

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 Fee Rulemaking
(Docket No. 02-0000-1900FA).

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 07/29/2019. 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 08/26/2019.

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: July 10, 2019

SUBJECT: Department of Agriculture

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

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

02.02.07, Bulk Permit Procedure (Potatoes);
02.02.11, Rules Governing Eggs and Egg Products;
02.02.12, Bonded Warehouse Rules;
02.02.13, Commodity Dealers' Rules;
02.02.14, Rules for Weights and Measures;
02.02.15, Rules Governing the Seed Indemnity Fund;
02.04.03, Rules Governing Animal Industry;
02.04.09, Rules Governing Milk and Cream Procurement and Testing;
02.04.19, Rules Governing Domestic Cervidae;
02.04.26, Rules Governing Livestock Markets;
02.06.01, Rules Governing the Pure Seed Law;
02.06.02, Rules Pertaining to the Idaho Commercial Feed Law;
02.06.03, Rules Pertaining to Idaho Nurseries and Florists Law;
02.06.04, Phytosanitary and Post-Entry Seed Certification Rules;
02.06.05, Rules Governing Diseases of Hops;
02.06.06, Rules Governing the Planting of Beans;
02.06.12, Rules Pertaining to the Idaho Fertilizer Law;
02.06.14, Rules Governing Bluegrass;
02.06.18, Rules Governing Mint Rootstock and Clone Production;
02.06.27, Rules Governing Bacterial Ring Rot Caused by *Clavibacter michiganensis* subsp. *sepedonicus* of Potato;
02.06.30, Rules Under the Idaho Bee Inspection Law;
02.06.31, Noxious Weed Free Forage and Straw Certification Rules;
02.06.34, Rules Concerning Virus-Free Certification of Nursery Stock;

Kristin Ford, Manager
Research & Legislation

Paul Headlee, Manager
Budget & Policy Analysis

April Renfro, Manager
Legislative Audits

Glenn Harris, Manager
Information Technology

02.06.40, Rules Governing Ginseng Export;
02.06.41, Rules Pertaining to the Soil and Plant Amendment Act.

According to the department, the rulemaking adopts and re-publishes existing and previously approved chapters. Some minor, nonsubstantive revisions have been made throughout the docket. For example, redundancies have been eliminated, authority is clarified, address information is streamlined, and the equine certificate procedure is simplified in the Rules Governing Animal Industry.

This is a fee rule. The department indicates that the rulemaking does not impose a fee or charge, or increase a fee or charge, beyond what was previously approved and codified in the prior rules.

The department has provided within its Notice of Rulemaking a chart setting forth its Section 22-101A, Idaho Code, statement setting forth those specific sections within the various chapters that are broader in scope or more stringent than federal law or regulations, or regulate an activity not regulated by the federal government. These rules were previously analyzed and reviewed by the Legislative Services Office upon their initial promulgation.

The rulemaking appears to be authorized pursuant to Sections 22-101, 22-103, 22-107, 22-112, 22-418, 22-505, 22-604, 22-702, 22-901, 22-1907, 22-2004, 22-2006, 22-1907, 22-2204, 22-2303, 22-2403, 22-2411, 22-2412, 22-2413, 22-2503, 22-2511, 22-3805, 22-5129, 25-203, 25-303, 25-305, 25-401, 25-601, 25-1723, 25-2710, 25-3520, 35-305, 37-303, 37-405, 37-516, 37-1521, 69-231, 69-524, 71-111, 71-121, 71-232, 71-233, 71-236, 71-241, 71-408, 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. 02-0000-1900FA

NOTICE OF OMNIBUS RULEMAKING – TEMPORARY AND PROPOSED FEE 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 22-101(3) 22-103(20), 22-103(22), 22-107, 22-112, 22-418(4), 22-418(11), 22-505, 22-604, 22-702, 22-901, 22-1907, 22-2004, 22-2006, 22-1907, 22-2204, 22-2303(5), 22-2403, 22-2411, 22-2412, 22-2413, 22-2503, 22-2511, 22-3805(11), 22-3805(12), 22-5129, 25-203, 25-303, 25-305, 25-401, 25-601, 25-1723(b), 25-2710, 25-3520, 35-305, 37-303, 37-405, 37-516, 37-1521, 69-231, 69-524, 71-111, 71-121, 71-232, 71-233, 71-236, 71-241, 71-408, 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 Idaho State Department of Agriculture:

IDAPA 02

02.02.07, *Bulk Permit Procedure (Potatoes)*

02.02.11, *Rules Governing Eggs and Egg Products*

02.02.12, *Bonded Warehouse Rules*

02.02.13, *Commodity Dealers' Rules*

02.02.14, *Rules for Weights and Measures*

02.02.15, *Rules Governing the Seed Indemnity Fund*

02.04.03, *Rules Governing Animal Industry*, modifies Sections 010 and 207; eliminates Section 990

02.04.09, *Rules Governing Milk and Cream Procurement and Testing*, with modifications to Section 100

02.04.19, *Rules Governing Domestic Cervidae*, modifies Sections 010; eliminates Section 990

02.04.26, *Rules Governing Livestock Markets*, modifies Section 010; eliminates Section 990 and 999

02.06.01, *Rules Governing the Pure Seed Law*, eliminates Section 601

02.06.02, *Rules Pertaining to the Idaho Commercial Feed Law*

02.06.03, *Rules Pertaining to Idaho Nurseries and Florists Law*

02.06.04, *Phytosanitary and Post-Entry Seed Certification Rules*, eliminates Section 400; adds required Sections 004-006

02.06.05, *Rules Governing Diseases of Hops*, eliminates Sections 007 and 450

02.06.06, *Rules Governing the Planting of Beans*

02.06.12, *Rules Pertaining to the Idaho Fertilizer Law*, eliminates Section 090

02.06.14, *Rules Governing Bluegrass*

02.06.18, *Rules Governing Mint Rootstock and Clone Production*, modifies Section 300; eliminates Section 007

02.06.27, *Rules Governing Bacterial Ring Rot Caused by *Clavibacter michiganensis* subsp. *sepedonicus* of Potato*, eliminates Sections 012 and 500

02.06.30, *Rules Under the Idaho Bee Inspection Law*, modifies Section 200; eliminates Section 350

02.06.31, *Noxious Weed Free Forage and Straw Certification Rules*

02.06.34, *Rules Concerning Virus-Free Certification of Nursery Stock*, modifies Section 010; eliminates Section 030; adds required Sections 004-006

02.06.40, *Rules Governing Ginseng Export*, eliminates Sections 007 and 453

02.06.41, *Rules Pertaining to the Soil and Plant Amendment Act*, eliminates Section 051

IDAHO CODE SECTION 22-101A STATEMENT: These rules are either broader in scope or more stringent than federal law or regulations, or regulate an activity not regulated by the federal government.

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. See table below for agency specific findings.

The fee or charge imposed by the rules is necessary to avoid immediate danger. The fee(s) or charge(s) reauthorized in this rulemaking are currently existing and have been previously promulgated by the agency and reviewed and approved by the Legislature. These fees and charges are part of the dedicated fund portion of the state budget, which makes up a material portion of the FY2020 budget. The FY2020 budget has already been set by the Legislature and passed into law. That budget relies upon the existence of these fees and charges to meet the state's obligations and provide necessary state services. Failing to reauthorize these fee rules would create immediate danger to the state budget, immediate danger to necessary state functions and services, and immediate danger of a violation of Idaho's constitutional requirement that it balance its budget. See table below for agency specific fee summaries.

FEE SUMMARY: The preceding section and the attached rules provide a specific description of the fee or charge imposed or increased by this rulemaking. This rulemaking does not impose a fee or charge, or increase a fee or charge, beyond what was previously approved and codified in the prior rules.

IDAPA	Specific Findings	Fee Summary	22-101A(1)
02.02.07	The first handler or shipper of potatoes collects the assessments in this rule. Funds are remitted directly to the Idaho Potato Commission. These fees are used by the IPC to fund promotion activities.	First handler pays potato advertising tax @ combo grower-shipper rates	Entire rule
02.02.11	The fee outlined in this rule fund the required activities and required inspections. The program establishes standards for sanitation, grading, handling, labeling and marketing of eggs sold in Idaho.	Assessment in lieu of seal @ rate of 0.4 cent per dozen each month.	Entire rule
02.02.12	The fee outlined in this rule funds the required activities. Assessments are used to pay valid claims in case of a warehouse failure. The program provides warehouse inspections and financial analysis consistent with program requirements. There is no general fund support of this program.	0.2% of total value @ time of sale	02.02.12.480; 02.02.12.482; 02.02.12.483; 02.02.12.484; 02.02.12.485; 02.02.12.486

IDAPA	Specific Findings	Fee Summary	22-101A(1)
02.02.13	The fee outlined in this rule funds the required activities. Assessments are used to pay valid claims in case of a commodity dealer failure. The program provides commodity dealer inspections and financial analysis consistent with program requirements. There is no general fund support of this program.	0.2% gross dollar amount	Entire rule
02.02.14	The fee outlined in this rule funds required activities. The program provides for inspection of weighing and measuring devices throughout Idaho.	Fee schedule by device.	Entire rule
02.02.15	The fee outlined in this rule funds the required activities. Assessments are used to pay valid claims in case of a licensed seed buyer failure. The program provides seed buyer inspections consistent with program requirements. There is no general fund support of this program.	Buyers collect assessment of 1/100 ¢/lb.	Entire rule
02.04.03	The fee outlined in this rule funds the required activities. Artificial insemination is important to the cattle industry to maintain production levels and meet demands for beef and dairy products. Licensees are required to demonstrate competency through a pre-license examination.	License fee of \$25 for artificial insemination; renewal of \$5	02.04.03.150, 02.04.03.175, 02.04.03.207, 02.04.03.303.10, 02.04.03.400, 02.04.03.460
02.04.09	The fees outlined in this rule fund the required activities. The program evaluates the accuracy of milk component testing by processing labs. Certain milk components are the basis for dairy producer's payment for their milk.	Lab licensing fee of \$25	Entire rule
02.04.19	The fees outlined in this rule fund the required activities. The program provides annual facility inspections, entry permits and disease surveillance. There is no general fund support of this program.	\$10/ head on elk, \$3/ head on fallow deer	02.04.19.090
02.04.26	The fees included in this rule are implemented as they are defined in Title 25, Chapter 17, Idaho Code. The program provides for the issuance, renewal, suspension and revocation of market charters.	Charter fee of \$100	02.04.26.100
02.06.01	The fee outlined in this rule provides the revenue for required enforcement sample analysis. Enforcement samples are required for official analysis as required by export markets. There is no general fund support for the program.	Service testing fees by test and miscellaneous fees to license.	Entire rule

IDAPA	Specific Findings	Fee Summary	22-101A(1)
02.06.02	The registration fee supports all activities - label review, sampling, lab analysis, and inspection for the Commercial Feed program. There is no general fund support for this program.	Product registration fee	Entire rule
02.06.03	The fees outlined in this rule fund the required activities. Additional inspections and special services may be requested when they are required by destination markets. There is no general fund support for this program.	Special service and permit fee	Entire rule
02.06.04	The fees outlined in this rule fund the required activities. Phytosanitary certifications and inspections are required by export markets in order to ship Idaho commodities to them. In addition, there is a fee required by USDA-APHIS for each official phytosanitary certificate that ISDA passes through from the customer to USDA.	Certificate fee by category.	Entire rule
02.06.05	The fees outlined in this rule are necessary to fund the required activities. Special permits require a specific fee for importation of hops.	Special permit and phytosanitary fee	Entire rule
02.06.06	The fees outlined in this rule are necessary to fund the required activities. Compliance with seed certification and export requirements are necessary to ensure commodities are export eligible. There is no general fund support for this program.	\$0.18 for tags; application fee for inspection \$3.50/acre/inspection; lab sample fee	Entire rule
02.06.12	The fees included in this rule are implemented as they are defined in Title 22, Chapter 6, Idaho Code.	Cited in code	Entire rule
02.06.14	The fees outlined in this rule are necessary to fund the required activities. The program ensures cleanliness of grass seed produced to protect market access and ensure long term viability of Idaho grass seed.	Sampling fee, see analysis, inspection, quarantine release tags	Entire rule
02.06.18	The fees outlined in this rule are necessary to fund the required activities. The program ensures protection of the Idaho mint industry from the introduction of pests and disease. There is no general fund support for this program.	Transfer permit fee; field inspection fee	Entire rule

IDAPA	Specific Findings	Fee Summary	22-101A(1)
02.06.27	The fees outlined under this rule ensure sufficient funding for lab analysis. There is no general fund support for this program.	Lab fees	Entire rule
02.06.30	The fees outlined in this rule are necessary to fund the required activities. Industry may be required to have these inspections and lab analysis done prior to moving bees to other states.	Registration fee; inspection fee @ \$15/hr; lab fee	Entire rule
02.06.31	The fees outlined in this rule are necessary to fund the required activities. Hay growers need these services in order to certify hay and forage for use on lands or markets where such certification is required.	Certification Fees	Entire rule
02.06.34	The fees outlined in this rule are necessary to fund the required activities. Program participation is voluntary and provides a virus-free certification program for nursery stock being exported. There is no general fund support for this program.	Application fee of \$50; lab fee; service fee of \$25/hr; tag fee of cost + 10%	Entire rule
02.06.40	This rule satisfies federal requirements. Program participation is voluntary and provides a disease free certification program for ginseng export. There is no general fund support for this program.	Fee = to ISDA cost; registration of \$25; certificate of origin \$10; hrly rate of \$28; OT rate of \$33/hr	Entire rule
02.06.41	The fees included in this rule are implemented as they are defined in Title 22, Chapter 22, Idaho Code.	Registration and "Inspection" fees are referenced	Entire rule

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

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 May 20, 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 07**

02.02.07 – BULK PERMIT PROCEDURE

000. LEGAL AUTHORITY.

This chapter is adopted under the legal authority of Section 22-901, Idaho Code. (6-30-19)T

001. TITLE AND SCOPE.

01. Title. The title of this chapter is IDAPA 02.02.07, “Bulk Permit Procedure.” (6-30-19)T

02. Scope. These rules govern the application for a permit to ship bulk potatoes, permit fees, and marketing order requirements. (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. -- 099. (RESERVED)

100. PERMIT FEES.

The first handler or shipper shall apply through the nearest District Inspection Office for a permit to ship bulk potatoes. The permittee shall pay the potato advertising tax at combined grower-shipper rates for either fresh or processing potatoes, and inspection fees, if required, within thirty (30) days of shipment. Failure to pay either fee within the prescribed time shall be grounds for denial of future permits, so long as the fees remain outstanding. (7-1-93)

101. APPLICATION FORM.

Application for permit shall be on a form furnished by the department. Acknowledgment of receipt of processing potatoes, when leaving the Federal Marketing Order area, shall be accomplished immediately by the processor upon receipt of the shipment and forwarded to the issuing office. A copy of each permit issued shall be forwarded to the Idaho Potato Commission by the issuing officer. (7-1-93)

102. MARKETING ORDER.

Permits for shipment of processing potatoes require a Marketing Order Certificate of Privilege number, issued by the Marketing Order Manager, if leaving the Marketing Order area. Inspection of bulk shipments for processing is not required. Bulk shipments for repacking or fresh sale must be graded and meet all applicable minimum Marketing Order requirements. Each shipment shall require a Federal-State inspection certificate, certifying minimum standards and include the percentage of U.S. No. 1 quality. (7-1-93)

103. REQUEST FOR PERMIT.

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

(6-30-19)T

104. -- 999. (RESERVED)

**IDAPA 02
TITLE 02
CHAPTER 11**

02.02.11 – RULES GOVERNING EGGS AND EGG PRODUCTS

000. LEGAL AUTHORITY.

This chapter is adopted under the legal authority of Sections 22-112, 22-702, and 37-1521, Idaho Code. (6-30-19)T

001. TITLE AND SCOPE.

01. Title. The title of this chapter is IDAPA 02.02.11, “Rules Governing Eggs and Egg Products.” (6-30-19)T

02. Scope. These rules govern the grades and standards for Idaho eggs and egg products, including tolerances, consumer grades, sanitation, storage, egg seals, tax, and cartons. (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

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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 AND STANDARDS.

