

Dear Senators GUTHRIE, Den Hartog, Jordan, and  
Representatives BOYLE, Troy, Erpelding:

The Legislative Services Office, Research and Legislation, has received the enclosed rules of the  
Department of Agriculture:

IDAPA 02.00.00 - Notice of Omnibus Rulemaking - Temporary and Proposed Rulemaking (Docket  
No. 02-0000-1900).

Pursuant to Section 67-454, Idaho Code, a meeting on the enclosed rules may be called by the  
cochairmen or by two (2) or more members of the subcommittee giving oral or written notice to Research  
and Legislation no later than fourteen (14) days after receipt of the rules' analysis from Legislative  
Services. The final date to call a meeting on the enclosed rules is no later than 07/17/2019. If a meeting is  
called, the subcommittee must hold the meeting within forty-two (42) days of receipt of the rules' analysis  
from Legislative Services. The final date to hold a meeting on the enclosed rules is 08/14/2019.

The germane joint subcommittee may request a statement of economic impact with respect to a  
proposed rule by notifying Research and Legislation. There is no time limit on requesting this statement,  
and it may be requested whether or not a meeting on the proposed rule is called or after a meeting has  
been held.

To notify Research and Legislation, call 334-4854, or send a written request to the address on the  
memorandum attached below.



Eric Milstead  
Director

# Legislative Services Office

## Idaho State Legislature

*Serving Idaho's Citizen Legislature*

### MEMORANDUM

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

**FROM:** Deputy Division Manager - Katharine Gerrity

**DATE:** June 27, 2019

**SUBJECT:** Department of Agriculture

IDAPA 02.00.00 - Notice of Omnibus Rulemaking - Temporary and Proposed Rulemaking (Docket No. 02-0000-1900)

The Idaho State Department of Agriculture submits notice of temporary and proposed rules at IDAPA:

02.02.04, Idaho Standards for Grades of Apples;  
02.02.05, Prune Standards;  
02.02.06, Idaho Standards for Grades of Sweet Cherries;  
02.02.10, Idaho Standards for Apricots;  
02.04.05, Rules Governing Manufacture Grade Milk;  
02.04.06, Rules Governing Licensed Dairy Plants;  
02.04.22, Rules Governing Animal Health Emergencies,  
02.04.24, Rules Governing Tuberculosis;  
02.05.01, Rules Governing Produce Safety

According to the department, the rulemaking adopts and re-publishes existing and previously approved chapters. Some minor, nonsubstantive changes have been made throughout the docket. For example, in regard to the Idaho Standards for Grades of Apples, clarifies that the color standard will be the Official USDA Visual Aid for apples and also clarifies the characteristics table; in regard to the Idaho Standards for Sweet Cherries, authority is clarified and redundancies are eliminated; in regard to Idaho Standards for Apricots, redundancies are eliminated; in regard to Rules Governing Manufacture Grade Milk, address information is streamlined and redundancies are eliminated; in regard to Rules Governing Licensed Dairy Plants, authority is clarified and address information is streamlined; in regard to Rules Governing Animal Health Emergencies, authority is clarified, address information is streamlined and redundancies are eliminated; in regard to Rules Governing Tuberculosis, authority is clarified, address information is streamlined and redundancies are eliminated; and in regard to Rules Governing Poultry Safety, address information is streamlined and redundancies are eliminated.

The department confirms that the rules do not regulate an activity not already regulated by the federal government, nor are they broader in scope or more stringent than federal regulations. These rules were previously

Kristin Ford, Manager  
Research & Legislation

Paul Headlee, Manager  
Budget & Policy Analysis

April Renfro, Manager  
Legislative Audits

Glenn Harris, Manager  
Information Technology

analyzed and reviewed by the Legislative Services Office upon their initial promulgation. The rulemaking appears to be authorized pursuant to Sections 22-702, 22-802, 22-5404, 25-203, 25-212, 25-305, 25-401, 25-601, 37-303, 37-405, and 37-516, Idaho Code.

cc: Department of Agriculture  
Brian J. Oakey

**\*\*\* PLEASE NOTE \*\*\***

Per the Idaho Constitution, all administrative rules may be reviewed by the Legislature during the next legislative session. The Legislature has 3 options with this rulemaking docket: **1)** Approve the docket in its entirety; **2)** Reject the docket in its entirety; or **3)** Reject the docket in part.

## IDAPA 02 – DEPARTMENT OF AGRICULTURE

DOCKET NO. 02-0000-1900

### NOTICE OF OMNIBUS RULEMAKING – TEMPORARY AND PROPOSED RULEMAKING

**EFFECTIVE DATE:** The effective date of the temporary rules listed in the descriptive summary of this notice is June 30, 2019.

**AUTHORITY:** In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted temporary rules, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Sections 22-702, 22-802, 22-5404, 25-203, 25-212, 25-305, 25-401, 25-601, 37-303, 37-405, and 37-516, Idaho Code.

**PUBLIC HEARING SCHEDULE:** Oral comment concerning this rulemaking will be scheduled in accordance with Section 67-5222, Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is the required finding and concise statement of its supporting reasons for adopting a temporary rule and a nontechnical explanation of the substance and purpose of the proposed rulemaking:

This temporary and proposed rulemaking adopts and re-publishes the following existing and previously approved and codified chapters under IDAPA 02, rules of the Department of Agriculture:

#### **IDAPA 02**

02.02.04, *Idaho Standards for Grades of Apples*; adds required sections 000-006

02.02.05, *Prune Standards*, adds required Sections 000-006

02.02.06, *Idaho Standards for Grades of Sweet Cherries*; adds required sections 000-006

02.02.10, *Idaho Standards for Apricots*; adds required sections 000-006

02.04.05, *Rules Governing Manufacture Grade Milk*

02.04.06, *Rules Governing Licensed Dairy Plants*

02.04.22, *Rules Governing Animal Health Emergencies*, modifies Section 010; eliminates Section 990

02.04.24, *Rules Governing Tuberculosis*, modifies Section 010; eliminates Sections 990 and 999.

02.05.01, *Rules Governing Produce Safety*

**IDAHO CODE SECTION 22-101A STATEMENT:** These rules do not regulate an activity not already regulated by the federal government, nor are they broader in scope or more stringent than federal regulations.

**TEMPORARY RULE JUSTIFICATION:** Pursuant to Sections 67-5226(1) and 67-5226(2), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons:

These temporary rules are necessary to protect the public health, safety, and welfare of the citizens of Idaho and confer a benefit on its citizens. These previously approved and codified rules implement the duly enacted laws of the state of Idaho, provide citizens with the detailed rules and standards for complying with those laws, and assist in the orderly execution and enforcement of those laws. The expiration of these rules without due consideration and processes would undermine the public health, safety and welfare of the citizens of Idaho and deprive them of the benefit intended by these rules.

Rules promulgated and implemented by the Idaho State Department of Agriculture (ISDA) protect commodity and livestock markets by ensuring consistent application of rules limiting the spread of pests, diseases and pathogens. ISDA rules are also designed to protect producers and consumers of agricultural products from unfair practices in the marketing, sale and promotion of agricultural commodities and products. Lastly, ISDA rules are designed to minimize environmental impacts of land use practices commonly part of agricultural production.

**FEE SUMMARY:** This rulemaking does not impose a fee or charge.

**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: This rulemaking is not anticipated to have any fiscal impact on the state general fund because the FY2020 budget has already been set by the Legislature, and approved by the Governor, anticipating the existence of the rules and fees being reauthorized by this rulemaking.

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not feasible because of the need to adopt the rules as temporary, and because these existing chapters of IDAPA are being re-published and re-authorized. Negotiated rulemaking also is not feasible because of the need to implement these rules before they expire; the rules form the regulatory framework of the laws of this state and have been previously promulgated and reviewed by the Legislature pursuant to the Idaho Administrative Procedures Act, Chapter 52, Title 67, Idaho Code; and because engaging in negotiated rulemaking for all previously existing rules will inhibit the agency from carrying out its ability to serve the citizens of Idaho and to protect their health, safety, and welfare.

**INCORPORATION BY REFERENCE:** Pursuant to Section 67-5229(2)(a), Idaho Code, incorporated material may be obtained or electronically accessed as provided in the text of the temporary and proposed rules attached hereto.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the temporary and proposed rule, contact Brian Oakey at (208) 332-8550.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered within twenty-one (21) days after publication of this Notice in the Idaho Administrative Bulletin. Oral presentation of comments may be requested pursuant to Section 67-5222(2), Idaho Code, and must be delivered to the undersigned within fourteen (14) days of the date of publication of this Notice in the Idaho Administrative Bulletin.

Dated this 21st day of May, 2019.

Brian Oakey  
Deputy Director  
Idaho State Department of Agriculture  
2270 Old Penitentiary Road  
P.O. Box 7249  
Boise, Idaho 83707  
Phone: (208) 332-8550  
Fax: (208) 334-2710

**IDAPA 02  
TITLE 02  
CHAPTER 04**

**02.02.04 – IDAHO STANDARDS FOR GRADES OF APPLES  
(Effective for All Apples Marketed Within the State)**

**000. LEGAL AUTHORITY.**

This chapter is adopted under the legal authority of Sections 22-702 and 22-802, Idaho Code. (6-30-19)T

**001. TITLE AND SCOPE.**

**01. Title.** The title of this chapter is IDAPA 02.02.04, “Idaho Standards for Grades of Apples.” (6-30-19)T

**02. Scope.** These rules shall govern the criteria and grades for Idaho Apples and Idaho Summer Apples, including color requirements, defects, tolerances, packing, and marking. (6-30-19)T

**002. WRITTEN INTERPRETATIONS.**

There are no written interpretations of these rules. (6-30-19)T

**003. ADMINISTRATIVE APPEAL.**

Persons are entitled to appeal agency actions authorized under these rules pursuant to Title 67, Chapter 52, Idaho Code. (6-30-19)T

**004. INCORPORATION BY REFERENCE.**

There are no documents incorporated by reference in this chapter. (6-30-19)T

**005. ADDRESS, OFFICE HOURS, TELEPHONE, FAX NUMBERS, WEB ADDRESS.**

The Idaho State Department of Agriculture central office is located at 2270 Old Penitentiary Road, Boise, ID 83712-8298. The office is open from 8 a.m. to 5 p.m., except Saturday, Sunday, and legal holidays. The mailing address is PO Box 7249, Boise, Idaho 83707. The phone number is (208) 332-8500 and the fax number is (208) 334-2170. The Department web address is <https://agri.idaho.gov/>. (6-30-19)T

**006. PUBLIC RECORDS ACT COMPLIANCE.**

These rules have been promulgated according to the provisions of Title 67, Chapter 52, Idaho Code and are public records. (6-30-19)T

**007. – 011. (RESERVED)**

**012. GRADES.**

**01. Idaho Extra Fancy.** “Idaho Extra Fancy” consists of apples of one (1) variety that are mature but not overripe except that Red Delicious and Delicious shall not be further advanced in maturity than “Firm ripe” as defined in Subsection 010.15. All “Idaho Extra Fancy” apples shall be carefully hand-picked, clean, fairly well formed; free from decay, internal browning, internal breakdown, scald, bitter pit, scab, Jonathan spot, freezing injury, visible water core, and broken skins and bruises except those that are slight and incident to proper handling and packing. The apple shall also be free from injury caused by smooth net-like russeting, sunburn or sprayburn, limb rubs, hail, drought spots, scars, disease, insects, or other means; and free from damage by smooth solid, slightly rough or rough russeting, or stem or calyx cracks, and free from damage by invisible water core after January 31st of the year following the year of production. Each apple of this grade has the amount of color specified in Subsection 010.06 for the variety. (See Subsections 010.06 and 010.09). (7-1-93)

**02. Idaho Fancy.** “Idaho Fancy” consists of apples of one (1) variety that are mature but not overripe except that Red Delicious and Delicious shall not be further advanced in maturity than “Firm ripe” as defined in Subsection 010.15. All “Idaho Fancy” apples shall be carefully hand-picked, clean, fairly well formed; free from decay, internal browning, internal breakdown, bitter pit, Jonathan spot, scald, freezing injury, visible water core, and

broken skins and bruises except those that are incident to proper handling and packing. The apples shall also be free from damage caused by russetting, sunburn or sprayburn, limb rubs, hail, drought spots, scars, stem or calyx cracks, disease, insects, invisible water core after January 31st of the year following the year of production, or damage by other means. Each apple of this grade has the amount of color specified in Subsection 010.06 for the variety. (See Subsections 010.06 and 010.09). (7-1-93)

**03. Idaho No. 1.** The requirements of this grade are the same as for “Idaho Fancy” except for color, russetting, and invisible water core. In this grade less color is required for all varieties with the exception of the yellow and green varieties other than Golden Delicious. Apples of this grade are free from excessive damage caused by russetting, which means that apples meet the russetting requirements for “Idaho Fancy” as defined under the definitions of “damage by russetting,” except the aggregate area of an apple that may be covered by smooth net-like russetting shall not exceed twenty-five percent (25%); and the aggregate area of an apple that may be covered by smooth solid russetting shall not exceed ten percent (10%); Provided, that in the case of the Yellow Newtown or similar varieties the aggregate area of an apple that may be covered with smooth solid this grade has the amount of color specified in Subsection 010.06 for the variety. There is no requirement in this grade pertaining to invisible water core. (See Subsections 010.06 and 010.09). (7-1-93)

**a.** Idaho No. 1 Early: “Idaho No. 1 Early” consists of apples that meet the requirements of Idaho No. 1 grade except as to color and maturity, and meet a minimum size requirement. Apples of this grade have no color requirements, need not be mature, grade is provided for varieties such as Duchess, Gravenstein, Red June, Twenty Ounce, Wealthy, Williams, Yellow Transparent, and Lodi, or other varieties that are normally marketed during the summer months. (See Subsection 010.09). (7-1-93)

**b.** Idaho No. 1 Hail: “Idaho No. 1 Hail” consists of apples that meet the requirements of Idaho No. 1 grade except that hail marks where the skin has not been broken, and well healed hail marks where the skin has been broken, are permitted, provided the apples are fairly well formed. (See Subsections 010.06 and 010.09). (7-1-93)

**04. Idaho Utility.** “Idaho Utility” consists of apples of one (1) variety that are mature but not overripe, carefully hand-picked, not seriously deformed, free from decay, internal browning, internal breakdown, scald, and freezing injury. The apples are also free from serious damage caused by dirt or other foreign matter, broken skins, bruises, russetting, sunburn or sprayburn, limb rubs, hail, drought spots, scars, stem or calyx cracks, visible water core, disease, insects, or other means. (See Subsection 010.09). (7-1-93)

**05. Combination Grades.** (7-1-93)

**a.** Combinations of the above grades may be used as follows: (7-1-93)

i. Combination Idaho Extra Fancy and Idaho Fancy; (7-1-93)

ii. Combination Idaho Fancy and Idaho No. 1; (7-1-93)

iii. Combination Idaho No. 1 and Idaho Utility; (7-1-93)

**b.** Combinations other than these are not permitted in connection with the Idaho apple grades. When Combination grades are packed, at least fifty percent (50%) of the apples in any lot shall meet the requirements of the higher grade in the combination. (See Subsection 010.09). (7-1-93)

**06. Color Requirements.** (7-1-93)

**a.** In addition to the requirement specified for the grades set forth in Subsections 010.01 through 010.05, apples of these grades shall have the percentage of color specified for the variety in Table I appearing in Section 010. For the solid red varieties, the percentage stated refers to the area of the surface that must be covered with a good shade of solid red characteristic of the variety: Provided, that an apple having color of a lighter shade of solid red or striped red than that considered as a good shade of red characteristic of the variety may be admitted to a grade, provided it has sufficient additional area covered so that the apple has as good an appearance as one with the minimum percentage of good red characteristic of the variety required for the grade. For the striped red varieties, the percentage stated refers to the area of the surface in which the stripes of a good shade of red characteristic of the

variety shall predominate over stripes of lighter red, green, or yellow. However, an apple having color of a lighter shade than that considered as a good shade of red characteristic of the variety, may be admitted to a grade, provided it has sufficient additional area covered, so that the apple has as good an appearance as one with the minimum percentage of stripes of a good red characteristic of the variety required for the grade. Faded brown stripes shall not be considered as color except in the case of the Gary Baldwin variety. (7-1-93)

b. Color standards will be determined by Official USDA Visual Aids for apples. APL-L-1 (6-30-19)T

**07. Color Requirements for Specified Idaho Grades of Apples by Variety - Table 1.**

VARIETY	IDAHO EXTRA FANCY PERCENT	IDAHO FANCY PERCENT	IDAHO NO. 1 PERCENT
<b>ALL SOLID RED VARIETIES:</b>	66	40	25
Other Similar Varieties - (1)	66	40	25
Red Sport Varieties - (2)	66	40	25
<b>STRIPED OR PARTIALLY RED:</b>			
Jonathan	66	33	25
McIntosh	50	33	25
Cortland	50	33	25
Other Similar Varieties - (3)	50	33	25
Rome Beauty	50	33	15
Stayman	50	33	15
York Imperial	50	33	15
Baldwin	50	25	15
Ben Davis	50	25	15
Delicious	50	25	15
Mammoth Black Twig	50	25	15
Turley	50	25	15
Wagener	50	25	15
Wealthy	50	25	15
Willow Twig	50	25	15
Northern Spy	50	25	15
Other Similar Varieties - (4)	50	25	15
Hubbardston	50	15	10
Stark	50	15	10
Other Similar Varieties	50	15	10
Red June	50	15	(5)



VARIETY	IDAHO EXTRA FANCY PERCENT	IDAHO FANCY PERCENT	IDAHO NO. 1 PERCENT
Red Gravenstein	50	15	(5)
Williams	50	15	(5)
Other Similar Varieties	50	15	(5)
Gravenstein	25	10	(8)
Duchess	25	10	(5)
Other Similar Varieties - (6)	25	10	(5)
<b>RED CHEEKED OR BLUSHED:</b>	7	5	8
Other Similar Varieties	(7)	(5)	(8)
Green Varieties	(9)	(9)	(9)
Yellow Varieties	(9)	(9)	(9)
Golden Delicious	(10)	(10)	(9)

(1)	Arkansas Black, Beacon, Detroit Red, Esopus Spitzenburg, King David, Lowry, Minjon.
(2)	When Red Sport varieties are specified as such, they shall meet the color requirements specified for Red Sport varieties.
(3)	Haralson, Kendall, Macoun, Snow (Fameuse).
(4)	Bonum, Early McIntosh, Limbertwig, Milton, Nero, Paragon, Melba.
(5)	Tinge of color.
(6)	Red Astrachan, Smokehouse, Summer Rambo, Dudley.
(7)	Blush Cheek.
(8)	None.
(9)	Characteristic ground color.
(10)	Seventy-five (75%) percent or more of the surface of the apple shall show white or light green predominating over the green color.

