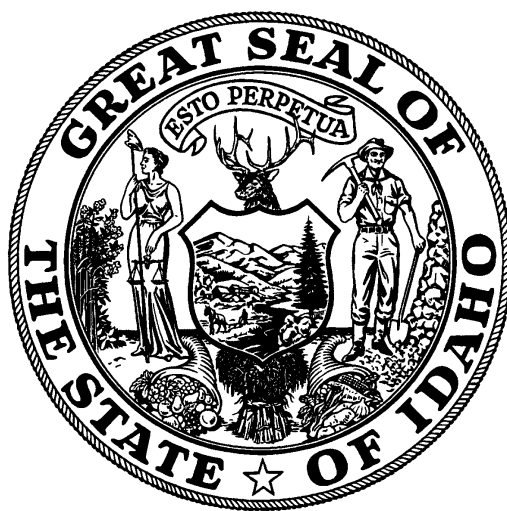


PENDING RULES COMMITTEE RULES REVIEW BOOK

**Submitted for Review Before
Senate Agricultural Affairs Committee
63rd Idaho Legislature
First Regular Session**



Prepared by:

*Office of the Administrative Rules Coordinator
Department of Administration*

January 2015

SENATE AGRICULTURAL AFFAIRS COMMITTEE

ADMINISTRATIVE RULES REVIEW

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IDAPA 02 - IDAHO STATE DEPARTMENT OF AGRICULTURE

02.01.05 - RULES GOVERNING CERTIFICATES OF FREE SALE

DOCKET NO. 02-0105-1401

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2015 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 67-5220(1) and 67-5220(2), Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 22-112, 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:

No changes have been made to the pending rule from the proposed rule. The amendment published in the proposed rule removes the requirement that payment for Certificates of Free Sale be made within thirty (30) days.

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the August 6, 2014 Idaho Administrative Bulletin, [Vol. 14-8, page 16 and 17](#).

IDAHO CODE SECTION 22-101A STATEMENT: This rule does regulate an activity not regulated by the federal government. The federal government does not regulate Certificates of Free Sale.

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: None.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Laura Johnson, Bureau Chief at (208) 332-8533.

DATED this 6th day of October, 2014.

Brian J. Oakey, Deputy Director
Idaho State Department of Agriculture
2270 Old Penitentiary Rd.
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THE FOLLOWING NOTICE WAS PUBLISHED WITH THE PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 22-112, 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 August 20, 2014.

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 amend IDAPA 02.01.05, Section 300, to remove the requirement that payment of annual certification fees be made within 30 days of receipt of invoice.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased:
No fee is being imposed or charged through the adoption of this proposed rule.

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:
There is no fiscal 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 of the simple nature of 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: NA

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Laura Johnson, Bureau Chief at (208) 332-8533.

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 27, 2014.

DATED this 3rd day of July, 2014.

LSO RULES ANALYSIS MEMO

THE FOLLOWING IS THE TEXT OF DOCKET NO. 02-0105-1401

300. FEES AND CHARGES.

01. Certification Fees. The Director will establish certification fees annually under this chapter. Fees will not exceed fifty dollars (\$50) each. Fees will be set by July 1 of each year. (3-29-10)

02. Notary Charges. Notary certification will be provided for each certificate at no additional charge. (3-29-10)

03. Shipping and Delivery Charges. There will be no fees for mailing costs unless the applicant requests express mailing. (3-29-10)

04. Express Mailing. The applicant will be responsible for express mailing charges. The applicant may provide an account number for the carrier, pre-paid air bill or be invoiced for the actual costs. (3-29-10)

05. Payment. The applicant will be sent an invoice for fees and charges and will be responsible for payment ~~within thirty (30) days. The Department will not issue a certificate of free sale to any company with an outstanding account balance.~~ (3-29-10) ()

IDAPA 02 - DEPARTMENT OF AGRICULTURE

02.02.14 - RULES FOR WEIGHTS AND MEASURES

DOCKET NO. 02-0214-1401

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2015 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 or rejected in part by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

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

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

To incorporate by reference the 2015 edition of the National Institute of Standards and Technology Handbook 44, Specifications, Tolerances, and Other Technical Requirements for Weighing and Measuring Devices. NIST documents are available online at <http://www.nist.gov/pml/wmd/index.cfm>.

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the July 2, 2014, Idaho Administrative Bulletin, **Vol. 14-7, pages 16 and 17**.

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

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

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

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Stacie Ybarra, Program Specialist at (208) 332-8691.

DATED this 7th Day of August, 2014.

Brian J. Oakey
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THE FOLLOWING NOTICE WAS PUBLISHED WITH THE PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 71-111, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than July 16, 2014.

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

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

To incorporate by reference the 2015 edition of the National Institute of Standards and Technology Handbook 44, specifications, tolerances, and other technical requirements for weighing and measuring devices. NIST documents are available online at <http://www.nist.gov/pml/wmd/index.cfm>.

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

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

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

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was not conducted because of the simple nature of the proposed amendment.

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

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

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Stacie Ybarra, Program Specialist at (208) 332-8692.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before July 23, 2014.

DATED this 22nd day of May, 2014.

LSO RULES ANALYSIS MEMO

THE FOLLOWING IS THE TEXT OF DOCKET NO. 02-0214-1401

004. INCORPORATION BY REFERENCE.

01. Required Reference Materials. The 201~~4~~⁵ 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. (~~3-20-14~~)()

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

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

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

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

IDAPA 02 - DEPARTMENT OF AGRICULTURE

02.02.14 - RULES FOR WEIGHTS AND MEASURES

DOCKET NO. 02-0214-1402

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2015 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 or rejected in part by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part 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:

Idaho's current labeling requirements conflict with Environmental Protection Agency (EPA) regulations at 40 CFR § 80.1501 when ethanol blends are offered for sale at greater than 10%. Any blend less than 10% is not required to be labeled under federal regulations, but will continue to be required by state rule. Language is being added to the section related to oxygenated gasoline that will clarify the labeling requirements of 10% or less ethanol blend ranges. This rule change will not impact petroleum retailers that comply with the current rule.

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the July 2, 2014, Idaho Administrative Bulletin, [Vol. 14-7, pages 18 through 20](#).

IDAHO CODE SECTION 22-101A STATEMENT: This rule does regulate an activity not regulated by the federal government. The federal government does not regulate oxygenated blends of fuel under 10%.

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

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

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Stacie Ybarra, Program Specialist at (208) 332-8691.

DATED this 7th day of August, 2014.

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THE FOLLOWING NOTICE WAS PUBLISHED WITH THE PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 71-111, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than July 16, 2014.

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:

Our current labeling requirement conflicts with the EPA 40 CFR Section 80.1501 when ethanol blends are offered for sale at greater than 10%. Any blend less than 10% is not required to be labeled under federal requirements, but will continue to be required by state rule. Language will be added to the section for oxygenated gasoline that will clarify the labeling requirements of 10% or less ethanol blend ranges. This rule change will not impact petroleum retailers that comply with the current rule.

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

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

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

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was not conducted because of the simple nature of the proposed amendment.

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

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Stacie Ybarra, Program Specialist at (208) 332-8692.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before July 23, 2014.

DATED this 22nd day of May, 2014.

LSO RULES ANALYSIS MEMO

THE FOLLOWING IS THE TEXT OF DOCKET NO. 02-0214-1402

350. SALE AND LABELING OF GASOLINE WHICH CONTAINS OXYGENATES.

01. Definitions. For purposes of this rule, the following definitions shall apply: (7-1-93)

a. Spark-Ignition Motor Fuel. The terms “spark-ignition motor fuel” or “spark-ignition engine fuel” mean gasoline and its blends with oxygenates such as co-solvent and ethers. (10-26-94)

b. Gasoline-Oxygenate Blend. For labeling purposes, the term “gasoline-oxygenate blend” means any spark-ignition motor fuel containing one percent (1%) or more by volume of oxygenates or combination of oxygenates, such as but not restricted to ethanol, methanol, or methyl-tertiary-butyl ether. (10-26-94)

c. Alcohol. A volatile flammable liquid having the general formula $C_nH_{(2n+1)}OH$ used or sold for the purpose of blending or mixing with gasoline for use in motor vehicles, and commonly or commercially known or sold as an alcohol, including ethanol and methanol. (7-1-93)

d. Co-solvent. An alcohol or any other chemical with higher molecular weight than methanol or ethanol which is blended with either or both to prevent phase separation in gasoline. (7-1-93)

e. Ethanol. Ethyl alcohol, a flammable liquid having the formula C_2H_5OH used or sold for the purpose of blending or mixing with gasoline for use in motor vehicles, and commonly or commercially known or sold as ethanol or ethyl alcohol. (7-1-93)

f. Gasoline. Any fuel sold for use in motor vehicles and commonly or commercially known or sold as gasoline whether leaded or unleaded. (7-1-93)

g. Methanol. Methyl alcohol, a flammable liquid having the formula CH_3OH used or sold for the purpose of blending or mixing with gasoline for use in motor vehicles, and commonly or commercially known or sold as methanol or methyl alcohol. (7-1-93)

h. Motor vehicles. Include all vehicles, vessels, watercraft, engines, machines, or mechanical contrivances that are propelled by internal combustion engines or motors. (7-1-93)

i. Person. The word “person” shall be construed to import both the plural and singular, as the case demands, and shall include corporations, companies, societies and associations. When construing and enforcing the provisions of this rule, the act, omission, or failure of any officer, agent, or other person acting for or employed by any corporation, company, society, or association, within the scope of his employment or office shall in every case be also deemed to be the act, omission, or failure of such corporation, company, society or association as well as that of the person. (7-1-93)

j. Retail dealer. Any person who owns, operates, controls, or supervises an establishment at which gasoline is sold or offered for sale to the public. (7-1-93)

k. Wholesale dealer. Any person engaged in the sale of gasoline to others who the seller knows or has reasonable cause to believe intends to resell the gasoline in the same or an altered form to another. (7-1-93)

02. Pump Labeling Requirements. (7-1-93)

a. All spark ignition engine fuel kept, offered, or exposed for sale, or sold, at retail containing at least one percent (1%) by volume and not more than ten percent (10%) by volume of any oxygenate or combination of oxygenates shall be identified as “with” or “containing” (or similar wording) the specific type of oxygenate(s) in the engine fuel. For example, the label may read “contains ethanol” or “with MTBE/ETBE.” This information shall be posted on the upper fifty percent (50%) of the dispenser front panel in a position clear and conspicuous from the driver’s position, in a type at least one half (1/2) inch in height, one-sixteenth (1/16) inch stroke (width of type). ~~(10-26-94)~~()

b. The labels shall be furnished by the retail owner or operator. (7-1-93)

03. Oxygenates Content Labels. (10-26-94)

a. The label shall have letters in bold face, block not less than one-half (1/2) inch high. The lettering shall be in black on a contrasting background. Both colors shall be non-fade. (10-26-94)

b. The label shall be displayed on both faces of the dispenser on the upper one-half (1/2) of the

dispenser as near the unit price display as practical. (10-26-94)

04. Documentation for Dispenser Labeling Purposes. The retailer must be provided, at the time of delivery of the fuel, on an invoice, bill of lading, shipping paper, or other documentation, a declaration of any oxygenate or combination of oxygenates present in concentrations of at least one percent (1%) by volume of the fuel. This documentation is only for dispenser labeling purposes; it is the responsibility of any potential blender to determine the total oxygen content of the engine fuel before blending. (10-26-94)

05. Fuel Specifications for Gasoline and Gasoline-Oxygenate Blends. (5-8-09)

a. The version of ASTM D 4814 “Standard Specification for Automotive Spark-Ignition Engine Fuel” incorporated by reference in this rule is the standard for gasoline and gasoline oxygenate blends, except the volatility standards for unleaded gasoline blended with ethanol shall not be more restrictive than those adopted under the rules, regulations, and Clean Air Act waivers of the U.S. Environmental Protection Agency. Gasoline blended with ethanol shall be blended under any of the following three (3) options. (5-8-09)

i. The base gasoline used in such blends shall meet the requirements of ASTM D 4814, or (5-8-09)

ii. The blend shall meet the requirements of ASTM D 4814, or (5-8-09)

iii. The base gasoline used in such blends shall meet all the requirements for gasoline of ASTM D 4814 except distillation, and the blend shall meet the distillation requirements of the ASTM specification. (5-8-09)

b. Blends of gasoline and ethanol shall not exceed the ASTM D 4814 vapor pressure standard by more than one point zero (1.0) psi. (5-8-09)

06. Penalties. Any person who shall violate any provisions of these rules shall be punished as provided for in Section 37-2501 and Section 37-2520, Idaho Code. (7-1-93)

IDAPA 02 - IDAHO STATE DEPARTMENT OF AGRICULTURE

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

DOCKET NO. 02-0303-1401

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2015 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 67-5220(1) and 67-5220(2), Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 22-3421, Idaho Code.

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

There are no changes being made to the pending rule. IDAPA 02.03.03, "Rules Governing Pesticide and Chemigation Use and Application," Subsection 500.02 was amended in the proposed rule to eliminate the specific names of low volatile liquid ester formulations and the date restriction of May 1st to October 1st. The "Rules Governing Pesticide and Chemigation Use and Application" have an older restriction that prohibits the use of liquid ester herbicides around any home or garden after May 1st. The industry has informed us that this date is not needed because many parts of the state do not reach the eighty (80) degree threshold until June or July, if at all, and has requested the removal of the date. The temperature restriction is a much better cut-off mechanism to reduce the likelihood of possible damage throughout the different parts of the state. Also, the newer low volatile ester herbicides being used around homes and gardens in Idaho are safer, more stable, are more effective than older ester herbicides, and have adequate restrictions on the label to protect against volatilization. Since there are other formulations of liquid ester herbicides not listed in the current rule, the industry also recommended that we remove the specific names of the herbicides. This proposed rule change was recommended by the Pesticide Licensing Advisory Committee.

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the August 6th, 2014 Idaho Administrative Bulletin, [Vol. 14-8, pages 18-19](#).

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

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: None.

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

DATED this 6th day of October, 2014.

Brian J. Oakey, Deputy Director
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THE FOLLOWING NOTICE WAS PUBLISHED WITH THE PROPOSED RULE

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

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than August 20, 2014.

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:

02.03.03.500.02, "Rules Governing Pesticide and Chemigation Use and Application," will be amended to eliminate the specific names of low volatile liquid ester formulations and the date restriction of May 1 to October 1. 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 (80) degrees. The industry has informed the Department that the dates are no longer needed because many parts of the state do not reach the eighty (80) degree threshold until June or July, if at all, and most low volatile ester herbicides now have temperature restrictions on the label. The temperature restriction is a much better cut-off mechanism to reduce the likelihood of possible damage throughout the different parts of the state. Also, the newer low volatile ester herbicides being used around homes and gardens in Idaho are safer, more stable, are more effective than older ester herbicides, and have adequate restrictions on the label to protect against volatilization. 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 this older rule. This proposed rule change was recommended by the Pesticide Licensing Advisory Committee.

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

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 as a result of this rulemaking:

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

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the June 4, 2014 Idaho Administrative Bulletin, **Vol. 14-6, pages 16 and 17**. A negotiated rulemaking meeting was held at the Idaho State Department of Agriculture on June 18, 2014.

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: NA

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

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 27, 2014.

DATED this 3rd day of July, 2014.

LSO RULES ANALYSIS MEMO

THE FOLLOWING IS THE TEXT OF DOCKET NO. 02-0303-1401

500. NON-DOMESTIC PESTICIDES.

01. **Home and Garden Restrictions.** The following listed pesticides shall not be sold to home and garden users, nor shall they be applied by professional applicators around any home or garden. These pesticides shall be registered only when labeled, distributed, sold or held for sale and use other than home and garden use. (3-20-97)

- a. Bidrin (Foliar applications). (3-20-97)
- b. Disyston (two point one percent (2.1%) and above). (3-20-97)
- c. Guthion (fifteen percent (15%) and above). (3-20-97)
- d. Strychnine (one percent (1%) and above). (3-20-97)
- e. Zinc Phosphide (two point one percent (2.1%) and above). (3-20-97)
- f. All high volatile liquid ester formulations of 2,4-D. (3-20-97)

02. **Ester Restriction.** Low volatile liquid ester formulations of ~~2,4-D; 2,4-DP; MCPA and MCPB~~ herbicides shall not be applied around any home or garden ~~between May 1 and October 1 of any year or~~ at any time when ambient air temperature exceeds or is forecasted to exceed eighty (80) degrees Fahrenheit during the day of application. ~~(3-20-97)()~~

IDAPA 02 - IDAHO STATE DEPARTMENT OF AGRICULTURE

**02.04.05 - RULES OF THE DEPARTMENT OF AGRICULTURE
GOVERNING MANUFACTURE GRADE MILK**

DOCKET NO. 02-0405-1401

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2015 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 acted on 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 37-303, 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:

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the September 3rd, 2014, Idaho Administrative Bulletin, [Vol. 14-9, pages 21 through 47](#).

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

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

ISDA does not anticipate any fiscal impact to the general fund as a result of this rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact John Bilderback at (208) 332-8541.

DATED this 6th day of October, 2014.

Brian J. Oakey, Deputy Director
Idaho State Department of Agriculture
2270 Old Penitentiary Rd.
Boise, ID 83712
P.O. Box 790, Boise, ID 83701-0790
Phone: (208) 332-8500 /Fax: (208) 334-7120

THE FOLLOWING NOTICE WAS PUBLISHED WITH THE PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 37-303, 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 17, 2014.

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 rule is being updated to reflect and be consistent with Senate Bill No. 1338, passed during the 2014 Legislature and signed by Governor C. L. "Butch" Otter on April 3, 2014, effective July 1, 2014. The last changes to the rule were adopted in 1994. Since that time, some of the contents of the rule have become outdated and need to be revised or removed. Specifically, documents referenced throughout the rule will be listed under the incorporation by reference section. All mentions of the Babcock tests will be removed since this test is no longer used. Likewise, the Methods of Analysis section will be removed because IDAPA 02.04.09, "Rules Governing Milk and Cream Procurement and Testing," now covers the requirements for the methods of testing milk and cream for sale. The standards of identity of products will be consistent with the federal definitions.

Currently in Idaho Statute, there are no quality standards specified for butter or whey butter. The rule will establish quality standards for coliform and bacteria testing to ensure that butter and whey butter made in Idaho is of high quality.

The format of the rule will be updated to bring it into compliance with current rulemaking formats (adding incorporation by reference, address, office hours, telephone, and fax numbers, and the Idaho public records act). The name of the rule will also be changed to Rules Governing Manufacture Grade Milk to make it consistent with other Department rules.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: No fee is being imposed or charged through the promulgation of this proposed rule.

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

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted on July 22, 2014. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the June 4, 2014, Idaho Administrative Bulletin, [Vol. 14-6 page 18](#).

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 existing rule does not have an incorporation by reference section, however, the following texts are referenced in the existing rule: Standard Methods for the Examination of Dairy Products, Official Methods of Analysis of AOAC International, and the United States Sediment Standards for Milk and Milk Products. The United States Standards for Grades of Butter is incorporated into 37-313, but will now be explicitly listed in the rule text. Lastly, Appendix D "Standards for Water Sources" of the Grade "A" Pasteurized Milk Ordinance is being proposed for incorporation by reference.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact John Bilderback at (208) 332-8541 or john.bilderback@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 24, 2014.

DATED this 7th Day of August, 2014.

