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**IDAPA 02
TITLE 06
CHAPTER 12**

02.06.12 - RULES PERTAINING TO THE IDAHO FERTILIZER LAW

000. LEGAL AUTHORITY.

This chapter is adopted under the legal authority of Section 22-604, Idaho Code. (3-30-01)

001. TITLE AND SCOPE.

01. Title. The title of this chapter is IDAPA 02.06.12, "Rules Pertaining to the Idaho Fertilizer Law". (4-6-05)

02. Scope. These rules specify general label requirements and label requirements for major and minor element guarantees for fertilizers, minimum percentages allowed for registration, the necessity for warning or caution statements, and set forth investigational allowances from which a product guarantee may deviate without being in violation of the law. (3-30-01)

002. WRITTEN INTERPRETATIONS.

There are no written interpretations of these rules. (3-30-01)

003. ADMINISTRATIVE APPEAL.

There is no provision for administrative appeals before the Idaho State Department of Agriculture under this chapter. Hearing and appeal rights are pursuant to Title 67, Chapter 52, Idaho Code. (3-30-01)

004. INCORPORATION BY REFERENCE.

Copies of these documents may be obtained from the Idaho State Department of Agriculture, 2270 Old Penitentiary Road, PO Box 790, Boise, Idaho 83701. IDAPA 02.06.12 incorporates by reference: (3-30-01)

01. The Association of American Plant Food Control Officials (AAPFCO) Official Publication. The Terms, Ingredient Definitions, and Policies, as published in the "2006 Official Publication" of AAPFCO where those terms and ingredient definitions, and policy statements do not conflict with terms and ingredient definitions, and policy statements adopted under Title 22, Chapter 6, Idaho Code, and any rule promulgated thereunder; or (4-11-06)

02. The Merck Index. The "2001 Merck Index," 13th Edition as published by Merck Research Laboratories Division of Merck & Co., Incorporated. (4-6-05)

005. PUBLIC RECORDS ACT COMPLIANCE.

These rules are public records and are available for inspection and copying at the department. (3-30-01)

006. ADDRESS, OFFICE HOURS, TELEPHONE AND FAX NUMBERS.

01. Physical Address. The central office of the Idaho State Department of Agriculture is located at 2270 Old Penitentiary Road, Boise, Idaho 83712-0790. (3-30-01)

02. Office Hours. Office hours are 8 a.m. to 5 p.m., Mountain Time, Monday through Friday, except holidays designated by the state of Idaho. (3-30-01)

03. Mailing Address. The mailing address for the central office is Idaho State Department of Agriculture, P. O. Box 790, Boise, Idaho 83701. (3-30-01)

04. Telephone Number. The telephone number of the central office is (208) 332-8620. (3-30-01)

05. Fax Number. The fax number of the central office is (208) 334-2283. (3-30-01)

007. DEFINITIONS.

- 01. Deficient.** Where the amount of nutrient found by analysis is less than that guaranteed, which may result from a lack of nutrient ingredients or from lack of uniformity. (3-30-01)
- 02. Department.** The Idaho state department of agriculture or its authorized representative. (3-30-01)
- 03. Fertilizer.** Any substance defined by Section 22-603, Idaho Code, as a fertilizer. (3-30-01)
- 04. Guarantee.** An affirmation or promise made by the seller to the buyer which relates to the goods and becomes part of the basis of the bargain and creates an express warranty that the fertilizer shall conform to the affirmation or promise. (3-30-01)
- 05. Guaranteed Analysis.** The minimum percentage of plant nutrients claimed, as required by Section 22-603, Idaho Code. (3-30-01)
- 06. Overall Index Value.** A value used to determine whether an entire product is deficient. (3-30-01)
- 07. Micronutrient.** A micronutrient, for the purposes of this chapter, means: (3-30-01)
- a.** Boron (B); (3-30-01)
 - b.** Chlorine (Cl); (3-30-01)
 - c.** Cobalt (Co); (3-30-01)
 - d.** Copper (Cu); (3-30-01)
 - e.** Iron (Fe); (3-30-01)
 - f.** Manganese (Mn); (3-30-01)
 - g.** Molybdenum (Mo); (3-30-01)
 - h.** Sodium (Na); and (3-30-01)
 - i.** Zinc (Zn). (3-30-01)
- 08. Percent or Percentage.** The amount of individual plant nutrients in relation to the total product by weight. (3-30-01)
- 09. Registrant.** The person who registers fertilizer pursuant to Sections 22-601 through 22-624, Idaho Code. (3-30-01)
- 10. Register.** To register a fertilizer pursuant to the provisions of Section 22-605, Idaho Code. (3-30-01)
- 11. Specialty Fertilizer.** A fertilizer distributed for non-farm use. (3-30-01)
- 12. Ultimate Dealer.** The person who distributes fertilizer product to the end-user. (3-30-01)

