance quality standards of milk and dairy products. The IDA requested that the somatic cell count standard be set at 500,000 per mL, which is closer to the international standard of 400,000 per mL. The new somatic cell count standard will be more stringent than the current standard of 750,000 per mL.

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the August 4, 2010 Idaho Administrative Bulletin, Vol. 10-8, pages 18 through 20**.**

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: N/A

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 8th day of November, 2010.

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) 334-4062

THIS NOTICE PUBLISHED WITH THE TEMPORAY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is **October 1, 2010.**

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 rulemaking procedures have been initiated. The action is authorized pursuant to Sections 37-332f, -37405, 37-516, 37-708, and 37-803, 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 August 18, 2010.

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:

This rulemaking will consolidate four rules that each address an aspect of Grade A milk into one rule. IDAPA 02.04.09, Rules Governing Methods of Making Sanitation Ratings of Milk Shippers; IDAPA 02.04.10, Rules Governing Cooperative State-Public Health Service/ Food and Drug Administration Program for Certification of Interstate Milk Shippers; and IDAPA 02.04.11, Rules Governing the Evaluation of Milk Laboratories, will be consolidated into IDAPA 02.04.08, Rules Governing Grade A Milk and Milk Products. IDAPA 02.04.09, IDAPA 02.04.10, and IDAPA 02.04.11 each incorporate by reference a different document, and the incorporated document is the entire substance of each rule. The rules will be consolidated by incorporating by reference all the documents into IDAPA 02.04.08.

To adopt the most current requirements of the U.S. Department of Health and Human Services, Public Health Service, and Food and Drug Administration for interstate shipments of Grade A milk and milk products, this rulemaking will also incorporate the most current version of the documents currently incorporated by reference in IDAPA 02.04.08, IDAPA 02.04.09, IDAPA 02.04.10, and IDAPA 02.04.11. The latest version of the following documents will be incorporated by reference into IDAPA 02.04.08: 1) Grade "A" Pasteurized Milk Ordinance, 2) Methods of Making Sanitation Ratings of Milk Shippers, 3) Evaluation of Milk Laboratories, and 4) Procedures Governing the Cooperative State Public Health Service/Food and Drug Administration Program of the National Conference on Interstate Milk Shipments.

The bacteria plate count and the somatic cell count standards of raw milk for pasteurization set forth in the Pasteurized Milk Ordinance will not be incorporated by reference in the proposed rule. Section 37-314, Idaho Code, requires that the bacteria plate count standard will be set at 80,000 per mL, and this will be the standard set forth in IDAPA 02.04.08. As for the somatic cell count standard, the Idaho Dairymen's Association ("IDA") requested that the Idaho State Department of Agriculture amend the existing somatic cell count standard in an effort to meet standards for international trade, as well as reduce risk of residues and potential pathogens, and enhance quality standards of milk and dairy products. The IDA requested that the somatic cell count standard be set at 500,000 per mL, which is closer to the international standard of 400,000 per mL. The new somatic cell count standard will be more stringent than the current standard of 750,000 per mL.

TEMPORARY RULE JUSTIFICATION: Pursuant to Section 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 and proposed rulemaking with an effective date of October 1, 2010, because new milk quality standards for international trade standards will be in effect on October 1, 2010. The IDA requested that the amendments to the state's Grade A milk rule

be in effect on October 1, 2010. These changes will benefit the dairy industry and consumers of milk and milk products. The changes to the milk quality standards will prepare the dairy industry to meet the more stringent milk quality requirements in the international market.

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: N/A

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220, Idaho Code, a Notice of Intent to Promulgate Rules was not published, however the Department met on numerous occasions with stakeholders within Idaho's dairy industry who agree upon and advocate for the proposed changes.

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 four documents incorporated by reference in this chapter set forth the requirements for interstate shipment of Grade A milk and Grade A milk products.

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 the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before August 25, 2010.

DATED this 28th day of June, 2010.

THE FOLLOWING IS THE TEXT OF DOCKET NO. 02-0408-1001

000. LEGAL AUTHORITY.
This chapter is adopted under the legal authority of Title 37, Chapters 3, 4, 5, 7, and 8, Idaho Code. ~~*(4-8-94)*~~( )

(BREAK IN CONTINUITY OF SECTIONS)

004. INCORPORATION BY REFERENCE.

The Idaho State Department of Agriculture incorporates by reference the ~~*U.S. Department of Health and Human Services Public Health Service Food and Drug Administration "Grade 'A' Pasteurized Milk Ordinance," 2003 Revision*~~ following documents in this chapter. Copies of ~~*this*~~ these documents may be obtained at the Idaho State Department of Agriculture central office.

~~*(4-6-05)*~~( )

01. Grade "A" Pasteurized Milk Ordinance. The Grade "A" Pasteurized Milk Ordinance, 2009 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/NationalConferenceonInterstateMilkShipmentsNCIMSModelDocuments/UCM209789.pdf. ( )

02. Evaluation of Milk Laboratories. The Evaluation of Milk Laboratories, 2007 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/NationalConferenceonInterstateMilkShipmentsNCIMSModelDocuments/UCM197074.pdf. ( )

03. Methods of Making Sanitation Ratings of Milk Shippers. The Methods of Making Sanitation Ratings of Milk Shippers, 2009 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/ProductSpecificInformationMilkSafetyNationalConferenceonInterstateMilkShipmentsNCIMSModelDocumentsUCM199077.pdf. ( )

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 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/NationalConferenceonInterstateMilkShipmentsNCIMSModelDocuments/UCM198446.pdf. ( )

(BREAK IN CONTINUITY OF SECTIONS)

007. REGULATORY FRAMEWORK.

All Grade A Milk and Grade A Milk Products shall comply with the provisions set forth in the documents incorporated by reference in this chapter. ( )

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. ( )

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

02. Somatic Cell Count Standard. The somatic cell count standard is five hundred thousand (500,000) per mL. ( )

007~~7~~9. -- 999. (RESERVED).

IDAPA 02 - IDAHO DEPARTMENT OF AGRICULTURE

02.04.09 - RULES GOVERNING METHODS OF MAKING SANITATION RATINGS OF MILK SHIPPERS

DOCKET NO. 02-0409-1001 (CHAPTER REPEAL)

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2011 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 Sections 37-332f, 37-405, 37-516, 37-708, and 37-803, 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:

This rulemaking will consolidate four rules that each address an aspect of Grade A milk into one rule. IDAPA 02.04.09, Rules Governing Methods of Making Sanitation Ratings of Milk Shippers; IDAPA 02.04.10, Rules Governing Cooperative State-Public Health Service/ Food and Drug Administration Program for Certification of Interstate Milk Shippers; and IDAPA 02.04.11, Rules Governing the Evaluation of Milk Laboratories, will be consolidated into IDAPA 02.04.08, Rules Governing Grade A Milk and Milk Products. IDAPA 02.04.09, IDAPA 02.04.10, and IDAPA 02.04.11 each incorporate by reference a different document, and the incorporated document is the entire substance of each rule. The rules will be consolidated by incorporating by reference all the documents into IDAPA 02.04.08. Consequently, IDAPA 02.04.09 will be repealed.

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the August 4, 2010 Idaho Administrative Bulletin, Vol. 10-9, page 21**.**

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: N/A

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

DATED this 8th day of November 2010.

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
(208) 332-8500
Fax: (208) 334-4062

THIS NOTICE PUBLISHED WITH THE TEMPORAY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is **October 1, 2010.**

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 rulemaking procedures have been initiated. The action is authorized pursuant to Sections 37-332f, 37-405, 37-516, 37-708, and 37-803, 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 August 18, 2010.

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:

This rulemaking will consolidate four rules that each address an aspect of Grade A milk into one rule. IDAPA 02.04.09, "Rules Governing Methods of Making Sanitation Ratings of Milk Shippers"; IDAPA 02.04.10, "Rules Governing Cooperative State-Public Health Service/Food and Drug Administration Program for Certification of Interstate Milk Shippers"; and IDAPA 02.04.11, "Rules Governing the Evaluation of Milk Laboratories", will be consolidated into IDAPA 02.04.08, "Rules Governing Grade A Milk and Milk Products". IDAPA 02.04.09, IDAPA 02.04.10, and IDAPA 02.04.11 each incorporate by reference a different document, and the incorporated document is the entire substance of each rule. The rules will be consolidated by incorporating by reference all the documents into IDAPA 02.04.08. Consequently, IDAPA 02.04.09 will be repealed.

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 and proposed rulemaking with an effective date of October 1, 2010, because new milk quality standards for international trade standards will be in effect on October 1, 2010. The IDA requested that the amendments to the state's Grade A milk rule be in effect on October 1, 2010. These changes will benefit the dairy industry and consumers of milk and milk products. The changes to the milk quality standards will prepare the dairy industry to meet the more stringent milk quality requirements in the international market.

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: N/A

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220, Idaho Code, a Notice of Intent to Promulgate Rules was not published, however the Department met on numerous occasions with stakeholders within Idaho's dairy industry who agree upon and advocate for the proposed changes.

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 temporary and proposed rule, contact Marv Patten, 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 August 25, 2010.

Signed this 28th day of June, 2010.

IDAPA 02.04.09 IS BEING REPEALED IN ITS ENTIRETY

IDAPA 02 - IDAHO DEPARTMENT OF AGRICULTURE

02.04.10 - PROCEDURES GOVERNING THE COOPERATIVE STATE-PUBLIC HEALTH SERVICE/FOOD AND DRUG ADMINISTRATION PROGRAM FOR CERTIFICATION OF INTERSTATE MILK SHIPPERS

DOCKET NO. 02-0410-1001 (CHAPTER REPEAL)

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2011 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 Sections 37-332f, 37-405, 37-516, 37-708, and 37-803, 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:

This rulemaking will consolidate four rules that each address an aspect of Grade A milk into one rule. IDAPA 02.04.09, Rules Governing Methods of Making Sanitation Ratings of Milk Shippers; IDAPA 02.04.10, Rules Governing Cooperative State-Public Health Service/ Food and Drug Administration Program for Certification of Interstate Milk Shippers; and IDAPA 02.04.11, Rules Governing the Evaluation of Milk Laboratories, will be consolidated into IDAPA 02.04.08, Rules Governing Grade A Milk and Milk Products. IDAPA 02.04.09, IDAPA 02.04.10, and IDAPA 02.04.11 each incorporate by reference a different document, and the incorporated document is the entire substance of each rule. The rules will be consolidated by incorporating by reference all the documents into IDAPA 02.04.08. Consequently, IDAPA 02.04.10 will be repealed.

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the August 4, 2010 Idaho Administrative Bulletin, Vol. 10-8, pages 22 and 23**.**

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: N/A

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

DATED this 8th day of November 2010.

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
(208) 332-8500 - Fax: (208) 334-4062

THIS NOTICE PUBLISHED WITH THE TEMPORAY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is **October 1, 2010**.

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 rulemaking procedures have been initiated. The action is authorized pursuant to Sections 37-332f, 37-405, 37-516, 37-708, and 37-803, 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 August 18, 2010.

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:

This rulemaking will consolidate four rules that each address an aspect of Grade A milk into one rule. IDAPA 02.04.09, "Rules Governing Methods of Making Sanitation Ratings of Milk Shippers"; IDAPA 02.04.10, "Rules Governing Cooperative State-Public Health Service/Food and Drug Administration Program for Certification of Interstate Milk Shippers"; and IDAPA 02.04.11, "Rules Governing the Evaluation of Milk Laboratories", will be consolidated into IDAPA 02.04.08, "Rules Governing Grade A Milk and Milk Products". IDAPA 02.04.09, IDAPA 02.04.10, and IDAPA 02.04.11 each incorporate by reference a different document, and the incorporated document is the entire substance of each rule. The rules will be consolidated by incorporating by reference all the documents into IDAPA 02.04.08. Consequently, IDAPA 02.04.10 will be repealed.

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 and proposed rulemaking with an effective date of October 1, 2010, because new milk quality standards for international trade standards will be in effect on

October 1, 2010. The IDA requested that the amendments to the state's Grade A milk rule be in effect on October 1, 2010. These changes will benefit the dairy industry and consumers of milk and milk products. The changes to the milk quality standards will prepare the dairy industry to meet the more stringent milk quality requirements in the international market.

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: N/A

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220, Idaho Code, a Notice of Intent to Promulgate Rules was not published, however the Department met on numerous occasions with stakeholders within Idaho's dairy industry who agree upon and advocate for the proposed changes.

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 temporary and proposed rule, contact Marv Patten, 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 August 25, 2010.

Signed this 28th day of June, 2010.

IDAPA 02.04.10 IS BEING REPEALED IN ITS ENTIRETY

IDAPA 02 - IDAHO DEPARTMENT OF AGRICULTURE

02.04.11 - RULES GOVERNING EVALUATION OF MILK LABORATORIES

DOCKET NO. 02-0411-1001 (CHAPTER REPEAL)

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2011 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 Sections 37-332f, 37-405, 37-516, 37-708, and 37-803, 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:

This rulemaking will consolidate four rules that each address an aspect of Grade A milk into one rule. IDAPA 02.04.09, Rules Governing Methods of Making Sanitation Ratings of Milk Shippers; IDAPA 02.04.10, Rules Governing Cooperative State-Public Health Service/ Food and Drug Administration Program for Certification of Interstate Milk Shippers; and IDAPA 02.04.11, Rules Governing the Evaluation of Milk Laboratories, will be consolidated into IDAPA 02.04.08, Rules Governing Grade A Milk and Milk Products. IDAPA 02.04.09, IDAPA 02.04.10, and IDAPA 02.04.11 each incorporate by reference a different document, and the incorporated document is the entire substance of each rule. The rules will be consolidated by incorporating by reference all the documents into IDAPA 02.04.08. Consequently, IDAPA 02.04.11 will be repealed.

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the August 4, 2010 Idaho Administrative Bulletin, Vol. 10-8, page 24**.**

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: N/A

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

DATED this 8th day of November 2010.

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
(208) 332-8500 - Fax: (208) 334-4062

THIS NOTICE PUBLISHED WITH THE TEMPORAY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is **October 1, 2010**.

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 rulemaking procedures have been initiated. The action is authorized pursuant to Sections 37-332f, 37-405, 37-516, 37-708, and 37-803, 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 August 18, 2010.

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:

This rulemaking will consolidate four rules that each address an aspect of Grade A milk into one rule. IDAPA 02.04.09, "Rules Governing Methods of Making Sanitation Ratings of Milk Shippers"; IDAPA 02.04.10, "Rules Governing Cooperative State-Public Health Service/Food and Drug Administration Program for Certification of Interstate Milk Shippers"; and IDAPA 02.04.11, "Rules Governing the Evaluation of Milk Laboratories", will be consolidated into IDAPA 02.04.08, "Rules Governing Grade A Milk and Milk Products". IDAPA 02.04.09, IDAPA 02.04.10, and IDAPA 02.04.11 each incorporate by reference a different document, and the incorporated document is the entire substance of each rule. The rules will be consolidated by incorporating by reference all the documents into IDAPA 02.04.08. Consequently, IDAPA 02.04.11 will be repealed.

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 and proposed rulemaking with an effective date of October 1, 2010, because new milk quality standards for international trade standards will be in effect on

October 1, 2010. The IDA requested that the amendments to the state's Grade A milk rule be in effect on October 1, 2010. These changes will benefit the dairy industry and consumers of milk and milk products. The changes to the milk quality standards will prepare the dairy industry to meet the more stringent milk quality requirements in the international market.

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: N/A

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220, Idaho Code, a Notice of Intent to Promulgate Rules was not published, however the Department met on numerous occasions with stakeholders within Idaho's dairy industry who agree upon and advocate for the proposed changes.

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 temporary and proposed rule, contact Marv Patten, 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 August 25, 2010.

Signed this 28th day of June, 2010.

IDAPA 02.04.11 IS BEING REPEALED IN ITS ENTIRETY

IDAPA 02 - DEPARTMENT OF AGRICULTURE

02.04.13 - RULES GOVERNING RAW MILK

DOCKET NO. 02-0413-1001

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2011 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 Sections 37-332f, 37-405, 37-516, 37-708, 37-803, and 37-1101, 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:

This rule has been modified to require either the words "not pasteurized" or "unpasteurized" in addition to the word "raw" on raw milk or raw milk product containers. This was a request from the Department of Health & Welfare to help ensure that the procurers of the raw milk product are aware that the raw milk or the raw milk products have not been pasteurized.

The text of the pending rule has been amended in accordance with Section 67-5227, Idaho Code. Only those sections that have changes that differ from the proposed text are printed in this bulletin. The complete text of the proposed rule was published in the September 1, 2010 Idaho Administrative Bulletin, Vol. 10-9, pages 17 through 26**.**

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: N/A

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

DATED this 8th day of November 2010.

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
(208) 332-8500, Fax: (208) 334-4062

THE FOLLOWING NOTICE 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 Sections 37-332f, 37-405, 37-516, 37-708, 37-803, and 37-1101, 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 15, 2010.

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 proposed rule will amend the existing IDAPA 02.04.13, "Rules Governing Raw Milk," to conform to a new law, Chapter 11, Title 37, Idaho Code, passed by the 2010 Legislature. The proposed rule establishes quality standards for raw milk and raw milk products produced under a herd share, as well as quality standards for cultured raw milk products for permitted raw milk facilities.

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: N/A

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220, Idaho Code, a Notice of Intent to Promulgate Rules was not published, however, ISDA held rulemaking meetings with stake holders and emailed a draft proposed rule to stake holders to obtain their input. ISDA received a few comments, some of which were included into the proposed rule.

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 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 September 22, 2010.

DATED this 23rd day of July 2010.

THE FOLLOWING IS THE TEXT OF DOCKET NO. 02-0413-1001

000. LEGAL AUTHORITY.
This chapter is adopted under the legal authority of Title 37, Chapters 3, 4, 7, and ~~8~~11, Idaho Code. ~~(3-29-10)~~( )

001. TITLE AND SCOPE.

01. Title. The title of this chapter is "Rules Governing Raw Milk." (3-29-10)

02. Scope. These rules will govern the production, processing, distribution, and sale of raw milk for human consumption, but not intended for pasteurization. The official citation of this chapter is IDAPA 02.04.13.000 et seq. For example, this section's citation is IDAPA 02.04.13.001. ~~(3-29-10)~~( )

(BREAK IN CONTINUITY OF SECTIONS)

004. INCORPORATION BY REFERENCE.
The following document is incorporated by reference, and copies of the document may be obtained from the Idaho State Department of Agriculture central office at 2270 Old Penitentiary Road, Boise, Idaho, 83712: The Grade A Pasteurized Milk Ordinance 2009 Revision, U.S. Department of Health and Human Services Public Health Service Food and Drug Administration ("2009 Pasteurized Milk Ordinance"), except those provisions establishing raw milk standards for raw milk for pasteurization. This document is available at http://www.fda.gov/downloads/Food/FoodSafety/Product-SpecificInformation/MilkSafetyNationalConferenceonInterstateMilkShipmentsNCIMSModel Documents/UCM209789.pdf. ~~(3-29-10)~~( )

(BREAK IN CONTINUITY OF SECTIONS)

007. DEFINITIONS.
The following definitions shall apply in the interpretation and the enforcement of this chapter: (3-29-10)

01. Adulterated. The meaning of adulterated includes the following: ( )

a. The addition or inclusion of unclean, unwholesome, inferior, impure or foreign material into a food product~~,~~; or ( )

b. ~~t~~The production, ~~and~~ distribution, or sale of raw milk or raw milk products from a facility that does not possess a valid permit from the Department or is not registered with the Department as a Herd Share program; or ~~(3-29-10)~~( )

c. Any raw milk product or facility that fails to meet any of the requirements of these rules. ( )

~~**02. Cow Share**. The investment of monetary value into the ownership or care of cows, goats, or sheep in exchange for raw milk or raw milk products.~~ ~~(3-29-10)~~

0~~3~~2. **Dairy Farm**. Any place or premises where one (1) or more cows, goats or sheep are milked and ~~from which~~ where a part or all of the raw milk or raw milk products are produced ~~and~~ that are not intended for pasteurization, or are intended for human consumption without pasteurization, ~~but~~ and are distributed, sold or offered for sale ~~for human consumption without pasteurization~~ to persons other than members of the dairy farm's immediate household. ~~(3-29-10)~~( )

0~~4~~3. **Denatured**. To change the usual or normal nature of a material or substance by either chemical or physical means. (3-29-10)

0~~5~~4. **Department**. The Idaho State Department of Agriculture. (3-29-10)

0~~6~~5. **Director**. The Director of the Idaho State Department of Agriculture or his designee. (3-29-10)

06. Herd Share. The undivided ownership interest in no more than seven (7) cows, fifteen (15) goats, or fifteen (15) sheep resulting from an investment of monetary value through a written contractual agreement between an owner and a farmer in exchange for raw milk or raw milk products. ( )

0~~8~~7. **Official Laboratory**. A biological, chemical, or physical laboratory that is ~~under the direct supervision of the State or~~ approved by the Department. ~~(3-29-10)~~( )

08. Owner. A person who has made an investment of monetary value in the ownership or care of cows, goats, or sheep and participates in a Herd Share program pursuant to a written contractual agreement. ( )

09. Person. An individual, plant operator, partnership, corporation, company, firm, trustee, association or institution. (3-29-10)

10. Raw Milk. The lacteal secretion, practically free from colostrum, obtained by the complete milking of one (1) or more healthy cows, goats, or sheep, and that has not been

pasteurized and is ~~*sold or offered for sale*~~ intended for human consumption. ~~*(3-29-10)*~~( )

11. **Raw Milk Permit**. Authorization from the Department allowing raw milk and raw milk products to be sold for human consumption by a dairy farm or raw milk plant that complies with the requirements of these rules. ( )

~~*07*~~12. **Raw Milk Plant**. Any place, premises, or establishment where raw milk is collected, handled, stored, bottled, or processed into raw milk or raw milk products for sale or offered for sale for human consumption. ~~*(3-29-10)*~~( )

1~~*1*~~3. **Raw Milk Products**. Raw milk products include any milk product processed from raw milk that has not been pasteurized and is intended for human consumption by persons other than members of the dairy farm's immediate household. Cheese made from raw milk that has been processed and aged for a minimum of sixty (60) days at a temperature greater than thirty-five degrees Fahrenheit (35ºF) in a licensed dairy processing plant is exempt from these rules. ~~*(3-29-10)*~~( )

14. **Registration**. A requirement by the Department for the authorization of a Herd Share to provide raw milk and raw milk products for human consumption to owners of that Herd Share as provided in Section 040 of these rules. ( )

1~~*2*~~5. **Sanitization**. The application of any effective method or substance to a clean surface for the destruction of pathogens, and of other organisms as far as is practicable. Such treatment shall not adversely affect the equipment, the raw milk or raw milk products or the health of consumers, and shall be acceptable to the Department. (3-29-10)

1~~*3*~~6. **Small Herd**. The production of raw milk or raw milk products for human consumption, for use by people other than members of their immediate household or non-paying guests, in a facility with no more than three (3) lactating cows, ~~*or*~~ seven (7) lactating goats, or seven (7) lactating sheep. The dairy farm herd may include other cows, goats, or sheep that are dry or are producing milk for purposes other than human consumption. ~~*(3-29-10)*~~( )

17. **Small Herd Raw Milk Permit**. Written authorization from the Department to a small herd dairy farm allowing raw milk and raw milk products to be sold for human consumption as provided in Section 030 of these rules. ( )

1~~*4*~~8. **Sterilized**. The condition achieved by application of heat, chemical sterilant or other appropriate treatment that renders the piping, equipment and containers used for raw milk and raw milk products free of viable microorganisms. (3-29-10)

~~***008. 010. (RESERVED).***~~

008. REGULATORY FRAMEWORK.
These rules set forth procedural requirements for the following types of raw milk dairy farm operations: dairy farm with a Raw Milk Permit; dairy farm with a Small Herd Raw Milk Permit; and dairy farm participating in a Herd Share. ( )

0~~*11*~~09. ADULTERATED OR MISBRANDED RAW MILK OR RAW MILK PRODUCTS.