01. Classifications. The following standards, grades and weight classifications are hereby established and adopted. (7-1-93)

a. Except as otherwise provided in this subsection, all shell eggs sold for human consumption in the State of Idaho must be designated as one (1) of the following grades: “Idaho Consumer Grade AA,” “Idaho Consumer Grade A,” “Idaho Consumer Grade B.” (7-1-93)

b. An Idaho producer of shell eggs may sell shell eggs produced on his premises in Idaho directly to consumers at the place of production of the eggs, without grade designations. (7-1-93)

c. Idaho shell egg producers having three hundred (300) or less hens may sell ungraded shell eggs produced upon their premises to retailers, provided that each carton or other container of ungraded shell eggs sold must be clearly marked “Ungraded” and bear the name and address of the Idaho producer. (7-1-93)

02. Standards. The following standards for individual shell eggs are used in determining the Idaho consumer grade designation applicable thereto. (7-1-93)

03. Application. The Idaho standards for quality of individual shell eggs contained in this section are applicable only to eggs that are the product of the domesticated chicken hen and are in the shell. (7-1-93)

04. Interior Egg Quality Specifications. Interior egg quality specifications for these standards are based on the apparent condition of the interior contents of the egg as it is twirled before the candling light. Any type or make of candling light may be used that will enable the particular grader to make consistently accurate determinations of the interior quality of shell eggs. It is desirable to break out an occasional egg and by determining the Haugh unit value of the broken-out egg, compare the broken-out and candled appearance, thereby aiding in correlating candled and broken-out appearance. (7-1-93)

05. AA Quality. The shell must be clean, unbroken and practically normal. The air cell must not exceed one-eighth (1/8) inch in depth, may show unlimited movement and may be free or bubbly. The white must be clear and firm so that the yolk is only slightly defined when the egg is twirled before the candling light. The yolk must be practically free from apparent defects. (7-1-93)

06. A Quality. The shell must be clean, unbroken and practically normal. The air cell must not exceed three-sixteenths (3/16) inch in depth, may show unlimited movement and may be free or bubbly. The white must be clear and at least reasonably firm so that the yolk outline is only fairly well defined when the egg is twirled before the candling light. The yolk must be practically free from apparent defects. (7-1-93)

07. B Quality. The shell must be unbroken, may be abnormal, and may have slightly stained areas. Moderately stained areas are permitted if they do not cover more than one thirty-second (1/32) of the shell surface if localized, or one-sixteenth (1/16) of the shell surface if scattered. Eggs having shells with prominent stains or adhering dirt are not permitted. The air cell may be over three-sixteenths (3/16) inch in depth, may show unlimited movement, and may be free or bubbly. The white may be weak and watery so that the yolk outline is plainly visible when the egg is twirled before the candling light. The yolk may appear dark, enlarged and flattened and may show clearly visible germ development but no blood due to such development. It may show other serious defects that do not render the egg inedible. Small blood spots or meat spots (aggregating not more than one-eighth (1/8) inch in diameter) may be present. (7-1-93)

08. Dirty. An individual egg that has an unbroken shell with adhering dirt or foreign material, prominent stains or moderate stains covering more than one thirty-second (1/32) of the shell surface if localized, or one-sixteenth (1/16) of the shell surface if scattered. (7-1-93)

09. Check. An individual egg that has a broken shell or crack in the shell but with its shell membranes intact and its contents do not leak. A "check" is considered to be lower in quality than a "dirty." (7-1-93)

013. -- 049. (RESERVED)

050. TERMS DESCRIPTIVE OF SHELL.

01. Clean. A shell that is free from foreign material and from stains or discolorations that are readily visible. An egg may be considered clean if it has only very small specks, stains or cage marks if such specks, stains or cage marks are not of sufficient number or intensity to detract from the generally clean appearance of the egg. Eggs that show traces of processing oil on the shell are considered clean unless otherwise soiled. (7-1-93)

02. Dirty. A shell that is unbroken and that has dirt or foreign material adhering to its surface, that has prominent stains, or moderate stains covering more than one thirty-second (1/32) of the shell surface if localized or one-sixteenth (1/16) of the shell surface if scattered. (7-1-93)

03. Practically Normal (AA or A Quality). A shell that approximates the usual shape and that is sound and is free from thin spots. Ridges and rough areas that do not materially affect the shape and strength of the shell are permitted. (7-1-93)

04. Abnormal (B Quality). A shell that may be somewhat unusual or decidedly or that may show pronounced ridges or thin spots. (7-1-93)

051. -- 099. (RESERVED)

100. TERMS DESCRIPTIVE OF THE AIR CELL.

01. Depth of Air Cell. The depth of the air cell (air space between shell membranes, normally in the large end of the egg) is the distance from its top to its bottom when the egg is held air cell upward. (7-1-93)

02. Free Air Cell. An air cell that moves freely toward the uppermost point in the egg as the egg is rotated slowly. (7-1-93)

03. Bubbly Air Cell. A ruptured air cell resulting in one (1) or more small separate air bubbles usually floating beneath the main air cell. (7-1-93)

101. -- 149. (RESERVED)

150. TERMS DESCRIPTIVE OF THE WHITE.

01. Clear. A white that is free from discolorations or from any foreign bodies floating in it. (Prominent chalazas should not be confused with foreign bodies such as spots or blood clots). (7-1-93)

02. Firm (AA Quality). A white that is sufficiently thick or viscous to prevent the yolk outline from being more than slightly defined or indistinctly indicated when the egg is twirled. With respect to a broken-out egg, a firm white has a Haugh unit value of seventy-two (72) or higher when measured at a temperature between forty-five (45) Degrees F and sixty (60) Degrees F. (7-1-93)

03. Reasonably Firm (A Quality). A white that is somewhat less thick or viscous than a firm white. A reasonably firm white permits the yolk to approach the shell more closely that results in a fairly well defined yolk outline when the egg is twirled. With respect to a broken-out egg, a reasonably firm white has a Haugh unit value of sixty (60) to seventy-two (72) when measured at a temperature between forty-five (45) Degrees F and sixty (60) Degrees F. (7-1-93)

04. Weak and Watery (B Quality). A white that is weak, thin and generally lacking in viscosity. A weak and watery white permits the yolk to approach the shell closely, thus causing the yolk outline to appear plainly visible and dark when the egg is twirled. With respect to a broken-out egg, a weak and watery white has a Haugh unit value lower than sixty (60) when measured at a temperature between forty-five (45) Degrees F and sixty (60) Degrees F. (7-1-93)

05. Blood Spots or Meat Spots. Small blood spots or meat spots (aggregating not more than one-eighth (1/8) inch in diameter), may be classified as "B" quality. If larger, or showing diffusion of blood into the white surrounding a blood spot, the egg must be classified as Loss. Blood spots must not be due to germ development. They may be on the yolk or in the white. Meat spots may be blood spots that have lost their characteristic red color or tissue from the reproductive organs. (7-1-93)

06. Bloody White. An egg that has blood diffused through the white. Eggs with bloody whites are classed as Loss. Eggs with blood spots that show a slight diffusion into the white around the localized spot are not to be classified as bloody whites. (7-1-93)

151. -- 199. (RESERVED)

200. TERMS DESCRIPTIVE OF THE YOLK.

01. Outline Slightly Defined (AA Quality). A yolk outline that is indistinctly indicated and appears to blend into the surrounding white as the egg is twirled (7-1-93)

02. Outline Fairly Well Defined (A Quality). A yolk outline that is discernible but not clearly outlined as the egg is twirled. (7-1-93)

03. Outline Plainly Visible (B Quality). A yolk outline that is clearly visible as a dark shadow when the egg is twirled. (7-1-93)

04. Enlarged and Flattened (B Quality). A yolk in which the yolk membranes and tissues have weakened and moisture has been absorbed from the white to such an extent that it appears definitely enlarged and flat. (7-1-93)

05. Practically Free From Defects (AA or A Quality). A yolk that shows no germ development but may show other very slight defects on its surface. (7-1-93)

06. Serious Defects (B Quality). A yolk that shows well developed spots or areas and other serious defects, such as olive yolks, that do not render the egg inedible. (7-1-93)

07. Clearly Visible Germ Development (B Quality). A development of the germ spot on the yolk of a fertile egg that has progressed to a point where it is plainly visible as a definite circular area or spot with no blood in evidence. (7-1-93)

08. Blood Due to Germ Development. Blood caused by development of the germ in a fertile egg to the point where it is visible as definite lines or as a blood ring. Such an egg is classified as inedible. (7-1-93)

201. -- 249. (RESERVED)

250. GENERAL TERMS.

01. Loss. An egg that is inedible, cooked, frozen, contaminated, or containing bloody whites, large blood spots, large unsightly meat spots, or other foreign material. (7-1-93)

02. Inedible Eggs. Eggs of the following description are classed as inedible: black rots, yellow rots, white rots, mixed rots (addled eggs), sour eggs, eggs with green whites, eggs with stuck yolks, moldy eggs, musty eggs, eggs showing blood rings, eggs containing embryo chicks (at or beyond the blood ring state), and any eggs that are adulterated as such term is defined pursuant to the Federal Food, Drug and Cosmetic Act. (7-1-93)

03. Leaker. An individual egg that has a crack or break in the shell and shell membranes to the extent that the egg contents are exuding or free to exude through the shell. (7-1-93)

251. -- 299. (RESERVED)

300. CONSUMER GRADES FOR SHELL EGGS - GENERAL.

01. Applicability. The consumer grade designations established by this act are applicable to edible shell eggs in "lot" quantities rather than on an "individual" egg basis. these standards to the term "case" means thirty (30) dozen egg cases as used in commercial practices in the United States. (7-1-93)

02. Substitution. Substitution of higher qualities for the lower qualities specified is permitted.(7-1-93)

03. No Grade. "No Grade" means eggs of possible edible quality that fail to meet the requirements of an Idaho Consumer Grade or that have been contaminated by smoke, chemicals or other foreign material that has seriously affected the character, appearance or flavor of the eggs. (7-1-93)

301. -- 349. (RESERVED)

350. GRADE STANDARDS - TOLERANCES.

01. Grade AA (At Origin). Idaho Consumer Grade AA (at origin) consist of eggs that are at least eighty-seven percent (87%) AA quality. The maximum tolerance of thirteen percent (13%) that may be below AA quality may consist of A or B quality in any combination, except that within the tolerance of B quality not more than one percent (1%) may be B quality due to air cells over three-eighths (3/8) inch, blood spots (aggregating not more

than one-eighth (1/8) inch in diameter), or serious yolk defects. Not more than five percent (5%) (seven percent (7%) for Jumbo size) Checks are permitted and not more than five-tenths of one percent (0.5%) Leakers, Dirties or Loss (due to meat or blood spots) in any combination, except that such Loss may not exceed three-tenths of one percent (0.3%). Other types of Loss are not permitted. (7-1-93)

02. Grade AA (At Destination). Idaho Consumer Grade AA (destination) consist of eggs that are seventy-two percent (72%) AA quality. The remaining tolerance of twenty-eight percent (28%) must consist of at least ten percent (10%) A quality, and the remainder must be B quality, except that within the tolerance for B quality not more than one percent (1%) may be B quality due to air cells over three-eighths (3/8) inch, blood spots (aggregating not more than one-eighth (1/8) inch in diameter) or serious yolk defects. Not more than seven percent (7%) (nine percent (9%) for Jumbo size) Checks are permitted and not more than one percent (1%) Leakers, Dirties, or Loss (due to meat or blood spots) in any combination except that such Loss may not exceed three tenths of one percent (0.3%). Other types of Loss are not permitted. (7-1-93)

03. Grade A (At Origin). Idaho Consumer Grade A (at origin) consist of eggs that are eighty-seven percent (87%) A quality or better. Within the maximum tolerance of thirteen percent (13%) that may be below A quality, not more than one percent (1%) may be B quality due to air cells over three-eighths (3/8) inch, blood spots (aggregating not more than one-eighth (1/8) inch in diameter) or serious yolk defects. Not more that five percent (5%) (seven percent (7%) for Jumbo size) Checks are permitted and not more than five-tenths of one percent (0.5%) Leakers, Dirties or Loss (due to meat or blood spots) in any combination except that such Loss may not exceed three-tenths of one percent (0.3%). Other types of Loss are not permitted. (7-1-93)

04. Grade A (At Destination). Idaho Consumer Grade A (at destination) consist of eggs that are eighty-two percent (82%) A quality or better. Within the maximum tolerance of eighteen percent (18%) that may be below A quality, not more than one percent (1%) may be B quality due to air cells over three-eighths (3/8) inch, blood spots (aggregating not more than one-eighth (1/8) inch in diameter) or serious yolk defects. Not more than seven percent (7%) (nine percent (9%) for Jumbo size) Checks are permitted and not more than one percent (1%) Leakers, Dirties, or Loss (due to meat or blood spots) in any combination, except that such Loss may not exceed three-tenths of one percent (0.3%). Other types of Loss are not permitted. (7-1-93)

05. Grade B (At Origin). Idaho Consumer Grade B (at origin) consist of eggs that are ninety percent (90%) B quality or better, not more than ten percent (10%) may be Checks and not more than five-tenths of one percent (0.5%) Leakers, Dirties or Loss (due to meat or blood spots) except that such Loss may not exceed three-tenths of one percent (0.30%) in any combination. Other types of Loss are not permitted. (7-1-93)

06. Grade B (at Destination). Idaho Consumer Grade B (at destination) consist of eggs that are ninety percent (90%) B quality or better, not more than ten percent (10%) may be Checks and not more than one percent (1%) Leakers, Dirties, or Loss (due to meat or blood spots) in any combination, except that such Loss may not exceed three-tenths of one percent (0.3%). Other types of Loss are not permitted. (7-1-93)

351. -- 399. (RESERVED)

400. ADDITIONAL TOLERANCES -- IN LOTS OF TWO OR MORE CASES.

01. Grade AA. No individual case may exceed ten percent (10%) less AA quality eggs than the minimum permitted for the lot average. (7-1-93)

02. Grade A. No individual case may exceed ten percent (10%) less A quality eggs than the minimum permitted for the lot average. (7-1-93)

03. Grade B. No individual case may exceed ten percent (10%) less B quality eggs than the minimum permitted for the lot average. (7-1-93)

04. Single Egg Exemption. For Grades AA, A, and B, no lot may be rejected or downgraded due to the quality of a single egg except for loss other than blood or meat spots. (7-1-93)

