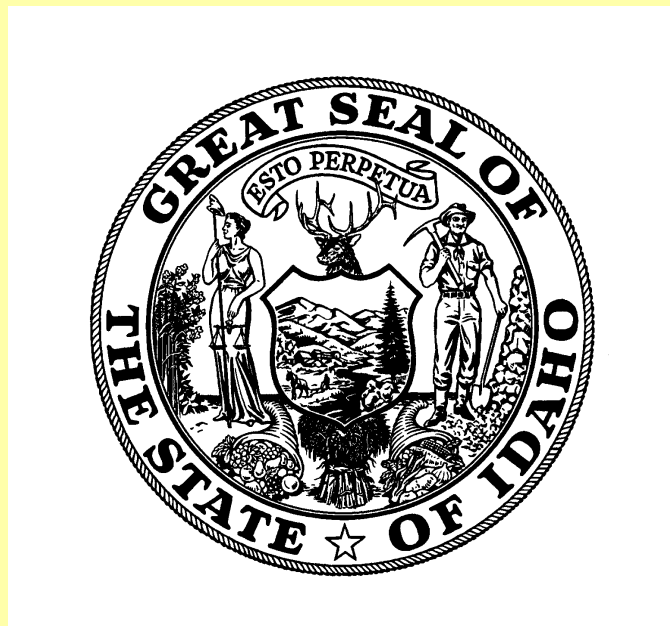


PENDING RULES

COMMITTEE RULES

REVIEW BOOK

Submitted for Review Before
Senate Agricultural Affairs Committee
65th Idaho Legislature
First Regular Session – 2019



Prepared by:

*Office of the Administrative Rules Coordinator
Department of Administration*

January 2019

SENATE AGRICULTURAL AFFAIRS COMMITTEE

ADMINISTRATIVE RULES REVIEW

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IDAPA 02 – DEPARTMENT OF AGRICULTURE

02.02.14 – RULES FOR WEIGHTS AND MEASURES

DOCKET NO. 02-0214-1801

NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2019 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 2019 edition of the National Institute of Standards and Technology Handbook 44, Specifications, Tolerances, and Other Technical Requirements for Weighing and Measuring Devices. And, to incorporate by reference the 2019 edition of the National Institute of Standards and Technology Handbook 133, Checking the Net Contents of Packaged Goods. NIST documents are available online at <https://www.nist.gov/pml/weights-and-measures/publications>.

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 6, 2018 Idaho Administrative Bulletin, **Vol. 18-6, pages 19-20**.

IDAHO CODE SECTION 22-101A STATEMENT: This rule does regulate an activity not regulated by the federal government, because the federal government does not regulate specifications, tolerances and other technical requirements for weighing and measuring devices as defined in NIST Handbook 44. Also, the federal government does not regulate procedures for checking net contents of packaged goods as defined in NIST Handbook 133. The rule is, however consistent with national standards by the National Institute of Standards and Technology.

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

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

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Kevin Merritt, Section Manager at (208) 332-8690.

DATED this 2nd day of August, 2018.

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

THE FOLLOWING NOTICE PUBLISHED WITH THE PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 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 June 20, 2018.

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 2019 edition of the National Institute of Standards and Technology Handbook 44, Specifications, Tolerances, and Other Technical Requirements for Weighing and Measuring Devices. And, to incorporate by reference the 2019 edition of the National Institute of Standards and Technology Handbook 133, Checking the Net Contents of Packaged Goods. NIST documents are available online at <https://www.nist.gov/pml/weights-and-measures/publications>.

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

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking: IDSA 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. These incorporations by reference are routinely updated to reflect the most current versions.

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: These documents are recognized nationally as primary reference documents. Incorporating the most current versions promotes uniformity throughout the United States.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Kevin Merritt, Section Manager at (208) 332-8690.

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 27, 2018.

DATED this 30th day of April, 2018.

[LINK: LSO Rules Analysis Memo and Incorporation By Reference Synopsis \(IBRS\)](#)

THE FOLLOWING IS THE TEXT OF DOCKET NO. 02-0214-1801

004. INCORPORATION BY REFERENCE.

01. Required Reference Materials. The 201~~8~~⁹ 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. ~~(3-28-18)~~()

02. Required Reference Materials for Checking Prepackaged Commodities. The ~~4#~~ 2019 ~~E~~ 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) D975-16a, “Standard Specification for Diesel Fuel Oils,” and ASTM D6751-15c¹, “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). (3-28-18)

04. Specifications for Gasoline. American Society of Testing and Materials (ASTM) D4814-16e¹, “Standard Specification for Automotive Spark-Ignition Engine Fuel”, dated November 15, 2016, is hereby incorporated by reference and is the specification for gasoline. (3-28-18)

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 <https://www.nist.gov/pml/weights-and-measures/publications>. 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, P.O. Box C700, West Conshohocken, PA, 19428. (4-7-11)

IDAPA 02 – DEPARTMENT OF AGRICULTURE
02.04.08 – RULES GOVERNING GRADE A MILK AND MILK PRODUCTS
DOCKET NO. 02-0408-1801
NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2019 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 Sections 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 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:

To incorporate by reference the 2017 edition of the Grade A Pasteurized Milk Ordinance; 2017 edition of the Evaluation of Milk Laboratories reference document; 2017 Methods of Making Sanitation Ratings of Milk Shippers reference document and 2017 edition of Procedures Governing the Cooperative State-Public Health Service/Food and Drug Administration reference document.

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 5th, 2018 Idaho Administrative Bulletin, [Vol. 18-9, pages 37-38](#).

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 as a result of this rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Mitchell Vermeer, Section Manager – Division of Animal Industries at (208) 332-8551.

Dated this 11th day of October, 2018.

Brian J. Oakey, Deputy Director
Idaho State Department of Agriculture
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Boise, ID 83701
Phone: (208) 332-8500
Fax: (208) 334-2170

THE FOLLOWING NOTICE PUBLISHED WITH THE PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 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 19, 2018.

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 2017 edition of the Grade A Pasteurized Milk Ordinance; 2017 edition of the Evaluation of Milk Laboratories reference document; 2017 Methods of Making Sanitation Ratings of Milk Shippers reference document and 2017 edition of Procedures Governing the Cooperative State-Public Health Service/Food and Drug Administration reference document.

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

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

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

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules was published in the July 4, 2018 Idaho Administrative Bulletin, [Vol. 18-7, page 21](#).

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 documents that are incorporated by reference are recognized nationally as the primary reference and regulatory documents related to Grade A milk and milk products. Incorporating the most current version of the documents promotes uniformity throughout the United States dairy industry and the U.S. Food and Drug Administration.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Mitchell Vermeer, Section Manager- Division of Animal Industries at (208) 332-8551. Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 26, 2018.

Dated this 2nd day of August, 2018.

[LINK: LSO Rules Analysis Memo and Incorporation By Reference Synopsis \(IBRS\)](#)

THE FOLLOWING IS THE TEXT OF DOCKET NO. 02-0408-1801

004. INCORPORATION BY REFERENCE.

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

01. Grade “A” Pasteurized Milk Ordinance. The Grade “A” Pasteurized Milk Ordinance, 201~~5~~⁷ revision, published by the U. S. Department of Health and Human Services, Public Health Service, Food and Drug Administration, except the bacterial limit standard and the somatic cell count standard in Section 7 of the document. Available online at <https://www.fda.gov/downloads/Food/GuidanceRegulation/GuidanceDocumentsRegulatoryInformation/Milk/UCM612027.pdf>. (3-29-17)()

02. Evaluation of Milk Laboratories. The Evaluation of Milk Laboratories, 201~~5~~⁷ revision, published by the U. S. Department of Health and Human Services, Public Health Service, Food and Drug Administration. Available online at <https://www.fda.gov/downloads/Food/GuidanceRegulation/GuidanceDocumentsRegulatoryInformation/Milk/UCM615021.pdf>. (3-29-17)()

03. Methods of Making Sanitation Ratings of Milk Shippers, and the Certifications/Listings of Single-Service Containers and/or Closures for Milk and/or Milk Products Manufactures. The Methods of Making Sanitation Ratings of Milk Shippers, and the Certifications/Listings of Single-Service Containers and/or Closures for Milk and/or Milk Products Manufactures, 201~~5~~⁷ revision, published by the U. S. Department of Health and Human Services, Public Health Service, Food and Drug Administration. Available online at <https://www.fda.gov/downloads/Food/GuidanceRegulation/GuidanceDocumentsRegulatoryInformation/Milk/UCM600123.pdf>. (3-29-17)()

04. Interstate Milk Shipments. The Procedures Governing the Cooperative State-Public Health Service/Food and Drug Administration Program of the National Conference on Interstate Milk Shipments, 201~~5~~⁷ revision, published by the U. S. Department of Health and Human Services, Public Health Service, Food and Drug Administration, and the National Conference on Interstate Milk Shipments. Available online at <https://www.fda.gov/downloads/Food/GuidanceRegulation/GuidanceDocumentsRegulatoryInformation/Milk/UCM594813.pdf>. (3-29-17)()

IDAPA 02 – DEPARTMENT OF AGRICULTURE

02.04.09 – RULES GOVERNING MILK AND CREAM PROCUREMENT AND TESTING

DOCKET NO. 02-0409-1801

NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2019 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 Sections 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 37-506, Idaho Code.

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

This rule change is a result of a joint petition received from the Milk Producers of Idaho, Idaho Dairymen's Association and the Idaho Milk Processors Association to clarify language in the rule regarding the definition of terms, sample tolerance standards, enforcement protocols, and the recertification process for labs that fail to meet performance standards.

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 5, 2018 Idaho Administrative Bulletin, [Vol. 18-9, pages 39-44](#).

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 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 – Division of Animal Industries at (208) 332-8540.

Dated this 11th day of October, 2018.

Brian J. Oakey, Deputy Director
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Fax: (208) 334-2170

THE FOLLOWING NOTICE PUBLISHED WITH THE PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 37-506 Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 19, 2018.

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:

This rule change is a result of a joint petition received from the Milk Producers of Idaho, Idaho Dairymen's Association and the Idaho Milk Processors Association to clarify language in the rule regarding the definition of terms, sample tolerance standards, enforcement protocols and the recertification process for labs that fail to meet performance standards.