01. Prohibited Acts. No person shall produce, provide, sell, offer, or expose for sale, or possess with intent to sell, within the State or its jurisdiction, any adulterated or misbranded raw milk or raw milk products for human consumption. *Any adulterated or misbranded raw milk or raw milk product may be impounded and disposed of as directed by the Department.*

(3-29-10)( )

02. Restriction on Sale. Raw milk or raw milk products may not be sold or offered for sale through restaurants or other food service establishments. Grocery stores and similar establishments where raw milk or raw milk products are sold at retail, but not processed there, are exempt from the requirements of these rules, provided those stores and establishments receive raw milk or raw milk products from Department-authorized facilities. ( )

03. Disposition of Adulterated or Misbranded Product. Any adulterated or misbranded raw milk or raw milk product may be impounded and disposed of as directed by the Department. The Department may issue a hold order when it is deemed necessary to protect human health. ( )

[Codified Section 060 is being moved and renumbered to proposed Section 010]

0*6*1**0. STANDARDS FOR RAW MILK AND RAW MILK PRODUCTS.**

01. Requirements. All raw milk and raw milk products shall be produced and processed to conform with the standards listed in *Table 1 below* Subsection 010.02 of this rule. *Raw milk and raw milk products shall* Permitted dairy farms and raw milk plants must meet the sanitation requirements of the 2009 Pasteurized Milk Ordinance, unless the *facility* dairy farm has a *s*Small *h*Herd *exemption* Raw Milk Permit or has registered a herd share arrangement with the Department.

(3-29-10)( )

02. Chemical, Bacteriological, and Temperature Standards.

RAW MILK	
Temperature	Cooled to forty degrees Fahrenheit (40F or 5C) or less within two (2) hour after milking provided that the blend temperature after the first and subsequent milking does not exceed forty-five degrees Fahrenheit (45F or 7C).
Bacterial Limits	Raw milk and raw milk products except cultured raw milk products shall not exceed fifteen thousand (15,000) per ml.
Coliform Limits	Raw milk and raw milk products *shall* may not exceed twenty-five (25) per ml.
Drugs	Raw *M*milk must test negative by a test method approved by the Department.
Somatic Cell Counts	Raw milk *shall* must not exceed five hundred thousand (500,000) per ml. Goat*,* or *S*sheep *R*raw *M*milk *shall* must not exceed seven hundred and fifty thousand (750,000) per ml.

RAW MILK	
Brucellosis Test	Raw milk obtained from sheep or goats must be from animals that have tested negative on an annual brucellosis test performed by an official laboratory. Raw milk obtained from bovines must be from animals that have tested negative on the Brucellosis Ring Test perfomed by an official laboratory.
Tuberculosis Test	All ~~R~~raw ~~M~~milk ~~shall~~ must be from animals that have been accredited as tuberculosis free or ~~shall~~ must have passed an annual tuberculosis test.

~~(3-29-10)~~( )

03. Commingled Milk. Milk from commingled species must meet the somatic cell count of the most restrictive species. ( )

[Codified Section 030 is being moved and renumbered to proposed Section 011]

0~~30~~11. LABELING.

01. Applicability. Section 011 applies to holders of Raw Milk Permits and holders of Small Herd Raw Milk Permits. ( )

0~~1~~2. Requirements. All raw milk and raw milk products must have Department-approved labeling. All bottles, containers, and packages enclosing raw milk or raw milk products ~~shall~~ must be conspicuously marked with the following: ( )

a. The words ~~"raw,"~~ "not pasteurized," or "unpasteurized" *in addition to "raw" must* precede the name of the product; ( )

b. ~~t~~The quantity of contents; ~~and~~ ( )

c. ~~t~~The ~~identity~~ name and address or permit number of the ~~packaging facility.~~ permit holder; and ( )

d. When applicable, ~~T~~the word "goat" or "sheep~~,~~" ~~if applicable, shall~~ must precede the name of the raw milk or raw milk products. ~~(3-29-10)~~( )

03. Commingled Milk Label. The label of raw milk or raw milk products containing milk from commingled species must identify the species from which the raw milk was obtained. ( )

04. Small Herds. Department-approved labels are not required for the holders of Small Herd Raw Milk Permits if the raw milk or raw milk products are sold at the point of production. ( )

0~~2~~5. Misleading Labels. It is a violation of these rules to use any misleading marks, words, or endorsements on the label. Registered trade designs or similar terms on the bottle cap or label may be used if the Department determines that the designs or terms are not misleading and

do not obscure the labeling required by these rules. Any misleading labeling on the final container will cause the product to be considered misbranded. (3-29-10)

012. -- 019. (RESERVED).

020. RAW MILK PERMITS.

01. Requirements. It ~~shall be~~ is unlawful for any person who does not possess a Raw Milk ~~p~~Permit from the Department to produce, process, sell or offer for sale raw milk or raw milk products for human consumption to persons other than members of the dairy farm's immediate household. ~~Raw milk shall not be sold or offered for sale through restaurant type establishments or establishments where the consumer may not know that raw milk or raw milk products are from a raw milk source. Grocery stores and similar establishments where raw milk or raw milk products are sold at retail, but not processed, are exempt from the requirements of these rules, provided those stores and establishments receive raw milk or raw milk products from Department-approved facilities.~~ ~~(3-29-10)~~( )

02. Obtaining a Raw Milk Permit. Only a person who complies with these rules may receive and retain a Raw Milk ~~p~~Permit. Raw Milk Permits ~~shall~~ are not ~~be~~ transferable with respect to persons or locations. Prior to the issuance of a permit each dairy farm whose raw milk or raw milk products are intended for human consumption within the state of Idaho must comply with the following requirements: ~~(3-29-10)~~( )

a. Submit to and pass a qualifying inspection conducted by the Department; ( )

b. Meet the applicable sanitation, construction, and procedural requirements of the 2009 Pasteurized Milk Ordinance; ( )

c. Meet the raw milk and raw milk products quality standards in Section 010 of these rules; ( )

d. Meet the tuberculosis and brucellosis standards in Section 010 of these rules; and ( )

e. Produce and process all raw milk and raw milk products on the same premises. ( )

~~**03. Permit Suspension**. The Department may suspend a permit whenever it has reason to believe that a public health hazard exists; whenever the permit holder has violated any of the requirements of these rules; or whenever the permit holder has interfered with the Department in the performance of its duties.~~ ~~(3-29-10)~~

~~**a.** Prior to suspending a permit the Department will serve a written notice of intent to suspend permit on the permit holder. The notice will specify the alleged violation(s) and afford the permit holder a reasonable opportunity to correct such violation(s) in a manner agreed to by the parties. In the absence of such agreement, the corrective actions may be designated by the Department. The reasonable opportunity to correct will be given before the permit suspension order becomes effective. A permit suspension will remain in effect until the violation has been~~

~~*corrected to the satisfaction of the Department.* *(3-29-10)*~~

~~***b.*** *In cases in which the raw milk or raw milk products create or appear to create an imminent hazard to the public health, or in case of a willful refusal to permit an authorized inspection, the Department may immediately suspend the permit without the prior notice procedure set forth in these rules. The Department will provide notice and opportunity for hearing after the suspension, in accordance with Title 67, Chapter 52, Idaho Code.* *(3-29-10)*~~

~~***c.*** *Upon written request by any person whose permit has been suspended, or any person who has been served with a notice of intent to suspend, the Department will proceed to a hearing, and upon evidence presented at such hearing may affirm, modify, or rescind the suspension or intention to suspend.* *(3-29-10)*~~

~~***d.*** *The Department may forego permit suspension, provided the raw milk or raw milk products in violation are not sold or offered for sale or distributed for human consumption.* *(3-29-10)*~~

03. Inspection Frequency. Following the issuance of a permit, the Department will inspect each Raw Milk Permit holder operation at least once every three (3) months. ( )

~~***04. Permit Revocation**. Upon repeated violations, the Department may revoke a permit following reasonable notice to the permit holder and an opportunity for a hearing. This Section is not intended to preclude the institution of court action.* *(3-29-10)*~~

04. Sanitation Requirements. All raw milk dairy farms and raw milk plants that process raw milk or raw milk products into final containers for human consumption must meet the requirements of the 2009 Pasteurized Milk Ordinance and Section 010 of these rules if the raw milk or raw milk products are for use by persons other than the dairy farm's immediate household. ( )

~~***05. Permit Reinstatement**. Any raw milk producer whose permit has been suspended or revoked may make written application for the reinstatement of his permit.* *(3-29-10)*~~

~~***a.*** *When the permit has been suspended due to a violation of any of the bacterial, coliform, or cooling temperature standards, the Department may issue a temporary permit after raw milk samples show that the conditions responsible for the violation have been corrected.* *(3-29-10)*~~

~~***b.*** *When the permit has been suspended due to a violation of the somatic cell count standard, the Department may issue a temporary permit if resampling of the herd milk supply indicates that the milk supply is within the somatic cell count standard.* *(3-29-10)*~~

~~***c.*** *Whenever the permit has been suspended due to a violation of a requirement other than bacteriological, coliform, somatic cell count or cooling temperature standards, the application for reinstatement must show that the violation has been corrected. Within one (1) week of the receipt of such application, the Department will make an inspection of the applicant's establishment, and may make additional subsequent inspections as deemed necessary. If the inspection shows that the raw milk or raw milk products meet the applicable standards and are in*

~~compliance with these rules, the permit will be reinstated.~~ ~~(3-29-10)~~

021. -- 029. (RESERVED).

[Codified Section 030 has been moved and renumbered to proposed Section 011]

030. SMALL HERD RAW MILK PERMITS.
It is unlawful for any person with a small herd to sell raw milk and raw milk products for human consumption without a Small Herd Raw Milk Permit issued by the Department. The Small Herd Raw Milk Permit applies to raw milk and raw milk products intended for human consumption for persons other than members of the dairy farm's immediate household. ( )

01. Obtaining a Small Herd Raw Milk Permit. Only a person who complies with these rules may receive and retain a Small Herd Raw Milk Permit. The Small Herd Raw Milk Permit will indicate the physical location of the small herd and the mailing address of the owner or operator in charge of the herd's care and milk quality. Small Herd Raw Milk Permits are not transferable to another person or location. Applications for a Small Herd Raw Milk Permit may be upon a form provided by the Department. All holders of Small Herd Raw Milk Permits issued by the Department must meet the following conditions: ( )

a. Meet the raw milk and raw milk products quality standards as set forth in Section 010 of these rules; ( )

b. Meet the tuberculosis and brucellosis standards as set forth in Section 010 of these rules; ( )

c. Meet the applicable drug testing requirements as determined by the Department based on dairy farm drug therapy and milk quality history; and ( )

d. All raw milk and raw milk products must be produced and processed on the same premises. ( )

02. Testing Frequency. Raw milk or raw milk products must be tested at a frequency of at least four (4) times in separate months during any consecutive six-month period. ( )

03. Product Quality. Whenever three (3) out of five (5) consecutive bacteria, coliform, or somatic cell counts exceed milk quality standards, the milk may not be offered for human consumption until subsequent product testing shows that the raw milk or raw milk products comply with Section 010 of these rules. ( )

04. Test Results Made Available. A Small Herd Raw Milk Permit holder must provide raw milk and raw milk product quality tests results if requested by individuals who purchase raw milk and raw milk products. ( )

05. Exemption from Pasteurized Milk Ordinance. A small herd operation that is in compliance with a Small Herd Raw Milk Permit requirements is exempt from the sanitary,

construction, inspection, and operation requirements of the 2009 Pasteurized Milk Ordinance. ( )

031. -- 039. (RESERVED).

~~***040. INSPECTION OF RAW MILK PRODUCERS.***~~

~~*Each dairy farm whose raw milk or raw milk products are intended for human consumption within the state of Idaho shall be inspected and approved by the Department prior to the issuance of a permit.* (3-29-10)~~

~~***01. Inspection Frequency.*** *Following the issuance of a permit, the Department will inspect each raw milk producer and raw milk processor at least once every three (3) months.* (3-29-10)~~

~~***02. Sanitation Requirements.*** *All raw milk dairy farms and milk plants that process raw milk or raw milk products for human consumption into final containers, for use other than for members or their immediate household or non-paying guests, shall meet the requirements of the 2009 Pasteurized Milk Ordinance, in addition to Section 060 of these rules.* (3-29-10)~~

~~***03. Processing Location.*** *All raw milk and raw milk products must be produced and processed on the same premises.* (3-29-10)~~

~~***04. Cow Share Programs.*** *Cow Share programs are allowed, provided that the raw milk and raw milk products are produced and processed in facilities with raw milk dairy farm and raw milk plant permits issued by the Department.* (3-29-10)~~

~~***05. Applicability.*** *Persons or a person with more than three (3) lactating cows or seven (7) lactating goats or sheep may sell raw milk and raw milk products for human consumption, provided that the raw milk and raw milk products are produced and processed in facilities with raw milk dairy farm and raw milk plant permits issued by the Department.* (3-29-10)~~

040. HERD SHARE PROGRAMS.

01. Registration. The dairy farm or farmer responsible for a herd participating in a herd share program must register the farm or dairy with the Department. Registration may be upon a form provided by the Department or may be a written statement containing, at a minimum, the following information: ( )

a. The name of the farmer, farm, or dairy; ( )

b. A valid, current address for the farmer, farm, or dairy; and ( )

c. A statement that raw milk or raw milk products are being produced at the farm or dairy. ( )

02. Proof of Ownership Interest. The farmer and each owner of the herd share must enter into a written contract evidencing the herd share arrangement. The contractual documents

must include, at a minimum, the folowing: ( )

a. A bill of sale, stock certificate, or other written evidence satisfactory to the Department; ( )

b. A boarding and care plan for the livestock; ( )

c. A conspicuous notice that the milk or milk products received under the contract will be raw; and ( )

d. Proof that written information regarding the herd health and production standards used by the dairy or farm have been provided to each herd share owner. ( )

03. Testing and Results. The farm or dairy must comply with the testing frequency and standards set forth in Section 37-1101, Idaho Code. A copy of all test results, the name of the tests performed, and an explanation of the tests and test results must be provided to each owner. Proof that the information has been provided to the owners must be sent to the Department.( )

04. Product Quality. Whenever three (3) out of five (5) consecutive bacteria, coliform, or somatic cell counts exceed milk quality standards, the milk may not be offered for human consumption until subsequent product testing shows that the raw milk or raw milk products comply with Section 010 of these rules. ( )

05. Restriction on Sale. No person who obtains raw milk or raw milk products under a herd share arrangement may sell, offer for sale, advertise for sale, or distribute such raw milk or raw milk products to any person, restaurant, food establishment, grocery store, or farmers' market. ( )

06. Procurement of Raw Milk or Raw Milk Products. Raw milk or raw milk products may only be received directly from the dairy farm by the owners of a herd share or by an owner on behalf of another herd share owner participating in the same herd share program.( )

041. -- 049. (RESERVED).

~~***050. SMALL HERD EXEMPTION.***~~
~~*The production of raw milk and raw milk products for human consumption by a person or by individuals participating in a Cow Share program is exempt from the sanitary construction and operation standards of the 2009 Pasteurized Milk Ordinance, provided the following conditions are met:* (3-29-10)~~

~~***01. Testing Frequency**. The raw milk and raw milk products comply with the testing frequency set forth in the 2009 Pasteurized Milk Ordinance and quality standards set forth in Section 060 of these rules.* (3-29-10)~~

~~***02. Applicability**. The number of animals in lactation does not exceed three (3) cows or seven (7) goats or sheep.* (3-29-10)~~

~~***03. Permit**. The person or the Cow Share owners obtain a small herd exemption*

~~*permit from the Department. The permit will indicate the physical location of the facility; the mailing address of the owner or operator in charge of the herd's care and milk quality.* (3-29-10)~~

~~***04. Test Results Made Available**. Milk quality test results shall be available from the permit holder to all individuals who purchase raw milk or raw milk products.* (3-29-10)~~

~~***05. Restriction for Sale**. The raw milk or raw milk products may not be sold or offered for sale through restaurant-type establishments or other establishments where the consumer may not know that raw milk or raw milk products are from a raw milk source.* (3-29-10)~~

~~***06. Labeling**. All raw milk and raw milk products must have approved labeling by the Department if sales take place at locations other than the point of production.* (3-29-10)~~

050. PERMIT ENFORCEMENT.

Section 050 applies to the enforcement of Raw Milk Permits and Small Herd Raw Milk Permits. ( )

01. Permit Suspension. The Department may suspend a permit whenever it has reason to believe that a public health hazard exists, whenever the permit holder has violated any of the requirements of these rules, or whenever the permit holder has interfered with the Department in the performance of its duties. ( )

a. Prior to suspending a permit, the Department will serve a written notice of intent to suspend permit on the permit holder. The notice will specify the alleged violation(s) and afford the permit holder a reasonable opportunity to correct such violation(s) in a manner agreed to by the parties. In the absence of such agreement, the corrective actions may be designated by the Department. The reasonable opportunity to comply will be given before the permit suspension order becomes effective. A permit suspension will remain in effect until the violation has been corrected to the satisfaction of the Department. ( )

b. Whenever the raw milk or raw milk products create or appear to create an imminent hazard to the public health, or in the event of a willful refusal to permit an authorized inspection, the Department may immediately suspend the permit without the prior notice procedure set forth in these rules. The Department will provide notice and opportunity for hearing after the suspension, in accordance with Title 67, Chapter 52, Idaho Code. ( )

c. Upon written request by any person whose permit has been suspended, or by any person who has been served with a notice of intent to suspend, the Department will proceed to a hearing and, upon evidence presented at such hearing, may affirm, modify, or rescind the suspension or intention to suspend. ( )

d. The Department may forego permit suspension provided the raw milk or raw milk products in violation are not sold, offered for sale, or distributed for human consumption. ( )

02. Permit Revocation. If repeated violations occur, the Department may revoke a permit after reasonable notice and an opportunity for a hearing have been given to the permit holder. This section is not intended to preclude the institution of court action. ( )

03. Permit Reinstatement. Any raw milk producer whose permit has been suspended or revoked may make written application for the reinstatement of the permit. ( )

a. When the permit has been suspended due to a violation of any of the bacterial, somatic cell, coliform, drug, or cooling-temperature standards, the Department may issue a temporary permit after raw milk samples show that the conditions responsible for the violation have been corrected. ( )

b. Whenever the permit has been suspended due to a violation of a requirement other than bacteriological, coliform, somatic cell count, or cooling-temperature standards, the application for reinstatement must show that the violation has been corrected. Within one (1) week of the receipt of such application, the Department will make an inspection of the applicant's establishment and may make additional subsequent inspections as deemed necessary. If the inspection shows that the raw milk or raw milk products meet the applicable standards and are in compliance with these rules, the permit will be reinstated. ( )

051. -- 059. (RESERVED).

[Codified Section 060 has been moved and renumbered to proposed Section 010]

0~~7~~60. PENALTY.
Any person who violates any of the provisions of these rules ~~*shall be*~~ is subject to the penalties provided in Sections 37-408 and 37-1101(3), Idaho Code, or may have their permit to sell raw milk or raw milk products for human consumption revoked or suspended. ~~*(3-29-10)*~~( )

~~***061. -- 069. (RESERVED).***~~

[Codified Section 070 has been moved and renumbered to proposed Section 060]

0~~7~~61. -- 999. (RESERVED).

IDAPA 02 - DEPARTMENT OF AGRICULTURE

02.04.19 - RULES GOVERNING DOMESTIC CERVIDAE

DOCKET NO. 02-0419-1001

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2011 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 25-207, 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 changes are to clarify the collection of the annual per head fee on domestic Cervidae and to propose ranch management plans as a method of administering the domestic Cervidae program more efficiently and provide cost savings to the domestic Cervidae producer.

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the October 6, 2010 Idaho Administrative Bulletin, Vol. 10-10, pages 25 through 32**.**

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: N/A

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Dr. Bill Barton, Administrator/State Veterinarian, (208) 332-8540.

DATED this 23rd day of November, 2010.

Brian J. Oakey, Deputy Director
Idaho State Department of Agriculture
2270 Old Penitentiary Road
PO Box 790
Boise, Idaho 83701-0790
(209) 332-8500, Fax (208) 334-4062

THE FOLLOWING NOTICE 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 25-3704, 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 20, 2010.

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 purpose of this proposed rulemaking is to clarify the collection of the annual per head fee on domestic cervidae and to propose ranch management plans as a method of administering the domestic cervidae program more efficiently and provide cost savings to the domestic cervidae producer.

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: N/A

NEGOTIATED RULEMAKING: A Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the May 6, 2009 Idaho Administrative Bulletin, Volume 09-5, page 20**. Rulemaking meetings were held with members of the Idaho Elk Breeders Association and the Idaho Sportsmen's Caucus Advisory Council. In addition, all Idaho cervidae producers were given the opportunity to provide written and verbal comments by mail, e-mail and phone. Consensus on the proposed rule changes was not reached.**

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 Dr. Bill Barton, Administrator at (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 27, 2010.

DATED this 26th day of August, 2010.