LSO RULES ANALYSIS MEMO

THE FOLLOWING IS THE TEXT OF DOCKET NO. 02-0405-1401

02.04.05 - RULES ~~OF THE DEPARTMENT OF AGRICULTURE~~
GOVERNING MANUFACTURE GRADE MILK

000. LEGAL AUTHORITY.

This chapter is adopted under the legal authority of Title 37, Chapters ~~43 and 12~~, Idaho Code. ~~(4-8-94)~~()

001. TITLE AND SCOPE.

01. Title. The title of this chapter is “Rules ~~of the Department of Agriculture~~ Governing Manufacture Grade Milk.” ~~(4-8-94)~~()

(BREAK IN CONTINUITY OF SECTIONS)

004. INCORPORATION BY REFERENCE.

The following documents are incorporated by reference, and copies of the documents may be obtained from the Idaho State Department of Agriculture central office at 2270 Old Penitentiary Road, Boise, Idaho, 83712. ()

01. Standard Methods for the Examination of Dairy Products (Standard Methods) (17th Edition, June 1, 2004) published by the American Public Health Association. ()

02. Official Methods of Analysis of AOAC International (OMA), 19th Edition, 2012. ()

03. United States Sediment Standards for Milk and Milk Products (September 1, 1977) (USDA AMS Dairy Division). This document is available online at <http://www.ams.usda.gov/AMSV1.0/getfile?dDocName=STELDEV3004474>. ()

04. United States Standards for Grades of Butter (August 31, 1989) (USDA AMS Dairy Division). This document is available online at <http://www.ams.usda.gov/AMSV1.0/getfile?dDocName=STELDEV3004470>. ()

05. Appendix D “Standards for Water Sources” of the Grade “A” Pasteurized Milk Ordinance. The Grade “A” Pasteurized Milk Ordinance, 2013 revision, published by the U. S. Department of Health and Human Services, Public Health Service, Food and Drug Administration. ()

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

01. Office. 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, PO Box 790, Boise, Idaho 83701. ()

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

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

006. PUBLIC RECORDS ACT COMPLIANCE.

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

~~0057.~~ -- 009. (RESERVED)

00410. DEFINITIONS.

The following definitions shall apply in the interpretation and enforcement of this chapter: (4-8-94)()

~~01.~~ **Regulatory Agency.** Department of Agriculture is authorized by law to administer these rules. (4-8-94)

~~201.~~ **3-A Sanitary Standards.** The standards for dairy equipment formulated by the 3-A Sanitary Standards ~~Committees representing the International Association of Milk, Food and Environmental Sanitarians, Inc. (3-A SSI). 3-A SSI is comprised of equipment fabricators, Dairy Processors, and regulatory sanitarians, which include state milk regulatory officials, USDA Agricultural Marketing Service Dairy Programs, the US. Public Health Service, and the Dairy Industry Committee. Published by the International Association of Milk, Food and Environmental Sanitarians~~ Food and Drug Administration, academic representatives, and others. (4-8-94)()

~~402.~~ **Acceptable Milk.** Milk that qualifies as to appearance and odor and that is classified No. 1 or No. 2 for sediment content. (4-8-94)

~~2203.~~ **Atmosphere Relatively Free From Mold.** No more than ten (10) mold colonies per cubic foot of air as determined in Standard Methods. (4-8-94)

~~064.~~ **Milk Grader or Bulk Milk Collector Hauler or Bulk Milk Sampler.** A person licensed by the Department ~~of Agriculture~~ who is qualified and trained for the grading or sampling of raw milk in accordance with the quality standards and procedures of ~~Sections 050 through 149~~ these rules and the Universal Sample. (4-8-94)()

~~05.~~ **Butter.** Butter is the product made by gathering the fat of fresh or ripened milk or cream into a mass, which also contains a small portion of other milk constituents, with or without salt or a harmless coloring matter. Butter shall be clean and non-rancid and shall contain not less than eighty percent (80%) of butterfat. ()

~~2406.~~ **C-I-P or Cleaned-in-Place.** The procedure by which sanitary pipelines or pieces of dairy equipment are mechanically cleaned in place by circulation. (4-8-94)

~~07.~~ **Commingled Milk.** Milk that has left the Dairy Farm and has been mixed with other individual Producer milk in a Transportation Tank or at a Dairy Plant. ()

~~08.~~ **Dairy Farm or Farm.** A place or premise certified by the Department where one (1) or more milking cows, sheep ~~or~~, goats, or water buffalo are kept, and from which all or a portion of the milk produced thereon is delivered, sold, or offered for sale to a ~~manufacturing Dairy p~~Plant. (4-8-94)()

~~1709.~~ **Dairy Farm Certification.** Certification by an Inspector or Approved Fieldman that a Producer's herd, milking facility and housing, milking procedure, cooling, milkhouse or milkroom, utensils and equipment and water supply have been found to meet the applicable requirements of Section 150 for the production of milk to be used for manufacturing purposes. (4-8-94)()

~~0910.~~ **Dairy Plant or Plant Dairy Processor.** Any place, premise, or establishment licensed by the Department where milk or Dairy Products are transported, graded, received or handled for processing or manufacturing and/or prepared for distribution. ~~When "plant" is used in connection with the production, transportation, grading, or use of milk, it means any plant that handles or purchases milk for manufacturing purposes; when used in connection with requirements for plants or licensing of plants, it means only those plants that manufacture dairy products.~~ (4-8-94)()

~~16~~**11. Dairy Products.** Butter, cheese (natural or processed), dry whole milk, nonfat dry milk, dry buttermilk, dry whey, evaporated milk (whole or skim), condensed whole milk and condensed skim milk (plain or sweetened), and such other products, for human consumption, as may be otherwise designated. (4-8-94)

~~12.~~ **Department.** The Idaho State Department of Agriculture. ()

~~13.~~ **Director.** The Director of the Idaho State Department of Agriculture or his designee. ()

080. ~~154.~~ **Excluded Milk.** All of a Producer's milk excluded from the market by the provisions of Section 080. (4-8-94)

~~15.~~ **Farm Tank.** A tank used to cool, store or cool, and store milk prior to transportation to the processing plant. ()

~~03~~**16. Fieldman.** A person qualified and trained in the sanitary methods of production and handling of milk as set forth herein, and generally employed by a ~~processing or manufacturing~~ Dairy pPlant for the purpose of making Dairy Farm surveys and doing quality control work. (4-8-94)()

~~04~~**17. Fieldman, Approved.** A Fieldman qualified, trained, and approved by the Department of Agriculture to perform Dairy Farm inspections and raw milk grading or sampling. (4-8-94)()

~~05~~**18. Inspector.** A qualified, trained person employed by the Department of Agriculture to perform Dairy Farm or Dairy pPlant inspections and raw milk grading or sampling. (4-8-94)()

~~02~~**19. License.** A license issued under this section by the Department of Agriculture. (4-8-94)

~~12~~**20. Milk.** *The term "milk" shall include the following:* (4-8-94)

~~a.~~ *Milk is the lacteal secretion practically free from colostrum obtained by the complete milking of one (1) or more healthy cows.* (4-8-94)

~~b.~~ *Goat milk is the lacteal secretion practically free from colostrum obtained by the complete milking of one (1) or more healthy goats. Goat milk shall only be used to manufacture dairy products that are legally provided for in 21 CFR or recognized as non-standardized traditional products normally manufactured from goat milk.* (4-8-94)

~~c.~~ *Sheep milk is the lacteal secretion practically free from colostrum obtained by the complete milking of one (1) or more healthy sheep.* (4-8-94)

~~d.~~ *The word "milk" used herein includes only milk, sheep and goat milk for manufacturing purposes. The lacteal secretion practically free from colostrum obtained by the complete milking of one (1) or more healthy cows, goats, sheep, or water buffalo for manufacturing purposes.* (4-8-94)()

~~12~~**21. Milk for Manufacturing Purposes.** Milk produced from a Department certified Dairy Farm for processing and manufacturing into products for human consumption but not subject to Grade A or comparable requirements. (4-8-94)()

~~13~~**22. Probational Milk.** Milk classified No. 3 for sediment content. (4-8-94)

~~07~~**23. Producer.** The person or persons who exercise control over the production of the milk delivered to a Dairy pPlant, and who receives payment for this product. A "new producer" is one who is initiating the shipment of milk from a farm. A "transfer producer" is one whose shipment of milk from a farm is shifted from one (1) plant to another plant. A "producer/processor" is one who manufactures dairy products on the dairy farm entirely from his own milk, or from his own milk combined with milk from one or more other producers. (4-8-94)()

~~12~~**24. Rejected Milk.** Milk rejected from the market according to the provisions of Section 070. (4-8-94)

~~23~~**5. Sanitizing Treatment.** Application of any effective method or sanitizing agent to clean surface for the destruction of pathogens and other organisms as far as is practicable. The sanitizing agents used shall comply with the *Federal Food, Drug, and Cosmetic Act* Standard Methods. (4-8-94)()

~~18. Official Methods.~~ *Official Methods of Analysis of the Association of Official Agricultural Chemists, a publication of the Association of Official Analytical Chemists.* (4-8-94)

~~19. Standard Methods.~~ *Standard Methods for the Examination of Dairy Products, a publication of the American Public Health Association.* (4-8-94)

26. Transportation Tank. A tank used to transport milk or supply milk from a Dairy Farm to a Dairy Plant. ()

27. Universal Sample. A single milk sample taken for the purpose of chemical, biochemical, or bacterial analyses typically used for regulatory purposes. ()

28. Whey Butter. The food product made by gathering the fat of fresh or ripened whey cream separated from cheese whey formed into a mass, with or without added cream obtained from milk, which also contains a small portion of other whey or milk constituents, with or without the addition of salt or a harmless coloring matter. Whey Butter shall be clean and non-rancid and shall contain not less than eighty percent (80%) butter fat. Whey Butter shall be made from pasteurized Whey Cream or cream. ()

29. Whey Cream. The milk fat that is separated from whey. ()

~~005-009. (RESERVED)~~

0101. RAW MILK OR CREAM.

All raw milk or cream for manufacturing purposes from all sources shall be based on the following quality specifications. (7-1-93)

01. Raw Milk. The appearance and odor of acceptable raw milk shall be normal, fresh, and sweet and free from objectionable feed and other off odors that would adversely affect the finished Dairy Product. (7-1-93)()

02. Milk or Cream. Milk or cream is unacceptable which: (7-1-93)

a. Is other than the lacteal secretion obtained by the complete milking of one (1) or more healthy cows, ~~or~~ goats, sheep, or water buffalo properly kept and fed; (7-1-93)()

b. Contains added water; (7-1-93)

c. Contains colostrum, is ropy, bloody or gives any indication of having come from diseased or injured udders; (7-1-93)

d. Contains filth, is contaminated with flies, earwigs or other insects, dirt, oil, economic poisons, pesticides or other foreign matter which renders it unfit for human consumption; (7-1-93)

e. Tests positive for antibiotics or inhibitors as tested by the accepted methods of the *latest edition of Standard Methods for the Examination of Dairy Products* or by tests approved by the Department of Agriculture; (7-1-93)()

f. Has more than seventeen one hundredths of one percent (.17%) acid calculated as lactic and does not meet the criteria in Subsection 0101.01; (7-1-93)()

g. In the case of cream, is rancid, putrid, or actively foaming; (7-1-93)

h. In the case of cream, contains more than eight tenths of one percent (.8%) acid calculated as lactic;

(7-1-93)

- i. Is more than three (3) days or seventy-two (72) hours old when picked up at the Dairy ~~F~~ Farm; ~~(7-1-93)~~()
- j. Does not meet the quality standards as set forth in these rules. (7-1-93)

~~0142.~~ -- 049. (RESERVED)

050. QUALITY REQUIREMENTS FOR MILK FOR MANUFACTURING PURPOSES.

01. Basis. The quality classification of raw milk for manufacturing purposes from each Producer shall be based on an organoleptic examination for appearance and odor, a drug residue test and quality control tests for sediment content, bacterial estimate and somatic cell count. (4-8-94)

a. At least once each month the Bulk Milk Haulers shall bring in not less than a ~~four (4)~~ two (2) ounce sample of mixed milk ~~for the two tenths (.2) inch diameter or a pint sample of mixed milk for the four tenths (.4) diameter;~~ from a Producer's bulk milk ~~Farm~~ F Tank. The sample shall be taken in accordance with recommended procedures outlined in the latest edition of Standard Methods for the Examination of Dairy Products and Section 37-413, Idaho Code. ~~(4-8-94)~~()

02. Appearance and Odor. The appearance of acceptable raw milk shall be normal and free of excessive coarse sediment when examined visually or by an acceptable test procedure. The milk shall not show any abnormal condition (including but not limited to curdles, ropy, bloody or mastitic condition), as indicated by sight or other test procedures. The odor shall be fresh and sweet. The milk shall be free from objectionable feed and other off-odors that would adversely affect the finished Dairy Product. (4-8-94)

03. Sediment Content Classification. Milk shall be classified for sediment content, regardless of the results of the appearance and odor examination described in Subsection 050.02. The USDA Sediment Standard is as follows. (4-8-94)

- a. No. 1 (acceptable) - not to exceed five tenths (.5) milligram- or equivalent. ~~(4-8-94)~~()
- b. No. 2 (acceptable) - not to exceed one and five tenths (1.5) milligram- or equivalent. ~~(4-8-94)~~()
- c. No. 3 (probational, not over ten (10) days) - not to exceed two and five tenths (2.5) milligram- or equivalent. ~~(4-8-94)~~()
- d. No. 4 (reject) - over two and five tenths (2.5) milligram- or equivalent. ~~(4-8-94)~~()

04. Method of Testing. Methods for determining the sediment content of the milk of individual Producers shall be those described in the latest edition of Standard Methods for Examination of Dairy Products. Sediment content shall be based on comparison with applicable charts of the United States Sediment Standards for Milk and Milk Products at <http://www.gpo.gov/fdsys/pkg/CFR-2001-title7-vol1/content-detail.html>, as amended as incorporated by reference. ~~(4-8-94)~~()

05. Frequency of Test. At least once each month, at irregular intervals, the milk from each Producer shall be tested as follows: (4-8-94)

- a. Milk in Cans. One (1) or more cans of milk selected at random from each Producer. (4-8-94)
- b. Milk in Farm Bulk Tanks. A sample shall be taken from each ~~F~~ Farm bulk- ~~F~~ Tank. ~~(4-8-94)~~()

06. Acceptance or Rejection of Milk. If the sediment disc is classified as No. 1, No. 2, or No. 3, the Producer's milk may be accepted. If the sediment disc is classified No. 4 the milk shall be rejected: ~~P~~ provided, that if the shipment of milk is commingled with other milk in a ~~F~~ Transport ~~F~~ Tank the next shipment shall not be accepted

until its quality has been determined at the ~~Dairy~~ Farm before being picked up; however, if the person making the test is unable to get to the farm before the next shipment it may be accepted but no further shipments shall be accepted unless the milk meets the requirements of No. 3 or better. In the case of milk classified as No. 3 or No. 4, if in cans, all cans shall be tested. Producers in No. 3 or No. 4 (milk cans or bulk) shall be notified immediately and shall be furnished applicable sediment discs and the next shipment shall be tested. (4-8-94)()

07. Retests. On test of the next shipment (if in cans, all cans shall be tested) milk classified as No. 1, No. 2, or No. 3, may be accepted, but No. 4 milk shall be rejected. Retests of bulk milk classified as No. 4 shall be made at the ~~Dairy~~ Farm before pickup. The Producers of No. 3 or No. 4 milk shall be notified immediately, furnished applicable sediment discs and the next shipment tested. This procedure of retesting successive shipments and accepting probational (No. 3) milk and rejecting No. 4 milk may be continued for not to exceed ten (10) calendar days. If at the end of this time all of the Producer's milk does not meet the acceptable sediment content classification (No. 1 or No. 2) ~~the milk~~ shall be excluded from market. (4-8-94)()

051. -- 059. (RESERVED)

060. BACTERIAL ESTIMATE CLASSIFICATION.

A laboratory examination to determine the bacterial estimate shall be made on each Producer's milk at least once each month at irregular intervals. Samples shall be analyzed at a laboratory approved by the Department of Agriculture. (4-8-94)()

01. Methods of Testing. Milk shall be tested for bacterial estimate by using one (1) of the following methods or any other method approved by Standard Methods ~~for the Examination of Dairy Products~~ or a test approved by the Department. (4-8-94)()

- a. BactoScan FC.** ()
- ~~b.~~ Direct microscopic clump count. (4-8-94)
- ~~b.c.~~ Standard plate count. (4-8-94)
- ~~d.~~ Plate loop count. (4-8-94)
- ~~d.~~ ~~Pectin gel plate count.~~ (4-8-94)
- e.** Petrifilm aerobic count. (4-8-94)
- f.** Spiral plate count. (4-8-94)

02. Bacterial Estimate Procedures. Whenever the bacterial estimate indicates the presence of more than two hundred thousand (200,000) bacteria per ~~milliliter~~, the following procedures shall be applied: (4-8-94)()

- a.** The Producer shall be notified with a warning of the excessive bacterial estimate. (4-8-94)
- b.** Whenever two (2) of the last four (4) consecutive bacterial estimates exceed two hundred thousand (200,000) per ~~milliliter~~, the ~~appropriate regulatory authority~~ Department shall be notified and a written warning notice given to the Producer. The notice shall be in effect so long as two (2) of the last four (4) consecutive samples exceed two hundred thousand (200,000) per ~~milliliter~~. (4-8-94)()
- c.** An additional sample shall be taken after a lapse of three (3) days but within twenty one (21) days of the notice required in Subsection 060.02.b. If this sample also exceeds two hundred thousand (200,000) per ~~milliliter~~, subsequent milkings shall be excluded from the market until satisfactory compliance is obtained. Shipment may be resumed and a temporary status assigned to the Producer by the ~~appropriate State regulatory agency~~ Department when an additional sample of herd milk is tested and found satisfactory. The Producer shall be assigned a full reinstatement status when three (3) out of four (4) consecutive bacterial estimate test do not exceed two hundred thousand (200,000) per ~~milliliter~~. (4-8-94)()

061. -- 069. (RESERVED)

070. REJECTED MILK.

A plant shall reject specific milk from a Producer if the milk fails to meet the requirements for appearance and odor, if it is classified No. 4 for sediment content, or if it tests positive for drug residue. All reject milk shall be identified with a reject tag and/or colored with harmless food coloring. (4-8-94)

071. -- 079. (RESERVED)

080. EXCLUDED MILK.

A Dairy ~~p~~Plant shall not accept milk from a Producer if: (4-8-94)()

01. **Probational Sediment Content.** The milk has been in a probational (No. 3) sediment content classification for more than ten (10) calendar days. (4-8-94)

02. **Exceeding Maximum Bacteria.** Three (3) of the last five (5) milk samples have exceeded the maximum bacteria estimate of two hundred thousand (200,000) per ~~milliliter~~. (4-8-94)()

03. **Insanitary Conditions.** If the milk is produced in under insanitary clean conditions such as, but not limited to, unclean milk contact surfaces, unclean conditions in the parlor or milk room, poor milking procedures, or poor animal housing conditions. (4-8-94)()

04. **Maximum Somatic Cell Count.** Three (3) of the last five (5) milk samples have exceeded the maximum somatic cell count level of seven hundred fifty thousand (750,000) per ~~milliliter~~ or one million (1,000,000) per ~~milliliter~~ for goat or sheep milk. (4-8-94)()

05. **Positive Drug Test.** The Producer's milk shipments to either the Grade A or the manufacturing grade milk market currently are not permitted due to a positive drug residue test. (4-8-94)

~~06. Delinquent Review. The producer is delinquent in completing a review of the "Milk and Dairy Beef Quality Assurance Program" with a licensed veterinarian following an occurrence of shipping milk testing positive for drug residue. (4-8-94)~~

~~081. -- 089. (RESERVED)~~

~~090. QUALITY TESTING OF MILK FROM PRODUCERS.~~

~~01. New Producers. An examination and tests shall be made on the first shipment of milk from a new producer or from a producer resuming shipment after a period of non-shipment. The milk shall meet the requirements for: "Acceptable milk," Somatic cell count, Drug residue level, and Bacteria estimate. (4-8-94)~~

~~a. Thereafter, each milk shipment shall meet the requirements of Section 050, and shall be tested in accordance with the provisions of Sections 060, 102, and 103. (4-8-94)~~

~~02. Transfer Producers. An examination and test shall be made by the new buyer on the first shipment of milk from a transfer producer. The milk shall meet the requirements for: "Acceptable milk," Somatic cell count, Drug residue level and Bacteria estimate. (4-8-94)~~

~~a. Thereafter, each milk shipment shall meet the requirements of Section 050, and shall be tested in accordance with the provisions of Sections 060, 102, and 103. (4-8-94)~~

~~b. In addition, the new buyer shall determine from the producer's records that: (4-8-94)~~

~~i. The milk is currently classified "acceptable" for bacteria and sediment; (4-8-94)~~

~~ii. Three (3) of the last five (5) consecutive milk samples do not exceed the maximum somatic cell~~

- ~~count level requirements;~~ (4-8-94)
- ~~iii. The last shipment of milk received from the producer by the former plant did not test positive for drug residue;~~ (4-8-94)
- ~~iv. Milk shipments currently are not excluded from the market due to a positive drug residue test; and~~ (4-8-94)
- ~~v. Meets farm certification requirements.~~ (4-8-94)
- ~~03. Delivery. When a producer discontinues milk delivery at one (1) plant and begins delivery at another plant for any reason, the new buyer shall not accept the first milk delivery until he has requested from the previous buyer a copy of the record of:~~ (4-8-94)
- ~~a. The producer's milk quality tests covering the preceding ninety (90) days;~~ (4-8-94)
- ~~b. The producer's drug residue test results for the preceding twelve (12) month period; and~~ (4-8-94)
- ~~c. A statement of the farm certification status and date of certification.~~ (4-8-94)
- ~~04. Status of Quality Records. The previous buyer shall furnish the new buyer with such information within twenty-four (24) hours after receipt of the request. A new buyer may accept a transfer producer's milk after making the request for records, but before receiving them, if he first confirms the producer's records verbally from the previous buyer. If verbal communication is used to ascertain the status of quality records, the new buyer shall send to the previous buyer, as soon as possible, a written confirmation of the conversation.~~ (4-8-94)
- ~~05. Reporting Failure to Provide Quality Records. If the new buyer fails to receive the quality records from the previous buyer, he shall report this fact to the State regulatory agency. The new buyer may then, alternatively, obtain from the producer a copy of the test results for sediment content, bacterial estimate, and somatic cell count for the preceding ninety (90) day period and a copy of the drug residue test results for the preceding twelve (12) month period.~~ (4-8-94)