05. Lots of Two or More Cartons. In lots of two (2) or more cartons, no individual carton may contain

less than eight (8) eggs of the specified quality and no individual carton may contain less than ten (10) eggs of the specified quality and the next lower quality. The remaining two (2) eggs may consist of a combination of qualities below the next lower quality (i.e., in lots of grade A, not more than two (2) eggs of the qualities in individual cartons within the sample may be B or checks). (7-1-93)

401. -- 449. (RESERVED)

450. SUMMARY OF IDAHO CONSUMER GRADES FOR SHELL EGGS.

01. Grades for Shell Eggs -- Table 1.

	TOLERANCE PERMITTED		
	QUALITY REQUIRED	Percent	Quality
IDAHO CONSUMER GRADE (origin)			
Grade AA	87 percent AA	Up to 13 Not over 5	A or B Checks
Grade A	87 percent A or Better	Up to 13 Not over 5	B Checks
Grade B	90 percent B or Better	Not over 10	Checks
IDAHO CONSUMER GRADE (destination)			
Grade AA	72 percent AA	Up to 28 Not over 7	A or B Checks
Grade A	82 percent A or Better	Up to 18 Not Over 7	B Checks
Grade B	90 percent B or Better	Not over 10	Checks

(5-25-93)

a. In lots of two (2) or more cases or cartons, see Table 2 of Section 450 for tolerances for an individual case or carton within a lot. (5-25-93)

b. For Idaho Consumer Grades (at origin) a tolerance of five-tenths of one percent (0.5%) Leakers, Dirties, or Loss (due to meat or blood spots) in any combination is permitted except that such Loss may not exceed three-tenths of one percent (0.3%). Other types of Loss are not permitted. (5-25-93)

c. For Idaho Consumer Grades (destination) a tolerance of one percent (1%) Leakers, Dirties, or Loss (due to meat or blood spots) in any combination is permitted, except that such Loss may not exceed three-tenths of one percent (0.3%). Other types of Loss are not permitted. (5-25-93)

d. For Idaho Consumer Grade AA at destination, at least ten percent (10%) must be A quality or better. (5-25-93)

e. For Idaho Consumer grade AA and A at origin and destination within the tolerances permitted for B quality, not more than one percent (1%) may be B quality due to air cells over three-eighths (3/8) inch, blood spots (aggregating not more than one-eighth (1/8) inch in diameter) or serious yolk defects. (5-25-93)

f. For Idaho Consumer Grades AA and A Jumbo size eggs, the tolerance for checks at origin and destination is seven percent (7%) and nine percent (9%) respectively. (5-25-93)

02. Tolerance for Individual Case or Carton Within a Lot -- Table 2.

Idaho Consumer Grade	Case Minimum Quality	Origin Percent	Destination Percent	Carton Minimum Quality, No. of Eggs (Origin & Destination)
Grade AA	AA (Min)	77	62	8 eggs AA
	A or B	13	28	2 eggs A
	Check (Max)	10	10	2 eggs B, or Check
Grade A	A (Min)	77	72	8 eggs A
	B	13	18	2 eggs B
	Check (Max)	10	10	2 eggs Check
Grade B	B (Min)	80	80	10 eggs B
	Check	20	20	2 eggs Check

(5-25-93)

03. Summary of Standards for Quality of Individual Shell Eggs. The Specifications for Each Quality Factor:

Quality Factor	AA Quality	A Quality	B Quality
Shell	Clean	Clean	Clean to Slightly Stained
	Unbroken Practically Normal	Unbroken Practically Normal	Unbroken Abnormal
Air Cell	1/8" or less in Depth. Unlimited movement and free or bubbly	3/16" or less in Depth. Unlimited movement and free and bubbly	Over 3/16" in Depth. Unlimited movement and free or bubbly
White	Clear Firm	Clear Reasonably Firm	Weak and Watery. Small Blood and Meat spots present
Yolk	Outline slightly defined. Practically free from defects	Outline fairly well defined. Practically free from defects.	Outline plainly visible. Enlarged and flattened. Clearly visible germ development but no blood. Other serious defects

(5-25-93)

a. Moderately stained areas permitted (one thirty-second (1/32) of surface if localized or one-sixteenth (1/16) if scattered). (7-1-93)

b. Blood and meat spots are allowed if they are small (aggregating not more than one-eighth (1/8) inch in diameter). (5-25-93)

04. Quality of Dirty or Broken Shell Eggs -- Table 5. For eggs with dirty or broken shells, the standards of quality provide three additional qualities. These are:

Dirty	Check	Leaker
Unbroken Adhering dirt or foreign material, moderate stained areas in excess of B quality	Broken or cracked shell but membranes intact, not leaking	Broken or cracked shell and membranes and contents leaking or free to leak

(5-25-93)

05. Weight Classes. The weight class for Idaho Consumer Grades for shell eggs is as indicated in the following table:

Size Or Weight Class	Minimum Net Weight Per Dozen	Minimum Net Weight Per 30 Dozen (Pounds)	Minimum Weight For Individual Eggs At Rate Per Dozen (Ounces)
Jumbo	30	56	29
Extra Large	27	50.5	26
Large	24	45	23
Medium	21	39.5	20
Small	18	34	17
Peewee	15	28	--

(5-25-93)

06. Lot Average Tolerance. A lot average tolerance of three and three-tenths percent (3.3%) for individual eggs in the next lower weight class is permitted as long as no individual case within the lot exceeds five percent (5%).

(7-1-93)

451. -- 499. (RESERVED)

500. EGG PRODUCTS AND BREAKING OPERATIONS.

Anyone engaged in a breaking operation for the production of egg products may obtain a copy of the Federal "Regulations Governing Voluntary Inspection of Egg Products and Grading" (7 CFR Part 55) from the United States Department of Agriculture, AMS, Poultry Division, Washington, DC 20250, Revised May 1, 1991. This is a federally mandated program. The Department of Agriculture has entered into a cooperative agreement with the United States Department of Agriculture (USDA) to provide constant monitoring of these operations. Egg product plants in Idaho are monitored with state staff implementing federal regulations as contained in (7 CFR Part 55) including but not limited to: breaking, pasteurization, packaging, labeling, storage and plant sanitation. Copies of these federal regulations are on file at the Idaho Department of Agriculture located at 2270 Old Penitentiary Road, Boise, Idaho 83712, and through the Department of Administration, Office of the Rules Coordinator, located at 650 W. State Street, Boise, Idaho 83720.

(7-1-93)

501. -- 549. (RESERVED)

550. SANITATION AND STORAGE.

01. Grading Room. Animals, pets, livestock, etc., are not allowed in the grading and packing rooms, or any areas where eggs, cases, flats, and cartons are stored.

(7-1-93)

02. Wash Water. Wash water must be clean, potable and free of foreign material. Water must be changed as often as necessary so as to comply.

(5-25-93)

- 03. Wash Water Temperature.** The minimum temperature of the wash water must be ninety (90) degrees F or higher, and must be at least twenty (20) degrees F warmer than the temperature of the eggs to be washed. These temperatures must be maintained through the cleaning cycle. (5-25-93)
- 04. Pre-Wetting or Soaking.** Pre-wetting or soaking of stained eggs may not exceed five (5) minutes. Water temperature must meet requirements of Subsection 550.03. (5-25-93)
- 05. Rest Period.** During any rest period, eggs must be removed from the washing and rinsing area of the egg washer and from the scanning area whenever there is a buildup of heat. (5-25-93)
- 06. Washing and Rinsing Compound.** Where washing and rinsing compounds are used, they must be approved by the United States Department of Agriculture or the State Department of Agriculture. (5-25-93)
- 07. Grading and Packing Rooms.** Grading and packing rooms must be kept reasonably clean during grading and packing operations and must be thoroughly cleaned at the end of each operating day. (5-25-93)
- 08. Weighing and Grading Equipment.** Weighing and grading equipment, whether manual or automatic, must be kept clean and be capable of ready adjustment. (5-22-93)
- 09. Adequate Lavatory and Toilet Accommodations Must Be Provided.** Toilet and locker rooms must be maintained in a clean and sanitary condition. Hot and cold running water must be provided. Signs must be posted in the rest rooms instructing employees to wash their hands before returning to work. (7-1-93)
- 10. Trash.** Trash accumulations must be removed from the grading room after each day of operation and removed from the premises on a regular basis. (5-25-93)
- 11. Thermometers.** Accurate thermometers must be provided in egg coolers. (5-25-93)
- 12. Sanitary Conditions.** Cooler rooms must be free from objectionable odors and from mold, and must be maintained in a sanitary condition. (5-25-93)
- 13. Egg Handling and Transport.** (5-25-93)
- a.** All eggs handled, stored or offered for sale by egg distributors, egg dealers and retailers must be held under refrigeration at a temperature of forty-five (45) degrees F or below. (5-25-93)
- b.** Eggs must be transported from one facility to another facility in vehicles that are refrigerated or capable of maintaining the ambient temperature of the eggs at forty-five (45) degrees F or below. Such vehicles must be clean and sanitary. (5-25-93)
- 14. Distributors or Dealers.** All sales areas where eggs are offered for sale by egg distributors or dealers must be maintained in a clean and sanitary condition. (5-25-93)
- 15. Case and Carton Storage.** Egg case and carton storage must be clean and dry, free from poultry house dust or any odorous material that could be absorbed by cases or cartons. (5-25-93)
- 16. Pesticides, Insecticides and Rodenticides.** Pesticides, insecticides and rodenticides must be handled in accordance with the manufacturers' instructions. Storage of these products must be away from the egg grading and packing area. These products must not be allowed to come in contact with the shell eggs being processed, stored, or with egg cases and cartons. (5-25-93)
- 17. Clean Clothing.** Personnel handling, packing and grading eggs must wear clean clothing. (5-25-93)
- 18. Cases and Packing Materials.** Egg cases and packing materials must be clean, free of mold, mustiness and any odors. (5-25-93)

551. -- 599. (RESERVED)

600. EGG SEALS, TAX AND CARTONS.

- 01. Cartons.** Each egg carton must display the following: (7-1-93)
- a.** An official egg seal one and one-fourth (1 1/4") inches in diameter, black in color with white printing, containing the statement: "State of Idaho, Department of Agriculture - One Dozen Graded Eggs." These official gummed egg seals are available only through the Department of Agriculture and are sold at the assessment rate established in this Act; or (7-1-93)
 - b.** A legible facsimile egg seal, as defined in Subsection 600.02 of these rules. (In lieu of the official or facsimile egg seal application for exemption from use of seals may be made to the Director under the provisions of Subsection 600.07 of these rules.) (7-1-93)
 - c.** Grade of the eggs contained in the carton. (7-1-93)
 - d.** Size of the eggs contained in the carton. (7-1-93)
 - e.** The name and address of the distributor, together with any desired business or corporation name. (e.g. John Doe, Boise, Idaho; or Produced for, Packed for, Distributed for X-Y-Z Stores, by John Doe, Boise, Idaho.) (7-1-93)
 - f.** The statement "Keep Refrigerated" or with a statement of similar meaning. (7-1-93)
 - g.** The items set forth in Subsections 600.01.a. or 600.01.b., and 600.01.c. and 600.01.d. must be contained on the top panel; items set forth in Subsections 600.01.e. and 600.01.f. may be contained anywhere on the lid portion of each egg carton to be used by any dealer or distributor. The items must be clearly and legibly displayed in contrast to the color of the carton and surrounding colors so that they can be easily distinguished and read. Other coloring or printing that may appear on the top panel of each egg carton must not dominate the above listed items. No printed matter or design must separate or interfere with the clear legibility of the necessary items. (7-1-93)
- 02. Facsimile Idaho Egg Seal.** The Idaho facsimile egg seal must be one and one-fourth (1 1/4") inches in diameter, contain the wording "State of Idaho Department of Agriculture - One Dozen Graded Eggs." If there is to be any deviation in wording or size, written permission must be obtained from the Director of the Department of Agriculture prior to use of any such deviating seal. The color does not have to be black. The color of the facsimile Idaho Egg Seal must be in contrast to the color of the egg carton so that it can be easily distinguishable and read in either a good or a poor light and must not be smeared or smothered out or predominated over by other printing or coloring that may appear on the top panel of the carton. (7-1-93)
- 03. Distributor.** Distributor means the person whose name and address appear on the lid portion of the carton assuming responsibility for the size and grade of such eggs as any carton may be so labeled. (7-1-93)
- 04. Top Panel.** That portion of the egg carton that is the horizontal plane forming the top of the lid of the carton. (7-1-93)
- 05. Proofs.** Proofs of all cartons desired to be used may be submitted to the Director of Agriculture for approval prior to their use. (7-1-93)
- 06. Imprinting.** Procedure for the imprinting of the facsimile Idaho Egg Seal on cartons of eggs: (7-1-93)
- a.** Instructions for dealer or distributor: (7-1-93)
 - i.** A person grading, candling or packing eggs for retail in Idaho must request authorization from the State Department of Agriculture, Boise, Idaho, prior to the printing of the facsimile Idaho Egg Seal on the egg cartons. (7-1-93)

ii. The request must be accompanied by payment of four (4) mills per facsimile Idaho Egg Seal along with the name and address of the printer or supplier. (7-1-93)

iii. It is unlawful to cause to be printed or to receive cartons printed with the facsimile Idaho Egg Seal other than as requested and paid for by the authorization request and/or allowed under the authorization permit. Section 37-1526, Idaho Code, provides a penalty for such act. (7-1-93)

iv. There will be no refund of tax if the printer or supplier delivers short of the amount of the authorizing permit. (7-1-93)

b. Instructions for Printer or Supplier: (7-1-93)

i. The printer or supplier must be registered with the Idaho State Department of Agriculture. (7-1-93)

ii. To register, the printer or supplier must post a one thousand dollar (\$1,000) surety bond to the effect that only that amount of facsimile Idaho Egg Seals will be delivered for which the authorization permit has been granted. If overage is printed, then an additional authorization permit for the overage must be secured and the tax paid before the overage can be delivered. (7-1-93)

iii. A copy of the printer's or supplier's delivery invoice must be submitted to the State Department of Agriculture immediately upon completion and delivery of the order. (7-1-93)

iv. It is unlawful for a printer or supplier to reproduce a facsimile Idaho Egg Seal without authorization of the Idaho State Department of Agriculture. Section 37-1526, Idaho Code, provides a penalty for such act. (7-1-93)

07. Assessments in Lieu of Egg Seals. Applications for exemption of egg seals must be made to the Director of Agriculture. This application will require the following information and facts. Upon application and approval by the Director, the Assessment at the rate of four (4) mills or four-tenths (4/10) of a cent per dozen must be paid on a monthly basis in lieu of egg seals. Such assessment is applicable to all eggs entering intrastate commerce. (7-1-93)

a. Application must be made by person or firm that is billing or invoicing eggs sold within the state. (7-1-93)

b. Applicant must hold a current shell egg distributor license. (7-1-93)

c. Applicant must show a sound and accurate accounting procedure from which to prepare monthly reports. Accounting procedure subject to approval by the Director of Agriculture. (7-1-93)

d. Reports must be made on a monthly basis on or before the twenty-fifth (25th) day following the month such eggs enter intrastate commerce. (7-1-93)

e. Applicant who pays assessments in lieu of egg seals are subject to audit by the Director or person appointed by him on an annual basis or more frequently, if in the opinion of the Director, such audit is necessary. (7-1-93)

08. Divided Cartons Design. Egg cartons designed to permit the division of such carton by the retail customer into two (2) portions of one-half (1/2) dozen eggs are permissible if the carton, when undivided, conforms to law and these rules. (7-1-93)