THE FOLLOWING IS THE TEXT OF DOCKET NO. 02-0419-1001

004. INCORPORATION BY REFERENCE.
The following documents are incorporated by reference and copies of these documents may be obtained from the Idaho State Department of Agriculture central office ~~*and the state Law Library*~~.
~~*(4-2-03)*~~( )

01. Bovine Tuberculosis Eradication, Uniform Methods and Rules, Effective January 22, 1999. This document can be viewed at http://www.aphis.usda.gov/animal_health/animal_diseases/tuberculosis/downloads/bovtbumr.pdf. (4-2-03)

02. Code of Federal Regulations, Title 9, Part 161, January 1, 2004. This document can be viewed at http://www.access.gpo.gov/nara/cfr/waisidx_04/9cfrv1_04.html. (4-6-05)

03. Code of Federal Regulations, Title 9, Part 55, January 1, 2004.This document can be viewed at http://www.access.gpo.gov/nara/cfr/waisidx_04/9cfrv1_04.html. (4-6-05)

04. Code of Federal Regulations, Title 9, Subchapter A, Part 1 and 2, January 1, 2004.This document can be viewed at http://www.access.gpo.gov/nara/cfr/waisidx_04/9cfrv1_04.html. (4-6-05)

(BREAK IN CONTINUITY OF SECTIONS)

006. IDAHO PUBLIC RECORDS ACT.
These rules are public records and are available for inspection and copying at the ISDA central office ~~*and the State Law Library*~~.
~~*(4-2-03)*~~( )

007. -- 009. (RESERVED).

010. DEFINITIONS.

01. Accredited Veterinarian. A veterinarian approved by the Administrator and USDA/APHIS/VS, in accordance with Title 9, Part 161, CFR, January 1, 2004, to perform functions required by cooperative state-federal animal disease control and eradication programs. (4-6-05)

02. Administrator. Administrator of the Division of Animal Industries or his designee. (4-2-03)

03. Approved Laboratory. NVSL, an AAVLD accredited laboratory that is qualified to perform CWD diagnostic procedures, or a laboratory designated by the Administrator to perform CWD diagnostic procedures. (4-2-03)

04. Approved Slaughter Establishment. A USDA inspected slaughter establishment at which ante-mortem and post-mortem inspection is conducted by USDA inspectors. (4-2-03)

05. Area Veterinarian in Charge. The USDA/APHIS/VS veterinary official who is assigned to supervise and perform official animal health activities in Idaho. (4-2-03)

06. Breed Associations and Registries. Organizations maintaining permanent records of ancestry or pedigrees of animals, individual animal identification records and records of ownership. (4-2-03)

07. Certificate. An official document issued by a state or federal animal health official or an accredited veterinarian at the point of origin of a shipment of cervidae, which contains information documenting the age, sex, species, individual identification of the animals, the number of animals, the purpose of the movement, the points of origin and destination, the consignor, the consignee, the status of the animals relative to official diseases, test results and any other information required by the state animal health official for importation or translocation. (4-2-03)

08. Cervid Herd. One (1) or more domestic cervidae or groups of domestic cervidae maintained on common ground or under common ownership or supervision that may be geographically separated but can have interchange or movement. (4-2-03)

09. Cervidae. Deer, elk, moose, caribou, reindeer, and related species and hybrids including all members of the cervidae family and hybrids. (4-2-03)

10. Chronic Wasting Disease. A transmissible spongiform encephalopathy of cervids, which is a nonfebrile, transmissible, insidious, and degenerative disease affecting the central nervous system of cervidae. (4-2-03)

11. Commingling. Within the last five (5) years, the animals have had direct contact with each other, had less than thirty (30) feet of physical separation, or shared management equipment, pasture, or surface water sources, except for periods of less than forty-eight (48) hours at sales or auctions when a state or federal animal health official has determined such contact presents minimal risk of CWD transmission. (4-2-03)

12. Custom Exempt Slaughter Establishment. A slaughter establishment that is subject to facility inspection by USDA, but which does not have ante-mortem and post-mortem inspection of animals by USDA inspectors. (4-2-03)

13. CWD-Adjacent Herd. A herd of domestic cervidae occupying premises that

border a premises occupied by a CWD positive herd, including herds separated by roads or streams. (4-6-05)

14. CWD-Exposed Animal. A cervid animal that is not exhibiting any signs of CWD, but has had contact within the last five (5) years with cervids from a CWD-positive herd or the animal is a member of a CWD-exposed herd. (4-2-03)

15. CWD-Exposed Herd. A herd of cervidae in which no animals are exhibiting signs of CWD, but: (4-2-03)

a. An epidemiological investigation indicates that contact with CWD positive animals or contact with animals from a CWD positive herd has occurred in the previous five (5) years; or (4-2-03)

b. A herd of cervidae occupying premises that were previously occupied by a CWD positive herd within the past five (5) years as determined by the designated epidemiologist; or (4-2-03)

c. Two (2) herds that are maintained on a single premises even if they are managed separately, have no commingling, and have separate herd records. (4-6-05)

16. CWD-Positive Cervid. A domestic cervid on which a diagnosis of CWD has been confirmed through positive test results on any official cervid CWD test by an approved laboratory. (4-2-03)

17. CWD-Positive Herd. A domestic cervidae herd in which any animal(s) has been diagnosed with CWD, based on positive laboratory results, from an approved laboratory. (4-2-03)

18. CWD-Suspect Cervid. A domestic cervid for which laboratory evidence or clinical signs suggests a diagnosis of CWD. (4-2-03)

19. CWD-Suspect Herd. A domestic cervidae herd in which any animal(s) has been determined to be a CWD-suspect. (4-2-03)

20. Department. The Idaho State Department of Agriculture. (4-2-03)

21. Death Certificate. A form, approved by the administrator, provided by the Division for the reporting of cervidae deaths and for reporting sample submission for CWD testing. (4-6-05)

22. Designated Epidemiologist. A state or federal veterinarian who has demonstrated the knowledge and ability to perform the functions required under these rules and who has been selected by the Administrator to fulfill the epidemiology duties relative to the state domestic cervidae disease control program. (4-2-03)

23. Director. The Director of the Idaho State Department of Agriculture, or his designee. (4-2-03)

24. Disposal. Final disposition of dead cervidae. (4-2-03)

25. Division. Idaho State Department of Agriculture, Division of Animal Industries. (4-2-03)

26. Domestic Cervidae. Fallow deer (*Dama dama*), elk (*Cervus elaphus*) or reindeer (*Rangifer tarandus*) owned by a person. (4-2-03)

27. Domestic Cervidae Ranch. A premises where domestic cervidae are held or kept, including multiple premises under common ownership. (4-6-05)

28. Electronic Identification. A form of unique, permanent individual animal identification such as radio frequency identification tag, radio frequency identification implant, or other forms approved by the Administrator. (4-6-05)

29. Escape. Any domestic cervidae located outside the perimeter fence of a domestic cervidae ranch and not under the immediate control of the owner or operator of the domestic cervidae ranch. (4-2-03)

30. Federal Animal Health Official. An employee of USDA/APHIS/VS who is authorized to perform animal health activities. (4-6-05)

31. Herd of Origin. A cervid herd, on any domestic cervidae ranch or other premise, where the animals were born, or where they were kept for at least one (1) year prior to date of shipment. (4-2-03)

32. Herd Status. Classification of a cervidae herd with regard to CWD. (4-2-03)

33. Intrastate Movement Certificate. A form approved by the Administrator, and available from the Division, to document the movement of domestic cervidae between premises within Idaho. (4-2-03)

34. Individual CWD Herd Plan. A written herd management agreement and testing plan developed by the herd owner and approved by the Administrator to identify and eradicate CWD from a positive, source, suspect, exposed, or adjacent herd. ~~(4-2-03)~~( )

35. Limited Contact. Incidental contact between animals of different herds in separate pens off of the herd's premises at fairs, shows, exhibitions and sales. (4-2-03)

36. Official CWD Test. A test approved by the Administrator and conducted at an approved laboratory to diagnose CWD. (4-2-03)

37. Official Identification. Identification, approved by the Administrator, that individually, uniquely, and permanently identifies each cervid. (4-2-03)

38. Operator. A person who has authority to manage or direct a domestic cervidae ranch. (4-2-03)

39. Owner. The person that has legal title to, or has financial control of, any domestic cervidae or domestic cervidae ranch (4-2-03)

40. Person. Any individual, association, partnership, firm, joint stock company, joint venture, trust, estate, political subdivision, public or private corporation, or any legal entity, which is recognized by law as the subject of rights and duties. (4-2-03)

41. Premises. The ground, area, buildings, and equipment utilized to raise, propagate, control, or harvest domestic cervidae. (4-2-03)

42. Quarantine. An order issued on authority of the Administrator, by a state or federal animal health official or accredited veterinarian, prohibiting movement of cervids from any location without a written restricted movement permit. (4-2-03)

43. Quarantine Facility. A confined area where selected domestic cervidae can be secured and isolated from all other cervidae and livestock. (4-2-03)

44. Ranch Management Plan. A written plan for a domestic cervidae ranch that sets forth best management practices that mitigates the introduction or dissemination of disease among domestic cervidae. ( )

44*5*. Reidentification. The identification of a domestic cervid which had been officially identified, as provided by this chapter, but which has lost the official identification device, or the tattoo or official identification device has become illegible. (4-2-03)

45*6*. Restrain. The immobilization of domestic cervidae in a chute, other device, or by other means for the purpose of efficiently, effectively, and safely inspecting, treating, vaccinating, or testing. (4-2-03)

46*7*. Restricted Movement Permit. An official document that is issued by the Administrator, AVIC, or an accredited veterinarian for movement of animals from positive, suspect, or exposed herds. (4-2-03)

47*8*. Source Herd. A herd from which at least one (1) cervid has originated within the previous five (5) years and that cervid has been diagnosed CWD positive. (4-2-03)

48*9*. State Animal Health Official. The Administrator, or his designee. (4-2-03)

***49*50. Status Date**. The date on which the Administrator approves in writing a herd status change with regard to CWD. (4-2-03)

50*1*. Trace Back Herd. An exposed herd in which at least one (1) CWD positive animal resided within any of the previous sixty (60) months prior to diagnosis with CWD. (4-2-03)

51*2*. Trace Forward Herd. A herd that has received exposed animals from a positive herd within sixty (60) months prior to the diagnosis of CWD in the positive herd or from the identified point of entry of CWD into the positive herd. (4-2-03)

5~~2~~3. Traceback. The process of identifying the movements and the herd of origin of CWD positive, or exposed animals, including herds that were sold for slaughter. (4-2-03)

5~~3~~4. Wild Cervidae. Any cervid animal not owned by a person. (4-2-03)

5~~4~~5. Wild Ungulate. Any four (4) legged, hoofed herbivore, including cervids and other ruminants, not owned by a person. (4-6-05)

5~~5~~6. Wild Ungulate Cooperative Herd Plan. A plan, developed cooperatively by the owner of the domestic cervidae ranch, the ISDA, and the Idaho Department of Fish and Game to determine the disposition of any wild ungulates that are found to be located on a domestic cervidae ranch. (4-6-05)

(BREAK IN CONTINUITY OF SECTIONS)

021. OFFICIAL IDENTIFICATION.
All domestic cervidae shall be individually, permanently, and uniquely identified, with two (2) types of official identification approved by the Administrator. (4-2-03)

01. Reporting of Identification. The unique individual identification number, type of identification, and the name, address, and telephone number of the owner of each animal identified shall be reported to the Administrator, in writing, by the owner or operator. (4-2-03)

02. Identification Assigned. Official identification, once assigned to an individual animal, shall not be changed or transferred to another animal. Animals that lose identification devices shall be re-identified in accordance with Section 0~~2~~31. ~~(4-2-03)~~( )

03. Progeny. All progeny of domestic cervidae shall be officially identified by December thirty-first of the year of birth, upon sale or transfer of ownership, or upon leaving the domestic cervidae ranch, whichever is earlier. (4-2-03)

04. Visible Identification. At least one (1) of the official types of identification used shall be visible from one hundred and fifty (150) feet. (4-6-05)

(BREAK IN CONTINUITY OF SECTIONS)

090. FEES.
A fee, not to exceed five dollars ($5) per head per year on elk or three dollars ($3) per head per year on fallow deer and reindeer, is to be assessed on all domestic cervidae in the state to cover the cost of administering the program covered in these rules. The fee shall include all domestic cervidae present at the ranch as of December 31 and all domestic cervidae imported from outside

of the state that die during the same calendar year. This fee is due January first of each year.
~~(4-2-08)~~( )

(BREAK IN CONTINUITY OF SECTIONS)

209. RANCH MANAGEMENT PLAN.

01. Voluntary Ranch Management Plan. A domestic cervidae ranch may apply, on a form prescribed by the Administrator, to enter into a voluntary ranch management plan. The ranch management plan will be developed cooperatively by the owner or authorized agent and the Administrator. For the ranch management plan, the Administrator will conduct a risk assessment considering the factors in Subsection 209.03. A voluntary ranch management plan may, notwithstanding other rule requirements to the contrary, establish inventory verification requirements and CWD sampling requirements specific for a domestic cervidae ranch. Failure to adhere to an approved voluntary ranch management plan is a violation of these rules. ( )

02. Mandatory Ranch Management Plan. A domestic cervidae ranch shall be required to develop and implement an approved ranch management plan if the ranch is found in violation of Sections 060, 204 or 500 of these rules. The ranch management plan must be completed and implemented within six (6) months of the disposition of the violation. For the ranch management plan, the Administrator will conduct a risk assessment considering the factors in Subsection 209.03. Failure to comply with the mandatory ranch management plan is a violation of these rules. This requirement will become effective July 1, 2012 ( )

03. Risk Assessment for Ranch Management Plans. The Administrator will conduct a risk assessment for each ranch management plan. A ranch management plan will not include a double fencing requirement but may require that double gates be installed. The Administrator will consider the following factors when conducting a risk assessment at a domestic cervidae ranch:
( )

a. Risk of egress. The risk of egress may be evaluated based on, but not limited to, history of domestic cervidae escape during the previous five (5) years, recovery rate of escaped domestic cervidae, length of time domestic cervidae were outside of the perimeter fence, annual average precipitation, topography, altitude and tree density. ( )

b. Risk of ingress. The risk of ingress may be evaluated on, but not limited to, history of ingress during the previous five (5) years, annual average precipitation, topography, altitude, tree density and proximity to wildlife migration corridors. ( )

c. Compliance with CWD sample submission. The Administrator may, based on a risk based assessment, waive up to twenty percent (20%) of the tissue sample submissions required under this rule. The waiver will be based on, but not limited to, the following: ( )

i. The domestic cervidae on the ranch have not had contact with any animals of unknown CWD status. ( )

ii. The domestic cervidae ranch must be in compliance with all requirements of Title 25, Chapter 35, Idaho Code, and these rules. ( )

iii. The domestic cervidae ranch must have no documented cases of ingress of wild cervids or egress of domestic cervidae within eighteen (18) months of the request for a waiver. ( )

2~~09~~10. -- 249. (RESERVED).

(BREAK IN CONTINUITY OF SECTIONS)

500. SURVEILLANCE FOR CWD.

01. Slaughter Surveillance. Brain tissue from one hundred percent (100%) of all domestic cervidae sixteen (16) months of age or older that are slaughtered at approved slaughter establishments or custom exempt slaughter establishments shall be submitted by the owner of the slaughtered cervidae to official laboratories to be tested or examined for CWD as provided for in these rules. (4-2-08)

02. Domestic Cervidae Ranch Surveillance. Unless a domestic cervidae ranch is operating with a ranch management plan approved by the Administrator, ~~B~~brain tissue from one hundred percent (100%) of all domestic cervidae sixteen (16) months of age or older that die or are harvested on domestic cervidae ranches shall be submitted by the owner or operator of the domestic cervidae ranch to official laboratories to be tested or examined for CWD, as provided for in these rules, except Reindeer and fallow deer unless the Reindeer or fallow deer are part of a CWD positive, exposed, trace, source or suspect herd or part of an elk herd. In the event a domestic cervidae ranch cannot submit a viable brain sample, the domestic cervidae ranch shall submit, on a form approved by the Administrator, a waiver request within forty eight (48) hours of determining that a viable brain sample cannot be submitted. ~~(4-2-08)~~( )

(BREAK IN CONTINUITY OF SECTIONS)

505. DURATION OF CWD QUARANTINE.
Quarantines imposed because of CWD in accordance with this chapter shall remain in effect until one (1) of the following criteria are met: (4-2-03)

01. CWD Positive Herds. The quarantine may be released after the herd is completely depopulated as provided in Subsection 505.07, or after five (5) years of compliance with an individual herd CWD plan and all provisions of these rules, during which there was no evidence of CWD. ~~(4-2-03)~~( )

02. CWD Suspect Herds. The quarantine may be released after the herd is completely depopulated as provided in Subsection 505.07, or after a minimum of five (5) years of compliance with an individual CWD herd plan and all provisions of these rules and during which there was no evidence of CWD, or an epidemiologic investigation determines that there is no evidence CWD exists in the herd as determined by the Administrator. ~~(4-2-03)~~( )

03. Source Herds and Herds of Origin. The quarantine may be released after a minimum of five (5) years of compliance with an individual CWD herd plan and all provisions of these rules and during which there was no evidence of CWD, or an epidemiologic investigation determines that there is no evidence CWD exists in the herd and that the herd is not the source of infection as determined by the Administrator. ~~(4-2-03)~~( )

04. Exposed Herds. The quarantine may be released after the herd is completely depopulated as provided in Subsection 505.07, or after a minimum of five (5) years of compliance with an individual CWD herd plan and all provisions of these rules and during which there was no evidence of CWD, or an epidemiologic investigation determines that there is no evidence CWD exists in the herd as determined by the Administrator. ~~(4-2-03)~~( )

05. Adjacent Herds. The quarantine may be released when directed by the Administrator based upon an epidemiological investigation and in consultation with the designated epidemiologist. (4-6-05)

06. Fencing Requirements. Any owner of a domestic cervidae ranch who chooses to remain under quarantine for five (5) years shall construct a second perimeter fence that meets the requirements for perimeter fence, as provided in Section 102, such that no domestic cervidae on the domestic cervidae ranch can get within ten (10) feet of the original exterior perimeter fence or as approved by the Administrator. (4-2-03)

07. Complete Depopulation. The quarantine may be released after: (4-2-03)

a. Complete depopulation of all cervidae on the premises as directed by the Administrator; and (4-2-03)

b. The premises have been free of all livestock as specified in an individual CWD herd plan approved by the Administrator; and ~~(4-2-03)~~( )

c. The soil and facilities have been cleaned, treated, decontaminated, or disinfected as directed by the Administrator. (4-2-03)

08. Disposal of Positive or Exposed Cervidae. All CWD positive or exposed domestic cervidae shall be disposed of as directed by the Administrator. (4-2-03)

IDAPA 02 - DEPARTMENT OF AGRICULTURE

02.04.21- RULES GOVERNING THE IMPORTATION OF ANIMALS

DOCKET NO. 02-0421-1002

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2011 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 25-207, 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:

Proposed changes to IDAPA 02.04.29 Rules Governing Trichomoniasis require changes to IDAPA 02.04.21 Rules Governing the Importation of Animals to maintain consistency among the rules. Proposed changes related to trichomoniasis include lowering the age of virgin bulls for import into Idaho from twenty four (24) months of age or less to less than twelve (12) months of age. The exemption for testing of rodeo bulls is clarified. A testing exemption has been included for bulls imported for exhibition purposes. The age of rodeo stock required to be tested for tuberculosis prior to import is clarified.

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the October 6, 2010 Idaho Administrative Bulletin, Vol. 10-10, pages 33 through 36**.**

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: N/A

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Dr. Bill Barton, Administrator/State Veterinarian, (208) 332-8540.

DATED this 8th day of November, 2010.

Brian J. Oakey, Deputy Director
Idaho State Department of Agriculture
2270 Old Penitentiary Road
P.O. Box 790
Boise, Idaho 83701-0790
(208) 332-8500, Fax (208) 334-4062

THE FOLLOWING NOTICE 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 25-207, 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 20, 2010.

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 USDA-APHIS has issued a Federal Order suspending enforcement of 9 CFR Section 77.10 in Modified Accredited Advanced (MAA) States or Zones relative to tuberculosis in cattle. As a result there will be no federal testing requirement for movement of cattle or bison from MAA states or zones. USDA-APHIS intends to promulgate new rules for tuberculosis testing of cattle originating in MAA states or zones. USDA-APHIS anticipates the rulemaking process will take at least two years to complete.

This chapter currently has tuberculosis testing requirements for cattle leaving MAA states or zones that mirror the federal requirements in 9 CFR Section 77.10. IDAPA 02.04.21, Section 240.03 of this rule requires that cattle over 15 months of age be tested for tuberculosis prior to import into Idaho from an MAA state or zone. Due to USDA-APHIS suspending enforcement of federal regulations, Idaho is one of only two states that require tuberculosis testing of this class of cattle for import purposes.

Additionally, proposed changes to IDAPA 02.04.29, " Rules Governing Trichomoniasis," require changes to this chapter to maintain consistency among the rules. Proposed changes related to trichomoniasis include lowering the age of virgin bulls for import into Idaho from twenty-four (24) months of age or less to less than twelve (12) months of age. The exemption for testing of rodeo bulls is clarified. A testing exemption has been included for bulls imported for exhibition purposes. The age of rodeo stock required to be tested for tuberculosis prior to import is clarified.

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: N/A

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted. However, informal negotiated rulemaking was conducted. Proposed changes to the rule were discussed with members of the Idaho Cattle Association at their mid-year meeting in June, 2010, and with members of the Trichomoniasis Task Force at their annual meeting in June, 2010. Both organizations support the rulemaking.

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 Dr. Bill Barton, Administrator at (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 27, 2010.

DATED this 26th day of August, 2010.

