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MEMORANDUM

TO: Rules Review Subcommittee of the Senate Agricultural Affairs Committee and the House Agricultural Affairs Committee

FROM: Principal Legislative Research Analyst - Katharine Gerrity

DATE: August 14, 2014

SUBJECT: Department of Agriculture

IDAPA 02.01.05 - Rules Governing Certificates of Free Sale (Docket No. 02-0105-1401)

IDAPA 02.03.03 - Idaho Department of Agriculture Rules Governing Pesticide and Chemigation Use and Application (Docket No. 02-0303-1401)

1. IDAPA 02.01.05 - Rules Governing Certificates of Free Sale

The Idaho State Department of Agriculture submits notice of proposed rulemaking at IDAPA 02.01.05 - Rules Governing Certificates of Free Sale. According to the department, the purpose of the rulemaking is to remove the requirement that payment of annual certification fees be made within thirty days of receipt of invoice.

The department states that negotiated rulemaking was not conducted because of the simple nature of the proposed rule. Rulemaking appears to be authorized pursuant to section 22-112, Idaho Code.

2. IDAPA 02.03.03 - Idaho Department of Agriculture Rules Governing Pesticide and Chemigation Use and Application

The Idaho State Department of Agriculture submits notice of proposed rulemaking at IDAPA 02.03.03 - Idaho Department of Agriculture Rules Governing Pesticide and Chemigation Use and Application. According to the department, the purpose of the rulemaking is to eliminate the specific names of low volatile liquid ester formulations and the date restriction of May 1 to October 1. The department states that the dates were put in rule to prevent the possibility of low volatile esters being applied on days when the air temperature might exceed eighty degrees. The department notes that the industry has informed it that the dates are no longer needed because many parts of the state do not reach the temperature threshold until June or July, if at all, and most low volatile ester herbicides now have temperature restrictions on the label. The department also states that the temperature restriction is a much better cut-off mechanism to reduce the likelihood of possible damage throughout the different parts of the state. In addition, the department notes that the newer low volatile ester herbicides being used around homes and gardens in Idaho are safer, more stable and more effective than older

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ester herbicides and have adequate restrictions on the label to protect against volatilization., The department states that the industry also recommended that the specific names of the herbicides be removed so that all liquid ester herbicides are included and not just those named in the existing rule. The rulemaking was apparently recommended by the Pesticide Licensing Advisory Committee.

The department notes that negotiated rulemaking was conducted in June of this year. The rulemaking appears to be authorized pursuant to section 22-3421, Idaho Code.

cc: Department of Agriculture
Brian J. Oakey