098.1. -- 099. (RESERVED)

100. RECORDS OF TESTS.

Accurate records of the results of the milk quality and drug residue tests for each Producer shall be kept on file for a period of not less than twelve (12) months. The records shall be available for examination by the regulatory agency Department. (4-8-94)()

101. FIELD SERVICE.

A representative of the Dairy pPlant shall arrange to promptly visit the Dairy fFarm of each Producer whose milk tests positive for drug residue, exceeds the maximum somatic cell count level, or does not meet the requirements for Acceptable Milk. The purpose of the visit shall be to inspect the milking equipment and facilities and to offer assistance to improve the quality of the Producer's milk and eliminate any potential causes of drug residues. A representative of the Dairy pPlant should routinely visit each Producer as often as necessary to assist and encourage the production of high quality milk. (4-8-94)()

102. SOMATIC CELL COUNT.

01. Level of Somatic Cells. A laboratory examination to determine the level of somatic cells shall be made on each Producer's milk at least four (4) times in each six (6) month period at irregular intervals. Samples shall be analyzed at a laboratory and by a method approved by the state regulatory agency Department. (4-8-94)()

02. Procedures. Whenever the confirmatory somatic cell count indicates the presence of more than seven hundred fifty thousand (750,000) somatic cells per milliliter, (one million (1,000,000) per milliliter for goat and sheep) the following procedures shall be applied: (4-8-94)()

- a. The producer shall be notified with a warning of the excessive somatic cell count. (4-8-94)
- b. Whenever two (2) of the last four (4) consecutive somatic cell counts exceed seven hundred fifty thousand (750,000) per ~~milliliter~~, (one million (1,000,000) per ~~milliliter~~ for goat and sheep) the ~~appropriate regulatory authority~~ Department shall be notified and a written warning notice given to the Producer. The notice shall be in effect so long as two (2) of the last four (4) consecutive samples exceed seven hundred fifty thousand (750,000) per ~~milliliter~~, (one million (1,000,000) per ~~milliliter~~ for goat and sheep). ~~(4-8-94)()~~
- c. An additional sample shall be taken after a lapse of three (3) days but within twenty-one (21) days of the notice required in Subsection 102.02.b. ~~of this section~~. If this sample also exceeds seven hundred fifty thousand (750,000) per ~~milliliter~~, (one million (1,000,000) per ~~milliliter~~ for goat and sheep) subsequent milkings shall be excluded from the market until satisfactory compliance is obtained. Shipment may be resumed and a temporary status assigned to the producer by the ~~appropriate State regulatory agency~~ Department when an additional sample of herd milk is tested and found satisfactory. The Producer shall be assigned a full reinstatement status when three (3) out of four (4) consecutive somatic cell count tests do not exceed seven hundred fifty thousand (750,000) per ~~milliliter~~, (one million (1,000,000) per ~~milliliter~~ for goat and sheep). ~~(4-8-94)()~~

103. DRUG RESIDUE LEVEL.

01. Industry's Dairy Plant's Sampling and Testing Responsibilities. All milk shipped for processing or intended to be processed on the Dairy fFarm where it was produced shall be sampled and tested, prior to processing, for beta lactam drug residue or other drugs as determined by the Department. Collection, handling and testing of samples shall be done according to procedures established by the ~~appropriate State regulatory agency~~ Department. ~~(4-8-94)()~~

a. When so specified by the US. Food and Drug Administration (FDA), all milk shipped for processing, or intended to be processed on the Dairy fFarm where it was produced, shall be sampled and tested, prior to processing, for other drug residues under a random drug sampling program. The A random drug sampling program ~~shall include at least four (4) samples collected in at least four (4) separate months during any six (6) month period~~ may be conducted at a frequency determined by the Department. ~~(4-8-94)()~~

b. When the Commissioner of the FDA determines that a potential problem exists with an animal drug residue or other contaminant in the milk supply, a sampling and testing program shall be conducted, as determined by the FDA. ~~The testing shall continue determines with reasonable assurance that the potential problem has been remedied.~~ ~~(4-8-94)()~~

c. ~~The d~~Dairy industry Plants shall analyze samples for beta lactams and other drug residues by methods evaluated by ~~the Association of Official Analytical Chemists (AOAC) OMA~~ and accepted by the FDA as effective in determining compliance with established "safe levels" or tolerances. "Safe levels" and tolerances for particular drugs are established and amended by the FDA. ~~The industry may employ on a temporary basis other test methods evaluated by the Virginia Polytechnic Institute and State University, or by other institutions using equivalent evaluation procedures, and determined to demonstrate accurate compliance results. These test methods may be used until they are evaluated by the AOAC and accepted or rejected by the FDA.~~ ~~(4-8-94)()~~

d. Individual Producer sampling. ~~(4-8-94)()~~

i. Bulk Milk. A milk sample for beta lactam drug residue testing shall be taken at each farm and shall include milk from each Dairy fFarm ~~bulk f~~Tank. ~~(4-8-94)()~~

ii. Can Milk. A milk sample for beta lactam drug residue testing shall be performed separately at the receiving Dairy pPlant for each can milk Producer included in a delivery, and shall be representative of all milk received from the Producer. ~~(4-8-94)()~~

iii. Producer/~~processor~~ Dairy Plant. For those Producers who also have a licensed Dairy Plant, A milk sample for beta lactam drug residue testing shall be performed ~~separately according to Subsections 103.01.d.i. and 103.01.d.ii. of this section for milk produced or received by a producer/processor~~ on each batch of milk to be

- processed. (4-8-94)()
- e. Load sampling and testing. (4-8-94)
 - i. Bulk milk. A load sample shall be taken from the ~~bulk milk pickup tanker~~ Transport Tank after its arrival at the Dairy ~~Plant~~ and prior to further commingling. (4-8-94)
 - ii. Can milk. A load sample representing all of the milk received on a shipment shall be formed at the plant, using a sampling procedure that includes milk from every can on the vehicle. (4-8-94)
 - iii. Producer/~~processor~~ Dairy Plant. A load sample shall be ~~formed~~ tested at the Dairy ~~Plant~~ using a sampling procedure that includes all milk produced and received. (4-8-94)()
 - f. Sample and record retention. A load sample that tests positive for drug residue shall be retained according to guidelines established by the ~~appropriate State regulatory agency~~ Department. The records of all sample test results shall be retained for a period of not less than twelve (12) months. (4-8-94)()
 - g. Industry Dairy Plant follow-up. (4-8-94)()
 - i. When a load sample or individual Producer sample tests positive for drug residue, ~~industry Dairy Plant~~ personnel shall notify the ~~appropriate State regulatory agency~~ Department immediately, ~~as directed by the Department of Agriculture~~, of the positive test result and of the intended disposition of the shipment of milk containing the drug residue. All milk testing positive for drug residue shall be disposed of in a manner that removes it from the human or animal food chain, except when acceptably reconditioned under FDA compliance policy guidelines. (4-8-94)()
 - ii. Each individual Producer sample represented in the positive-testing load sample shall be singly individually tested as directed by the ~~appropriate State regulatory agency~~ Department to determine the Producer of the milk sample testing positive for drug residue. Identification of the Producer responsible for producing the milk testing positive for drug residue, and details of the final disposition of the shipment of milk containing the drug residue, shall be reported immediately to the ~~appropriate agency, according to State policy~~ Department. (4-8-94)()
 - iii. Milk shipment from the Producer identified as the source of milk testing positive for drug residue shall cease immediately and may resume only after a sample from a subsequent milking does not test positive for drug residue. (4-8-94)
- 02. ~~Regulatory Agency's~~ Department's Monitoring and Surveillance Responsibilities.** The Department of Agriculture shall monitor the ~~milk industry Dairy Plant's~~ drug residue program by conducting unannounced on-site inspections to observe testing and sampling procedures and to collect samples for comparison drug residue testing. In addition, the ~~regulatory agency~~ Department shall review industry records for compliance with ~~State policy~~ these rules. The review shall seek to determine that: (4-8-94)()
- a. Each Producer is included in a routine, effective drug residue milk monitoring program utilizing AOAC-evaluated and FDA-approved methods to test samples for the presence of drug residue; (4-8-94)
 - b. The ~~regulatory agency~~ Department receives prompt notification from industry personnel of each occurrence of a sample testing positive for drug residue, and of the identity of each Producer identified as a source of milk testing positive for drug residue; (4-8-94)()
 - c. The ~~regulatory agency~~ Department receives prompt notification from industry personnel of the intended and final disposition of milk testing positive for drug residue, and that disposal of the load is conducted in a manner that removes it from the human or animal food chain, except when acceptably reconditioned under FDA compliance policy guidelines; and (4-8-94)()
 - d. Milk shipment from a Producer identified as a source of milk testing positive for drug residue completely and immediately ceases until a milk sample taken from the dairy herd does not test positive for drug

residue. (4-8-94)

03. Enforcement. ~~A penalty sanctioned by the Department of Agriculture shall be imposed on the producer for each occurrence of shipping milk testing positive for drug residue.~~ (4-8-94)

~~**a.** The producer shall review the "Milk and Dairy Beef Quality Assurance Program" with a licensed veterinarian within thirty (30) days after each occurrence of shipping milk testing positive for drug residue. A certificate confirming that the "Quality Assurance Program" has been reviewed shall be signed by the responsible producer and a licensed veterinarian. The Department of Agriculture shall receive a copy of the signed "Quality Assurance Program" certificate.~~ (4-8-94)

~~**b.** If a Producer ships milk testing positive for drug residue three (3) times within a twelve (12) month period, the Department of Agriculture shall may initiate procedures to suspend the Producer's milk shipping privileges.~~ (4-8-94)()

104. RADIONUCLIDES.

Composite milk samples from selected areas within in the state of Idaho should be tested for biologically significant radionuclides at a frequency which the regulatory agency FDA determines to be adequate to protect the consumer. (4-8-94)()

105. PESTICIDES AND HERBICIDES.

Composite milk samples should be tested for pesticides and herbicides at a frequency which the regulatory agency FDA determines is adequate to protect the consumer. The test results from the samples shall not exceed established FDA limits. (4-8-94)()

106. ADDED WATER.

Milk samples from each Producer should be tested for added water at a frequency which the regulatory agency Department determines is adequate to prevent the addition of water to the milk. (4-8-94)()

107. -- 149. (RESERVED)

150. FARM REQUIREMENTS OF MILK FOR MANUFACTURING.

01. Health of Herd. (4-8-94)

a. General Health. All animals in the herd shall be maintained in a healthy condition and shall be properly fed and kept. (4-8-94)

b. Tuberculin Test. The cows and water buffalo shall be located in a Modified Accredited Area, an Accredited Free State, or an Accredited Free Herd as determined by the US. Department of Agriculture (USDA). The goats shall be located in States meeting the current USDA Uniform Methods and Rules and for Bovine Tuberculosis Eradication or an Accredited Free Goat Herd. If the animals are not located in such areas, they shall be tested annually under the jurisdiction of the aforesaid program. All additions to the herd shall be from an area or from herds meeting those same requirements. (4-8-94)()

c. Brucellosis Test. The cows shall be located in States meeting Class B status, or Certified-Free Herds, or shall be involved in a milk ring test program or state of Idaho blood testing program ~~under the current USDA Brucellosis Eradication Uniform Methods and Rules~~. All additions to the herd shall be from an area or from herds meeting these same requirements. (4-8-94)()

d. Abnormal Milk. Milk from cows animals known to be infected with mastitis or milk containing residues of antibiotics or others drugs, or milk containing pesticides or other chemical residues in excess of the established limits shall not be sold or offered for sale for human food consumption. The milk shall be disposed of ~~as the regulatory agency~~ in a method approved by the Department may direct. (4-8-94)()

02. Milking and Facility Housing. (4-8-94)

a. A milking barn or milking parlor of adequate size and arrangement shall be provided to permit normal sanitary milking operations. It shall be well lighted and ventilated, and the floors and gutters in the milking area shall be constructed of concrete or other impervious material. The facility shall be kept clean, the manure removed daily and stored to prevent access of ~~cows~~ animals to accumulation thereof; and no swine or fowl shall be permitted in any part of the milking area. (4-8-94)()

b. If milk is exposed during straining or transferring in the milking areas it shall be protected from falling particles from areas above milk facility. (4-8-94)

c. The yard or loafing area shall be of ample size to prevent overcrowding, shall be drained to prevent forming of standing water pools, insofar as practicable, and shall be kept clean. (4-8-94)

03. Milking Procedure. (4-8-94)

a. The udders and flanks of all milking ~~cows~~ animals shall be kept clean. The udders and teats shall be washed or wiped immediately before milking with a clean, damp cloth or paper towel moistened with a sanitizing solution and wiped dry, or by any other sanitary method. (4-8-94)()

b. The milker's outer clothing shall be clean and his hands clean and dry. No person with an infected cut or open sores on their hands or arms shall milk ~~cows~~ animals, or handle milk or milk containers, utensils or equipment. (4-8-94)()

c. ~~Cows which~~ Animals that secrete abnormal milk shall be milked last or with separate equipment. This milk shall be excluded from the supply as required in Subsection 150.01.d. (4-8-94)()

d. Milk stools, surcingles and antikickers shall be kept clean and properly stored. Dusty operations should not be conducted immediately before or during milking. Strong flavored feeds should only be fed after milking. (4-8-94)

04. Cooling. (4-8-94)

a. Milk in cans shall be cooled immediately after milking to forty-five (45) degrees Fahrenheit or lower unless delivered to the Dairy ~~Plant~~ within two (2) hours after milking. The devices, such as cooler, tank, or refrigerated unit to cool milk can or canned milk, shall be kept clean. (4-8-94)()

b. Milk in Dairy ~~Farm~~ bulk Farm ~~Tanks~~ shall be cooled to forty (40) degrees Fahrenheit or lower within two (2) hours after the first milking and maintained at forty-five (45) degrees Fahrenheit. or lower until transferred to the ~~T~~ransport ~~T~~ank. (4-8-94)()

05. Milkhouse or Milkroom. (4-8-94)

a. A milkhouse or milkroom conveniently located and properly constructed, lighted, and ventilated shall be provided for handling and cooling milk and for washing, handling, and storing the utensils and equipment. Other products shall not be handled in the milkroom which would be likely to contaminate milk, or otherwise create a public health hazard. (4-8-94)

b. It shall be equipped with wash and rinse vat, utensil rack, milk cooling facilities and have an adequate supply of hot water available for cleaning milking equipment. If a part of the barn or other building, it shall be partitioned, screened, and sealed to prevent the entrance of dust, flies, or other contamination. A milking parlor used strictly as a milking facility in combination with a milkhouse or milkroom, when properly equipped, arranged and maintained, need not be partitioned. Concentrates and feed, if stored in the building, shall be kept in a tightly covered box or bin. The floor of the building shall be of concrete or other impervious material and graded to provide proper drainage. The walls and ceilings shall be constructed of smooth easily cleaned material. All outside doors shall open outward and be self-closing, unless they are provided with tight-fitting screen doors that open outward or unless other effective means are provided to prevent the entrance of flies. (4-8-94)

c. If a Dairy ~~Farm~~ bulk Farm ~~T~~ank is used, it shall be properly located in the milkhouse or milkroom

for access to all areas for cleaning and servicing. It shall not be located over a floor drain or under a ventilator.

(4-8-94)()

d. A small platform or slab constructed of concrete or other impervious material shall be provided outside the milkhouse, properly centered under a suitable port opening in the wall for milkhouse connections. The opening shall be fitted with a tight, self-closing door. The truck approach to the milkhouse or milkroom shall be properly graded and surfaced to prevent mud or pooling of water at point of loading. (4-8-94)

e. The milkhouse or milkroom shall be kept clean and free of trash. Animals and fowl shall not be allowed access to the milkhouse or milkroom at anytime. (4-8-94)

06. Farm Chemicals and Animal Drugs. (4-8-94)

a. Animal biologics and other drugs intended for treatment of animals, and insecticides approved for use in dairy operations, shall be properly labeled and used in accordance with label instructions, and shall be stored in a manner which will prevent accidental contact with milk and milk contact surfaces. (4-8-94)

b. Only drugs that are approved by the FDA or biologics approved by the USDA for use in dairy animals that are properly labeled according to FDA or USDA regulations shall be administered to such animals. (4-8-94)

c. When drug storage is located in the milkroom, milkhouse, or milking area, the drugs shall be segregated in such a way so that drugs labeled for use in lactating dairy animals are separated from drugs labeled for use in non-lactating dairy animals. (4-8-94)

d. Herbicides, fertilizers, pesticides, and insecticides that are not approved for use in dairy operations shall not be stored in the milkhouse, milkroom, or milking area. (4-8-94)

07. Utensils and Equipment. (4-8-94)

a. Utensils, milk cans, milking machines (including pipeline systems), and other equipment used in the handling of milk shall be maintained in good condition, shall be free from rust, open seams, milkstone, or any ~~unsanitary~~ condition, and shall be washed, rinsed, and drained after each milking, stored in suitable facilities, and sanitized immediately before use with at least fifty (50) ~~parts-per-million~~ chlorine solution or its equivalent. New or replacement can lids shall be umbrella type. All new utensils and equipment shall comply with applicable 3-A Sanitary Standards. (4-8-94)()

b. Dairy Farm ~~bulk-~~Tanks shall meet 3-A Sanitary Standards for construction at the time of installation and shall be installed in accordance with regulations of the ~~regulatory agency~~ Department. (4-8-94)()

c. Single service articles shall be properly stored and shall not be reused. (4-8-94)

08. Water Supply. The ~~d~~Dairy ~~f~~Farm water supply shall ~~be properly located, protected, and operated, and shall be easily accessible, ample, and of safe, sanitary quality for the cleaning of dairy utensils and equipment. The water supply shall come from source which is approved by the Department of Agriculture; or from a spring, dug well, driven well, bored well, or drilled well, the water from which complies with the standards of the Department of Agriculture~~ meet the requirements in Appendix D of the Pasteurized Milk Ordinance as incorporated herein by reference. A source that does not conform with the construction requirements of ~~the Department of Agriculture~~ Appendix D, but is tested annually by an approved laboratory and found to be safe and of sanitary quality shall be satisfactory: ~~P~~rovided, ~~That after adoption of these rules,~~ any new sources of water supply or any farm water supply requiring repairs or reconstruction or any source from which tested samples have been found unsatisfactory shall meet the construction requirements of the Department ~~of Agriculture~~. (4-8-94)()

09. Sewage Disposal. House, milkhouse or milkroom and toilet wastes shall be disposed of in a manner that will not pollute the soil surface, contaminate any water supply, or be exposed to insects. (4-8-94)

10. Qualifications for Dairy Farm Certification. Dairy Farm ~~e~~Certification requires satisfactory

compliance with the requirements in Section 150.

(4-8-94)()

151. -- 159. (RESERVED)

160. **DAIRY FARM CERTIFICATION.**

No milk for manufacturing purposes produced on an uncertified Dairy fFarm shall be bought or sold for human consumption.

(4-8-94)

01. **Initial Inspection.** Certified Dairy fFarms shall be inspected at least annually after initial certification to determine eligibility for recertification. The inspection *procedure criteria* for recertification shall be the same as that for initial certification.

(4-8-94)()

02. **Inspection.** Each Farm shall be inspected by an Inspector or Approved Fieldman. When evidence indicates that it is advisable to do so, the Department of Agriculture may require an examination of the herd by a licensed veterinarian. If the Dairy fFarm meets the applicable requirements for Dairy Farm eCertification described in Section 150, as indicated by the Farm Certification Report Form, the Dairy fFarm shall be certified as described in Subsection 160.03. If the Dairy fFarm does not meet the requirements for certification, ~~the Dairy Farm~~ shall be reinspected within thirty (30) days after the initial inspection. If the Dairy fFarm then meets the requirements for certification, ~~the Dairy Farm~~ shall not be certified, and the Producer's authorization to sell milk for human food consumption from that Dairy fFarm shall be withheld by the Department of Agriculture until such time as the Dairy fFarm qualifies for certification. Repeat violations on any item may cause a Dairy fFarm to lose certification. Provided that, if the Inspector determines during any of these inspections that corrections on the Dairy fFarm will require some capital investment, a reasonable extension of the prescribed time limits may be granted by the Department of Agriculture.

(4-8-94)()

03. **Certification.** An Inspector or Approved Fieldman shall certify Dairy fFarms that meet the requirements of Section 150, as applicable, based upon the inspection *procedure criteria* described in Subsection 160.02. The scoring criteria ~~established on USDA Form DA-181 (11/90) as amended, approved by the Department~~ shall be utilized in determining compliance with the provisions of Section 150. Dairy Farm eCertification shall authorize the sale from that Dairy fFarm of milk for manufacturing purposes that meets the quality standards.

(4-8-94)()

04. **Probationary Period.** If at any time an Inspector or Approved Fieldman determines that a certified Dairy fFarm does not meet the requirements for certification, the Department of Agriculture may allow a reasonable probationary period for the Producer to bring the Dairy fFarm within the requirements for certification. If at the end of this time the Dairy fFarm does not meet the requirements for certification, the Department of Agriculture may revoke the Dairy fFarm eCertification.