THE FOLLOWING IS THE TEXT OF DOCKET NO. 02-0421-1002

006. IDAHO PUBLIC RECORDS ACT.
These rules are public records available for inspection and copying at the Central Office of the Idaho State Department of Agriculture~~, and the State Law Library~~. ~~(5-3-03)~~( )

(BREAK IN CONTINUITY OF SECTIONS)

240. TUBERCULOSIS TEST REQUIREMENTS.
Cattle and domestic bison may enter the state of Idaho provided: (5-3-03)

01. Tuberculosis Accredited Free State or Zone. Cattle and bison that originate from a bovine tuberculosis accredited free state or zone, as defined by USDA in Title 9, Part 77, CFR, in which there are no animals or herds infected with or exposed to tuberculosis may be imported upon meeting the following requirements: (4-11-06)

a. Cattle of beef breeds may enter the state without a tuberculosis test. (4-11-06)

b. All sexually intact male and female cattle, six (6) months of age and older, of dairy breeds, shall be officially identified and tested negative for tuberculosis, within sixty (60) days

prior to entry into the state of Idaho except intact male and female cattle of dairy breeds consigned directly to a feedlot approved for finish feeding of cattle for slaughter only relative to tuberculosis may enter by permit without a tuberculosis test provided the cattle have been individually identified on a certificate of veterinary inspection. (4-2-08)

c. All sexually intact male and female cattle, six (6) months of age and older, of dairy breeds, may enter Idaho for the purpose of participating in shows or exhibitions, by permit, without a tuberculosis test. (4-11-06)

02. Tuberculosis Accredited Free Herd. Cattle and bison that originate in an accredited tuberculosis free herd in either an accredited free state or zone, a modified accredited advanced state or zone, or a modified accredited state or zone, as defined by USDA in Title 9, Part 77, CFR, and for which both an accredited herd number and date of last tuberculosis test are shown on the certificate of veterinary inspection, may enter the state without a tuberculosis test. (5-3-03)

03. Tuberculosis Modified Accredited Advanced State or Zone. Cattle and bison that originate from a modified accredited advanced state or zone, as defined by USDA in Title 9, Part 77, CFR, and are not known to be infected with or exposed to tuberculosis, may be imported upon meeting the following requirements: (5-3-03)

a. Steers, spayed heifers, and intact heifers of beef breeds that are less than fifteen (15) months of age, which are consigned for grazing, or steers, spayed heifers, and intact heifers of beef breeds that are consigned directly to a feedlot approved for finish feeding of cattle or bison relative to tuberculosis, may enter without individual identification or testing for tuberculosis; and (3-20-04)

b. All other cattle and bison, except those moving on grazing permits issued by the Administrator under the provisions of Section 220 and those consigned for immediate slaughter at an approved slaughter establishment, shall be tested for tuberculosis with negative results within sixty (60) days prior to entry into Idaho. (3-20-04)

c. Tuberculosis testing requirements in Subsection 240.03 may be waived, with administrator-approval, for feeder animals of beef breeds and bison originating from a modified accredited advanced state or zone previously classified as accredited free if the state of origin has had no laboratory confirmed case or other epidemiological evidence of tuberculosis in the previous twelve (12) months and the herd of origin is not under hold order, quarantine, or epidemiological investigation for tuberculosis. ( )

04. Tuberculosis Modified Accredited State or Zone. Cattle and bison that originate in a modified accredited state or zone, as defined by USDA in Title 9, Part 77, CFR, and which are not known to be infected with or exposed to tuberculosis, may enter Idaho under one (1) of the following conditions: (5-3-03)

a. The cattle and bison are steers, spayed heifers or intact heifers which are consigned directly to a feedlot approved for finish feeding of cattle and bison relative to tuberculosis and that have been individually identified and classified negative on an official tuberculosis test within sixty (60) days prior to entry into Idaho; or (5-3-03)

b. The cattle and bison are consigned for immediate slaughter at an approved slaughter establishment; or (5-3-03)

c. The cattle and bison have been subjected to two (2) official tuberculosis tests, the results of which are negative, the first test shall be a whole herd test, the second test shall be at least sixty (60) days, and no more than six (6) months, after the whole herd test and shall be not more than sixty (60) days prior to entry into Idaho. (5-3-03)

05. Tuberculosis Accredited Preparatory State or Zone. Cattle and bison that originate in an accredited preparatory state or zone, as defined by USDA in Title 9, Part 77, CFR, and which are not known to be infected with or exposed to tuberculosis, may enter Idaho under one (1) of the following conditions: (5-3-03)

a. The cattle and bison are steers, spayed heifers or intact heifers which are consigned directly to a feedlot approved for finish feeding of cattle and bison relative to tuberculosis and that are individually identified and have been classified negative on two (2) official tuberculosis tests conducted at least sixty (60) days, but not more than six (6) months apart, with the second test being conducted not more than sixty (60) days prior to entry into Idaho; or (5-3-03)

b. The cattle and bison originate in a tuberculosis accredited free herd, are individually identified, and have been tested negative on an official tuberculosis test within sixty (60) days prior to entry into Idaho; or (5-3-03)

c. The cattle and bison are individually identified, are from a herd that has been subjected to a complete tuberculosis herd test with negative results within the past twelve (12) months and the animals being imported have been subjected to two (2) additional official tuberculosis tests with negative results, conducted not less than sixty (60) days apart with the second test being conducted not more than sixty (60) days prior to the date of importation. (5-3-03)

06. Tuberculosis Non-Accredited State or Zone. Cattle and bison that originate in a non-accredited state or zone, as defined by USDA in Title 9, Part 77, CFR, may not enter Idaho except by special permit issued by the administrator and under the conditions specified by the administrator at the time the permit is issued. (5-3-03)

07. Rodeo Stock. All cattle six (6) months of age or older imported into Idaho for rodeo or timed events must have been tested negative for bovine tuberculosis within twelve (12) months prior to importation into Idaho. ~~*(4-2-08)*~~( )

(BREAK IN CONTINUITY OF SECTIONS)

260. TRICHOMONIASIS.
The Certificate of Veterinary Inspection for bulls imported into Idaho shall contain a statement certifying that trichomoniasis is not known to exist in the herd of origin, and: (5-3-03)

01. Virgin Bulls Less Than ~~*Twenty Four*~~ Twelve Months of Age. The virgin bull(s) are less than ~~*twenty four*~~ twelve (~~24~~12) months of age and have not serviced a cow; or ~~*(5-3-03)*~~( )

02. Tested Bulls. The bull(s) have been tested by culture or PCR for trichomoniasis within thirty (30) days of shipment, were negative to the test, and have not been exposed to female cattle since the test sample was collected. (4-2-08)

03. Exceptions. Exceptions to certification and testing: (5-3-03)

a. Bulls consigned directly to slaughter at an approved slaughter establishment; or (5-3-03)

b. Bulls consigned directly to an approved feedlot; or (5-3-03)

c. Bulls consigned directly to a specifically approved livestock market; or (5-3-03)

d. Rodeo bulls imported by an Idaho based rodeo producer, with an approved rodeo bull lot as described in IDAPA 02.04.29, "Rules Governing Trichomoniasis," Section 400 or rodeo bulls imported to perform at specific rodeos in Idaho. ~~*(5-3-03)*~~( )

e. Bulls imported for exhibition at livestock shows, provided the bull will be returned to its state of origin, will not be exposed to female cattle, and will not be offered for sale. ( )

IDAPA 02 - DEPARTMENT OF AGRICULTURE

02.04.29 - RULES GOVERNING TRICHOMONIASIS

DOCKET NO. 02-0429-1001

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2011 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 25-207, 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:

Changes include lowering the age of a virgin bull for import purposes from 24 months of age or less to less than 12 months of age, requiring a hot iron T brand be applied to test positive animals rather than an orange paint T brand, removing the allowance for rodeo producers to purchase non-tested bulls that were intended to be sold to slaughter only and requiring culture positive animals to be confirmed positive by Polymerase Chain Reaction.

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the October 6, 2010 Idaho Administrative Bulletin, Vol. 10-10, pages 37 through 43**.**

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: N/A

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Dr. Bill Barton, Administrator/State Veterinarian, (208) 332-8540.

DATED this 8th day of November, 2010.

Brian J. Oakey, Deputy Director
Idaho State Department of Agriculture
2270 Old Penitentiary Road
P.O. Box 790
Boise, Idaho 83701-0790
(208) 332-8500, Fax (208) 334-4062

THE FOLLOWING NOTICE 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 25-207, 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 20, 2010.

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:

Changes include lowering the age of a virgin bull for import purposes from 24 months of age or less to less than 12 months of age, requiring a hot iron T brand be applied to test positive animals rather than an orange paint T brand, removing the allowance for rodeo producers to purchase non-tested bulls that were intended to be sold to slaughter only and requiring culture positive animals to be confirmed 2positive by Polymerase Chain Reaction.

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: N/A

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted. However, informal negotiated rulemaking was conducted. Proposed changes to the rule were discussed with members of the Idaho Cattle Association at their mid-year meeting in June, 2010 and with members of the Trichomoniasis Task Force at their annual meeting in June, 2010. Both organizations support the rulemaking.

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 official Idaho "Protocol for *Trichomonas foetus* Diagnosis in Cattle" is being incorporated. This document provides the ISDA Animal Health Laboratory's sampling and testing protocols to provide quality assurance in trichomoniasis testing.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Dr. Bill Barton, Administrator at (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 27, 2010.

DATED this 26th day of August, 2010.

THE FOLLOWING IS THE TEXT OF DOCKET NO. 02-0429-1001

004. INCORPORATION BY REFERENCE.

01. Incorporated Document. IDAPA 02.04.29 incorporates by reference the ~~O~~official Idaho "Protocol for ~~*Culture of Trichomoniasis, 2007,*~~ *Trichomonas foetus* Diagnosis in Cattle" which can be viewed at http://www.idahoag.us/Categories/Animals/Documents/trich_protocol.pdf. ~~*(4-2-08)*~~( )

02. Availability of Document. Copies of this document may be obtained from the Idaho State Department of Agriculture. (3-30-07)

(BREAK IN CONTINUITY OF SECTIONS)

010. DEFINITIONS.
As used in these rules the following terms have the following meanings: (3-30-07)

01. Administrator. The administrator of the Division of Animal Industries, Idaho State Department of Agriculture or his designee. (3-30-07)

02. Cattle. All bovidae. (3-30-07)

03. Department. The Idaho State Department of Agriculture. (3-30-07)

04. Division of Animal Industries. Idaho State Department of Agriculture, Division of Animal Industries. (3-30-07)

05. Exposed Cattle. Any cattle that have been in contact with cattle infected with, or affected by Trichomoniasis. (3-30-07)

06. Federal Animal Health Official. An employee of the United States Department

of Agriculture, Animal and Plant Health Inspection Service, Veterinary Services who is authorized to perform animal health activities. (3-30-07)

07. Herd. A herd is any group of cattle maintained on common ground for any purpose, or two (2) or more groups of cattle under common ownership or supervision, geographically separated, but which have an interchange or movement of cattle without regard to whether they are infected with or exposed to Trichomoniasis. (3-30-07)

08. Hold Order. A hold order is a form of quarantine that may be used to restrict the movement of cattle while the Trichomoniasis status is being investigated. (3-30-07)

09. Infected Cattle. Any cattle determined by an official test or diagnostic procedure to be infected with Trichomoniasis or diagnosed by a veterinarian as infected. (3-30-07)

10. Infected Herd. Any herd in which any cattle have been determined by an official test or diagnostic procedure to be infected with Trichomoniasis or diagnosed by a veterinarian as being infected. (3-30-07)

11. Negative. Cattle that have been tested with official test procedures and found to be free from infection with Trichomoniasis. (3-30-07)

12. Positive. Cattle that have been tested with official test procedures and found to be infected with Trichomoniasis. (3-30-07)

13. Quarantine. A written order, or a verbal order followed by a written order, executed by the Administrator, to confine or hold cattle on a premises or any other location, and to prevent movement of cattle from a premises or any other location when the Administrator has determined that the cattle have been found or are suspected to be exposed to or infected with Trichomoniasis, or the owner is not in compliance with the provisions of this chapter. (3-30-07)

14. Quarantined. Isolation of all cattle diseased or exposed thereto, from contact with healthy cattle and exclusion of such healthy cattle from enclosures or grounds where said diseased or exposed cattle are, or have been kept. (3-30-07)

15. Registered Veterinarians. Veterinarians registered with, and approved by the Division of Animal Industries to collect Trichomoniasis samples for official Trichomoniasis culture testing. (3-30-07)

16. Restrain. The confinement of cattle in a chute, or other device, for the purpose of efficient, effective, and safe testing approved by the Administrator. (3-30-07)

17. State Animal Health Official. The Administrator, or his designee, responsible for disease control and eradication activities. (3-30-07)

18. T Brand. A two inch by three inch (2" x 3") single-character hot iron T ~~*paint*~~ brand, applied ~~*with orange paint*~~ to the left of the tail-head of a bull, signifying that the bull is infected with trichomoniasis. ~~*(4-2-08)*~~( )

19. Trichomoniasis. A venereal disease caused by the organism *Tritrichomonas foetus*. (4-2-08)

011. – 099. (RESERVED).

100. TRICHOMONIASIS CONTROL AND ERADICATION PROGRAM.
The Trichomoniasis testing season shall begin on September 1 of each year and continue until August 31 of the succeeding year. All bulls within the state of Idaho shall be tested negative for Trichomoniasis before being allowed to come into contact with female cattle or by April 15 of each Trichomoniasis testing season, whichever occurs first, except: (3-30-07)

01. Bulls in Public Grazing Allotments. Bulls that are to be turned out on public grazing allotments shall be tested for Trichomoniasis by April 15 of each Trichomoniasis testing season or forty-five (45) days prior to turnout on a public grazing allotment, which ever occurs first. (3-30-07)

02. Virgin Bulls. All bulls~~,~~ native to Idaho that are less than twenty-four (24) months of age ~~*or less*~~, which have never serviced a cow shall be exempt from the Trichomoniasis testing requirements. ~~*(3-30-07)*~~( )

a. Such bulls shall be identified by a registered veterinarian with an official Trichomoniasis bangle tag of the correct color for the current testing season and the identification recorded on a Trichomoniasis Test and Report Form. (3-30-07)

b. If sold, such bulls shall be accompanied by a certificate signed by the owner or his representative attesting that they are virgin bulls. (3-30-07)

03. Dairy Bulls. All dairy bulls in dry lot operations shall be exempt from the Trichomoniasis testing requirements. Dairy bulls that are pastured or grazed must meet the Trichomoniasis testing requirements. (3-30-07)

04. Bulls Consigned to Slaughter or to an Approved Feedlot. Bulls consigned directly to slaughter at an approved slaughter establishment or to an approved feedlot for finish feeding for slaughter are exempt from testing requirements. (3-30-07)

05. Bulls in Northern Idaho. Bulls located in the area of Idaho north of the Salmon River are exempt from the annual testing requirement, except: (3-30-07)

a. Non-virgin breeding bulls that are purchased or sold shall be Trichomoniasis tested. (3-30-07)

b. Non-virgin breeding bulls that are imported into Northern Idaho shall meet the importation requirements of Section 210 of this rule. (3-30-07)

c. Bulls in Northern Idaho that cross into the area of Idaho south of the Salmon River shall be tested negative to a Trichomoniasis culture test within thirty (30) days prior to entering Southern Idaho and shall have had no contact with female cattle from the time of test to the time that they enter Southern Idaho, unless consigned directly to slaughter at an approved slaughter

establishment or to an approved feedlot for finish feeding for slaughter. (3-30-07)

06. Extension of Testing Deadline. The Administrator may grant an extension of time beyond April 15 to accomplish Trichomoniasis testing after the owner submits a written request for extension of time to the Division of Animal Industries. (3-30-07)

a. The written request shall outline the reasons for the extension request and the length of extended time being requested. (3-30-07)

b. The herd of bulls shall be put under Hold Order until the owner furnishes documentation that the bulls have been tested. (3-30-07)

(BREAK IN CONTINUITY OF SECTIONS)

200. BULLS FOR SALE.
Bulls presented for sale at specifically approved livestock markets, shows, special sales, or by private contract in Idaho shall be accompanied by a certificate of negative test and a statement signed by the owner certifying "Trichomoniasis has not been diagnosed in the herd of origin;" or (3-30-07)

01. Returned to Home Premises. Such bulls shall be returned to home premises for official testing; or (4-2-08)

02. Sold Directly to Slaughter. Such bulls shall be sold directly to slaughter at an approved slaughter establishment, an Idaho approved feedlot, as defined in IDAPA 02.04.20, "Rules Governing Brucellosis~~,~~" ~~*or a rodeo producer without test*~~; or ~~*(3-30-07)*~~( )

03. Placed Under a Hold Order. Such bulls shall be placed under Hold Order by the livestock market veterinarian or a private veterinarian and shall have three (3) consecutive negative Trichomoniasis culture tests. The samples for each test shall be collected at least seven (7) days apart and cultured for Trichomoniasis to be eligible to receive a certificate of negative test; or (3-30-07)

04. Virgin Bulls. Virgin bulls~~,~~ native to Idaho that are less than twenty-four (24) months of age ~~*or less*~~, which have never serviced a cow shall be identified with an official Trichomoniasis bangle tag of the correct color for the current testing season. ~~*(3-30-07)*~~( )

05. Period of Validity. For resident breeding bulls sold in Idaho, the negative test shall be valid for up to ninety (90) days provided the bull(s) has had no contact with female cattle from the time of test to the time of sale. (3-30-07)

06. Contact with Female Cattle. Bulls that have had contact with female cattle subsequent to testing must be retested prior to sale. (3-30-07)

(BREAK IN CONTINUITY OF SECTIONS)

210. IMPORTED BULLS.

01. Non-Virgin Bulls. Non-virgin breeding bulls may be imported into the state of Idaho provided they meet the following requirements: (3-30-07)

a. If the bull originates from a herd of bulls wherein all bulls have tested negative for Trichomoniasis since being removed from cows, the bull shall have been tested negative to a Trichomoniasis culture test within thirty (30) days prior to import and shall have had no contact with female cattle from the time of test to the time of import; or (3-30-07)

b. If the bull originates from a herd where one (1) or more bulls or cows have been found infected with Trichomoniasis, the bull shall have three (3) consecutive negative Trichomoniasis culture tests. The samples for each test shall be collected at least seven (7) days apart and cultured for Trichomoniasis, the last test being within thirty (30) days prior to import into Idaho; or (3-30-07)

c. If the bull is a single bull with no prior herd test history or originates from a herd of bulls that is still with cows or that has not been tested for Trichomoniasis since being removed from cows, the bull shall have three (3) consecutive negative Trichomoniasis culture tests. The samples for each test shall be collected at least seven (7) days apart and cultured for Trichomoniasis, the last test being within thirty (30) days prior to import into Idaho. (3-30-07)

d. Upon arrival at their destination in Idaho, all imported bulls shall be identified with an official Trichomoniasis bangle tag of the correct color for the current testing season, except imported dairy bulls that will be in a dry lot operation are not required to be identified with an official Trichomoniasis tag upon arrival at their destination. (3-30-07)

02. Virgin Bulls. Bulls ~~*twenty-four (24)*~~ imported into Idaho that are less than twelve (12) months of age ~~*or less that*~~ which have never serviced a cow are not required to be Trichomoniasis tested prior to import into Idaho, provided that: ~~*(3-30-07)*~~( )

a. Such bulls shall be accompanied by a certificate signed by the owner or the owner's representative attesting that the animals are virgin bulls and have never serviced a cow; and (3-30-07)

b. Upon arrival at their destination in Idaho, such bulls shall be identified by an Idaho accredited veterinarian with an official Trichomoniasis bangle tag of the correct color for the current testing season. (3-30-07)

03. Bulls for Grazing. Bulls that are entering Idaho for grazing purposes shall meet the Trichomoniasis test requirements of Section 100 of this rule. A copy of the certificate of negative Trichomoniasis test shall accompany the grazing permit application. (4-2-08)

(BREAK IN CONTINUITY OF SECTIONS)

310. INFECTED BULLS AND HERDS.
Any bull or cow that is positive to a Trichomoniasis culture test shall be considered infected. A herd in which one (1) or more bulls or cows are found infected with Trichomoniasis shall be considered infected. (3-30-07)

01. Confirmatory Testing of Culture Positive Bulls. Any culture positive bull must be confirmed positive for Trichomonas foetus by Polymerase Chain Reaction (PCR) test unless the animal is destined directly to slaughter. The positive culture specimen shall be submitted to a qualified laboratory, approved by the Administrator, in accordance with the qualified laboratories submission requirements. The culture positive specimen must arrive at the laboratory within forty eight (48) hours after being found to contain trichomonad organisms. ( )

a. If polymerase chain reaction (PCR) determines the bull is positive or inconclusive for *Trichomonas foetus*, the bull will be considered positive for trichomoniasis. ( )

b. If polymerase chain reaction (PCR) determines the bull is negative for *Trichomonas foetus*, the bull will be considered negative for trichomoniasis. ( )

0~~1~~2. Quarantine of Infected Herds. Any veterinarian that discovers an infected herd shall immediately place the herd under a Hold Order, and notify the Division of Animal Industries within forty-eight (48) hours that the test was positive. Upon notification of an infected Trichomoniasis herd, a state or federal animal health official shall conduct an epidemiological investigation of the infected herd and issue a quarantine. The quarantine may include a provision requiring all breeding age female cattle in the infected herd to be held in isolation from all bulls for a period of up to one hundred twenty (120) days as determined by the Administrator. (3-30-07)

0~~2~~3. Exposed Herds. Herds identified as exposed through an epidemiological investigation shall be placed under a Hold Order. (3-30-07)

a. Bulls in exposed herds shall be tested as determined by the Trichomoniasis epidemiologist. (3-30-07)

b. All bulls tested in exposed herds and all purchased and home raised additions to the bull herd, including virgin bulls, shall be individually identified with an official Trichomoniasis bangle tag of the correct color for the current testing season and the tag number and status of the bull shall be recorded on an official Trichomoniasis test and report form. (3-30-07)

0~~3~~4. Testing of Infected Herds. Bulls in infected herds shall be tested negative for Trichomoniasis three (3) consecutive times before the quarantine can be released. Each of the tests shall be at least seven (7) days apart. The samples for each test shall be collected at least seven (7) days apart and cultured for Trichomoniasis to be eligible to receive a certificate of negative test. (3-30-07)

a. All bulls tested in the infected herd and all purchased and home raised additions to the bull herd, including virgin bulls, shall be individually identified with an official

Trichomoniasis bangle tag of the correct color for the current testing season and the tag number and status of the bull shall be recorded on an official Trichomoniasis test and report form. (3-30-07)

b. Bulls that have three (3) consecutive negative Trichomoniasis culture tests conducted at least seven (7) days apart shall be considered negative to Trichomoniasis and can be so certified. (3-30-07)

04~~4~~5. Identifying Infected Bulls. All bulls testing positive for trichomoniasis shall, within seven (7) days of diagnosis, be identified with a hot iron T brand applied to the left of the tail-head indicating that the bull is positive for trichomoniasis. ~~(4-2-08)~~( )

(BREAK IN CONTINUITY OF SECTIONS)

330. OFFICIAL LABORATORIES.
Only laboratories approved by the Division of Animal Industries as official laboratories shall test official Trichomoniasis samples. (3-30-07)

01. Protocols. Official laboratories shall operate in accordance with the ~~"O~~official Idaho "Protocol for ~~*Culture of Trichomoniasis,*~~ *Trichomonas foetus* Diagnosis in Cattle." ~~2007.~~ ~~(4-2-08)~~( )

02. Check Test. Official laboratories ~~*shall*~~ personnel responsible for conducting trichomoniasis testing must be trained and certified by ISDA in the detection of trichomonad organisms and must pass a~~*n annual*~~ certifying check test administered by the Division of Animal Industries. ~~(3-30-07)~~( )

331. OFFICIAL TRICHOMONIASIS TESTS.

01. Official Culture Tests. An official test is one in which the sample is received in the official laboratory, in good condition, within forty-eight (48) hours of collection and such sample is tested according to the ~~"O~~official Idaho "Protocol for ~~*Culture of Trichomoniasis*~~ *Trichomonas foetus* Diagnosis in Cattle." Samples in transit for more than forty-eight (48) hours will not be accepted for official testing and shall be discarded. Samples, which have been frozen or exposed to high temperatures, shall also be discarded. ~~(3-30-07)~~( )

02. Polymerase Chain Reaction. Polymerase Chain Reaction is accepted as an official test when completed by a qualified laboratory, approved by the Administrator, and the sample is received by the laboratory within forty-eight (48) hours of collection. (4-2-08)

03. Other Official Tests. Other tests for Trichomoniasis may be approved by the Division of Animal Industries, as official tests, after the tests have been proven effective by research, have been evaluated sufficiently to determine efficacy, and a protocol for use of the test has been established. (3-30-07)

IDAPA 02 - DEPARTMENT OF AGRICULTURE

02.06.02 - RULES PERTAINING TO THE IDAHO COMMERCIAL FEED LAW

DOCKET NO. 02-0602-1001

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2011 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 25-2710, 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:

Update the incorporation by reference section to reflect the 2011 Official Publication of the Association of American Feed Control Officials; Provide information regarding online availability and purchase of documents incorporated by reference; Housekeeping (correct punctuation and typos, correct references and add omitted words for clarity); Add clarity to the definition of "Primary Display Panel" to include front, back and side of packaging; Add clarity to the proper method for listing feed ingredients on commercial feed labels; Allow the use of a guaranteed analysis with an ingredient statement in the labeling of customer-formula feeds; and Clarify that a violation of a Stop Sale, Use, or Removal Order is a violation of Title 25, Chapter 27, Idaho Code, and/or the Rules promulgated thereunder.