(6-30-19)T

**08. Unclassified.** “Unclassified” consists of apples that have not been classified in conformity with any of the foregoing grades. The term “unclassified” is not a grade within the meaning of these standards, but is provided as a designation to show that no definite grade has been applied to the lot. (7-1-93)

**09. Tolerances.** In order to allow for variations incident to proper grading and handling in each of the foregoing grades, the following tolerances are provided as specified: (7-1-93)

**a. Defects:** (7-1-93)

i. Idaho Extra Fancy, Idaho Fancy, Idaho No. 1, Idaho No. 1 Early and Idaho No. 1 Hail grades: Ten percent (10%) of the apples in any lot may fail to meet the requirements of the grade, but not more than one-half (1/2) of this amount, or five percent (5%), shall be allowed for apples that are seriously damaged, including therein not more than one percent (1%) for apples affected by decay or internal breakdown. (7-1-93)

ii. Idaho Utility grade: Ten percent (10%) of the apples in any lot may fail to meet the requirements of the grade, but not more than one-half (1/2) of this amount, or five percent (5%), shall be allowed for apples that are seriously damaged by insects, and including in the total tolerance not more than one percent (1%) for apples affected by decay or internal breakdown. (7-1-93)

b. When applying the foregoing tolerances to Combination grades, no part of any tolerance shall be allowed to reduce, for the lot as a whole, the fifty percent (50%) of apples of the higher grade required in the combination but individual containers shall have not less than forty percent (40%) of the higher grade. (7-1-93)

c. Size: When size is designated by the numerical count for a container, not more than five percent (5%) of the apples in the lot may vary more than one fourth (1/4) inch in diameter. When size is designated by minimum or maximum diameter, not more than five percent (5%) of the apples in any lot may be smaller than the designated minimum and not more than ten percent (10%) may be larger than the designated maximum. (7-1-93)

d. Firmness: Not more than five percent (5%) of the apples in any lot of Red Delicious and Delicious varieties shall be further advanced in maturity than "Firm ripe" as defined in Subsection 010.15. Provided, the Idaho No. 1, Idaho No. 1 Hail, and Idaho Utility grades shall be exempt from this requirement. (7-1-93)

**10. Application of Tolerances.** The contents of individual samples in the lot are subject to the following limitation: Provided, that the averages for the entire lot are within the tolerances specified for the grade: (7-1-93)

a. That contain more than ten (10) pounds: Shall have not more than one and one-half (1 1/2) times a specified tolerance of ten percent (10%) or more and not more than double a tolerance of less than ten percent (10%), except that at least one (1) apple that is seriously damaged by insects or affected by decay or internal breakdown may be permitted in any sample. (7-1-93)

b. Samples that contain ten (10) pounds or less: Not over ten percent (10%) of the sample may have more than three (3) times the tolerance specified, except that at least one (1) defective apple may be permitted in any sample: Provided, that not more than one (1) apple or more than six percent (6%) (whichever is the larger amount) may be seriously damaged by insects or affected by decay or internal breakdown. (7-1-93)

**11. Calculation of Percentages.** (7-1-93)

a. When the numerical count is marked on the container, percentages shall be calculated on the basis of count. (7-1-93)

b. When the minimum diameter or minimum and maximum diameters are marked on the container, percentages shall be calculated on the basis of weight. (7-1-93)

c. When the apples are in bulk, percentages shall be calculated on the basis of weight. (7-1-93)

**12. Condition After Storage or Transit.** Decay, scald or any other deterioration that may have developed on apples after they have been in storage or transit shall be considered as affecting condition and not the grade. (7-1-93)

**13. Packing Requirements.** (7-1-93)

a. Apples tray packed or cell packed in cartons shall be arranged according to approved and recognized methods. Packs shall be at least fairly tight or fairly well filled. (7-1-93)

i. "Fairly tight" means that apples are of the proper size for molds or cell compartments in which they

are packed, and that molds or cells are filled in such a way that no more than slight movement of apples within molds or cells is possible. The top layer of apples, or any pad or space filler over the top layer of apples shall be not more than three-fourths (3/4) inch below the top of the carton. (7-1-93)

ii. “Fairly well filled” means that the net weight of apples in containers ranging from two thousand one hundred cubic inches (2,100 cu. in.) to two thousand nine hundred cubic inches (2,900 cu. in.) capacity is not less than thirty seven (37) pounds for Courtland, Gravenstein, Jonathan, McIntosh and Golden Delicious varieties and not less than forty (40) pounds for all other varieties. (7-1-93)

b. Closed cartons containing apples not tray or cell packed shall be fairly well filled or the pack shall be sufficiently tight to prevent any appreciable movement of the apples. (7-1-93)

c. Packs in wooden boxes or baskets shall be sufficiently tight to prevent any appreciable movement of apples within containers when the packages are closed. Each wrapped apple shall be completely enclosed by its individual wrapper. (7-1-93)

d. Apples on the shown face of any container shall be reasonably representative in size, color and quality of the contents. (7-1-93)

e. Tolerances: In order to allow for variations incident to proper packing, not more than ten percent (10%) of the containers in any lot may fail to meet these requirements. (7-1-93)

**14. Marking Requirements.** The numerical count or the minimum diameter of the apples packed in a closed container shall be indicated on the container. (7-1-93)

a. When the numerical count is not shown, the minimum diameter shall be plainly stamped, stenciled or otherwise marked on the container in terms of whole inches, or whole inches and not less than one eighth (1/8) inch fractions thereof. (7-1-93)

b. The word “minimum,” or its abbreviation, when following a diameter size marking, means that the apples are of the size marked or larger. (See Subsections 010.09 and 010.10). (7-1-93)

**15. Mature.** “Mature” means that the apples have reached the stage of development that will ensure the proper completion of the ripening process. Before a mature apple becomes overripe, it will show varying degrees of firmness, depending upon the stage of the ripening process. The following terms are used for describing different stages of firmness of apples: (7-1-93)

a. “Hard” means apples with a tenacious flesh and starchy flavor. (7-1-93)

b. “Firm” means apples with a tenacious flesh, but that are becoming crisp with a slightly starchy flavor, except the Delicious variety. (7-1-93)

c. “Firm ripe” means apples with crisp flesh except that the flesh of the Gano, Ben Davis, and Rome Beauty varieties may be slightly mealy. (7-1-93)

d. “Ripe” means apples with mealy flesh and soon to become soft for the variety. (7-1-93)

**16. Overripe.** “Overripe” means apples that are dead ripe, with flesh very mealy or soft, and past commercial utility. (7-1-93)

**17. Carefully Hand-Picked.** “Carefully hand-picked” means that the apples do not show evidence of rough handling or of having been on the ground. (7-1-93)

**18. Clean.** “Clean” means that the apples are free from excessive dirt, dust, spray residue and other foreign material. (7-1-93)

**19. Fairly Well Formed.** “Fairly well formed” means that the apple may be slightly abnormal in shape

but not to an extent that detracts materially from its appearance. (7-1-93)

**20. Injury.** “Injury” means any specific defect defined in Subsection 010.20; or an equally objectionable variation of any one (1) of these defects, any other defect, or any combination of defects, which more than slightly detracts from the appearance, or the edible or shipping quality of the apple. The following specific defects shall be considered as injury: (7-1-93)

**a.** Russetting in the stem cavity or calyx basin that cannot be seen when the apple is placed stem end or calyx end down on a flat surface, shall not be considered in determining whether or not an apple is injured by russetting. Smooth net-like russetting outside of the stem cavity or calyx basin shall be considered as injury when an aggregate area of more than ten percent (10%) of the surface is covered, and the color of the russetting shows no very pronounced contrast with the background color of the apple, or lesser amounts of more conspicuous net-like russetting when the appearance is affected to a greater extent than the above amount permitted. (7-1-93)

**b.** Sunburn or sprayburn, when the discolored area does not blend into the normal color of the fruit. (7-1-93)

**c.** Dark brown or black limb rubs that affect a total area of more than one-fourth (1/4) inch in diameter, except that light brown limb rubs of a russet character shall be considered under the definition of injury by russetting. The area refers to that area of a circle of the specified diameter. (7-1-93)

**d.** Hail marks, drought spots, other similar depressions or scars. (7-1-93)

**i.** When the skin is broken, whether healed or unhealed; (7-1-93)

**ii.** When there is appreciable discoloration of the surface; (7-1-93)

**iii.** When any surface indentation exceeds one-sixteenth (1/16) inch in depth; (7-1-93)

**iv.** When any surface indentation exceeds one-eighth inch (1/8) in diameter; or (7-1-93)

**v.** When the aggregate affected area of such spots exceeds one-half (1/2) inch in diameter. The area refers to that of a circle of the specified diameter. (7-1-93)

**e.** Disease. (7-1-93)

**i.** Cedar rust infection that affects a total area of more than three-sixteenths (3/16) inch in diameter. The area refers to that of a circle of the specified diameter. (7-1-93)

**ii.** Sooty blotch or fly speck that is thinly scattered over more than five percent (5%) of the surface, or dark, heavily concentrated spots that affect an area of more than one-fourth (1/4) inch in diameter. The area refers to that of a circle of the specified diameter. (7-1-93)

**iii.** Red skin spots that are thinly scattered over more than one-tenth (1/10) of the surface, or dark, heavily concentrated spots that affect an area of more than one-fourth (1/4) inch in diameter. (7-1-93)

**f.** Insects. (7-1-93)

**i.** Any healed sting or healed stings that affect a total area of more than one-eighth (1/8) inch in diameter including any encircling discolored rings. The area refers to that of a circle of the specified diameter. (7-1-93)

**ii.** Worm holes. (7-1-93)

**21. Damage.** “Damage” means any specific defect defined in Subsection 010.21; or an equally objectionable variation of any one of these defects, any other defect, or any combination of defects, which materially detracts from the appearance, or the edible or shipping quality of the apple. The following specific defects shall be

considered as damage: (7-1-93)

**a.** Russeting in the stem cavity or calyx basin that cannot be seen when the apple is placed stem end or calyx end down on a flat surface, shall not be considered in determining whether or not an apple is damaged by russeting, except that excessively rough or bark-like russeting in the stem cavity or calyx basin shall be considered as damage when the appearance of the apple is materially affected. The following types and amounts of russeting outside of the stem cavity or calyx basin shall be considered as damage: (7-1-93)

i. Russeting that is excessively rough on Roxbury Russet and other similar varieties. (7-1-93)

ii. Smooth net-like russeting, when an aggregate area of more than fifteen percent (15%) of the surface is covered, and the color of the russeting shows no very pronounced contrast with the background color of the apple, or lesser amounts of more conspicuous net-like russeting when the appearance is affected to a greater extent than the above amount permitted. (7-1-93)

iii. Smooth solid russeting, when an aggregate area of more than five percent (5%) of the surface is covered, and the pattern and color of the russeting shows no very pronounced contrast with the background color of the apple, or lesser amounts of more conspicuous solid russeting when the appearances affected to a greater extent than the above amount permitted. (7-1-93)

iv. Slightly rough russeting that covers an aggregate area of more than one-half (1/2) inch in diameter. (7-1-93)

v. Rough russeting that covers an aggregate area of more than one-fourth (1/4) inch in diameter. (7-1-93)

**b.** Sunburn or sprayburn that has caused blistering or cracking of the skin, or when the discolored area does not blend into the normal color of the fruit unless the injury can be classed as russeting. (7-1-93)

**c.** Limb rubs that affect a total area of more than one-half (1/2) inch in diameter, except that light brown limb rubs of a russet character shall be considered under the definition of damage by russeting. (7-1-93)

**d.** Hail marks, drought spots, other similar depressions or scars. (7-1-93)

i. When any unhealed mark is present; (7-1-93)

ii. When any surface indentation exceeds one-eighth (1/8) inch in depth; (7-1-93)

iii. When the skin has not been broken and the aggregate affected area exceeds one-half (1/2) inch in diameter. The area refers to that of a circle of the specified diameter; or (7-1-93)

iv. When the skin has been broken and well healed, and the aggregate affected area exceeds one-fourth (1/4) inch in diameter. (7-1-93)

**e.** Stem or calyx cracks that are not well healed, or well healed stem or calyx cracks that exceed an aggregate length of one-fourth (1/4) inch. (7-1-93)

**f.** Invisible water core existing around the core and extending to water core in the vascular bundles; or surrounding the vascular bundles when the affected area surrounding three (3) or more vascular bundles meet or coalesce; or existing in more than slight degree outside the circular area formed by the vascular bundles. (7-1-93)

**g.** Disease. (7-1-93)

i. Scab spots that affects a total area of more than one-fourth (1/4) inch in diameter. The area refers to that of a circle of the specified diameter. (7-1-93)

ii. Cedar rust infection that affects a total area of more than one-fourth (1/4) inch in diameter. The area

refers to that of a circle of the specified diameter. (7-1-93)

iii. Sooty blotch or fly speck that is thinly scattered over more than one-tenth (1/10) of the surface, or dark, heavily concentrated spots that affect an area of more than one-half (1/2) inch in diameter. The area refers to that of a circle of the specified diameter. (7-1-93)

iv. Red skin spots that are thinly scattered over more than one-tenth (1/10) of the surface, or dark, heavily concentrated spots that affect an area of more than one-half (1/2) inch in diameter. The area refers to that of a circle of the specified diameter. (7-1-93)

**h.** Insects. (7-1-93)

i. Any healed sting or healed stings that affect a total area of more than three-sixteenths (3/16) inch in diameter including any encircling discolored rings. The area refers to that of a circle of the specified diameter. (7-1-93)

ii. Worm holes. (7-1-93)

**22. Serious Damage.** “Serious damage” means any specific defect defined in Subsection 010.22; or an equally objectionable variation of any one of these defects, any other defect, or any combination of defects that seriously detracts from the appearance, or the edible or shipping quality of the apple. The following specific defects shall be considered as serious damage: (7-1-93)

**a.** The following types and amounts of russetting shall be considered as serious damage: Smooth solid russetting, when more than one-half (1/2) of the surface in the aggregate is covered, including any russetting in the stem cavity or calyx basin, or slightly rough, or excessively rough or bark-like russetting, which detracts from the appearance of the fruit to a greater extent than the amount of smooth solid russetting permitted: Provided, that any amount of russetting shall be permitted on Roxbury Russet and other similar varieties. (7-1-93)

**b.** Sunburn or sprayburn that seriously detracts from the appearance of the fruit. (7-1-93)

**c.** Limb rubs that affect more than one-tenth (1/10) of the surface in the aggregate. (7-1-93)

**d.** Hail marks, drought spots, or scars, if they materially deform or disfigure the fruit, or if such defects affect more than one-tenth (1/10) of the surface in the aggregate: Provided, that no hail marks that are unhealed shall be permitted and not more than an aggregate area of one-half (1/2) inch shall be allowed for well healed hail marks where the skin has been broken. The area refers to that of a circle of the specified diameter. (7-1-93)

**e.** Stem or calyx cracks that are not well healed, or well healed stem or calyx cracks that exceed an aggregate length of one-half (1/2) inch. (7-1-93)

**f.** Visible water core that affects an area of more than one-half (1/2) inch in diameter. (7-1-93)

**g.** Disease. (7-1-93)

i. Scab spots that affect a total area of more than three-fourths (3/4) inch in a circle of the specified diameter. (7-1-93)

ii. Cedar rust infection that affects a total area of more than three-fourths (3/4) inch in diameter. The area refers to that of a circle of the specified diameter. (7-1-93)

iii. Sooty blotch or fly speck that affects more than one-third (1/3) of the surface. (7-1-93)

iv. Red skin spots that affect more than one-third (1/3) of the surface. (7-1-93)

v. Bitter pit or Jonathan spot that is thinly scattered over more than one-tenth (1/10) of the surface and

does not materially deform or disfigure the fruit. (7-1-93)

**h.** Insects. (7-1-93)

**i.** Healed stings that affect a total area of more than one-fourth (1/4) inch in diameter including any encircling discolored rings. The area refers to that of a circle of the specified diameter. (7-1-93)

**ii.** Worm holes. (7-1-93)

**23. Seriously Deformed.** “Seriously deformed” means that the apple is so badly misshapen that its appearance is seriously affected. (7-1-93)

**24. Diameter.** When measuring for minimum size, “diameter” means the greatest right angles to a line from stem to blossom end. When measuring for maximum size, “diameter” means the smallest dimension of the apple, determined by passing the apple through a round opening in any position. (7-1-93)

**25. Idaho Condition Standards.** These standards may be applied to domestic shipments of apples, and may be referred to as “Idaho Condition Standards.” (7-1-93)

**a.** Not more than five percent (5%) of the apples in any lot shall be further advanced in maturity than firm ripe. (7-1-93)

**b.** Not more than five percent (5%) of the apples in any lot shall be damaged by storage scab. (7-1-93)

**c.** Not more than a total of five percent (5%) of the apples in any lot shall be affected by scald, internal breakdown, freezing injury, or decay; or damaged by water core, bitter pit, Jonathan spot, or other condition factors: NOTE: “Damage by water core” means externally invisible water core existing around the core and extending to water core in the vascular bundles; or surrounding the vascular bundles when the affected areas surrounding three (3) or more vascular bundles meet or coalesce; or existing in more than slight degree outside the circular area formed by the vascular bundles; or any externally visible water core. Provided, that. (7-1-93)