008. SAMPLING AND ANALYSIS.

The methods of sampling and analysis shall be those of the Association of Official Analytical Chemists (AOAC) or other methods as approved by the department. (3-30-01)

009. FINDINGS.

These rules are promulgated pursuant to Title 22, Chapter 6, Idaho Code. The adoption of these rules will update and

replace outdated fertilizer labeling guarantees and general label requirements, which have not been revised since 1968. In addition, investigational allowances used to determine whether or not a fertilizer product meets its labeled guarantees after laboratory analysis, are expanded and updated to better accommodate advances in product formulation and laboratory analysis techniques. (3-30-01)

010. FERTILIZER REGISTRATION.

Each brand and separately identifiable fertilizer product under each brand shall be registered pursuant to Section 22-605, Idaho Code. (3-30-01)

011. RULES REGARDING THE REGISTRATION OF FERTILIZERS CONTAINING PLANT NUTRIENTS IN ADDITION TO NITROGEN, PHOSPHATE, AND POTASH.

01. Other Plant Nutrients. A fertilizer may contain plant nutrients in addition to nitrogen, phosphate and potash. When these other nutrients are mentioned on the label in any form or manner, the fertilizer shall be registered. In addition, each nutrient amount shall be guaranteed. The guarantee shall be reported, on the label, on an elemental basis. Sources of the nutrients subjected to the guaranteed analysis, and proof of availability shall be provided to the department upon request. Any additional nutrients, contained in a fertilizer submitted for registration, must be present in the following minimum concentrations:

Element	Percent
Calcium (Ca)	1.0000
Magnesium (Mg)	0.5000
Sulfur (S)	1.0000
Boron (B)	0.0200
Chlorine (Cl)	0.1000
Cobalt (Co)	0.0005
Copper (Cu)	0.0500
Iron (Fe)	0.1000
Manganese (Mn)	0.0500
Molybdenum (Mo)	0.0005
Sodium (Na)	0.1000
Zinc (Zn)	0.0500

(3-30-01)

02. Labeling. The label shall constitute a guarantee regarding the nutrient content of the fertilizer. No nutrients, other than those listed in Subsection 011.01, will be accepted by the department as guaranteed. Proposed labels and directions for the use of the fertilizer shall be furnished with the application for registration upon request. Any of the above listed elements which are guaranteed shall appear in the order listed immediately following guarantees for the primary nutrients of nitrogen, phosphate and potash. (3-30-01)

03. Exemptions. Guarantees for water soluble nutrients labeled for ready-to-use foliar fertilizers, ready-to-use specialty liquid fertilizers, hydroponic or continuous liquid feed programs, and potting soils, are exempted from the minimum element percentages listed in Subsection 011.01. (3-30-01)

012. -- 019. (RESERVED).

020. WARNING OR CAUTION STATEMENTS.

A warning or cautionary statement is required on any fertilizer product: (3-30-01)

01. Containing Boron. If the fertilizer product contains one tenth of a percent (.10%) or more boron in a water soluble form, the statement shall include: (3-30-01)

- a. The word "Warning" or "Caution" conspicuously displayed; (3-30-01)
- b. The crops for which the fertilizer is recommended; and (3-30-01)
- c. That the use of the fertilizer on any crop(s) other than those recommended may result in serious injury to the crop(s). (3-30-01)

02. Containing Molybdenum. If the fertilizer product contains one thousandths of a percent (.001%) or more molybdenum, the statement shall include: (3-30-01)

- a. The word "Warning" or "Caution" conspicuously displayed; and (3-30-01)
- b. That the application of fertilizers containing molybdenum may result in forage crops containing levels of molybdenum which are toxic to ruminant animals. (3-30-01)