(4-8-94)()

05. **Reinstatement.** If, after a period of withholding, probation, or revocation of Dairy fFarm eCertification, a Producer makes the necessary corrections at the Dairy fFarm, ~~they the Producer~~ may apply for reinspection. When conditions have been corrected, the Dairy fFarm shall be reinspected by an inspector or Approved Fieldman. When the Inspector or Approved Fieldman determines that requirements for certification have been met, the Dairy fFarm shall be certified.

(4-8-94)()

161. -- 299. (RESERVED)

~~300. METHODS OF ANALYSIS.~~

~~All milk or cream purchased in or from the state of Idaho at a purchase price based upon or determined by weight and the milkfat, protein or solids non fat content thereof, shall be tested for milkfat protein or solids non fat under the methods approved by the latest edition of "The Methods of Analysis of the Association of Official Analytical Chemists."~~

(7-1-93)

~~01. Methods of Testing. The methods of testing milk and cream for sale recognized by the state of Idaho are:~~

(7-1-93)

- ~~a. The Babcock test in the above named work, Section 15.030. (7-1-93)~~
- ~~b. Solids not fat to be determined by subtracting the results of the Babcock test, Section 15.030, from the total solids test, Section 15.014, of the same work. (7-1-93)~~
- ~~c. Butterfat testing by light transmission as set forth in the same work. (7-1-93)~~
- ~~i. The latest edition of the manufacturer's operation manual shall be available at all times in conjunction with the instrument, and the procedures therein shall be followed. (7-1-93)~~
- ~~ii. A constant flow voltage regulator must be supplied if the instrument does not have one. If an external regulator is supplied, it must be installed immediately ahead of the instrument. (7-1-93)~~
- ~~iii. The calibration of the instrument may be checked by the Babcock method or the ether fat extraction method. If the Babcock method is used, a total of ten (10) or more individual tests will be run on the Babcock tester and the same samples run on the instrument. The mathematical average of the tests will be used to adjust the instrument. If the ether extraction method is used, a total of four samples will be run on the Mojonnier and on the instrument. The mathematical average of the four tests shall be used to adjust the instrument. The variation average between the Babcock or Mojonnier and the instrument shall not exceed fifteen thousandths percent (.015%). (7-1-93)~~
- ~~iv. At the beginning of each testing day and after each thirty (30) tests during the testing period, a pilot sample of homogenized milk of a known butterfat content shall be tested on the instrument and the results recorded on the permanent test record. If there is a variation of four hundredths percent (.04%), the instrument must be rinsed thoroughly with versene solution and the instrument checked for zero setting in order to get agreement on the test of the standard. At least three (3) standard checks must then be run and if the average is in excess of four hundredths percent (.04%), the instrument must be recalibrated. If after the three standard checks are run and the instrument recalibrated, then all samples run after the last check sample must be retested. The results of the rechecks will become official. When any sample varies in butterfat content by more than two percent (2%) from the sample preceding it through the instrument, there shall be an immediate retest and the second test shall be the one recorded. (7-1-93)~~
- ~~v. The samples used for calibration shall include samples in butterfat ranges normally comprised in the milk or cream purchased. These samples shall be prepared in the same manner as samples upon which producer payments are to be based. (7-1-93)~~
- ~~vi. All calibration results and check test for initial or subsequent calibration shall be recorded in the original record book and all tests for checking accuracy of calibration shall be recorded in the original record book. (7-1-93)~~
- ~~vii. The laboratory record shall be kept in a permanently bound record book in chronological order in the laboratory where the tests are made. Such record book shall be known as the original record. Entries shall be dated and subscribed to by the person making the determination and shall be kept for not less than one (1) year following test. (7-1-93)~~
- ~~viii. Fresh samples of milk to be used where composite samples are not prepared shall be taken in the manner prescribed and approved by the Department of Agriculture. Composite samples, if used, shall be preserved, with not more than one percent (1%) by weight of sample, of Potassium Bichromate or any equally approved preservative. No mercury compound. (7-1-93)~~
- ~~ix. The minimum sample for use by the light transmission method for fat both fresh and preserved samples. If fresh samples are the basis for payment, then the samples shall be from fresh milk. (7-1-93)~~
- ~~x. After making the fresh milk fat tests and the results being normal, the samples may be discarded. (7-1-93)~~
- ~~xi. All milk samples shall be tempered to ninety (90) degrees F — one hundred (100) degrees F in a controlled water bath which is provided with an accurate thermometer or a thermostatically controlled, enclosed, hot~~

~~air bath at ninety (90) degrees F—one hundred (100) degrees F. (7-1-93)~~

~~xii. No person shall test milk by the light transmission method where the results are used as a payment for butterfat therein, unless licensed as a Babcock tester and is qualified to operate the instrument by the manufacturer's standards. (7-1-93)~~

~~02. Methods of Payment. Methods of payment for butterfat shall be made by daily extensions of weight and butterfat or by the random stratified testing procedure. The stratified testing procedure shall be as follows: (7-1-93)~~

~~a. A minimum of three (3) tests per pay period must be used to calculate the pay test on a two (2) pay periods per month basis, or six (6) tests per pay period for monthly pay purposes. (7-1-93)~~

~~b. The dates on which samples are to be tested are to be determined by the plant manager and the quality control manager or production supervisor. The dates are to be recorded in a log book for the month prior to testing. If routes are to be tested on different days, the dates by individual routes are to be recorded in a log book. The book is to be kept in a locked place available to management personnel only. Under no circumstances shall the dates of testing be made known in advance to anyone other than management personnel. Lab personnel are to be notified on the days the tests are to be made which routes are to be tested. (7-1-93)~~

~~e. To insure proper stratified random sampling one (1) sample is to be tested each five (5) days. (7-1-93)~~

~~d. Samples will be collected from every producer's shipment or delivery of milk. These samples shall be collected on Saturdays, Sundays, and holidays as the normal random sampling procedure. (7-1-93)~~

~~03. Infrared Milk Analyzer (I.R.M.A.). The latest edition of the manufacturer's operational manual shall be available at all times in conjunction with the operation of the Milk Analyzer and the procedures therein shall be followed. The instrument performance shall therefore conform to the accepted Standard Methods specification as outlined in the latest Journal of the A.O.A.C. (7-1-93)~~

~~301.— 349. (RESERVED)~~

350. STANDARDS FOR BULK MILK HAULERS.

01. Permits. All ~~Bulk m~~Bulk Milk ~~H~~Haulers must possess a permit issued by the Department ~~of Agriculture~~. The permit shall cost twenty-five dollars (\$25) and will be issued to the applicant after a training session on proper procedures and successfully passing an examination administered by the Department ~~of Agriculture~~. ~~(4-8-94)()~~

a. No permit will be issued unless a score of seventy percent (70%) or better is made on the examination. (7-1-93)

b. A ~~T~~training and refresher course conducted by the ~~Idaho~~ Department ~~of Agriculture~~ will be given in each area ~~of the state of Idaho~~ once each year. ~~(7-1-93)()~~

c. Every holder of a permit must attend a training and refresher course every third year. (4-8-94)

d. Each new ~~prospective~~ Bulk Milk Hauler ~~must immediately shall~~ apply to the Department ~~of Agriculture~~ for a permit. ~~The bulk milk hauling company shall provide basic instructions on bulk milk protocols including milk sample collection, pick-up procedures, and safety measures. A date will be set for a special training and licensing session and upon satisfactory completion, a Hauler and Samplers permit will be issued upon satisfactory completion of a special training and licensing session held by the Department. (7-1-93)()~~

e. A substitute Bulk Milk Hauler in case of emergency can haul milk for three (3) days without a permit provided ~~ing~~ed the ~~state regulatory official~~ Department has been notified and the substitute Bulk Milk Hauler is ~~given some~~ provided instruction on approved milk pickup and delivery requirements by the bulk milk hauling company. At the end of three (3) days the substitute Bulk Milk Hauler must apply for a permit. ~~(7-1-93)()~~

02. Adulteration. If the truck is left unattended, Bulk Milk Haulers shall affix a seal or lock on all ~~tanker~~ Transportation Tank ports, covers, and doors to protect the milk from possible adulteration. (7-1-93)()

03. Authorization. No Bulk Milk Hauler shall grade, measure or sample his own milk without written authorization from the ~~processor~~ Dairy Plant receiving the milk. (7-1-93)()

04. Permit Revocation. The permit may be revoked if: (7-1-93)

a. The Bulk Milk Hauler fails to grade milk in a Dairy ~~Farm~~ ~~bulk~~ ~~T~~ Tank to its odor and appearance and fails to reject all milk which is abnormal in odor or flavor or that contains visible garget or other extraneous matter. (7-1-93)()

b. The Bulk Milk Hauler does not accurately take and record the temperature of milk or if he fails to reject the milk in excess of forty-five (45) degrees F. (7-1-93)()

c. The Bulk Milk Hauler fails to wash his hands before he proceeds to measure and sample the milk. (7-1-93)()

d. The Bulk Milk Hauler fails to follow acceptable procedures in measuring the amount of milk in the ~~bulk~~ Farm ~~T~~ Tank or if he does not, immediately after taking the reading convert the reading to pounds or gallons using the chart of the Farm ~~T~~ Tank manufacturer and record it on duplicate forms, with one (1) copy to be posted in the milk house and one (1) transmitted to the Dairy Plant. (7-1-93)()

e. The Bulk Milk Hauler fails to agitate the milk for at least five (5) minutes in ~~bulk~~ Farm ~~T~~ Tanks less than one thousand (1,000) gallons and ten minutes in Farm ~~T~~ Tanks over one thousand (1,000) gallons before taking a sample or if he withdraws any part of the milk from the Farm ~~T~~ Tank before the sample is taken. (7-1-93)()

f. The Bulk Milk Hauler does not take a sample for butterfat component testing and/or bacterial milk quality analysis in an approved ~~matter~~ manner, or sufficient size, in an approved container properly labeled, and cool and maintain the sample between thirty-two (32) degrees Fahrenheit to forty (40) degrees Fahrenheit. (7-1-93)()

g. The Bulk Milk Hauler rinses the bulk Farm ~~T~~ Tank before disconnecting and capping the hose. (7-1-93)()

h. The Bulk Milk Hauler siphons milk from milk cans, water troughs or other containers other than the ~~bulk~~ Farm ~~T~~ Tank. Milk poured into the bulk Farm ~~T~~ Tank from other than regular milking machine pails will not be allowed. (7-1-93)()

351. -- 399. (RESERVED)

400. STANDARDS OF IDENTITY, LABELING, AND QUALITY STANDARDS FOR ICE CREAM AND FROZEN ~~DESSERTS AND FROZEN NOVELTIES~~ DAIRY PRODUCTS AND DESSERTS.

~~01. Authority. The standards set forth herein are promulgated pursuant to Section 37-1201, Idaho Code. (7-1-93)~~

021. Definitions. ~~For purposes of these rules, T~~The standards of identity for ice cream and frozen custards, frozen yogurt, frozen yogurt dessert mix, frozen yogurt dairy products, frozen dairy dessert, ice milk, sherbet and water ices are as defined by the Food and Drug Administration, United States Department of Health Education and Welfare, in ~~Section 135.3, Section 135.110, Section 135.120, Section 135.140 and Section 135.160, Title 21, Part 135, of the Code of Federal Regulations, the Food and Drug Administration, United States Department of Health Education and Welfare, as set forth in Volume 21, Parts 100 to 199, Code of Federal Regulations, are by reference and adopted as amended. "Lite ice cream" or "light ice cream" shall comply with the provisions set forth for ice cream; provided it meets the following:~~ (7-1-93)()

- ~~a. "Lite ice cream" or "light ice cream" shall contain not less than five percent (5%) milkfat. (7-1-93)~~
- ~~b. The total amount of milkfat shall not exceed four and twenty five hundredths (4.25) grams per four (4) ounce serving. (7-1-93)~~
- ~~c. Total milk solids shall be at least eleven percent (11%). (7-1-93)~~
- ~~d. "Lite ice cream" or "light ice cream" shall contain not less than one and three tenths (1.3) pounds of total solids to the gallon and weigh not less than four (4) pounds to the gallon. (7-1-93)~~
- ~~e. "Lite ice cream" or "light ice cream" shall be labeled as such. Further descriptive or non-deceptive labeling may be permitted. (7-1-93)~~
- ~~f. All labels shall be submitted to and approved by the Idaho Department of Agriculture prior to sale or offering for sale of any "lite ice cream" or "light ice cream." (7-1-93)~~
- ~~03. **Frozen Yogurt Dessert Mix.** Frozen yogurt dessert mix is the food prepared from milk, with or without added milk solids, flavoring or seasoning and which has been pasteurized and afterwards fermented by one or more strains of *Lactobacillus Bulgaricus*, including yogurt strains *Streptococcus Thermophilus* and *Lactobacillus Acidophilus*. It shall be free of molds, yeasts, and other fungi, as well as other objectionable bacteria which may impair the quality of the product. Mature, clean and wholesome fruit or approved flavors may be added for fruit, fruit flavored or flavored yogurts. (7-1-93)~~
- ~~a. Frozen yogurt dessert mix shall contain not less than three and twenty five hundredths percent (3.25%) milkfat. (7-1-93)~~
- ~~b. The milkfat may be reduced to not less than two and eight tenths percent (2.8%) in flavored products. (7-1-93)~~
- ~~c. The solids not fat in frozen yogurt dessert shall be not less than nine percent (9%) and the total solids not less than twenty three percent (23%). (7-1-93)~~
- ~~d. The weight of the frozen yogurt dessert mix shall be not less than five (5) pounds per gallon. (7-1-93)~~
- ~~e. Harmless, edible stabilizers may be added not to exceed six tenths percent (.6%). (7-1-93)~~
- ~~f. Addition of sugar is optional. (7-1-93)~~
- ~~g. The freezing and air incorporation shall not exceed sixty percent (60%) by volume of the product. (7-1-93)~~
- ~~04. **Frozen Yogurt Dessert.** Frozen yogurt dessert is a frozen product produced from a frozen yogurt dessert mix identified in Subsection 400.03 and which complies with all the identity standards herein contained. (7-1-93)~~
- ~~05. **Frozen Lowfat and Nonfat Yogurt Dessert.** Frozen lowfat yogurt dessert shall be the same as frozen yogurt dessert except it shall contain not more than two percent (2%) milkfat with the addition of fruit. Frozen nonfat yogurt dessert shall be the same as frozen yogurt dessert except that it shall contain not more than five tenths percent (.5%) milkfat. (7-1-93)~~
- ~~06. **Dietetic or Dietary Frozen Dessert.** Dietetic or dietary frozen dessert is the food prepared from the same ingredients and in the same manner as ice cream except that: (7-1-93)~~
- ~~a. The optional sweetening ingredients shall be low calorie or non-calorie sweetening agent. (7-1-93)~~

- ~~*b.* The milkfat content shall be not less than five-tenths percent (.5%) nor more than two percent (2%) by weight. (7-1-93)~~
- ~~*c.* The total milk solids shall be not less than twelve percent (12%) by weight. (7-1-93)~~
- ~~*d.* The content of total food solids shall be not less than twenty-eight percent (28%) by weight or one and four-tenths (1.4) pounds per gallon. (7-1-93)~~
- ~~*e.* The weight of the finished product shall be not less than four and one-half (4 1/2) pounds per gallon. (7-1-93)~~
- ~~*f.* The name of the product is Dietetic Frozen Dessert or Dietary Frozen Dessert. (7-1-93)~~
- ~~*g.* In addition to the labeling requirements of Section 37-1202, Idaho Code, labeling shall be in accordance with applicable Federal requirements. (7-1-93)~~
- ~~*h.* Dietetic or dietary frozen dessert shall be sold only in packages of one half (1/2) gallon or less. (7-1-93)~~
- ~~*i.* Dietetic or dietary frozen dessert shall not be sold as novelties. (7-1-93)~~
- ~~**07. Milk Shake Base.** Milk shake base is the food prepared from the same ingredients and in the same manner as ice milk except that: (7-1-93)~~
- ~~*a.* Its milkfat content is not less than two percent (2%) by weight. (7-1-93)~~
- ~~*b.* Its content of milk solids not fat is not less than eleven percent (11%) by weight. (7-1-93)~~
- ~~*c.* The total food solids is not less than twenty five percent (25%) by weight. (7-1-93)~~
- ~~*d.* The provision for reduction in milkfat and total milk solids by the addition of bulky ingredients does not apply. (7-1-93)~~
- ~~*e.* No person except a manufacturer of frozen dessert mix or frozen dessert shall reduce the percentage by weight of milkfat by the addition of any milk product. (7-1-93)~~
- ~~**08. Lowfat Frozen Dairy Dessert and Nonfat Dairy Dessert.** Lowfat frozen dessert is the food prepared by freezing while stirring a pasteurized mix prepared from the same ingredients and in the same manner as ice cream except that: (7-1-93)~~
- ~~*a.* Its content of milkfat is more than five tenths percent (.5%) but not more than two percent (2%). (7-1-93)~~
- ~~*b.* It shall contain not less than twelve percent (12%) total milk solids not including milk components which may be added as ingredients. (7-1-93)~~
- ~~*c.* The weight per gallon of frozen product is not less than four and five tenths (4.5) pounds. (7-1-93)~~
- ~~*d.* Its content of food solids per frozen gallon shall be not less than one and three-tenths (1.3) pounds. (7-1-93)~~
- ~~**09. Nonfat Frozen Dairy Dessert.** Nonfat frozen dairy dessert shall meet all the requirements of lowfat frozen dessert except the milkfat content shall be less than five tenths (.5%) by weight. The product shall be labeled in the same manner as lowfat frozen dairy dessert except the name of the food which shall be "nonfat frozen dairy dessert." (7-1-93)~~
- ~~**10. Nondairy Frozen Dessert.** (7-1-93)~~

~~a. Nondairy frozen dessert is the food which is prepared by freezing, while stirring, a nondairy frozen dessert mix composed of one (1) or more of the optional characterizing ingredients specified in Subsection 400.10.b. sweetened with one (1) or more of the optional sweetening ingredients specified in Subsection 400.10.c. The nondairy product, with or without water added, may be seasoned with salt. One (1) or more of the ingredients specified in Subsection 400.10.d. may be used. Pasteurization is not required. (7-1-93)~~

~~b. The optional flavoring ingredients referred to in Subsection 400.10.a., are natural and artificial flavoring and characterized food ingredients. (7-1-93)~~

~~c. The optional sweetening ingredients referred to in Subsection 400.10.a. are sugar (sucrose), dextrose, invert sugar paste or syrup, glucose syrup, dried glucose syrup, corn sweetener, dried corn sweetener, malt syrup, malt extract, dried malt syrup, dried malt extract, maltose syrup and dried maltose syrup. (7-1-93)~~

~~d. The optional ingredients referred to in Subsection 400.10.a. are caseinates, hydrogenated vegetable oil, dipotassium phosphate, coloring, mono and diglycerides or polysorbates and other safe and suitable thickening agents. (7-1-93)~~

~~e. Such non dairy frozen desserts are deemed "processed" when manufactured as a dry powdered mix. The addition of water is the manner in which such nondairy frozen desserts are served. (7-1-93)~~

~~402. Labeling.~~ Each of the products identified in Subsections 400.02 through 400.10 shall be labeled as provided in Section 37-1202, Idaho Code. In addition, each container shall bear an identifiable code so as to identify the lot and/or date in which the product was manufactured. (7-1-93)

~~03. Quality Standards.~~ The following quality standards must be met: ()

~~4a.~~ Coliform Standard. Compliance with the coliform standard shall be deemed to have been met if the ~~number of~~ coliform ~~organisms~~ count does not exceed ten (10) colonies per gram per sample in more than two (2) of the last five four (~~5~~) consecutive samples. No enforcement action shall be taken if the last sample is within the standard. (7-1-93)()

~~4b.~~ Bacteria Standard. Compliance with the bacteria standard shall be deemed to have been met if the ~~number of~~ bacteria count per gram does not exceed twenty thousand (20,000) bacteria per gram per sample in more than two (2) of the last five four (~~5~~) consecutive samples. Whenever the Dairy Product is cultured, the bacteria test, using the standard plate count or equivalent method would not be applicable. (7-1-93)()

~~c.~~ Frequency of Tests. During any consecutive six (6) months, at least four (4) samples of ice cream and frozen dairy products and deserts shall be collected and tested. If the test or tests exceed the coliform or bacteria limit three (3) out of five (5) consecutive tests, the Dairy Product cannot be sold for human consumption. For the Dairy Product to be eligible for human consumption, a subsequent sample must meet the quality standards. ()

~~404.~~ **Licensed Manufacturers.** All frozen dessert mixes except nondairy frozen dessert shall be secured from a licensed manufacturer and shall be manufactured into a semifrozen state without adulteration. Freezing device salvage shall not be reused as a mix. (7-1-93)