**i.** Not more than a total of two percent (2%) shall be allowed for apples affected by decay and soft scald; (7-1-93)

**ii.** Not more than two percent (2%) shall be allowed for apples affected by internal breakdown; and, (7-1-93)

**iii.** Not more than two percent (2%) shall be allowed for apples affected by slight scald. (7-1-93)

**d.** Container packs shall comply with packing requirements specified in Section 13 of the Idaho Standards for Grades of Apples. (7-1-93)

**e.** Any lot of apples shall be considered as meeting the Idaho Condition Standards if the entire lot averages within the requirements specified: Provided, that no package in any lot shall have more than double the percentages specified, except that for packages that contain ten (10) pounds or less, individual packages in any lot may have not more than three (3) times the tolerance or one (1) apple (whichever is the greater amount). (7-1-93)

**013. -- 049. (RESERVED)**

**050. SUMMER APPLES.**

**01. Definition of Summer Apples.** Summer apples shall be defined as all apples such as Early McIntosh, Beacon, Tydeman Red, Lodi, Yellow Transparent, and all other similar varieties ripening before Jonathans; excluding Jonathans, Arkansas Black, Spitzenburg, King David, Winesap, Red Sport varieties, Delicious Stayman, Vanderpool, Black Twig, McIntosh and Rome Beauty. Note: Winter Banana variety may also be packed under Summer Grades. (7-1-93)

**02. Idaho Summer Extra Fancy.** Idaho Summer Extra Fancy shall consist of apples of one (1) variety that are mature, hand-picked, clean, sound, fairly well formed and free from visible watercore, broken skin and from damage caused by insects, disease, mechanical injury or other causes. Each apple shall have the amount of color hereinafter specified for apples in this grade. Caution: To be certified on an Export Form Certificate, all apples must meet U.S. No. 1 grade requirements. (7-1-93)

**a.** “Fairly well formed” means that the apple shall have the normal shape one-half (1/2) of the apple may deviate slightly or that the apple may be slightly flattened as by frost injury. (7-1-93)

**b.** “Damage” means any defect that materially affects the appearance or the edible or shipping qualities of the apple. (7-1-93)

**c.** The following shall not be considered damage. (7-1-93)

**i.** Slight handling bruises or box bruises, such as are incidental to good commercial handling in the preparation of a tight pack. (7-1-93)

**ii.** Sunburn or sprayburn when the normal color of the apple is not seriously affected, and there is no blistering or cracking of the skin, and the discolored area blends into the normal coloring of the apple. (7-1-93)

**iii.** Dark colored limb rubs not to exceed one-half (1/2) inch in the aggregate area. Limb rubs of a light brown or russet character shall be governed by the definition covering solid russetting. (7-1-93)

**iv.** Smooth russetting at the stem or calyx end provided that such russetting is not visible for more than one-half (1/2) inch when the apple is placed with the russet end down on a flat surface. (7-1-93)

**v.** Smooth net-like russetting that does not cover an aggregate area of more than ten percent (10%) of the surface and net-like russetting on the colored portions of the apple that does not materially detract from its appearance shall not be counted in computing the ten percent (10%) mentioned above. (7-1-93)

**vi.** Hail marks, drought spots or other similar depressions or scars where there is no appreciable discoloration, except as later noted, other than russetting, or when any individual indentation does not exceed one-fourth (1/4) inch in diameter or the total area affected does not exceed one-fourth (1/4) inch in diameter. One discolored unbroken area not to exceed one-eighth (1/8) inch in diameter shall be allowed. (7-1-93)

**vii.** Scab spots affecting an aggregate area not to exceed three-eighths (3/8) inch in diameter. (7-1-93)

**viii.** Any healed stings affecting an aggregate area not to exceed three-sixteenths (3/16) inch in diameter. (7-1-93)

**ix.** Slight aphid sign on thrip marks that do not roughen or pebble the surface of the apple. (7-1-93)

**x.** Any defect or defects not listed above that affect the appearance or quality of the apple not more than the defects listed above. (7-1-93)

**03. Quality of Idaho Summer Fancy Apples.** Idaho Summer Fancy Apples shall consist of apples of one (1) variety that are mature, hand-picked, sound, not badly misshapen and free from visible watercore, serious damage caused by insects, disease, mechanical injuries or other causes, and free from soft bruises or broken skin (except that apples may have skin punctures not exceeding one-fourth (1/4) inch diameter). (7-1-93)

**04. Punctured Apples.** CAUTION: Punctured apples do not meet the requirements of the Export Apple and Pear Act and cannot be certified on an export certificate. Each apple shall have the amount of color hereinafter specified for apples of this grade. (7-1-93)

**05. Not Badly Misshapen.** “Not badly misshapen” means that the apple may be more irregularly misshapen than defined above, but shall not be deformed to the extent of materially affecting its utility or general appearance. (7-1-93)



**06. Serious Damage.** “Serious damage” means any injury or defect or a combination thereof that seriously detracts from the appearance of the apple. The following shall not be considered serious damage: (7-1-93)

- a.** Sunburn or sprayburn that does not seriously detract from the appearance of the apple. (7-1-93)
- b.** Limb rubs affecting an aggregate area not to exceed three-fourths (3/4) inch. (7-1-93)
- c.** Smooth solid russeting affecting an area of not more than one-half (1/2) the surface in the aggregate, including russeting of the stem basin, or bark-like russeting that does not seriously detract from the appearance of the apple. (7-1-93)
- d.** Growth cracks when no crack exceeds one-half (1/2) inch in length. (7-1-93)
- e.** Hail marks, drought spots or other similar depressions that do not exceed an aggregate area of ten percent (10%) of the surface. Slight injury means that no individual area may exceed three-fourths (3/4) inch in diameter of discolored area. The discolored area may be a light brown or black or may be a russeted area, and the skin may or may not be broken; if broken, the area shall be well healed. (7-1-93)
- f.** Scab spots affecting an aggregate area not to exceed three-fourths (3/4) inch. (7-1-93)
- g.** Not to exceed two (2) stings, each having an encircling hard ring or slight depression, providing no sting exceeds one-eighth (1/8) inch in diameter, exclusive of any encircling ring. (7-1-93)
- h.** Aphis pebbling or thrip marks not seriously affecting the appearance of the apple. (7-1-93)
- i.** Any defect or defects not listed above that does not affect the appearance of the apple more than the defects listed above. (7-1-93)

**07. Color Requirements for Summer Apples.** For the Idaho Summer Apple Grades, the color percentage listed below refers to color of blush, shades of red, or stripes of red characteristic of the variety. (7-1-93)

- a.** Characteristic Table.

<b>Extra Fancy</b>	<b>Fancy</b>
33 1/3%	15%

(6-30-19)T

- b.** Green and yellow varieties, no color required in Extra Fancy or Fancy. (6-30-19)T

**08. Combination Idaho Extra Fancy and Fancy.** In Summer Apple Grades, when Extra Fancy and Fancy are packed together, the boxes may be marked “Combination Idaho Summer Extra Fancy and Fancy.” The package must contain at least fifty percent (50%) of the Extra Fancy Grade. (7-1-93)

- a.** Well filled tray packs, Summer Apples, Defined: Tray packs shall be well filled. To be well filled, a tray pack container must have not less than thirty-six (36) pounds net weight of apples. (7-1-93)

**051. -- 099. (RESERVED)**

**100. GENERAL APPLICABILITY OF RULES.**

For any rule not specifically mentioned, the general rules of Idaho State Standards for Apples shall apply. (6-30-19)T

**101. -- 999. (RESERVED)**

**IDAPA 02  
TITLE 02  
CHAPTER 05**

**02.02.05 – PRUNE STANDARDS**

**(by Provision of Title 22, Chapter 7, Idaho Code)**

**000. LEGAL AUTHORITY.**

This chapter is adopted under the legal authority of Sections 22-702, 22-703, 22-704, 22-705, and 22-706, Idaho Code. (6-30-19)T

**001. TITLE AND SCOPE.**

**01. Title.** The title of this chapter is IDAPA 02.02.05, “Prune Standards.” (6-30-19)T

**02. Scope.** These rules specify the general requirements for the inspection and grading of prunes in the state of Idaho. (6-30-19)T

**002. WRITTEN INTERPRETATIONS.**

There are no written interpretations of these rules. (6-30-19)T

**003. ADMINISTRATIVE APPEAL.**

Persons are entitled to appeal agency actions authorized under these rules pursuant to Title 67, Chapter 52, Idaho Code. (6-30-19)T

**004. INCORPORATION BY REFERENCE.**

There are no documents incorporated by reference in this chapter. (6-30-19)T

**005. ADDRESS, OFFICE HOURS, TELEPHONE, FAX NUMBERS, WEB ADDRESS.**

The Idaho State Department of Agriculture central office is located at 2270 Old Penitentiary Road, Boise, ID 83712-8298. The office is open from 8 a.m. to 5 p.m., except Saturday, Sunday and legal holidays. The mailing address is PO Box 7249, Boise, Idaho 83707. The phone number is (208) 332-8500 and the fax number is (208) 334-2170. The Department web address is <https://agri.idaho.gov/>. (6-30-19)T

**006. PUBLIC RECORDS ACT COMPLIANCE.**

These rules have been promulgated according to the provisions of Title 67, Chapter 52, Idaho Code and are public records.

**007. – 011. (RESERVED)**

**012. IDAHO HAIL GRADE, PRUNES OR PLUMS.**

This grade shall consist of plums or prunes of one variety or similar varietal characteristics that shall meet all requirements of the U.S. No. 1 grade provided that not to exceed twenty-five percent (25%) by count may show hail marks that are well healed. (7-1-93)

**011. -- 049. (RESERVED)**

**050. PROCESSING GRADE, PRUNES OR PLUMS.**

Grading shall be based on the current (May 22, 1958) U.S. Standards for Plums and Prunes as defined in paragraph 51.1522, U.S. Combination including subsequent paragraphs related to U.S. Combination with the following exceptions: (7-1-93)

**01. Minimum Size.** The minimum size shall be one and one-third (1-1/3) inches diameter, meaning the shortest dimension measured through the center of the fruit at right angles to a line from stem to blossom end. All smaller fruit shall be graded as culls as per Subsection 050.04 below. (7-1-93)

**02. Infestation.** Worm damage (infestation) is limited to one percent (1%) maximum. (7-1-93)

**03. Fruit Sugar Content.** As related to maturity the fruit sugar (soluble solids) content of eighteen (18) degrees F brix as a minimum based on samples of random sample of five (5) pounds, pits removed, using at least ten (10) whole fruit. (7-1-93)

**04. Cullage Tolerance.** A tolerance of five percent (5%) cullage (worm infestation limited to one percent (1%)) will be accepted without dockage, but all cullage over ten percent (10%) the TOTAL WILL BE CLAIMED, further that the processor reserves the right to reject all loads over twenty percent (20%) defects or over, or to renegotiate with the grower outside of these conditions if the grower wishes to sell on this basis. (7-1-93)

**051. -- 099. (RESERVED)**

**100. ITALIAN PRUNES.**

**01. Idaho No. 1.** Idaho No. 1 to be exactly as the specifications and definitions of the current U.S. No. 1 with the one exception as follows: Sub. paragraph (a) of 51.1521 (31 F.R. (6240) effective April 23, 1966, delete the words "be fairly well colored" and insert in lieu thereof "have two-thirds (2/3) of the surface with purplish color," thus sub (a) of 51.1521 will read, "Italian type prunes shall have two-thirds (2/3) of the surface with purplish color and, unless otherwise specified, shall not be less than one and one-eighth (1-1/8) inches in diameter." (See paragraph. 51.1525). (7-1-93)

**02. Nomenclature.** The nomenclature, U.S. No. 1 of 51.1521 (31 F.R. 6240) will read "Idaho No. 1." All other factors of the United States Standards for Fresh Plums and Prunes, effective April 23, 1966, shall remain in force and effect in defining the definitions of the rules of Idaho No. 1, as well as handbooks, administrative directives, base color minimum and applications thereof. (7-1-93)

**101. -- 999. (RESERVED)**

**IDAPA 02  
TITLE 02  
CHAPTER 06**

**02.02.06 – IDAHO STANDARDS FOR GRADES OF SWEET CHERRIES**

**000. LEGAL AUTHORITY.**

This chapter is adopted under the legal authority of Section 22-702, Idaho Code. (6-30-19)T

**001. TITLE AND SCOPE.**

**01. Title.** The title of this chapter is IDAPA 02.2.06, “Idaho Standards for Grades of Sweet Cherries.” (6-30-19)T

**02. Scope.** These rules govern the criteria and standards developed by industry and the Idaho State Department of Agriculture to determine the quality of Idaho grown cherries. (6-30-19)T

**002. WRITTEN INTERPRETATIONS.**

There are no written interpretations of these rules. (6-30-19)T

**003. ADMINISTRATIVE APPEAL.**

Persons are entitled to appeal agency actions authorized under these rules pursuant to Title 67, Chapter 52, Idaho Code. (6-30-19)T

**004. INCORPORATION BY REFERENCE.**

There are no documents incorporated by reference in this chapter. (6-30-19)T

**005. ADDRESS, OFFICE HOURS, TELEPHONE, FAX NUMBERS, WEB ADDRESS.**

The Idaho State Department of Agriculture central office is located at 2270 Old Penitentiary Road, Boise, ID 83712-8298. The office is open from 8 a.m. to 5 p.m., except Saturday, Sunday, and legal holidays. The mailing address is PO Box 7249, Boise, Idaho 83707. The phone number is (208) 332-8500 and the fax number is (208) 334-2170. The Department web address is <https://agri.idaho.gov/>. (6-30-19)T

**006. PUBLIC RECORDS ACT COMPLIANCE.**

These rules have been promulgated according to the provisions of Title 67, Chapter 52, Idaho Code and are public records. (6-30-19)T

**007. – 009. (RESERVED)**

**010. DEFINITIONS.**

**01. Similar Varietal Characteristics.** Cherries in any container are similar in color and shape. (7-1-93)

**02. Mature.** Cherries have reached the stage of growth that will insure the proper completion of the ripening process. (7-1-93)

**03. Fairly Well Colored.** At least ninety-five (95%) percent of the surface of the cherry shows characteristic color for mature cherries of the variety. (7-1-93)

**04. Well Formed.** The cherry has the normal shape characteristic of the variety, except that mature well developed doubles shall be considered well formed when each of the halves is approximately evenly formed. (7-1-93)

**05. Clean.** The cherries are practically free from dirt, dust, spray residue, or other foreign material. (7-1-93)

**011. (RESERVED)**

**012. IDAHO NO. 1 GRADE AND TOLERANCES DEFINED.**

**01. Idaho No. 1.** Idaho No. 1 will consist of sweet cherries that meet the following requirements: Similar varietal characteristics; mature; fairly well colored; well formed and clean; free from decay, insect larvae or holes caused by them, soft overripe or shriveled, underdeveloped doubles and sunscald; and free from damage by any other cause. (7-1-93)

**02. Size.** Unless otherwise specified, the minimum diameter of each cherry shall be not less than three-fourths (3/4) inch. The maximum diameter of the cherries in any lot may be specified in accordance with the facts. (7-1-93)

**03. Tolerances.** In order to allow for variations incident to proper grading and handling, the following tolerances, by count, are provided as specified: (7-1-93)

**a.** For Defects at Shipping Point: Idaho No. 1. Eight percent (8%) for cherries that fail to meet the requirements for this grade: PROVIDED, That included in this amount not more than four percent (4%) shall be allowed for defects causing serious damage, including in this latter amount not more than one-half of one percent (.50%) for cherries that are affected by decay. NOTE: Shipping point, as used in these standards, means the point of origin of the shipment in the producing area or at port of loading for ship stores or overseas shipment, or, in the case of shipments from outside the continental United States, the port of entry into the United States. (7-1-93)

**b.** For Defects Enroute or at Destination: Idaho No. 1. Twenty-four percent (24%) for cherries in any lot that fail to meet the requirements for this grade: PROVIDED, that included in this amount not more than the following percentages shall be allowed for defects listed: (7-1-93)

**i.** Eight percent (8%) for cherries that fail to meet the requirements for this grade because of permanent defects; or (7-1-93)

**ii.** Six percent (6%) for cherries that are seriously damaged, including therein not more than four percent (4%) for cherries that are seriously damaged by permanent defects and not more than two percent (2%) for cherries that are affected by decay. (7-1-93)

**c.** For Off-Size. Five percent (5%) for cherries that fail to meet the specified minimum diameter and ten percent (10%) for cherries that fail to meet any specified maximum diameter. (7-1-93)

**013. -- 049. (RESERVED)**

**050. APPLICATION OF TOLERANCES.**

Individual samples shall have not more than double the tolerances specified, except that at least two (2) defective and two (2) off-size specimens may be permitted in any sample: PROVIDED, that the averages for the entire lot are within the tolerances specified for the grade. (7-1-93)

**051. -- 149. (RESERVED)**

**150. DAMAGE.**

Any specific defect or any equally objectionable variation of any one (1) of these defects, any other defect, or any defects, which materially detracts from the appearance, or the edible or marketing quality of the fruit. The following specific defects shall be considered as damage: (6-30-19)T

**01. Cracks Within the Stem Cavity.** Cracks within the stem cavity when deep or not well healed, or when the appearance is affected to a greater extent than that of a cherry that has a superficial well healed crack one-sixteenth (1/16) inch in width extending one-half (1/2) the greatest circumference of the stem cavity. (7-1-93)

**02. Cracks Outside Stem Cavity.** Cracks outside of the stem cavity when deep or not well healed, or when the crack has weakened the cherry to the extent that it is likely to split or break in the process of proper grading, packing and handling, or when materially affecting the appearance. (7-1-93)

**03. Hail Injury.** Hail injury when deep or not well healed, or when the aggregate area exceeds the area of a circle three-sixteenths (3/16) inch in diameter. (7-1-93)

**04. Insects.** Insects when scale or more than one scale mark is present, or when the appearance is materially affected by any insect. (7-1-93)