09. Reporting Form. A reporting form will be made available to each dealer or distributor that must be completed by them accounting for all eggs entering intrastate commerce and mailed to the Idaho State Department of Agriculture by the twenty-fifth (25th) day following the month such eggs entered intrastate commerce. (7-1-93)

a. The reporting form must be signed by the owner, manager or authorized person of the business or corporation, stating the report is correct and accurate. (7-1-93)

b. A check or money order covering the quantity of eggs sold in Idaho, reported at the rate of four (4) mills per dozen must accompany the report. (7-1-93)

c. All records and invoices must be maintained for two (2) years and made available to authorized representatives of the Director of Agriculture for the purpose of auditing and to determine the correctness of monthly report forms as set forth in Section 37-1525, Idaho Code. (7-1-93)

601. -- 999. (RESERVED)

**IDAPA 02
TITLE 02
CHAPTER 12**

02.02.12 – BONDED WAREHOUSE RULES

000. LEGAL AUTHORITY.

This chapter is adopted under the legal authority of Section 69-231, Idaho Code. (5-3-03)

001. TITLE AND SCOPE.

01. Title. The title of this chapter is IDAPA 02.02.12, “Bonded Warehouse Rules.” (5-3-03)

02. Scope. These rules clarify the procedure for licensing, collection and remittance of assessment, determining claim value, maintaining electronic records use of electronic scales and remedies of the Department for non-compliance. (5-3-03)

002. WRITTEN INTERPRETATIONS.

There are no written interpretations of these rules. (5-3-03)

003. ADMINISTRATIVE APPEALS.

There is no provision for administrative appeals before the Idaho State Department of Agriculture under this chapter. Hearing and appeal rights are pursuant to Title 67, Chapter 52, Idaho Code. (5-3-03)

004. INCORPORATION BY REFERENCE.

No documents are incorporated by reference in this chapter. (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/>. (5-3-03)

006. PUBLIC RECORDS ACT COMPLIANCE.

These rules are public records and are available for inspection and copying at the Department. (5-3-03)

007. -- 009. (RESERVED)

010. DEFINITIONS.

The Idaho State Department of Agriculture adopts the definitions set forth in Section 69-202, Idaho Code. In addition, the following definitions apply to Sections 480 through 486. (5-3-03)

01. Cash Sale. Payment to the producer by the warehouse or dealer contemporaneously with the transfer of commodity to the warehouse or dealer. (3-15-02)

02. Commodity Indemnity Fund. Commodity Indemnity Fund is a trust fund. (3-16-04)

03. Credit-Sale Contract. An agreement in writing containing the provisions of Section 69-249, Idaho Code, and where the producer transfers a specific quantity of commodity to a warehouse or dealer with a price or payment to the producer by the warehouse or dealer to be made at a later date or on the occurrence of a specific event expressed in the agreement. (3-15-02)

04. Dealer. Is limited to dealers licensed by the state of Idaho. (3-15-02)

05. Deposit for Service. Deposit of a commodity by a person for cleaning, processing, reconditioning or the rendering of other similar services by a warehouse, but does not include either a cash sale, credit-sale, or open storage. (3-15-02)

06. NPE. (No price established contract) A contract containing no readily calculable sale value of the commodity for the producer. (3-16-04)

07. Open Storage. The deposit of commodity by the producer for a period of time with the subsequent disposition of the same commodity or a fungible commodity as agreed to by the parties. (3-15-02)

08. Seed Crops. Means any seed crop regulated by Title 22, Chapter 4, Idaho Code. (3-16-04)

09. Warehouse. Is limited to warehouses licensed by the state of Idaho. (3-15-02)

011. ABBREVIATIONS.

01. CIF. Commodity Indemnity Fund. (3-16-04)

02. NPE. No price established contract. (3-16-04)

03. SIF. Seed Indemnity Fund. (3-16-04)

012. LICENSING.

01. Posting of License. Immediately upon receipt of the license or any renewal, extension or modification thereof under Title 69, Chapter 2, Idaho Code, the licensed warehouseman shall post the license in a conspicuous place in each place of business or in any other place as the Director may determine. The Department will issue a duplicate license for each additional facility as needed. (5-3-03)

02. Return of Suspended or Terminated License. If a license issued to a warehouseman has lapsed or is suspended, revoked or canceled by the Director, the license shall be returned to the Department. At the expiration of any period of suspension, revocation or cancellation the license shall be returned to the warehouseman to whom it was originally issued and be posted as prescribed these rules. (5-3-03)

03. Suspension Due to Neglect. If, through subsequent inspection of stock in a licensed warehouse or place of business or through other information, it is revealed or indicated that the commodities in storage are deteriorating due to the warehouseman's or operator's neglect, the license may be suspended until the matter has been corrected to the satisfaction of the Director. (9-1-92)

04. Loss of License. Upon satisfactory proof of the loss or destruction of a license issued to a warehouseman, a duplicate may be issued under the same number or a new number at the discretion of the Director. (9-1-92)

05. Sign to Be Posted. Each licensed warehouseman shall maintain suitable signs on the licensed property in such manner as will give ample public notice of his tenancy. These signs shall be painted on the warehouse or elevator in letters not less than six (6) inches in height and contain the following words: "State No. ____." The number of each warehouse will be assigned by the Director. (9-1-92)

06. Bins Labeled. All storage areas licensed for the storage of agricultural commodities shall be numbered and a diagram of the storage areas shall be kept in the office. This diagram shall show the exact dimensions and the maximum capacity of the storage area. All licensed warehouses shall comply with all state laws and regulations regarding the storage and sale of seed. (9-1-92)

07. Insurance Calculations. The director may approve a request to reduce the insurance calculation for a facility provided: (3-16-04)

a. The request is in writing; and (3-16-04)

b. Evidence is supplied that all agricultural commodities that are stored at any given point in time are insured pursuant to Title 69, Chapter 2, Idaho Code. (3-16-04)

013. -- 049. (RESERVED)

050. RECEIPTING.

01. Every Warehouseman. Every warehouseman shall issue a negotiable warehouse receipt when requested to do so by the depositor. All storage and handling charges are due and payable on or before July 1 following the date of the issuance of the receipt, or as agreed upon by the parties. (9-1-92)

02. Form of Nonnegotiable Warehouse Receipts. Nonnegotiable warehouse receipts that contain the essential terms for warehouse receipts as set forth in Section 28-7-202, Idaho Code, and Section 69-223, Idaho Code, shall be deemed sufficient for all purposes. Copies of all nonnegotiable warehouse receipts shall be kept as permanent records by the warehouseman issuing them. (9-1-92)

03. Lost Negotiable Warehouse Receipt. In order to issue a new warehouse receipt supplementing one that has been lost or destroyed or to cancel an outstanding warehouse receipt that has been lost or destroyed, the licensed warehouseman shall require the depositor or other applicant to submit to the warehouseman: (9-1-92)

a. An affidavit showing that he is lawfully entitled to the possession of the original receipt, that he has not negotiated or assigned it and how the original receipt was lost or destroyed; and (9-1-92)

b. A bond in the amount double the market value of the agricultural commodity represented by the lost or destroyed receipt. The market value shall be determined at the time this bond is submitted for the lost receipt. Such warehouse receipts issued in lieu of lost or destroyed receipts shall duplicate the original and bear a statement that it is issued in lieu of the lost or destroyed receipt. A duplicate warehouse receipt shall clearly state that it is a duplicate receipt, the number of the receipt the duplicate is replacing, and the license number under which the original receipt was issued. (9-1-92)

051. -- 079. (RESERVED)

080. FORWARDING AGRICULTURAL COMMODITIES.

Warehouses licensed under Title 69, Chapter 2, Idaho Code, receiving agricultural commodities for shipment to terminals or to other warehouses for storage or processing within the state or outside the state shall have in their possession a statement authorizing the shipment of agricultural commodities to another location for storage or processing. This statement shall be signed by the owner or producer of the agricultural commodity. The receiving warehouse shall be a state or federally licensed and bonded warehouse or have a Commodity Credit Corporation storage agreement. When requested to do so by an Idaho Warehouse Examiner, the shipping warehouse shall promptly procure from the terminal or storage warehouse a statement or negotiable warehouse receipt describing the quantity, class and grade of all agricultural commodities so shipped and in storage. Such statement shall be on a form approved by the Director of the Department of Agriculture. The shipping warehouse shall have such forms promptly forwarded and returned to the Idaho Department of Agriculture, Bureau of Warehouse Control, within fifteen (15) days of issuance. (9-1-92)

081. -- 099. (RESERVED)

100. OFFICE RECORDS.

A warehouseman shall maintain complete and sufficient records to show all deposits, purchases, sales contracts, storage obligations and loadouts of the warehouse in this state. Office records as set forth in Title 69, Chapter 2, Idaho Code, include, but not limited to, the following: (5-3-03)

01. Daily Position Record. This shall show the total quantity of each kind and class of agricultural commodity received and loaded out, the amount remaining in storage at the close of each business day, and the warehouseman's total storage obligation for each kind and class of agricultural commodity at the close of each business day. (9-1-92)

02. Storage Ledger. This shall show the name and address of the depositor, the date purchased, the terms of the sale, and the quality and quantity of the agricultural commodity purchased by the warehouseman. When applicable, the storage ledger shall also show the tare, grade, size, net weight, and unsold amount of agricultural

commodities. (9-1-92)

03. Scale Weight Tickets. Scale weight tickets, except tickets for electronic scales that are recorded and maintained electronically, shall be pre-numbered and one (1) copy of each ticket shall be maintained in numerical order. All scale weight tickets shall show the time when the commodities were delivered, the quantities delivered, who delivered the commodities, the ownership of the commodities, and the condition of the commodities upon delivery. (3-16-04)

04. Receipts and Tickets. Receipts and tickets in the warehouseman's possession that have not been issued. (5-3-03)

05. Receipts and Tickets Issued by the Warehouseman. Receipts and tickets issued by the warehouseman. (5-3-03)

06. Receipts and Tickets Returned and Cancelled. Receipts and tickets returned to and cancelled by the warehouseman. (5-3-03)

07. Insurance Documentation. (9-1-92)

08. Electronic Records. If any electronic records are maintained outside of the state of Idaho, the Department must be allowed to examine them at any reasonable time and place as determined by the Department. (5-3-03)

101. -- 129. (RESERVED)

130. LICENSE APPLICATION AND CONDITIONS OF ISSUANCE.

01. License Application. Application for a license to operate a warehouse under the provisions of Title 69, Chapter 2, Idaho Code, shall be on a form prescribed by the Department and include: (9-1-92)

a. The full name of the person applying for the license and whether the applicant is an individual, partnership, association, corporation or other entity. (9-1-92)

b. The full name of each member of the firm or partnership, or the names of the officers and directors of the company or limited liability company, association, or corporation. (5-3-03)

c. The address of the principal place of business. (5-3-03)

d. Information relating to any judgments against the applicants. (9-1-92)

e. The location of each warehouse the applicant intends to operate and the commodities expected to be stored. (9-1-92)

f. Any other reasonable information the Department finds necessary to carry out the purpose and provisions of Title 69, Chapter 2, Idaho Code. (9-1-92)

02. License, Conditions of Issuance. An application for license under Title 69, Chapter 2, Idaho Code, shall include: (9-1-92)

a. Application on a form prescribed by the Director. (9-1-92)

b. A current financial statement as specified by Section 69-206, Idaho Code. (9-1-92)

c. A sketch or drawing as specified in Section 69-206, Idaho Code. (9-1-92)

d. A bond as required by Section 69-208, Idaho Code. (9-1-92)

- e. Proof of insurance as required by Section 69-206, Idaho Code. (9-1-92)
- f. The license fee as prescribed by Section 69-211, Idaho Code. (9-1-92)
- g. Compliance with all rules adopted pursuant to Title 69, Chapter 2, Idaho Code. (5-3-03)
- h. Any other reasonable information the Department finds necessary to carry out the purpose and provisions of Title 69, Chapter 2, Idaho Code. (9-1-92)

03. Modification. If a licensee wishes to add additional capacity to an existing license, the Director may modify the license if all requirements of Section 69-206, Idaho Code, are met. (9-1-92)

131. AMOUNT OF BOND, IRREVOCABLE LETTER OF CREDIT, CERTIFICATE OF DEPOSIT, OR SINGLE BOND.

01. Bonding Requirement. The amount of bond to be furnished shall be fixed at a rate pursuant to Section 69-208A, Idaho Code. (3-16-04)

02. Single Bond, Irrevocable Letter of Credit or Certificate of Deposit. For the purposes of licensing as a warehouseman pursuant to Title 69, Chapter 2, Idaho Code and a seed buyer pursuant to Title 22, Chapter 51, Idaho Code a single bond, irrevocable letter of credit or certificate of deposit shall be fixed at whichever of the following amounts is greater: (3-16-04)

a. Combined total indebtedness paid and owed to producers for agricultural commodity and seed crop, without any deductions, for the previous license year; or (3-16-04)

b. The indebtedness owed and estimated to be owed to producers for agricultural commodity and seed crop, without any deductions, for the current license year. (3-16-04)

132. -- 149. (RESERVED)

150. WAREHOUSES TO BE KEPT CLEAN.

Each warehouseman shall be required to use such precautions and surveillance as is necessary to provide for the safe and adequate storage of all commodities stored in his warehouse and to prevent these commodities from being contaminated in any way from chemicals, pesticides, fertilizers, adulterated seeds, animals, birds or any such thing as may contaminate or reduce the quality of stored goods. (9-1-92)

151. -- 179. (RESERVED)

180. WAREHOUSEMAN RESPONSIBILITIES.

01. Warehouse Receipts -- Quality. A warehouseman licensed under Title 69, Chapter 2, Idaho Code, shall maintain in the facility of issuance of any negotiable warehouse receipt, for as long as the receipt is outstanding and has not been canceled, like variety, quantity, and quality of the agricultural commodity stated on the receipt. No warehouseman shall remove, deliver, direct or permit any person to remove or deliver any agricultural commodity from any warehouse for which warehouse receipts have been issued and are outstanding, without receiving and canceling the warehouse receipt that was issued for the commodity, except if the Director determines an emergency storage situation exists. A warehouseman may then forward agricultural commodities to other licensed warehouses for storage without canceling the outstanding warehouse receipt, provided the following conditions are met: (9-1-92)

a. The warehouseman obtains written approval from the Department prior to forwarding agricultural commodities. (9-1-92)

b. The warehouseman shall provide written guidelines to the Department establishing how he will be back in position within the time limits set and granted by the Department. (9-1-92)

c. The warehouseman shall maintain and make available to the Department records of positions

concerning the forwarding of agricultural commodities. (9-1-92)

d. The receiving warehouse shall be a state or federally licensed and bonded warehouse or have a Commodity Credit Corporation storage agreement. (9-1-92)

e. The shipping warehouse shall have in their possession a statement signed by the bearer of the warehouse receipt authorizing the shipment of agricultural commodities represented by such receipt to another location for storage. (9-1-92)

f. When requested to do so by the Department, the shipping warehouseman shall promptly procure from the receiving warehouseman a statement describing the quantity, class and grade of all agricultural commodities so shipped and in storage. Such statement shall be on a form approved by the Director. The shipping warehouseman shall have such forms promptly forwarded to the receiving warehouseman for verification of quantity, class and grade of agricultural commodities forwarded. This verification shall be returned to the Department within fifteen (15) days of issuance. Failure to provide this statement to the Department in the above specified time, will result in a short position for the warehouseman with penalties as prescribed by law. (9-1-92)