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

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

The agency does not anticipate any fiscal impact 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 6, 2018 Idaho Administrative Bulletin, [Vol. 18-6, page 21-22](#). Negotiated rulemaking meeting was held at the Idaho State Department of Agriculture on June 18, 2018. There were extensive comments received from the meeting attendees as well as written comments entered into the record that were taken 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: N/A

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 directed to the undersigned and must be delivered on or before September 26, 2018.

Dated this 2nd day of August, 2018.

[LINK: LSO Rules Analysis Memo](#)

THE FOLLOWING IS THE TEXT OF DOCKET NO. 02-0409-1801

008. DEFINITIONS.

The following definitions shall apply in the interpretation and the enforcement of this chapter: (3-21-12)

01. Abnormal Test. A test result from a producer sample that is dissimilar from recent producer milk component or quality parameter testing results; an anomaly. (3-21-12)

02. Accuracy Check. A test made at the beginning of each testing session and once per hour thereafter to determine the continued accuracy of the testing device. (3-21-12)

03. Approved Testing Methods. Methods approved by the director for testing milk or cream components and quality parameters when those components and parameters are used as a basis of payment. (3-21-12)

04. Calibration. The settings established on a testing device that will result in an average number of results that are within tolerance. (3-21-12)

05. Clearance Test. A sample set issued to an official laboratory, by the Department, to maintain a probationary testing license or reinstate a suspended testing license. ()

~~056.~~ **Control Samples.** Milk samples used to determine or set the calibration of the testing device. (3-21-12)

~~067.~~ **Component Testing.** An analysis of milk or cream constituents including milkfat, protein, lactose or solids-nonfat, which is used as a basis of payment. (3-21-12)

~~078.~~ **Department.** The Idaho State Department of Agriculture. (3-21-12)

~~089.~~ **Director.** The Director of the Idaho State Department of Agriculture or his designee. (3-21-12)

~~109.~~ **Detailed Pricing Description.** The method used by the purchaser of milk or cream as the criteria for determining the price paid. (3-21-12)

~~101.~~ **Milk Component or Component.** A unique compound within milk whose relative mass within the milk may be used to determine the payment to producers. Component parts of milk include milkfat, protein, lactose, solids-nonfat, other solids, and total solids. (3-21-12)

~~142.~~ **Official Laboratory.** A facility, licensed by the department, that tests milk or cream components or quality parameters for the purpose of determining the value of the product when sold or purchased by producers or processors. (3-21-12)

~~123.~~ **Outlier.** A regulatory sample result that appears to deviate markedly from other members of the sample set in which it occurs. (3-21-12)

~~134.~~ **Pay Records.** Signed written or printed records, which itemize milk volume, milk component and quality parameters used as payment to a producer or other processor. (3-21-12)

~~145.~~ **Performance Error.** The difference between the known percentage content of each milk component in the control sample, as determined by the sample provider, and the percentage content as measured by the testing device. (3-21-12)

~~156.~~ **Person.** An individual, association, partnership, firm, joint stock company, private company, or

legal entity, which is recognized by law as the subject of rights and duties. (3-21-12)

167. Producer. A dairy farm permitted by the department to sell milk for human consumption. (3-21-12)

178. Processor. A creamery, milk plant, shipping or cream buying station, milk condensing plant, cheese factory, mix making plant, ice cream factory, reprocessing plant, casein plant, powdered milk plant, or factory of milk products, or other person receiving or purchasing milk or cream in bulk other than a retail vendor of milk on the basis of volume, milk components, or milk quality. (3-21-12)

189. Quality Parameter. The quality of milk or cream as determined by the bacteria/plate count method, somatic cell count, temperature, drug residues or other parameters as approved by the department. (3-21-12)

20. Rolling Group of Thirteen (13). A series of thirteen (13) consecutive sample testing dates where the lab performance error of each biweekly component test is averaged together to represent the long term accuracy of the lab. To be considered a valid testing date, a lab must evaluate and provide results on no less than nine (9) component samples from each round of testing. ()

219. Testing Device. The equipment used to determine the percentage of milk or cream components. (3-21-12)

22. Sample Set. A group of not less than nine (9) milk samples issued by the Department to each official laboratory to evaluate component testing accuracy. ()

203. Tolerance. The allowable plus and allowable minus variances from zero (0) when conducting component testing. For purposes of this rule, the variances shall be within plus or minus forty four one thousandths percent (.044%) for milkfat or protein and within plus or minus eighty four one thousandths percent (.084%) for total solids or solids nonfat, except that regulatory sample tolerances are those set forth in Section 302 of this rule. The acceptable performance error from the control values of each sample set as determined by the sample provider. (3-21-12)()

(BREAK IN CONTINUITY OF SECTIONS)

120. SAMPLE INTEGRITY.

Milk or cream samples must be handled, stored, and shipped in a manner that maintains the integrity of the samples. Samples must be maintained in a temperature range of thirty-three degrees (33°) to forty-five degrees (45°) Fahrenheit (zero point fifty-five hundredths degrees (0.55°) to seven point twenty-two hundredths degrees (7.22°) Celsius.) (3-21-12)()

121. DAILY PERFORMANCE CHECKS.

All testing devices must be subjected to a daily performance check before each day's testing, in accordance with the standards set by the testing device manufacturer, or as set forth in this section. (3-21-12)

01. Daily Performance Check Samples. (3-21-12)

a. Source. A set of daily performance check samples must be obtained from a sample provider approved by the department, or may be made by the official laboratory. (3-21-12)

b. Number. Unless otherwise specified by the manufacturer of the testing device, a minimum of two (2) control milk samples must be analyzed before daily component testing begins. (3-21-12)

c. Requirements. The control samples must comply with the requirements set forth in Sections ~~103 and 104~~ **111** of this rule and fall within the component ranges typically found in the samples to be tested. (3-21-12)()

02. Procedure. To conduct a daily performance check, the official laboratory must test a set of daily performance check samples. Based on the daily performance check, the official laboratory must do the following: (3-21-12)

a. Determine the performance error of the testing device with respect to each daily performance check sample. The performance error is the difference between the known percentage content of each milk component in that sample, as determined by the sample provider, and the percentage content as measured by the testing device; and (3-21-12)

b. Calculate the mean difference for the set of daily performance check samples. The mean difference is the sum of the performance errors for the individual samples, divided by the number of samples in the set. (3-21-12)

03. Calibration Based On Daily Performance Check. If the mean difference calculated on a daily performance check exceeds plus or minus forty-four thousandths percent (.044%) for milkfat or protein, or eighty-four thousandths percent (.084%) for total solids or solids-nonfat, the testing device shall not be used until it is recalibrated in accordance with Section 111. (3-21-12)

(BREAK IN CONTINUITY OF SECTIONS)

302. REGULATORY SAMPLES.

01. Samples ~~Set~~. ~~(3-21-12)~~()

a. The department will provide ~~a minimum of nine (9)~~ samples ~~sets~~ to ~~an~~ official laboratory~~ies~~, on a bi-weekly basis or at a frequency determined by the department to be necessary to ensure accurate component testing results. ~~(3-21-12)~~()

b. The samples will be obtained from the company or entity that provides calibration samples to the official laboratory, if available. The department may provide regulatory samples from other sources if necessary. (3-21-12)

c. The official laboratory must immediately process the samples, while being observed by a department employee or agent, for those components used by the processor or procurer as a basis of payment. (3-21-12)

d. The official laboratory must evaluate the sample set using identical control standards and device settings which are used to routinely evaluate Idaho producer milk components for basis of payment. ()

e. If the official laboratory is unable to process the samples due to maintenance or mechanical issues, the department employee or agent who is delivering the samples may wait for the testing device to become operable. If the integrity of the regulatory samples is compromised due to the delay, the department may obtain and deliver an additional set of regulatory samples. (3-21-12)

02. Regulatory Sample Results. The regulatory sample results will be compiled ~~by the department~~ and evaluated by the department in rolling groups of thirteen (13) ~~test results~~. ~~(3-21-12)~~()

03. Outliers. Sample results that have been identified as outliers will not be used in the calculation of tolerance for regulatory test results. (3-21-12)

04. Regulatory Sample Tolerances. Each group of ~~rolling~~ thirteen (13) ~~test results~~ ~~average~~ shall be within the following tolerances for those components used as a basis of payment by the processor or procurer: ~~(3-21-12)~~()

a. Plus or minus ~~thirty-three thousandths~~ two hundredths percent (.0332%) for milkfat and protein.

~~(3-21-12)~~()

- b. ~~Plus or minus thirty-one thousandths percent (.031%) for protein.~~ (3-21-12)
- e. ~~Plus or minus sixty-five thousandths percent (.065%) for solids, other than milkfat or protein.~~ (3-21-12)

303. LICENSE SUSPENSION AND REVOCATION BASED ON REGULATORY SAMPLES.

01. ~~Regulatory Sample Test Result Averages~~ Two (2) Out of Four (4) Violation. Whenever ~~the average performance error of two (2) of the last four (4) regulatory sample results rolling groups of thirteen (13) exceed the tolerance for milkfat, protein, or solids as set forth in Subsection 302.04 of this rule, the Department may suspend the official laboratory's license~~ will issue a written notice to the official laboratory. This notice shall be in effect as long as two (2) of the last four (4) rolling groups of thirteen (13) exceed the allowable tolerance for component testing. ~~(3-21-12)~~()

02. ~~Cumulative Regulatory Sample Results.~~ ~~When the department has accumulated a minimum of one thousand (1,000) regulatory sample results from an official laboratory, and the average of those regulatory sample results exceeds zero (0) by more than plus or minus two hundredths percent (.02%) for milkfat or protein, the department may suspend the official laboratory's license.~~ (3-21-12)