03. Other Fertilizer Products. The department may require a registrant to include a warning or caution statement for any other fertilizer product that contains a micro-nutrient in water soluble form for which there is evidence that application of the micro-nutrient may be harmful to certain crops or where there are unusual environmental conditions. (3-30-01)

04. Examples. The following are examples of warning or caution statements: (3-30-01)

a. Directions: Apply this fertilizer at a maximum rate of (number of pounds) per acre for (name of crop). (3-30-01)

b. CAUTION: Do not use on other crops. The (name of micro-nutrient) may cause injury to them. (3-30-01)

c. CAUTION: Apply this fertilizer at a maximum rate of (number of pounds) per acre for (name of crop). Do not use on other crops; the (name of micro-nutrient) may cause serious injury to them. (3-30-01)

d. WARNING: This fertilizer carries added (name(s) of micro-nutrient(s)) and is intended for use only on (name of crop). Its use on any other crops or under conditions other than those recommended may result in serious injury to the crops. (3-30-01)

e. CAUTION: This fertilizer is to be used only on soil that responds to (name of micro-nutrient). Crops high in (name of micro-nutrient) are toxic to grazing animals (ruminants). (3-30-01)

f. CAUTION: (Name of micro-nutrient) is recommended for all crops where (name of micro-nutrient) may be deficient; however excessive application to susceptible crops may cause damage. (3-30-01)

021. -- 029. (RESERVED).

030. FERTILIZER LABELS.

The following information, in the format presented, is the minimum required for all fertilizer labels. For packaged products, this information shall either appear on the package, or be printed on a tag and attached to the package. This information shall be in a readable and conspicuous form. For bulk products, this same information in written or printed form shall accompany delivery and be supplied to the purchaser at time of delivery. (3-30-01)

01. Net weight. (3-30-01)

02. Brand. (3-30-01)

03. Grade. Grade (provided that the grade shall not be required when no primary nutrients are claimed). (3-30-01)

04. Guaranteed Analysis. A fertilizer label must contain the results of the guaranteed analysis. Zero (0) guarantees should not be made and shall not appear in any statement except in nutrient guarantee itemizations. If chemical forms of nitrogen are claimed or required, said form shall be set forth on the label. Nutrients other than nitrogen, phosphate and potash shall be set forth, on an elemental basis, as required by Subsection 010.01. The results of the guaranteed analysis required by this rule shall be in the following form:

Total Nitrogen	(N). _____%
_____%	Ammoniacal Nitrogen
_____%	Nitrate Nitrogen
_____%	Water Insoluble Nitrogen
_____%	Urea Nitrogen
_____%	(Other recognized and determinable forms of N)
Available Phosphate (P ₂ O ₅)	_____%
Soluble Potash (K ₂ O)	_____%
(Other nutrients, elemental basis)	_____%

(3-30-01)

05. Sources. Sources of nutrients shall be listed below the completed guaranteed analysis statement. (3-30-01)

06. Name and Address. Name and address of registrant. (3-30-01)

07. Specialty Fertilizers. For specialty fertilizers distributed to the end user, the label shall set forth adequate directions for use. Such directions may include, but are not limited to: (3-30-01)

a. The recommended application rate or rates in units of weight or volume per unit of area coverage (where application rates are given in volume, the manufacturer shall provide the bulk density for the product on the label); (3-30-01)

b. Proper seasonal times and minimum intervals to apply the product when plants can rapidly utilize nutrients and loss to the environment can be minimized; and (3-30-01)

c. The statement “Apply Only As Directed” or a statement of similar designation. (3-30-01)

08. Packaging. Refer to Idaho Department of Agriculture rules, IDAPA 02.02.14, “Rules for Weights and Measures,” for the specific requirements relating to product identity, declaration of quantity and prescribed units. (3-30-01)

031. MULTI-LABELING.

The labeling of a fertilizer as a plant nutrient and as a product appropriate for another use, as well as including directions for use and grade guarantees for other than the contents of the container, a practice known as “multi-labeling,” is prohibited. (3-30-01)

032. -- 034. (RESERVED).