02. Rights and Duties of Licensees -- Unlawful Practices. It shall be unlawful for a warehouseman to: (9-1-92)

a. Issue a warehouse receipt in excess of the amount of the agricultural commodity held in the licensee's warehouse to cover such receipt. (9-1-92)

b. Sell, encumber, ship, transfer, remove or permit to be sold encumbered, shipped, transferred or removed from a warehouse any agricultural commodity received by him for deposit, shipment or handling for which scale weight tickets have been issued without the written approval of the holder of the scale weight ticket and such transfer shall be shown on the individual depositor's account and the inventory records of the warehouseman. (9-1-92)

c. Remove or permit any person to remove any agricultural commodity from a warehouse when the amount of any fairly representative grade or class of an agricultural commodity in the warehouses of such licensee is reduced below the amount for which a warehouse receipt or scale weight ticket for the particular agricultural commodity is outstanding, except as provided for in Section 69-223(2), Idaho Code, and Rule 180.01. (9-1-92)

d. Issue a warehouse receipt or scale weight ticket that exceeds the amount of agricultural commodities delivered for storage. (9-1-92)

e. Issue a warehouse receipt showing a grade or description different from the grade or description of the agricultural commodities delivered and for which such warehouse receipt is issued. (9-1-92)

f. Fail to deliver agricultural commodities as required by Section 28-7-402, Idaho Code. (9-1-92)

g. Knowingly accept for storage any agricultural commodity destined for human consumption that has been contaminated, if such agricultural commodities are commingled with any uncontaminated agricultural commodity. (9-1-92)

h. Terminate storage of an agricultural commodity in the warehouse without giving reasonable notice to the depositor as provided in Section 28-7-206, Idaho Code. (9-1-92)

i. Alter, falsify, or withhold records from the warehouse examiner. (9-1-92)

181. -- 199. (RESERVED)

200. INSURANCE SETTLEMENT.

When the commodities within a licensed warehouse have been damaged or destroyed, the warehouseman shall make complete settlement to all depositors having agricultural commodities stored in the warehouse within ten (10) days after a settlement with the insurance company. Failure of the warehouseman to make such settlement shall be grounds

for revocation of the license. However, such settlement need not be made within the ten (10) days period if the warehouseman and the depositor agree to other terms. In the case of commingled agricultural commodities where only a portion is damaged, settlement may be made on a pro rata basis to the owners of all agricultural commodities stored within the warehouse. (9-1-92)

201. -- 229. (RESERVED)

230. AGRICULTURAL COMMODITIES -- WAREHOUSE OBLIGATIONS.

Any agricultural commodity deposited for storage that is not sold by contract or otherwise, as shown by documentation, is open storage and shall be considered a warehouse obligation. (9-1-92)

231. -- 279. (RESERVED)

280. RECORDS -- SEPARATE.

All records and accounts required under Title 69, Chapter 2, Idaho Code, shall be kept separate and distinct from all records and accounts of any other business and are subject to inspection by the Director between the hours of 8 a.m. and 5 p.m., Monday through Friday, except holidays. (9-1-92)

281. -- 299. (RESERVED)

300. FINANCIAL STATEMENTS.

In order to obtain a bonded warehouse license, the applicant shall submit a current financial statement. The statement shall have been prepared not more than ninety (90) days prior to the date of application and conform to the applicable requirements of Title 69, Chapter 2, Idaho Code, as to annual financial statements. (9-1-92)

01. Statement Compliance. Each licensed warehouseman shall submit to the Department an annual financial statement that shall have been audited or reviewed by an independent certified public accountant or independent licensed public accountant. The statement shall be submitted to the Department no later than ninety (90) days after the end of the warehouseman's fiscal year. The warehouse license may be suspended or revoked for failure to comply with licensing requirements stated in Bonded Warehouse Rule Section 300 and Section(s) 69-206(6) and (7), Idaho Code. (5-3-03)

a. The Department may grant an extension of no more than sixty (60) days, provided cause of an exceptional nature is provided, in writing, to the Department. (5-3-03)

b. The request must be made by a certified public accountant or a licensed public accountant. (5-3-03)

c. The request is made prior to the date the financial statement is due. (5-3-03)

d. The director may make exceptions to the financial statement requirements provided sufficient cause is provided and to do so would be in the best interest of the State. (5-3-03)

02. Statement Content. The statement shall include: (9-1-92)

a. A balance sheet. (9-1-92)

b. An income statement that includes annual gross sales of commodities purchased from producers covered under the act. (9-1-92)

c. A statement of cash flows. (9-1-92)

d. All accompanying notes to the financial statement. (9-1-92)

301. -- 329. (RESERVED)

330. AMENDING TARIFF.

Tariffs may be amended by the licensed warehouseman by filing a new tariff with the Department. The previous tariff shall continue to apply on all commodities received prior to the effective date of the amended tariff until the anniversary date of deposit. The amended tariff will apply to any commodities received after the effective date of the amendment and on any commodities stored under the previous tariff commencing on the anniversary date of the storage period. (5-3-03)

331. -- 379. (RESERVED)

380. LICENSE -- DURATION.

Licenses issued under the provisions of Title 69, Chapter 2, Idaho Code, expire on the 30th day of April of each year. (9-1-92)

381. -- 399. (RESERVED)

400. INSURANCE DEDUCTIBLE.

The maximum deductible allowed for insurance required by Section 69-206(1), Idaho Code, shall be five thousand dollars (\$5,000). However, a larger deductible may be allowed at the discretion of the Director. (9-1-92)

401. -- 429. (RESERVED)

430. ADDITIONAL BONDING REQUIREMENTS.

If it appears the licensee does not have the ability to pay producers for commodities purchased, or when it appears the licensee does not have a sufficient net worth to outstanding financial obligations ratio, the Department may require the licensee to post a bond or other additional acceptable security in the amount of two thousand dollars (\$2,000) for each one thousand dollars (\$1,000) or fraction thereof of deficiency. (5-3-03)

431. -- 479. (RESERVED)

480. COMMODITY INDEMNITY FUND.

The Commodity Indemnity Fund shall apply to entities governed by Chapter 2, Title 69, Idaho Code, and Chapter 5, title 69, Idaho Code, warehouses and dealers, respectively, unless otherwise specified. (3-16-04)

01. Rate of Assessment. The rate of assessment shall be two-tenths of one percent (.2%) of the total value at the time of sale of the commodities pursuant to Section 69-257(2), Idaho Code. The maximum rate of assessment shall not exceed two-tenths of one percent (.2%) of the total gross dollar amount, without deductions, due the producer. The Director may establish a lower rate of assessment whenever he deems it advisable or as recommended by the advisory committee established by Section 69-261, Idaho Code. (5-3-03)

a. The rate of assessment on commodity withdrawn by its producer from open storage shall be one cent (\$.01) per hundredweight (CWT) of commodity at the time of withdrawal. (3-15-02)

b. If the amount of the assessment for a producer on all deposits made in a calendar year is calculated to be less than fifty cents (\$.50), no assessment will be collected. If deposits exceed the fifty cent (\$.50) limit, all assessments will be collected. (3-15-02)

02. Exemptions to Assessments. Producers are not eligible to participate in CIF and no assessments shall be collected in the following cases. (5-3-03)

a. If a producer has a financial or management interest in a licensed warehouse or licensed commodity dealer, except members of a cooperative marketing association qualified under Title 22, Chapter 26, Idaho Code. (5-3-03)

b. If a producer sells to another producer, none of which are a licensed warehouseman or a licensed commodity dealer. (5-3-03)

c. If a producer deposits or delivers commodity to an unlicensed entity pursuant to Title 69, Chapters 2 or 5, Idaho Code. (5-3-03)

d. Non-producers or producers delivering commodity that was grown on land not situated within the borders of the state of Idaho are exempt from paying assessments. (5-3-03)

481. (RESERVED)

482. HOW ASSESSMENTS ARE TO BE CALCULATED.

Assessments shall be collected by all warehouses from all producers who deposit commodities for storage or sale. Assessments are calculated as follows: (3-15-02)

01. Cash Sale or Credit Sale Contract. In a cash sale or credit sale contract on the contract price of the commodity at the time of sale. (3-15-02)

02. Open Storage or Deposit for Service. When commodity is withdrawn from storage by the producer, the assessment will be one cent (\$.01) per hundred weight (CWT) at the time of withdrawal. (5-3-03)

03. Unpaid Assessments. If any assessment is unpaid and a failure occurs, the amount of the unpaid assessment will be deducted from any CIF recovery paid to the producer. (3-15-02)

04. Incidental Costs and Expenses. All incidental costs and expenses including, but not limited to transportation, cleaning, in and out charges, insurance, taxes or additional services or charges are not included in the calculation to determine the assessment. (3-15-02)

483. RECORDKEEPING AND PAYMENT SCHEDULE.

01. Permanent Record. Each warehouse and dealer shall maintain a permanent record showing producer's name and address, lot or identification number, date assessment collected, amount of assessment, commodity assessed, quantity of commodity, gross dollars of settlement and check number issued to producer. (3-15-02)

02. Payment Due Dates. On or before the twentieth day of the month following the close of the quarter, on a form prescribed by the Department, the assessments imposed by Chapters 2 and 5 of Title 69, Idaho Code, collected by warehouses and dealers, are due and payable to the Department. A quarter (1/4) will consist of three (3) months beginning on the first day of January, April, July, and October. If assessment is paid by mail the payment must be postmarked not later than the twentieth day of the month following the close of the quarter to avoid interest and penalty charges. (3-16-04)

03. Notice. The notice and rate of assessment or a copy of the official notice of suspension of assessment shall be posted in a conspicuous place in the warehouse or dealer facility. (3-15-02)

484. TRUST FUNDS.

All assessments collected by warehouses and dealers in compliance with Chapters 2 and 5, Title 69, Idaho Code, shall, immediately upon payment to and collection by the warehouse or dealer, be trust fund money and held for payment to the Department for the CIF. Such money shall not, for any purpose, be considered to be a part of the proceeds of any transaction between a depositor and warehouse or dealer for which the collection and payment of the assessment was related and shall not be subject to an encumbrance, security interest, execution or seizure on account of any debt owed by the warehouse or dealer to any of their creditors. (3-15-02)

485. PENALTIES FOR FAILURE TO COLLECT, ACCOUNT FOR, OR REMIT ASSESSMENTS.

Failure to collect, account for, or remit assessments, or violations of the statutory requirements of Chapters 2 and 5, Title 69, Idaho Code, as it relates to the CIF are grounds for the immediate demand on the warehouse, dealer bond, letter of credit, or certificate of deposit, and the undertaking by the Director of any other remedy provided by law. (5-3-03)

486. RETURN OF COMMODITY DUE TO FAILURE.

In the event of failure the Department may: (3-15-02)

01. Identifiable Commodity. Return specifically identifiable commodity or as much as is available to its producer in full or partial satisfaction of indebtedness; or (3-15-02)

02. Fungible Commodity. If the commodity is fungible, an amount equal to the producer's original deposit or if insufficient fungible commodity is available, a pro-rata share to all producers of the commodity; and (3-15-02)

03. Shortfall in Commodity Distribution. Any shortfall in commodity distribution may be submitted as a claim against the CIF. (3-15-02)

487. -- 500. (RESERVED)

501. NPE CONTRACT CLAIMS ON THE FUND.

NPE contracts shall be executed in writing, dated, and signed by all parties to the contract. (3-16-04)

01. NPE Clause. An NPE contract shall have the following statement: "No claim shall be paid from the CIF pursuant to Section 69-263, Idaho Code, if a producer files his claim more than one hundred eighty (180) days from the date the contract is executed." (3-16-04)

02. NPE Contract List. A warehouseman shall maintain a list of all NPE contracts written in a calendar year and shall reflect the producers name, contract number, agricultural commodity and date of the contract. (3-16-04)

03. NPE Contract Renewal Period. A producer may renew an NPE contract; but no claim shall be paid from the CIF if a producer files his claim more than three hundred sixty-five (365) days from the date the original NPE contract was executed. (3-16-04)

502. -- 999. (RESERVED)

**IDAPA 02
TITLE 02
CHAPTER 13**

02.02.13 – COMMODITY DEALERS’ RULES

000. LEGAL AUTHORITY.

This chapter is adopted under the legal authority of Section 69-524, Idaho Code. (5-3-03)

001. TITLE AND SCOPE.

01. Title. The title of this chapter is IDAPA 02.02.13, “Commodity Dealers’ Rules.” (5-3-03)

02. Scope. These rules clarify the procedure for licensing, collection and remittance of assessments, determining claim value, maintaining electronic records, use of electronic scales and remedies of the Department for non-compliance. (5-3-03)

002. WRITTEN INTERPRETATIONS.

There are no written interpretations of these rules. (5-3-03)

003. ADMINISTRATIVE APPEALS.

There is no provision for administrative appeals before the Idaho State Department of Agriculture under this chapter. Hearing and appeal rights are pursuant to Title 67, Chapter 52, Idaho Code. (5-3-03)

004. INCORPORATION BY REFERENCE.

No documents are incorporated by reference in this chapter. (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. PUBLIC RECORDS ACT COMPLIANCE.