03. ~~Review of Records Prior to~~ License Suspension. If two (2) out of four (4) of an official laboratory's ~~regulatory sample results rolling groups of thirteen (13) average~~ are out of tolerance pursuant to Subsection 302.04 of this rule, the ~~Department may review the records kept by the official laboratory pursuant to Section 350 of this rule. If the official laboratory is able to demonstrate through those records that it has performed all calibration and checks required under these rules, and that the results of those calibrations and checks show that the testing device is operating within the tolerances set forth in Sections 110, 111 and 130, the official laboratory may, at the department's discretion, be placed on probation for a period of two (2) weeks. The department will review the most recent thirteen (13) week average following the next regulatory samples, and if that average remains out of tolerance pursuant to Subsection 302.04 of this rule, the department may suspend the official laboratory's~~ will evaluate the following items prior to suspending the testing license. ~~(3-21-12)~~()

a. ~~Records Review.~~ The Department shall review records kept by the official laboratory pursuant to Section 350 of this rule. ()

b. ~~Clearance Test.~~ The average performance error of the official laboratory must be within plus or minus thirty-one thousandths percent (.031%) protein, thirty-three thousandths percent (.033%) milkfat and sixty-five thousandths percent (.065%) other solids on all scheduled sample sets, until the official laboratory no longer exceeds the performance tolerance on two (2) out of four (4) rolling groups of thirteen (13) average. If an official laboratory does not meet these performance requirements on each component of the clearance test, the testing license shall be suspended. ()

c. ~~Probation.~~ The Department may place an official laboratory on probation for two (2) weeks if: ()

i. ~~The records demonstrate all calibration and performance checks of all testing devices were performed, as required under these rules, and are operating within the tolerances set forth in Sections 110, 111, and 130 of this rule; and~~ ()

ii. ~~The average performance error in the clearance test sample set was within plus or minus thirty-one thousandths percent (.031%) protein, thirty-three thousandths percent (.033%) milkfat, and sixty-five thousandths percent (.065%) other solids. Clearance test results from laboratories on probationary status shall be included in the calculation of the rolling group of thirteen (13) average.~~ ()

043. ~~License Reinstatement.~~ An official laboratory may seek reinstatement of a suspended license ~~when the official laboratory provides the department written documentation detailing the procedural corrections that have been made to the testing device. The documentation must include a minimum of two (2) weeks of component~~

~~testing results demonstrating that the testing device has been and will remain in tolerance. Upon receipt of that information, the department may reinstate the official laboratory's license. by completing the following:~~ (3-21-12)()

a. Written Request. The official laboratory shall provide the Department a written request for reinstatement of their testing license. The request shall include documentation detailing the procedural corrections that have been made to the testing device(s), as well as a minimum of two (2) weeks of component testing results demonstrating that the testing device(s) have been and will remain in tolerance. ()

b. Clearance Test. The average performance error of the official laboratory must be within plus or minus thirty-one thousandths percent (.031%) protein, thirty-three thousandths percent (.033%) milkfat, and sixty-five thousandths percent (.065%) other solids on a sample set issued by the Department. If the request for reinstatement does not coincide with the normal biweekly sample set issued by the Department, the official laboratory will be solely responsible for the cost of procuring and shipping the additional sample set. Clearance test results used for license reinstatement shall not be included in the calculation of the rolling group of thirteen (13) average. ()

054. License Revocation for Repeated Out of Tolerance Test Results. If the regulatory sample results are repeatedly out of tolerance, the department may initiate steps to revoke the official laboratory's license to conduct component testing for three (3) months or more. (3-21-12)

IDAPA 02 – DEPARTMENT OF AGRICULTURE

02.04.13 – RULES GOVERNING RAW MILK

DOCKET NO. 02-0413-1801

NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2019 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 Sections 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 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:

To incorporate by reference the 2017 edition of the Grade A Pasteurized Milk Ordinance, except those provisions establishing raw milk standards for raw milk for pasteurization.

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 5, 2018 Idaho Administrative Bulletin, **Vol. 18-9, pages 45-48**.

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 as a result of this rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Mitchell Vermeer, Section Manager – Division of Animal Industries at (208) 332-8551.

Dated this 11th day of October, 2018.

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

THE FOLLOWING NOTICE PUBLISHED WITH THE PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 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 19, 2018.

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 principal issues involved:

To incorporate by reference the 2017 edition of the Grade A Pasteurized Milk Ordinance, except those provisions establishing raw milk standards for raw milk for pasteurization.

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

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

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

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules was published in the July 4, 2018 Idaho Administrative Bulletin, [Vol. 18-7, page 22](#).

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 Pasteurized Milk Ordinance (PMO) is a State and federal requirement for all Grade A milk plants that sell for human consumption. Incorporating the most current version of the documents promotes uniformity throughout the United States dairy industry and the U.S. Food and Drug Administration.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Mitchell Vermeer, Section Manager-Division of Animal Industries at (208) 332-8551. Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 26, 2018.

Dated this 2nd day of August, 2018.

[LINK: LSO Rules Analysis Memo and Incorporation By Reference Synopsis \(IBRS\)](#)

THE FOLLOWING IS THE TEXT OF DOCKET NO. 02-0413-1801

004. INCORPORATION BY REFERENCE.

The following document is incorporated by reference, and copies of the document may be obtained from the Idaho State Department of Agriculture central office at 2270 Old Penitentiary Road, Boise, Idaho, 83712: The Grade A Pasteurized Milk Ordinance 2009~~17~~ Revision, U.S. Department of Health and Human Services Public Health Service Food and Drug Administration (“2009~~17~~ Pasteurized Milk Ordinance”), except those provisions establishing raw milk standards for raw milk for pasteurization. This document is available online at <https://www.fda.gov/downloads/Food/GuidanceRegulation/GuidanceDocumentsRegulatoryInformation/Milk/UCM612027.pdf>. (4-7-11)()

(BREAK IN CONTINUITY OF SECTIONS)

010. STANDARDS FOR RAW MILK AND RAW MILK PRODUCTS.

01. Requirements. All raw milk and raw milk products shall be produced and processed to conform with the standards listed in Subsection 010.02 of this rule. Permitted dairy farms and raw milk plants must meet the sanitation requirements of the 2009~~17~~ Pasteurized Milk Ordinance, unless the dairy farm has a Small Herd Raw Milk Permit or has registered a herd share arrangement with the Department. (4-7-11)()

02. Chemical, Bacteriological, and Temperature Standards.

RAW MILK	
Temperature	Cooled to forty degrees Fahrenheit (40F or 5C) or less within two (2) hour after milking provided that the blend temperature after the first and subsequent milking does not exceed forty-five degrees Fahrenheit (45F or 7C).
Bacterial Limits	Raw milk and raw milk products except cultured raw milk products shall not exceed fifteen thousand (15,000) per ml.
Coliform Limits	Raw milk and raw milk products may not exceed twenty-five (25) per ml.
Drugs	Raw milk must test negative by a test method approved by the Department.
Somatic Cell Counts	Raw milk must not exceed five hundred thousand (500,000) per ml. Goat or sheep raw milk must not exceed seven hundred and fifty thousand (750,000) per ml.
Brucellosis Test	Raw milk obtained from sheep or goats must be from animals that have tested negative on an annual brucellosis test performed by an official laboratory. Raw milk obtained from bovines must be from animals that have tested negative on the Brucellosis Ring Test performed by an official laboratory.
Tuberculosis Test	All raw milk must be from animals that have been accredited as tuberculosis free or must have passed an annual tuberculosis test.

(4-7-11)

03. Commingled Milk. Milk from commingled species must meet the somatic cell count of the most restrictive species. (4-7-11)

(BREAK IN CONTINUITY OF SECTIONS)

020. RAW MILK PERMITS.

01. Requirements. It is unlawful for any person who does not possess a Raw Milk Permit from the Department to produce, process, sell or offer for sale raw milk or raw milk products for human consumption to persons other than members of the dairy farm's immediate household. (4-7-11)

02. Obtaining a Raw Milk Permit. Only a person who complies with these rules may receive and retain a Raw Milk Permit. Raw Milk Permits are not transferable with respect to persons or locations. Prior to the issuance of a permit each dairy farm whose raw milk or raw milk products are intended for human consumption within the state of Idaho must comply with the following requirements: (4-7-11)

- a. Submit to and pass a qualifying inspection conducted by the Department; (4-7-11)
- b. Meet the applicable sanitation, construction, and procedural requirements of the 2009~~17~~¹⁷ Pasteurized Milk Ordinance; (~~4-7-11~~)()
- c. Meet the raw milk and raw milk products quality standards in Section 010 of these rules; (4-7-11)
- d. Meet the tuberculosis and brucellosis standards in Section 010 of these rules; and (4-7-11)
- e. Produce and process all raw milk and raw milk products on the same premises. (4-7-11)

03. Inspection Frequency. Following the issuance of a permit, the Department will inspect each Raw Milk Permit holder operation at least once every three (3) months. (4-7-11)

04. Sanitation Requirements. All raw milk dairy farms and raw milk plants that process raw milk or raw milk products into final containers for human consumption must meet the requirements of the 2009~~17~~¹⁷ Pasteurized Milk Ordinance and Section 010 of these rules if the raw milk or raw milk products are for use by persons other than the dairy farm's immediate household. (~~4-7-11~~)()

021. -- 029. (RESERVED)

030. SMALL HERD RAW MILK PERMITS.

It is unlawful for any person with a small herd to sell raw milk and raw milk products for human consumption without a Small Herd Raw Milk Permit issued by the Department. The Small Herd Raw Milk Permit applies to raw milk and raw milk products intended for human consumption for persons other than members of the dairy farm's immediate household. (4-7-11)

01. Obtaining a Small Herd Raw Milk Permit. Only a person who complies with these rules may receive and retain a Small Herd Raw Milk Permit. The Small Herd Raw Milk Permit will indicate the physical location of the small herd and the mailing address of the owner or operator in charge of the herd's care and milk quality. Small Herd Raw Milk Permits are not transferable to another person or location. Applications for a Small Herd Raw Milk Permit may be upon a form provided by the Department. All holders of Small Herd Raw Milk Permits issued by the Department must meet the following conditions: (4-7-11)

- a. Meet the raw milk and raw milk products quality standards as set forth in Section 010 of these rules; (4-7-11)
- b. Meet the tuberculosis and brucellosis standards as set forth in Section 010 of these rules; (4-7-11)
- c. Meet the applicable drug testing requirements as determined by the Department based on dairy farm drug therapy and milk quality history; and (4-7-11)

- d.** All raw milk and raw milk products must be produced and processed on the same premises. (4-7-11)
- 02. Testing Frequency.** Raw milk or raw milk products must be tested at a frequency of at least four (4) times in separate months during any consecutive six-month period. (4-7-11)
- 03. Product Quality.** Whenever three (3) out of five (5) consecutive bacteria, coliform, or somatic cell counts exceed milk quality standards, the milk may not be offered for human consumption until subsequent product testing shows that the raw milk or raw milk products comply with Section 010 of these rules. (4-7-11)
- 04. Test Results Made Available.** A Small Herd Raw Milk Permit holder must provide raw milk and raw milk product quality tests results if requested by individuals who purchase raw milk and raw milk products. (4-7-11)
- 05. Exemption from Pasteurized Milk Ordinance.** A small herd operation that is in compliance with a Small Herd Raw Milk Permit requirements is exempt from the sanitary, construction, inspection, and operation requirements of the 20~~09~~¹⁷ Pasteurized Milk Ordinance. (~~4-7-11~~)()

IDAPA 02 – DEPARTMENT OF AGRICULTURE

02.04.29 – RULES GOVERNING TRICHOMONIASIS

DOCKET NO. 02-0429-1801

NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2019 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 Sections 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 Title 25, Chapter 2, 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 5, 2018 Idaho Administrative Bulletin, [Vol. 18-9, pages 49-50](#).