035. BRAND AND PRODUCT REGISTRATION.

01. Brand Registration. All fertilizer companies, including companies engaged in custom-formula mixing of dry or liquid fertilizers, shall comply with the brand and product registration requirements of the Idaho Fertilizer Act of 2000, Section 22-605, Idaho Code, subject to the provisions of this chapter. (3-30-01)

02. Alteration From Original State. When a fertilizer is mixed, added to, or in any way changed from its original grade or its content of secondary or minor nutrients, it is a different product, and must be registered as provided under Section 22-605, Idaho Code. (3-30-01)

03. Registering -- Altered Brands. When a registered brand or grade is altered by any commercial fertilizer manufacturer or ultimate dealer, such manufacturer or ultimate dealer, shall register the altered brand or grade as provided under Section 22-605, Idaho Code. (3-30-01)

04. Brand Name. The addition of another prominent name or graphic design to the registered brand displayed on the label, other than descriptive words associated with the grade, shall constitute a different brand and thus, must be registered as provided under Section 22-605, Idaho Code. For example, changing "Rose Bud 5-10-5" to "Kilmer's Rose Bud 5-10-5" would constitute a change in brand. (3-30-01)

05. Sale of Fertilizer. When a commercial fertilizer is removed from the package or vehicle in which it was placed by the original registrant and then offered for sale by a person other than the original registrant, it is a different product and shall be registered in accordance with Section 22-605, Idaho Code, except that it shall not be subject to an additional inspection fee as provided under Section 22-608, Idaho Code, provided that said fee was paid on the product by the original or prior registrant. (3-30-01)

036. -- 039. (RESERVED).

040. SLOWLY RELEASED PLANT NUTRIENTS.

01. Slow Release. No fertilizer label shall bear a statement that connotes or implies that certain plant nutrients contained in a fertilizer are released slowly over a period of time, unless the slow release components are identified and guaranteed at a level of at least fifteen percent (15%) of the total guarantee for that nutrient(s). (3-30-01)

02. Slow Release Properties. Types of products with slow release properties currently recognized by the department for the purposes of a guarantee include: (3-30-01)

a. Water insoluble, such as natural organics, ureaform materials, urea-formaldehyde products, isobutylidene diurea, oxamide, etc.; (3-30-01)

b. Coated slow release, such as sulfur coated urea and other encapsulated soluble fertilizers; (3-30-01)

c. Occluded slow release, where fertilizers or fertilizer materials are mixed with waxes, resins, or other inert materials and formed into particles; and (3-30-01)

d. Products containing water soluble nitrogen such as ureaform materials, urea-formaldehyde products, methylenediurea (MDU), dimethylenetriura (DMTU), dicyanodiamide (DCD), etc. (3-30-01)

03. Additional Products May Be Added to List of Slow Release Nutrients. The department may add additional products to the list of recognized slow release nutrients upon an appropriate showing by a registrant. The terms, "water insoluble," "coated slow release," "slow release," "controlled release," "slowly available water soluble," and "occluded slow release," are accepted as descriptive of these products, provided the manufacturer can show a testing program substantiating the claim. Testing shall be under guidance of Experiment Station personnel or a recognized researcher acceptable to the department. A laboratory procedure, acceptable to the department for evaluating the release characteristics of the product(s), must also be provided by the manufacturer. (3-30-01)

04. Methods. Unless otherwise specified by the department, AOAC International Method 970.04 (15th Edition) is to be used to confirm the coated slow release and occluded slow release nutrients and others whose slow release characteristics depend on particle size. AOAC International Method 945.01 (15th Edition) shall be used to determine the water insoluble nitrogen of organic materials. (3-30-01)

041. -- 049. (RESERVED).

050. INVESTIGATIONAL ALLOWANCES.

01. Use of Investigational Allowances. Investigational Allowances shall be used in determining whether a fertilizer is deficient. Fertilizers which are deemed deficient are subject to penalty. Penalties for deficient fertilizers are found in Section 22-611, Idaho Code. (3-30-01)

02. Deeming a Fertilizer Deficient. A fertilizer shall be deemed deficient if the analysis of any nutrient is below the guarantee by an amount exceeding the values in the following schedules, or if the overall index value of the fertilizer is below ninety-seven percent (97%). Note: For these investigational allowances to be applicable, the recommended AOAC International procedures for obtaining samples, preparation and analysis must be used. These are described in Official Methods of Analysis of the Association of Official Analytical Chemists, 13th Edition, 1980, and in succeeding issues of the Journal of the Association of Official Analytical Chemists. In evaluating replicate data, Table 19, page 935, Journal of the Association of Official Analytical Chemists, Volume 49, No. 5, October, 1966, should be followed. (4-6-05)

03. Investigational Allowances for Nitrogen, Phosphate and Potash. For guaranteed percentages not listed in the following table, calculate the appropriate investigational allowance by interpolation.