These rules are public records and are available for inspection and copying at the Department. (5-3-03)

007. -- 009. (RESERVED)

010. DEFINITIONS.

The Idaho State Department of Agriculture adopts the definitions set forth in Section 69-502, Idaho Code. In addition the following definitions apply to Sections 500 through 506. (5-3-03)

01. Cash Sale. Payment to the producer by the warehouse or dealer contemporaneously with the transfer of commodity to the warehouse or dealer. (3-15-02)

02. Commodity Indemnity Fund. Commodity Indemnity Fund is a trust fund. (3-16-04)

03. Credit-Sale Contract. An agreement in writing containing the provisions of Section 69-514, Idaho Code, and where the producer transfers a specific quantity of commodity to a warehouse or dealer with a price or payment to the producer by the warehouse or dealer to be made at a later date or on the occurrence of a specific event expressed in the agreement. (3-15-02)

04. Dealer. Is limited to dealers licensed by the state of Idaho. (3-15-02)

05. Seed Crops. Means any seed crop regulated by Title 22, Chapter 4, Idaho Code. (3-16-04)

06. NPE. (No price established contract) A contract containing no readily calculable sale value of the commodity for the producer. (3-16-04)

07. Warehouse. Is limited to warehouses licensed by the state of Idaho. (3-15-02)

011. ABBREVIATIONS.

01. CIF. Commodity Indemnity Fund. (3-16-04)

02. NPE. No price established contract. (3-16-04)

03. SIF. Seed Indemnity Fund. (3-16-04)

012. LICENSING.

01. Posting of License. Immediately upon receipt of the license or any renewal, extension or modification thereof under Title 69, Chapter 5, Idaho Code, the licensed commodity dealer shall post the license in a conspicuous place in each place of business or in any other place as the director may determine. The Department will issue a duplicate license for each additional facility as needed. (5-3-03)

02. Return of Suspended or Terminated License. If a license issued to a commodity dealer has lapsed or is suspended, revoked or cancelled by the Director of the Department of Agriculture, the license shall be returned to the Department. At the expiration of any period of suspension, revocation or cancellation the license shall be returned to the commodity dealer to whom it was originally issued and be posted as prescribed by Subsection 011.01 of these rules. (5-3-03)

03. Loss of License. Upon satisfactory proof of the loss or destruction of a license issued to a commodity dealer, a duplicate may be issued under the same number or a new number at the discretion of the Director. (7-1-93)

013. -- 099. (RESERVED)

100. OFFICE RECORDS.

A commodity dealer shall maintain complete and sufficient records to show all purchases and sales, including all contracts relating to these transactions. A warehouse licensed as a commodity dealer under Title 69, Chapter 5, Idaho Code, shall maintain complete and sufficient records to show all deposits, purchases, sales contracts, storage obligations and loadouts of the warehouse in this State. Office records as set forth in Title 69, Chapter 5, Idaho Code, include, but not be limited to, the following: (5-3-03)

01. Daily Position Record. This shall show the total quantity of each kind and class of agricultural commodity received and loaded out, the amount remaining in storage at the close of each business day and the warehouseman's total storage obligation for each kind and class of agricultural commodity at the close of each business day. (7-1-93)

02. Settlement Sheets/Storage Ledgers. Every commodity dealer shall use settlement sheets showing the dealer's name and location in making settlement with the seller, unless otherwise approved by the Director. All settlement sheets/storage ledgers shall include, but not be limited to, the following: (7-1-93)

a. The seller's name and address. (7-1-93)

b. The date of deliveries. (7-1-93)

c. The scale ticket numbers. (7-1-93)

d. The amount, kind and grade of commodity delivered. (7-1-93)

e. The price per bushel or unit. (7-1-93)

f. The date and amount of payment. (7-1-93)

g. The contract number if a deferred payment, deferred pricing or other sale contract is used. A copy of each settlement sheet shall be maintained in alphabetical order by the commodity dealer as part of the pay records. (7-1-93)

h. Electronic Records. If any electronic records are maintained outside of the state of Idaho, the Department must be allowed to examine them at any reasonable time and place as determined by the Department. (5-3-03)

03. Scale Weight Tickets. Scale weight tickets, except tickets for electronic scales that are recorded and maintained electronically, shall be pre-numbered and one (1) copy of each ticket shall be maintained in numerical order. All scale weight tickets shall show the time when the commodities were delivered, the quantities delivered, who delivered the commodities, the ownership of the commodities and the condition of the commodities upon delivery. (3-16-04)

a. Tickets in the commodity dealer's possession that have not been issued. (5-3-03)

b. Tickets issued by the commodity dealer. (5-3-03)

c. Tickets returned to and cancelled by the commodity dealer. (5-3-03)

101. -- 149. (RESERVED)

150. INSPECTION.

For the purpose of inspection the hours of 8 a.m. to 5 p.m., Monday through Friday, except holidays, are considered as ordinary business hours. All financial records, commodity records and payment records shall be available for inspection by the Department during ordinary business hours and any other reasonable time specified by the Department in writing. All records shall be made available within the state of Idaho upon request. (7-1-93)

151. -- 199. (RESERVED)

200. LICENSING APPLICATION FORMAT.

01. License -- Application. Application for a license to operate as a commodity dealer under the provisions of Title 69, Chapter 5, Idaho Code, shall be on a form prescribed by the Department and include: (7-1-93)

a. The full name of the person applying for the license and whether the applicant is an individual, partnership, association, corporation or other entity. (7-1-93)

b. The full name of each member of the firm or partnership, or the names of the officers and directors of the company or limited liability company, association, or corporation. (5-3-03)

c. The address of the principal place of business. (7-1-93)

d. The names of any businesses previously owned or operated by the applicant or any members, officers or directors if the applicant is a corporation, partnership or association. (7-1-93)

e. Information relating to any prior adjudication of bankruptcy relating to the business or any members, officers or directors thereof. (7-1-93)

f. Information relating to any judgments against the applicants. (7-1-93)

g. The location of each office the applicant intends to operate. (7-1-93)

h. Any other reasonable information the Department finds necessary to carry out the purpose and provisions of Title 69, Chapter 5, Idaho Code. (7-1-93)

- 02. License Conditions of Issuance.** An application for license under Title 69, Chapter 5, Idaho Code, shall include: (7-1-93)
- a.** Application on a form prescribed by the Director. (7-1-93)
 - b.** A current financial statement as specified by Section 69-503 and 69-521, Idaho Code. (5-3-03)
 - c.** A bond or bonds as required by Section 69-506, Idaho Code. (5-3-03)
 - d.** The license fee as prescribed by Section 69-508, Idaho Code. (7-1-93)
 - e.** Compliance with all rules adopted pursuant to Title 69, Chapter 5, Idaho Code. (5-3-03)
 - f.** Any other reasonable information the Department finds necessary to carry out the purpose and provisions of Title 69, Chapter 5, Idaho Code. (7-1-93)

03. License Modification. At the request of the license holder a license may be modified to change existing license classification, providing all requirements of Section 69-508, Idaho Code, are met. (7-1-93)

201. -- 249. (RESERVED)

250. RECORDS -- SEPARATE.

All records and accounts required under Title 69, Chapter 5, Idaho Code, shall be kept separate and distinct from all records and accounts of any other business and be subject to inspection by the Director at any reasonable time. (7-1-93)

251. -- 299. (RESERVED)

300. FINANCIAL STATEMENT.

01. Financial Statements. In order to obtain a commodity dealer's license, the applicant shall submit a current financial statement. This statement shall have been prepared not more than ninety (90) days prior to the date of application and conform to the applicable requirements of Title 69, Chapter 5, Idaho Code, as to annual financial statements. (7-1-93)

02. Statement Compliance. Each licensed commodity dealer shall submit to the Department an annual financial statement that has been audited or reviewed by an independent certified public accountant or independent licensed public accountant. The statement shall be submitted to the Department no later than ninety (90) days after the end of the commodity dealer's fiscal year. The commodity dealer license may be suspended or revoked for failure to comply with licensing requirements stated in Subsection 300.01 of these rules and Section(s) 69-503(6) and 69-521, Idaho Code. (5-3-03)

a. The Department may grant an extension of no more than sixty (60) days, provided cause of an exceptional nature is provided, in writing, to the Department. (5-3-03)

b. The request must be made by a certified public accountant or a licensed public accountant. (5-3-03)

c. The request is made prior to the date the financial statement is due. (5-3-03)

d. The director may make exceptions to the financial statement requirements provided sufficient cause is provided and to do so would be in the best interest of the state. (5-3-03)

03. Statement Content. The statement shall include: (7-1-93)

a. A balance sheet. (7-1-93)

b. An income statement that includes annual gross sales of commodities purchased from producers covered under the act. (7-1-93)

- c. A statement of cash flows. (7-1-93)
- d. All accompanying notes to the financial statement. (7-1-93)

301. -- 349. (RESERVED)

350. SHIPPING RECORDS.

Every dealer who ships by truck shall maintain a truck shipping record and every dealer who ships by rail shall maintain a rail or car shipping record. Each shipping record shall include, but not be limited to, the following: (7-1-93)

- 01. Name and Address.** The name and address of the seller or shipper. (7-1-93)
- 02. Buyer and Destination.** The buyer and destination of the commodity shipped. (7-1-93)
- 03. Date.** The date the agricultural commodities were shipped. (7-1-93)
- 04. Amount and Type.** The amount and type of agricultural commodities shipped. (7-1-93)
- 05. Identification Number.** The truck identification or car number. (7-1-93)

351. -- 399. (RESERVED)

400. SCALE TICKETS.

If a dealer has access to a scale that can be used for weighing commodity, he shall use pre-numbered scale tickets showing the dealer's name and location. A copy of each ticket shall be maintained in numerical order as part of the commodity records. If a dealer does not have access to a scale and purchases commodity by having it custom weighed at various locations or at destination, the dealer shall maintain a copy of the scale ticket in chronological order as part of the commodity records. If agricultural commodities are settled on destination weights, copies of the destination weights are to be kept as part of the records. (7-1-93)

401. -- 450. (RESERVED)

451. AMOUNT OF BOND, IRREVOCABLE LETTER OF CREDIT, CERTIFICATE OF DEPOSIT, OR SINGLE BOND.

01. Bonding Requirement. The amount of bond to be furnished for each class 1 dealer and each class 2 dealer shall be fixed at a rate pursuant to Section 69-506, Idaho Code. (3-16-04)

02. Single Bond, Irrevocable Letter of Credit or Certificate of Deposit. For the purposes of licensing as a commodity dealer pursuant to Title 69, Chapter 5, Idaho Code, and a seed buyer pursuant to Title 22, Chapter 51, Idaho Code, a single bond, irrevocable letter of credit or certificate of deposit shall be fixed at whichever of the following amounts is greater: (3-16-04)

- a.** Combined total indebtedness paid and owed to producers for agricultural commodity and seed crop, without any deductions, for the previous license year; or (3-16-04)
- b.** The indebtedness owed and estimated to be owed to producers for agricultural commodity and seed crop, without any deductions, for the current license year. (3-16-04)

03. Additional Bonding Requirements. If it appears the licensee does not have the ability to pay producers for commodities purchased, or when it appears the licensee does not have a sufficient net worth to outstanding financial obligations ratio, the licensee may be required to post a bond or other additional acceptable security in the amount of two thousand dollars (\$2,000) for each one thousand dollars (\$1,000) or fraction thereof of deficiency. (3-15-02)

452. -- 499. (RESERVED)

500. COMMODITY INDEMNITY FUND.

The Commodity Indemnity Fund shall apply to entities governed by Chapter 2, Title 69, Idaho Code, and Chapter 5, Title 69, Idaho Code, warehouses and dealers, respectively, unless otherwise specified. (3-16-04)

01. Rate of Assessment. The rate of assessment shall be two-tenths of one percent (.2%) gross dollar amount, without deductions, due the producer pursuant to Section 69-257(2), Idaho Code. The Director may establish a lower rate of assessment whenever he deems it advisable or as recommended by the advisory committee established by Section 69-261, Idaho Code. (5-3-03)

02. Exemptions to Assessment. Producers are not eligible to participate in CIF and no assessments shall be collected in the following cases. (5-3-03)

a. If a producer has a financial or management interest in a licensed warehouse or licensed commodity dealer, except members of a cooperative marketing association qualified under Title 22, Chapter 26, Idaho Code. (5-3-03)

b. If a producer sells to another producer, none of which are a licensed warehouseman or a licensed commodity dealer. (5-3-03)

c. If a producer deposits or delivers commodity to an unlicensed entity pursuant to Title 69, Chapters 2 or 5, Idaho Code. (5-3-03)

d. Non-producers or producers delivering commodity that was grown on land not situated within the borders of the state of Idaho are exempt from paying assessments. (5-3-03)

501. NPE CONTRACT CLAIMS ON THE FUND.

NPE contracts shall be executed in writing, dated, and signed by all parties to the contract. (3-16-04)

01. NPE Clause. An NPE contract shall have the following statement: "No claim shall be paid from the CIF pursuant to Section 69-263, Idaho Code, if a producer files his claim more than one hundred eighty (180) days from the date the contract is executed." (3-16-04)

02. NPE Contract List. A commodity dealer shall maintain a list of all NPE contracts written in a calendar year and shall reflect the producers name, contract number, agricultural commodity and date of the contract. (3-16-04)

03. NPE Contract Renewal Period. A producer may renew an NPE contract; but no claim shall be paid from the CIF if a producer files his claim more than three hundred sixty-five (365) days from the date the original NPE contract was executed. (3-16-04)

502. HOW ASSESSMENTS ARE TO BE CALCULATED.

Assessments shall be collected by all warehouses licensed as commodity dealers from all producers who deposit commodities for storage or sale. Assessments are calculated as follows: (5-3-03)

01. Cash Sale or Credit Sale Contract. In a cash sale or credit sale contract on the contract price of the commodity at the time of sale. (3-15-02)

02. Unpaid Assessments. If any assessment is unpaid and a failure occurs, the amount of the unpaid assessment will be deducted from any CIF recovery paid to the producer. (3-15-02)

03. Incidental Costs and Expenses. All incidental costs and expenses including, but not limited to transportation, cleaning, in and out charges, insurance, taxes or additional services or charges are not included in the calculation to determine the assessment. (3-15-02)

503. RECORDKEEPING AND PAYMENT SCHEDULE.

01. Permanent Record. Each warehouse and dealer shall maintain a permanent record showing producer's name and address, lot or identification number, date assessment collected, amount of assessment, commodity assessed, quantity of commodity, gross dollars of settlement and check number issued to producer. (3-15-02)

02. Payment Due Dates. On or before the twentieth day of the month following the close of the quarter, on a form prescribed by the Department, the assessments imposed by Title 69, Chapters 2 and 5, Idaho Code, collected by warehouses and dealers, are due and payable to the Department. A quarter will consist of three (3) months beginning on the first day of January, April, July, and October. If assessment is paid by mail the payment must be postmarked not later than the twentieth day of the month following the close of the quarter to avoid interest and penalty charges. (3-16-04)

03. Notice. The notice and rate of assessment or a copy of the official notice of suspension of assessment shall be posted in a conspicuous place in the warehouse or dealer facility. (3-15-02)

504. TRUST FUNDS.

All assessments collected by warehouses and dealers in compliance with Title 69, Chapters 2 and 5, Idaho Code, shall, immediately upon payment to and collection by the warehouse or dealer, be trust fund money and held for payment to the Department for the CIF. Such money shall not, for any purpose, be considered to be a part of the proceeds of any transaction between a depositor and warehouse or dealer for which the collection and payment of the assessment was related and shall not be subject to an encumbrance, security interest, execution or seizure on account of any debt owed by the warehouse or dealer to any of their creditors. (5-3-03)

505. PENALTIES FOR FAILURE TO COLLECT, ACCOUNT FOR, OR REMIT ASSESSMENTS -- OTHER VIOLATIONS.

Failure to collect, account for, or remit assessments, or violations of the statutory requirements of Title 69, Chapters 2 and 5, Idaho Code, as it relates to the CIF are grounds for the immediate demand on the warehouse, dealer bond, or certificate of deposit, and the undertaking by the Director of any other remedy provided by law. (5-3-03)

506. RETURN OF COMMODITY DUE TO FAILURE.

In the event of failure the Department may: (3-15-02)

01. Identifiable Commodity. Return specifically identifiable commodity or as much as is available to its producer in full or partial satisfaction of indebtedness; or (3-15-02)

02. Fungible Commodity. If the commodity is fungible, an amount equal to the producer's original deposit or if insufficient fungible commodity is available, a pro-rata share to all producers of the commodity; and (3-15-02)

03. Shortfall in Commodity Distribution. Any shortfall in commodity distribution may be submitted as a claim against the CIF. (3-15-02)

507. -- 599. (RESERVED)

600. UNLAWFUL PRACTICES.

It is unlawful for a commodity dealer to alter, falsify or withhold records from the warehouse examiner. (7-1-93)

601. -- 999. (RESERVED)

**IDAPA 02
TITLE 02
CHAPTER 14**

02.02.14 – RULES FOR WEIGHTS AND MEASURES

000. LEGAL AUTHORITY.

This chapter is adopted under the legal authority of Sections 71-111, 71-121, 71-232, 71-233, 71-236, 71-241, and 71-408, Idaho Code. (2-13-04)