~~405.~~ **Violations.** The Director ~~of the Idaho Department of Agriculture or the Director's authorized representative~~ shall issue and enforce a written stop sale order to the owner or custodian of any quantity of frozen desserts or frozen novelties which ~~have~~ are in violation of Title 37 Chapters 3, ~~4, 5, 6, 7, 8, 9, 10, 11~~ Idaho Code, or ~~regulations adopted pursuant thereto~~ these rules. Disposition of products not in compliance shall be at the discretion of the Director. (7-1-93)()

401. -- 499. (RESERVED)

500. STANDARDS FOR BUTTER.

~~01.~~ Grading. Butter grading shall be performed in accordance with the United States Standards for

grades of Butter as incorporated by reference. ()

02. Quality Standards. The following quality standards must be met: ()

a. Coliform Standard. Compliance with the coliform standard shall be deemed to have been met if the coliform count does not exceed ten (10) colonies per gram in two (2) of the last four (4) consecutive samples. ()

b. Bacteria Standard. Compliance with the bacteria standard shall be deemed to have been met if the bacteria count per gram does not exceed twenty thousand (20,000) bacteria per gram in two (2) of the last four (4) consecutive samples. Whenever the Butter is cultured, the bacteria test using the standard plate count or equivalent method would not be applicable. ()

c. Frequency of Tests. During any consecutive six (6) months, at least four (4) samples of Butter shall be collected and tested. If the test or tests exceed the coliform or bacteria limit three (3) out of five (5) consecutive tests, the Butter cannot be sold for human consumption. For the Butter to be eligible for human consumption, a subsequent sample must meet the quality standards. ()

5001. IDAHO STANDARDS FOR WHEY BUTTER.

01. Definition. (7-1-93)

~~**a. Whey Butter:** The food product made by gathering the fat of fresh or ripened whey cream separated from cheese whey formed into a mass, with or without added cream obtained from milk, which also contains a small portion of other whey or milk constituents, with or without the addition of salt or a harmless coloring matter. Whey butter shall be clean and non-rancid and shall contain not less than eighty percent (80%) butter fat. For the purposes of these rules whey butter shall be pasteurized. (7-1-93)~~

~~**b. Whey Cream:** That portion of whey rich in milk fat which is separated from whey. (7-1-93)~~

021. Basis for Determining the Acceptability of Whey Butter. The acceptability of Whey Butter is determined on the basis of classifying first the flavor characteristics and then the characteristics in body, color and salt. Flavor is the basic quality factor in grading Whey Butter and is determined organoleptically by taste and smell. The flavor characteristic is identified and together with its relative intensity, is rated according to the applicable classification. When more than one flavor characteristic is discernible in a sample of Whey Butter, the flavor classification of the sample shall be established on the basis of the flavor that carries the lowest rating. Body, color and salt characteristics are then noted and any defects are disrated in accordance with the established classification. Acceptability for the sample is then established in accordance with the flavor classification, subject to disratings for body, color and salt. When the disratings for body, color and salt exceed the permitted amount or if the flavor is not acceptable, the Whey Butter will not be allowed to be sold or distributed within the state of Idaho unless the packages are labeled as provided. (7-1-93)

032. Specifications for Acceptability of Whey Butter. Whey Butter shall be free of foreign materials and visible mold. It shall possess a fine and highly pleasing Whey Butter flavor. May possess any of the following flavors to a slight degree: flat, malty, musty, neutralized, scorched, utensil, stale, and woody. May possess the following flavors to a definite degree: cooked, aged, bitter, coarse-acid, smothered, storage and old cream. May possess feed flavor to a pronounced degree. The permitted total disratings in body, color and salt characteristics are limited to one and one-half (1 1/2). (7-1-93)

043. Whey Butter Label Requirements. It is hereby declared to be unlawful to sell or offer for sale any Whey Butter within the state of Idaho unless the wrappers and containers in which said butter is packaged are conspicuously labeled as herein provided: (7-1-93)

a. The name of the product shall be Whey Butter or Whey Cream Butter or "Butter made from whey cream." (7-1-93)

b. The name of the product shall be placed on the principal display panel(s) and shall be of uniform type and prominence. (7-1-93)

c. The manufacturer identification number shall be conspicuously placed on each wrapper and container of Whey Butter. (7-1-93)

d. Labels of Whey Butter sold or distributed within Idaho shall be approved by the *director of the Department of Agriculture*. (7-1-93)()

04. Quality Standards. The following quality standards must be met: ()

a. Coliform Standard. Compliance with the coliform standard shall be deemed to have been met if the coliform count does not exceed ten (10) colonies per gram in two (2) of the last four (4) consecutive samples. ()

b. Bacteria Standard. Compliance with the bacteria standard shall be deemed to have been met if the bacteria count per gram does not exceed twenty thousand (20,000) bacteria per gram in two (2) of the last four (4) consecutive samples. Whenever the Whey Butter is cultured, the bacteria test using the standard plate count or equivalent method would not be applicable. ()

c. Frequency of Tests. During any consecutive six (6) months, at least four (4) samples of Whey Butter shall be collected and tested. If the test or tests exceed the coliform or bacteria limit three (3) out of five (5) consecutive tests, the Butter cannot be sold for human consumption. For the Whey Butter to be eligible for human consumption, a subsequent sample must meet the quality standards. ()

05. Enforcement. Whey Butter which fails to meet flavor or body, color and salt requirements as defined in Section 500 may be sold or distributed within the state of Idaho, provided the word, "undergrade" is placed on the principal display panel(s) immediately preceding or following the product name and is of uniform type size and prominence. (7-1-93)()

06. Table I -- Classification of Flavor Characteristics.

Identified Flavors	Acceptable	Unacceptable Unacceptable
Flat	S	D
Malty	S	D
Musty	S	D
Neutralized	S	D
Scorched	S	D
Utensil	S	D
Cooked	D	P
Aged	D	P
Bitter	D	P
Smothered	D	P
Storage	D	P
Old Creme Cream	D	P
Feed	P	-
Acid	D	P
Weed	S	D

(7-1-93)()

07. Table II -- Characteristics and Disratings in Body, Color, and Salt.

Characteristics	Body Disratings		
	S	D	P
Crumbly	1/2	1	
Gummy	1/2	1	
Leaky		1/2	1
Mealy or grainy		1/2	1
Short		1/2	1
Weak	1/2	1	
Sticky	1/2	1	
Ragged boring	1	2	

S -- Slight; D -- Definite; P -- Pronounced (7-1-93)

- 08. Explanation of Terms with Respect to Flavor, Intensity, and Characteristics:** (7-1-93)
- a.** Slight: Detected only upon critical examination. (7-1-93)
 - b.** Definite: Detectable but not intense. (7-1-93)
 - c.** Pronounced: Readily detectable and intense. (7-1-93)
 - d.** Aged: Characterized by lack of freshness. (7-1-93)
 - e.** Bitter: Astringent, similar to taste of quinine and produces a puckery sensation. (7-1-93)
 - f.** Coarse-acid: Lacks a delicate flavor or aroma and is associated with an acid condition but there is no indication of sourness. (7-1-93)
 - g.** Cooked (fine): Smooth, nutty-like character resembling a custard flavor. (7-1-93)
 - h.** Feed: Aromatic flavor characteristic of feeds eaten by cows. (7-1-93)
 - i.** Flat: Lacks natural butter flavor. (7-1-93)
 - j.** Malty: A distinctive, harsh flavor suggestive of malt. (7-1-93)
 - k.** Musty: Suggestive of the aroma of a damp vegetable cellar. (7-1-93)
 - l.** Neutralizer: Suggestive of a bicarbonate of soda flavor or the flavor of similar compounds. (7-1-93)
 - m.** Old Cream: Aged cream characterized by lack of freshness and imparts a rough aftertaste on the tongue. (7-1-93)
 - n.** Scorched: A more intensified flavor than cooked (coarse) and imparts a harsh aftertaste. (7-1-93)
 - o.** Sour: Characterized by an acid flavor and aroma. (7-1-93)

- p.** Smothered: Suggestive of improperly cooled cream. (7-1-93)
- q.** Storage: Characterized by a lack of freshness and more intensified than “aged” flavor. (7-1-93)
- r.** Utensil: A flavor suggestive of unclean cans, utensils and equipment. (7-1-93)
- s.** Weed: Aromatic flavor characteristic of the weeds eaten by cows. (7-1-93)
- 09. With Respect to Body:** (7-1-93)
- a.** Crumbly: When a “crumbly” body is present the particles lack cohesion. The intensity is described as “slight” when the trier plug tends to break and the butter lacks plasticity; and “definite” when the butter breaks roughly or crumbles. (7-1-93)
- b.** Gummy: Gummy-bodied-butter does not melt readily and is inclined to stick to the roof of the mouth. The intensity is described as “slight” when the butter tends to become chewy and “definite” when it imparts a gum-like impression in the mouth. (7-1-93)
- c.** Leaky: A “leaky” body is present when on visual examination there are beads of moisture on the surface of the trier plug and on the back of the trier or when slight pressure is applied to the butter on the trier plug. The intensity is described as “slight” when the droplets or beads of moisture are barely visible and about the size of a pinhead; “definite” when the moisture drops are somewhat larger or the droplets are more numerous and tend to run together; and “pronounced” when the leaky condition is so evident that drops of water drip from the trier plug. (7-1-93)
- d.** Mealy or grainy: A “mealy” or “grainy” condition imparts a granular consistency when the butter is melted on the tongue. The intensity is described as “slight” when the mealiness or graininess is barely detectable on the tongue and “definite” when the mealiness or graininess is readily detectable. (7-1-93)
- e.** Ragged boring: A “ragged boring” body, in contrast to solid boring, is when a sticky-crumbly condition is presented to such a degree that a full trier of butter cannot be drawn. The intensity is described as “slight” when there is a considerable adherence “definite” when it is practically impossible to draw a full plug of the butter. (7-1-93)
- f.** Short: The texture is short-grained, lacks plasticity and tends toward brittleness. The intensity is described as “slight” when the butter lacks pliability and tends to be brittle; and “definite” when sharp and distinct breaks form as pressure is applied against the plug. (7-1-93)
- g.** Sticky: When a “sticky” condition is present, the butter adheres to the trier as a smear and possesses excessive adhesion. The intensity is described as “slight” when the smear is present only on a portion of the back of the trier and “definite” when the trier becomes smeary throughout its length. (7-1-93)
- h.** Weak: A “weak” body lacks firmness and tends to be spongy. The intensity is described as “slight” when the plug of butter, under slight pressure, tends to depress and is not firm and compact; and “definite” when the plug of butter, under slight pressure, tends to depress easily and definitely lacks firmness and compactness. (7-1-93)
- 10. With Respect to Color:** (7-1-93)
- a.** Mottled: “Mottles” appear as a dappled condition with spots of lighter and deeper shades of yellow. The intensity is described as “slight” when the small spots of different shades of yellow, irregular in shape, are barely discernible on the plug of butter and “definite” when the mottles are readily discernible on the plug of butter. (7-1-93)
- b.** Specks: “Specks” usually appear in butter as small white or yellow spots, however, the latter may be of variable size. The intensity is described as “slight” when the spots are few in number and “definite” when they are noticeable in large numbers. (7-1-93)

c. Streaked: "Streaked" color appears as light colored portions surrounded by more highly colored portions. The intensity is described as "slight" when only a few are present and "definite" when they are more numerous on the trier plug. (7-1-93)

d. Wavy: "Wavy" color in butter is ~~an~~ unevenness in the color that appears as waves of different shades of yellow. The intensity is described as "slight" when the waves are barely discernible and "definite" when they are readily noticeable on the trier plug. (7-1-93)()

11. With Respect to Salt: (7-1-93)

a. Sharp: "Sharp" salt is characterized by taste sensations suggestive of salt. The intensity is described as "slight" when the salt taste predominates in flavor; and "definite" when the salt taste distinctly predominates in flavor. (7-1-93)

b. Gritty: A "gritty" salt condition is detected by the gritty feel of the grains of undissolved salt, imparting a sand-like feeling on the tongue. The intensity is described as "slight" when only a few grains of undissolved salt are detected and "definite" when the condition is more readily noticeable. (7-1-93)

~~5042~~ -- 599. (RESERVED)

600. NEW DAIRY PRODUCTS.

01. General. Upon request of any interested person, the Director ~~of the Idaho Department of~~ ~~Agriculture~~ may establish a temporary definition and standard for a new Dairy Product provided, all the following conditions exist: (7-1-93)()

a. Research in the uses of milk and the products or by products of milk has developed a new Dairy Product for which no definition or standard is prescribed. (7-1-93)

b. The new Dairy Product cannot be produced or marketed because no definition in standard is prescribed for it. (7-1-93)()

c. The public interest would be served by the Dairy Product. (7-1-93)()

d. The quality, wholesomeness and manufacturing requirements of the Dairy Product are at least equal to established standards for similar Dairy Products. (7-1-93)

e. The Dairy Product is labeled in accordance to F.D.A. guidelines for a food product and approved by the Department ~~of Agriculture~~. (7-1-93)()

02. Permits. The Director ~~of the Department of Agriculture~~ may issue a special permit to the manufacturer/distributor for the production and sale of a new Dairy Product(s). The fee for this permit shall be twenty five dollars (\$25) per Dairy Product. Such manufacturer/distributor shall be subject to the provisions of Title 37 Idaho Code and regulations adopted pursuant thereto applicable to ~~milk~~ Dairy plants and milk products. (7-1-93)()

03. Expiration. After two (2) years from the date a temporary permit has been issued for a new Dairy Product(s), the Department ~~of Agriculture~~ shall promulgate rules to establish definitions and standards for the new, nonstandardized Dairy Product(s). (7-1-93)()

IDAPA 02 - DEPARTMENT OF AGRICULTURE
02.04.06 - REQUIREMENTS FOR LICENSED DAIRY PLANTS
DOCKET NO. 02-0406-1401
NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2015 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 acted on 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 37-516, 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:

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the June 4, 2014 Idaho Administrative Bulletin, [Vol. 14-6, pages 19 and 20](#).

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

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

ISDA does not anticipate any fiscal impact to the general fund as a result of this rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact John Bilderback, Bureau Chief, at (208) 332-8541 or john.bilderback@agri.idaho.gov.

DATED this 3rd day of July, 2014.

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) 334-7120

THE FOLLOWING NOTICE WAS PUBLISHED WITH THE PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 37-516, 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 June 18, 2014.

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 rule is being proposed to reflect and be consistent with the statute change (Senate Bill No. 1338) which was passed during the 2014 Legislature and signed by Governor C. L. “Butch” Otter on April 3, 2014 effective July 1, 2014. Specifically the legal authority will change from Chapter 4 to Chapter 5, Title 37, Idaho Code, the title of the rule has changed, and the incorporation by reference is being updated from the 2002 version to 2011.

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

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

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

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because the proposed rule is merely incorporating the statute changes to ensure the rule coincides with these 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 materials incorporated by reference will be updated to the current version of Subpart E Requirements for Licensed Dairy Plants of the Milk for Manufacturing Purposes and its Production and Processing, Recommended Requirements published on July 21, 2011 by United States Department of Agriculture, Agricultural Marketing Service, Dairy Programs. The current rule references the 2002 version. Since 2002, the document was revised in 2005 and 2011. The document is published nationally and receives industry comments prior to final publication. Comparing the 2002 and the 2011 versions the following have been changed:

1. If the last three (3) out of five (5) consecutive commingled milk bacterial estimates exceed 1 million per milliliter, the plant license shall be suspended, whereas in the 2002 version reads a penalty sanctioned by the state regulatory agency shall be imposed on the plant until an additional sample of commingled milk is tested and found satisfactory. Note: Since 2002, there has not been a dairy plant in Idaho that has had a three (3) out of five (5) exceedances;
2. The definition of heat treated cream (section E 1.9) has been simplified in the 2011 version; and
3. Rooms and Compartments for Cottage Cheese (section E 5.1 and corresponding subsections) was removed because it was in conflict with the Pasteurized Milk Ordinance and cottage cheese is a Grade A product which is subject to the requirements of the Pasteurized Milk Ordinance.

These three changes will not affect how ISDA will license or inspect dairy plants.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact John Bilderback at 208-332-8541 or john.bilderback@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 June 25, 2014.

DATED this 9th day of May, 2014.

LSO RULES ANALYSIS MEMO

THE FOLLOWING IS THE TEXT OF DOCKET NO. 02-0406-1401

IDAPA 02, TITLE 04, CHAPTER 06

02.04.06 - ~~REQUIREMENTS FOR~~ **RULES GOVERNING** LICENSED DAIRY PLANTS

000. LEGAL AUTHORITY.

This chapter is adopted under the legal authority of Title 37, Chapter ~~45~~, Idaho Code.

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

001. TITLE AND SCOPE.

01. Title. The title of this chapter is rules of the Department of Agriculture governing IDAPA 02.04.06, "~~Requirements for~~ **Rules Governing** Licensed Dairy Plants."

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

02. Scope. This chapter has the following scope: These rules shall govern the requirements for the design, construction, and operation of dairy plants licensed to process milk for manufacturing purposes. The official citation of this chapter is IDAPA 02.04.06.000 et seq. For example, this section's citation is IDAPA 02.04.06.001.

(4-6-05)

(BREAK IN CONTINUITY OF SECTIONS)

004. INCORPORATION BY REFERENCE.

This rule incorporates by reference ~~the Federal Register Volume 37, Number 68, Part II,~~ "Subpart E -- Requirements for Licensed Dairy Plants," ~~June 17, 2002~~ of the 'Milk for Manufacturing Purposes and Its Production and Processing, Recommended Requirements' published by USDA, AMS, Dairy Programs and made effective July 21, 2011. Copies of this document may be obtained from the Idaho State Department of Agriculture central office or accessed online at <http://www.ams.usda.gov/AMSV1.0/getfile?dDocName=STELDEV3004791>.

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

IDAPA 02 - DEPARTMENT OF AGRICULTURE

02.04.14 - RULES GOVERNING DAIRY WASTE

DOCKET NO. 02-0414-1401

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2015 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 acted on 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 37-603, 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:

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the June 4, 2014 Idaho Administrative Bulletin, [Vol. 14-6, pages 21 through 26](#).

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

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

ISDA does not anticipate any fiscal impact to the general fund as a result of this rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact John Bilderback, Bureau Chief, at (208) 332-8541 or john.bilderback@agri.idaho.gov.

DATED this 3rd day of July, 2014.

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) 334-7120

THE FOLLOWING NOTICE WAS PUBLISHED WITH THE PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 37-603, 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 June 18, 2014.

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 rule is being proposed to reflect and be consistent with the statute change (Senate Bill No. 1376) which was passed during the 2014 Legislature and signed by Governor C. L. "Butch" Otter on March 26, 2014 effective July 1, 2014. The specific changes add new definitions and removes obsolete definitions and revises the rule provisions regarding unauthorized discharges, compliance schedules, and penalties for violations.

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

There are no fees or charges associated with 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 resulting from this rulemaking:

ISDA does not anticipate any fiscal 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 the rule is being done to comply with the requirements provided for in statute.

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:

There are no documents being incorporated by reference into this rule.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact John Bilderback at 208-332-8541 or john.bilderback@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 June 25, 2014.

DATED this 9th day of May, 2014.

LSO RULES ANALYSIS MEMO

THE FOLLOWING IS THE TEXT OF DOCKET NO. 02-0414-1401

000. LEGAL AUTHORITY.

This chapter is adopted under the legal authority of Title 37, Chapter 46, Idaho Code.