Guaranteed Percent	Nitrogen Percent	Available Phosphate Percent	Potash Percent
04 or less	0.49	0.67	0.41
05	0.51	0.67	0.43
06	0.52	0.67	0.47
07	0.54	0.68	0.53
08	0.55	0.68	0.60
09	0.57	0.68	0.65
10	0.58	0.69	0.70
12	0.61	0.69	0.79
14	0.63	0.70	0.87
16	0.67	0.70	0.94
18	0.70	0.71	1.01
20	0.73	0.72	1.08
22	0.75	0.72	1.15
24	0.78	0.73	1.21
26	0.81	0.73	1.27
28	0.83	0.74	1.33
30	0.86	0.75	1.39

Guaranteed Percent	Nitrogen Percent	Available Phosphate Percent	Potash Percent
32 or more (*)	0.88	0.76	1.44

(*For DAP and MAP, the Investigational Allowance for Available Phosphate shall be zero point seventy (0.70); for TSP, the Investigational Allowance shall be: one point fifty-two (1.52)). For dry custom mix fertilizers, an additional five percent (5%) of the guaranteed percentage shall be granted in addition to the allowances made in Subsection 050.03. (4-6-05)

04. Investigational Allowance for Other Nutrients. Secondary and minor elements shall be deemed deficient if any element is below the guarantee by an amount exceeding the values in the following schedule:

Element	Investigational Allowance
Calcium	) 0.2 unit + 5% of guarantee
Magnesium	) 0.2 unit + 5% of guarantee
Sulfur	) 0.2 unit + 5% of guarantee
Boron	) 0.003 unit + 15% of guarantee
Cobalt	) 0.0001 unit + 30% of guarantee
Chlorine	) 0.005 unit + 10% of guarantee
Copper	) 0.005 unit + 10% of guarantee
Iron	) 0.005 unit + 10% of guarantee
Manganese	) 0.005 unit + 10% of guarantee
Molybdenum	) 0.0001 unit + 30% of guarantee
Sodium	) 0.005 unit + 10% of guarantee
Zinc	) 0.005 unit + 10% of guarantee

The maximum allowance when calculated as specified shall be one (1) unit (one percent (1%)). For dry custom mix fertilizers, an additional five percent (5%) of the guarantee shall be granted in addition to the allowances made above in this section. (3-30-01)

05. Overall Index Value. The overall index value is calculated by comparing the commercial dollar value guaranteed with the commercial dollar value found (Commercial Dollar Value found / Commercial dollar value guaranteed) x 100). Unit dollar values of the nutrients used shall be those referred to in Section 22-612, Idaho Code. The Department will conduct periodic surveys of the industry to determine unit dollar values. (4-6-05)

06. Examples. The following are examples of calculations for a custom mixed fertilizer of a 12-16-14 grade. For the purpose of these examples, the nutrient unit dollar values for all of the examples are assumed to be twenty-three cents (\$.23) per pound of nitrogen, twenty-seven cents (\$.27) per pound of available phosphate (P2O5), and eighteen cents (\$.18) per pound of potash (K2O).

Example 1. A ten thousand (10,000) pound batch of customer formula fertilizer guaranteed at 12.0-16.0-14.0 is analyzed and found at 10.6-16.4-14.3

Nutrient	Guaranteed	x price/lb	Found	x price/lb
N	12.0	\$2.76 (\$.23 x 12.0)	10.6	\$2.438 (\$.23 x 10.6)

Nutrient	Guaranteed	x price/lb	Found	x price/lb
P ₂ O ₅	16.0	\$4.32 (\$.27 x 16.0)	16.4	\$4.428 (\$.27 x 16.4)
K ₂ O	14.0	\$2.52 (\$.18 x 14.0)	14.3	\$2.574 (\$.18 x 14.3)
Total		\$9.60		\$9.44

Overall Index Value = $(\$9.44/\$9.60) \times 100 = 98.3\%$

However, the nitrogen value is in violation. The investigational allowance for a nitrogen guarantee of 12.0% is 0.61% (see the chart in section 02.06.12.050.03 above) plus an additional 5% of the guarantee for customer formula mixes. Therefore the nitrogen value must be at least 10.79%: $(12.0 - [.61 + 12.0(.05)] = 10.79\%)$ in order to be within permissible values.