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the October 6, 2010 Idaho Administrative Bulletin, Vol.10-10, pages 44 through 62.

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: N/A

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Rick Killebrew, Program Manager at (208) 332-8697.

DATED this 1st day of November, 2010.

Brian J. Oakey, Deputy Director
Idaho State Department of Agriculture
2270 Old Penitentiary Rd.
P.O. Box 790
Boise, Idaho 83701
Phone: (208) 332-8503
Fax: (208) 334-2170

THE FOLLOWING NOTICE 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 25-2710, 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 20, 2010.

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:

Update the incorporation by reference section to reflect the 2011 Official Publication of the Association of American Feed Control Officials; Provide information regarding online availability and purchase of documents incorporated by reference; Housekeeping (correct punctuation and typos, correct references and add omitted words for clarity); Add clarity to the definition of "Primary Display Panel" to include front, back and side of packaging; Add clarity to the proper method for listing feed ingredients on commercial feed labels; Allow the use of a guaranteed analysis with an ingredient statement in the labeling of customer-formula feeds; and Clarify that a violation of a Stop Sale, Use, or Removal Order is a violation of Title 25, Chapter 27, Idaho Code, and/or the Rules promulgated thereunder.

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: N/A

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 Feed Control Officials (AAFCO) Official Publication is the recognized and primary reference book of approved feed terms and ingredient definitions and policies used by the feed industry and all state and Federal feed control officials and regulators.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Rick Killebrew, Program Manager at (208) 332-8697.

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 27, 2010.

DATED this 18th day of August, 2010.

THE FOLLOWING IS THE TEXT OF DOCKET NO. 02-0602-1001

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 02.06.02 incorporates by reference: (3-30-07)

01. The Association of American Feed Control Officials (AAFCO) Official Publication. The Terms, Ingredient Definitions and Policies as published in the "201~~0~~1 Official Publication" of AAFCO where those terms and ingredient definitions, and policy statements do not conflict with terms and ingredient definitions, and policy statements adopted under Title 25, Chapter 27, Idaho Code, and any rule promulgated thereunder. The AAFCO Official Publication is a copyrighted publication and not available in electronic format. A copy may be purchased online from the AAFCO website at: www.aafco.org. ~~(3-29-10)~~( )

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

(BREAK IN CONTINUITY OF SECTIONS)

010. DEFINITIONS AND TERMS.
The Idaho State Department of Agriculture adopts the definitions set forth in Section 25-2703, Idaho Code. In addition as used in this chapter: (3-30-07)

01. All Life Stages. Gestation/lactation, growth, and adult maintenance life stages. (3-30-07)

02. Family. A group of products, which are nutritionally adequate for any or all life stages based on their nutritional similarity to a lead product, which has been successfully test-fed according to an AAFCO feeding protocol(s). (3-30-07)

03. Hay. The aerial portion of grass or herbage especially cut, cured and baled or stacked for animal feeding, without further processing. (4-6-05)

04. Immediate Container. The unit, can, box, tin, bag, or other receptacle or covering in which a pet food or specialty pet food is displayed for sale to retail purchasers, but does not include containers used as shipping containers. (3-30-07)

05. Ingredient Statement. A collective and contiguous listing on the label of the ingredients of which the pet food or specialty pet food is composed. (3-30-07)

06. Principal Display Panel. The part of a label that is most likely to be displayed, presented, shown, or examined under normal and customary conditions of display for retail sale and may include the front, back, or side panels of the package. ~~(3-30-07)~~( )

07. Viable Noxious Weed Seed. Any seed or propagule of a noxious weed, as identified or listed by Title 22, Chapter 24, Idaho Code, or any rules promulgated thereunder, that has not been ground fine enough or otherwise treated to destroy the ability to germinate. (3-30-07)

011. -- 049. (RESERVED).

050. LABEL FORMAT.

01. Label Format. Commercial feeds shall be labeled with the information prescribed in this rule on the principal display panel of the product and in the following general format. (8-16-71)

a. Net Weight. (8-16-71)

b. Product name and brand name if any. (8-16-71)

c. If a drug is used: (8-16-71)

i. The word “Medicated” shall appear directly following and below the product name in type size, no smaller than one-half (1/2) the type size of the product name. (8-16-71)

ii. The purpose of medication (claim statement). (8-16-71)

iii. An active drug ingredient statement listing the active drug ingredients by their established name and the amounts in accordance with Subsection 150.04. (8-16-71)

iv. The required directions for use and precautionary statements or reference to their location if the detailed feeding directions and precautionary statements required by Sections 250 and 300 appear elsewhere on the label. (8-16-71)

d. The guaranteed analysis of the feed as required under the provisions of Section 25-2705(1)(c) of the Commercial Feed Law include the following items, unless exempted in Subsection 050.01.d.viii., and in the order listed: (3-30-07)

i. Minimum percentage of crude protein. (8-16-71)

ii. Maximum or minimum percentage of equivalent protein from non-protein nitrogen as required in Subsection 150.05. (8-16-71)

iii. Minimum percentage of crude fat. (8-16-71)

iv. Maximum percentage of crude fiber. (8-16-71)

v. Minerals, to include, in the following order: minimum and maximum percentages of calcium (Ca), minimum percentage of phosphorus (P), minimum and maximum percentages of salt (NaCl), and other minerals. (8-16-71)

vi. Vitamins in such terms as specified in Subsection 150.03. (8-16-71)

vii. Total sugars as invert on dried molasses products or products being sold primarily for their sugar content. (8-16-71)

viii. Exemptions. Guarantees for minerals are not required when there are no specific label claims and when the commercial feed contains less than six and one-half percent (6 1/2%) of Calcium, Phosphorus, Sodium, ~~*and*~~ or Chloride. Guarantees for vitamins are not required when the commercial feed is neither formulated for nor represented in any manner as a vitamin supplement. Guarantees for crude protein, crude fat, and crude fiber are not required when the commercial feed is intended for purposes other than to furnish these substances or they are of minor significance relating to the primary purpose of the product, such as drug premixes, mineral or vitamin supplements, and molasses. ~~*(8-16-71)*~~( )

e. Feed ingredients, collective terms for the grouping of feed ingredients, or appropriate statements as provided under the provisions of Section 25-2705(1)(d) of the Commercial Feed Law~~.~~ shall be listed in decreasing order of predominance by weight:
~~*(3-30-07)*~~( )

i. The name of each ingredient as defined in the Official Publication of the Association of American Feed Control Officials, common or usual name, or one approved by the Director. (8-16-71)

ii. Collective terms for the grouping of feed ingredients as defined in the Official Definitions of Feed Ingredients published in the Official Publication of the Association of American Feed Control Officials in lieu of the individual ingredients; provided that when a collective term for a group of ingredients is used on the label, individual ingredients within that group shall not be listed on the label. The manufacturer shall provide the feed control official, upon request, with a list of individual ingredients within a defined group, that are or have been used at manufacturing facilities distributing in or into the state. (8-16-71)

iii. The registrant may affix the statement, "ingredients as registered with the State" in lieu of the ingredient list on the label. The list of ingredients must be on file with the Director. This list shall be made available to the feed purchaser upon request. (8-16-71)

f. Name and principal mailing address of the manufacturer or person responsible for distributing the feed. The principal mailing address shall include the street address, city, state, and zip code; however, the street address may be omitted if it is shown in the current city directory or telephone directory. (8-16-71)

g. The information required in Section 25-2705 of the Commercial Feed Law must appear in its entirety on ~~*one (1) side of the label or on one (1) side*~~ the principal display panel of the container. ~~*(3-30-07)*~~( )

02. Customer Formula Invoice and Tag Requirements. (8-16-71)

a. Bulk shipments of customer-formula feed shall be accompanied by an invoice, delivery slip or other shipping documents identifying the shipment as customer-formula feed and the name and address of the customer to whose order it is made. (8-16-71)

b. Bagged customer-formula feed will be labeled with a tag identifying each bag as such. The total bags in each customer's shipment will be segregated from other bagged feed and identified with the name and address of the customer to whose order it is made. (8-16-71)

c. Nutritional guarantees and guarantees of other analytes, and a list of ingredients, in descending order of predominance by weight, of a customer-formula feed may be used in lieu of specific weights or volumes of each ingredient, as required in Section 25-2705(2)(d), Idaho Code, when so ordered by the customer. ( )

051. -- 099. (RESERVED).

100. BRAND AND PRODUCT NAMES.

01. Intended Use. The brand or product name must be appropriate for the intended use of the feed and must not be misleading. If the name indicates the feed is made for a specific use, the character of the feed must conform therewith. A mixture labeled "Dairy Feed," for example, must be suitable for that purpose. (8-16-71)

02. Listings. Commercial, registered brand or trade names are not permitted in guarantees ~~*of*~~ or ingredient listings and only in the product name of feeds produced by or for the

firm holding the rights to such a name. ~~*(8-16-71)*~~( )

03. Name of Feed. The name of a commercial feed shall not be derived from one (1) or more ingredients of a mixture to the exclusion of other ingredients and shall not be one representing any components of a mixture unless all components are included in the name: Provided, that if any ingredient or combination of ingredients is intended to impart a distinctive characteristic to the product which is of significance to the purchaser, the name of that ingredient or combination of ingredients may be used as part of the brand name or product name if the ingredient or combination of ingredients is quantitatively guaranteed in the guaranteed analysis, and the brand or product name is not otherwise false or misleading. (8-16-71)

04. Protein. The word "protein" shall not be permitted in the product name of a feed that contains added non-protein nitrogen. (8-16-71)

05. Percentage Value. When the name carries a percentage value, it shall be understood to signify protein and/or equivalent protein content only, even though it may not explicitly modify the percentage with the word "protein": Provided, that other percentage values may be permitted if they are followed by the proper description and conform to good labeling practice. Digital numbers shall not be used in such a manner as to be misleading or confusing to the customer. (8-16-71)

06. Single Ingredient. Single ingredient feeds shall have a product name in accordance with the designated definition of feed ingredients as recognized by the Association of American Feed Control Officials unless the Director designates otherwise. (8-16-71)

07. Vitamin. The word "vitamin," or a contraction thereof, or any word suggesting vitamin can be used only in the name of a feed which is represented to be a vitamin supplement, and which is labeled with the minimum content of each vitamin declared, as specified in Subsection 150.03. (8-16-71)

08. Mineralized. The term "mineralized" shall not be used in the name of a feed except for "TRACE MINERALIZED SALT." When so used, the product must contain significant amounts of trace minerals which are recognized as essential for animal nutrition. (8-16-71)

09. Meat and Meat By-Products. The term "meat" and "meat by-products" shall be qualified to designate the animal from which the meat and meat by-products is derived unless the meat and meat by-products are made from cattle, swine, sheep and goats. (8-16-71)

101. -- 149. (RESERVED).

150. EXPRESSION OF GUARANTEES.

01. Percentage by Weight. The guarantees for crude protein, equivalent protein from non-protein nitrogen, crude fat, crude fiber and mineral guarantees (when required) will be in terms of percentage by weight. (8-16-71)

02. Commercial Feeds. Commercial feeds containing six and one-half percent (6 1/2%) or more Calcium, Phosphorus, Sodium ~~*and*~~ or Chloride shall include in the guaranteed

analysis the minimum and maximum percentages of calcium (Ca), the minimum percentage of phosphorus (P), and if salt is added, the minimum and maximum percentage of salt (NaCl). Minerals, except salt (NaCl) shall be guaranteed in terms of percentage of the element. When calcium and/or salt guarantees are given in the guaranteed analysis such shall be stated and conform to the following: ~~*(8-16-71)*~~ ( )

a. When the minimum is five percent (5%) or less, the maximum shall not exceed the minimum by more than one (1) percentage point. (8-16-71)

b. When the minimum is above five percent (5%), the maximum shall not exceed the minimum by more than twenty percent (20%) and in no case shall the maximum exceed the minimum by more than five (5) percentage points. (8-16-71)

03. Vitamin Content. Guarantees for minimum vitamin content of commercial feeds and feed supplements, when made, shall be stated on the label in milligrams per pound of feed except that: (8-16-71)

a. Vitamin A, other than precursors of vitamin A, shall be stated in International or USP units per pound. (8-16-71)

b. Vitamin D, in products offered for poultry feeding, shall be stated in International Chick Units per pound. (8-16-71)

c. Vitamin D for other uses shall be stated in International or USP units per pound. (8-16-71)

d. Vitamin E shall be stated in International USP units per pound. (8-16-71)

e. Guarantees for vitamin content on the label of a commercial feed shall state the guarantee as true vitamins, not compounds, with the exception of the compounds, Pyridoxine Hydrochloride, Choline Chloride, Thiamine, and d-Pantothenic Acid. (8-16-71)

f. Oils and premixes containing vitamin A or vitamin D or both may be labeled to show vitamin content in terms of units per gram. (8-16-71)

04. Drugs. Guarantees for drugs shall be stated in terms of percent by weight, except: (8-16-71)

a. Antibiotics present at less than two thousand (2,000) grams per ton (total) of commercial feed shall be stated in grams per ton of commercial feed. (8-16-71)

b. Antibiotics present at two thousand (2,000) or more grams per ton (total) of commercial feed shall be stated in grams per pound of commercial feed. (8-16-71)

c. Labels for commercial feeds containing growth promotion and/or feed efficiency levels of antibiotics, which are to be fed continuously as the sole ration, are not required to make quantitative guarantees except as specifically noted in the Federal Food Additive Regulations for certain antibiotics, wherein, quantitative guarantees are required regardless of the level or purpose

of the antibiotic. (8-16-71)

d. The term "milligrams per pound" may be used for drugs or antibiotics in those cases where a dosage is given in "milligrams" in the feeding directions. (8-16-71)

05. Non-Protein Nitrogen. Commercial feeds containing any added non-protein nitrogen shall be labeled as follows: (8-16-71)

a. For ruminants: (8-16-71)

i. Complete feeds, supplements, and concentrates containing added non-protein nitrogen and containing more than five percent (5%) protein from natural sources shall be guaranteed as follows:

Crude Protein, minimum, _____%
(This includes not more than _____% equivalent non-protein nitrogen.) (8-16-71)

ii. Mixed feed concentrates and supplements containing less than five percent (5%) protein from natural sources may be guaranteed as follows:

Equivalent Crude Protein from Non-Protein Nitrogen, minimum _____%. (8-16-71)

iii. Ingredient sources of non-protein nitrogen such as Urea, Di-Ammonium Phosphate, Ammonium Polyphosphate Solution, Ammoniated Rice Hulls, or other basic non-protein nitrogen ingredients defined by the Association of American Feed Control Officials shall be guaranteed as follows:

Nitrogen, minimum _____%
Equivalent Crude Protein from Non-Protein Nitrogen, minimum _____% (8-16-71)

b. For non-ruminants: (8-16-71)

i. Complete feeds, supplements and concentrates containing crude protein from all forms of non-protein nitrogen, added as such, shall be labeled as follows:

Crude protein, minimum _____%

(This includes not more than _____% equivalent crude protein which is not nutritionally available to species of animal for which feed is intended.) (8-16-71)

ii. Premixes, concentrates or supplements intended for non-ruminants containing more than one and twenty-five hundredths percent (1.25%) equivalent crude protein from all forms of non-protein nitrogen, added as such, must contain adequate directions for use and a prominent statement: "WARNING: This feed must be used only in accordance with directions furnished on the label." (8-16-71)

06. Mineral Phosphate Materials. Mineral phosphatic materials for feeding purposes shall be labeled with the guarantee for minimum and maximum percentage of calcium (when

present), the minimum percentage of phosphorus, and the maximum percentage of fluorine. (8-16-71)

151. -- 199. (RESERVED).

200. INGREDIENTS.

01. Name. The name of each ingredient or collective term for the grouping of ingredients, when required to be listed, shall be the name as defined in the Official Definitions of Feed Ingredients as published in the Official Publication of the Association of American Feed Control Officials, the common or usual name, or one approved by the Director. ~~*(8-16-71)*~~( )

02. Same Size. The name of each ingredient must be shown in letters or type of the same size. (8-16-71)

03. Quality or Grade. No reference to quality or grade of an ingredient shall appear in the ingredient statement of a feed. (8-16-71)

04. Dehydrated. The term "dehydrated" may precede the name of any product that has been artificially dried. (8-16-71)

05. Single Ingredient. A single ingredient product defined by the Association of American Feed Control Officials or by the Director is not required to have an ingredient statement. (8-16-71)

06. Tentative Definitions. Tentative definitions for ingredients shall not be used until adopted as official, unless no official definition exists or the ingredient has a common accepted name that requires no definition, (e.g. sugar). (8-16-71)

07. Iodized. When the word "iodized" is used in connection with a feed ingredient, the feed ingredient shall contain not less than seven thousandths percent (0.007%) iodine, uniformly distributed. (8-16-71)

(BREAK IN CONTINUITY OF SECTIONS)

475. PET FOOD AND SPECIALTY PET FOOD.

01. Label Format and Labeling. (3-30-07)

a. Pet food and specialty pet food shall be labeled with the following information prescribed in this rule: (3-30-07)

i. Product name and brand name, if any, on the principal display panel as stipulated in Subsection 475.02: (3-30-07)

ii. A statement specifying the species name of pet or specialty pet for which the food is intended, conspicuously designated on the principal display panel; (3-30-07)

iii. Quantity statement, as defined in ~~*AAFCO Model Bill Section 3(v)*~~ Section 25-2705(1)(a), Idaho Code, on the principal display panel; ~~*(3-30-07)*~~( )

iv. Guaranteed Analysis as stipulated in Subsection 475.03; (3-30-07)

v. Ingredient statement as stipulated in Subsection 475.04.a.; (3-30-07)

vi. A statement of nutritional adequacy or purpose if required under Subsection 475.06; (3-30-07)

vii. Feeding directions if required under Subsection 475.07; and (3-30-07)

viii. Name and address of the manufacturer or distributor as stipulated in Subsection 475.10. (3-30-07)

b. When a pet food or specialty pet food enclosed in an outer container or wrapper is intended for retail sale, all required label information shall appear on the outer container or wrapper. (3-30-07)

c. A vignette, graphic, or pictorial representation on a pet food or specialty pet food label shall not misrepresent the contents of the package. (3-30-07)

d. The use of the word "proven" in connection with a label claim for a pet food or specialty pet food is not permitted unless the claim is substantiated by scientific or other empirical evidence. (3-30-07)

e. No statement shall appear upon the label or labeling of a pet food or specialty pet food which makes false or misleading comparisons between that product and any other product. (3-30-07)

f. A personal or commercial endorsement is permitted on a pet food or specialty pet food label provided the endorsement is not false or misleading. (3-30-07)

g. A statement on a pet food or specialty pet food label stating "improved," "new," or similar designation shall be substantiated and limited to six (6) months production. (3-30-07)

h. A statement on a pet food or specialty pet food label stating preference or comparative attribute claims shall be substantiated and limited to one (1) year production, after which the claim shall be removed or re-substantiated. (3-30-07)

02. Brand and Product Names. (3-30-07)

a. The words "one hundred percent (100%)," or "all," or words of similar designation shall not be used in the brand or product name of a pet food or specialty pet food if the product contains more than one (1) ingredient, not including water sufficient for processing,

decharacterizing agents, or trace amounts of preservatives and condiments. (3-30-07)

b. An ingredient or a combination of ingredients may form a part of the product name of a pet food or specialty pet food: (3-30-07)

i. When the ingredient(s) derived from animals, poultry, or fish constitutes at least ninety-five percent (95%) of the total weight of the product. Water sufficient for processing may be excluded when calculating the percentage; however, the ingredient(s) shall constitute at least seventy percent (70%) of the total product weight. (3-30-07)

ii. When any ingredient(s) constitutes at least twenty-five percent (25%) of the weight of the product, provided that: (3-30-07)

(1) Water sufficient for processing may be excluded when calculating the percentage, however, the ingredients(s) shall constitute at least ten percent (10%) of the total product weight; and (3-30-07)

(2) A descriptor is used with the ingredient name(s). This descriptor shall imply other ingredients are included in the product formula. Examples of descriptors include "dinner," "platter," "entree," "formula," and "recipe"; and (3-30-07)

(3) The descriptor shall be in the same size, style, and color print as the ingredient name(s). (3-30-07)

iii. When a combination of ingredients which are included in the product name in accordance with Subsection 475.02.b. meets all of the following: (3-30-07)

(1) Each ingredient constitutes at least three percent (3%) of the product weight, excluding water sufficient for processing; (3-30-07)

(2) The names of the ingredients appear in the order of their respective predominance by weight in the product; and (3-30-07)

(3) All such ingredient names appear on the label in the same size, style, and color print. (3-30-07)

c. When the name of any ingredient appears in the product name of a pet food or elsewhere on the product label and includes a descriptor such as "with" or similar designation, the named ingredient(s) must each constitute at least three percent (3%) of the product weight exclusive of water for processing. If the names of more than one (1) ingredient are shown, they shall appear in their respective order of predominance by weight in the product. The three percent (3%) minimum level shall not apply to claims for nutrients, such as, but not limited to vitamins, minerals, and fatty acids, as well as condiments. The word "with," or similar designation, and named ingredients shall be in the same size, style, color and case print and be of no greater size than:

Panel Size	Max "with claim" Type Size
< 5 sq. in.	1/8"
5-25 sq. in.	1/4"
25-100 sq. in	3/8"
100-400 sq. in	1/2"
400 sq. in +	1"