(3-20-97)()

(BREAK IN CONTINUITY OF SECTIONS)

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

01. Office. The central office of the Idaho State Department of Agriculture is located at 2270 Old Penitentiary Road, Boise, Idaho 83712. (3-29-10)

02. Office Hours. Office hours are 8 a.m. to 5 p.m., Mountain *Standard* Time, Monday through Friday, except holidays designated by the state of Idaho. (3-29-10)()

03. Mailing Address. The mailing address for the central office is Idaho State Department of Agriculture, PO Box 790, Boise, Idaho 83701. (3-29-10)

04. Telephone Number. The telephone number of the central office is (208) 332-8500. (3-29-10)

05. Fax Number. The fax number of the central office is (208) 334-2170. (3-29-10)

(BREAK IN CONTINUITY OF SECTIONS)

007. FINDINGS.

The Department finds that pursuant to Section 67-5226(1), Idaho Code, these rules are necessary to protect the public health, safety, and welfare of Idaho, enhance Idaho water quality and preserve the integrity of the Idaho dairy industry. These rules establish design, construction, operation, location, and inspection criteria for dairy farms and dairy waste systems on Idaho dairy farms and enable the Department to implement the 1999 NRCS Nutrient Management Standard (NMS) on dairy farms to appropriately manage livestock dairy waste. These rules also provide penalty provisions. (4-5-00)()

008. -- 009. (RESERVED)

010. DEFINITIONS.

The following definitions shall apply in the interpretation and enforcement of this chapter: (3-20-97)

01. Best Management Practice. A practice, technique, or measure that is determined to be a reasonable precaution, a cost-effective and practicable means of preventing or reducing the discharge of pollutants from a point source or a nonpoint source to a level compatible with environmental goals, including water quality goals and standards. ()

02. Certified Planner. A person who has completed nutrient management certification in accordance with the Nutrient Management Standard (NMS) and is approved by the Department. (3-29-10)

03. Certified Soil Sampler. An individual qualified and approved by the Department to collect soil samples according to the 1997 University of Idaho Soil Sampling protocols or other method as approved by the Department. (3-29-10)

04. Dairy Farm. A Land owned or operated by a dairy farm and is a place or premises where one (1) or more milking cows, sheep, or goats are kept, and from which all or a portion of the milk produced thereon is delivered, sold or offered for sale for human consumption. (3-29-10)()

05. Dairy Waste. Manure and process wastewater that may also contain bedding, spilled feed,

compost, water, or soil. It also includes wastes not particularly associated with manure, such as milking center or washing wastes, milk, feed leachate, or livestock carcasses or parts thereof. ()

06. Dairy Waste System or Waste System. The portion of a dairy farm where dairy waste is stored, collected, or treated. This may include corrals, feeding areas, waste collection systems, waste conveyance systems, waste storage ponds, waste treatment lagoons, and evaporative ponds. ()

~~047.~~ **Department.** The Idaho State Department of Agriculture. (3-29-10)

~~058.~~ **Director.** The Director of the Idaho State Department of Agriculture or his designee. (3-29-10)

~~06. Discharge Violation. A practice or facility condition which has caused an unauthorized release of Livestock Waste into surface, ground water, or beyond the Dairy Farm's property boundaries or beyond the property boundary of any facility operated by the Producer. Contract manure haulers, producers and other persons who haul Livestock Waste beyond the Producer's property boundaries are responsible for releases of Livestock Waste between the property boundaries of the Producer and the property boundaries at the point of application.~~ (3-29-10)

~~079.~~ **Farm Certification.** A permit issued by the Department allowing the sale of manufacture grade milk. (3-20-97)

~~0810.~~ **Fieldman.** An individual qualified and approved by the Department to perform dairy farm inspections. (3-20-97)

~~0911.~~ **Inspector.** A qualified, trained person employed by the Department to perform dairy farm inspections. (3-20-97)

102. Livestock. For the purposes of these rules the term livestock shall include bovidae, suidae, equidae and other animals that are kept on or contiguous to a dairy farm and are owned or controlled by a dairy farm. (3-19-99)

~~11. Livestock Waste. Manure that may also contain bedding, spilled feed, compost, water or soil. It also includes wastes not particularly associated with manure, such as milking center or washing wastes, milk, feed leachate, or livestock carcasses or parts thereof.~~ (3-29-10)

123. Manufacture Grade Milk. Milk produced for processing into dairy products for human consumption but not subject to Grade A requirements. (3-20-97)

14. Modification or Modified. Structural changes and alterations to the dairy waste system that would require increased storage or containment capacity or such changes that would alter the function of the waste system. ()

15. National Pollutant Discharge Elimination System (NPDES). The point source permitting program established pursuant to section 402 of the federal clean water act. ()

~~136. Non-Compliance. A practice or facility condition which will that causes an Discharge Violation unauthorized discharge; or, if left uncorrected, or a condition on a Dairy Farm that does not meet the requirements of the Nutrient Management Plan; will cause an unauthorized discharge, or does not meet N nutrient M management S standards; and Appendix 10D comply with a NMP.~~ (3-29-10)()

~~147. Nutrient Management Plan (NMP). A plan prepared in conformance with the Nutrient Management Standard (NMS) or other equally protective standard approved by the Department for managing the amount, source, placement, form, and timing of the land application of nutrients and soil amendments for plant production, and for minimizing the potential for environmental degradation, particularly impairment of water quality.~~ (3-29-10)()

~~158.~~ **Permit.** A permit issued by the Department allowing the sale of Grade A milk. (3-20-97)

~~16~~**19.** **Person.** Any individual, partnership, association, firm, joint stock company, joint venture, trust, estate, political subdivision, public or private corporation, state or federal governmental department, agency, or instrumentality; or any ~~organized group of persons whether incorporated or not~~ legal entity that is recognized by law as the subject of rights and duties. (3-20-97)()

20. Process Wastewater. Liquid containing dairy manure. ()

~~17~~**21.** **Producer.** The person who exercises control over the production of milk delivered to a plant, and who receives payment for this product. (3-20-97)

22. Unauthorized Discharge. A discharge of dairy waste to state surface waters or ground waters, or beyond a dairy farm's property boundaries, that does not meet the requirements of these rules or ground water or surface water quality standards. ()

(BREAK IN CONTINUITY OF SECTIONS)

030. WASTE SYSTEM APPROVAL.

The Department is authorized to approve the design, construction, operation, and location of dairy waste systems. These systems must conform to the NMP, NMS, and Appendix 10D. (3-29-10)

01. Waste Containment and Storage. (3-29-10)

a. Waste containment structures shall be constructed to meet a minimum of one hundred eighty (180) days of holding capacity. Wastewater containment structures that are utilized as the secondary or final storage for effluent shall have a minimum two (2) vertical feet of freeboard. (3-29-10)

b. Earthen waste containment structures less than ten (10) vertical feet high with a maximum high water line of eight (8) vertical feet shall be required to have a top embankment width of at least eight (8) feet and a minimum of one (1) vertical foot of freeboard shall be maintained. The combined inside and outside embankment slopes must be at least five (5) horizontal to one (1) vertical, and neither slope shall be steeper than two (2) horizontal to one (1) vertical. Earthen waste containment structures with outside embankments higher than ten (10) vertical feet from the naturally occurring ground level shall meet the NRCS Idaho Conservation Practice Standard Waste Storage Facility Code 313 December 2004 embankment requirements as incorporated by reference in Subsection 004.03 of these rules. (3-29-10)

c. The inside bottom of the waste containment structure shall be a minimum of two (2) feet above the high water table, bed rock, gravel, or permeable soils. For an earthen waste containment structure, a soil liner shall be installed such that the specific discharge rate of the containment structure meet $1 \times 10^{-6} \text{ cm}^3/\text{cm}^2/\text{sec}$ or less as described in Appendix 10D. Concrete or synthetic liners must be constructed to the American Society of Agricultural and Biological Engineers Specification ASAE EP393.3 Manure Storages February 2004 and Appendix 10D as incorporated by reference in Section 004 of these rules. (3-29-10)

d. Storage areas for livestock dairy ~~W~~waste including compost and solid manure storage areas shall be located on approved soils and appropriately protected to prevent run on and run off. (3-29-10)()

e. Waste storage systems shall be maintained in a condition that allows the Producer to regularly inspect the integrity of the systems. (3-29-10)

02. Nutrient Management. All dairy farms shall implement a ~~an approved~~ approved by the Department Nutrient Management Plan (NMP) that accurately reflects the operation of the facility. The NMP shall include an accurate description of the one hundred eighty (180) days of holding capacity of the waste containment system. It shall be the dairy farm's responsibility to update the NMP. (3-29-10)()

a. Producer annual soil tests shall be conducted as set forth in the NMS. (3-29-10)

- b.** Regulatory soil tests will be conducted at frequencies sufficient to provide assurance of compliance with the NMS. (3-29-10)
- i. If the regulatory or Producer soil tests reveal that phosphorus thresholds have exceeded the levels established in the NMS, the Producer shall only apply nutrients at the appropriate phosphorus crop uptake rate. (3-29-10)
- ii. Subsequent regulatory soil test(s) on fields that were identified as exceeding the phosphorus threshold will be conducted. If two (2) out of three (3) tests reveal the phosphorus index continues to trend upward, the Producer will be penalized as provided in these rules. These tests shall be taken in the top one (1) foot of soil. (3-29-10)
- c.** Accurate NMP records shall be maintained. These records shall include at a minimum: (3-29-10)
- i. Regulatory soil samples shall be taken by a Certified Soil Sampler and tested by a laboratory that meets the requirements and performance standards of the North American Proficiency Testing Program under the auspices of the Soil Science Society of America outlined in the NMS, as incorporated by reference in Subsection 004.02, as part of NMS 590 or other methods as approved by the Department; (3-29-10)
- ii. Annual soil analysis; (3-29-10)
- iii. Date and amount of *Livestock dairy Wwaste* and commercial fertilizer applied to individual dairy owned or operated fields; (~~3-29-10~~)()
- iv. Date(s) of exported *Livestock dairy Wwaste*, number of acres applied, amount of *Livestock dairy Wwaste* exported and to whom *Livestock dairy Wwaste* was exported; and (~~3-29-10~~)()
- v. Actual crop yields on dairy owned or operated fields. (3-29-10)

031. -- 039. (RESERVED)

040. INSPECTIONS.

Each dairy farm shall be inspected by an Inspector or Fieldman at least annually or at intervals sufficient to determine that *Livestock dairy Wwaste* has been managed to prevent an unauthorized discharge or contamination of surface and ground water. An official inspection report form as described in Section 041 will be completed at the time of inspection. (~~3-29-10~~)()

(BREAK IN CONTINUITY OF SECTIONS)

050. COMPLIANCE SCHEDULES.

01. Non-Compliance or Unauthorized Discharge Violations Identified. When the Director identifies items of non-compliance or *unauthorized* discharge violations, the deficiencies will be noted and discussed with the Producer. Appropriate corrective actions will be identified and scheduled informally. The Director may develop a formal compliance schedule in the following cases: (~~3-29-10~~)()

- a.** When corrective actions cannot be completed within thirty (30) days; (4-5-00)
- b.** When corrective actions require significant capital investment; (4-5-00)
- c.** When informal schedules have not been complied with. (4-5-00)

02. Re-Inspection. Re-inspection of the dairy farm will be conducted as appropriate, to ensure compliance. An *unauthorized* discharge violation shall be corrected immediately, when at all possible. (~~4-5-00~~)()

051. -- 059. (RESERVED)

060. UNAUTHORIZED DISCHARGES -- PENALTIES.

~~01. **Suspend Producer's Permit.** The Director may suspend the Producer's Permit or Farm Certification authorizing the Producer to sell milk until such time that the Dairy Farm is in compliance. Repeat non-compliance violations on significant items, Discharge Violations, or violation of formal compliance schedule also may cause a Dairy Farm to lose authorization to sell milk. (3-29-10)~~

01. Unauthorized Discharge. No dairy farm shall cause an unauthorized discharge. ()

02. Non-compliance. Non-compliance with requirements for dairy waste systems, the NMS, and NMP shall be addressed through corrective actions and compliance schedules pursuant to these rules. ()

03. Penalties. For unauthorized discharges and non-compliance conditions, the Director shall have the authority to assess a fine of up to ten thousand dollars (\$10,000) per occurrence. Civil penalties collected under this subsection shall be remitted to the county where the violation occurred for deposit in the county current expense fund. ()

024. Suspend Planners or Soil Samplers Certification. The Director may suspend certification of Certified Planners or Certified Soil Samplers in the event such Certified Planners or Soil Samplers fail to develop NMPs or collect soil samples as required by these rules. (3-29-10)

~~061. **REINSTATEMENT.**~~

~~Whenever a Producer has lost authorization to sell milk for human consumption under the provisions of Section 060, the Producer may request for reinspection. Subsequent to the request, a Departmental reinspection may be conducted. If corrections have been made, the producer will be reinstated. (3-29-10)~~

0621. -- 999. (RESERVED)

IDAPA 02 - IDAHO STATE DEPARTMENT OF AGRICULTURE

02.04.21 - RULES GOVERNING THE IMPORTATION OF ANIMALS

DOCKET NO. 02-0421-1401

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2015 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 or rejected in part by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part 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 25-203, 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:

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the September 3rd, 2014 Idaho Administrative Bulletin, [Vol.14-9 pages 56 through 58](#).

The amendments made in the proposed rule remove the restriction that prohibits importing domestic cervidae from regions endemic with meningeal worm, *P. tenuis*, while simultaneously implementing import requirements that will mitigate the risk of disease exposure. Specifically, the amendment will require a deworming treatment specific to *P. tenuis* to be administered to all cervidae prior to import as well as a statement on the certificate of veterinary inspection (CVI), signed by an accredited veterinarian, verifying none of the cervids in the shipment have been diagnosed or exposed to the meningeal worm, *P. tenuis*.

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

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

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

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Dr. Scott Leibsle, Deputy Administrator at (208) 332-8614.

DATED this 6th day of October, 2014.

Brian J. Oakey
Deputy Director
Idaho State Department of Agriculture
2270 Old Penitentiary Rd.
Boise, ID 83712
P.O. Box 790
Boise, ID 83701-0790
Phone: (208) 332-8500
Fax: (208) 334-7120

THE FOLLOWING NOTICE WAS PUBLISHED WITH THE PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 25-203, 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 17, 2014.

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:

Add Subsection 600.04 - To mitigate the risk of disease exposure, a deworming treatment that is specific to the meningeal worm (*P. tenuis*) will be added to the requirements that must be met prior to importing domestic cervids into Idaho.

Add Subsection 600.05 - The accredited veterinarian who signs the certificate of veterinary inspection (CVI) for a shipment of domestic cervidae into Idaho must provide a statement, on the CVI, verifying that none of the cervids in the shipment have been diagnosed or exposed to the meningeal worm, *P. tenuis*.

Modify Section 605 - The rule change removes the restriction that prohibits importing domestic cervidae from regions endemic with *P. tenuis*, but now prohibits importing cervids known to be infected with *P. tenuis*.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: No fee is being imposed or charged through the adoption of this proposed rule.

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

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the June 2014 Idaho Administrative Bulletin, [Vol. 14-6, page 28](#). A negotiated rulemaking meeting was held at the Idaho State Department of Agriculture on July 1, 2014, with twenty (20) people in attendance. Attendees provided multiple comments at the meeting and ISDA took those comments into consideration when drafting this 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: NA

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Dr. Scott Leibsle, Deputy Administrator at (208) 332-8614.

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 24, 2014.

DATED this 7th Day of August, 2014.

LSO RULES ANALYSIS MEMO

THE FOLLOWING IS THE TEXT OF DOCKET NO. 02-0421-1401

011. ABBREVIATIONS.

- | | | |
|----------------|---|------------|
| 01. | APHIS. Animal and Plant Health Inspection Service. | (4-2-08) |
| 02. | AVIC. Area Veterinarian in Charge. | (5-3-03) |
| 03. | AZA. Association of Zoos and Aquariums. | (4-4-13) |
| 04. | CF. Complement Fixation Test. | (3-30-07) |
| 05. | CFR. Code of Federal Regulations. | (5-3-03) |
| 06. | CWD. Chronic Wasting Disease. | (5-3-03) |
| 07. | EIA. Equine Infectious Anemia. | (5-3-03) |
| 08. | EVA. Equine Viral Arteritis. | (5-8-09) |
| 09. | NAEBA. North American Elk Breeders Association. | (5-3-03) |
| 10. | NPIP. National Poultry Improvement Plan. | (5-3-03) |
| 11. | <u>P. tenuis. Paralephastromylyus tenuis (meningeal worm of deer).</u> | <u>()</u> |
| 12. | PCR. Polymerase Chain Reaction. | (4-2-08) |
| 13. | RDGF. Red Deer Genetic Factor. | (4-4-13) |
| 14. | TB. Tuberculosis. | (5-3-03) |
| 15. | UM&R. Uniform Methods and Rules. | (5-3-03) |
| 16. | USDA. United States Department of Agriculture. | (5-3-03) |
| 17. | VHSV. Viral Hemorrhagic Septicemia Virus. | (4-2-08) |
| 18. | VS. Veterinary Services. | (5-3-03) |

(BREAK IN CONTINUITY OF SECTIONS)

600. IMPORTATION OF DOMESTIC CERVIDAE.

Domestic cervidae may enter the state of Idaho, by permit, provided: (5-3-03)

01. Certificate of Veterinary Inspection. The cervidae are accompanied by a certificate of veterinary inspection certifying that they have been inspected within thirty (30) days prior to the date of shipment, that they are free from evidence of infectious, contagious, or communicable diseases, or known exposure thereto during the preceding sixty (60) days; and (5-3-03)

02. Meet Testing Requirements. The cervidae shall meet the testing requirements of Section 601.

(5-3-03)

03. National CWD Herd Certification Program Participation. All cervidae must originate from a herd that is in good standing and actively participating in the National CWD Herd Certification Program. (3-20-14)

04. Deworming Requirement. All cervidae are required to receive anthelmintic, approved for treatment of *P. tenuis*, within thirty (30) days prior to import into Idaho. Treatment must be documented on the certificate of veterinary inspection. ()

05. *P. tenuis* Statement. The certificate of veterinary inspection accompanying the cervidae shipment must contain the following written statement from the accredited veterinarian on the certificate: "No cervids identified on this certificate of veterinary inspection have displayed symptoms consistent with *P. tenuis* infection. These cervids have neither been exposed to *P. tenuis* or originated from a premises where *P. tenuis* has been identified." ()

(BREAK IN CONTINUITY OF SECTIONS)

605. MENINGEAL WORM-~~ENDEMIC REGION.~~

~~Importation of Domestic cervidae shall be imported only from a region not~~ known to be ~~endemic~~ infected with ~~*Parelaphostrongylus P. tenuis* (meningeal worm of white tail deer),~~ is prohibited as reported by the Southeastern Cooperative Wildlife Disease Study. (5-3-03)()

IDAPA 02 - IDAHO STATE DEPARTMENT OF AGRICULTURE

02.04.21 - RULES GOVERNING THE IMPORTATION OF ANIMALS

DOCKET NO. 02-0421-1402

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2015 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 or rejected in part by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part 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 25-203, 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:

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the September 3rd, 2014 Idaho Administrative Bulletin, [Vol. 14-9 pages 59 through 61](#).

The amendments made in the proposed rule remove the requirement that prohibits importing livestock originating from within a ten (10) mile radius of a confirmed case of vesicular stomatitis (VS). It is not necessary to restrict the movement of animals within a ten (10) mile radius as the current standard accepted within the industry is to only restrict importation of animals from the affected premises. The amendment also allows cattle of dairy breeds to be granted a tuberculosis testing exemption when imported if consigned directly to feedlots approved for finish feeding.

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

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

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

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Dr. Scott Leibsle, Deputy Administrator at (208) 332-8614.

DATED this 6th day of October, 2014.

Brian J. Oakey, Deputy Director
Idaho State Department of Agriculture
2270 Old Penitentiary Rd.
Boise, ID 83712
P.O. Box 790, Boise, ID 83701-0790
Phone: (208) 332-8500
Fax: (208) 334-7120

THE FOLLOWING NOTICE WAS PUBLISHED WITH THE PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 25-203, 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 17, 2014.

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 statement in nontechnical language of the substance and purpose of the proposed rulemaking:

Amend Section 109 - The rule change removes the requirement that prohibits importing livestock that originate from within a 10-mile radius of a confirmed case of vesicular stomatitis (VS).

Amend Subsection 240.03 - The rule change allows dairy breeds of cattle to be granted a tuberculosis testing exemption when consigned directly to feedlots approved for finish feeding.

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

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: NA

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted on July 21, 2014, at the Idaho State Department of Agriculture. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the July 2014 Idaho Administrative Bulletin, **Vol. 14-7, page 22**. No comments have been submitted to the rulemaking record.

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: NA

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Dr. Scott Leibsle, Deputy Administrator at (208) 332-8614.

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 24, 2014.

DATED this 7th Day of August, 2014.

LSO RULES ANALYSIS MEMO

THE FOLLOWING IS THE TEXT OF DOCKET NO. 02-0421-1402

109. VESICULAR STOMATITIS.

No livestock may enter Idaho from another state if Vesicular Stomatitis has been diagnosed ~~within ten (10) miles of~~ on the premises of origin of the shipment within the last thirty (30) days. ~~(3-30-07)~~ ()

01. Certificate of Inspection. Any livestock entering Idaho from a state where Vesicular Stomatitis has been diagnosed within the last thirty (30) days shall be accompanied by a certificate of veterinary inspection with the following statement written by the accredited veterinarian on the certificate: "All animals identified on this certificate of veterinary inspection have been examined and found to be free from Vesicular Stomatitis. During the last thirty (30) days; these animals have neither been exposed to Vesicular Stomatitis nor located within an area where Vesicular Stomatitis has been diagnosed." (5-3-03)

02. Permit for Entry. Livestock from states in which Vesicular Stomatitis has been diagnosed within the last thirty (30) days shall be accompanied by a permit for entry into Idaho. The permit number shall be written on the certificate of veterinary inspection. (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 and dairy breeds that are less than fifteen (15) months of age, which are consigned for grazing, or steers, spayed heifers, and intact heifers of beef and dairy 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. (4-7-11)

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. (4-7-11)

IDAPA 02 - IDAHO STATE DEPARTMENT OF AGRICULTURE

02.04.24 - RULES GOVERNING TUBERCULOSIS

DOCKET NO. 02-0424-1401

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2015 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 or rejected in part by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part 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 25-203, 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:

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the September 3rd, 2014 Idaho Administrative Bulletin, [Vol. 14-9 pages 62 through 65](#).