To find the amount (Lbs.) of N deficiency multiply the percent guaranteed by the weight of the lot minus the percentage found multiplied by the weight of the lot.

$$(.12) (12\%) \text{ guaranteed} \times 10,000 \text{ lbs} - (.106) (10.6\%) \text{ found} \times 10,000 \text{ lbs} = 140 \text{ pounds}$$

The penalty will be calculated as three times the value of a deficiency of 140 pounds of nitrogen in the 10,000 pound batch. $3 \times [140 (\$.23)] = \96.60

Example 2. A ten thousand (10,000) pound batch of customer formula fertilizer guaranteed at 12.0-16.0-14.0 is analyzed at 11.1-15.3-13.1.

Nutrient	Guaranteed	x price/lb	Found	x price/lb
N	12.0	\$2.76 (\$.23 x 12.0)	11.1	\$2.553 (\$.23 x 11.1)
P ₂ O ₅	16.0	\$4.32 (\$.27 x 16.0)	15.3	\$4.131 (\$.27 x 15.3)
K ₂ O	14.0	\$2.52 (\$.18 x 14.0)	13.1	\$2.358 (\$.18 x 13.1)
Total		\$9.60		\$9.042

Overall Index Value = $(\$9.042/\$9.60) \times 100 = 94.2\%$

Although each of the individual nutrients is within the investigational allowance, the cumulative deficiency is reflected in the Overall Index Value.

The investigational allowance table shows for a nitrogen guarantee of 12%, the allowance is 0.61%. An additional allowance of 5% of the guarantee is 0.60%. The minimum nitrogen value is then $12.0 - [0.61 + (.05 \times 12)] = 10.79$.

The minimum acceptable values for P₂O₅ and K₂O will be 14.50 and 12.43, respectively.

The penalty will be calculated as follows:

Nutrient	Guaranteed lbs	-	Found lbs	=	Deficient lbs	x	price/lb
N	1200 (.12 x 10,000)	-	1110 (.111 x 10,000)	=	90	x	\$20.70 (\$.23 x 90 lbs)

Nutrient	Guaranteed lbs	-	Found lbs	=	Deficient lbs	x	price/lb
P ₂ O ₅	1600 (.16 x 10,000)	-	1530 (.153 x 10,000)	=	70	x	\$18.90 (\$.27 x 70 lbs)
K ₂ O	1400 (.14 x 10,000)	-	1310 (.131 x 10,000)	=	90	x	\$16.20 (\$.18 x 90 lbs)
Total							\$55.80

3 (\$55.80) = \$167.40

If the examples were specialty fertilizers rather than customer formula mixes, the penalties will be assessed in accordance with Subsection 090.01.c.i.(1). (4-6-05)

051. -- 069. (RESERVED).

070. ITEMIZATION OF PLANT FOOD ELEMENTS WITHIN THE GUARANTEED ANALYSIS.

When a product label sets forth the different components of plant nutrients, the percentage for each component shall be shown before that component's name.

EXAMPLES:	
Total Nitrogen (N)	_____ %
_____ %	Ammoniacal Nitrogen
_____ %	Nitrate Nitrogen
Magnesium (Mg)	_____ %
_____ %	Water Soluble Magnesium (Mg)
Sulfur (S)	_____ %
_____ %	Free Sulfur (S)
_____ %	Combined Sulfur (S)
Iron (Fe)	_____ %
_____ %	Chelated Iron (Fe)

EXAMPLES:	
Manganese (Mn)	_____ %
_____ %	Water Soluble Manganese (Mn)

(3-30-01)

071. -- 079. (RESERVED)

080. ORGANIC NITROGEN.

If an amount of nitrogen is designated as organic then the water insoluble nitrogen or the slow release nitrogen guarantee must not be less than sixty percent (60%) of the nitrogen so designated. Coated urea shall not be included in meeting the sixty percent (60%) requirement. (3-30-01)

081. -- 089. (RESERVED)