(3-30-07)

d. A flavor designation may be included as part of the product name or elsewhere on the label of a pet food or specialty pet food when the flavor designation meets all of the following: (3-30-07)

i. The flavor designation: (3-30-07)

(1) Conforms to the name of the ingredient as listed in the ingredient statement; or (3-30-07)

(2) Is identified by the source of the flavor in the ingredient statement; and (3-30-07)

ii. The word "flavor" is printed in the same size type and with an equal degree of conspicuousness as the name of the flavor designation; and (3-30-07)

iii. Substantiation of the flavor designation, the flavor claim, or the ingredient source is provided upon request. (3-30-07)

e. The product name of the pet food or specialty pet food shall not be derived from one (1) or more ingredients unless all ingredients are included in the name, except as specified by Subsection 475.04.a. or 475.04.b.; provided that the name of an ingredient or combination of ingredients may be used as a part of the product name if: (3-30-07)

i. The ingredient or combination of ingredients is present in sufficient quantity to impart a distinctive characteristic to the product or is present in amounts which have a material bearing upon the price of the product or upon acceptance of the product by the purchaser thereof; or (3-30-07)

ii. It does not constitute a representation that the ingredient or combination of ingredients is present to the exclusion of other ingredients. (3-30-07)

f. Contractions or coined names referring to ingredients shall not be used in the brand name of a pet food or specialty pet food unless it is in compliance with Subsections 475.04.b., 475.04.c., or 475.04.d. (3-30-07)

03. Expression of Guarantees. (3-30-07)

a. The Guaranteed Analysis shall be listed in the following order and format unless otherwise specified in these rules: (3-30-07)

i. A pet food or specialty pet food label shall list the following required guarantees; (3-30-07)

(1) Minimum percentage of crude protein; (3-30-07)

(2) Minimum percentage of crude fat; (3-30-07)

(3) Maximum percentage of crude fat, if required by Subsection 475.09; (3-30-07)

(4) Maximum percentage of crude fiber; (3-30-07)

(5) Maximum percentage of moisture; and (3-30-07)

(6) Additional guarantees shall follow moisture. (3-30-07)

ii. When ash is listed in the guaranteed analysis on a pet food or specialty pet food label, it shall be guaranteed as a maximum percentage and shall immediately follow moisture. (3-30-07)

iii. A dog or cat food label shall list other required or voluntary guarantees in the same order and units of the nutrients in the AAFCO Dog (or Cat) Food Nutrient Profiles. Guarantees for substances not listed in the AAFCO Dog (or Cat) Food Nutrient Profiles, or not otherwise provided for in these rules, shall immediately follow the listing of the recognized nutrients and shall be accompanied by an asterisk referring to the disclaimer "not recognized as an essential nutrient by the AAFCO Dog (or Cat) Food Nutrient Profiles." The disclaimer shall appear immediately after the last such guarantee in the same size type as the guarantees. (3-30-07)

iv. A specialty pet food label shall list other required or voluntary guarantees as required by ~~*AAFCO Model Regulation 3(a)(4)(X)*~~ Subsection 475.01 of this rule. ~~*(3-30-07)*~~( )

b. The sliding scale method of expressing a guaranteed analysis on a pet food or specialty pet food label (for example, "Minimum crude protein fifteen to eighteen percent (15-18%)") is prohibited. (3-30-07)

c. The label of a pet food or a specialty pet food which is formulated as and represented to be a mineral supplement shall include: (3-30-07)

i. Minimum guarantees for all minerals from sources declared in the ingredient statement and established by an AAFCO-recognized nutrient profile, expressed as the element in units specified in the nutrient profile; or (3-30-07)

ii. Minimum guarantees for all minerals from sources declared in the ingredient statement expressed as the element in units specified in ~~*AAFCO Model Regulation 4(b)*~~ Section 150 of this rule when no species-specific nutrient profile has been recognized by AAFCO; and provided that: ~~*(3-30-07)*~~( )

iii. Mineral guarantees required by Subsections 475.03.c.i. and 475.03.c.ii. may be expressed in milligrams (mg) per unit (e.g., tablets, capsules, granules, or liquids) consistent with those employed in the quantity statement and directions for use; and (3-30-07)

iv. A weight equivalent (e.g., one (1) fl. oz. = twenty-eight (28) grams) for liquid products. (3-30-07)

d. The label of a pet food or a specialty pet food which is formulated as and represented to be a vitamin supplement shall include: (3-30-07)

i. Minimum guarantees for all vitamins from sources declared in the ingredient statement and established by an AAFCO-recognized nutrient profile, expressed in units specified in the nutrient profile; or (3-30-07)

ii. Minimum guarantees for all vitamins from sources declared in the ingredient statement expressed in units specified in ~~*AAFCO Model Regulation 4(c)*~~ Section 150 of this rule when no species-specific nutrient profile has been recognized by AAFCO; and provided that: ~~*(3-30-07)*~~( )

iii. Vitamin guarantees required by Subsections 475.03.d.i. and 475.03.d.ii., may be expressed in approved units (e.g., IU, mg, g) per unit (e.g., tablets, capsules, granules, or liquids) consistent with those employed in the quantity statement and directions for use; and (3-30-07)

iv. A weight equivalent (e.g., one (1) fl. oz. = twenty-eight (28) grams) for liquid products. (3-30-07)

e. When the label of a pet food or specialty pet food includes a comparison of the nutrient content of the food with levels established by an AAFCO-recognized nutrient profile, such as a table of comparison, a percentage, or any other designation referring to an individual nutrient or all of the nutrient levels, the following apply: (3-30-07)

i. The product shall meet the AAFCO-recognized nutrient profile; and (3-30-07)

ii. The statement of comparison shall be preceded by a statement that the product meets the AAFCO-recognized profile: however, the statement that the product meets the AAFCO-recognized nutrient profile is not required provided that the nutritional adequacy statement as per Subsections 475.06.a.i. or 475.06.b.ii.(1) appears elsewhere on the product label; and (3-30-07)

iii. The statement of comparison of the nutrient content shall constitute a guarantee, but need not be repeated in the guaranteed analysis; and (3-30-07)

iv. The statement of comparison may appear on the label separate and apart from the guaranteed analysis. (3-30-07)

f. The maximum moisture declared on a pet food or specialty pet food label shall not exceed seventy-eight percent (78%) or the natural moisture content of the ingredients, whichever

is higher. However, pet food and specialty pet food such as, but not limited to, those consisting principally of stew, gravy, sauce, broth, aspic, juice, or a milk replacer, and which are so labeled, may contain moisture in excess of seventy-eight percent (78%). (3-30-07)

g. Guarantees for crude protein, crude fat, and crude fiber are not required when the pet food or specialty pet food is intended for purposes other than to furnish these substances or they are of minor significance relative to the primary purpose of the product, such as a mineral or vitamin supplement. (3-30-07)

h. Guarantees for microorganisms and enzymes shall be stated in the format as stipulated in AAFCO Model Regulations 4(g) and (h). (3-30-07)

04. Ingredients. (3-30-07)

a. Each ingredient of a pet food or specialty pet food shall be listed in the ingredient statement as follows: (3-30-07)

i. The names of all ingredients in the ingredient statement shall be shown in letters or type of the same size; (3-30-07)

ii. The ingredients shall be listed in descending order by their predominance by weight in non-quantitative terms; (3-30-07)

iii. Ingredients shall be listed and identified by the name and definition established by AAFCO; and (3-30-07)

iv. Any ingredient for which no name and definition have been so established shall be identified by the common or usual name of the ingredient. (3-30-07)

b. The ingredients "meat" or "meat by-products" shall be qualified to designate the animal from which the meat or meat by-products are derived unless the meat or meat by-products are derived from cattle, swine, sheep, goats, or any combination thereof. For example, ingredients derived from horses shall be listed as "horsemeat" or "horsemeat by-products." (3-30-07)

c. Brand or trade names shall not be used in the ingredient statement. (3-30-07)

d. A reference to the quality, nature, form, or other attribute of an ingredient shall be allowed when the reference meets all of the following: (3-30-07)

i. The designation is not false or misleading; (3-30-07)

ii. The ingredient imparts a distinctive characteristic to the pet food or specialty pet food because it possesses that attribute; and (3-30-07)

iii. A reference to quality or grade of the ingredient does not appear in the ingredient statement. (3-30-07)

05. Drugs and Pet Food Additives. (3-30-07)

a. An artificial color may be used in a pet food or specialty pet food only if it has been shown to be harmless to pets or specialty pets. The permanent or provisional listing of an artificial color in the United States Food and Drug regulations as safe for use, together with the conditions, limitations, and tolerances, if any, incorporated therein, shall be deemed to be satisfactory evidence that the color is, when used pursuant to such regulations, harmless to pets or specialty pets. (3-30-07)

b. Evidence may be required to prove the safety and efficacy or utility of a pet food or specialty pet food which contains additives or drugs, when used according to directions furnished on the label. Satisfactory evidence of the safety and efficacy of a pet food or specialty pet food may be established: (3-30-07)

i. When the pet food or specialty pet food contains such additives, the use of which conforms to the requirements of the applicable regulation in the Code of Federal Regulations, Title 21, or which are "prior sanctioned" or "informal review sanctioned" or "generally recognized as safe" for such use; or (3-30-07)

ii. When the pet food or specialty pet food itself is a drug or contains a drug as defined in Section 3 (g) of the Model Bill and is "generally recognized as safe and effective" for the labeled use or is marketed subject to an application approved by the Food and Drug Administration under Title 21, U.S.C. 360(b). (3-30-07)

c. When a drug is included in a pet food or specialty pet food, the format required by Model Regulation 3(a)(2) for labeling medicated feeds shall be used. (3-30-07)

06. Nutritional Adequacy. (3-30-07)

a. The label of a pet food or specialty pet food which is intended for all life stages of the pet or specialty pet may include an unqualified claim, directly or indirectly, such as "complete and balanced," "perfect," "scientific," or "100% nutritious" if at least one (1) of the following apply: (3-30-07)

i. The product meets the nutrient requirements for all life stages established by an AAFCO-recognized nutrient profile; or (3-30-07)

ii. The product meets the criteria for all life stages as substantiated by completion of the appropriate AAFCO-recognized animal feeding protocol(s); or (3-30-07)

iii. The product is a member of a product family which is nutritionally similar to a lead product which contains a combination of ingredients that has been fed to a normal animal as the sole source of nourishment in accordance with the testing procedures established by AAFCO for all life stages, provided that: (3-30-07)

(1) The nutritional similarity of the family product can be substantiated according to the Procedures for Establishing Pet Food Product Families developed by AAFCO; and (3-30-07)

(2) The family product meets the criteria for all life stages; and (3-30-07)

(3) Under circumstances of reasonable doubt, the Director may require the manufacturer to perform additional testing of the family product in order to substantiate the claim of nutritional adequacy. (3-30-07)

b. The label of a pet food or specialty pet food which is intended for a limited purpose or a specific life stage, but not for all life stages, may include a qualified claim such as "complete and balanced," "perfect," "scientific," or "100% nutritious" when the product and claim meets all of the following: (3-30-07)

i. The claim is qualified with a statement of the limited purpose or specific life stage for which the product is intended or suitable, for example, "complete and balanced for puppies (or kittens)." The claim and the required qualification shall be juxtaposed on the same label panel and in the same size, style and color print; and (3-30-07)

ii. The product meets at least one (1) of the following: (3-30-07)

(1) The nutrient requirements for the limited purpose or specific life stage established by an AAFCO-recognized nutrient profile; or (3-30-07)

(2) The criteria for a limited purpose or a specific life stage as substantiated by completion of the appropriate AAFCO-recognized animal feeding protocol(s); or (3-30-07)

(3) The requirements of a product family which is nutritionally similar to a lead product which contains a combination of ingredients which, when fed for such limited purpose, will satisfy the nutrient requirements for such limited purpose and has had its capabilities in this regard demonstrated by adequate testing; and provided that: (3-30-07)

(a) The nutritional similarity of the family product can be substantiated according to the Procedures for Establishing Pet Food Product Families developed by AAFCO; and (3-30-07)

(b) The family product meets the criteria for such limited purpose; and (3-30-07)

(c) Under circumstances of reasonable doubt, the Director may require the manufacturer to perform additional testing for the family product to substantiate the claim of nutritional adequacy. (3-30-07)

c. Dog and cat food labels shall include a statement of nutritional adequacy or purpose of the product except when the dog or cat food is clearly and conspicuously identified on the principal display panel as a "snack" or "treat." The statement shall consist of one (1) of the following: (3-30-07)

i. A claim that the dog or cat food meets the requirements of one (1) or more of the recognized categories of nutritional adequacy: gestation/lactation, growth, maintenance, and all life stages. The claim shall be stated verbatim as one (1) of the following: (3-30-07)

(1) "(Name of product) is formulated to meet the nutritional levels established by the AAFCO Dog (or Cat) Food Nutrient Profiles for _____." (Blank is to be completed by using the

stage or stages of the pet's life, such as, gestation/lactation, growth, maintenance or the words "all life stages"); or (3-30-07)

(2) "Animal feeding tests using AAFCO procedures substantiate that (Name of Product) provides complete and balanced nutrition for _____." (Blank is to be completed by using the stage or stages of the pet's life tested, such as, gestation/lactation, growth, maintenance or the words "All Life Stages"); or (3-30-07)

(3) "(Name of Product) provides complete and balanced nutrition for _____." (Blank is to be completed by using the stage or stages of the pet's life, such as gestation, lactation, growth, maintenance or the words "all life stages") and is comparable in nutritional adequacy to a product which has been substantiated using AAFCO feeding tests." (3-30-07)

ii. A nutritional or dietary claim for purposes other than those listed in Subsections 475.06.a. or 475.06.b. if the claim is scientifically substantiated; or (3-30-07)

iii. The statement: "This product is intended for intermittent or supplemental feeding only," if a product does not meet the requirements of Subsections 475.06.a. or 475.07.b. or any other special nutritional or dietary need and so is suitable only for limited or intermittent or supplementary feeding. (3-30-07)

d. A product intended for use by, or under the supervision or direction of a veterinarian shall make a statement in accordance with Subsections 475.06.c.i. or 275.06.c.iii. (3-30-07)

e. A signed affidavit attesting that the product meets the requirements of Subsections 475.07.a. or 475.06.b.ii. shall be submitted to the Director upon request. (3-30-07)

f. If the nutrient content of a product does not meet those nutrient requirements established by an AAFCO-recognized nutrient profile, or if no requirement has been established by an AAFCO recognized nutritional authority for the life stage(s) of the intended species, the claimed nutritional adequacy or purpose of the product shall be scientifically substantiated. (3-30-07)

g. The following AAFCO-recognized nutritional authority, nutrient profile, and/or animal feeding protocol shall be acceptable as the basis for a claim of nutritional adequacy: (3-30-07)

i. As an AAFCO-recognized nutrient profile or nutritional authority: (3-30-07)

(1) For dogs, the AAFCO Dog Food Nutrient Profiles; (3-30-07)

(2) For cats, the AAFCO Cat Food Nutrient Profiles; (3-30-07)

(3) For specialty pets, the nutrient recommendations approved by the Committee on Animal Nutrition of the National Research Council of the National Academy of Sciences, provided that, this nutrient recommendation is recognized only for the specific specialty pet for which the profile is intended. (3-30-07)

ii. As an AAFCO-recognized animal feeding protocol(s), the AAFCO Dog and Cat Food Feeding Protocols. (3-30-07)

07. Feeding Directions. (3-30-07)

a. Dog or cat food, including snacks or treats, labeled as complete and balanced for any or all life stages, as provided in Subsection 475.06.c.i., except those pet foods labeled in accordance with ~~*Regulation PF7(d)*~~ Subsection 475.06 of this rule, shall list feeding directions on the product label. These directions shall be consistent with the intended use(s) indicated in the nutritional adequacy statement, unless a limited use or more limited life stage designation is declared elsewhere (e.g., "adult formula"). These directions shall be expressed in common terms and shall appear prominently on the label. Feeding directions shall, at a minimum, state, "feed (weight/unit of product) per (weight only) of dog (or cat)." The frequency of feeding shall also be specified. ~~(3-30-07)~~( )

b. When a dog or cat food is intended for use by or under the supervision or direction of a veterinarian, the statement: "use only as directed by your veterinarian" may be used in lieu of feeding directions. (3-30-07)

c. Specialty pet food, including snacks or treats, labeled as complete and balanced for any or all life stages, as provided in Subsection 475.06.a., shall list feeding directions on the product label. These feeding directions shall be adequate to meet the nutrient requirements of the intended species of specialty pet as recommended by the AAFCO-recognized nutritional authority. These directions shall be expressed in common terms and shall appear prominently on the label. The frequency of feeding shall also be specified. (3-30-07)

08. Statements of Calorie Content. (3-30-07)

a. Except as required in Subsection 475.09, the label of a dog or cat food may bear a statement of calorie content when the label meets all of the following: (3-30-07)

i. The statement shall be separate and distinct from the Guaranteed Analysis and shall appear under the heading "Calorie Content"; (3-30-07)

ii. The statement shall be measured in terms of metabolizable energy (ME) on an "as fed" basis and must be expressed as "kilocalories per kilogram" ("kcal/kg") of product, and may also be expressed as kilocalories per familiar household measure (e.g., cans, cups, pounds); and (3-30-07)

iii. The calorie content is determined by one (1) of the following methods: (3-30-07)

(1) By calculation using the following "Modified Atwater" formula: (3-30-07)

(a) ME(kcal/kg) = 10[(3.5 x CP) + (8.5 x CF) + (3.5 x NFE)] (3-30-07)

(b) Where: ME = Metabolizable Energy:

CP = % crude protein "as fed"
CF = % crude fat "as fed"
NFE = % nitrogen-free extract (carbohydrate) "as fed" and the percentages of CP and CF are the arithmetic averages from proximate analyses of at least four production batches of the product, and the NFE is calculated as the difference between one hundred (100) and the sum of CP, CF, and the percentages of crude fiber, moisture and ash (determined in the same manner as CP and CF); or

(3-30-07)

(2) In accordance with a testing procedure established by AAFCO. (3-30-07)

iv. An affidavit shall be provided upon request to the Department substantiating that the calorie content was determined by: (3-30-07)

(1) Subsection 475.08.a.iii.(1) in which case the results of all the analyses used in the calculation shall accompany the affidavit; or (3-30-07)

(2) Subsection 475.08.a.iii.(2) in which case the summary data used in the determination of calorie content shall accompany the affidavit. (3-30-07)

v. The calorie content statement shall appear as one (1) of the following: (3-30-07)

(1) The claim on the label or other labeling shall be followed parenthetically by the word "calculated" when the calorie content is determined in accordance with Subsection 475.08.a.iii.(1); or (3-30-07)

(2) The value of calorie content stated on the label which is determined in accordance with Subsection 475.08.a.iii.(2) shall not exceed or understate the value determined in accordance with Subsection 475.08.a.iii.(1) by more than fifteen percent (15%). (3-30-07)

b. Comparative claims shall not be false, misleading, or given undue emphasis and shall be based on the same methodology for the products compared. (3-30-07)

09. Descriptive Terms. (3-30-07)

a. Calorie Terms: (3-30-07)

i. "Light"; (3-30-07)

(1) A dog food product which bears on its label the terms "light," "lite," "low calorie," or words of similar designation shall: (3-30-07)

(a) Contain no more than three thousand one hundred (3,100) kcal ME/kg for products

containing less than twenty percent (20%) moisture, no more than two thousand five hundred (2,500) kcal ME/kg for products containing twenty percent (20%) or more but less than sixty-five percent (65%) moisture, and no more than nine-hundred (900) kcal ME/kg for products containing sixty-five percent (65%) or more moisture; and (3-30-07)

(b) Include on the label a calorie content statement: (3-30-07)

(i) In accordance with the format provided in Subsection 475.08; and (3-30-07)

(ii) Which states no more than three-thousand one-hundred (3,100) kcal ME/kg for products containing less than twenty percent (20%) moisture, no more than two-thousand five-hundred (2,500) kcal ME/kg for products containing twenty percent (20%) or more but less than sixty-five percent (65%) moisture, and no more than nine hundred (900) kcal ME/kg for products containing sixty-five percent (65%) or more moisture; and (3-30-07)

(c) Include on the label feeding directions which reflect a reduction in calorie intake consistent with the intended use. (3-30-07)

(2) A cat food product which bears on its label the terms “light,” “lite,” “low calorie,” or words of similar designation shall: (3-30-07)

(a) Contain no more than three thousand two hundred fifty (3,250) kcal ME/kg for products containing less than twenty percent (20%) moisture, no more than two thousand six hundred fifty (2,650) kcal ME/kg for products containing twenty percent (20%) or more but less than sixty-five (65%) moisture, and no more than nine-hundred fifty (950) kcal ME/kg for products containing sixty-five percent (65%) or more moisture; and (3-30-07)

(b) Include on the label a calorie content statement: (3-30-07)

(i) In accordance with the format provided in Subsection 475.08; and (3-30-07)

(ii) Which states no more than three thousand two hundred fifty (3,250) kcal ME/kg for products containing less than twenty percent (20%) moisture, no more than two thousand six hundred fifty (2,650) kcal ME/kg for products containing twenty percent (20%) or more but less than sixty-five (65%) moisture, and no more than nine-hundred fifty (950) kcal ME/kg for products containing sixty-five percent (65%) or more moisture; and (3-30-07)

(c) Include on the label feeding directions which reflect a reduction in calorie intake consistent with the intended use. (3-30-07)

ii. “Less” or “Reduced Calories”; (3-30-07)

(1) A dog or cat food product which bears on its label a claim of “less calories,” “reduced calories,” or words of similar designation, shall include on the label: (3-30-07)

(a) The name of the product of comparison and the percentage of calorie reduction (expressed on an equal weight basis) explicitly stated and juxtaposed with the largest or most prominent use of the claim on each panel of the label on which the term appears; and (3-30-07)

(b) The comparative statement printed in type of the same color and style and at least one-half (1/2) the type size used in the claim; and (3-30-07)

(c) A calorie content statement in accordance with the format provided in Subsection 475.08; and (3-30-07)

(d) Feeding directions which reflect a reduction in calories compared to feeding directions for the product of comparison. (3-30-07)

(2) A comparison between products in different categories of moisture content (i.e., less than twenty percent (20%), twenty percent (20%) or more but less than sixty-five percent (65%), sixty-five percent (65%) or more) is misleading. (3-30-07)

b. Fat Terms. (3-30-07)

i. "Lean"; (3-30-07)

(1) A dog food product which bears on its label the terms "lean," "low fat," or words of similar designation shall: (3-30-07)