**05. Limb Rubs.** Limb rubs when affecting the appearance of the cherry to a greater extent than the amount of scarring permitted. (7-1-93)

**06. Pulled Stems.** Pulled stems when the skin or flesh is torn, or when the cherry is leaking. (7-1-93)

**07. Russeting.** Russeting when affecting the appearance of the cherry to a greater extent than the amount of scarring permitted. (7-1-93)

**08. Scars.** Scars when excessively deep or rough or dark colored and the aggregate area exceeds the area of a circle three-sixteenths (3/16) inch in diameter, or when smooth or fairly smooth, light colored and superficial and the aggregate area exceeds the area of a circle one-fourth (1/4) inch in diameter. (7-1-93)

**09. Skin Breaks.** Skin breaks when not well healed or when the appearance of the cherry is materially affected. (7-1-93)

**10. Sutures.** Sutures when excessively deep or when effecting the shape of the cherry to the extent that it is not well formed. (7-1-93)

**151. -- 199. (RESERVED)**

**200. DIAMETER.**

The greatest dimension measured at right angles to a line from the stem to the blossom end of the cherry. (7-1-93)

**201. -- 249. (RESERVED)**

**250. SERIOUS DAMAGE.**

Any specific defect or an equally objectionable variation of any one of these defects, any other defect, or any combination of defects that seriously detracts from the appearance or the edible or marketing quality of the fruit. The following specific defects shall be considered as serious damage: (6-30-19)T

**01. Decay.** (7-1-93)

**02. Insect Larvae.** Insect larvae or holes caused by them. (7-1-93)

**03. Skin Breaks.** Skin breaks that are not well healed. (7-1-93)

**04. Cracks.** Cracks that are not well healed. (7-1-93)

**05. Pulled Stems.** Pulled stems with skin or flesh of cherry torn or that causes the cherry to leak. (7-1-93)

**251. -- 299. (RESERVED)**

**300. PERMANENT DEFECTS.**

Defects that are not subject to change during shipping or storage; including, but not limited to, factors of shape, scarring, skin breaks, injury caused by hail or insects, and mechanical injury that is so located as to indicate that it occurred prior to shipment. (7-1-93)

**301. -- 349. (RESERVED)**

**350.     CONDITION DEFECTS.**

“Condition defects” means defects that may develop or change during shipment or storage; including but not limited to decayed or soft cherries and such factors as pitting, shriveling, sunken areas, brown discoloration and bruising that is so located as to indicate that it occurred after packing. (7-1-93)

**351. -- 999.     (RESERVED)**

**IDAPA 02  
TITLE 02  
CHAPTER 10**

**02.02.10 – IDAHO STANDARDS FOR APRICOTS**

**000. LEGAL AUTHORITY.**

This chapter is adopted under the legal authority of Sections 22-702 and 22-803, Idaho Code. (6-30-19)T

**001. TITLE AND SCOPE.**

**01. Title.** The title of this chapter is IDAPA 02.02.10, “Idaho Standards for Apricots.” (6-30-19)T

**02. Scope.** These rules govern the criteria and grades for Idaho Apricots, including tolerances, defects and marking. (6-30-19)T

**002. WRITTEN INTERPRETATIONS.**

There are no written interpretations of these rules. (6-30-19)T

**003. ADMINISTRATIVE APPEAL.**

Persons are entitled to appeal agency actions authorized under these rules pursuant to Title 67, Chapter 52, Idaho Code. (6-30-19)T

**004. INCORPORATION BY REFERENCE.**

There are no documents incorporated by reference in this chapter. (6-30-19)T

**005. ADDRESS, OFFICE HOURS, TELEPHONE, FAX NUMBERS, WEB ADDRESS.**

The Idaho State Department of Agriculture central office is located at 2270 Old Penitentiary Road, Boise, ID 83712-8298. The office is open from 8 a.m. to 5 p.m., except Saturday, Sunday, and legal holidays. The mailing address is PO Box 7249, Boise, Idaho 83707. The phone number is (208) 332-8500 and the fax number is (208) 334-2170. The Department web address is <https://agri.idaho.gov/>. (6-30-19)T

**006. PUBLIC RECORDS ACT COMPLIANCE.**

These rules have been promulgated according to the provisions of Title 67, Chapter 52, Idaho Code and are public records. (6-30-19)T

**007. – 009. (RESERVED)**

**010. DEFINITIONS.**

**01. Idaho No. 1.** Consists of apricots of one variety that are mature but not soft, overripe or shriveled and that are well formed, free from decay, insect holes, and damage caused by skin breaks, cuts, limb rubs, russeting, growth cracks, dirt, hail, bruises, scale or other means. (7-1-93)

**02. Idaho No. 2.** Consists of apricots of one variety that are mature but not soft, overripe or shriveled, and that are free from decay, insect holes and serious damage caused by skin breaks, limb rubs, russeting, growth cracks, hail, bruises or other means. (7-1-93)

**03. Idaho Combination.** Consists of a combination of Idaho No. 1 and Idaho No. 2. When such a combination is packed, at least fifty percent (50%) of the apricots in any container shall meet the requirements of the Idaho No. 1. (See Section 100). (7-1-93)

**011. -- 099. (RESERVED)**

**100. TOLERANCES.**

In order to allow for variations incident to proper grading and handling in each of the foregoing grades, the following tolerances, by count, are provided as specified. (7-1-93)

**01. Defects.** (7-1-93)



**a.** Idaho No. 1. A total of ten percent (10%) for apricots in any lot that fails to meet the requirements for the grade: Provided, that not more than one-half (1/2) of this tolerance, or five percent (5%), shall be allowed for defects causing serious damage, including therein not more than one-fifth (1/5) of this amount or one percent (1%) shall be allowed for apricots that are affected by decay. An additional ten percent (10%) by count of the apricots may be damaged by bruise. (7-1-93)

**b.** Idaho No. 2. A total of ten percent (10%) for apricots in any lot that fail to meet the requirements for the grade: Provided, therein that not more than one percent (1%) be allowed for apricots that are affected by decay. (7-1-93)

**c.** Idaho Combination. A total of ten percent (10%) for apricots in any lot that fail to meet the requirements for the grade: Provided, therein that not more than one percent (1%) shall be allowed for apricots that are affected by decay. (7-1-93)

**02. Restrictions.** When applying the foregoing tolerances to the combination grade, no part of any tolerance shall be used to reduce the percentage of Idaho No. 1 apricots required in the combination, but individual containers may have not more than ten percent (10%) less than the percentage of Idaho No. 1 required, provided that the entire lot average is within the percentage specified. (7-1-93)

**03. Samples.** Individual samples shall have not more than one and one-half (1 1/2) times any tolerance specified; provided, that the averages for the entire lot are within the tolerances specified for the grade. (7-1-93)

**101. – 199. (RESERVED)**

**200. MARKING REQUIREMENTS.**

**01. Containers.** When apricots are packed in containers, such containers shall have stamped or marked thereon the variety, the net contents, and packer's name and address. (7-1-93)

**02. Size.** The minimum size may be specified in terms of diameter or numerical count. When a minimum diameter is marked on the container, not more than ten percent (10%) by count shall be allowed for apricots below the marked size. (7-1-93)

**201. – 299. (RESERVED)**

**300. DEFINITION OF TERMS.**

**01. Mature.** Having reached the state of maturity that will ensure a proper completion of the ripening process. (7-1-93)

**02. Well Formed.** Having the characteristic shape of the variety. (7-1-93)

**03. Damage.** The apricot is injured to an extent readily apparent in the process of proper grading and handling. The following specific defects will not be considered as damage. (7-1-93)

**a.** Hail Marks: Well healed and shallow -- allow one-eighth (1/8) inch in diameter. (7-1-93)

**b.** When skin has not been broken: (7-1-93)

**i.** Shallow -- allow three-eighths (3/8) inch in diameter. (7-1-93)

**ii.** Not shallow -- allow one-fourth (1/4) inch in diameter. (7-1-93)

**c.** Growth Cracks: (7-1-93)

**i.** Well healed -- allow three-eighth (3/8) inch in length. (7-1-93)

**ii.** Riland variety -- allow one-half (1/2) inch in length. (7-1-93)

- d. Limb Rubs: Smooth and shallow -- allow one-fourth (1/4) inch in diameter. (7-1-93)
  - e. Russeting: Allow one-fourth (1/4) surface area in aggregate. (7-1-93)
  - f. Skin Breaks: (7-1-93)
  - i. Punctures -- allow three-sixteenths (3/16) inch in diameter. (7-1-93)
  - ii. Stem pulls -- allow three-eighths (3/8) inch in diameter. (7-1-93)
  - iii. Riland variety -- allow one-half (1/2) inch in diameter. (7-1-93)
  - g. Bruises: Allow five percent (5%) of the surface area. (7-1-93)
  - h. Scale: Allow two (2) scale marks. (7-1-93)
  - i. Dirt: Allow when not readily apparent. (7-1-93)
- 04. Serious Damage.** Immaturity or any deformity, or injury that causes breaking of the skin, or that seriously affects the appearance. The following specific defects will not be considered as serious damage. (7-1-93)
- a. Bruises: Allow ten percent (10%) of the surface area. (7-1-93)
  - b. Growth cracks: (7-1-93)
  - i. Well healed -- allow one-half (1/2) inch in length. (7-1-93)
  - ii. Riland variety -- allow five-eighths (5/8) inch in length. (7-1-93)
  - c. Hail Marks: (7-1-93)
  - i. Well healed -- allow three-eighths (3/8) inch in aggregate. (7-1-93)
  - ii. When skin has not been broken -- allow one-half (1/2) inch in aggregate. (7-1-93)
  - d. Skin Breaks: (7-1-93)
  - i. Stem pulls -- allow one-half (1/2) inch in diameter. (7-1-93)
  - ii. Other skin breaks -- allow three-eighths (3/8) inch diameter. (7-1-93)
- 05. Diameter.** The greatest diameter, measured through the center of the apricot, at right angles to a line running from the stem to the blossom end. (7-1-93)
- 301. – 999. (RESERVED)**

**IDAPA 02  
TITLE 04  
CHAPTER 05**

**02.04.05 – RULES GOVERNING MANUFACTURE GRADE MILK**

**000. LEGAL AUTHORITY.**

This chapter is adopted under the legal authority of Sections 37-303, 37-405, and 37-516, Idaho Code. (4-11-15)

**001. TITLE AND SCOPE.**

**01. Title.** The title of this chapter is “Rules Governing Manufacture Grade Milk.” (4-11-15)

**02. Scope.** These rules shall govern requirements for milk for manufacturing purposes and its production and processing. (4-8-94)

**002. WRITTEN INTERPRETATIONS.**

There are no written interpretations of these rules. (4-8-94)

**003. ADMINISTRATIVE APPEAL.**

There is no provision for administrative appeals before the Department of Agriculture under this chapter. (4-8-94)

**004. INCORPORATION BY REFERENCE.**

The following documents are incorporated by reference, and copies of the documents may be obtained from the Idaho State Department of Agriculture central office at 2270 Old Penitentiary Road, Boise, Idaho, 83712. (4-11-15)

**01. Standard Methods for the Examination of Dairy Products (Standard Methods).** (17th Edition, June 1, 2004) published by the American Public Health Association. (4-11-15)

**02. Official Methods of Analysis of AOAC International (OMA), 19th Edition, 2012.** (4-11-15)

**03. United States Sediment Standards for Milk and Milk Products (September 1, 1977) (USDA AMS Dairy Division).** This document is available online at <http://www.ams.usda.gov/AMSV1.0/getfile?dDocName=STELDEV3004474>. (4-11-15)

**04. United States Standards for Grades of Butter (August 31, 1989) (USDA AMS Dairy Division).** This document is available online at <http://www.ams.usda.gov/AMSV1.0/getfile?dDocName=STELDEV3004470>. (4-11-15)

**05. Appendix D “Standards for Water Sources” of the Grade “A” Pasteurized Milk Ordinance.** The Grade “A” Pasteurized Milk Ordinance, 2013 revision, published by the U. S. Department of Health and Human Services, Public Health Service, Food and Drug Administration. (4-11-15)

**005. ADDRESS, OFFICE HOURS, TELEPHONE, FAX NUMBERS, WEB ADDRESS.**

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**006. PUBLIC RECORDS ACT COMPLIANCE.**

These rules are public records and are available for inspection and copying at the Idaho State Department of Agriculture. (4-11-15)

**007. -- 009. (RESERVED)**

**010. DEFINITIONS.**

The following definitions shall apply in the interpretation and enforcement of this chapter: (4-11-15)

**01. 3-A Sanitary Standards.** The standards for dairy equipment formulated by the 3-A Sanitary

Standards, Inc. (3-A SSI). 3-A SSI is comprised of equipment fabricators, Dairy Processors, and regulatory sanitarians, which include state milk regulatory officials, USDA Agricultural Marketing Service Dairy Programs, the US. Public Health Service, the Food and Drug Administration, academic representatives, and others. (4-11-15)

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

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

**04. Bulk Milk Hauler or Bulk Milk Sampler.** A person licensed by the Department who is qualified and trained for the grading or sampling of raw milk in accordance with the quality standards and procedures of these rules and the Universal Sample. (4-11-15)

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

**06. Commingled Milk.** Milk that has left the Dairy Farm and has been mixed with other individual Producer milk in a Transportation Tank or at a Dairy Plant. (4-11-15)

**07. Dairy Farm or Farm.** A place or premise certified by the Department where one (1) or more milking cows, sheep, goats, or water buffalo are kept, and from which all or a portion of the milk produced thereon is delivered, sold, or offered for sale to a Dairy Plant. (4-11-15)

**08. Dairy Certification.** Certification by an Inspector or Approved Fieldman that a Producer's herd, milking facility and housing, milking procedure, cooling, milkhouse or milkroom, utensils and equipment and water supply have been found to meet the applicable requirements of Section 150 for the production of milk to be used for manufacturing purposes. (4-11-15)

**09. Dairy Plant or Dairy Processor.** Any place, premise, or establishment licensed by the Department where milk or dairy products are transported, graded, received or handled for processing or manufacturing and/or prepared for distribution. (4-11-15)

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

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

**12. Farm Tank.** A tank used to cool, store or cool, and store milk prior to transportation to the processing plant. (4-11-15)

**13. Fieldman.** A person qualified and trained in the sanitary methods of production and handling of milk as set forth herein, and generally employed by a Dairy Plant for the purpose of making Dairy Farm surveys and doing quality control work. (4-11-15)

**14. Fieldman, Approved.** A Fieldman qualified, trained, and approved by the Department to perform Dairy Farm inspections and raw milk grading or sampling. (4-11-15)

**15. Inspector.** A qualified, trained person employed by the Department to perform Dairy Farm or Dairy Plant inspections and raw milk grading or sampling. (4-11-15)

**16. Milk.** The lacteal secretion practically free from colostrum obtained by the complete milking of one (1) or more healthy cows, goats, sheep, or water buffalo for manufacturing purposes. (4-11-15)

**17. Milk for Manufacturing Purposes.** Milk produced from a Department certified Dairy Farm for

processing and manufacturing into products for human consumption but not subject to Grade A or comparable requirements. (4-11-15)

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

**19. Producer.** The person or persons who exercise control over the production of the milk delivered to a Dairy Plant. (4-11-15)

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

**21. Sanitizing Treatment.** Application of any effective method or sanitizing agent to clean surface for the destruction of pathogens and other organisms as far as is practicable. The sanitizing agents used shall comply with the Standard Methods. (4-11-15)

**22. Transportation Tank.** A tank used to transport milk or supply milk from a Dairy Farm to a Dairy Plant. (4-11-15)

**23. Universal Sample.** A single milk sample taken for the purpose of chemical, biochemical, or bacterial analyses typically used for regulatory purposes. (4-11-15)

**011. RAW MILK OR CREAM.**

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

**01. Raw Milk.** The appearance and odor of acceptable raw milk shall be normal, fresh, and sweet and free from objectionable feed and other off odors that would adversely affect the finished dairy product. (4-11-15)

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

**a.** Is other than the lacteal secretion obtained by the complete milking of one (1) or more healthy cows, goats, sheep, or water buffalo properly kept and fed; (4-11-15)

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

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

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

**e.** Tests positive for antibiotics or inhibitors as tested by the accepted methods of the Standard Methods or by tests approved by the Department; (4-11-15)

**f.** Has more than seventeen one hundredths of one percent (.17%) acid calculated as lactic and does not meet the criteria in Subsection 011.01; (4-11-15)

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

**h.** In the case of cream, contains more than eight tenths of one percent (.8%) acid calculated as lactic; (7-1-93)

**i.** Is more than three (3) days or seventy-two (72) hours old when picked up at the Dairy Farm; (4-11-15)

**j.** Does not meet the quality standards as set forth in these rules. (7-1-93)

**012. -- 049. (RESERVED)**

**050. QUALITY REQUIREMENTS FOR MILK FOR MANUFACTURING PURPOSES.**

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

**a.** At least once each month the Bulk Milk Haulers shall bring in not less than a two (2) ounce sample of mixed milk from a Producer's Farm Tank. The sample shall be taken in accordance with recommended procedures outlined in the Standard Methods. (4-11-15)

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

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

- a.** No. 1 (acceptable) - not to exceed five tenths (.5) milligram or equivalent. (4-11-15)
- b.** No. 2 (acceptable) - not to exceed one and five tenths (1.5) milligram or equivalent. (4-11-15)
- c.** No. 3 (probational, not over ten (10) days) - not to exceed two and five tenths (2.5) milligram or equivalent. (4-11-15)
- d.** No. 4 (reject) - over two and five tenths (2.5) milligram or equivalent. (4-11-15)

**04. Method of Testing.** Methods for determining the sediment content of the milk of individual Producers shall be those described in the Standard Methods. Sediment content shall be based on comparison with applicable charts of the United States Sediment Standards for Milk and Milk Products as incorporated by reference. (4-11-15)

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

- a.** Milk in Cans. One (1) or more cans of milk selected at random from each Producer. (4-8-94)
- b.** Milk in Farm Tanks. A sample shall be taken from each Farm Tank. (4-11-15)

