

IDAPA 02 – IDAHO DEPARTMENT OF AGRICULTURE

Ag Inspections Division

02.02.07– Rules Governing Bulk Permits and Retail Sale of Potatoes

Who does this rule apply to?

Packers, shippers, and retail sellers of potatoes in Idaho.

What is the purpose of this rule?

This rule governs the application to ISDA for permit to ship potatoes in bulk, while maintaining requirements for the potatoes to be graded when they are intended for repack or fresh sales and allowing for ungraded potatoes for processing to be shipped with USDA Marketing Order (MO) 945 issued Certificate of Privilege number. The MO requires potatoes to meet minimum standards and is in place at industry request due to their desire for uniformity and quality assurance for product shipped. Permit fees (advertising tax assessed and used by the Idaho Potato Commission (IPC)) and MO are also addressed to ensure adherence to IPC and USDA MO 945 requirements. The rule also specifies the general requirements for the inspection, grading, marking, and retail sales of potatoes in the state of Idaho. Inspection and grading are allowed from U.S. and Idaho grades for tablestock potatoes. Processing grades are excluded.

What is the legal authority for the agency to promulgate this rule?

This rule implements the following statutes passed by the Idaho Legislature:

- [22-901, Idaho Code](#) – Potatoes – Grading and Packing: Application of Act
- [22-911, Idaho Code](#) – Retail Sales of Potatoes
- [22-2006, Idaho Code](#) – Promulgation of Rules – Collection and Deposit of Fees and Penalties Regarding the Idaho Plant Pest Act

Who do I contact for more information on this rule?

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02.02.07 – RULES GOVERNING BULK PERMITS AND RETAIL SALE OF POTATOES

000. LEGAL AUTHORITY.

This chapter is adopted under the legal authority of Sections 22-901, 22-911, and 22-2006, Idaho Code. (3-15-22)

001. TITLE AND SCOPE.

01. Title. The title of this chapter is IDAPA 02.02.07, “Rules Governing Bulk Permits and Retail Sale of Potatoes.” (3-15-22)

02. Scope. These rules govern the application for a permit to ship bulk potatoes, permit fees, and marketing order requirements and specify the general requirements for the inspection, grading, marking and retail sales of potatoes in the state of Idaho. (3-15-22)

002. -- 003. (RESERVED)

004. INCORPORATION BY REFERENCE.

The following document is incorporated by reference into this chapter: (3-15-22)

01. Federal Marketing Order Number 945 - U.S.D.A. Handling Regulations October 3, 2018, Until Revised. Copies of this document may be obtained from the Idaho State Department of Agriculture. (3-15-22)

005. -- 119. (RESERVED)

SUBCHAPTER A – BULK PERMITS

120. PERMIT FEES.

The first handler or shipper shall apply through the nearest District Inspection Office for a permit to ship bulk potatoes. The permittee shall pay the potato advertising tax at combined grower-shipper rates for either fresh or processing potatoes, and inspection fees, if required, within thirty (30) days of shipment. Failure to pay either fee within the prescribed time is grounds for denial of future permits, so long as the fees remain outstanding. (3-15-22)

121. APPLICATION FORM.

Application for permit is to be on a form furnished by the department. Acknowledgment of receipt of processing potatoes, when leaving the Federal Marketing Order area, shall be accomplished immediately by the processor upon receipt of the shipment and forwarded to the issuing office. A copy of each permit issued is to be forwarded to the Idaho Potato Commission by the issuing officer. (3-15-22)

122. MARKETING ORDER.

Permits for shipment of processing potatoes require a Marketing Order Certificate of Privilege number, issued by the Marketing Order Manager, if leaving the Marketing Order area. Inspection of bulk shipments for processing is not required. Bulk shipments for repacking or fresh sale must be graded and meet all applicable minimum Marketing Order requirements. Each shipment requires a Federal-State inspection certificate, certifying minimum standards and include the percentage of U.S. No. 1 quality. (3-15-22)

123. REQUEST FOR PERMIT.

Request for permits must be made forty-eight (48) hours prior to shipment, excluding weekends and Legal Holidays. Any violation or improper use of permits will invalidate the permit and may be grounds for denial of future permits. (3-15-22)

124. -- 219. (RESERVED)

SUBCHAPTER B – RETAIL SALES

220. INSPECTIONS, RESTRICTIONS, AND IDENTIFICATION REQUIRED.

All potatoes packed for resale to retail outlets in Idaho shall be inspected as outlined in Subsection 220.02 and meet the requirements of Federal Marketing Order number 945-USDA and the conditions outlined below: (3-15-22)

01. Certification and Markings. Each shipment packed for resale to retail outlets in Idaho is to be accompanied by a valid inspection certificate, numbered note sheet or be marked with a positive lot identification number (PLI) number. (3-15-22)

02. Inspections. For other than Idaho or Oregon, inspections may be performed by any person or persons authorized under the USDA AMS Specialty Crop Inspection Program to inspect potatoes. (3-15-22)

03. Restrictions. All potatoes packed for resale to retail outlets in Idaho under the provision of this rule are inspected as outlined in Subsection 220.02 and found free from: (3-15-22)

a. Potato Tuberworm (*Phthorimaea operculella* (Zeller)). (3-15-22)

b. Potato Wart (*Synchytrium endobioticum*). (3-15-22)

221. LOTS TAGGED NOT FOR SALE -- REMOVAL THEREOF.

Retail outlets may be periodically checked by the Idaho State Department of Agriculture. Lots found failing to grade as marked or otherwise found out of compliance with the provisions of this rule will be tagged "Not For Sale" until removed from display and regraded, destroyed or remarked to a lower grade if feasible. (3-15-22)

222. COMPLIANCE OR NON-COMPLIANCE CERTIFICATE.

Each inspection at the retail outlet will be acknowledged by an inspection report showing compliance or non-compliance. (3-15-22)

223. SECOND NOTICE ACTION -- NON-COMPLIANCE.

A second inspection showing evidence of non-compliance in any calendar year will constitute sufficient grounds to proceed with prosecution in accordance with Sections 22-2020 or 22-912, Idaho Code. (3-15-22)

224. BULK LOTS LABELED NOT FOR SALE -- REMOVAL THEREOF.

Bulk potatoes failing to meet the grade shown or otherwise found out of compliance with the provisions of this rule are labeled "Not For Sale" until removed. They may be regraded, destroyed or re-marked to a lower grade if feasible. (3-15-22)

225. RESPONSIBILITY OF PERMANENT AND CONDITION DEFECTS.

Defects of condition are those of retailers' responsibility. Permanent grade defects are those of the original packer. (3-15-22)

226. RESTRICTING STANDARDS TO TABLESTOCK GRADES.

Usable grades or standards are the entire spectrum of U.S. and Idaho Grades excluding processing grades. (3-15-22)

227. -- 999. (RESERVED)