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: N/A

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Dan Salmi, (208) 332-8526.

Dated this 4th day of October, 2018.

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

THE FOLLOWING NOTICE 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(s) Title 25, Chapter 2, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 19, 2018.

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 02.04.29.330.01 states “Official laboratories shall operate in accordance with the official Idaho “Protocol for *Trichomonas foetus* Diagnosis in Cattle,” 2018 Edition, as amended. The ISDA-Animal Health Lab has updated this protocol for *Trichomonas foetus* testing. Since this procedure is incorporated by reference, it should be updated. Specific changes include additional details and options for veterinarians to collect and transport samples to the laboratory. These changes will allow veterinarians to utilize more cost effective ways to submit *Trichomonas foetus* samples to the lab for testing. The new version was also rewritten to eliminate irrelevant and repetitive information.

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

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

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules – Negotiated Rulemaking was published in the July 4, 2018 Idaho Administrative Bulletin, [Vol. 18-7, page 23](#).

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 ISDA-Animal Health Lab has established a peer reviewed protocol to ensure Trichomoniasis testing is conducted in a very accurate manner. To ensure other labs maintain this strict standard, we have incorporated by reference our laboratory requirements. With approval by the ISDA-Division of Animal Industries, other non-ISDA labs can conduct Trichomoniasis testing in Idaho, but they are required to maintain ISDA practices outlined in the ISDA document “Protocol for *Trichomonas foetus* Diagnosis in Cattle”.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Dan Salmi, (208) 332-8526.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 26, 2018.

Dated this 2nd day of August, 2018.

[LINK: LSO Rules Analysis Memo and Incorporation By Reference Synopsis \(IBRS\)](#)

THE FOLLOWING IS THE TEXT OF DOCKET NO. 02-0429-1801

004. INCORPORATION BY REFERENCE.

~~01. **Incorporated Document.**~~ IDAPA 02.04.29 incorporates by reference the official [2018 Edition of Idaho “Protocol for *Trichomonas foetus* Diagnosis in Cattle”](#) which can be viewed online at <https://agri.idaho.gov/main/laboratories/animal-health-laboratories/protocol-for-trichomonas-diagnosis-in-cattle/>. ~~(4-7-11)()~~

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

IDAPA 02 – DEPARTMENT OF AGRICULTURE

02.05.01 – RULES GOVERNING PRODUCE SAFETY

DOCKET NO. 02-0501-1801 (NEW CHAPTER)

NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2019 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 Sections 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 Sections 22-101(3), 22-113, and 22-5404, 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 Produce Safety Rule is part of the new FDA Food Safety Modernization Act (FSMA) and establishes science-based minimum standards for the safe growing, harvesting, packing, and holding of fruits and vegetables grown for human consumption. These minimum standards were developed to ensure the safe production and harvesting of produce by domestic and foreign farms. Farms that meet the criteria may be subject to on-farm inspections. ISDA was given statutory authority to conduct on-farm inspections of farms subject to the FDA Produce Safety Rule by the 2018 Legislature in House Bill No. 537.

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 4, 2018 Idaho Administrative Bulletin, [Vol. 18-7, pages 24–27](#).

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 will be no negative fiscal impact greater than \$10,000 as a result of the changes being made, since this program will be funded with Federal dollars.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Pamela Juker, (208) 332-8671.

Dated this 2nd day of August, 2018.

Brian Oakey
Deputy Director
Idaho Department of Agriculture
2270 Old Penitentiary Road
P.O. Box 790
Boise, Idaho 83701
Phone: (208) 332-8550
Fax: (208) 334-2710

THE FOLLOWING NOTICE PUBLISHED WITH THE PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 22-101(3), 22-113, and 22-5404, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than July 18, 2018. 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 Produce Safety Rule is part of the new FDA Food Safety Modernization Act (FSMA) and establishes science-based minimum standards for the safe growing, harvesting, packing, and holding of fruits and vegetables grown for human consumption. These minimum standards were developed to ensure the safe production and harvesting of produce by domestic and foreign farms. Farms that meet the criteria may be subject to on-farm inspections. ISDA was given statutory authority to conduct on-farm inspections of farms subject to the FDA Produce Safety Rule by the 2018 Legislature in House Bill No. 537.

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

No fee or charge is imposed or increased for this 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:

No negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year results from 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 May 2, 2018 Idaho Administrative Bulletin, [Volume 18-5, pages 38-39](#).

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 was given statutory authority to conduct on-farm inspections of farms subject to the FDA Produce Safety Rule by the 2018 Legislature in House Bill No. 537.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Pamm Juker, Chief of Staff at (208) 332-8502. Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before July 25, 2018.

DATED this 6th day of June, 2018.

[LINK: LSO Rules Analysis Memo](#)

THE FOLLOWING IS THE TEXT OF DOCKET NO. 02-0501-1801

IDAPA 02
TITLE 05
CHAPTER 01

02.05.01 – RULES GOVERNING PRODUCE SAFETY

000. LEGAL AUTHORITY.

This chapter is adopted under the legal authority of Section 22-5404, Idaho Code. ()

001. TITLE AND SCOPE.

01. Title. The title of this chapter is “Rules Governing Produce Safety.” ()

02. Scope. The purpose of these rules is to establish standards for growing, harvesting, packing, and holding of safe and unadulterated produce for human consumption. ()

03. Citation to Rule. The official citation of this chapter is IDAPA 02.05.01.000 et seq. For example, this Section’s citation is IDAPA 02.05.01.001. ()

002. WRITTEN INTERPRETATIONS.

In accordance with Section 67-5201(19)(b)(iv), Idaho Code, this agency may have written statements that pertain to the interpretations of rules of this chapter, or to the documentation of compliance with the rules of this chapter. Any such documentation is available for public inspection and copying at cost in the central office of this agency. ()

003. ADMINISTRATIVE APPEAL.

Persons may be entitled to appeal agency actions authorized under these rules pursuant to Title 67, Chapter 52, Idaho Code and IDAPA 02.01.01, Rules of Procedure. ()

004. INCORPORATION BY REFERENCE.

The following document is incorporated by reference pursuant to Idaho Code Section 67-5229. Copies of this document may be obtained from the Idaho State Department of Agriculture central office. ()

01. Code of Federal Regulations, Title 21, Part 112, January 1, 2018. Standards for the Growing, Harvesting, Packing, and Holding of Produce for Human Consumption. This document can be viewed online at <https://www.ecfr.gov/cgi-bin/text-idx?SID=7f8ab876ff3e20c6cdd06c9de9141296&mc=true&node=pt21.2.112&rgn=div5>. ()

005. OFFICE – OFFICE HOURS – MAILING ADDRESS – STREET ADDRESS – WEB ADDRESS.

01. Physical Address. The central office of the agency is in Boise, Idaho. The address is the Idaho State Department of Agriculture, 2270 Old Penitentiary Road, Boise, Idaho 83712-0790. ()

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

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

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

05. Office Hours. Office hours of the central office are 8 a.m. to 5 p.m., Mountain Time, Monday through Friday, except holidays designated by the state of Idaho. ()

06. Internet Website. The web address is www.agri.idaho.gov. ()

006. PUBLIC RECORDS ACT COMPLIANCE.

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

007. – 009. (RESERVED)

010. DEFINITIONS.

The Idaho State Department of Agriculture adopts the definitions set forth in Section 22-5403, Idaho Code. In addition as used in this chapter: ()

01. Petition. A petition for submission to the U.S. Food and Drug Administration requesting a variance from the requirements of 21 CFR Part 112. ()

02. Petitioner. An individual, business, group, association, or entity who submits a petition to the Department for submission to the U.S. Food and Drug Administration requesting a variance from the requirements of 21 CFR Part 112. ()

011. ABBREVIATIONS.

01. FDA. The U.S. Food and Drug Administration. ()

012. VARIANCE.

01. Procedure for Seeking a Variance. Under the Produce Safety Rule, only a State, tribe, or a foreign country may request a variance from the Produce Safety Rule’s requirements by submitting a petition to the FDA in accordance with Subpart P of the Produce Safety Rule and with 21 CFR 10.30. Pursuant to 22-5404, Idaho Code, the Idaho Legislature designated the Department to administer the Produce Safety Rule, which includes the authority to decide whether to submit petitions to the FDA. The Department will submit a petition to the FDA if the following procedures are followed: ()

a. The petitioner must prepare the petition in accordance with the requirements of Subpart P of the Produce Safety Rule and 21 CFR 10.30. Additionally, the petitioner must attach all required documentation and any other supporting documentation. The petitioner must submit the petition and all attached documents to the Department via the Department’s food safety email at fsma@isda.idaho.gov or mailed to the Department at the mailing address above or hand delivered to the Department at the physical address above. ()

b. Within thirty (30) days of receiving a petition, the Department will complete a review of a petition to determine whether it meets the requirements of Subpart P of the Produce Safety Rule and 21 CFR 10.30. ()

i. If, after reviewing the petition, the Department determines that the petition meets the requirements of Subpart P of the Produce Safety Rule and 21 CFR 10.30, the Department will submit the petition to the FDA within ten (10) days of that determination. ()

ii. If, after reviewing the petition, the Department determines that the petition does not meet the requirements of Subpart P of the Produce Safety Rule and 21 CFR 10.30, the Department will notify the petitioner and return the petition for correction. After correcting the deficiencies, the petitioner must resubmit the petition to the Department. Within thirty (30) days, the Department will complete an additional review of the petition to determine if the petition meets the requirements of Subpart P of the Produce Safety Rule and 21 CFR 10.30. ()

iii. If, after reviewing the petition, the Department determines that the petition meets the requirements of Subpart P of the Produce Safety Rule and 21 CFR 10.30, the Department will submit the petition to the FDA within ten (10) days of that determination. If, after reviewing the petition, the Department determines that the petition still does not meet the requirements of Subpart P of the Produce Safety Rule and 21 CFR 10.30, the Department will follow the procedure in Subparagraph 012.01.b.ii. ()