**06. Acceptance or Rejection of Milk.** If the sediment disc is classified as No. 1, No. 2, or No. 3, the Producer's milk may be accepted. If the sediment disc is classified No. 4 the milk shall be rejected; provided, that if the shipment of milk is commingled with other milk in a Transport Tank the next shipment shall not be accepted until its quality has been determined at the Dairy Farm before being picked up; however, if the person making the test is unable to get to the farm before the next shipment it may be accepted but no further shipments shall be accepted unless the milk meets the requirements of No. 3 or better. In the case of milk classified as No. 3 or No. 4, if in cans, all cans shall be tested. Producers in No. 3 or No. 4 (milk cans or bulk) shall be notified immediately and shall be furnished applicable sediment discs and the next shipment shall be tested. (4-11-15)

**07. Retests.** On test of the next shipment (if in cans, all cans shall be tested) milk classified as No. 1, No. 2, or No. 3, may be accepted, but No. 4 milk shall be rejected. Retests of bulk milk classified as No. 4 shall be made at the Dairy Farm before pickup. The Producers of No. 3 or No. 4 milk shall be notified immediately, furnished applicable sediment discs and the next shipment tested. This procedure of retesting successive shipments and accepting probational (No. 3) milk and rejecting No. 4 milk may be continued for not to exceed ten (10) calendar

days. If at the end of this time all of the Producer's milk does not meet the acceptable sediment content classification (No. 1 or No. 2) the milk shall be excluded from market. (4-11-15)

**051. -- 059. (RESERVED)**

**060. BACTERIAL ESTIMATE CLASSIFICATION.**

A laboratory examination to determine the bacterial estimate shall be made on each Producer's milk at least once each month at irregular intervals. Samples shall be analyzed at a laboratory approved by the Department. (4-11-15)

**01. Methods of Testing.** Milk shall be tested for bacterial estimate by using one (1) of the following methods or any other method approved by Standard Methods or a test approved by the Department: (4-11-15)

- a. BactoScan FC. (4-11-15)
- b. Direct microscopic clump count. (4-8-94)
- c. Standard plate count. (4-8-94)
- d. Plate loop count. (4-8-94)
- e. Petrifilm aerobic count. (4-8-94)
- f. Spiral plate count. (4-8-94)

**02. Bacterial Estimate Procedures.** Whenever the bacterial estimate indicates the presence of more than two hundred thousand (200,000) bacteria per milliliter, the following procedures shall be applied: (4-11-15)

- a. The Producer shall be notified with a warning of the excessive bacterial estimate. (4-8-94)
- b. Whenever two (2) of the last four (4) consecutive bacterial estimates exceed two hundred thousand (200,000) per milliliter, the Department shall be notified and a written warning notice given to the Producer. The notice shall be in effect so long as two (2) of the last four (4) consecutive samples exceed two hundred thousand (200,000) per milliliter (4-11-15)
- c. An additional sample shall be taken after a lapse of three (3) days but within twenty one (21) days of the notice required in Subsection 060.02.b. If this sample also exceeds two hundred thousand (200,000) per milliliter, subsequent milkings shall be excluded from the market until satisfactory compliance is obtained. Shipment may be resumed and a temporary status assigned to the Producer by the Department when an additional sample of herd milk is tested and found satisfactory. The Producer shall be assigned a full reinstatement status when three (3) out of four (4) consecutive bacterial estimate test do not exceed two hundred thousand (200,000) per milliliter. (4-11-15)

**061. -- 069. (RESERVED)**

**070. REJECTED MILK.**

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

**071. -- 079. (RESERVED)**

**080. EXCLUDED MILK.**

A Dairy Plant shall not accept milk from a Producer if: (4-11-15)

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

**02. Exceeding Maximum Bacteria.** Three (3) of the last five (5) milk samples have exceeded the maximum bacteria estimate of two hundred thousand (200,000) per milliliter (4-11-15)

**03. Insanitary Conditions.** If the milk is produced in unclean conditions such as, but not limited to, unclean milk contact surfaces, unclean conditions in the parlor or milk room, poor milking procedures, or poor animal housing conditions. (4-11-15)

**04. Maximum Somatic Cell Count.** Three (3) of the last five (5) milk samples have exceeded the maximum somatic cell count level of seven hundred fifty thousand (750,000) per milliliter or one million (1,000,000) per milliliter for goat or sheep milk. (4-11-15)

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

**081. -- 099. (RESERVED)**

**100. RECORDS OF TESTS.**

Accurate records of the results of the milk quality and drug residue tests for each Producer shall be kept on file for a period of not less than twelve (12) months. The records shall be available for examination by the Department. (4-11-15)

**101. (RESERVED)**

**102. SOMATIC CELL COUNT.**

**01. Level of Somatic Cells.** A laboratory examination to determine the level of somatic cells shall be made on each Producer's milk at least four (4) times in each six (6) month period at irregular intervals. Samples shall be analyzed at a laboratory and by a method approved by the Department. (4-11-15)

**02. Procedures.** Whenever the confirmatory somatic cell count indicates the presence of more than seven hundred fifty thousand (750,000) somatic cells per milliliter, (one million (1,000,000) per milliliter for goat and sheep) the following procedures shall be applied: (4-11-15)

**a.** The producer shall be notified with a warning of the excessive somatic cell count. (4-8-94)

**b.** Whenever two (2) of the last four (4) consecutive somatic cell counts exceed seven hundred fifty thousand (750,000) per milliliter, (one million (1,000,000) per milliliter for goat and sheep) the Department shall be notified and a written warning notice given to the Producer. The notice shall be in effect so long as two (2) of the last four (4) consecutive samples exceed seven hundred fifty thousand (750,000) per milliliter, (one million (1,000,000) per milliliter for goat and sheep). (4-11-15)

**c.** An additional sample shall be taken after a lapse of three (3) days but within twenty-one (21) days of the notice required in Subsection 102.02.b. If this sample also exceeds seven hundred fifty thousand (750,000) per milliliter, (one million (1,000,000) per milliliter for goat and sheep) subsequent milkings shall be excluded from the market until satisfactory compliance is obtained. Shipment may be resumed and a temporary status assigned to the producer by the Department when an additional sample of herd milk is tested and found satisfactory. The Producer shall be assigned a full reinstatement status when three (3) out of four (4) consecutive somatic cell count tests do not exceed seven hundred fifty thousand (750,000) per milliliter, (one million (1,000,000) per milliliter for goat and sheep). (4-11-15)

**103. DRUG RESIDUE LEVEL.**

**01. Dairy Plant's Sampling and Testing Responsibilities.** All milk shipped for processing or intended to be processed on the Dairy Farm where it was produced shall be sampled and tested, prior to processing, for beta lactam drug residue or other drugs as determined by the Department. Collection, handling and testing of samples shall be done according to procedures established by the Department. (4-11-15)



- a.** When so specified by the US. Food and Drug Administration (FDA), all milk shipped for processing, or intended to be processed on the Dairy Farm where it was produced, shall be sampled and tested, prior to processing, for other drug residues under a random drug sampling program. A random drug sampling program may be conducted at a frequency determined by the Department. (4-11-15)
- b.** When the Commissioner of the FDA determines that a potential problem exists with an animal drug residue or other contaminant in the milk supply, a sampling and testing program shall be conducted, as determined by the FDA. (4-11-15)
- c.** Dairy Plants shall analyze samples for beta lactams and other drug residues by methods evaluated by OMA and accepted by the FDA as effective in determining compliance with established “safe levels” or tolerances. “Safe levels” and tolerances for particular drugs are established and amended by the FDA. (4-11-15)
- d.** Individual Producer sampling. (4-11-15)
- i.** Bulk Milk. A milk sample for beta lactam drug residue testing shall be taken at each farm and shall include milk from each Dairy Farm Tank. (4-11-15)
- ii.** Can Milk. A milk sample for beta lactam drug residue testing shall be performed separately at the receiving Dairy Plant for each can milk Producer included in a delivery, and shall be representative of all milk received from the Producer. (4-11-15)
- iii.** Producer Dairy Plant. For those Producers who also have a licensed Dairy Plant, a milk sample for beta lactam drug residue testing shall be performed on each batch of milk to be processed. (4-11-15)
- e.** Load sampling and testing. (4-8-94)
- i.** Bulk milk. A load sample shall be taken from the Transport Tank after its arrival at the Dairy Plant and prior to further commingling. (4-8-94)
- ii.** Can milk. A load sample representing all of the milk received on a shipment shall be formed at the plant, using a sampling procedure that includes milk from every can on the vehicle. (4-8-94)
- iii.** Producer Dairy Plant. A load sample shall be tested at the Dairy Plant using a sampling procedure that includes all milk produced and received. (4-11-15)
- f.** Sample and record retention. A load sample that tests positive for drug residue shall be retained according to guidelines established by the Department. The records of all sample test results shall be retained for a period of not less than twelve (12) months. (4-11-15)
- g.** Dairy Plant follow-up. (4-11-15)
- i.** When a load sample or individual Producer sample tests positive for drug residue, Dairy Plant personnel shall notify the Department immediately, of the positive test result and of the intended disposition of the shipment of milk containing the drug residue. All milk testing positive for drug residue shall be disposed of in a manner that removes it from the human or animal food chain, except when acceptably reconditioned under FDA compliance policy guidelines. (4-11-15)
- ii.** Each individual Producer sample represented in the positive-testing load sample shall be individually tested as directed by the Department to determine the Producer of the milk sample testing positive for drug residue. Identification of the Producer responsible for producing the milk testing positive for drug residue, and details of the final disposition of the shipment of milk containing the drug residue, shall be reported immediately to the Department. (4-11-15)
- iii.** Milk shipment from the Producer identified as the source of milk testing positive for drug residue shall cease immediately and may resume only after a sample from a subsequent milking does not test positive for drug residue. (4-8-94)

**02. Department's Monitoring and Surveillance Responsibilities.** The Department shall monitor the Dairy Plant's drug residue program by conducting unannounced on-site inspections to observe testing and sampling procedures and to collect samples for comparison drug residue testing. In addition, the Department shall review industry records for compliance with these rules. The review shall seek to determine that: (4-11-15)

**a.** Each Producer is included in a routine, effective drug residue milk monitoring program utilizing AOAC-evaluated and FDA-approved methods to test samples for the presence of drug residue; (4-8-94)

**b.** The Department receives prompt notification from industry personnel of each occurrence of a sample testing positive for drug residue, and of the identity of each Producer identified as a source of milk testing positive for drug residue; (4-11-15)

**c.** The Department receives prompt notification from industry personnel of the intended and final disposition of milk testing positive for drug residue, and that disposal of the load is conducted in a manner that removes it from the human or animal food chain, except when acceptably reconditioned under FDA compliance policy guidelines; and (4-11-15)

**d.** Milk shipment from a Producer identified as a source of milk testing positive for drug residue completely and immediately ceases until a milk sample taken from the dairy herd does not test positive for drug residue. (4-8-94)

**03. Enforcement.** If a Producer ships milk testing positive for drug residue three (3) times within a twelve (12) month period, the Department may initiate procedures to suspend the Producer's milk shipping privileges. (4-11-15)

**104. RADIONUCLIDES.**

Composite milk samples from selected areas within in the state of Idaho should be tested for biologically significant radionuclides at a frequency which the FDA determines to be adequate to protect the consumer. (4-11-15)

**105. PESTICIDES AND HERBICIDES.**

Composite milk samples should be tested for pesticides and herbicides at a frequency the FDA determines is adequate to protect the consumer. The test results from the samples shall not exceed established FDA limits. (4-11-15)

**106. ADDED WATER.**

Milk samples from each Producer should be tested for added water at a frequency the Department determines is adequate to prevent the addition of water to the milk. (4-11-15)

**107. -- 149. (RESERVED)**

**150. FARM REQUIREMENTS OF MILK FOR MANUFACTURING.**

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

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

**b.** Tuberculin Test. The cows and water buffalo shall be located in a Modified Accredited Area, an Accredited Free State, or an Accredited Free Herd as determined by the US. Department of Agriculture (USDA). The goats shall be located in States meeting the current USDA Uniform Methods and Rules and for Bovine Tuberculosis Eradication or an Accredited Free Goat Herd. If the animals are not located in such areas, they shall be tested annually under the jurisdiction of the aforesaid program. All additions to the herd shall be from an area or from herds meeting those same requirements. (4-11-15)

**c.** Brucellosis Test. The cows shall be located in States meeting Class B status, or Certified-Free Herds, or shall be involved in a milk ring test program or state of Idaho blood testing program. All additions to the herd shall be from an area or from herds meeting these same requirements. (4-11-15)

**d.** Abnormal Milk. Milk from animals known to be infected with mastitis or milk containing residues of antibiotics or others drugs, or milk containing pesticides or other chemical residues in excess of the established limits shall not be sold or offered for sale for human consumption. The milk shall be disposed of in a method approved by the Department. (4-11-15)

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

**a.** A milking barn or milking parlor of adequate size and arrangement shall be provided to permit normal sanitary milking operations. It shall be well lighted and ventilated, and the floors and gutters in the milking area shall be constructed of concrete or other impervious material. The facility shall be kept clean, the manure removed daily and stored to prevent access of animals to accumulation thereof; and no swine or fowl shall be permitted in any part of the milking area. (4-11-15)

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

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

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

**a.** The udders and flanks of all milking animals shall be kept clean. The udders and teats shall be washed or wiped immediately before milking with a clean, damp cloth or paper towel moistened with a sanitizing solution and wiped dry, or by any other sanitary method. (4-11-15)

**b.** The milker's outer clothing shall be clean and his hands clean and dry. No person with an infected cut or open sores on their hands or arms shall milk animals, or handle milk or milk containers, utensils or equipment. (4-11-15)

**c.** Animals that secrete abnormal milk shall be milked last or with separate equipment. This milk shall be excluded from the supply as required in Subsection 150.01.d. (4-11-15)

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

**04. Cooling.** (4-8-94)

**a.** Milk in cans shall be cooled immediately after milking to forty-five (45) degrees Fahrenheit or lower unless delivered to the Dairy Plant within two (2) hours after milking. The devices, such as cooler, tank, or refrigerated unit to cool milk can or canned milk, shall be kept clean. (4-11-15)

**b.** Milk in Dairy Farm Tanks shall be cooled to forty (40) degrees Fahrenheit or lower within two (2) hours after the first milking and maintained at forty-five (45) degrees Fahrenheit. or lower until transferred to the Transport Tank. (4-11-15)

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

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

**b.** It shall be equipped with wash and rinse vat, utensil rack, milk cooling facilities and have an adequate supply of hot water available for cleaning milking equipment. If a part of the barn or other building, it shall be partitioned, screened, and sealed to prevent the entrance of dust, flies, or other contamination. A milking parlor

used strictly as a milking facility in combination with a milkhouse or milkroom, when properly equipped, arranged and maintained, need not be partitioned. Concentrates and feed, if stored in the building, shall be kept in a tightly covered box or bin. The floor of the building shall be of concrete or other impervious material and graded to provide proper drainage. The walls and ceilings shall be constructed of smooth easily cleaned material. All outside doors shall open outward and be self-closing, unless they are provided with tight-fitting screen doors that open outward or unless other effective means are provided to prevent the entrance of flies. (4-8-94)

c. If a Dairy Farm Tank is used, it shall be properly located in the milkhouse or milkroom for access to all areas for cleaning and servicing. It shall not be located over a floor drain or under a ventilator. (4-11-15)

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

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

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

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

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

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

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

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

a. Utensils, milk cans, milking machines (including pipeline systems), and other equipment used in the handling of milk shall be maintained in good condition, shall be free from rust, open seams, milkstone, or any insanitary condition, and shall be washed, rinsed, and drained after each milking, stored in suitable facilities, and sanitized immediately before use with at least fifty (50) parts per million chlorine solution or its equivalent. New or replacement can lids shall be umbrella type. All new utensils and equipment shall comply with applicable 3-A Sanitary Standards. (4-11-15)

b. Dairy Farm Tanks shall meet 3-A Sanitary Standards for construction at the time of installation and shall be installed in accordance with regulations of the Department. (4-11-15)

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

**08. Water Supply.** The Dairy Farm water supply shall meet the requirements in Appendix D of the Pasteurized Milk Ordinance as incorporated herein by reference. A source that does not conform with the construction requirements of Appendix D, but is tested annually by an approved laboratory and found to be safe and of sanitary quality, shall be satisfactory: provided any new sources of water supply or any farm water supply requiring repairs or reconstruction or any source from which tested samples have been found unsatisfactory shall meet the construction requirements of the Department. (4-11-15)

**09. Sewage Disposal.** House, milkhouse or milkroom and toilet wastes shall be disposed of in a

manner that will not pollute the soil surface, contaminate any water supply, or be exposed to insects. (4-8-94)

**10. Qualifications for Dairy Farm Certification.** Dairy Farm certification requires satisfactory compliance with the requirements in Section 150. (4-11-15)

**151. -- 159. (RESERVED)**

**160. DAIRY FARM CERTIFICATION.**

No milk for manufacturing purposes produced on an uncertified Dairy Farm shall be bought or sold for human consumption. (4-8-94)

**01. Initial Inspection.** Certified Dairy Farms shall be inspected at least annually after initial certification to determine eligibility for recertification. The inspection criteria for recertification shall be the same as that for initial certification. (4-11-15)

**02. Inspection.** Each Dairy Farm shall be inspected by an Inspector or Approved Fieldman. When evidence indicates that it is advisable to do so, the Department may require an examination of the herd by a licensed veterinarian. If the Dairy Farm meets the applicable requirements for Dairy Farm certification described in Section 150, as indicated by the Farm Certification Report Form, the Dairy Farm shall be certified as described in Subsection 160.03. If the Dairy Farm does not meet the requirements for certification, the Dairy Farm shall be reinspected within thirty (30) days after the initial inspection. If the Dairy Farm then meets the requirements for certification, the Dairy Farm shall be certified. If the Dairy Farm does not meet the requirements for certification, the Dairy Farm shall not be certified, and the Producer's authorization to sell milk for human consumption from that Dairy Farm shall be withheld by the Department until such time as the Dairy Farm qualifies for certification. Repeat violations on any item may cause a Dairy Farm to lose certification. Provided that, if the Inspector determines during any of these inspections that corrections on the Dairy Farm will require some capital investment, a reasonable extension of the prescribed time limits may be granted by the Department. (4-11-15)