(a) Contain no more than nine percent (9%) crude fat for products containing less than twenty percent (20%) moisture, no more than seven percent (7%) crude fat for products containing twenty percent (20%) or more but less than sixty-five percent (65%) moisture, and no more than four percent (4%) crude fat for products containing sixty-five percent (65%) or more moisture; (3-30-07)

(b) Include on the product label in the Guaranteed Analysis: (3-30-07)

(i) A maximum crude fat guarantee immediately following the minimum crude fat guarantee in addition to the mandatory guaranteed analysis information as specified in Subsection 475.03.a.i.; and (3-30-07)

(ii) A maximum crude fat guarantee which is no more than nine percent (9%) crude fat for products containing less than twenty percent (20%) moisture, no more than seven percent (7%) crude fat for products containing twenty percent (20%) or more but less than sixty-five percent (65%) moisture, and no more than four percent (4%) crude fat for products containing sixty-five percent (65%) or more moisture. (3-30-07)

ii. A cat food product which bears on its label the terms "lean," "low fat," or words of similar designation shall: (3-30-07)

(a) Contain a maximum percentage of crude fat which is no more than ten percent (10%) crude fat for products containing less than twenty percent (20%) moisture, no more than eight percent (8%) crude fat for products containing twenty percent (20%) or more but less than sixty-five percent (65%) moisture, and no more than five percent (5%) crude fat for products containing sixty-five percent (65%) or more moisture; and (3-30-07)

(b) Include on the product label in the Guaranteed Analysis: (3-30-07)

(i) A maximum crude fat guarantee immediately following the minimum crude fat guarantee in addition to the mandatory guaranteed analysis information as specified in Regulation PF4(a)(1); and (3-30-07)

(ii) A maximum crude fat guarantee which is no more than ten percent (10%) crude fat for products containing less than twenty percent (20%) moisture, no more than eight percent (8%) crude fat for products containing twenty percent (20%) or more but less than sixty-five percent (65%) moisture, and no more than five percent (5%) crude fat for products containing sixty-five percent (65%) or more moisture. (3-30-07)

iii. "Less" or "Reduced Fat"; (3-30-07)

(1) A dog or cat food product which bears on its label a claim of "less fat," "reduced fat," or words of similar designation, shall include on the label: (3-30-07)

(a) The name of the product of comparison and the percentage of fat reduction (expressed on an equal weight basis) explicitly stated and juxtaposed with the largest or most prominent use of the claim on each panel of the label on which the term appears; and (3-30-07)

(b) The comparative statement printed in type of the same color and style and at least one-half (1/2) the type size used in the claim; and (3-30-07)

(c) A maximum crude fat guarantee in the Guaranteed Analysis immediately following the minimum crude fat guarantee in addition to the mandatory Guaranteed Analysis information as specified in Subsection 475.03.a.i. (3-30-07)

(2) A comparison on the label between products in different categories of moisture content (i.e., less than twenty percent (20%), twenty percent (20%) or more but less than sixty-five percent (65%), sixty-five percent (65%) or more) is misleading. (3-30-07)

10. Manufacturer or Distributor; Name and Address. (3-30-07)

a. The label of a pet food or specialty pet food shall specify the name and address of the manufacturer or distributor. The statement of the place of business shall include the street address, city, state, and zip code; however, the street address may be omitted if such street address is shown in a current city directory or telephone directory for the city listed on the label. (3-30-07)

b. When a person manufactures or distributes a pet food or specialty pet food in a place other than the principal place of business, the label may state the principal place of business in lieu of the actual place where each package of such pet food or specialty pet food was manufactured or packaged or from where each package is to be distributed. (3-30-07)

(BREAK IN CONTINUITY OF SECTIONS)

600. DETAINED COMMERCIAL FEEDS.

01. Stop Sale, Use, or Removal. Any commercial feed or identified lot of commercial feed that is the subject of a "stop sale, use, or removal" order under Section 25-2711(1), Idaho Code, may be released from such an order by the following means: ~~(3-30-07)~~( )

a. A commercial feed detained for nutritional violation(s) may be: (4-21-92)

i. Remanufactured, using ingredients listed on the approved label, to meet label guarantees. The remixed feed shall be resampled and analyzed to ensure compliance prior to its return to sale. (4-21-92)

ii. Relabeled to reflect actual values, upon approval of a new label and registration, provided that these values are appropriate for their intended use. (4-21-92)

iii. Returned to the manufacturer if the seller and manufacturer are not the same. (4-21-92)

iv. Diverted to an alternate use such as inclusion into another feed, or feeding to the manufacturer's own livestock, provided that it is appropriate for the diverted use and that it does not conflict with labeling or other State or Federal requirements for the diverted use. (4-21-92)

v. Destroyed. (4-21-92)

b. A commercial feed detained for a drug or antibiotic violation may be: (4-21-92)

i. Remanufactured to meet label guarantees. The remixed feed shall be resampled and analyzed prior to its return to sale. (4-21-92)

ii. Returned to the manufacturer if the seller and manufacturer are not the same. (4-21-92)

iii. Diverted to an alternate use, provided that it is appropriate for the diverted use labeling or other State or Federal requirements for the diverted use. (4-21-92)

iv. Destroyed. (4-21-92)

c. A commercial feed deemed to be adulterated under Section 25-2707(1), Idaho Code, or which cannot safely be remanufactured, relabeled, or diverted to an alternate use may be: (3-30-07)

i. Returned to the manufacturer if the seller and manufacturer are not the same. (4-21-92)

ii. Destroyed. (4-21-92)

02. Appropriate Compliance Procedure. The Department shall indicate which of the

above listed compliance procedures are appropriate for the particular "withdrawal from sale" order. The seller shall indicate which procedure is to be followed and, upon approval from the Department, shall carry out the procedure within thirty (30) days. Other procedures may be considered upon application by the state inspector or seller to the Chief, Bureau of Feeds and Plant Services, Idaho Department of Agriculture, Boise, Idaho. (4-21-92)

03. Violation of Stop Sale, Use, or Removal Order. Any violation of the terms or conditions of a Stop Sale, Use, or Removal Order shall be considered a prohibited act. ( )

IDAPA 02 - DEPARTMENT OF AGRICULTURE

02.06.10 - RULES GOVERNING THE PALE CYST NEMATODE (*GLOBODERA PALLIDA*)

DOCKET NO. 02-0610-0901 (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 2011 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 22-2013, Idaho Code, and is based on and parallels a USDA interim rule published in the Federal Register Volume 72, No. 176, September 12, 2007, pages 51975-51988. As amended by the final rule published in the Federal Register Vol. 74, No. 81, April 29, 2009, pages 19374-19382.

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:

This rule addresses areas and fields already under regulation by USDA and ISDA. The rule incorporates by reference the changes listed in the final Federal rule and makes some technical corrections. By maintaining and enforcing this rule, which parallels the federal rule, the department avoids having the entire state put under a federal quarantine, which would affect the potato industry along with several other agricultural industries. This pending rule makes a change in section 02.06.10.014 of the proposed rule by adding an exemption that allows pale cyst nematode host plants to be planted on an infested field as a part of the USDA / Idaho State Department of Agriculture eradication program.

The text of the pending rule has been amended in accordance with Section 67-5227, Idaho Code. Only those sections that have changes that differ from the proposed text are printed in this bulletin. The complete text of the proposed rule was published in the December 2, 2009 Idaho Administrative Bulletin, Vol. 9-12, pages 38 through 41**.**

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: N/A

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 18th day of August, 2010.

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

THIS NOTICE PUBLISHED WITH THE TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is **October 1, 2009.**

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 rulemaking procedures have been initiated. The action is authorized pursuant to Section 22-2013, 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 December 16, 2009.

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:

A temporary rule is needed to address areas and fields already under regulation by USDA and ISDA. This rule was published as a temporary rule under docket 02-0610-0701 on December 5th, 2007, and approved as a temporary rule by the 2008 and 2009 legislatures. This rule was based on and parallels a USDA interim rule published in the Federal Register Volume 72, No. 76, September 12, 2007. USDA published the final rule in the Federal Register Vol. 74, No. 81, April 29, 2009. The rule change incorporates by reference the changes listed in the final Federal rule and makes some technical corrections. By maintaining and enforcing this rule, which parallels the federal rule, the department avoids having the entire state put under a federal quarantine, which would affect several agricultural industries besides the potato industry.

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

Compliance with federal regulation changes.

FEE SUMMARY: Pursuant to Section 67-5226(2), Idaho Code, the Governor has found that the fee or charge being imposed or increased is justified and necessary to avoid immediate danger and the fee is described herein:

No fees or charges are being imposed through this rulemaking.

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:

There is no impact to the general fund as a result of this rulemaking.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because this change is needed for compliance with federal regulation changes.

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

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before December 23, 2009.

DATED this 13th day of October, 2009.

THE FOLLOWING IS THE TEXT OF DOCKET NO. 02-0610-0901

IDAPA 02, TITLE 06, CHAPTER 10

02.06.10 - RULES GOVERNING THE PALE CYST NEMATODE *(Globodera pallida)*

000. LEGAL AUTHORITY.
This chapter is adopted under the legal authority of Section 22-2013, Idaho Code. ( )

001. TITLE AND SCOPE.

01. Title. The title of this chapter is IDAPA 02.06.10, "Rules Governing the Pale Cyst Nematode (*Globodera pallida*)." ( )

02. Scope. The purpose and goal of this rule is to prevent the spread of Pale Cyst Nematode (*Globodera pallida*) throughout Idaho and the United States. ( )

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

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

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 02.06.10 incorporates by reference: ( )

01. 7 CFR Part 301 SubPart - Pale Cyst Nematode. Sections 301.86 through 301.86-9 as published under Docket No. APHIS-2006-0143 in the Federal Register Volume 72, No. 176, Wednesday, September 12, 2007, and as amended under Docket No. APHIS-2006-0143 published in the Federal Register Vol. 74, No. 81, Wednesday, April 29, 2009, and except as amended below in this rule. ( )

02. USDA APHIS PPQ Treatment Manual Schedule T406-d, Revision 10, September 2006. ( )

03. 7 CFR Part 305 - Phytosanitary Treatments, as revised September 12, 2007. ( )

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

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

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

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

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

05. Fax Number. The fax number of the central office is (208) 334-2283. ( )

006. PUBLIC RECORDS ACT COMPLIANCE.
These rules are public records and are available for inspection and copying at the department. ( )

007. -- 009. (RESERVED).

010. DEFINITIONS AND TERMS.
The Idaho State Department of Agriculture adopts the definitions set forth in Title 22, Chapter 20, Idaho Code. In addition, as used in this chapter: ( )

01. Inspector. Any employee of ISDA, APHIS, the U.S. Department of Agriculture, or other person authorized by the USDA APHIS Administrator or ISDA Director to perform the duties required under this rule. ( )

02. Interstate. From any state into or through any other state. ( )

03. Intrastate. Movement within the boundaries of the state of Idaho. ( )

011. ABBREVIATIONS.

01. APHIS. Animal and Plant Health Inspection Service. ( )

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

03. PCN. Pale Cyst Nematode. ( )

04. PPQ. Plant Protection and Quarantine. ( )

05. USDA. United States Department of Agriculture. ( )

012. INTRASTATE MOVEMENT.
No regulated articles may move within the state of Idaho without complying with the federal regulations, as incorporated by reference in Subsection 004.01 in this rule. ( )

013. QUARANTINED AREAS.
Those areas of the State quarantined or regulated for PCN under 7 CFR Part 301 Sections 301.86-3 as published on the USDA APHIS PPQ internet website at http://www.aphis.usda.gov/plant_health/plant_pest_info/potato/pcn.shtml. ( )

014. RESTRICTIONS.

01. Movement From a Non-Quarantined Area. Movement of regulated articles from a non-quarantined area is subject to inspection by an inspector. Permits and certifications are not required. ( )

02. Movement From a Quarantined Area. Movement of regulated articles from a quarantined area is subject to the provision of Section 015 of this rule. ( )

03. Other Restrictions. No potatoes, tomatoes, eggplants, or any other known host crops may be planted in the infested fields. Soil must not be moved from the infested fields. Any equipment leaving the infested fields must be sanitized and certified using USDA APHIS approved protocols. ( )

04. Seed Potatoes. Seed potatoes may not be grown in a quarantined area. ( )

05. Exemptions. Host plant material may be planted in infested fields under the authorization and supervision of the USDA and Idaho State Department of Agriculture eradication program. ( )

015. CONDITIONS FOR INTRASTATE OR INTERSTATE MOVEMENT OF REGULATED ARTICLES.
Regulated articles may only be moved intrastate or interstate from a quarantined area by a person under a compliance agreement if accompanied by a certificate or limited permit issued by an inspector in accordance with 7 CFR Part 301 Sections 301.86-4 and 5 as incorporated by reference in Section 004 of this rule. ( )

016. -- 019. (RESERVED).

020. INSPECTION, SAMPLING, AND TESTING.
In order to accomplish the purposes of this rule, an inspector may enter upon and inspect any public or private premises, lands, means of conveyance, or article of any person within this State, for the purpose of inspecting, surveying, sampling, testing, treating, controlling, or destroying any soil, plant, or plant material thought to or found to contain or be infested with Pale Cyst Nematode. ( )

021. -- 024. (RESERVED).

025. PENALTIES.
Any person violating any of the provisions of these rules will be subject to the penalty provisions of Title 22, Chapter 20, Idaho Code. ( )

026. -- 999. (RESERVED).

IDAPA 02 - DEPARTMENT OF AGRICULTURE

02.06.12 - RULES PERTAINING TO THE IDAHO FERTILIZER LAW

DOCKET NO. 02-0612-1001

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2011 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 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:

Update the incorporation by reference section to reflect the 2011 Official Publication of the Association of American Plant Food Control Officials; Basic housekeeping (punctuation correction); Provide information regarding online availability and purchase of documents incorporated by reference; Permit "net volume" guarantees on liquid fertilizer labels; Correct references to "Brand" registration as brands are no longer required to be registered; Prohibit sliding-scale guarantees (i.e. Total Nitrogen 15-18%) on fertilizer labels; and allow multi-use labeling of fertilizers.

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the October 6, 2010 Idaho Administrative Bulletin, Vol.10-10, pages 65 through 68.

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: N/A

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Rick Killebrew, Program Manager at (208) 332-8697.

DATED this 1st day of November, 2010.

Brian J. Oakey
Deputy Director
Idaho State Department of Agriculture
2270 Old Penitentiary Rd
P.O. Box 790
Boise, Idaho 83701
Phone: (208) 332-8503
Fax: (208) 334-2170

THE FOLLOWING NOTICE 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 October 20, 2010.

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:

Update the incorporation by reference section to reflect the 2011 Official Publication of the Association of American Plant Food Control Officials; basic housekeeping (punctuation correction); provide information regarding online availability and purchase of documents incorporated by reference; permit "net volume" guarantees on liquid fertilizer labels; correct references to "Brand" registration as brands are no longer required to be registered; prohibit sliding-scale guarantees (i.e. Total Nitrogen 15-18%) on fertilizer labels; and allow multi-use labeling of fertilizers.

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: N/A

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 is the recognized and primary reference book 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 Rick Killebrew, Program Manager at (208) 332-8697.

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 27, 2010.

DATED this 18th day of August, 2010.

THE FOLLOWING IS THE TEXT OF DOCKET NO. 02-0612-1001

004. INCORPORATION BY REFERENCE.
Copies of these documents may be ~~*obtained from*~~ 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: ~~*(3-30-01)*~~( )

01. The Association of American Plant Food Control Officials (AAPFCO) Official Publication. The Terms, Ingredient Definitions, and Policies, as published in the "201~~*0*~~1 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~~:~~. ~~*or*~~ 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: www.aapfco.org/publication_order_form.pdf. ~~*(3-29-10)*~~( )

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. ~~*(4-2-08)*~~( )

(BREAK IN CONTINUITY OF SECTIONS)

010. FERTILIZER REGISTRATION.
Each ~~*brand and*~~ separately identifiable fertilizer product ~~*under each brand*~~ shall be registered pursuant to Section 22-605, Idaho Code. ~~*(3-30-01)*~~( )

(BREAK IN CONTINUITY OF SECTIONS)

030. FERTILIZER LABELS.
The following information, in the format presented, is the minimum required for all fertilizer labels. For packaged products, this information shall either appear on the package, or be printed on a tag and attached to the package. This information shall be in a readable and conspicuous form. For bulk products, this same information in written or printed form shall accompany delivery and be supplied to the purchaser at time of delivery. (3-30-01)

01. Net Weight or Net Volume, If Liquid. Weight per gallon shall be included on the label of liquid fertilizers if net volume is stated. ~~(3-30-01)~~( )

02. Brand. (3-30-01)

03. Grade. Grade (provided that the grade shall not be required when no primary nutrients are claimed). (3-30-01)

04. Guaranteed Analysis. A fertilizer label must contain the results of the guaranteed analysis. Zero (0) guarantees should not be made and shall not appear in any statement except in nutrient guarantee itemizations. The sliding scale method of expressing a guaranteed analysis on fertilizer labels (for example, "Available Phosphate fifteen to eighteen percent (15-18%)") is prohibited. If chemical forms of nitrogen are claimed or required, said form shall be set forth on the label. Nutrients other than nitrogen, phosphate and potash shall be set forth, on an elemental basis, as required by Subsection 011.01. The results of the guaranteed analysis required by this rule shall be in the following form:

Total Nitrogen	(N). _____%
_____%	Ammoniacal Nitrogen
_____%	Nitrate Nitrogen
_____%	Water Insoluble Nitrogen
_____%	Urea Nitrogen
_____%	(Other recognized and determinable forms of N)
Available Phosphate (P_2O_5)	_____%
Soluble Potash (K_2O)	_____%
(Other nutrients, elemental basis)	_____%

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

05. Sources. Sources of nutrients shall be listed below the completed guaranteed analysis statement. (3-30-01)

06. Name and Address. Name and address of manufacturer, guarantor or registrant.

(4-2-08)

07. Specialty Fertilizers. For specialty fertilizers distributed to the end user, the label shall set forth adequate directions for use. Such directions may include, but are not limited to: (3-30-01)

a. The recommended application rate or rates in units of weight or volume per unit of area coverage (where application rates are given in volume, the manufacturer shall provide the bulk density for the product on the label); (3-30-01)

b. Proper seasonal times and minimum intervals to apply the product when plants can rapidly utilize nutrients and loss to the environment can be minimized; and (3-30-01)

c. The statement "Apply Only As Directed" or a statement of similar designation. (3-30-01)

08. Packaging. Refer to Idaho Department of Agriculture rules, IDAPA 02.02.14, "Rules for Weights and Measures," for the specific requirements relating to product identity, declaration of quantity and prescribed units. (3-30-01)

~~***031. MULTI-LABELING.***~~
~~*The labeling of a fertilizer as a plant nutrient and as a product appropriate for another use, as well as including directions for use and grade guarantees for other than the contents of the container, a practice known as "multi-labeling," is prohibited.* (3-30-01)~~

03~~2~~1. -- 034. (RESERVED).

035. ~~*BRAND AND*~~ PRODUCT REGISTRATION.

01. ~~*Brand*~~ Registration. All fertilizer companies, including companies engaged in custom-formula mixing of dry or liquid fertilizers, shall comply with the ~~*brand and*~~ product registration requirements of the Idaho Fertilizer Act of 2000, Section 22-605, Idaho Code, subject to the provisions of this chapter. ~~(3-30-01)~~( )

02. Alteration From Original State. When a fertilizer is mixed, added to, or in any way changed from its original grade or its content of secondary or minor nutrients, it is a different product, and must be registered as provided under Section 22-605, Idaho Code. (3-30-01)

03. Registering -- Altered ~~*Brands*~~ Fertilizers. When a registered ~~*brand or*~~ grade is altered by any commercial fertilizer manufacturer or ultimate dealer, such manufacturer or ultimate dealer, shall register the altered ~~*brand or*~~ grade as provided under Section 22-605, Idaho Code. ~~(3-30-01)~~( )

04. Brand Name. The addition of another prominent name or graphic design to the ~~*registered*~~ brand displayed on the label, other than descriptive words associated with the grade, shall constitute a different brand and thus, must be registered as provided under Section 22-605, Idaho Code. For example, changing "Rose Bud 5-10-5" to "Kilmer's Rose Bud 5-10-5" would constitute a change in brand. ~~(3-30-01)~~( )

05. Sale of Fertilizer. When a commercial fertilizer is removed from the package or vehicle in which it was placed by the original registrant and then offered for sale by a person other than the original registrant, it is a different product and shall be registered in accordance with Section 22-605, Idaho Code, except that it shall not be subject to an additional inspection fee as provided under Section 22-608, Idaho Code, provided that said fee was paid on the product by the original or prior registrant. (3-30-01)

IDAPA 02 - DEPARTMENT OF AGRICULTURE

02.06.16 - CROP RESIDUE DISPOSAL RULES

DOCKET NO. 02-0616-1001 (CHAPTER REPEAL)

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2011 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 22-4801, 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:

Repeal the rule in its entirety because the 2008 Legislature moved the Crop Residue Burning program from the Idaho State Department of Agriculture to the Division of Environmental Quality, who developed new rules for Crop Residue Burning, thereby leaving 02.06.16 obsolete.

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the October 6, 2010 Idaho Administrative Bulletin, Vol.10-10, page 69**.**

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: N/A

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Lloyd B. Knight, Administrator, at (208) 332-8620.

DATED this 1st day of November, 2010.

Brian J. Oakey, Deputy Director
Idaho State Department of Agriculture
2270 Old Penitentiary Rd
P.O. Box 790
Boise, Idaho 83701
Phone: (208) 332-8503
Fax: (208) 334-2170

THE FOLLOWING NOTICE 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 22-4801, 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 20, 2010.

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:

Repeal the rule in its entirety because the 2008 Legislature moved the Crop Residue Burning program from the Idaho State Department of Agriculture to the Division of Environmental Quality, who developed new rules for Crop Residue Burning, thereby leaving 02.06.16 obsolete.

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: N/A

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because the 2008 Legislature moved the Crop Residue Burning program from the Idaho State Department of Agriculture to the Division of Environmental Quality, who developed new rules for Crop Residue Burning, thereby leaving 02.06.16 obsolete.

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 Lloyd B. Knight, Administrator, at (208) 332-8620.

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 27, 2010.

DATED this 27th day of August, 2010.

IDAPA 02.06.16 IS BEING REPEALED IN ITS ENTIRETY

IDAPA 02 - DEPARTMENT OF AGRICULTURE

02.06.33 - ORGANIC FOOD PRODUCT RULES

DOCKET NO. 02-0633-1001

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2011 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(s) 22-1103, Idaho Code.

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

This rulemaking will incorporate by reference the June 25, 2010 version of the National Organic Program Regulations, 7 CFR Part 250. The Idaho State Department of Agriculture ("ISDA") will no longer offer certification seal stickers for certified organic products in order to prevent the misuse of the certification seal. All references of "gross organic income" will be changed to "gross organic sales" in order to clarify the fee requirements in the Rules.