The amendment made in the proposed rule adoption expands the existing approved feedlot program to include criteria for cattle of unknown tuberculosis testing status to be fed to slaughter in feedlots approved for finish feeding.

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

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

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

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Dr. Scott Leibsle, Deputy Administrator at (208) 332-8614.

DATED this 6th day of October, 2014.

Brian J. Oakey, Deputy Director
Idaho State Department of Agriculture
2270 Old Penitentiary Rd.
Boise, ID 83712
P.O. Box 790, Boise, ID 83701-0790
Phone: (208) 332-8500
Fax: (208) 334-7120

THE FOLLOWING NOTICE WAS PUBLISHED WITH THE PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 25-203, 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 17, 2014.

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 statement in nontechnical language of the substance of the proposed rule:

Adds new Section 401 that establishes criteria for cattle of unknown tuberculosis testing status to be fed to slaughter in feedlots approved for finish feeding.

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

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: NA

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted on July 21, 2014 at the Idaho State Department of Agriculture. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the July 2014 Idaho Administrative Bulletin, **Vol. 14-7, page 23**. No comments have been submitted to the rulemaking record.

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: NA

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Dr. Scott Leibsle, Deputy Administrator at (208) 332-8614.

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 24, 2014.

DATED this 7th day of August, 2014.

LSO RULES ANALYSIS MEMO

THE FOLLOWING IS THE TEXT OF DOCKET NO. 02-0424-1401

010. DEFINITIONS.

As used in these rules the following terms have the following meanings: (3-20-04)

01. Accredited Herd. A herd that meets the standards of the UMR for bovine tuberculosis. (3-20-04)

02. Accredited Veterinarian. A veterinarian approved by the Administrator and USDA/APHIS/VS, in accordance with the provisions of Title 9, Part 161, Code of Federal Regulations, to perform functions of State-Federal animal disease control programs. (3-20-04)

03. Administrator. The administrator of the Division of Animal Industries, Idaho State Department of Agriculture or his designee. (3-20-04)

- 04.** **Affected Herd.** A herd in which there is strong and substantial evidence that *Mycobacterium bovis* may exist. (3-20-04)
- 05.** **Approved Laboratory.** A state or federal veterinary diagnostic laboratory. The primary laboratory for tuberculosis histopathology and bacteriology culture shall be the National Veterinary Services Laboratories, Ames, Iowa. (3-20-04)
- 06.** **Approved Feedlot.** A feedlot approved by the Administrator to feed cattle and domestic bison of unknown Tuberculosis test status. ()
- 067.** **Area-Veterinarian-in-Charge.** The veterinary official of USDA/APHIS/VS, who is assigned by the deputy administrator of APHIS to supervise and perform official APHIS animal health work. (3-20-04)
- 078.** **Bovine Tuberculosis.** A disease caused by *Mycobacterium bovis*. (3-20-04)
- 089.** **Cattle.** All domestic bovidae, including domestic bison. (3-20-04)
- 0910.** **Department.** The Idaho State Department of Agriculture. (3-20-04)
- 101.** **Director.** The director of the Idaho State Department of Agriculture or his designee. (3-20-04)
- 112.** **Division of Animal Industries.** Idaho State Department of Agriculture, Division of Animal Industries. (3-20-04)
- 123.** **Domestic Bison.** All animals of the genus *Bison*, which are owned by a person. (3-20-04)
- 134.** **Domestic Cervidae.** Elk, fallow deer, and reindeer owned by a person. (3-20-04)
- 145.** **Eradication.** The complete elimination of bovine tuberculosis from cattle, domestic cervidae, bison and goats in a state so that the disease does not appear unless introduced from another species or from outside the state. (3-20-04)
- 156.** **Exposed.** Animals that have had contact with other animals, herds, or materials that have been determined to be infected with or affected by *Mycobacterium bovis*. (3-20-04)
- 167.** **Federal Animal Health Official.** An employee of USDA/APHIS/VS who is authorized to perform animal health activities. (3-20-04)
- 178.** **Free Area.** The counties, areas or districts not quarantined by the Division of Animal Industries for tuberculosis. (3-20-04)
- 189.** **Herd.** Any group of cattle, bison, goats, and domestic cervidae maintained on common ground, or two (2) or more groups of cattle, bison, goats, and domestic cervidae under common ownership or supervision that are geographically separated from other groups but can have an interchange or movement without regard to health status. (3-20-04)
- 1920.** **Herd Depopulation.** The destruction of all cattle, bison, goats, and domestic cervidae exposed to bovine tuberculosis in a herd. (3-20-04)
- 201.** **Interstate Movement.** Movements of cattle, bison, goats, and domestic cervidae from Idaho into any other state, territory or the District of Columbia or from any other state, territory or the District of Columbia into Idaho. (3-20-04)
- 212.** **Intrastate Movement.** Movement of cattle, bison, goats, and domestic cervidae within Idaho. (3-20-04)

223. Negative. Any cattle, bison, domestic cervidae, or goats that show no response to the tuberculin test, or are classified by the testing laboratory as negative for tuberculosis. (3-20-04)

234. Official Tuberculin Test. A test for bovine tuberculosis, approved by APHIS, applied and reported by approved personnel in accordance with the UMR. (3-20-04)

245. 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. (3-20-04)

256. Public Stockyards. Premises where trading in cattle, bison, goats, and domestic cervidae is carried on, where yarding, feeding and watering places are provided by the stockyards or transportation companies, or where cattle, bison, goats, and domestic cervidae associations or similar companies maintain corrals for feeding, shearing, dipping and separating animals. (3-20-04)

267. Quarantined Area. The counties, areas, or portions thereof, quarantined by the Division of Animal Industries for tuberculosis. (3-20-04)

278. Quarantined. Isolation of all animals diseased or exposed thereto, from contact with healthy animals and exclusion of such healthy animals from enclosures or grounds where said diseased or exposed animals are, or have been kept. (3-20-04)

289. Reactor. Any cattle, domestic cervidae, bison or goat that shows a response to an official tuberculosis test and is classified a reactor by the testing veterinarian or DTE; or any animal that is classified a reactor upon slaughter inspection or necropsy. (3-20-04)

290. Restrain. The confinement of cattle, bison, goats, or domestic cervidae in a chute, or other device, for the purpose of efficiently, effectively, and safely inspecting, treating, vaccinating, or testing. (3-20-04)

301. State Animal Health Official. The Administrator, or his designee, responsible for animal disease control and eradication activities. (3-20-04)

312. Suspect. Any cattle, bison, domestic cervidae, or goat that shows a response to a tuberculin test as stated in the UMR for bovine tuberculosis, and is not classified a reactor. (3-20-04)

323. Tuberculin. A product that is approved by, and produced under, USDA license for injection into cattle, bison, goats, and domestic cervidae for the purpose of detecting bovine tuberculosis. (3-20-04)

(BREAK IN CONTINUITY OF SECTIONS)

401. APPROVED FEEDLOT. Cattle and domestic bison of unknown Tuberculosis test status may be fed for slaughter only in an Approved Feedlot, with no provisions for pasturing, grazing, or removal from the feedlot other than to slaughter. ()

402. APPLICATION FOR DESIGNATION AS AN APPROVED FEEDLOT Application for Approved Feedlot status shall be made on application forms available from the Administrator. ()

403. ADMINISTRATOR APPROVAL. The Administrator may approve feedlot applications after the feedlot has been inspected by state or federal animal health officials and: ()

01. Cattle Secured. The feedlot management has demonstrated that cattle of unknown Tuberculosis test status can be secured in the feedlot; and ()

02. Adequate Records. Feedlot records are adequate to show the origin and disposition of the cattle in

the feedlot; and ()

03. Adequate Resources. The Administrator determines that the Division of Animal Industries has adequate human and fiscal resources to assure that the feedlot abides by the provisions of this chapter; and ()

04. Past History. The Administrator may take any past enforcement or violation history into consideration when making the final determination of whether or not to approve a feedlot. ()

404. APPROVED FEEDLOT NUMBER.
Feedlots approved by the Administrator shall receive an Idaho Approved Feedlot Number. ()

405. EXPIRATION OF APPROVED STATUS.
Approved Feedlot status shall expire on September 1 of each year. It shall be the responsibility of feedlot management to apply each year for renewal of approved status. ()

~~406~~ -- 499. (RESERVED)

IDAPA 02 - IDAHO STATE DEPARTMENT OF AGRICULTURE
02.04.28 - RULES GOVERNING LIVESTOCK DEALERS, BUYING STATIONS,
AND LIVESTOCK TRADER LOTS

DOCKET NO. 02-0428-1401

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2015 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 or rejected in part by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part 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 25-203, 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:

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the September 3rd, 2014 Idaho Administrative Bulletin, [Vol. 14-9, pages 66-67](#).

The amendment made in the proposed rule requires all livestock leaving an approved livestock trader lot to be inspected by an accredited veterinarian and be issued an official certificate of veterinary inspection (CVI) prior to release. The amendment ensures that all livestock leaving an approved trader lot will be deemed healthy by a veterinarian.

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

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

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

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Dr. Scott Leibsle, Deputy Administrator at (208) 332-8614.

DATED this 6th day of October, 2014.

Brian J. Oakey, Deputy Director
Idaho State Department of Agriculture
2270 Old Penitentiary Rd.
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P.O. Box 790, Boise, ID 83701-0790
Phone: (208) 332-8500
Fax: (208) 334-7120

THE FOLLOWING NOTICE WAS PUBLISHED WITH THE PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 25-203, 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 17, 2014.

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 statement in nontechnical language of the substance of the proposed rule:

The rule change amends Section 540 to require that all livestock leaving an approved livestock trader lot shall require an accredited veterinarian to inspect the animals and issue an official certificate of veterinary inspection (CVI) prior to release.

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

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: NA

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted on July 28, 2014 at the Idaho State Department of Agriculture. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the July 2014 Idaho Administrative Bulletin, **Vol. 14-7, page 24**. No comments have been submitted to the rulemaking record.

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: NA

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Dr. Scott Leibsle, Deputy Administrator at (208) 332-8614.

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 24, 2014.

DATED this 5th Day of August, 2014.

LSO RULES ANALYSIS MEMO

THE FOLLOWING IS THE TEXT OF DOCKET NO. 02-0428-1401

540. REMOVAL REQUIREMENTS.

All *brucellosis test eligible* cattle that are removed from an approved livestock trader lot shall be accompanied by a certificate of veterinary inspection issued by an accredited veterinarian prior to removal, except: (4-2-08)()

01. Livestock Markets. Cattle shipped directly to a specifically approved livestock market. (4-2-08)

02. Slaughter. Cattle shipped directly to an approved slaughter establishment must be individually identified with an approved USDA Backtag. (4-2-08)

~~**03. Approved Feedlots.** Cattle shipped directly to an Idaho approved feedlot. (4-2-08)~~

IDAPA 02 - DEPARTMENT OF AGRICULTURE

02.04.29 - RULES GOVERNING TRICHOMONIASIS

DOCKET NO. 02-0429-1401

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2015 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 or rejected in part by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part 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 67-5221(1), Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 25-203, 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:

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the June 4, 2014 Idaho Administrative Bulletin, [Vol. 14-6, pages 29 and 30](#).

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

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

No fees or charges are being imposed or increased 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 resulting from this rulemaking:

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

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning this pending rule, contact Dr. Scott Leibsle, Deputy Administrator - Division of Animal Industries at (208) 332-8540.

DATED this 7th day of August, 2014.

Brian J. Oakey
Deputy Director
Idaho State Department of Agriculture
2270 Old Penitentiary Rd,
Boise, ID 83712
P.O. Box 790
Boise, Idaho 83701
Phone: (208) 332-8500
Fax: (208) 334-2170

THE FOLLOWING NOTICE WAS PUBLISHED WITH THE PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiating proposed rulemaking procedures. The action is authorized pursuant to Section 25-203, 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 June 18, 2014.

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 statement in nontechnical language of the substance and purpose of the intended negotiated rulemaking and the principle issues involved:

Removes Subsection 100.05 to conform to the 2014 statutory amendment which requires all non-virgin breeding bulls to test for Trichomoniasis (Trich) annually, thereby removing the Trich testing exemption for non-virgin breeding bulls located north of the Salmon River.

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

No fees or charges are being imposed or increased 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 resulting from this rulemaking:

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

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because the rule change is being made to coincide with the 2014 statutory amendment, which was already passed by the Idaho Legislature.

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: NA

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Dr. Scott Leibsle, Deputy Administrator - Division of Animal Industries at (208) 332-8540.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be delivered on or before June 25, 2014.

DATED this 9th day of May, 2014.

LSO RULES ANALYSIS MEMO

THE FOLLOWING IS THE TEXT OF DOCKET NO. 02-0429-1401

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, which have never serviced a cow shall be exempt from the Trichomoniasis testing requirements. (4-7-11)

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)

~~**06.5. 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)

IDAPA 02 - DEPARTMENT OF AGRICULTURE

02.06.02 - RULES PERTAINING TO THE IDAHO COMMERCIAL FEED LAW

DOCKET NO. 02-0602-1401

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2015 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:

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the June 4, 2014 Idaho Administrative Bulletin, [Vol. 14-6, pages 31 and 32](#).

IDAHO CODE SECTION 22-101A STATEMENT: This rule does regulate an activity not regulated by the federal government. The federal government does not regulate commercial feeds. The rule is, however, consistent with national standards of the Association of American Feed Control Officials.

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

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

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

DATED this 7th day of August, 2014.

Brian J. Oakey
Deputy Director
Idaho State Department of Agriculture
2270 Old Penitentiary Rd.
Boise, ID 83712
P.O. Box 790
Boise, Idaho 83701
Phone: (208) 332-8500
Fax: (208) 334-2170

THE FOLLOWING NOTICE WAS PUBLISHED WITH THE PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), 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 June 18, 2014.

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

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

To incorporate by reference information and updates contained in the 2015 Official Publication of the Association of American Feed Control Officials (AAFCO) as they pertain to the methodology and practice of conducting regulatory commercial feed registration and label review.

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

No fees or charges are being imposed or increased 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 resulting from this rulemaking:

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

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

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

ISDA has incorporated the Association of American Feed Control Officials (AAFCO) Official Publication into the Rules Pertaining to the Idaho Commercial Feed Law for a number of years. The only change to the incorporation by reference section is to the date of the Official Publication.

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

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be delivered on or before June 25, 2014.

DATED this 9th day of May, 2014.

LSO RULES ANALYSIS MEMO

THE FOLLOWING IS THE TEXT OF DOCKET NO. 02-0602-1401

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 “2014~~5~~ 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. (~~3-20-14~~)()

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

IDAPA 02 - DEPARTMENT OF AGRICULTURE
02.06.12 - RULES PERTAINING TO THE IDAHO FERTILIZER LAW
DOCKET NO. 02-0612-1401
NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2015 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:

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the June 4, 2014, Idaho Administrative Bulletin, [Vol. 14-6, pages 34 and 35](#).

IDAHO CODE SECTION 22-101A STATEMENT: This rule does regulate an activity not regulated by the federal government. The federal government does not regulate commercial fertilizers. The rule is, however, consistent with national standards of the Association of American Plant Food Control Officials.

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

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

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

DATED this 7th day of August, 2014.

Brian J. Oakey
Deputy Director
Idaho State Department of Agriculture
2270 Old Penitentiary Rd.
Boise, ID 83712
P.O. Box 790
Boise, Idaho 83701
Phone: (208) 332-8500
Fax: (208) 334-2170

THE FOLLOWING NOTICE WAS PUBLISHED WITH THE PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), 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 June 18, 2014.

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

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

To incorporate by reference information and updates contained in the 2015 Official Publication of the Association of American Plant Food Control Officials (AAPFCO) as they pertain to the methodology and practice of conducting regulatory fertilizer registration and label review.

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

No fees or charges are being imposed or increased 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 resulting from this rulemaking:

ISDA does not anticipate any fiscal impact to the general fund as a result of this rule change.

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

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

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

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

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be delivered on or before June 25, 2014.

DATED this 9th day of May, 2014.

LSO RULES ANALYSIS MEMO

THE FOLLOWING IS THE TEXT OF DOCKET NO. 02-0612-1401

004. INCORPORATION BY REFERENCE.

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

01. The Association of American Plant Food Control Officials (AAPFCO) Official Publication.

The Terms, Ingredient Definitions, and Policies, as published in the “2014~~5~~ Official Publication” of AAPFCO where those terms and ingredient definitions, and policy statements do not conflict with terms and ingredient definitions, and policy statements adopted under Title 22, Chapter 6, Idaho Code, and any rule promulgated thereunder. The AAPFCO Official Publication is a copyrighted publication and not available in electronic format. A copy may be purchased online from the AAPFCO website at: http://www.aapfco.org/pdf/publication_order_form.pdf.

~~(3-20-14)~~()

02. The Merck Index. The “2006 Merck Index,” 14th Edition as published by Merck Research

Laboratories Division of Merck & Co., Incorporated. The Merck Index is a copyrighted publication and not available in an electronic format. A copy may be purchased online from Merck & Co., Inc. at: <http://www.merckbooks.com/mindex/index.html>.

(4-7-11)

03. The Association of Official Agricultural Chemists (AOAC) International. The “2005 Official

Methods of Analysis (OMA) of the AOAC,” 18th Edition, a copyrighted publication, is maintained and published by the AOAC International. The AOAC OMA is available in electronic format at: www.EOMA.AOAC.org. A copy may be purchased online from AOAC International.

(3-29-12)

IDAPA 02 - IDAHO STATE DEPARTMENT OF AGRICULTURE

02.06.33 - ORGANIC FOOD PRODUCTS RULES

DOCKET NO. 02-0633-1401

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2015 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 acted on 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 22-1103, Idaho Code, and 7 CFR Part 205, National Organic Program (NOP).

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:

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the June 4, 2014 Idaho Administrative Bulletin, [Vol. 14-6, pages 37 through 41](#).

IDAHO CODE SECTION 22-101A STATEMENT: This rule regulates an activity regulated by the federal government. The proposed changes bring the rule into compliance with federal regulations.

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

No impact to the General Fund. There will be a \$1,250 reduction in annual revenue to the Organic Food Program dedicated fund due to repeal of a \$50 annual registration fee.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Dave Ogden, Section Manager at (208) 332-8612.

DATED this 7th day of August, 2014.

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

THE FOLLOWING NOTICE WAS PUBLISHED WITH THE PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 22-1103, 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 June 18, 2014.

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:

IDAPA 02.06.33.300 requires annual registration and payment of fees of \$50 each for organic producers and handlers with \$5,000 or less of annual gross sales, and other certifying agents operating in Idaho. This registration and fee is prohibited by the National Organic Program (NOP) administered by the U.S. Department of Agriculture under 7 CFR Part 205. Idaho State Department of Agriculture desires to operate in compliance with NOP rules and moves to repeal IDAPA 02.06.33.300.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: \$50 annual registration fee being repealed.

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:

No impact to the General Fund. There will be a \$1,250 reduction in annual revenue to the Organic Food Program dedicated fund.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because the federal NOP rules take precedence over IDAPA 02.06.33.300, which must be repealed.

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: NA

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Dave Ogden, Section Manager at (208) 332-8612.

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 June 25, 2014.

DATED this 9th of May, 2014.