**03. Certification.** An Inspector or Approved Fieldman shall certify Dairy Farms that meet the requirements of Section 150, as applicable, based upon the inspection criteria described in Subsection 160.02. The scoring criteria approved by the Department shall be utilized in determining compliance with the provisions of Section 150. Dairy Farm certification shall authorize the sale from that Dairy Farm of milk for manufacturing purposes that meets the quality standards. (4-11-15)

**04. Probationary Period.** If at any time an Inspector or Approved Fieldman determines that a certified Dairy Farm does not meet the requirements for certification, the Department may allow a reasonable probationary period for the Producer to bring the Dairy Farm within the requirements for certification. If at the end of this time the Dairy Farm does not meet the requirements for certification, the Department may revoke the Dairy Farm certification. (4-11-15)

**05. Reinstatement.** If, after a period of withholding, probation, or revocation of Dairy Farm certification, a Producer makes the necessary corrections at the Dairy Farm, the Producer may apply for reinspection. When conditions have been corrected, the Dairy Farm shall be reinspected by an inspector or Approved Fieldman. When the Inspector or Approved Fieldman determines that requirements for certification have been met, the Dairy Farm shall be certified. (4-11-15)

**161. -- 349. (RESERVED)**

**350. STANDARDS FOR BULK MILK HAULERS.**

**01. Permits.** All Bulk Milk Haulers must possess a permit issued by the Department. The permit shall cost twenty-five dollars (\$25) and will be issued to the applicant after a training session on proper procedures and successfully passing an examination administered by the Department. (4-11-15)

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

**b.** A training and refresher course conducted by the Department will be given in each area of the state of Idaho once each year. (4-11-15)

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

**d.** Each new Bulk Milk Hauler shall apply to the Department for a permit. The bulk milk hauling company shall provide basic instructions on bulk milk protocols, including milk sample collection, pick-up procedures, and safety measures. A permit will be issued upon satisfactory completion of a special training and licensing session held by the Department. (4-11-15)

**e.** A substitute Bulk Milk Hauler in case of emergency can haul milk for three (3) days without a permit provided the Department has been notified and the substitute Bulk Milk Hauler is provided instruction on approved milk pickup and delivery requirements by the bulk milk hauling company. At the end of three (3) days the substitute Bulk Milk Hauler must apply for a permit. (4-11-15)

**02. Adulteration.** If the truck is left unattended, Bulk Milk Haulers shall affix a seal or lock on all Transportation Tank ports, covers, and doors to protect the milk from possible adulteration. (4-11-15)

**03. Authorization.** No Bulk Milk Hauler shall grade, measure or sample his own milk without written authorization from the Dairy Plant receiving the milk. (4-11-15)

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

**a.** The Bulk Milk Hauler fails to grade milk in a Dairy Farm Tank to its odor and appearance and fails to reject all milk that is abnormal in odor or flavor or that contains visible garget or other extraneous matter. (4-11-15)

**b.** The Bulk Milk Hauler does not accurately take and record the temperature of milk or if he fails to reject the milk in excess of forty-five (45) degrees F. (4-11-15)

**c.** The Bulk Milk Hauler fails to wash his hands before he proceeds to measure and sample the milk. (4-11-15)

**d.** The Bulk Milk Hauler fails to follow acceptable procedures in measuring the amount of milk in the Farm Tank or if he does not, immediately after taking the reading convert the reading to pounds or gallons using the chart of the Farm Tank manufacturer and record it on duplicate forms, with one (1) copy to be posted in the milk house and one (1) transmitted to the Dairy Plant. (4-11-15)

**e.** The Bulk Milk Hauler fails to agitate the milk for at least five (5) minutes in Farm Tanks less than one thousand (1,000) gallons and ten minutes in Farm Tanks over one thousand (1,000) gallons before taking a sample or if he withdraws any part of the milk from the Farm Tank before the sample is taken. (4-11-15)

**f.** The Bulk Milk Hauler does not take a sample for component testing and/or milk quality analysis in an approved manner or sufficient size in an approved container properly labeled, and that the sample has been cooled and maintained between thirty-two (32) degrees Fahrenheit to forty (40) degrees Fahrenheit. (4-11-15)

**g.** The Bulk Milk Hauler rinses the bulk Farm Tank before disconnecting and capping the hose. (4-11-15)

**h.** The Bulk Milk Hauler siphons milk from milk cans, water troughs or other containers other than the Farm Tank. Milk poured into the bulk Farm Tank from other than regular milking machine pails will not be allowed. (4-11-15)

**351. -- 399. (RESERVED)**

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

**01. Definitions.** The standards of identity for ice cream and frozen custards, frozen yogurt, frozen yogurt dessert mix, frozen yogurt dairy products, frozen dairy dessert, ice milk, sherbet and water ices are as defined by the Food and Drug Administration, United States Department of Health Education and Welfare, in Title 21, Part 135, of the Code of Federal Regulations. (4-11-15)

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

**03. Quality Standards.** The following quality standards must be met: (4-11-15)

**a. Coliform Standard.** Compliance with the coliform standard shall be deemed to have been met if the coliform count does not exceed ten (10) colonies per gram in two (2) of the last four (4) consecutive samples. No enforcement action shall be taken if the last sample is within the standard. (4-11-15)

**b. Bacteria Standard.** Compliance with the bacteria standard shall be deemed to have been met if the bacteria count per gram does not exceed twenty thousand (20,000) bacteria per gram in two (2) of the last four (4) consecutive samples. Whenever the dairy product is cultured, the bacteria test, using the standard plate count or equivalent method would not be applicable. (4-11-15)

**c. Frequency of Tests.** During any consecutive six (6) months, at least four (4) samples of ice cream and frozen dairy products and deserts shall be collected and tested. If the test or tests exceed the coliform or bacteria limit three (3) out of five (5) consecutive tests, the dairy product cannot be sold for human consumption. For the dairy product to be eligible for human consumption, a subsequent sample must meet the quality standards. (4-11-15)

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

**05. Violations.** The Director shall issue and enforce a written stop sale order to the owner or custodian of any quantity of frozen desserts or frozen novelties which are in violation of Title 37 Chapters 3, 5, and 12, Idaho Code, or these rules. Disposition of products not in compliance shall be at the discretion of the Director. (4-11-15)

**401. -- 499. (RESERVED)**

**500. STANDARDS FOR BUTTER.**

**01. Grading.** Butter grading shall be performed in accordance with the United States Standards for grades of butter as incorporated by reference. (4-11-15)

**02. Quality Standards.** The following quality standards must be met: (4-11-15)

**a. Coliform Standard.** Compliance with the coliform standard shall be deemed to have been met if the coliform count does not exceed ten (10) colonies per gram in two (2) of the last four (4) consecutive samples. (4-11-15)

**b. Bacteria Standard.** Compliance with the bacteria standard shall be deemed to have been met if the bacteria count per gram does not exceed twenty thousand (20,000) bacteria per gram in two (2) of the last four (4) consecutive samples. Whenever the butter is cultured, the bacteria test using the standard plate count or equivalent method would not be applicable. (4-11-15)

**c. Frequency of Tests.** During any consecutive six (6) months, at least four (4) samples of butter shall be collected and tested. If the test or tests exceed the coliform or bacteria limit three (3) out of five (5) consecutive tests, the butter cannot be sold for human consumption. For the butter to be eligible for human consumption, a subsequent sample must meet the quality standards. (4-11-15)

**501. STANDARDS FOR WHEY BUTTER.**

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

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

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

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

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

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

**d.** Labels of whey butter sold or distributed within Idaho shall be approved by the Department. (4-11-15)

**04. Quality Standards.** The following quality standards must be met: (4-11-15)

**a.** Coliform Standard. Compliance with the coliform standard shall be deemed to have been met if the coliform count does not exceed ten (10) colonies per gram in two (2) of the last four (4) consecutive samples. (4-11-15)

**b.** Bacteria Standard. Compliance with the bacteria standard shall be deemed to have been met if the bacteria count per gram does not exceed twenty thousand (20,000) bacteria per gram in two (2) of the last four (4) consecutive samples. Whenever the whey butter is cultured, the bacteria test using the standard plate count or equivalent method would not be applicable. (4-11-15)

**c.** Frequency of Tests. During any consecutive six (6) months, at least four (4) samples of whey butter shall be collected and tested. If the test or tests exceed the coliform or bacteria limit three (3) out of five (5) consecutive tests, the Butter cannot be sold for human consumption. For the whey butter to be eligible for human consumption, a subsequent sample must meet the quality standards. (4-11-15)

**05. Enforcement.** Whey butter which fails to meet flavor or body, color and salt requirements as defined in Section 500 may be sold or distributed within the state of Idaho, provided the word, "undergrade" is placed on the principal display panel(s) immediately preceding or following the product name and is of uniform type size and prominence. (4-11-15)



**06. Table I -- Classification of Flavor Characteristics.**

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

(4-11-15)

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

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

S -- Slight; D -- Definite; P -- Pronounced

(7-1-93)

**08. Explanation of Terms with Respect to Flavor, Intensity, and Characteristics:**

(7-1-93)

**a. Slight: Detected only upon critical examination.**

(7-1-93)

- b.** Definite: Detectable but not intense. (7-1-93)
- c.** Pronounced: Readily detectable and intense. (7-1-93)
- d.** Aged: Characterized by lack of freshness. (7-1-93)
- e.** Bitter: Astringent, similar to taste of quinine and produces a puckery sensation. (7-1-93)
- f.** Coarse-acid: Lacks a delicate flavor or aroma and is associated with an acid condition but there is no indication of sourness. (7-1-93)
- g.** Cooked (fine): Smooth, nutty-like character resembling a custard flavor. (7-1-93)
- h.** Feed: Aromatic flavor characteristic of feeds eaten by cows. (7-1-93)
- i.** Flat: Lacks natural butter flavor. (7-1-93)
- j.** Malty: A distinctive, harsh flavor suggestive of malt. (7-1-93)
- k.** Musty: Suggestive of the aroma of a damp vegetable cellar. (7-1-93)
- l.** Neutralizer: Suggestive of a bicarbonate of soda flavor or the flavor of similar compounds. (7-1-93)
- m.** Old Cream: Aged cream characterized by lack of freshness and imparts a rough aftertaste on the tongue. (7-1-93)
- n.** Scorched: A more intensified flavor than cooked (coarse) and imparts a harsh aftertaste. (7-1-93)
- o.** Sour: Characterized by an acid flavor and aroma. (7-1-93)
- p.** Smothered: Suggestive of improperly cooled cream. (7-1-93)
- q.** Storage: Characterized by a lack of freshness and more intensified than “aged” flavor. (7-1-93)
- r.** Utensil: A flavor suggestive of unclean cans, utensils and equipment. (7-1-93)
- s.** Weed: Aromatic flavor characteristic of the weeds eaten by cows. (7-1-93)
- 09. With Respect to Body:** (7-1-93)
  - a.** Crumbly: When a “crumbly” body is present the particles lack cohesion. The intensity is described as “slight” when the trier plug tends to break and the butter lacks plasticity; and “definite” when the butter breaks roughly or crumbles. (7-1-93)
  - b.** Gummy: Gummy-bodied-butter does not melt readily and is inclined to stick to the roof of the mouth. The intensity is described as “slight” when the butter tends to become chewy and “definite” when it imparts a gum-like impression in the mouth. (7-1-93)
  - c.** Leaky: A “leaky” body is present when on visual examination there are beads of moisture on the surface of the trier plug and on the back of the trier or when slight pressure is applied to the butter on the trier plug. The intensity is described as “slight” when the droplets or beads of moisture are barely visible and about the size of a pinhead; “definite” when the moisture drops are somewhat larger or the droplets are more numerous and tend to run together; and “pronounced” when the leaky condition is so evident that drops of water drip from the trier plug. (7-1-93)
  - d.** Mealy or grainy: A “mealy” or “grainy” condition imparts a granular consistency when the butter is

melted on the tongue. The intensity is described as “slight” when the mealiness or graininess is barely detectable on the tongue and “definite” when the mealiness or graininess is readily detectable. (7-1-93)

**e.** Ragged boring: A “ragged boring” body, in contrast to solid boring, is when a sticky-crumby condition is presented to such a degree that a full trier of butter cannot be drawn. The intensity is described as “slight” when there is a considerable adherence “definite” when it is practically impossible to draw a full plug of the butter. (7-1-93)

**f.** Short: The texture is short-grained, lacks plasticity and tends toward brittleness. The intensity is described as “slight” when the butter lacks pliability and tends to be brittle; and “definite” when sharp and distinct breaks form as pressure is applied against the plug. (7-1-93)

**g.** Sticky: When a “sticky” condition is present, the butter adheres to the trier as a smear and possesses excessive adhesion. The intensity is described as “slight” when the smear is present only on a portion of the back of the trier and “definite” when the trier becomes smeary throughout its length. (7-1-93)

**h.** Weak: A “weak” body lacks firmness and tends to be spongy. The intensity is described as “slight” when the plug of butter, under slight pressure, tends to depress and is not firm and compact; and “definite” when the plug of butter, under slight pressure, tends to depress easily and definitely lacks firmness and compactness. (7-1-93)

**10. With Respect to Color:** (7-1-93)

**a.** Mottled: “Mottles” appear as a dappled condition with spots of lighter and deeper shades of yellow. The intensity is described as “slight” when the small spots of different shades of yellow, irregular in shape, are barely discernible on the plug of butter and “definite” when the mottles are readily discernible on the plug of butter. (7-1-93)

**b.** Specks: “Specks” usually appear in butter as small white or yellow spots, however, the latter may be of variable size. The intensity is described as “slight” when the spots are few in number and “definite” when they are noticeable in large numbers. (7-1-93)

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

**d.** Wavy: “Wavy” color in butter is unevenness in the color that appears as waves of different shades of yellow. The intensity is described as “slight” when the waves are barely discernible and “definite” when they are readily noticeable on the trier plug. (4-11-15)

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

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

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

**502. -- 599. (RESERVED)**

**600. NEW DAIRY PRODUCTS.**

**01. General.** Upon request of any interested person, the Director may establish a temporary definition and standard for a new dairy product provided, all the following conditions exist: (4-11-15)

**a.** Research in the uses of milk and the products or by products of milk has developed a new dairy

product for which no definition or standard is prescribed. (7-1-93)

**b.** The new dairy product cannot be produced or marketed because no definition in standard is prescribed for it. (4-11-15)

**c.** The public interest would be served by the dairy product. (4-11-15)

**d.** The quality, wholesomeness and manufacturing requirements of the dairy product are at least equal to established standards for similar dairy products. (7-1-93)

**e.** The dairy product is labeled in accordance to guidelines for a food product and approved by the Department. (4-11-15)

**02. Permits.** The Director may issue a special permit to the manufacturer/distributor for the production and sale of a new dairy product(s). The fee for this permit shall be twenty five dollars (\$25) per dairy product. Such manufacturer/distributor shall be subject to the provisions of Title 37 Idaho Code and regulations adopted pursuant thereto applicable to Dairy Plants and milk products. (4-11-15)

**03. Expiration.** After two (2) years from the date a temporary permit has been issued for a new dairy product(s), the Department shall promulgate rules to establish definitions and standards for the new, nonstandardized dairy product(s). (4-11-15)

**601. -- 999. (RESERVED)**

**IDAPA 02  
TITLE 04  
CHAPTER 06**

**02.04.06 – RULES GOVERNING LICENSED DAIRY PLANTS**

**000. LEGAL AUTHORITY.**

This chapter is adopted under the legal authority of Sections 37-303 and 37-516, Idaho Code. (4-11-15)

**001. TITLE AND SCOPE.**

**01. Title.** The title of this chapter is rules of the Department of Agriculture governing IDAPA 02.04.06, “Rules Governing Licensed Dairy Plants.” (4-11-15)

**02. Scope.** These rules govern the requirements for the design, construction, and operation of dairy plants licensed to process milk for manufacturing purposes. (4-6-05)

**002. WRITTEN INTERPRETATIONS.**

There are no written interpretations of these rules. (4-6-05)

**003. ADMINISTRATIVE APPEAL.**

Hearing and appeal rights are set forth in Title 67, Chapter 52, Idaho Code. There is no provision for administrative appeals before the Department of Agriculture under this chapter. (4-6-05)

**004. INCORPORATION BY REFERENCE.**

This rule incorporates by reference “Subpart E -- Requirements for Licensed Dairy Plants,” of the ‘Milk for Manufacturing Purposes and Its Production and Processing, Recommended Requirements’ published by USDA, AMS, Dairy Programs and made effective July 21, 2011. Copies of this document may be obtained from the Idaho State Department of Agriculture central office or accessed online at <http://www.ams.usda.gov/AMSv1.0/getfile?dDocName=STELDEV3004791>. (4-11-15)

**005. ADDRESS, OFFICE HOURS, TELEPHONE, FAX NUMBERS, WEB ADDRESS.**

The Idaho State Department of Agriculture central office is located at 2270 Old Penitentiary Road, Boise, ID 83712-8298. The office is open from 8 a.m. to 5 p.m., except Saturday, Sunday and legal holidays. The mailing address is PO Box 7249, Boise, Idaho 83707. The phone number is (208) 332-8500 and the fax number is (208) 334-2170. The Department web address is <https://agri.idaho.gov/>. (6-30-19)T

**006. IDAHO PUBLIC RECORDS ACT.**

These rules are public records and are available for inspection and copying at the Idaho State Department of Agriculture central office. (4-6-05)

**007. – 999. (RESERVED)**

**IDAPA 02  
TITLE 04  
CHAPTER 22**

**02.04.22 – RULES GOVERNING ANIMAL HEALTH EMERGENCIES**

**000. LEGAL AUTHORITY.**

This chapter is adopted under the legal authority of Section 25-212, Idaho Code. (5-3-03)