02. Support and Withdrawal of Petitions. ()

a. When the Department submits a petition to the FDA, the petitioner who prepared the petition, or an individual, business, group, association, or entity that supports the petition, shall assist the Department in responding to inquiries or directions from the FDA regarding the petition. If neither the petitioner nor an individual, business, group, association, or entity that supports the petition provides this assistance to the Department within thirty (30) days, the Department may withdraw the petition. ()

b. If the FDA takes action to modify or revoke a variance previously granted to the Department, the Department may waive the opportunity for a hearing unless a petitioner or an interested person adequately supports the Department in defending the variance in whole or in part from modification or revocation by FDA. ()

013. – 999. (RESERVED)

IDAPA 02 – DEPARTMENT OF AGRICULTURE

02.06.02 – RULES PERTAINING TO THE IDAHO COMMERCIAL FEED LAW

DOCKET NO. 02-0602-1801

NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2019 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 Sections 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 25-2710, 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:

To incorporate by reference information and updates contained in the 2019 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.

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the September 5, 2018 Idaho Administrative Bulletin, [Vol. 18-9, pages 55-56](#).

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 the 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 Jared Stuart, Agriculture Section Manager at (208) 332-8620.

Dated this 4th day of October, 2018.

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

THE FOLLOWING NOTICE PUBLISHED WITH THE PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 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 September 19, 2018.

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 2019 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: N/A

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

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

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

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

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 Jared Stuart, Agriculture Section Manager at (208) 332-8622 or email jared.stuart@isda.idaho.gov.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be delivered on or before September 26th, 2018.

Dated this 2nd day of August, 2018.

[LINK: LSO Rules Analysis Memo and Incorporation By Reference Synopsis \(IBRS\)](#)

THE FOLLOWING IS THE TEXT OF DOCKET NO. 02-0602-1801

004. INCORPORATION BY REFERENCE.

Copies of these documents may be viewed at the Idaho State Department of Agriculture, 2270 Old Penitentiary Road, PO Box 790, Boise, Idaho 83701. IDAPA 02.06.02 incorporates by reference: (3-30-07)

01. The Association of American Feed Control Officials (AAFCO) Official Publication. The Terms, Ingredient Definitions and Policies as published in the “201~~8~~⁹ 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. A copy may be purchased online from the AAFCO website at: www.aaeco.org. (~~3-28-18~~) ()

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.rsc.org/merckindex>. (4-7-11)

IDAPA 02 – DEPARTMENT OF AGRICULTURE
02.06.12 – RULES PERTAINING TO THE IDAHO FERTILIZER LAW
DOCKET NO. 02-0612-1801
NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2019 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 Sections 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 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:

To incorporate by reference information and updates contained in the 2019 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.

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the September 5, 2018 Idaho Administrative Bulletin, [Vol. 18-9, pages 57-58](#).

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 the 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 Jared Stuart, Agriculture Section Manager at (208) 332-8620.

Dated this 4th day of October, 2018.

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

THE FOLLOWING NOTICE PUBLISHED WITH THE PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 22-604, 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 September 19, 2018.

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 2019 Official Publication of the Association of American Plant Food Control Officials (AAPFCO) as they pertain to the methodology and practice of conducting regulatory fertilizer registration and label review.

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

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

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

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

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 Jared Stuart, Agriculture Section Manager at (208) 332-8622 or email jared.stuart@isda.idaho.gov.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be delivered on or before September 26, 2018.

Dated this 2nd day of August, 2018.

[LINK: LSO Rules Analysis Memo and Incorporation By Reference Synopsis \(IBRS\)](#)

THE FOLLOWING IS THE TEXT OF DOCKET NO. 02-0612-1801

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 “2018⁹ 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: www.aapfco.org. ~~(3-28-18)~~()

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. (now hosted by the Royal Society of Chemistry) at: <http://www.rsc.org/merckindex>. (4-7-11)

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

IDAPA 02 – DEPARTMENT OF AGRICULTURE

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

DOCKET NO. 02-0641-1801

NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2019 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 Sections 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 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:

To incorporate by reference information and updates contained in the 2019 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.

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the September 5, 2018 Idaho Administrative Bulletin, [Vol. 18-9, pages 59-60](#).

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 the 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 Jared Stuart, Agriculture Section Manager at (208) 332-8620.

Dated this 4th day of October, 2018.

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

THE FOLLOWING NOTICE PUBLISHED WITH THE PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 22-2204, 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 September 19, 2018.

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 2019 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: N/A

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

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

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

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

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 Jared Stuart Agriculture Section Manager at (208) 332-8622 or jared.stuart@isda.idaho.gov. Anyone may submit written comments regarding this proposed rulemaking. All written comments must be delivered on or before September 26, 2018.

Dated this 2nd day of August, 2018.

[LINK: LSO Rules Analysis Memo and Incorporation By Reference Synopsis \(IBRS\)](#)

THE FOLLOWING IS THE TEXT OF DOCKET NO. 02-0641-1801

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 “201~~8~~⁹ Official Publication” of AAPFCO where those terms and ingredient definitions, and policy statements do not conflict with terms and ingredient definitions, and policy statements adopted under Title 22, Chapter 22, Idaho Code, and any rule promulgated thereunder. ~~The AAPFCO Official Publication is a copyrighted publication and not available in electronic format.~~ A copy may be purchased online from the AAPFCO website at: www.aapfco.org. (~~3-28-18~~)()

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. (now hosted by the Royal Society of Chemistry) at: <http://www.rsc.org/merckindex..> (4-7-11)

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

**IDAPA 02 – DEPARTMENT OF AGRICULTURE
IDAHO SHEEP AND GOAT HEALTH BOARD**

02.08.01 – SHEEP AND GOAT RULES OF THE IDAHO SHEEP AND GOAT HEALTH BOARD

DOCKET NO. 02-0801-1801

NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2019 Idaho State Legislature for final approval. The pending rule becomes final and effective upon the conclusion of the legislative session, unless the rule is approved or rejected in part by concurrent resolution in accordance with Sections 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 full force and effect 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 Title 25, Chapter 1, Idaho Code, and Section 25-128.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule:

This rule clarifies the goat assessment and payment process, and has been adopted as pending. 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 November 7, 2018 Idaho Administrative Bulletin, [Vol. 18-11, pages 23 and 24](#).

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

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Brandy Kay at (208) 803-5084.

Dated this 5th day of December, 2018

Brandy Kay
Executive Secretary
Idaho Sheep and Goat Health Board
112 E 6th Street
P.O. Box 825
Emmett, ID 83617
Phone: (208) 803-5084

THE FOLLOWING NOTICE PUBLISHED WITH THE PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Title 25, Chapter 1, Idaho Code, and Section 25-128, 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 November 21, 2018.

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:

This rule is to clarify how and when the goat assessment should be assessed and turned into the Idaho Sheep and Goat Health Board by Livestock Auction Yards and Individuals. This will provide the goat assessment with its own rules instead of trying to use wool assessment rules on goats. Since goats and wool are sold very differently, this rule will simplify the process.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: no fee changes.

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

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules – Negotiated Rulemaking was published in the September 5, 2018 Idaho Administrative Bulletin, [Vol. 18-9, pg. 61](#).

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 Code of Federal Regulations and the USA Scrapie Flock Certification Program are federal regulations that help keep goats and sheep healthy. The Idaho Sheep and Goat Health Board supports these regulations and wishes for all Idaho Sheep and goat owners to abide by all federal and state laws.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Brandy Kay, (208) 803-5084.

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 November 28, 2018.

Dated this 20th day of October, 2018.

[LINK: LSO Rules Analysis Memo](#)

THE FOLLOWING IS THE TEXT OF DOCKET NO. 02-0801-1801

701. GOAT ASSESSMENTS.

The following rules shall apply to all goats.

(4-6-15)

01. Payment of Assessment. The owner of goat(s) shall be responsible for the payment of the assessment levied by the Board as provided for in Sections 25-130 and 25-131, Idaho Code. The rate of assessment shall be eighty cents (\$.80) per head.

(4-6-15)

02. Assessment as Resident Goats. The assessment shall be levied and assessed to the producer at the time of the sale of said goat(s) ~~and shall be deducted by the first purchaser from the price paid to the producer at the time of such sale.~~

~~(4-6-15)~~()

a. Auction Yards: Auction yards will deduct the assessment from the price paid to the producer at the time of sale. All goat assessments will be sent to the Idaho Sheep and Goat Health Board (ISGHB) from the auction yards after each sale, but no later than thirty (30) days after the sale. Assessments will be accompanied by a board approved form that includes a list of the producers (sellers) name, address, and number of head sold.

()

b. Private Sales: The producer will handle assessment on private sales. The producer will send at minimum an annual assessment to the ISGHB on all private sales no later than the end of December of the current year.

()

~~**03. Migratory Goats.** In the event that a goat, which is subject to this assessment, shall be located outside the state of Idaho during a part of the assessment year, the amount of the assessment shall be reduced on a pro rata basis. A grower will be required to request a pro rata adjustment in writing to the Board.~~

~~(4-6-15)~~

043. Costs of Collection. All costs of collection of delinquent assessments shall be borne as an additional charge against the delinquent assessee ~~first purchaser.~~

~~(4-6-15)~~()

IDAPA 60 – IDAHO STATE SOIL AND WATER CONSERVATION COMMISSION

60.05.01 – RESOURCE CONSERVATION AND RANGELAND DEVELOPMENT PROGRAM

DOCKET NO. 60-0501-1801

NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2019 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 22-2718, Idaho Code.