001. TITLE AND SCOPE.

01. Title. The title of this chapter is “Rules for Weights and Measures.” (2-13-04)

02. Scope. This chapter has the following scope: to govern the checking, testing, and examination of weighing and measuring devices, packages and labels; to govern consumer and non-consumer packaging and labeling; to govern the registration of servicemen and service agencies for commercial weighing and measuring devices; to govern the licensing of weighmasters, and to govern the licensing of commercially used weighing and measuring devices and to set maximum annual license fees for weighing and measuring devices. (2-13-04)

002. WRITTEN INTERPRETATIONS.

There are no written interpretations of these rules. (10-26-94)

003. ADMINISTRATIVE APPEAL.

There is no provision for administrative appeals before the Department of Agriculture under this chapter. Hearing and appeal rights pursuant to Title 67, Chapter 52, Idaho Code, are noted in Section 71-308, Idaho Code. (10-26-94)

004. INCORPORATION BY REFERENCE.

01. Required Reference Materials. The 2019 edition of Handbook No. 44 of the National Institute of Standards and Technology, United States Department of Commerce, “Specifications, Tolerances, and Other Technical Requirements for Weighing and Measuring Devices,” hereby incorporated by reference, shall be the specifications, tolerances and other technical requirements for commercial weighing and measuring devices, unless otherwise stated in these rules. (4-11-19)

02. Required Reference Materials for Checking Prepackaged Commodities. The 2019 edition of Handbook No. 133 of the National Institute of Standards and Technology, United States Department of Commerce, “Checking the Net Contents of Packaged Goods,” hereby incorporated by reference, shall be the authority in checking packaged commodities, unless otherwise stated in these rules. (4-11-19)

03. Specifications for Diesel Fuel and Biodiesel Fuel. American Society of Testing and Materials (ASTM) D975-16a, “Standard Specification for Diesel Fuel Oils,” and ASTM D6751-15c¹, “Standard Specification for Biodiesel Fuel (B100) Blend Stock for Distillate Fuels,” intended for blending with diesel fuel are hereby incorporated by reference and are the specifications for diesel fuel and biodiesel fuel blend stock (B100 biodiesel). (3-28-18)

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

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

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

- 01. Office.** The Idaho State Department of Agriculture, Bureau of Weights and Measures. (2-13-04)
- 02. Office Hours.** Office hours are from 8 a.m. to 5 p.m., Mountain Time, Monday through Friday, except holidays as designated by the state of Idaho. (2-13-04)
- 03. Street Address.** ISDA Bureau of Weights and Measures, 2216 Kellogg Lane, Boise, ID 83712. (4-6-05)
- 04. Mailing Address.** ISDA Bureau of Weights and Measures, PO Box 7249, Boise, ID 83707. (4-6-05)

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. (2-13-04)

007. -- 009. (RESERVED)

010. DEFINITIONS.

The Idaho Department of Agriculture adopts the definitions set forth in [Sections 71-108 and 71-401](#), Idaho Code. (10-26-94)

- 01. Biodiesel.** A fuel comprised of mono-alkyl esters of long chain fatty acids derived from vegetable oils or animal fats, designated B100. (4-2-08)
- 02. Biodiesel Blends.** A fuel comprised of a blend of biodiesel fuel with petroleum-based diesel fuel, designated BXX. In the abbreviation BXX, the XX represents the volume percentage of biodiesel fuel in the blend. (4-2-08)
- 03. Person.** The word "person" means both the plural and singular, as the case demands, and includes corporations, companies, societies and associations. When construing and enforcing the provisions of this rule, the act, omission, or failure of any officer, agent, or other person acting for or employed by any corporation, company, society, or association, within the scope of his employment or office, shall in every case be also deemed to be the act, omission, or failure of such corporation, company, society or association as well as that of the person. (4-2-08)
- 04. Compressed Natural Gas (CNG).** Natural Gas which has been compressed and dispensed into fuel storage containers and is suitable for use as an engine fuel. (3-28-18)
- 05. Liquefied Natural Gas (LNG).** Natural gas that has been liquefied at minus one hundred sixty-two degrees Celsius (-162 °C) (minus two hundred sixty degrees Fahrenheit (-260 °F)) and stored in insulated cryogenic tanks for use as an engine fuel. (3-28-18)
- 06. Gasoline Gallon Equivalent (GGE).** Equivalent to five point six hundred sixty thousandths (5.660) pounds (two point five hundred sixty seven thousandths (2.567) kilograms) of compressed natural gas. (3-28-18)
- 07. Gasoline Liter Equivalent (GLE).** Equivalent to one point four hundred ninety-five thousandths (1.495) pounds (zero point six hundred seventy-eight thousandths (0.678) kilograms) of compressed natural gas. (3-28-18)
- 08. Diesel Gallon Equivalent (DGE).** Equivalent to six point three hundred eighty-four thousandths (6.384) pounds of compressed natural gas or six point fifty-nine thousandths (6.059) pounds of liquefied natural gas. (3-28-18)

011. ABBREVIATIONS.

- 01. ISDA.** Idaho State Department of Agriculture. (2-13-04)

02. NIST. National Institute of Standards and Technology. (2-13-04)

012. LICENSE REQUIRED FOR COMMERCIALY-USED WEIGHING OR MEASURING INSTRUMENT OR DEVICE.

Weighing or measuring instruments or devices used for commercial purposes in the State of Idaho shall be licensed annually. (2-13-04)

01. Annual License. No person shall operate or use for commercial purposes within the state any weighing or measuring instrument or device specified in Section 71-113, Idaho Code, that is not licensed in accordance with the requirements of this rule. (2-13-04)

02. Specific Device. Any license issued applies only to the instrument or device identified by Device Code, as listed in TABLE 1-A, and rated capacity on the application for license. The license shall be applicable to an equivalent replacement for the original instrument or device, within the annual license period. (2-13-04)

013. LICENSE APPLICATION.

License application shall be submitted on forms provided by ISDA and accompanied with the proper fee as established in this rule. The capacity of an instrument or device will be determined by the manufacturer's rated capacity. (2-13-04)

014. ANNUAL LICENSE PERIOD.

Annual license applications and fees are due February 1 of each year and all licenses expire on January 31 of the following year. (4-6-15)

015. LICENSE RENEWALS.

Any device or instrument shall be considered rejected if the license for that device or instrument is not renewed thirty (30) days after expiration. A person failing to pay the annual license fee after forty-five (45) days following the expiration date, forfeits the right to use the instrument or device for commercial purposes, and the instrument or device may be taken out of service by the ISDA Bureau of Weights and Measures until the license fee is paid. (2-13-04)

016. MAXIMUM AND MINIMUM LICENSE FEE SCHEDULE FOR COMMERCIALY-USED WEIGHING AND MEASURING INSTRUMENTS AND DEVICES.

The annual license fee for instruments and devices is based on manufacturer's rated capacity. The minimum annual license fee for commercially used instrument and device types shall be twelve dollars (\$12) when licensing a single device.

TABLE 1-A		
DEVICE CODE	KEY	FEE
A	Scales ≤ 50 lb	\$6.00
B	Scales > 50 ≤ 1,159 lb	\$12.00
C	Scales ≥ 1,160 ≤ 7,499 lb	\$24.00
D	Scales ≥ 7,500 ≤ 59,999 lb	\$100.00
E & F	Scales 60,000 lbs or more	\$100.00
G	Meter < 20 gpm	\$6.00
H	Meter ≥ 30 < 150 gpm	\$33.00
I	Meter ≥ 150 gpm	\$40.00
J	LPG dispenser	\$40.00

TABLE 1-A		
DEVICE CODE	KEY	FEE
K & L	LPG temperature compensated	\$60.00
M	Cordage or Fabric meter	\$5.00
N	Natural gas motor fuel devices	\$60.00
O	Bulk oil meter	\$35.00
T	Meter > 20 ≤ 30 gpm or fuel additive metering devices	\$10.00

(3-20-14)

017. VOLUNTARY INSPECTION OF WEIGHING AND MEASURING INSTRUMENTS AND DEVICES, FEES.

In addition to commercially used weighing and measuring instruments and devices, ISDA Bureau of Weights and Measures, at the request of an owner or user thereof, may inspect and test non-commercial weighing or measuring instruments or devices to ascertain if they are correct. Any entity making such special request shall pay the Bureau of Weights and Measures the cost of the inspection as listed in Section 100. (2-13-04)

018. LICENSE DISPLAYED.

Any owner or user of commercially used weighing and measuring instruments and devices shall display the current annual license for those instruments and devices in a prominent place at the same physical location where those devices are installed or used. In the case of devices installed on vehicles, the license shall be carried in the vehicle on which the device is installed. (2-13-04)

019. -- 049. (RESERVED)

050. TICKET PRINTER - CUSTOMER TICKET.

Vehicle-mounted metering systems shall be equipped with a ticket printer that shall be used for all sales where product is delivered through the meter. A copy of the ticket issued by the device shall be left with the customer at the time of delivery or as otherwise specified by the customer. Section 050 shall apply to vehicles put into service on or after January 1, 1995. (3-15-02)

051. -- 099. (RESERVED)

100. CHARGES FOR SPECIAL REQUEST TESTING OR EXAMINATION.

01. Mileage Charges. (7-1-93)

a. Fifty-five cents (\$.55) a mile for car travel. (4-9-09)

b. Seventy-five cents (\$.75) a mile for pickup and prover. (4-9-09)

c. Two dollars and fifty cents (\$2.50) a mile for heavy capacity scale trucks. (4-9-09)

02. Fee Collection. Such fees will be collected from place where working and back. Where more than one (1) request is to be handled on same trip, the mileage will be prorated between the parties requesting the service. (7-1-93)

03. Personnel Charges. There will also be an hourly personnel charge of thirty dollars (\$30) per hour per person for special request testing, chargeable during the time of the actual testing and examination of devices and for driving time. (4-9-09)

101. -- 149. (RESERVED)

150. PACKAGING AND LABELING RULES.

The application of this rule applies to packages and to commodities in package form, but does not apply to: (7-1-93)

- 01. Inner Wrappings.** Inner wrappings not intended to be individually sold to the customer. (7-1-93)
- 02. Shipping Containers.** Shipping containers or wrapping used solely for the transportation of any commodities in bulk or in quantity to manufacturers, packers, or processors, or to wholesale or retail distributors, but in no event shall this exclusion apply to packages of consumer or non-consumer commodities, as defined herein. (7-1-93)
- 03. Auxiliary Containers.** Auxiliary containers or outer wrappings used to deliver packages of such commodities to retail customers if such containers or wrappings bear no printed matter pertaining to any particular commodity. (7-1-93)
- 04. Retail Display Containers.** Containers used for retail tray pack displays when the container itself is not intended to be sold (e.g., the tray that is used to display individual envelopes of seasonings, gravies, etc., and the tray itself is not intended to be sold). (7-1-93)
- 05. Unpackaged Commodities.** Commodities put up in variable weights and sizes for sale intact and intended to be either weighed or measured at the time of sale, where no package quantities are represented, and where the method of sale is clearly indicated in close proximity to the quantity being sold. (7-1-93)
- 06. Open Carriers.** Open carriers and transparent wrappers or carriers for containers when the wrappers or carriers do not bear any written, printed, or graphic matter obscuring the label information required by this rule. (7-1-93)

151. DEFINITIONS.

- 01. Commodity in Package Form.** See [Section 71-108\(9\), Idaho Code](#), of Idaho Weights and Measures Law. (7-1-93)
- 02. Consumer Package.** See [Section 71-108\(10\), Idaho Code](#), of Idaho Weights and Measures Law. (7-1-93)
- 03. Non-consumer Package.** See [Section 71-108\(11\), Idaho Code](#), of Idaho Weights and Measures Law. (7-1-93)
- 04. Random Package.** The term “random package” means a package that is one (1) of a lot, shipment, or delivery of packages of the same consumer commodity with varying weights; that is, packages of the same consumer commodity with no fixed pattern of weight. (7-1-93)
- 05. Label.** The term “label” means any written, printed, or graphic matter affixed to, applied to, attached to, blown into, formed, molded into, embossed on, or appearing upon or adjacent to a consumer commodity or a package containing any consumer commodity, for purposes of branding, identifying, or giving any information with respect to the commodity or to the contents of the package, except an inspector’s tag or other non-promotional matter affixed to or appearing upon a consumer commodity shall not be deemed to be a label requiring the repetition of label information required by this rule. (7-1-93)
- 06. Package.** The term “package” means any commodity put up or packaged in any manner in advance of sale in units suitable for either wholesale or retail sale. (7-1-93)
- 07. Person.** See [Section 71-108\(1\), Idaho Code](#), of Idaho Weights and Measures Law. (7-1-93)
- 08. Principal Display Panel or Panels.** The term “principal display panel or panels” means that part, or those parts, of a label that is, or are, so designed as to most likely be displayed, presented, shown, or examined

under normal and customary conditions of display and purchase. Wherever a principal display panel appears more than once on a package, all requirements pertaining to the "principal display panel" shall pertain to all such "principal display panels."
(7-1-93)

09. Multi-Unit Package. The term "multi-unit package" means a package containing two (2) or more individual packages of the same commodity, in the same quantity, with the individual packages intended to be sold as part of the multi-unit package but capable of being individually sold in full compliance with all requirements of this rule.
(7-1-93)

10. Sale from Bulk. The term "sale from bulk" means the sale of commodities when the quantity is determined at the time of sale.
(7-1-93)

152. -- 169. (RESERVED)

170. IDENTITY.

01. Declaration of Identity -- Consumer Package. A declaration of identity on a consumer package shall appear on the principal display panel, and shall positively identify the commodity in the package by its common or usual name, description, generic term, or the like.
(7-1-93)

02. Parallel Identity Declaration -- Consumer Package. A declaration of identity on a consumer package shall appear generally parallel to the base on which the package rests as it is designed to be displayed.
(7-1-93)

03. Declaration of Identity -- Non-Consumer Package. A declaration of identity on a non-consumer package shall appear on the outside of a package and positively identify the commodity in the package by its common or usual name, description, generic term, or the like.
(7-1-93)

04. Declaration of Responsibility -- Consumer and Non-Consumer Packages. (7-1-93)

a. Any package kept, offered, or exposed for sale, or sold, at any place other than on the premises where packed shall specify conspicuously on the label of the package the name and address of the manufacturer, packer, or distributor. The name shall be the actual corporate name, or, when not incorporated, the name under which the business is conducted. The address shall include street address, city, state, and zip code; however, the street address may be omitted if this is shown in a current city directory or telephone directory. The requirement for inclusion of the zip code shall apply only to labels that have been developed or revised after July 1, 1970. (7-1-93)

b. If a person manufactures, packs, or distributes a commodity at a place other than his principal place of business, the label may state the principal place of business in lieu of the actual place where the commodity was manufactured or packed or is to be distributed, unless such statement would be misleading. Where the commodity is not manufactured by the person whose name appears on the label, the name shall be qualified by a phrase that reveals the connection such person has with such commodity, such as "Manufactured for and packed by," "Distributed by," or any other wording of similar import that expresses the facts. (7-1-93)

171. DECLARATION OF QUANTITY -- CONSUMER PACKAGES.

01. Largest Whole Unit. Where this rule requires that the quantity declaration be in terms of the largest whole unit, the declaration shall, with respect to a particular package, be in terms of the largest whole unit of weight or measure, with any remainder expressed in:
(7-1-93)

a. Common or decimal fractions of such largest whole unit; or (7-1-93)

b. The next smaller whole unit, or units, with any further remainder in terms of common or decimal fractions of the smallest unit present in the quantity declaration. (7-1-93)