**001. TITLE AND SCOPE.**

**01. Title.** The title of this chapter is IDAPA 02.04.22, “Rules Governing Animal Health Emergencies.” (5-3-03)

**02. Scope.** These rules govern procedures, requirements, and the declaration of an animal health emergency occurring in the state of Idaho. (5-3-03)

**002. WRITTEN INTERPRETATIONS.**

There are no written interpretations of this rule. (5-3-03)

**003. ADMINISTRATIVE APPEAL.**

Persons may be entitled to appeal agency actions authorized under these rules pursuant to Title 67, Chapter 52, Idaho Code. (5-3-03)

**004. INCORPORATION BY REFERENCE.**

**01. Incorporated Documents.** IDAPA 02.04.22 incorporates by reference the Code of Federal Regulations Title 9, Part 53.2, January 1, 2002, which can be viewed online at [http://edocket.access.gpo.gov/cfr\\_2002/janqtr/pdf/9cfr53.2.pdf](http://edocket.access.gpo.gov/cfr_2002/janqtr/pdf/9cfr53.2.pdf). (5-3-03)

**02. Availability of Documents.** Copies of documents incorporated by reference may be obtained from the Idaho State Department of Agriculture Central Office. (5-3-03)

**005. ADDRESS, OFFICE HOURS, TELEPHONE, FAX NUMBERS, WEB ADDRESS.**

The Idaho State Department of Agriculture central office is located at 2270 Old Penitentiary Road, Boise, ID 83712-8298. The office is open from 8 a.m. to 5 p.m., except Saturday, Sunday and legal holidays. The mailing address is PO Box 7249, Boise, Idaho 83707. The phone number is (208) 332-8500 and the fax number is (208) 334-2170. The Department web address is <https://agri.idaho.gov/>. (6-30-19)T

**006. IDAHO PUBLIC RECORDS ACT.**

These rules are public records available for inspection and copying at the central office of the Idaho State Department of Agriculture and the State Law Library. (5-3-03)

**007. -- 009. (RESERVED)**

**010. DEFINITIONS.**

**01. Animals.** All vertebrates, except humans. (5-3-03)

**02. Conveyance.** Any type of vehicle, carrier, kennel, or trailer of any kind used to move or hold animals. (5-3-03)

**03. Domestic Cervidae.** Elk, fallow deer, and reindeer owned by a person. (5-3-03)

**04. Emergency Disease.** A disease, agent or parasite that could have a devastating impact on people, animals, or the economy as determined by the Director. (5-3-03)

**05. Epidemiology.** The study of the distribution and determinants of health-related states or events in

specified populations, and the application of this study to control of health problems. (5-3-03)

**06. Exposed.** Animals that have had contact with other animals, herds, or materials that have been determined to be infected with or affected by any infectious, contagious, or communicable disease. (5-3-03)

**07. Federal Animal Health Official.** An employee of USDA/APHIS/VS who is authorized to perform animal health activities. (5-3-03)

**08. Foreign Animal Disease.** A transmissible disease of animals, believed to not exist in the United States and its territories, as determined by USDA that has a potential significant health or economic impact. (5-3-03)

**09. Infected Zone.** The geographic portion of a quarantine area, which contains all animals known to be infected with or exposed to an emergency disease as designated by the Administrator. (5-3-03)

**10. Livestock.** Cattle, swine, horses, mules, asses, sheep, goats, domestic cervidae, camelids, and ratites. (5-3-03)

**11. Operator.** The person who has authority to manage or direct an animal premises or conveyance and the animals thereon. (5-3-03)

**12. Premises.** The ground area, buildings, corrals, and equipment utilized to keep, hold or maintain animals. (5-3-03)

**13. Quarantine.** A written order, executed by the Administrator, to confine or hold animals on a premises or any other location, where found, and prevent movement of animals from a premises or any other location when the Administrator has determined that the animals are infected with or exposed to a disease, or are not in compliance with the provisions of this chapter. (5-3-03)

**14. Quarantine Area.** A geographic designation encompassing one (1) or more premises in one (1) or more counties, and consisting of an infected zone and a surveillance zone as determined by the Administrator. (5-3-03)

**15. State Animal Health Official.** The Administrator, or his designee, who is responsible for disease control and eradication programs. (5-3-03)

**16. Surveillance Zone.** The geographic portion of the quarantine area surrounding the infected zone as designated by the Administrator. (5-3-03)

**011. ABBREVIATIONS.**

**01. APHIS.** Animal and Plant Health Inspection Service. (5-3-03)

**02. CFR.** Code of Federal Regulations. (5-3-03)

**03. USDA.** United States Department of Agriculture. (5-3-03)

**04. VS.** Veterinary Services. (5-3-03)

**012. -- 049. (RESERVED)**

**050. COOPERATION WITH USDA.**

Pursuant to Sections 25-208 and 25-209, Idaho Code, and Title 9, Part 53.2, CFR, the Division of Animal Industries may cooperate with the USDA in the prevention, management, control, and eradication of emergency diseases. (5-3-03)

**051. CIRCUMSTANCES OF AN ANIMAL HEALTH EMERGENCY.**

The discovery of any emergency disease, which could have a devastating impact on the livestock, other animals, or

people of this state, may constitute an animal health emergency requiring the implementation of prevention, management, control or eradication measures by state animal health officials. (5-3-03)

**052. DECLARATION OF AN ANIMAL HEALTH EMERGENCY.**

The Director is authorized to declare an animal health emergency upon: (5-3-03)

**01. Foreign Disease.** The discovery of any disease, parasite or agent which has been identified by the USDA/APHIS/VS as a “communicable foreign disease not known to exist in the United States”; or (5-3-03)

**02. Eradicated Diseases.** The discovery of any disease, parasite or agent which is not naturally occurring in or has been eradicated from Idaho, as determined by the Administrator, and which, if introduced into Idaho, would have a devastating impact on the livestock or other animals of the state; or (5-3-03)

**03. Specific Diseases.** The exposure to or infection of foot and mouth disease, bovine spongiform encephalopathy, chronic wasting disease, other transmissible spongiform encephalopathies, brucellosis, tuberculosis, or any foreign, exotic or emerging disease, as determined by the Administrator. (5-3-03)

**04. Disease Presence.** The presence of any foreign, eradicated, or specific diseases in any state in the United States, any country contiguous to the United States, or any country from which the state of Idaho receives animals or animal products may constitute an emergency. (5-3-03)

**053. QUARANTINE AUTHORITY.**

State or federal animal health officials are authorized to quarantine any animal infected with or exposed to an emergency disease, or any premises, county or area of the state to prevent ingress or egress of animals, people, or vehicles in the event of an emergency disease. (5-3-03)

**054. UTILIZATION OF VACCINATION IN ANIMAL HEALTH EMERGENCIES.**

The Administrator is authorized to order the strategic use of vaccinations, treatments or other remedies to reduce the risk or spread of emergency diseases. (5-3-03)

**055. -- 099. (RESERVED)**

**100. QUARANTINE PROCEDURES FOR AN ANIMAL HEALTH EMERGENCY.**

State or federal animal health officials are authorized to place under quarantine any infected animals, exposed animals, and those animals exhibiting signs of an emergency disease. The quarantine may also include susceptible animals not yet exposed. (5-3-03)

**01. Written Notice.** Written notice of quarantine will be given to the owner of the animals, or the owner or operator of the premises or conveyance where the animals are found. (5-3-03)

**02. Validity of Quarantine.** The quarantine shall be valid whether or not it is acknowledged by signature of the owner or operator. (5-3-03)

**03. Quarantine Release.** The quarantine shall remain in place until a state or federal animal health official releases the quarantine in writing. (5-3-03)

**101. QUARANTINE AREA.**

The Administrator may establish a quarantine area, which includes an infected zone encompassing the infected and exposed animals and premises, and a surveillance zone, based on the locations of said premises and the characteristics and epidemiology of the disease. The quarantine area may include one or more premises, all or part of a county, or all or part of the state. (5-3-03)

**102. QUARANTINE AREA SECURITY.**

The Administrator may limit access of people and vehicles to the quarantine area. (5-3-03)

**103. QUARANTINE AREA BIO-SECURITY.**

Bio-security of the quarantine area will be instituted and maintained. (5-3-03)



**01. Personnel.** People entering or leaving the quarantine area will follow disinfection or decontamination guidelines and procedures established by state or federal animal health officials. (5-3-03)

**02. Vehicles and Equipment.** Vehicles and equipment moving into or out of the quarantine area will be cleaned and disinfected or decontaminated according to guidelines and procedures established by state or federal animal health officials. (5-3-03)

**104. ANIMAL MOVEMENT IN QUARANTINE AREA.**

Animals shall not be moved into, out of, through, or within the quarantine area except by permit issued by the Administrator. (5-3-03)

**105. SALE OF DISEASED OR EXPOSED ANIMALS NOT ALLOWED.**

Animals infected with, or susceptible animals exposed to, an emergency disease shall not be sold, or in anyway transferred to another person without written authorization from the Administrator. Additionally, such animals shall not be set free. (5-3-03)

**106. EXPOSURE OF ANOTHER'S ANIMALS NOT ALLOWED.**

Animals infected with or exposed to an emergency disease or any disease not known to exist in Idaho shall not be: (5-3-03)

**01. Housed.** Housed with, or adjacent to, another person's animals that have not been previously exposed or land used for raising such animals; or (5-3-03)

**02. Turned Out.** Turned out with, or adjacent to, another person's animals that have not been previously exposed or land used for raising such animals. (5-3-03)

**107. MOVEMENT OR SALE OF ANIMAL PRODUCTS.**

The Administrator may prohibit the movement or sale of products from animals infected with or exposed to an emergency disease. (5-3-03)

**108. -- 199. (RESERVED)**

**200. RESTRICTIONS ON ANIMALS FROM AREAS OR STATES AFFECTED BY EMERGENCY DISEASES.**

The Administrator may impose restrictions on animal movement into Idaho from areas or states affected by an emergency disease as provided in IDAPA 02.04.21, "Rules Governing the Importation of Animals." (5-3-03)

**201. ANIMALS IN TRANSIT AT TIME OF DECLARED EMERGENCY.**

The Administrator shall determine the disposition of animals in transit at the time of the declaration of an animal health emergency. (5-3-03)

**202. -- 299. (RESERVED)**

**300. CONDEMNATION OF INFECTED, EXPOSED, OR SUSCEPTIBLE ANIMALS.**

The Administrator is authorized to condemn, and order the slaughter, destruction, or other disposition of animals, infected with, exposed to, or susceptible to an emergency disease. (5-3-03)

**301. -- 399. (RESERVED)**

**400. DEPOPULATION OF ANIMALS.**

Animals infected with, exposed to, or susceptible to an emergency disease may be depopulated to control and eradicate the disease. (5-3-03)

**01. Preventive Slaughter or Destruction.** Animals, located within the quarantine area, that are susceptible to an emergency disease may be depopulated to control or eradicate the emergency disease. (5-3-03)

- 02. Scope of Depopulation.** The Administrator will determine the scope of depopulation. (5-3-03)
- 401. METHOD OF DEPOPULATION.**  
The Administrator will determine the method for destruction of animals in quarantine areas. (5-3-03)
- 402. TIME LIMIT FOR DEPOPULATION.**  
The Administrator will determine the time limit for depopulation of condemned animals. (5-3-03)
- 403. -- 499. (RESERVED)**
- 500. COMPENSATION FOR APPRAISED ANIMALS.**  
Owners of condemned animals will be compensated for animals ordered destroyed by the Administrator if the animals are appraised prior to depopulation, and the owner is in compliance with these rules. Compensation may be paid on animals that die or are depopulated before appraisal at the discretion of the Administrator. (5-3-03)
- 501. COMPENSATION FOR ANIMALS DESTROYED.**  
State compensation is limited to appraised value less any federal indemnity and salvage value for animals condemned, and slaughtered or otherwise destroyed. (5-3-03)
- 502. APPRAISAL PROCEDURE FOR ANIMALS DEPOPULATED.**
- 01. Animal Appraisal.** Animals to be depopulated shall be appraised by a team of three (3) persons including: (5-3-03)
- a.** A representative of the Division of Animal Industries; and (5-3-03)
  - b.** The owner; and (5-3-03)
  - c.** A person with experience marketing the species of animal as determined by the Administrator. (5-3-03)
- 02. Dispute of Appraisal.** When the appraisal price is in dispute, the Director may grant a hearing to any person, under such rules as the Department may prescribe which are in compliance with Title 67, Chapter 52, Idaho Code. (5-3-03)
- 503. TIME LIMIT FOR APPRAISAL.**  
The Administrator will determine the time limit for completing the appraisal. (5-3-03)
- 504. -- 599. (RESERVED)**
- 600. COMPENSATION FOR LABOR EMPLOYED.**
- 01. Disposal of Animals.** The Department may pay actual costs for labor employed for disposal of animals depopulated at the direction of the Administrator. (5-3-03)
- 02. Cleaning and Disinfection.** The Department may pay actual costs for labor employed in the cleaning and disinfection of premises where infected or exposed animals were kept. (5-3-03)
- 601. COMPENSATION FOR PROPERTY DESTROYED.**  
The Department will compensate owners for property ordered destroyed by the Administrator. (5-3-03)
- 01. Property Destroyed Otherwise.** The department may compensate owners for property otherwise destroyed as approved by the Administrator. (5-3-03)
- 02. Actual Value.** The Department will pay actual value of property destroyed, as determined by the Administrator, if compensation is paid. (5-3-03)

**602. -- 699. (RESERVED)**

**700. CLEANING AND DISINFECTION OF PREMISES.**

Any premises or area where animals infected with or exposed to an emergency disease were held or kept shall be cleaned, disinfected, or decontaminated under the supervision and at the direction of state or federal animal health officials within the time limit established by the Administrator. (5-3-03)

**701. CLEANING AND DISINFECTION OF ANIMAL CONVEYANCE.**

Any conveyance used to hold or transport animals infected with or exposed to an emergency disease shall be cleaned, disinfected, or decontaminated under the supervision and at the direction of state or federal animal health officials within the time limit established by the Administrator. (5-3-03)

**702. -- 999. (RESERVED)**

**IDAPA 02  
TITLE 04  
CHAPTER 24**

**02.04.24 – RULES GOVERNING TUBERCULOSIS**

**000. LEGAL AUTHORITY.**

This chapter is adopted under the legal authority of Sections 25-203, 25-305, and 25-401, Idaho Code. (3-20-04)

**001. TITLE AND SCOPE.**

**01. Title.** The title of this chapter is “Rules Governing Tuberculosis.” (3-20-04)

**02. Scope.** These rules govern procedures for the prevention, surveillance, control, management, and eradication of tuberculosis in the state of Idaho. (3-20-04)

**002. WRITTEN INTERPRETATIONS.**

There are no written interpretations of these rules. (3-20-04)

**003. ADMINISTRATIVE APPEAL.**

Persons may be entitled to appeal agency actions authorized under these rules pursuant to Title 67, Chapter 52, Idaho Code. (3-20-04)

**004. INCORPORATION BY REFERENCE.**

**01. Incorporated Documents.** The following documents are incorporated by reference. (3-20-04)

**a.** The January 1, 2005, Edition of “Bovine Tuberculosis Eradication Uniform Methods and Rules.” (4-11-06)

**b.** The Code of Federal Regulations, Title 9, Parts 71, 77, and 161, January 1, 2005, which can be viewed online at [http://www.access.gpo.gov/nara/cfr/waisidx\\_05/9cfrv1\\_05.html](http://www.access.gpo.gov/nara/cfr/waisidx_05/9cfrv1_05.html). (4-11-06)

**02. Availability of Incorporated Documents.** Copies of these documents are available from the Idaho State Department of Agriculture Central Office. (3-20-04)

**005. ADDRESS, OFFICE HOURS, TELEPHONE, FAX NUMBERS, WEB ADDRESS.**

The Idaho State Department of Agriculture central office is located at 2270 Old Penitentiary Road, Boise, ID 83712-8298. The office is open from 8 a.m. to 5 p.m., except Saturday, Sunday and legal holidays. The mailing address is PO Box 7249, Boise, Idaho 83707. The phone number is (208) 332-8500 and the fax number is (208) 334-2170. The Department web address is <https://agri.idaho.gov/> (6-30-19T)

**006. IDAHO PUBLIC RECORDS ACT.**

These rules are public records available for inspection and copying at the Central Office of the Idaho State Department of Agriculture. (3-20-04)