090. ENFORCEMENT GUIDELINES.

01. Civil Penalties. In addition to any other penalty provided by law, the Director may assess civil penalties for violations of Title 22, Chapter 6, Idaho Code. Civil penalties will be issued in accordance to the magnitude of the violation. The department is not precluded from utilizing other enforcement alternatives. Enforcement alternatives may include, but are not limited to, letter of advisement, notice of violation, stop sale, use or removal order, and registration revocation, suspension or denial. Prohibited acts are categorized as to the magnitude of violation as follows: (4-6-05)

a. Category I (Major). The Director may issue a civil penalty for initial Category I violations in addition to any alternative enforcement action deemed necessary to protect the public interests. Category I violations include but are not limited to the following: (4-6-05)

i. Register or attempt to register any fertilizer using fraudulent or deceptive practices to evade or attempt to evade the requirements set forth under Title 22, Chapter 6, Idaho Code, or rules adopted thereunder; (4-6-05)

ii. Submit false or fraudulent registration applications, records, invoices or reports; (4-6-05)

iii. Sell, use or remove any fertilizer subject to a Stop Sale, Use or Removal Order until the fertilizer has been released in accordance with the provisions of Title 22, Chapter 6, Idaho Code. (4-6-05)

iv. Impede, obstruct, hinder or otherwise prevent or attempt to prevent the department from the performance of its duties under Title 22, Chapter 6, Idaho Code. (4-6-05)

b. Category II (Moderate). The Director may take initial alternative enforcement action and may allow a specified amount of time to take corrective action prior to issuance of a civil penalty for a Category II violation. Failure to complete the required corrective action within the specified time period, or repeat violations, will result in the issuance of a civil penalty. Category II violations include but are not limited to the following: (4-6-05)

i. Sell, offer for sale, or distribute adulterated fertilizers; (4-6-05)

ii. Fail, refuse, or neglect to keep or maintain records as required under Title 22, Chapter 6, Idaho Code, or refuse to make available such records upon request by the department; (4-6-05)

iii. Knowingly or intentionally make any false or misleading representations in connection with the sale, offer for sale, or distribution of fertilizer. (4-6-05)

c. Category III (Minor). The Director may take initial alternative enforcement action in writing and may allow a specified amount of time to take corrective action prior to the issuance of a civil penalty for a Category III violation, except in the case of a deficiency as listed in Subsection 090.01.c.i.(1), in which case a civil penalty will be issued. Failure to complete the corrective action within the specified time period, or repeat violations, may result in the issuance of a civil penalty. Category III violations include but are not limited to the following: (4-6-05)

i. Sell, offer for sale, or distribute mislabeled fertilizers, including, but not limited to, when the fertilizer is: (4-6-05)

(1) A specialty fertilizer deemed deficient as defined in Section 22-603 (7), Idaho Code; (4-6-05)

(2) Labeled in violation of Section 22-607, Idaho Code. (4-6-05)

ii. Fail, refuse, or neglect to deliver to a purchaser of a bulk fertilizer a printed label that complies with Section 22-603 (2) and (3), Idaho Code; (4-6-05)

iii. Sell, offer for sale, or distribute a fertilizer that is not registered pursuant to Section 22-605, Idaho Code; (4-6-05)

iv. Fail, refuse, or neglect to file a semi-annual tonnage report pursuant to Sections 22-608 and 22-609, Idaho Code; (4-6-05)

v. Fail, refuse, or neglect to pay inspection fees required under Section 22-608, Idaho Code. (4-6-05)

02. Maximum Civil Penalties. Penalties for Category II and III violations will accrue during one (1) calendar year; Violations for Category I will accrue during periods of three (3) calendar years beginning these intervals with the year 2004.

Category	1st Violation	2nd Violation	3rd+ Violation
Category I (Major)	\$500	\$1500	\$10,000
Category II (Moderate)	\$250	\$750	\$5000
Category III (Minor)	\$125	\$250	\$500

(4-6-05)

03. Payment of Penalties. As authorized under Section 22-619, Idaho Code, a civil penalty imposed may be remitted or reduced upon such terms and conditions as the Director considers proper and consistent with the public health and safety. (4-6-05)

04. Substantial Harm. Any violation that results in substantial harm to human health or the environment, may be subject to a civil penalty of not more than ten thousand dollars (\$10,000) for the initial violation or any subsequent violation. (4-6-05)

091. -- 999. (RESERVED).

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