LSO RULES ANALYSIS MEMO

THE FOLLOWING IS THE TEXT OF DOCKET NO. 02-0633-1401

010. DEFINITIONS.

01. Agent. Any entity accredited by the Secretary of the United States Department of Agriculture as a certifying agent for the purpose of certifying a production or handling operation. (3-19-07)

02. Certification. A document issued by the Department to a producer/handler who is in compliance with this rule who has more than five thousand dollars (\$5,000) annual gross organic sales. (3-19-07)

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

04. Director. The director of the department of agriculture or the director's designee. (4-2-03)

05. Educational Activity. Seminar, conference, farm tour, class, or research. (3-19-07)

06. Food Products. Shall include all agricultural, horticultural, viticultural and vegetable products of

the soil, apiary and apiary products, poultry and poultry products, livestock and livestock products, milk and dairy products and aquaculture products. (4-2-03)

07. Handler. Any person engaged in the business of handling agricultural products, including producers who handle crops or livestock of their own production, except such term shall not include final retailers of agricultural products that do not process agricultural products. (4-2-08)

08. Livestock. Any cattle, sheep, goat, swine, poultry, or equine animals used for food or in the production of food, fiber, feed, or other agricultural- based consumer products; wild or domesticated game; or other non-plant life, except such term shall not include aquatic animals or bees for the production of food, fiber, feed, or other agricultural-based consumer products. (4-2-08)

09. Materials. Any substance or mixture of substances that is intended to be used in agricultural production, processing, or handling. (3-27-13)

10. Organic Certification Seal. The design approved by the director and which when 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 Chapter 11, Title 22, Idaho Code, and all other conditions of the provisions of that chapter have been met. (4-2-03)

11. Organic Food Product. Any food product that is marketed using the term organic, or any derivative of the term organic in its labeling or advertising. Organic foods are those processed, packaged, transported and stored to retain maximum nutritional value, without the use of artificial preservatives, coloring or other additives, irradiation, or synthetic pesticides. (4-2-03)

12. Organically Grown Food Products. Food products which are produced without the use of synthetically compounded fertilizers, pesticides, or growth regulators for a period not less than thirty-six (36) months prior to harvest. Organically grown food products are produced under the standards and rules established in accordance with the provisions of Chapter 11, Title 22, Idaho Code, and by other qualified agencies. (4-2-03)

13. Person. Any individual, partnership, association, corporation, cooperative, or other entity. (4-2-08)

14. Producer. A person who engages in the business of growing or producing food, fiber, feed, or other agricultural-based consumer products. (4-2-08)

~~**15. Registration.** (3-19-07)~~

~~**a.** A document issued by the Department to an organic producer/handler who has five thousand dollars (\$5,000) or less annual gross organic sales; or (3-19-07)~~

~~**b.** A document issued by the Department to an agent certifying organic producers/handlers in the state of Idaho; or (3-19-07)~~

~~**c.** A document issued by the Department to a producer/handler certified by an agent other than the Department. (3-19-07)~~

~~**16.5. Vendor.** Any person who sells organic food products to the consumer or another vendor. (4-2-03)~~

(BREAK IN CONTINUITY OF SECTIONS)

~~**300. REGISTRATION REQUIREMENTS, DEADLINES AND FEES.**~~

~~**01. Registration Requirements and Deadlines.** All applicants applying for registration with the Department, shall submit the application to the Department on forms prescribed by the Department. (3-19-07)~~

~~a. All organic producers/handlers in Idaho with five thousand dollars (\$5,000) or less annual gross organic sales shall register with the Department by July 1st of each year. (3-29-10)~~

~~b. All organic producers/handlers in Idaho certified by agents other than the Department shall register with the Department within thirty (30) days of initial certification and by July 1st of each year thereafter. (3-29-10)~~

~~c. All agents certifying producers/handlers in Idaho shall register with the Department within thirty (30) days of issuing their first Idaho producer/handler certificate. (3-19-07)~~

~~d. Agents shall provide the Department, by January 2 of each year, a list of Idaho producers/handlers, addresses, and telephone numbers for each certificate issued during the prior calendar year. (3-19-07)~~

~~02. **Registration Fees.** (3-29-10)~~

~~a. The annual registration fee is fifty dollars (\$50). (3-19-07)~~

~~b. A person who produces and handles their own organic food products shall pay only one (1) annual registration fee. (3-19-07)~~

3010. CERTIFICATION REQUIREMENTS AND FEES.

01. Certification Requirements. All applicants applying for certification with the Department, shall submit the application to the Department on forms prescribed or approved by the Department. (3-29-12)

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 sales of five thousand dollars (\$5,000) or less may select certification ~~in place of registration.~~ (4-7-11) ()

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 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). (4-7-11)

b. Organic producer/handler with annual gross organic sales of more than fifteen thousand dollars (\$15,000) – Two hundred dollars (\$200). (4-7-11)

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. 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)

f. Upon approval by the Department, private inspectors may be utilized. The applicant shall bear the total cost of the private inspection. (3-29-10)

3021. GRADUATED GROSS SALES FEE SCHEDULE.

01. Graduated Gross Sales Fee Table. In addition to the fees prescribed above, all producers and handlers certified by the Department ~~and those registered by the Department with five thousand dollars (\$5,000) or less annual gross organic sales~~ shall remit with their registration/certification application an amount based on their annual gross organic sales during the last calendar year, or in the case of a first-time applicant, a projected gross dollar amount for the upcoming calendar year, with a minimum fee of ten dollars (\$10). The graduated gross organic sales fee structure is as follows:

0 - 2,000	\$10
2,001 - 5,000	\$25
5,001 - 10,000	\$50
10,001 - 15,000	\$75
15,001 - 20,000	\$100
20,001 - 25,000	\$125
25,001 - 30,000	\$150
30,001 - 35,000	\$175
35,001 - 50,000	\$250
50,001 - 75,000	\$375
75,001 - 100,000	\$500
100,001 - 150,000	\$750
150,001 - 200,000	\$1,000
200,001 - 280,000	\$1,400
280,001 - 375,000	\$1,875
375,001 - 500,000	\$2,500
500,001 and up	0.5% of gross organic sales up to \$5,000

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

02. Non-Refundable. ~~Registration and e~~Certification application fees are non-refundable. ~~(3-19-07)~~()

3032. -- 399. (RESERVED)

IDAPA 02 - DEPARTMENT OF AGRICULTURE

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

DOCKET NO. 02-0641-1401

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2015 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:

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the June 4, 2014 Idaho Administrative Bulletin, [Vol. 14-6, pages 42 and 43](#).

IDAHO CODE SECTION 22-101A STATEMENT: This rule does regulate an activity not regulated by the federal government. The federal government does not regulate soil and plant amendments. The rule is, however, consistent with national standards of the Association of American Plant Food Control Officials.

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

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

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

DATED this 7th day of August, 2014.

Brian J. Oakey
Deputy Director
Idaho State Department of Agriculture
2270 Old Penitentiary Rd.
Boise, ID 83712
P.O. Box 790
Boise, Idaho 83701
Phone: (208) 332-8500
Fax: (208) 334-2170

THE FOLLOWING NOTICE WAS PUBLISHED WITH THE PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), 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 June 18, 2014.

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

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

To incorporate by reference information and updates contained in the 2015 Official Publication of the Association of American Plant Food Control Officials (AAPFCO) as they pertain to the methodology and practice of conducting regulatory soil and plant amendment registration and label review.

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

No fees or charges are being imposed or increased 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 resulting from this rulemaking:

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

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

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

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

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

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be delivered on or before June 25, 2014.

DATED this 9th day of May, 2014.

LSO RULES ANALYSIS MEMO

THE FOLLOWING IS THE TEXT OF DOCKET NO. 02-0641-1401

004. INCORPORATION BY REFERENCE.

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

01. The Association of American Plant Food Control Officials (AAPFCO) Official Publication. The terms, ingredient definitions and policies as published in the “2014⁵ Official Publication” of AAPFCO where those terms and ingredient definitions, and policy statements do not conflict with terms and ingredient definitions, and policy statements adopted under Title 22, Chapter 22, Idaho Code, and any rule promulgated thereunder. The AAPFCO Official Publication is a copyrighted publication and not available in electronic format. A copy may be purchased online from the AAPFCO website at: http://www.aapfco.org/pdf/publication_order_form.pdf.

~~(3-20-14)~~()

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

(4-7-11)

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

(3-29-12)

IDAPA 29 - IDAHO POTATO COMMISSION

29.01.02 - RULES GOVERNING PAYMENT OF TAX AND USAGE OF CERTIFICATION MARKS AND TRADEMARKS

DOCKET NO. 29-0102-1401

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2015 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 or rejected in part by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and of full force and effective upon adoption of 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 22-1207, 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:

Changing circumstances in the way labels are marked on potato containers as well as how containers are made have led the industry to request the rules be updated. The type of containers used for packing potatoes, the size of the seal used on potato containers and the manner in which variety labeling takes place will be reviewed for bringing the rules current. The Food and Safety Modernizations Act as well as Good Agricultural Practices also impacts the industry particularly as it relates to traceability.

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the September 3, 2014 Idaho Administrative Bulletin, [Vol. 14-9, pages 354 through 357](#).

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 not fiscal impact to the general fund as a result of this rulemaking: NA

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Patrick J. Kole, 208-334-2350.

DATED this 20th Day of November, 2014.

Patrick J. Kole
Executive Director
Idaho Potato Commission
661 S. Rivershore Lane, Ste. 230
PO Box 1670
Eagle, ID 83616
(208) 334-2350 phone
(208) 334-2274 fax

THE FOLLOWING NOTICE WAS PUBLISHED WITH THE PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 22-1201 through 1215, Idaho Code, and Section 22-1207, Idaho Code, specifically.

PUBLIC HEARING SCHEDULE: A public hearing concerning this rulemaking will be held as follows:

Wednesday, September 24, 2014 – 10:00 a.m.

Idaho Potato Commission
661 S. Rivershore Lane, Suite 230
Eagle, ID 83616

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:

Changing circumstances in the way labels are marked on potato containers as well as how containers are made have led the industry to request the rules be updated. The type of containers used for packing potatoes, the size of the seal used on potato containers and the manner in which variety labeling takes place will be reviewed for bringing the rules current. The Food and Safety Modernizations Act as well as Good Agricultural Practices also impacts the industry particularly as it relates to traceability.

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

No fees or charges are being imposed or increased 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 as a result of this rulemaking: NA

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because these proposed changes resulted from recommendations made by IPC's Marketing Committee. The Marketing Committee includes potato growers, shippers and container manufacturers. This committee reviewed and discussed the proposal at several meetings. Nevertheless, as a cautionary measure and to insure that there is full opportunity for additional industry input, IPC's Commissioner's believe that it is preferable to conduct a formal hearing.

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: NA

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Patrick J. Kole (208) 514-4208.

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 24, 2014.

DATED this 8th Day of August, 2014.

LSO RULES ANALYSIS MEMO

THE FOLLOWING IS THE TEXT OF DOCKET NO. 29-0102-1401

102. CERTIFICATION MARKS FOR IDAHO® POTATO CONTAINERS.

01. Containers. All potatoes grown in Idaho and packed or repacked in containers in or outside of the state of Idaho shall be in containers printed, labeled or stenciled in a plain and legible manner with one (1) of the Commission's registered Certification Marks, and ~~the a~~ a "GROWN IN IDAHO®" Certification Mark. An exact reproduction of the Commission's Certification Marks appears in appendix A. Certification Marks may not be stamped on any Idaho® potato container without a temporary written variance. No container may use a "Check Off" box format for state of origin. All containers must use Idaho specific approved produce code identification numbers, where the same have been obtained and approved. No container of Idaho® potatoes or potato products may be manufactured or used without prior written approval of the Commission or its employee. No Seal, Trademark, Certification Mark, brand, or similar device used to promote potatoes not grown in Idaho can be placed on a container. (3-26-08)()

a. Upon written application, the Idaho Potato Commission may grant a variance from these rules for special purpose shipments for charity, certified seed, experimentation and processing. If a variance is granted, the applicant shall comply with all terms and conditions of such variance. If applicable, the application shall be accompanied by a valid Certificate of Privilege issued by the Idaho and Eastern Oregon Potato Committee, and the applicant shall furnish copies of all of the reports required by the Idaho and Eastern Oregon Potato Committee to the Idaho Potato Commission. (3-26-08)

02. Marks. No person, firm or corporation packing or repacking potatoes or potato products outside of the state of Idaho shall use any of the Commission's Certification Marks on any containers of potatoes or potato products packed or repacked outside the state of Idaho unless they have first executed an agreement for the use of the Certification Marks with the Idaho Potato Commission, and unless they are actually packing or repacking in such containers Idaho grown potatoes or potato products made from Idaho, grown potatoes. (3-30-01)

03. Agreement. No person, including without limitation manufacturers, container manufacturers, growers, shippers, processors and repackers, shall use or reproduce any of the Commission's Certification Marks on any container without first executing an agreement for the use of the marks with the Idaho Potato Commission. (7-1-93)

04. Recognition. Whenever the "GROWN IN IDAHO®," "IDAHO®," or other Certification Marks are used, recognition must be given that the marks are registered under the appropriate Federal statute. This recognition must be: by printing a legible capital "R" inside a circle ®, immediately after the word "IDAHO" or where designated by a duly authorized employee of the Commission. (3-26-08)

05. No Certification Mark. No Certification Mark shall be incorporated into any private label, brand or seal but shall be portrayed without embellishment as shown in appendix A. (3-30-01)

06. Not Incorporated. The word "IDAHO®," shall not be incorporated into any private label, brand or seal unless such label, brand or seal was registered with the U.S. Patent Office prior to January 1, 1966. (3-26-08)

07. Size. A Certification Mark shall be used on the front of a one hundred pound (100) sack type container, it shall not be less than five (5) inches in diameter or width and shall not be placed closer than two (2) inches from the bottom of said container. Any Certification Mark used on the rear of a one hundred-pound (100) sack type container, it shall not be less than twelve (12) inches in diameter or width. The marks may also be used on both the front and back of one hundred pound (100) sack type containers, if placed as indicated and in the sizes indicated. (3-26-08)

08. Limitation of Use. On fifty (50) pound sack type containers, a Certification Mark shall be used as

on the one hundred (100) pound containers, but in proportionate sizes. (7-1-93)

09. Other Type Containers. On all sack type containers of less than fifty (50) pounds, a Certification Mark shall appear plainly visible on the front of the containers; and it shall be in relative proportion to brands, labels or other printed matter thereon, but not less ~~than one and one half (1 1/2)~~ two and one quarter (2 1/4) inches in diameter or width. ~~(3-26-08)~~()

10. Box Type Containers. (3-30-01)

a. On all box type containers in which U.S. No. 1 grade Idaho® Potatoes will be packed, a Certification Mark ~~may shall~~ be located on the ~~sides, ends or top~~ front and back panels of the container ~~as desired, but and~~ shall be not less than a width measurement of three and one half (3 1/2) inches and a length measurement of five and one half (5 1/2) inches so placed ~~and of such size~~ as to be plainly visible. Unless an approved product traceability sticker is used, the top one and three quarters (1 3/4) inches of the carton shall contain no preprinting on all four (4) sides of the container. The container shall be packed with an approved box bottom bearing Idaho® Potato Certification Marks as specified by the commission. ~~(3-15-02)~~()

b. On all box type containers in which number two (2) grade Idaho, Potatoes will be packed, packing is permitted only when the following requirements are met: (3-30-01)

i. The container must be manufactured in a kraft, or non-colored cardboard material and may either be of a single or double piece construction that uses a box bottom bearing Idaho® Potato Certification Marks as specified by the commission; ~~(3-30-01)~~()

ii. The rectangular “Grown in Idaho®” certification mark shall be placed on each side and end panel of the container, with a width measurement of three and one-half (3 1/2) inches and length measurement of five and one-half (5 1/2) inches. The mark shall be located as shown in Appendix B; (3-26-08)

iii. The certification mark “Idaho® Potatoes” shall be printed on all four (4) sides of the container in one (1) inch lettering in the locations shown in Appendix B; (3-26-08)

iv. The words “U.S. NO. 2” shall be printed on all four (4) sides of the container in one (1) inch lettering in the locations shown in Appendix B and on one (1) of the top flaps of the container; (3-30-01)

v. The top one and three quarters (1 3/4) inches of the carton shall contain no preprinting on all four (4) sides of the container; (3-30-01)

vi. One (1) of the elongated top flaps shall contain the “Grown in Idaho®” certification mark with a width of three and one-half (3 1/2) inches and length of five and one-half (5 1/2) inches, together with the certification mark “Idaho® Potatoes” in one (1) inch height and the words “U.S. NO. 2” in one (1) inch height; (3-26-08)

vii. Product code identification numbers on containers bearing the certification marks shall use Idaho specific codes where the same have been obtained and approved; and (3-15-02)

viii. All other requirements regarding container packaging set forth in these rules and the license agreements of the Idaho Potato Commission apply to the use of this type of container. (3-30-01)

11. Tote Bin Type. On all tote bin type containers, Certification Marks must be used on the front of said container but may be used elsewhere and shall not be less than twelve (12) inches in diameter or width. (7-1-93)

12. Identity of Commodity. All containers bearing the marks shall specify the identity of the commodity contained therein and the name and place of business of the manufacturer, packer, licensee, or distributor of the commodity. Containers which do not comply with the rules of the Idaho Potato Commission shall not be used by any grower, dealer, handler, shipper, processor or out-of-state repacker for any potatoes or potato products subject to these rules. (3-26-08)

- 13. Words Printed.** All potatoes grown in Idaho and packed or repacked in Idaho shall have the words "PACKED IN IDAHO" printed on the container. (7-1-93)
- 14. Sack Type Containers -- Fifty Pounds or Over.** On all sack type containers for fifty (50) pounds or over the words "PACKED IN IDAHO" shall be located on the front lower half of the container but not closer than six (6) inches to the bottom thereof. (7-1-93)
- 15. Sack Type Containers -- Less Than Fifty Pounds.** On all sack type containers containing less than fifty (50) pounds of potatoes the words "PACKED IN IDAHO" may be placed anywhere on the container but shall be so placed as to be plainly visible. (7-1-93)
- 16. Location of Words.** On all box type containers the words "PACKED IN IDAHO" may be located on the ends, sides or top of the container but shall be so placed as to be plainly visible. (7-1-93)
- 17. Colors.** All marks when used and the words "PACKED IN IDAHO" shall be in color or colors in contrast with the color of the container. (7-1-93)
- 18. Use.** Only in connection with potatoes and potato products grown within the state of Idaho may growers, handlers, shippers, processors and packers use the name "IDAHO®" in any mark, label or stencil applied to containers for such produce and products. The growers, dealers, handlers, shippers, processors, and packers of potatoes within the state of Idaho are not precluded from processing, packing and shipping potatoes grown outside the state of Idaho so long as such potatoes are not misrepresented or misbranded as Idaho® Potatoes. (3-26-08)
- 19. Compulsory Printing.** Printing of the mark "GROWN IN IDAHO®" and the words "PACKED IN IDAHO" is compulsory on all potato containers printed or contracted for after December 1, 1964. (3-26-08)
- 20. Idahos.** The word "IDAHOS" shall not be used on any container for potatoes, potato products nor on any other printing or advertising material or correspondence used to identify or promote Idaho potatoes. (3-30-01)
- 21. Exemption.** Only shipments of certified seed potatoes to destinations outside of the state of Idaho are exempt from this rule. (7-1-93)
- 22. Other Rules.** Other rules on containers, grade and size are covered under Title 22, Chapter 9, Idaho Code, and applicable marketing orders. (7-1-93)

IDAPA 46 - BOARD OF VETERINARY MEDICINE

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

DOCKET NO. 46-0101-1401

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2015 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 or rejected in part by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part 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:

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the August 6, 2014 Idaho Administrative Bulletin, [Vol. 14-8, pages 146 through 148](#).

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: NA

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

DATED this 29th Day of August, 2014.

Jodie Ellis
Executive Director
Board of Veterinary Medicine
2270 Old Penitentiary Road
P. O. Box 7249
Boise, ID 83712
Phone: (208) 332-8588
Fax: (208) 334-2170

THE FOLLOWING NOTICE WAS PUBLISHED WITH THE PROPOSED RULE

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

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than August 20, 2014.

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 Board of Veterinary Medicine issues certifications to qualified veterinary technician applicants. Current rule provides several ways a certified veterinary technician (CVT) applicant can demonstrate completion of the educational requirements for certification. Two of the existing methods for an applicant to satisfy these requirements are to submit evidence of graduation from a veterinary technology program equivalent to a program approved by the American Veterinary Medical Association or, if a foreign graduate, graduation from a program of veterinary medicine from a foreign school approved by the Board. The Board has determined that it lacks the expertise and means to adequately evaluate whether a non-accredited CVT program is equivalent to an accredited AVMA program or to approve foreign schools of veterinary medicine. To ensure uniformity in entry-level knowledge of certified veterinary technicians in Idaho, IDAPA 46.01.01.100 is being amended to delete these provisions.

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

No fees or charges are being imposed or increased 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 resulting from this rulemaking: NA

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 June 4, 2014 Idaho Administrative Bulletin, **Vol. 14-6, page 101**.

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: NA

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Jodie Ellis, Executive Director, (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 August 27, 2014.

DATED this 11th day of July, 2014.

LSO RULES ANALYSIS MEMO

THE FOLLOWING IS THE TEXT OF DOCKET NO. 46-0101-1401

100. CERTIFICATION OF VETERINARY TECHNICIANS.

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

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

- a.** A copy of a birth certificate or current passport proving that the applicant is eighteen (18) years of

age or older. (4-2-08)

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

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

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

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

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

~~**iv.** If a foreign veterinary graduate, notarized verification of having been awarded a D.V.M. or V.M.D. degree or equivalent in a program of veterinary medicine from a foreign school of veterinary medicine or the veterinary department of a foreign university or another college or institution that is approved by the Board **a letter from the Educational Commission for Foreign Veterinary Graduates (ECFVG) certifying completion of the ECFVG program or a copy of the ECFVG certificate.** (3-30-07)()~~

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

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

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

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

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

a. A completed application, other required documents, and first year's certification fee in the amount established by the Board shall be received at the Board office by the first day of January or June. All application and certification fees are nonrefundable. (4-4-13)

b. The Board will review applications and issue certifications in January and June of each year. Veterinary Technician Certifications shall be consecutively numbered beginning with the number one (1) and all numbers shall be prefixed with the letters CVT. If an applicant is found not qualified, the Board shall notify the applicant in writing of such finding and grounds therefor. An applicant denied certification may request a hearing pursuant to the procedures set forth in Title 67, Chapter 52, Idaho Code. (4-4-13)