DESCRIPTIVE SUMMARY: The following is 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:

ISWCC initiated this rulemaking to resolve inconsistencies between Title 22, Chapter 27, Idaho Code and the Resource Conservation and Rangeland Development Program (RCRDP) Rules, remove outdated references, resolve internal inconsistencies, and correct typographical errors. The revisions also include adding or changing provisions to streamline the loan application process, update credit guidelines, and give more flexibility to set maximum loan amounts.

The changes include: Adding sections to the rules as required by the Office of Administrative Rules Coordinator. Update Section 010 (Definitions) to resolve inconsistencies with Title 22, Chapter 27, Idaho Code and other rule provisions, and/or clarify ambiguous terms. Update various sections in order to streamline the application process, incorporate more comprehensive and adaptable credit standards, and give ISWCC more flexibility to set loan limits. ISWCC also intends to make changes throughout other sections of these rules as needed for internal consistency, to correct typographical errors, or to remove outdated references.

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 October 3, 2018, Idaho Administrative Bulletin, **Vol. 18-10, pages 561-571**.

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 effect to the state general fund.

ASSISTANCE ON TECHNICAL QUESTIONS AND SUBMISSION OF WRITTEN COMMENTS: For assistance on questions concerning the pending rule, contact Terry Hoebelheinrich at terry.hoebelheinrich@swc.idaho.gov, (208) 332-1793.

Dated this 8th of November, 2018.

Terry Hoebelheinrich
Loan Officer
Idaho Soil and Water Conservation Commission
P.O. Box 83720
Boise, ID 83720-0083
terry.hoebelheinrich@swc.idaho.gov
Telephone: (208) 332-1793
Fax: (208) 332-1799

THE FOLLOWING NOTICE PUBLISHED WITH THE PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221, Idaho Code, and IDAPA 04.11.01, the Idaho Rules of Administrative Procedure of the Attorney General, Section 830, notice is hereby given that this agency has initiated proposed rulemaking procedures. This rulemaking action is authorized by Section 22-2718, Idaho Code.

PUBLIC HEARING SCHEDULE: A public hearing on the proposed rule will be held as follows:

PUBLIC HEARING (LIVE)
Thursday, October 25, 2018 - 9:00 a.m. (MDT)
Idaho Water Center 322 E. Front Street, Boise, Idaho 5th Floor, Suite 560 Conference Room
TELECONFERENCE CALL-IN
Toll Free: 1-877-820-7831 Participant Code: 922837

The hearing location will be accessible to persons with disabilities, and language translators will be made available upon request. Requests for these accommodations must be made no later than five (5) days prior to the hearing date. For arrangements, contact the undersigned.

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

ISWCC initiated this rulemaking to resolve inconsistencies between Title 22, Chapter 27, Idaho Code and the Resource Conservation and Rangeland Development Program (RCRDP) Rules, remove outdated references, resolve internal inconsistencies, and correct typographical errors. The revisions also include adding or changing provisions to streamline the loan application process, update credit guidelines, and give more flexibility to set maximum loan amounts.

The proposed changes include: Adding sections to the rules as required by the Office of Administrative Rules Coordinator. Update Section 10 (Definitions) to resolve inconsistencies with Title 22, Chapter 27, Idaho Code and other rule provisions, and/or clarify ambiguous terms. Update various sections in order to streamline the application process, incorporate more comprehensive and adaptable credit standards, and give ISWCC more flexibility to set loan limits. ISWCC also intends to make changes throughout other Sections of the rules as needed for internal consistency, to correct typographical errors, or to remove outdated references.

FEE SUMMARY: N/A

FISCAL IMPACT: N/A

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules – Negotiated Rulemaking was published in the May 2, 2018, and the July 4, 2018, Idaho Administrative Bulletins, [Vol. 18-5, pages 158-159](#), and [Vol. 18-7, pages 211-212](#).

INCORPORATION BY REFERENCE: N/A

ASSISTANCE ON TECHNICAL QUESTIONS AND SUBMISSION OF WRITTEN COMMENTS: For assistance on questions concerning the proposed rule, contact Terry Hoebelheinrich at terry.hoebelheinrich@swc.idaho.gov, (208) 332-1793.

Anyone may submit written comments regarding this proposed rule. All written comments must be directed to the undersigned and must be delivered on or before 5:00 PM MDT on October 24, 2018.

Dated this 30th Day of August, 2018.

[LINK: LSO Rules Analysis Memo](#)

THE FOLLOWING IS THE TEXT OF DOCKET NO. 60-0501-1801

60.05.01 – RULES FOR ADMINISTRATION OF THE IDAHO RESOURCE CONSERVATION AND RANGELAND DEVELOPMENT PROGRAM

000. LEGAL AUTHORITY.

The Idaho State Soil and Water Conservation Commission, pursuant to the authority granted in Section 22-2718, Idaho Code, has been granted the authority to adopt the following rules for the administration of ~~the~~ Resource Conservation and Rangeland Development Program (RCRDP) ~~in~~ for Idaho. (3-29-10)()

001. TITLE AND SCOPE.

01. Title. ~~These rules shall be known and cited as Rules of the Idaho State Soil and Water Conservation Commission. The title of this chapter is~~ IDAPA 60.05.01, "Rules for Administration of the Idaho Resource Conservation and Rangeland Development Program." (4-1-94)()

02. Scope. The provisions of these rules set forth procedures and requirements for establishing, implementing, and administering a state loan ~~for resource conservation and rangeland development~~ from the RCRDP fund as provided in Sections 22-2730, through 22-2732, Idaho Code. (3-29-10)()

002. WRITTEN INTERPRETATIONS — AGENCY GUIDELINES.

Written interpretations and agency guidance on these rules are available at the Idaho Soil and Water Conservation Commission, 322 E. Front St., Suite 560, Boise, ID 83702. ()

0023. ADMINISTRATIVE APPEALS.

Reconsideration of loan disapproval or any matter affecting the amount of loan funds ~~shall~~ must be done in accordance with ~~RCRDP Rule Subsection Paragraph~~ 056.02.d. of these rules. Persons may be entitled to appeal final agency actions authorized under this chapter pursuant to Title 67, Chapter 52, Idaho Code. (4-1-94)()

004. INCORPORATION BY REFERENCE.

There are no documents that have been incorporated by reference into this rule. ()

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

The office of the Idaho Soil and Water Conservation Commission is in Boise, Idaho. This office is open from 8:00 a.m. to 5:00 p.m. except Saturdays, Sundays and legal holidays. The Commission's mailing address is P.O. Box 83720, Boise, ID 83720-0083. The Commission's street address is 322 E. Front St., Suite 560, Boise, ID 83702.

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006. PUBLIC RECORDS ACT COMPLIANCE.

All records relating to this chapter are public records except to the extent such records are exempt from disclosure by law.

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~~007.~~ -- 009. (RESERVED)

010. DEFINITIONS.

For the purpose of these rules, unless the context indicates otherwise, the terms and phrases are used as defined herein:

(9-9-86)()

~~01. **Account.** The account established pursuant to Section 22-2730, Idaho Code, as amended, which contains the receipts allocated in Section 14-413(3)(a), Idaho Code, and all monies appropriated to it by the legislature or made available from federal, private, or other sources.~~

(4-1-94)

~~02. **Applicant.** Any individual, partnership, association, trust, estate, private corporation, or any other private legal entity that is recognized by law as the subject of rights and duties who files an application with the appropriate local District for a loan under the provisions of the act~~ An eligible applicant as defined in Section 22-2717, Idaho Code.

(3-29-10)()

~~03. **Application.** The loan request document submitted to a local District that sets forth the information required by Section 22-2732, Idaho Code and Subsection 057.03 of these rules, including a conservation plan.~~

(3-29-10)()

~~04. **Commission.** The Idaho State Soil and Water Conservation Commission as defined in Section 22-2718, Idaho Code.~~

(9-9-86)

~~04. **Conservation Plan.** A conservation plan as defined in Sections 22-2717 and 22-2732, Idaho Code that sets forth the information required by Paragraph 057.03.i of these rules.~~

()

~~05. **Contractee.** The applicant when the loan has been closed and recorded.~~

(9-9-86)

~~06. **Coordinated Resource Planning Process.** A process that considers all the resources and resource users within a geographical area and encourages active involvement and input from all interested parties.~~

(9-9-86)

~~07. **District.** A Conservation District, Soil Conservation District (SCD), or Soil and Water Conservation District as defined in Section 22-2717, Idaho Code.~~

(9-9-86)()

~~08. **Eligible Land.** Private, state, county, or federal lands within the state of Idaho.~~

(9-9-86)()

~~09. **Field Office.** The principal headquarters of the District; it is usually co-located with the local United States Department of Agriculture Natural Resources Conservation Service (NRCS) office usually located with the principal headquarters of the local District.~~

(3-29-10)()

~~10. **Field Office Technical Guide.** The primary technical reference used by NRCS and the Districts. The primary scientific reference for NRCS that contains technical information about the conservation of soil, water, air, and related plant and animal resources. Technical guides used in each field office are localized so that they apply specifically to the geographic area for which they are prepared. Copies of the field office technical guides may be obtained from a local District or field office.~~

(3-29-10)()

~~11. **Five (5) Year Plan.** The plan prepared by each District as defined in Section 025 of IDAPA 60.05.02, "Rules of the Antidegradation Plan for Agriculture for the Idaho Soil Conservation Commission and Soil Conservation Districts."~~

()