**007. -- 009. (RESERVED)**

**010. DEFINITIONS.**

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

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

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

**03. Affected Herd.** A herd in which there is strong and substantial evidence that *Mycobacterium bovis*

- may exist. (3-20-04)
- 04. Approved Laboratory.** A state or federal veterinary diagnostic laboratory. The primary laboratory for tuberculosis histopathology and bacteriology culture will be the National Veterinary Services Laboratories, Ames, Iowa. (3-20-04)
- 05. Approved Feedlot.** A feedlot approved by the Administrator to feed cattle and domestic bison of unknown Tuberculosis test status. (4-11-15)
- 06. Area-Veterinarian-in-Charge.** The veterinary official of USDA/APHIS/VS, who is assigned by the deputy administrator of APHIS to supervise and perform official APHIS animal health work. (3-20-04)
- 07. Bovine Tuberculosis.** A disease caused by *Mycobacterium bovis*. (3-20-04)
- 08. Cattle.** All domestic bovidae, including domestic bison. (3-20-04)
- 09. Domestic Bison.** All animals of the genus *Bison*, which are owned by a person. (3-20-04)
- 10. Domestic Cervidae.** Elk, fallow deer, and reindeer owned by a person. (3-20-04)
- 11. Eradication.** The complete elimination of bovine tuberculosis from cattle, domestic cervidae, bison and goats in a state so that the disease does not appear unless introduced from another species or from outside the state. (3-20-04)
- 12. Exposed.** Animals that have had contact with other animals, herds, or materials that have been determined to be infected with or affected by *Mycobacterium bovis*. (3-20-04)
- 13. Federal Animal Health Official.** An employee of USDA/APHIS/VS who is authorized to perform animal health activities. (3-20-04)
- 14. Free Area.** The counties, areas or districts not quarantined by the Division of Animal Industries for tuberculosis. (3-20-04)
- 15. Herd.** Any group of cattle, bison, goats, and domestic cervidae maintained on common ground, or two (2) or more groups of cattle, bison, goats, and domestic cervidae under common ownership or supervision that are geographically separated from other groups but can have an interchange or movement without regard to health status. (3-20-04)
- 16. Herd Depopulation.** The destruction of all cattle, bison, goats, and domestic cervidae exposed to bovine tuberculosis in a herd. (3-20-04)
- 17. Interstate Movement.** Movements of cattle, bison, goats, and domestic cervidae from Idaho into any other state, territory or the District of Columbia or from any other state, territory or the District of Columbia into Idaho. (3-20-04)
- 18. Intrastate Movement.** Movement of cattle, bison, goats, and domestic cervidae within Idaho. (3-20-04)
- 19. Negative.** Any cattle, bison, domestic cervidae, or goats that show no response to the tuberculin test, or are classified by the testing laboratory as negative for tuberculosis. (3-20-04)
- 20. Official Tuberculin Test.** A test for bovine tuberculosis, approved by APHIS, applied and reported by approved personnel in accordance with the UMR. (3-20-04)
- 21. Person.** Any individual, association, partnership, firm, joint stock company, joint venture, trust, estate, political subdivision, public or private corporation, or any legal entity, which is recognized by law as the subject of rights and duties. (3-20-04)

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

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

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

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

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

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

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

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

**011. ABBREVIATIONS.**

**01. APHIS.** Animal Plant Health Inspection Service. (3-20-04)

**02. AVIC.** Area Veterinarian in Charge. (3-20-04)

**03. CCT.** Comparative Cervical Tuberculin Test. (3-20-04)

**04. CFR.** Code of Federal Regulations. (3-20-04)

**05. CFT.** Caudal-Fold Tuberculin Test. (3-20-04)

**06. DTE.** Designated Tuberculosis Epidemiologist. (3-20-04)

**07. NGL.** No Gross Lesion(s). (3-20-04)

**08. NVSL.** National Veterinary Services Laboratories in Ames, Iowa. (3-20-04)

**09. UMR.** Uniform Methods and Rules. (3-20-04)

**10. USDA.** United States Department of Agriculture. (3-20-04)

**11. VS.** Veterinary Services. (3-20-04)

**012. -- 019. (RESERVED)**

**020. APPLICABILITY.**

These rules apply to all cattle, bison, domestic cervidae, and goats located within, imported into, or exported from the

state of Idaho, and other tuberculosis-susceptible animals. (3-20-04)

**021. SUPERVISION.**

The official tuberculosis eradication program will be supervised by full-time state or federal veterinarians. (3-20-04)

**022. INSPECTIONS.**

In order to ascertain compliance with this chapter, state and federal animal health officials are authorized to inspect animals, records, premises and other areas where cattle, bison, goats, domestic cervidae and other animals are held or kept. (3-20-04)

**01. Entering Premises.** In order to conduct activities authorized by this chapter, state or federal animal health officials are authorized to enter premises, other areas, or conveyances in the state where cattle, bison, goats, domestic cervidae or other tuberculosis susceptible animals are held or kept. State or federal animal health officials will attempt to notify the owner or operator of the premises or conveyance prior to conducting an inspection. (3-20-04)

**02. Emergencies.** In the event of an emergency, as determined by the Administrator, the notification requirements of Section 022 may be waived. (3-20-04)

**023. TUBERCULOSIS TESTS.**

Official tests for tuberculosis will be conducted only by persons authorized by the Administrator, and USDA/APHIS/VS. (3-20-04)

**01. Authorized Person.** The Administrator may authorize state or federal animal health officials, or accredited veterinarians to perform official tuberculin tests. (3-20-04)

**02. Tuberculin Test Interpretation.** The injection site on each animal shall be palpated by the authorized person that administered the tuberculin injection. The Administrator may grant variances from Subsection 023.02 on a case by case basis. (3-20-04)

**024. REPORTING.**

**01. Test Results.** Results of all official tuberculin tests shall be submitted to the Division of Animal Industries on a form, approved by the Administrator, within seven (7) days of initiation of the test. (3-20-04)

**02. Disease.** All owners of animals, and veterinarians, shall report evidence of tuberculosis infection to the Administrator, by telephone or facsimile, within twenty-four (24) hours of the discovery of the disease. (3-20-04)

**025. QUARANTINES.**

All cattle, bison, goats, and domestic cervidae animals or herds that are exposed to, or infected with tuberculosis shall be quarantined. (3-20-04)

**01. Infected Herds.** Infected herds or animals shall remain under quarantine until such time as the herd has been completely depopulated or the provisions for release of quarantine provided in the UMR for bovine tuberculosis have been met. (3-20-04)

**02. Exposed Herds.** The quarantine for exposed herds or animals may take the form of a Hold-Order, which shall remain in effect until the exposed animals have been tested negative or the provisions for release of quarantine provided in the UMR for bovine tuberculosis are met. (3-20-04)

**03. Validity of Quarantine.** The quarantine shall be valid whether or not it is acknowledged by signature of the owner. (3-20-04)

**026. CLEANING AND DISINFECTING.**

The Administrator is authorized to order the owner or operator of stockyards, pens, trucks, trailers, cars, vessels, chutes, and other conveyances and premises to clean and disinfect the same, at the owner's expense, whenever necessary for the eradication of tuberculosis. Cleaning and disinfecting shall be done under the supervision of state or

federal animal health officials. (3-20-04)

**01. Infected Premises.** Premises, conveyances, or other areas where infected animals have been held or kept shall be cleaned and disinfected within fifteen (15) days following the removal of reactors or the entire herd. (3-20-04)

**02. Exemptions.** The Administrator may authorize an exemption from cleaning and disinfection requirements on a case-by-case basis. (3-20-04)

**03. Extension of Time.** The Administrator may authorize an extension of time for cleaning and disinfection under extenuating circumstances. (3-20-04)

**027. (RESERVED)**

**028. TUBERCULOSIS TESTING.**

The Administrator may require tuberculosis testing of cattle, bison, goats, domestic cervidae, or other animals. (3-20-04)

**01. Duty to Restrain.** It shall be the duty of each person who owns cattle, bison, goats, domestic cervidae, or other animals to pen the animals in suitable pens and restrain them for the test when directed to do so in writing by the Administrator. (3-20-04)

**02. Records of Tests.** When any cattle, bison, goats, domestic cervidae, or other animals are tested for tuberculosis a complete test record shall be made and the record shown on an official tuberculosis test form provided by the Administrator. The test form shall be completely filled out and include the following information: (3-20-04)

- a. The name and address of the owner and the location of the animals at the time of the test. (3-20-04)
- b. The name and signature of the person conducting the test. (3-20-04)
- c. Individual identification number of each animal and the registration name and number of each purebred animal. (3-20-04)
- d. Age of each animal. (3-20-04)
- e. Sex of each animal. (3-20-04)
- f. Breed of each animal. (3-20-04)
- g. Species of animals tested. (3-20-04)
- h. Test results for each animal. (3-20-04)

**029. TUBERCULOSIS EMERGENCY.**

In order to prevent the re-establishment of tuberculosis infection in cattle, bison, goats or domestic cervidae in the state, the Director may declare an animal health emergency. (3-20-04)

**01. Tuberculosis in Idaho.** The Director may declare a tuberculosis emergency in the event that tuberculosis is diagnosed in any cattle, bison, goats or domestic cervidae in Idaho. (3-20-04)

**02. Tuberculosis in Adjacent Area.** The Director may declare a tuberculosis emergency in the event that tuberculosis is discovered in areas outside the state that could result in transmission of tuberculosis to Idaho cattle, bison, goats, or domestic cervidae. (3-20-04)

**030. TUBERCULOSIS INDEMNITY.**

Owners of animals that are condemned and depopulated because of tuberculosis shall be indemnified for such animals, and for reasonable costs of disposal and cleaning and disinfection in accordance with the provisions of this chapter, except as provided in Section 031. (3-20-04)



**01. Indemnity Payments.** Payments shall be based upon the appraised value, less federal indemnity and salvage value for the animals. (3-20-04)

**02. Time Limit for Slaughter.** Payment of indemnity shall be made under Section 030 for animals destroyed because of tuberculosis, only if the animals are shipped to slaughter or die otherwise within fifteen (15) days after the date of individual identification and tagging. The Administrator may extend the period for thirty (30) days. (3-20-04)

**03. Verification of Reactors That Die.** Indemnity may be paid on tuberculosis reactors that die before being sent to slaughter provided: (3-20-04)

**a.** The reactors have been appraised and identified and die within fifteen (15) days from the date of appraisal; and (3-20-04)

**b.** The state or federal animal health officials directing the disease control work are furnished with a signed statement by a veterinarian attesting that he observed the carcass of the dead animal, the reactor tag number found in the left ear of the animal, and date of death. (3-20-04)

**04. Other Costs.** Reimbursement for disposal costs and cleaning and disinfection costs shall not exceed the actual cost. (3-20-04)

**031. TUBERCULOSIS INDEMNITY -- CLAIMS NOT ALLOWED.**

Claims for compensation for animals destroyed because of tuberculosis shall not be allowed if any of the following circumstances exist: (3-20-04)

**01. Failure to Comply.** The owner has failed to comply with any of these rules. (3-20-04)

**02. Illegal Imports.** The animals were illegally imported into the state. (3-20-04)

**03. Animals Sold for Slaughter.** At the time of the test or condemnation, the animals belonged to or were upon the premises of any person to whom the animals had been sold, shipped, or delivered for slaughter. (3-20-04)

**04. Unapproved Test.** The animals were subject to a test not approved by the Administrator. (3-20-04)

**05. Untested Animals.** All animals in the owner's herd have not been tested for tuberculosis under state or federal supervision. (3-20-04)

**06. Premises Not Cleaned.** The premises occupied by the tuberculosis infected animals were not cleaned and disinfected as directed, under state or federal supervision. (3-20-04)

**07. Attempt to Improperly Obtain Funds.** There is substantial evidence that the owner or his agent has in any way been responsible for any attempt unlawfully or improperly to obtain indemnity funds for such animals. (3-20-04)

**08. Unidentified Cattle and Bison.** Cattle or bison destroyed because of tuberculosis, unless they were marked for identification by branding the letter "T" on the left hip near the tailhead, not less than two (2) inches high, and unless a metal tag bearing a serial number and inscription "US REACTOR" or similar US Reactor tag, was suitably attached to the left ear of each animal. (3-20-04)

**09. Calves.** If the entire herd is not depopulated and the cattle or bison were calves under one hundred eighty (180) days of age. (3-20-04)

**032. -- 099. (RESERVED)**

**100. OFFICIAL IDENTIFICATION.**

All cattle, bison, domestic cervidae, and goats tested for tuberculosis shall be individually identified by official eartag, individual tattoo, or individual brand, as provided in the UMR for bovine tuberculosis, at the time of injection. (3-20-04)

**101. CATTLE, BISON, GOATS, AND DOMESTIC CERVIDAE MARKET RELEASE.**

The accredited veterinarian authorized to provide veterinary services at a specifically approved livestock market shall perform a clinical inspection of all cattle, bison, goats, and domestic cervidae and accurately complete a "Saleyard Release" form, certificate of veterinary inspection, or other market release mechanism certifying that the animals meet the health requirements for movement to the point of destination prior to any animals being released from the livestock market. (3-20-04)

**102. -- 119. (RESERVED)**

**120. CLASSIFICATION OF CATTLE, BISON, AND DOMESTIC CERVIDAE.**

Classification of cattle, bison, and domestic cervidae tested for tuberculosis shall be determined pursuant to the UMR for bovine tuberculosis. (3-20-04)

**121. -- 199. (RESERVED)**

**200. PROCEDURES FOR INFECTED HERDS.**

Disclosure of tuberculosis in any herd shall be followed by a complete epidemiological investigation and testing as provided in the UMR for bovine tuberculosis. (3-20-04)

**201. -- 209. (RESERVED)**

**210. PROCEDURES FOR TUBERCULOSIS - INFECTED FEEDLOTS.**

A tuberculosis-infected feedlot shall be handled in the same manner as an affected herd in regard to epidemiological investigation and the development of epidemiological tracings for animal movements into and out of the feedlot. (3-20-04)

**211. -- 219. (RESERVED)**

**220. DISPOSITION OF TUBERCULIN-RESPONDING CATTLE, BISON, AND DOMESTIC CERVIDAE.**

Cattle, bison, and domestic cervidae that respond to the tuberculin test shall be handled according to the UMR for bovine tuberculosis. (3-20-04)

**221. -- 249. (RESERVED)**

**250. IDENTIFICATION OF REACTOR CATTLE AND BISON.**

Reactor cattle and bison shall be identified in the following manner: (3-20-04)

**01. "T" Branding and Tagging.** Reactor cattle and bison shall be identified by branding the letter "T" on the left hip near the tailhead, not less than two (2) inches and not more than three (3) inches high, and by tagging with an approved metal eartag bearing a serial number and inscription "U.S. Reactor" or a similar State reactor tag suitably attached to the left ear of each animal. (3-20-04)

**02. Shipping Without Branding.** In lieu of branding, the reactor(s) may be shipped to slaughter in an officially sealed vehicle or accompanied to slaughter by a state or federal animal health official provided such reactor(s) have the letters "TB" sprayed on the left hip with yellow paint. (4-11-06)

**251. -- 259. (RESERVED)**

**260. IDENTIFICATION OF EXPOSED CATTLE AND BISON.**

Cattle and bison exposed to bovine tuberculosis shall be identified in the following manner: (3-20-04)

**01. "S" Branding and Tagging.** To be eligible for federal indemnity, exposed cattle and bison shall be

identified by branding the letter “S” on the left hip near the tailhead, not less than two (2) inches nor more than three (3) inches high, and by tagging with an approved metal eartag bearing a serial number attached to either ear of each animal. (3-20-04)

**02. Shipping Without Branding.** In lieu of branding, such animals may be accompanied to slaughter by a state or federal animal health official or be shipped in vehicles sealed with official seals. (3-20-04)

**261. -- 299. (RESERVED)**

**300. RETESTING OF HIGH-RISK HERDS.**

Retesting schedules for high-risk herds of cattle and bison shall be determined pursuant to the UMR for bovine tuberculosis. (3-20-04)

**301. -- 399. (RESERVED)**

**401. APPROVED FEEDLOT.**

Cattle and domestic bison of unknown Tuberculosis test status may be fed for slaughter only in an Approved Feedlot, with no provisions for pasturing, grazing, or removal from the feedlot other than to slaughter. (4-11-15)

**402. APPLICATION FOR DESIGNATION AS AN APPROVED FEEDLOT**

Application for Approved Feedlot status shall be made on application forms available from the Administrator. (4-11-15)

**403. ADMINISTRATOR APPROVAL.**

The Administrator may approve feedlot applications after the feedlot has been inspected by state or federal animal health officials and: (4-11-15)

**01. Cattle Secured.** The feedlot management has demonstrated that cattle of unknown Tuberculosis test status can be secured in the feedlot; and (4-11-15)

**02. Adequate Records.** Feedlot records are adequate to show the origin and disposition of the cattle in the feedlot; and (4-11-15)

**03. Adequate Resources.** The Administrator determines that the Division of Animal Industries has adequate human and fiscal resources to assure that the feedlot abides by the provisions of this chapter; and (4-11-15)

**04. Past History.** The Administrator may take any past enforcement or violation history into consideration when making the final determination of whether or not to approve a feedlot. (4-11-15)

**404. APPROVED FEEDLOT NUMBER.**

Feedlots approved by the Administrator will receive an Idaho Approved Feedlot Number. (4-11-15)

**405. EXPIRATION OF APPROVED STATUS.**

Approved Feedlot status expires on September 1 of each year. It is the responsibility of feedlot management to apply each year for renewal of approved status. (4-11-15)

**406. -- 499. (RESERVED)**

**500. MOVEMENT OF INFECTED AND EXPOSED CATTLE, DOMESTIC CERVIDAE, OR BISON.**

All movement of infected or exposed cattle, domestic cervidae, or bison shall be on a restricted movement permit in accordance with the UMR for bovine tuberculosis. (3-20-04)

**501. -- 999. (RESERVED)**

**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. (4-11-19)

**001. TITLE AND SCOPE.**

**01. Title.** The title of this chapter is “Rules Governing Produce Safety.” (4-11-19)

**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. (4-11-19)

**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. (4-11-19)

**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. (4-11-19)

**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. (4-11-19)

**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>. (4-11-19)

**005. ADDRESS, OFFICE HOURS, TELEPHONE, FAX NUMBERS, WEB ADDRESS.**

The Idaho State Department of Agriculture central office is located at 2270 Old Penitentiary Road, Boise, ID 83712-8298. The office is open from 8 a.m. to 5 p.m., except Saturday, Sunday, and legal holidays. The mailing address is PO Box 7249, Boise, Idaho 83707. The phone number is (208) 332-8500 and the fax number is (208) 334-2170. The Department web address is <https://agri.idaho.gov/>. (6-30-19)T

**006. PUBLIC RECORDS ACT COMPLIANCE.**

These rules are public records and are available for inspection and copying at the Idaho State Department of Agriculture. (4-11-19)

**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: (4-11-19)

**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. (4-11-19)

**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. (4-11-19)

**011. ABBREVIATIONS.**

- 01. FDA.** The U.S. Food and Drug Administration. (4-11-19)

**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: (4-11-19)

**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](mailto: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. (4-11-19)

**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. (4-11-19)

**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. (4-11-19)

**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. (4-11-19)

**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. (4-11-19)

- 02. Support and Withdrawal of Petitions.** (4-11-19)

**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. (4-11-19)

**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. (4-11-19)

**013. – 999. (RESERVED)**