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the October 6, 2010 Idaho Administrative Bulletin, Vol. 10-10, pages 70 through 72**.**

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: N/A

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the proposed rule, contact Brandon Lamb, Agricultural Program Manager, 208-332-8675.

DATED this 1st day of November, 2010.

Brian J. Oakey
Deputy Director
Idaho State Department of Agriculture
2270 Old Penitentiary Road
P.O. Box 790
Boise, ID 83701
Phone: (208) 332-8503
Fax: (208) 334-2170

THE FOLLOWING NOTICE 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 22-1103, 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 20, 2010.

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:

This rulemaking will incorporate by reference the June 25, 2010 version of the National Organic Program Regulations, 7 CFR Part 250. The Idaho State Department of Agriculture ("ISDA") will no longer offer certification seal stickers for certified organic products in order to prevent the misuse of the certification seal. All references of "gross organic income" will be changed to "gross organic sales" in order to clarify the fee requirements in the Rules.

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: N/A

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because of the simple nature of the rule changes. The United State Department of Agriculture requires that ISDA follow the National Organic Program Regulations in order for ISDA to be an accredited agent. ISDA will no longer offer certification seal stickers in order to protect the integrity of the organic certification. This rulemaking also corrects confusing references to clarify the fee requirements.

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:

All accredited agents must follow the National Organic Program Regulations in 7 CFR Part 205.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Brandon Lamb, Agricultural Program Manager, 208-332-8675.

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 27, 2010.

DATED this 26th day of August, 2010.

THE FOLLOWING IS THE TEXT OF DOCKET NO. 02-0633-1001

004. INCORPORATION BY REFERENCE.

The ~~*October 21, 2007*~~ Code of Federal Regulations, ~~*(CFR)*~~ Title 7, ~~*CFR*~~ Part 205, ~~*Subchapter M-Organic Foods Production Act Provisions*~~ National Organic Program Regulations (July 7, 2010), except sections 205.620 through 205.6~~4~~22, is incorporated by reference and can be viewed at http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?c=ecfr&sid=37e82b8975625fa42c381cd0fbb522d8&rgn=div5&view=text&node=7:3.1.1.9.32&idno=7. Copies of this document may be obtained from the Idaho State Department of Agriculture (ISDA), 2270 Old Penitentiary Road, PO Box 790, Boise, Idaho 83701~~ *and are also available at the state law library*~~. ~~*(4-2-08)*~~( )

(BREAK IN CONTINUITY OF SECTIONS)

200. IDAHO ORGANIC CERTIFICATION SEAL.

01. Description of Seal. The Idaho seal must replicate the form and design of the example in Figure 1 and must be printed legibly and conspicuously.

FIGURE 1

(4-2-03)

02. Utilization of Seal. The Idaho organic certification seal as approved by the

director and as shown in Figure 1, may be imprinted or affixed on labels, packages or products, or used in advertising in any manner, shall signify that the standards and rules developed in accordance with the provisions of this rule and all other conditions of the provisions of this chapter have been met. (4-2-03)

a. Any container manufacturer may apply for authorization to imprint facsimiles of the ISDA organic certification seal on containers of organic products. (4-2-03)

b. Authorization granted to imprint facsimile seals shall be subject to review by the director on an annual basis, or more frequently if necessary. (4-2-03)

~~***c.*** *Seals are available at the Department at the cost of two and one-half cents ($.025) each plus Idaho sales tax.* (4-2-03)~~

(BREAK IN CONTINUITY OF SECTIONS)

301. CERTIFICATION REQUIREMENTS, DEADLINES AND FEES.

01. Certification Requirements and Deadlines. All applicants applying for certification with the Department, shall submit the application to the Department on forms prescribed by the Department by July 1st of each year. (3-29-10)

a. All organic food producers/handlers in Idaho with annual gross organic sales of more than five thousand dollars ($5,000) shall be certified with the Department, unless certified by agents other than the Department accredited under the National Organic Program. (3-19-07)

b. Producers/handlers with annual gross organic ~~*income*~~ sales of five thousand dollars ($5,000) or less may select certification in place of registration. ~~(3-19-07)~~( )

c. All organic food producers and organic handlers certifying with the Department are subject to an annual on-site inspection. (3-19-07)

d. Livestock producer and handler applications will be accepted throughout the year. (3-19-07)

02. Certification Fees. (3-29-10)

a. Organic producers/handlers with annual gross organic ~~*income*~~ sales of more than five thousand dollars ($5,000) up to fifteen thousand dollars ($15,000) or producers with annual gross income of five thousand dollars ($5,000) or less requesting certification - One hundred twenty-five dollars ($125). ~~(3-19-07)~~( )

b. Organic producer/handler with annual gross organic ~~*income*~~ sales of more than fifteen thousand dollars ($15,000) –Two hundred dollars ($200). ~~(3-19-07)~~( )

c. A person who produces and handles their own organic food products shall pay only one (1) annual certification fee based on gross annual organic sales. (3-19-07)

03. Certification Inspection Fees. (3-19-07)

a. The hourly rate is thirty-five dollars ($35) including travel time. (3-19-07)

b. Travel time from an inspector's normal duty station to the inspection site and return to normal duty station will be compensable time charged to the applicant. (3-19-07)

c. There will be a minimum charge of thirty-five dollars ($35) plus mileage for any inspection. (3-19-07)

d. A mileage rate as approved by the Board of Examiners will be included in the inspection fees. (3-19-07)

e. The costs for chemical residue analysis of soil or organically grown food products may be assessed against the producer or handler. (3-19-07)

f. Inspections conducted on weekends, holidays, or after normal office hours will be charged at an hourly rate of forty-seven dollars and fifty cents ($47.50) including travel time with a minimum charge of one (1) hour plus mileage. (3-19-07)

g. Upon approval by the Department, private inspectors may be utilized. The applicant shall bear the total cost of the private inspection. (3-29-10)

IDAPA 02 - DEPARTMENT OF AGRICULTURE

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

DOCKET NO. 02-0641-1001

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2011 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 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:

Update the incorporation by reference section to reflect the 2011 Official Publication of the Association of American Plant Food Control Officials; Provide information regarding online availability and purchase of documents incorporated by reference; Permit a guaranteed analysis of plant nutrients on labels of potting soils, landscape and garden soils that contain only levels of fertilizer sufficient to initiate growth; and permit multi-use labeling of soil amendment and plant amendment products.

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the October 6, 2010 Idaho Administrative Bulletin, Vol.10-10, pages 73 through 75.

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: N/A

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Rick Killebrew, Program Manager at (208) 332-8697.

DATED this 1st day of November, 2010.

Brian J. Oakey
Deputy Director
Idaho State Department of Agriculture
2270 Old Penitentiary Rd
P.O. Box 790
Boise, Idaho 83701
Phone: (208) 332-8503
Fax: (208) 334-2170

THE FOLLOWING NOTICE 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 October 20, 2010.

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:

Update the incorporation by reference section to reflect the 2011 Official Publication of the Association of American Plant Food Control Officials; provide information regarding online availability and purchase of documents incorporated by reference; permit a guaranteed analysis of plant nutrients on labels of potting soils, landscape and garden soils that contain only levels of fertilizer sufficient to initiate growth; and permit multi-use labeling of soil amendment and plant amendment products.

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: N/A

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 is the recognized and primary reference book of approved fertilizer terms and 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 Rick Killebrew, Program Manager at (208) 332-8697.

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 27, 2010.

DATED this 18th day of August, 2010.

THE FOLLOWING IS THE TEXT OF DOCKET NO. 02-0641-1001

004. INCORPORATION BY REFERENCE.
Copies of these documents may be ~~*obtained from*~~ 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: ~~*(4-6-05)*~~( )

01. The Association of American Plant Food Control Officials (AAPFCO) Official Publication. The terms, ingredient definitions and policies as published in the "201~~0~~1 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: www.aapfco.org/publication_order_form.pdf. ~~*(3-29-10)*~~( )

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. ~~*(4-2-08)*~~( )

(BREAK IN CONTINUITY OF SECTIONS)

030. SOIL AMENDMENT AND PLANT AMENDMENT LABELS.

01. Ingredient List. The label shall state the name of each ingredient in decreasing amounts present. (3-15-02)

02. Declaration of Ingredient Percentage Exemptions. The labeling requirements of the Idaho Soil and Plant Amendments Act of 2001, Section 22-2207(c), Idaho Code, requiring that soil and plant amending ingredients and other ingredients shall be stated in terms of

percentage is required except in the following cases: (3-15-02)

a. Horticultural growing media. (3-15-02)

b. Compost. (3-15-02)

03. Nutrient Claims and the Use of the Term "Fertilizer." (3-15-02)

a. The term "fertilizer" and like terms shall not be used in labeling or literature to describe a soil amendment or plant amendment. (3-15-02)

b. Nutrient claims do not change the primary intended use of a soil or plant amendment product. Any nutrient claim shall be provided on the labeling and literature as an estimated range and shall be stated as a percentage. Nutrient claims and estimates must be supported by lab analysis or documentation acceptable by the ISDA. (3-15-02)

c. Labeling or literature that makes nutrient claims or estimates is required to contain the following statement: "This product is recognized for its soil amendment characteristics. It is recognized that it has nutrient value. Any nutrient claims, verbal or written, are estimates and not guaranteed." (3-15-02)

d. At the discretion of the registrant, labeling or literature that does not make nutrient claims or estimates may contain the following statement: "This product is recognized for its soil amendment characteristics. It is recognized that it has nutrient value. Any nutrient claims, verbal or written, are estimates and not guaranteed." (3-15-02)

e. A guaranteed analysis of plant nutrients will be permitted on potting soils, landscape and garden soils, and related amendment products containing only levels of fertilizer sufficient to initiate growth. ( )

04. Microbiological Product. If the soil amendment or plant amendment is a microbiological product intended as an inoculum, the product label shall include an expiration date and state the number and kind of viable organisms per milliliter or, if the product is other than liquid, state the number and kind of viable organisms per gram. However, if the soil amendment or plant amendment is derived from a microbiological process or culture but is not intended as an inoculum, then the product label shall state that the product is not a viable culture. (3-15-02)

05. Ninety-Five Percent Rule. When a soil amendment or plant amendment is labeled as a specific material, such as peat moss or leaf mold, the product shall consist of not less than ninety-five percent (95%) of that specific material. (3-15-02)

06. Other Ingredients. When the name of an ingredient(s) appears on the label of a soil amendment or plant amendment and is not one of the ingredients required to be listed, the percentage of that ingredient(s) shall appear prominently in print of the same size and color. (3-15-02)

07. Warning or Caution Statements. The ISDA may require a registrant to include a warning or caution statement to ensure safety to handlers, crops, and the environment. (3-15-02)

~~*031. MULTI-LABELING.*~~
~~*The labeling of a soil amendment or plant amendment as an amendment and as a product appropriate for another use, as well as including directions for use and guarantees for other than the contents of the container, a practice known as "multi-labeling," is prohibited.* (3-15-02)~~

03~~2~~1. -- 048. (RESERVED).

IDAPA 46 - BOARD OF VETERINARY MEDICINE

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

DOCKET NO. 46-0101-1001

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2011 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 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 October 6, 2010 Idaho Administrative Bulletin, Vol. 10-10, pages 558 through 565**.**

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: N/A

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

DATED this 28th day of October, 2010.

Karen Ewing
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Board of Veterinary Medicine
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P. O. Box 7249
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Phone: (208) 332-8588
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THE FOLLOWING NOTICE 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 October 20, 2010.

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:

Rule 004 is being amended to identify a facsimile number for the Board of Veterinary Medicine (BVM) and authorize a procedure for filing of written communications and documents by facsimile, as enabled by Section 54-2105, Idaho Code.

Rule 150 is being amended to provide clarity to the definition of a valid veterinarian/ client/patient relationship (VCPR) regarding the time period for examination of an animal. A valid VCPR must exist prior to the administration, dispensation, distribution, or prescription of any legend/prescription drug or controlled substance as provided by Section 54-2115(15), Idaho Code.

Rule 200 is being amended to increase the term of service for members of the Certified Euthanasia Task Force (CETF) from two (2) years to three (3) years, due to the complex nature of the BVM's certified euthanasia program, as enabled by Section 54-2105, Idaho Code.

The BVM and CETF find it necessary to amend Rule 201 to clarify the three (3) specific categories of approved euthanasia, pre-euthanasia sedation, and chemical capture drugs. A 2009 rule change resulted in the allowance of all Certified Euthanasia Technicians (CETs) to use pre-euthanasia sedation drugs to enhance safety of personnel. This rule change provides clarification of the three (3) drug categories, and restricts the use of chemical capture drugs to CETs classified as law enforcement personnel, working at Certified Euthanasia Agencies classified as law enforcement agencies. In addition, the use of carbon monoxide-induced euthanasia chambers is removed as an approved method of euthanasia, based on the authorization of euthanasia by injection in the State of Idaho. Rule 201 is enabled by Section 54-2105, Idaho Code.

Rule 205 is being amended to remove unnecessary verbiage regarding euthanasia injections, and to reorganize a rule section regarding animal restraint and human safety. The modification of Rule 205 also includes clarification regarding certification invalidation and reinstatement procedures for CETs whose employment at a Certified Euthanasia Agency has been terminated, and adds a requirement that law enforcement CETs using chemical capture must attend recertification training every third year. Rule 201 is also enabled by Section 54-2105, Idaho Code.

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: N/A

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because one of the rule changes is merely a "housekeeping" matter to authorize facsimile filing with the agency and the remaining rulemaking has been a subject of discussion during several board meetings during which the Board received and considered input from affected parties. In addition, the bulk of the rulemaking concerns revisions to euthanasia procedures and requirements proposed by the Euthanasia Task Force, which is composed of representatives from the profession that perform or have an interest in animal euthanasia. For these reasons, the rulemaking has been substantially "vetted" to all interested and affected parties.

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 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 October 27, 2010.

DATED this 18th day of August, 2010.

THE FOLLOWING IS THE TEXT OF DOCKET NO. 46-0101-1001

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. ( )

~~d~~e. 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. One (1) original is sufficient for submission 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, originals and copies 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. ( )

(BREAK IN CONTINUITY OF SECTIONS)

150. VALID VETERINARIAN/CLIENT/PATIENT RELATIONSHIP.
An appropriate veterinarian/client/patient relationship will exist when: (7-1-97)

01. Responsibility. The veterinarian has assumed the responsibility for making medical judgements regarding the health of the animal and the need for medical treatment, and the client (owner or other caretaker) has followed the instructions of the veterinarian. (7-1-97)

02. Medical Knowledge. There is sufficient knowledge of the animal by the veterinarian to initiate at least a general or preliminary diagnosis of the medical condition of the animal. This means that the veterinarian has ~~*recently*~~ seen the animal within the last twelve (12) months ~~*and*~~ or is personally acquainted with the keeping and care of the animal, either by virtue of an examination of the animal, or by medically appropriate ~~*and timely*~~ visits to the premises where the animals are ~~*kept*~~ maintained within the last twelve (12) months. ~~*(7-1-97)*~~( )

03. Availability. The practicing veterinarian or designate is readily available for

follow-up in case of adverse reactions or failure of the regimen of therapy. (3-30-07)

(BREAK IN CONTINUITY OF SECTIONS)

200. EUTHANASIA TASK FORCE.
Pursuant to Section 54-2105(8), Idaho Code, a Certified Euthanasia Task Force (CETF) is established for the purpose of training, examining, and certifying euthanasia agencies and euthanasia technicians. The CETF shall consist of no fewer than five (5) members appointed by the Board. At its discretion, the Board may appoint itself as the CETF. The membership of the CETF shall always include at least one (1) member of the Board. New members shall be nominated by either the Board or the CETF and be confirmed by the Board. Applicants for a CETF position shall be certified euthanasia technicians (CETs) as defined by Section 54-2103(9), Idaho Code, and employed by a certified euthanasia agency as defined by Section 54-2103(8), Idaho Code, or be an Idaho licensed veterinarian. (4-2-08)

01. Term. Each member shall serve for ~~*two*~~ three (~~2~~3) years, at the pleasure of the Board. A CETF member may be eligible for reappointment. If there is a vacancy for any cause, the CETF or the Board shall nominate and the Board shall confirm a successor to fill the unexpired term. ~~*(7-1-97)*~~( )

02. Duties. The duties of CETF members shall include, but not be limited to, the following: (7-1-93)

a. Coordinate and provide euthanasia training classes as needed. (7-1-97)

b. Inspect and certify agencies. (3-30-01)

c. Review the applications, records, performance, methods and procedures used by agencies and persons seeking to be certified or to renew their certification as a Certified Euthanasia Agency (CEA) or Certified Euthanasia Technician (CET). (3-30-01)

d. Conduct written and practical examinations for applicants applying for certification and authorize certification through the Board. (3-30-01)

e. Recommend suspension or revocation of a certification when necessary. (3-30-01)

03. Compensation. Members of the CETF shall be compensated as provided by Section 59-509(n), Idaho Code. (7-1-97)

201. METHODS OF EUTHANASIA, PRE-EUTHANASIA SEDATION, AND CHEMICAL CAPTURE.
Methods ~~*of euthanasia*~~ approved by the CETF and used for the purpose of humanely euthanizing, sedating, or remote chemical capturing injured, sick, homeless, or unwanted pets and animals:
~~*(7-1-97)*~~( )

~~01. Approved Drugs.~~ ~~(7-1-97)~~

~~a~~01. **Euthanasia ~~d~~Drugs**. ~~are a~~Any Schedule II non-narcotic or Schedule III non-narcotic euthanasia drug covered by the Controlled Substances Act that has first been approved in writing by the ~~Idaho Board of Pharmacy, the~~ CETF and the Board. A list of approved euthanasia drugs is on file at the Board office. ~~(3-30-01)~~( )

~~b~~02. ~~Restraint~~ Pre-Euthanasia Sedation ~~d~~Drugs. ~~are a~~Any Schedule III or Schedule IV narcotic or non-narcotic controlled substance as defined by the Controlled Substances Act, or other legend drugs that have been approved for use by ~~certified~~ CEAs or CETs at a CEA facility. Such ~~restraint~~ pre-euthanasia sedation drugs shall be limited to those approved in writing by the ~~Idaho Board of Pharmacy, the~~ CETF and the Board. A list of approved ~~restraint~~ pre-euthanasia sedation drugs is on file at the Board office. ~~(3-29-10)~~( )

03. Remote Chemical Capture Restraint Drugs. Any Schedule III or Schedule IV narcotic or non-narcotic controlled substance as defined by the Controlled Substances Act, or other legend drugs that have been approved for use by CEAs or CETs. Such remote chemical capture restraint drugs shall be limited to those approved in writing by the CETF and the Board. A list of approved remote chemical capture restraint drugs is on file at the Board office. Use of remote chemical capture is limited to CEAs and CETs who are classified as law enforcement agencies or law enforcement personnel who have successfully completed a Board-approved course in remote chemical capture. ( )

~~02. Carbon Monoxide Induced Euthanasia Chambers. Carbon monoxide induced euthanasia chambers are acceptable only when the equipment is properly designed and operated.~~ ~~(3-30-01)~~

(BREAK IN CONTINUITY OF SECTIONS)

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~~.~~: ~~(3-30-01)~~( )

a. Demonstrate efficiency in ~~*venous access*~~ euthanasia techniques in the presence of a CETF or Board member, or a person approved by the Board: ~~(5-8-09)~~( )

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. Each animal shall be handled with the least amount of restraint necessary, but human safety shall always be the primary concern;* (3-30-01)~~

ii~~i~~. CETs shall be able to properly 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~~i~~.(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~~i~~.(3) of these rules. ~~(3-30-01)~~( )

(1) Intravenous Injections: The CET shall be able to properly and efficiently insert the needle into an animal's vein in no more than two (2) attempts on ninety percent (90%) of the animals injected by this method. ~~*IV injections in the cephalic vein shall be used on all dogs over the age of three (3) months unless the animal's physical condition or size makes this type of injection impossible, or the animal's behavior would make this type of injection a serious danger to the CET or handler.*~~ 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; ~~*(3-30-01)*~~( )

(2) Intraperitoneal Injections: The CET shall be able to efficiently insert the needle into the proper injection site in no more than two (2) attempts on ninety-five percent (95%) of the animals injected by this method. It is recommended that animals injected by this method be ~~*held or otherwise restrained by the handler until the animal is unconscious. If an animal cannot be held, it shall be*~~ placed into a cage with no other animals. The front of the cage shall be covered with cloth or other material that can keep the cage isolated from the normal activities in the euthanasia area. ~~*The animal shall be checked every five (5) minutes until death occurs.*~~ Intraperitoneal injections may be administered by a CET without a handler. ~~*(3-30-01)*~~( )

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

i~~v~~ii. No other injection procedures are permitted in any type of animal; (3-30-01)

~~*v. Injections: (3-30-01)*~~

~~*(1) On all injections, the CET shall aspirate the syringe to determine if the needle is in the correct site; (3-30-01)*~~

~~*(2) For human safety, the cap shall be kept on the needle until such time as the injection is ready to be made; (3-30-01)*~~

~~*(3) The needle shall be of the size and length appropriate for the specific animal involved; and (3-30-01)*~~

~~*(4) The dosage of any approved drug used shall be no less than the minimum dosage recommended by the drug's manufacturer. (7-1-97)*~~

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

~~*vii. Demonstrate an understanding of carbon monoxide-induced euthanasia chambers. (3-18-99)*~~

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, signed by the CET; (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; (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 signature of the CET who administered the drug; (3-30-01)

vi. A record of the amount of the drug wasted, if any, signed by the CET administering the drug; and (3-30-01)

vii. 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: ~~(3-18-99)~~( )

~~i. Once they have collapsed, injected animals shall be lowered to the surface on which they were being held at the time of injection. Injected animals shall not be permitted to drop or otherwise collapse without human support;~~ ~~(3-30-01)~~

i~~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; ~~(3-30-01)~~( )

ii~~i~~. The use of control sticks and other similar devices shall be limited to fractious or potentially dangerous animals; and (3-30-01)

i~~v~~ii. 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 ~~thirty (30) seconds after an IV or IC injection, within fifteen (15) minutes after an IP injection, or within~~ sixty (60) minutes ~~after an oral~~ of drug administration. If any animal does not show any of these signs within the designated time period~~s~~, 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: ~~(4-2-08)~~( )

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 ~~or assistant~~. ~~(3-30-01)~~( )

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, ~~as defined by Section 54-2103(8), Idaho Code~~ at which time the certification may be reinstated. ~~(3-30-01)~~( )

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 ~~CET or~~ CEA employer~~, or both,~~ 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. ~~(3-29-10)~~( )

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. ( )

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. ~~(3-30-01)~~( )

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. ( )

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)