- 12. Fund.** The RCRDP fund established pursuant to Section 22-2730, Idaho Code. ()
- 13. Other Funds.** ~~Federal, state, or private~~ funds to be dedicated to conservation practice implementation costs, which are not from the RCRDP fund or provided by the applicant. (3-29-10)()
- 14. Practice or Eligible Practice for Loans.** A practice listed in the field office technical guide or a special practice approved under Section 058 of these rules. (3-29-10)()
- 15. Practice Life.** The number of years, with proper maintenance and operation, that a practice is expected to last, as shown in the field office technical guide. (3-29-10)
- 16. Program Year.** The state fiscal year as provided in Section 67-2201, Idaho Code. (9-9-86)()
- 17. Project.** One (1) or more practices to be installed with a RCRDP loan. (3-29-10)
- 18. Rangeland.** Land used primarily for the grazing of domestic livestock and wildlife. (9-9-86)
- 17. RCRDP.** ~~The Idaho Resource Conservation and Rangeland Development Program.~~ (9-9-86)
- 18. Resource Conservation Plan for Loans.** ~~A plan for loans, developed by the applicant and approved by the local District, that identifies the resource problems and needed conservation improvements, together with engineering and economic feasibility data and estimated costs.~~ (3-29-10)
- 19. Riparian Areas.** Riparian areas are sites directly influenced by free water. They have visible vegetation or physical characteristics that reflect free water influence. Lake shores and stream banks are typical riparian areas. Excluded are sites such as ephemeral streams or washes that do not exhibit the presence of vegetation dependent upon free water in the soil. (4-1-94)
- 20. Security.** Collateral provided by an approved applicant to secure requested RCRDP funds. This may include mortgage note, promissory note, security agreement, water rights, or other asset. (3-29-10)()
- 21. Special Practice.** A practice (not listed in the field office technical guide) that includes a proven, modern technique that is necessary to solve a resource problem and meet program objectives as determined by the local District. (3-29-10)()
- 011. ABBREVIATIONS.**
- 01. RCRDP.** The Idaho Resource Conservation and Rangeland Development Program. ()
- 02. NRCS.** United States Department of Agriculture Natural Resources Conservation Service. ()
- 012. PROGRAM POLICY.**
- 01. Administration.** It is the policy of the Idaho State Soil and Water Conservation Commission to administer the Resource Conservation and Rangeland Development Program to provide the greatest benefits to all concerned from the agricultural lands and rangelands within the state. (4-1-94)
- 02. Equal Opportunity.** Each applicant regardless of handicap, race, age, sex, creed, color or national origin, shall must be given the opportunity to apply for a loan. (3-29-10)()
- 03. Filing Applications.** An application may be filed at anytime during the program year. (4-1-94)
- 04. Use of Loan Money in Conjunction with State or Federal Programs.** Requests for state or federal cost-share assistance and for loan approval are handled by different governmental agencies and approval for one does not guarantee approval for the other. ()

01~~23~~. PROGRAM OBJECTIVES.

- are to:
- 01. Objectives.** The objectives of the Resource Conservation and Rangeland Development Program (9-9-86)
 - a. Conserve soil resources. (9-9-86)
 - b. Conserve water resources. (9-9-86)
 - c. Improve riparian areas for multiple use benefits. (9-9-86)
 - d. Protect or improve existing beneficial uses of the state's waters. (9-9-86)
 - e. Conserve and improve fish and wildlife habitat. (9-9-86)
 - f. Increase agricultural productivity of: (9-9-86)
 - i. Cropland. (9-9-86)
 - ii. Orchards. (9-9-86)
 - iii. Pasture and Hayland. (9-9-86)
 - iv. Rangeland. (9-9-86)
 - v. Woodland. (9-9-86)

02. Achieving Program Objectives. Decisions concerning the use of program funds ~~shall~~ **must** be based on achievement of program objectives. The administration of the program ~~shall~~ **must** emphasize coordinated resource management planning and decision-making to ensure maximum benefit of funds. Program objectives ~~shall~~ **must** be achieved when the ~~resource~~ conservation plan ~~or rangeland and riparian area improvement plan~~ is implemented. (4-1-94)()

01~~34~~. -- 055. (RESERVED)

056. RESPONSIBILITIES.

- 01. District.** The local District ~~shall~~ **must**: (3-29-10)
 - a. Receive ~~applications~~ **the conservation plan** for program participation. (9-9-86)()
 - b. Within sixty (60) days of receipt, review and evaluate the ~~application for loans~~ **conservation plan** to determine if the project is consistent with the District's program goals and objectives. (3-29-10)()
 - c. Assign a priority of high, medium, or low to the ~~applications~~ **project**. (4-1-94)()
 - d. Forward ~~applications~~ **conservation plans** to the Commission with a recommendation for funding. (4-1-94)()
 - e. Prepare and forward to the Commission special practice requests. (9-9-86)

f. The local District may assign a priority to practices in the field office technical guide and have that priority ranking apply to all future projects seeking to implement the pre-ranked practices. The local District Board must consider pre-ranking practices at a scheduled Board meeting. The Board's decision including the name and identification number of the practice(s), the assigned ranking and the recommendation for funding must be reflected in the meeting minutes and be forwarded to the Commission. ()

g. If the local District does not review and evaluate a conservation plan within sixty (60) days of receipt, the Commission may review and evaluate the conservation plan and assign a priority ranking for the project based on the District's five (5) year plan. ()

02. **Commission.** The Idaho State Soil and Water Conservation Commission ~~shall~~ **must**: ~~(9-9-86)~~()

a. Review and evaluate applications. (4-1-94)

b. Approve loans, if: (9-9-86)

i. The applicant has adequate assets for security to protect the state from risk ~~and of~~ loss. ~~(9-9-86)~~()

ii. There is reasonable assurance that the borrower can repay the loan. (9-9-86)

iii. Money is available in the ~~loan account~~ **RCRDP fund**. ~~(9-9-86)~~()

c. Disapprove loans for reasons including but not limited to: (4-1-94)

i. The purpose of the loan is to pay for ~~resource~~ conservation plan practices that have been ~~applied~~ **implemented** prior to Commission approval. ~~(4-1-94)~~()

ii. If all the requirements in ~~Rule Subsection Paragraph~~ 056.02.b. **of these rules** are not met. ~~(4-1-94)~~()

d. Reconsider loan disapproval if the applicant, within fifteen (15) business days after notice of disapproval, requests the ~~Soil Conservation~~ Commission, in writing, to reconsider its determination in any matter affecting the loan or the amount of loan funds. Reconsideration of the determination ~~shall must~~ take place within ninety (90) business days from the date the written request is received. The time, place, and date ~~shall must~~ be determined by the Commission. The applicant ~~shall must~~ be notified of the time, place, and date and ~~shall must~~ have the right to appear. ~~(3-29-10)~~()

e. ~~Upon~~ **After** loan approval, execute a promissory note and other security documents with the applicant for loan repayment. ~~(4-1-94)~~()

f. Not less than once per year, determine the loan interest rate not to exceed six percent (6%) annually. (9-9-86)

g. Prepare an annual report showing RCRDP accomplishments and benefits resulting from use of loan and grant funds. (4-1-94)

h. Administer and monitor loan proceeds to assure that the intent of the law is met. (9-9-86)

i. Approve or disapprove special practice requests. (9-9-86)

057. APPLICATION FOR LOAN.

01. **How to Apply.** Any applicant desiring a loan from the RCRDP ~~account fund~~ **must**: ~~apply through the local District.~~ ~~(3-29-10)~~()

a. Prepare and submit a conservation plan. The conservation plan must be presented by the applicant (or representative appointed by the applicant) to the local District Board at a scheduled meeting unless the project includes only practices that have been pre-ranked by the local District in accordance with Paragraph 56.01.f. of these rules. If the project includes only pre-ranked practices, the applicant must submit the conservation plan to the Commission. ()

b. Prepare and submit a completed application. The application including all information required under Subsection 57.03 of these rules must be submitted to the Commission. ()

02. Two or More Applicants. Two (2) or more applicants may install a practice(s) as a group providing the loan can be adequately collateralized and all parties agree to joint and several liability. (4-1-94)

03. Application Form. The application ~~shall~~ **must** be on a form prescribed by the Commission and must include: ~~(4-1-94)~~()

a. Name of applicant, and the location, size, and type of agricultural enterprise. (9-9-86)

~~**b.** Applicant's status (full-time farmer/rancher, part-time farmer/rancher or owner of agricultural lands leased to another operator).~~ (9-9-86)

~~**eb.** Identification and extent of the resource problem (erosion, plant community deterioration, water loss, water quality, low production, etc.).~~ (9-9-86)

~~**ec.** Statement of applicant's objectives and expected benefits.~~ (9-9-86)

~~**e.** Proposed practices, implementation schedule, and estimated costs.~~ (9-9-86)

~~**fd.** Estimate of costs of implementing the project and~~ of total loan funds needed. ~~(9-9-86)~~()

i. Applicant ~~shall~~ **must** be required to supply at least five percent (5%) of the total project costs through personal funds or in-kind services. (3-29-10)

ii. Total RCRDP loan funds combined with other funds cannot exceed ninety-five percent (95%) of total project costs. (3-29-10)

~~**ge.** Applicant's statement of security offered.~~ (4-1-94)

~~**hf.** Applicant's statement of willingness to allow continued monitoring and evaluation of impacts resulting from applied land treatment and management practices.~~ (9-9-86)

g. All documentation required under Subsection 101.03. of these rules and any other documentation requested by the Commission needed to determine whether there is reasonable assurance that the applicant can repay the loan. ()

~~**h.** A copy of the applicant's resource conservation plan which becomes a part of the application for assistance. The resource conservation plan shall must include:~~ ~~(4-1-94)~~()

i. A map showing project location and extent of the resource problem. (4-1-94)

ii. The eligible practices to be installed. (4-1-94)

iii. Estimated costs of applying the practices. (4-1-94)

iv. An implementation schedule. (4-1-94)

v. A statement whereby the applicant agrees to properly maintain and operate installed practices. (4-1-94)

vi. Needed clearances, easements and rights of way. (4-1-94)

vii. Any other appropriate documentation needed to complete the implementation of the resource conservation plan as requested by the local District or Commission. ~~(3-29-10)~~()

~~04. Presenting the Application. The completed application must be presented by the applicant (or representative) to the local District Board at a scheduled meeting. (3-29-10)~~

058. SPECIAL PRACTICE(S) APPROVAL FOR LOANS.

01. **Special Practice Approval.** A special practice must be approved by the Commission before it becomes an eligible practice. (9-9-86)

02. **Special Practice Requests.** Special practice requests ~~shall~~ **may** be prepared by the local District ~~for~~ **or** the Commission and ~~shall~~ **must** include: (3-29-10)()

a. A description of the proposed practice. (9-9-86)

b. A justification of need for the special practice. (9-9-86)

c. Standards and specifications for the proposed practice. (9-9-86)

d. A statement from the appropriate agency as to the technical adequacy of the special practice in solving the resource problem. (9-9-86)

059. -- 080. (RESERVED)

081. ENCOURAGING PUBLIC BENEFITS WHEN INSTALLING PRACTICES.

District Boards ~~shall~~ **must** encourage persons responsible for any aspect of performing practices to promote public benefit by improving or preserving environmental quality and ecological balance when the practices are being installed. Multiple objective achievement and total resource evaluation and treatment ~~shall~~ **must** receive high priority consideration for loan funds. When reviewing loan requests the following considerations ~~shall~~ **must** be made: (4-1-94)()

01. **Preventing Degradation.** Preventing or abating pollution and other environmental degradation. (9-9-86)

02. **Benefiting the Community.** Benefiting the community by means such as outdoor recreational opportunities or enhancing the appearance of the area. (9-9-86)

03. **Benefiting Habitat.** Benefiting fish and wildlife habitat. (9-9-86)

082. -- 100. (RESERVED)

101. CREDIT GUIDELINES ~~FOR LOANS.~~

~~These credit guidelines are established to reduce the risk of the state. Even though these loans are made at a low interest rate for the purpose of encouraging conservation and resource development, they must be repaid. This rule sets forth the requirements for determining the eligibility of an operator for a loan. (4-1-94)~~

01. **Standards for Acceptable Loans.** There ~~shall~~ **must** be adequate assets and collateral for security to protect the state from risk ~~and~~ **of** loss. (9-9-86)()

02. ~~Credit Information Required Documentation. The Commission must obtain and the applicant must provide~~ **Documentation shall be sufficient and verified to support to determine the applicant's ability and willingness to repay the loan offered. Such documentation ~~It must~~ may include: financial and operating statements, balance sheets, profit and loss statements, driver's license, income tax returns, budgets, credit reports, estimates/quotes, deeds, leases,** and other supporting documents as deemed necessary relative to the size, complexity, and financial responsibility of the individual or entity being financed. ~~A credit report will be ordered from at least three (3) credit repositories for each applicant. (3-29-10)()~~

03. ~~Information Needed Prior to Loan Commitment~~ **Duty to Inform.** ~~Documents and forms required for all loans:~~ **After submitting the application and before funds are dispersed, the applicant must inform and provide**

documentation to the Commission of any significant change of circumstance that may impact their financial standing or ability to repay the loan. (9-9-86)()

- ~~a.~~ *Loan application.* (9-9-86)
- ~~b.~~ *Financial statements.* (9-9-86)
- ~~i.~~ *A current balance sheet will be required from all parties who will be responsible for repayment of the loan and may be required from other relevant parties.* (4-1-94)
- ~~ii.~~ *Applicant may be questioned about any major changes that may have occurred on the financial statements submitted.* (9-9-86)
- ~~iii.~~ *Income and expense statements. The most recent three (3) year series of accountant prepared statements, if available, or federal tax returns are desired.* (3-29-10)
- ~~e.~~ *Copy of drivers license or other photo identification.* (3-29-10)
- ~~d.~~ *Documentation of water rights.* (3-29-10)
- ~~e.~~ *Current tax assessments for all parcels referenced in the conservation plan.* (3-29-10)
- ~~f.~~ *Copy of land lease agreement, if the applicant is not the owner of the parcel(s) referenced in the conservation plan.* (3-29-10)

04. **Field Inspections.** The Commission may require a Ffield inspections may be used in order to: (4-1-94)()

- a. Determine loan and security positions, provide repayment estimates and verify *agricultural* assets. (4-1-94)()
- b. Indicate the applicant's management ability. (4-1-94)
- c. Secure a complete and accurate description of collateral for the security agreement. (4-1-94)

05. **Other Information Needed Prior to Additional Information Required for Loans Commitment Secured with Real Estate.** Real estate secured loans Where real estate is offered as collateral the following information must be provided: (9-9-86)()

- a. A legal description of the offered collateral. (4-1-94)
- b. Real estate appraisal, *if necessary, should* consisting of at least one (1) of the following: (9-9-86)()
 - i. Copy of appraisal made by a licensed professional appraiser *deemed acceptable to the state approved by the Commission.* (9-9-86)()
 - ii. Copy of the most recent property tax assessment. ()
 - iii. Evaluation made by Commission or the local District *Board* according to *their its* knowledge of the estimated average value of the property in the area in which the project is to be implemented. (3-29-10)()
- c. *Other Collateral. Any item having tangible value may be accepted as security for these loans. Condition of the collateral shall be updated periodically and additions to the security agreement may be required over time* A map designating the location of the real estate. (4-1-94)()
- ~~d.~~ *If the state is not a primary lien holder, a request for notice of default shall be recorded and a letter*

~~written to primary lien holders notifying them of the security interests of the state. (9-9-86)~~

~~e. Must include a map designating location of subject property. (9-9-86)~~

06. Other Collateral. Any item having tangible value may be accepted as security for these loans. Condition of the collateral must be updated periodically and additions to the security agreement may be required over time. ()

102. LOAN CLOSURE AND ADMINISTRATION.

01. **Servicing and Documentation.** All loans ~~shall~~ must be assigned to a loan officer (Commission employee) who ~~shall~~ must be responsible for servicing the loan. (4-1-94)()

02. **Loan Securing Documents.** Following approval of the application, the Commission, ~~shall~~ must prepare all necessary loan securing documents. (4-1-94)()

03. **Loan Note and Security Agreement.** The loan ~~shall~~ must be secured by utilizing a loan promissory note and security document listing the parties and the collateral, as well as terms and conditions of the loan. A mortgage or deed of trust ~~shall~~ must be executed and recorded with the county recorder where the collateral is located if the collateral is real property. A security agreement and any other necessary documents shall must be executed if the collateral is not real property. Appropriate financing statements ~~shall~~ must be executed and filed with the Secretary of State on all collateral consisting of personal property. (4-1-94)()

04. **Fund Obligation.** Funds ~~shall~~ must be obligated when all loan conditions established by the Commission have been met and when all necessary loan securing documents are in order and appropriately signed by the applicant. Funds will then be obligated. Upon notification of fund obligation, the applicant who is now the contractee, may ~~proceed with the~~ complete implementation of the ~~resource conservation plan~~ project. (4-1-94)()

05. **Cost Incurred.** The applicant is required to cover all costs incurred for loan closure, title insurance, and recording fees. (9-9-86)

103. IMPLEMENTATION OF AGREED TO PRACTICES.

~~Once the loan has been approved and the conditions of approval have been met, the~~ The applicant/contractee may, at their own risk, begin installing practices but must not complete the project until the loan has been approved. The applicant/contractee may must install practices as identified and scheduled in the resource conservation plan. The applicant/contractee has the responsibility to obtain the appropriate technical assistance. Technical personnel ~~shall~~ must assist the applicant/contractee in implementation activities to ensure that practices are properly designed, constructed, and managed. The applicant/contractee may install practices or subcontract work out to a subcontractor. Whatever method is used, the applicant/contractee shall must be responsible to ensure that the quality of materials and workmanship in the installation of practices meets the approved standards and specifications for each practice. (4-1-94)()

01. **Practice Completion.** Upon completion of the scheduled practice the applicant/contractee shall must notify the ~~local District and the~~ provider of technical assistance. ~~And #~~ The provider of technical assistance ~~shall~~ must inspect and document the amount and extent of the installed practice and certify its completion if it meets the quality standards and construction specifications of the practice and notify the ~~local District and~~ applicant/contractee. If the practice does not meet practice standards and specifications the applicant/contractee and the local District shall must be notified by the provider of technical assistance, in writing, of the deficiencies and what needs to be done so the practice ~~shall~~ meets standards and specifications. (3-29-10)()

02. **Submitting Vouchers and Bills.** (3-29-10)

a. ~~When practices are certified complete by the provider of technical assistance,~~ The provider of technical assistance must provide a written certification of completion of the project to the Commission. # The applicant/contractee must submit to the Commission signed invoices, vouchers and bills ~~along with the certification of completion report~~ for the project to the Commission. (3-29-10)()

b. Up to ninety-five percent (95%) of loan funds can be disbursed toward submitted bills during the loan installment period. The remaining loan funds will be disbursed upon receipt of written certification of project completion from the provider of technical assistance. (3-29-10)

03. **Warrant Requests.** The Commission staff *shall must* prepare warrant request(s). ~~made out~~ *The warrant(s) are paid* to the *order of the* contractee(s) and the vendor, and *are* mailed ~~#~~ to the contractee. (4-1-94)()

04. **Drawing Loan Funds.** The *applicant/contractee shall must* implement the practices as scheduled and ~~upon certification the contractee~~ may draw ~~on the~~ loan funds ~~throughout the installment term of the loan contract in multiple disbursements during installation of the project.~~ (3-29-10)()

104. -- 125. (RESERVED)

126. **REPAYMENT OF LOAN.**

01. **Repayment of the Loan.** Repayment of the loan, together with interest, *shall must* commence no later than two (2) full years from the date the note is signed. (4-1-94)()

02. **Repayment Schedule.** The repayment schedule *shall must* be identified in the loan documents with a fifteen (15) year maximum loan period. One (1) month before payment is due, the commission will mail the contractee a notice of payment due. (4-1-94)()

03. **First Payment.** The first payment *shall must* be due as required on the signed loan documents as prepared by the *ISCC Commission*. Any additional interest incurred during the installment period of the loan will be added to the first payment notice. (3-29-10)()

127. **FORECLOSURE.**

In the event of a contractee not adhering to the payment terms and conditions of the mortgage, promissory note, or security agreement, the Commission may seek foreclosure *procedures* according to the laws of the state of Idaho. (3-29-10)()

~~128. -- 150. (RESERVED)~~

~~151. **LOAN POLICIES.**~~

~~01. **Maximum Amount of Any One Loan.** The maximum amount of any one (1) loan shall must be two hundred thousand dollars (\$200,000). (3-29-10)~~

~~02. **Total Maximum Program Obligation.** The total maximum program liability of any individual borrower is three hundred thousand dollars (\$300,000). (3-29-10)~~

~~03. **Use of Loan Money in Conjunction with State or Federal Programs.** Requests for state or federal cost share assistance and for loan approval are handled by different governmental agencies and approval for one does not guarantee approval for the other. (4-1-94)~~

~~152. -- 999. (RESERVED)~~