02. Net Quantity. A declaration of net quantity of the commodity in the package, exclusive of wrappers and any other material packed with such commodity, shall appear on the principal display panel of a

consumer package and, unless otherwise specified in this rule (see Subsections 171.06 through 171.08) shall be in terms of the largest whole unit. (7-1-93)

03. Use of “Net Weight.” The term “net weight” shall be used in conjunction with the declaration of quantity in terms of weight; the term may either precede or follow the declaration of weight. (7-1-93)

04. Lines of Print or Type. A declaration of quantity may appear on one (1) or more lines of print or type. (7-1-93)

05. Terms -- Weight, Liquid Measures, or Count. The declaration of the quantity of a particular commodity shall be expressed in terms of liquid measure if the commodity is liquid, or in terms of weight if the commodity is solid, semisolid, viscous, or a mixture of solid and liquid, or in terms of numerical count. However, if there exists a firmly established general consumer usage and trade custom with respect to the terms used in expressing a declaration of quantity of a particular commodity, such declaration of quantity may be expressed in its traditional terms, if such traditional declaration gives accurate and adequate information as to the quantity of the commodity. (7-1-93)

06. Combination Declaration. (7-1-93)

a. A declaration of quantity in terms of weight shall be combined with appropriate declarations of the measure, count, and size of the individual units unless a declaration of weight alone is fully informative. (7-1-93)

b. A declaration of quantity in terms of measure shall be combined with appropriate declarations of the weight, count, and size of the individual units unless a declaration of measure alone is fully informative. (7-1-93)

c. A declaration of quantity in terms of count shall be combined with appropriate declarations of the weight, measure, and size of the individual units unless a declaration of count alone is fully informative. (7-1-93)

07. Units -- Weight, Measure. A declaration of quantity shall be as follows, however provided that in the case of a commodity packed for export shipment, the declaration of quantity may be in terms of the metric system of weight or measure. (7-1-93)

a. In units of weight shall be in terms of the avoirdupois pound or ounce; (7-1-93)

b. In units of liquid measure shall be in terms of the United States gallon of two hundred thirty-one (231) cubic inches or liquid-quart, liquid-pint, or fluid-ounce subdivisions of the gallon, and shall express the volume at sixty-eight degrees (68 Degrees F), twenty degrees (20 Degrees C), except in the case of petroleum products, for which the declaration shall express the volume at sixty degrees (60 Degrees F), fifteen point six degrees (15.6 Degrees C), and except also in the case of a commodity that is normally sold and consumed while frozen, for which the declaration shall express the volume at the frozen temperature, and except also in the case of a commodity that is normally sold in the refrigerated state, for which the declaration shall express the volume at forty degrees (40 Degrees F), four degrees (4 Degrees C); (7-1-93)

c. In units of linear measure shall be in terms of the yard, foot, or inch; (7-1-93)

d. In units of area measure, shall be in terms of the square yard, square foot, or square inch; (7-1-93)

e. In units of dry measure shall be in terms of the United States bushel of two thousand one hundred fifty point forty-two (2,150.42) cubic inches, or peck, dry-quart, and dry-pint subdivisions of the bushel; (7-1-93)

f. In units of cubic measure shall be in terms of the cubic yard, cubic foot, or cubic inch. (7-1-93)

08. Abbreviations. Any of the following abbreviations, and none other, may be employed in the quantity statement on a package of commodity. (There normally are no periods following, nor plural forms of, these abbreviations. For example, “oz” is the abbreviation for both “ounce” and “ounces.”)

avoirdupois - avdp

quart - qt

cubic - cu	square - sq
feet or foot - ft	weight - wt
fluid - fl	yard - yd
gallon - gal	cubic centimeter - cc
inch - in	gram - g
liquid - liq	kilogram - kg
ounce - oz	microgram - mcg
pint - pt	milligram - mg
pound - lb	milliliter - ml

(7-1-93)

09. Units with Two or More Meanings. When the term “ounce” is employed in a declaration of liquid quantity, the declaration shall identify the particular meaning of the term by the use of the term “fluid”; however, such distinction may be omitted when, by association of terms (for example, as in “one (1) pint four (4) ounces”), the proper meaning is obvious. Whenever the declaration of quantity is in terms of the dry pint or dry quart, the declaration shall include the word “dry.” (7-1-93)

172. PRESCRIBED UNITS.

01. Less Than One Foot, One Square Foot, One Pound, or One Pint. The declaration of quantity shall be expressed as follows, provided, that the quantity declaration appearing on a random package may be expressed in terms of decimal fractions of the largest appropriate unit, the fraction being carried out to not more than two (2) decimal places: (7-1-93)

- a. In the case of length measure of less than one (1) foot, inches, and fractions of inches; (7-1-93)
- b. In the case of area measure of less than one (1) square foot, square inches, and fractions of square inches; (7-1-93)
- c. In the case of weight of less than one (1) pound, ounces, and fractions of ounces; (7-1-93)
- d. In the case of fluid measure of less than one (1) pint, ounces, and fractions of ounces: (7-1-93)

02. Four Feet, Four Square Feet, Four Pounds, One Gallon, or More. (7-1-93)

- a. In the case of length measure of four (4) feet or more the declaration of quantity shall be expressed in terms of feet, followed in parentheses by a declaration of yards and common or decimal fractions of the yard, or in terms of feet followed in parentheses by a declaration of yards with any remainder in terms of feet and inches. (7-1-93)
- b. In the case of area measure of four (4) square feet or more; (7-1-93)
- c. In the case of weight of four (4) pounds or more; (7-1-93)
- d. In the case of fluid measure of one (1) gallon or more the declaration of quantity shall be expressed in terms of the largest whole unit. (7-1-93)

03. Weight -- Dual Quantity Declaration. On packages containing one (1) pound or more but less than four (4) pounds, the declaration shall be expressed in ounces and, in addition, be followed by a declaration in parentheses, expressed in terms of the largest whole unit, provided, that the quantity declaration appearing on a random package may be expressed in terms of pounds and decimal fractions of the pound carried out to not more than

two (2) decimal places. (7-1-93)

04. Fluid Measure -- Dual Quantity Declaration. On packages containing (1) one pint or more but less than one (1) gallon, the declaration shall be expressed in ounces and, in addition, be followed by a declaration in parentheses, expressed in terms of the largest whole unit. (7-1-93)

05. Length Measure -- Dual Quantity Declaration. On packages containing (1) one foot but less than four (4) feet, the declaration shall be expressed in inches and, in addition, be followed by a declaration in parentheses, expressed in terms of the largest whole unit. (7-1-93)

06. Area Measure -- Dual Quantity Declaration. On packages containing (1) one square foot but less than four (4) square feet, the declaration shall be expressed in square inches and, in addition, be followed by a declaration in parentheses, expressed in terms of the largest whole unit. (7-1-93)

07. Bidimensional Commodities. For bidimensional commodities (including roll-type commodities) the quantity declaration shall be expressed: (7-1-93)

a. If less than one (1) square foot, in terms of linear inches and fractions of linear inches; (7-1-93)

b. If at least one (1) square foot but less than four (4) square feet, in terms of square inches followed in parentheses by a declaration of both the length and width, each being in terms of the largest whole unit, provided, that: (7-1-93)

i. No square inch declaration is required for a bidimensional commodity of four (4) inches width or less; (7-1-93)

ii. A dimension of less than two (2) feet may be stated in inches within the parenthetical; and (7-1-93)

iii. Commodities consisting of usable individual units (except roll-type commodities with individual usable units created by perforations, see Subsection 173.03) require a declaration of unit area but not a declaration of total area of all such units. (7-1-93)

c. If four (4) square feet or more, in terms of square feet followed in parentheses by a declaration of the length and width in terms of the largest whole unit, provided that: (7-1-93)

i. No declaration in square feet is required for a bidimensional commodity with a width of four (4) inches or less; (7-1-93)

ii. A dimension of less than two (2) feet may be stated in inches within the parenthetical; and (7-1-93)

iii. No declaration in square feet is required for commodities for which the length and width measurements are critical in terms of end use (such as tablecloths or bedsheets) if such commodities clearly present the length and width measurements on the label. (7-1-93)

173. POLYETHYLENE SHEETING.

01. Packages. All packages of polyethylene sheeting shall be labeled as to quantity in accordance with the following: (7-1-93)

a. Actual length; (7-1-93)

b. Actual width; (7-1-93)

c. Actual thickness; and (7-1-93)

d. Actual weight of each individual unit. (7-1-93)

- 02. Bulk.** All polyethylene sold from bulk shall be accompanied by a delivery ticket with the following information: (7-1-93)
- a.** The identity; (7-1-93)
 - b.** Actual length, width, thickness, and weight of each individual unit; (7-1-93)
 - c.** The number of individual units; (7-1-93)
 - d.** The total weight of all the units; (7-1-93)
 - e.** The name and address of both the vendor and purchaser; and (7-1-93)
 - f.** The date delivered or the date shipped. (7-1-93)

03. Count -- Ply. If the commodity is in individually usable units of one (1) or more components or ply, the quantity declaration shall, in addition to complying with other applicable quantity declaration requirements of this rule, include the number of ply and the total number of usable units. Roll-type commodities, when perforated so as to identify individual usable units, shall not be deemed to be made up of usable units; however, such roll-type commodities shall be labeled in terms of: (7-1-93)

- a.** Total area measurement; (7-1-93)
- b.** Number of ply; (7-1-93)
- c.** Count of usable units; and (7-1-93)
- d.** Dimensions of a single usable unit. (7-1-93)

04. Fractions. A statement of net quantity of contents of any consumer commodity may contain common or decimal fractions. A common fraction shall be in terms of halves (1/2), quarters (1/4), eighths (1/8), sixteenths (1/16), or thirty-seconds (1/32), except that: (7-1-93)

- a.** If there exists a firmly established general consumer usage and trade custom of employing different common fractions in the net quantity declaration of a particular commodity, they may be employed; and (7-1-93)
- b.** If linear measurements are required in terms of yards or feet, common fractions may be in terms of thirds (1/3). A common fraction shall be reduced to its lowest terms; a decimal fraction shall not be carried out to more than two (2) places. (7-1-93)

174. SUPPLEMENTARY DECLARATIONS.

01. Supplementary Quantity Declarations. The required quantity declaration may be supplemented by one (1) or more accurate declarations of weight, measure, or count, such declaration appearing other than on a principal display panel. Such supplemental statement of quantity of contents shall not include any terms qualifying a unit of weight, measure, or count that tends to exaggerate the amount of commodity contained in the package (e.g., "giant" quart, "full" gallon, "when packed," "minimum," or words of similar import). (7-1-93)

02. Metric System Declarations. A separate statement of the net quantity of contents in terms of the metric system is not regarded as a supplemental statement, and a statement in terms of the metric system of weight or measure may also appear on the principal display panel or on other panels. The metric system may be used as provided for by Section 71-229, Idaho Code, in lieu of the traditional system of weights and measures by substituting the proper metric terms where applicable in these rules. (7-1-93)

03. Qualification of Declaration Prohibited. In no case shall any declaration of quantity be qualified by the addition of the words "when packed," "minimum," or "not less than," or any words of similar import, nor shall any unit of weight, measure, or count be qualified by any term (such as "jumbo," "giant," "full," or the like) that tends

to exaggerate the amount of commodity. (7-1-93)

175. -- 179. (RESERVED)

180. DECLARATION OF QUANTITY -- NON-CONSUMER PACKAGES.

01. Location. A non-consumer package shall bear on the outside a declaration of the net quantity of contents. Such declaration shall be in terms of the largest whole unit (see Subsection 171.01 Largest Whole Unit). (7-1-93)

02. Terms -- Weight, Liquid Measure, or Count. The declaration of the quantity of a particular commodity shall be expressed in terms of liquid measure if the commodity is liquid, or in terms of weight if the commodity is solid, semisolid, viscous, or a mixture of solid and liquid, or in terms of numerical count. However, if there exists a firmly established general consumer usage and trade custom with respect to the terms used in expressing a declaration of quantity of a particular commodity, such declaration of quantity may be expressed in its traditional terms, if such traditional declaration gives accurate and adequate information as to the quantity of the commodity. (7-1-93)

03. Units -- Weight, Measure. A declaration of quantity: (7-1-93)

a. In units of weight shall be in terms of the avoirdupois pound or ounce; (7-1-93)

b. In units of liquid measure shall be in terms of the United States gallon of two hundred thirty-one (231) cubic inches or liquid-quart, liquid-pint, or fluid-ounce subdivisions of the gallon, and shall express the volume at sixty-eight (68) degrees F, twenty (20) degrees C, except in the case of petroleum products, for which the declaration shall express the volume at sixty (60) degrees F, fifteen point six (15.6) degrees C, and except also in the case of a commodity that is normally sold and consumed while frozen for which the declaration shall express the volume at the frozen temperature, and except also in the case of a commodity that is normally sold in the refrigerated state, for which the declaration shall express the volume at forty (40) degrees F, four (4) degrees C; (7-1-93)

c. In units of linear measure shall be in terms of the yard, foot, or inch; (7-1-93)

d. In units of area measure, shall be in terms of the square yard, square foot, or square inch; (7-1-93)

e. In units of dry measure shall be in terms of the United States bushel of two thousand one hundred fifty and forty-two one hundredths (2,150.42) cubic inches, or peck, dry-quart and dry-pint subdivisions of the bushel; (7-1-93)

f. In units of cubic measure shall be in terms of the cubic yard, cubic foot, or cubic inch, provided that nothing in this subsection shall prohibit the labeling of non-consumer packages in terms of units on the metric system. (7-1-93)

04. Abbreviations. Any generally accepted abbreviation of a unit name may be employed in the quantity statement on a non-consumer package of commodity. (For commonly accepted abbreviations, see Subsection 171.08, Abbreviations.) (7-1-93)

05. Character of Declaration -- Average. The average quantity of contents in the non-consumer package of a particular lot, shipment, or delivery shall at least equal the declared quantity, and no unreasonable shortage in any package shall be permitted, even though overages in other packages in the same shipment, delivery, or lot compensate for such shortage. (7-1-93)

181. -- 199. (RESERVED)

200. PROMINENCE AND PLACEMENT -- CONSUMER PACKAGES.

01. General. All information required to appear on a consumer package shall appear thereon in the English language and be prominent, definite, and plain, and be conspicuous as to size and style of letters and numbers

and as to color of letters and numbers in contrast to color of background. Any required information that is either in hand lettering or hand script shall be entirely clear and equal to printing in legibility. (7-1-93)

02. Location. The declaration or declarations of quantity of the contents of a package shall appear in the bottom thirty percent (30%) of the principal display panel or panels, except as otherwise provided in Subsection 220.07, Cylindrical Containers. (7-1-93)

03. Style of Type or Lettering. The declaration or declarations of quantity shall be in such a style of type or lettering as to be boldly, clearly, and conspicuously presented with respect to other type, lettering, or graphic material on the package, except that a declaration of net quantity blown, formed or molded on a glass or plastic surface is permissible when all label information is blown, formed, or molded on the surface. (7-1-93)

04. Color Contrast. The declaration or declarations of quantity shall be in a color that contrasts conspicuously with its background, except that a declaration of net quantity blown, formed, or molded on a glass or plastic surface shall not be required to be presented in a contrasting color if no required label information is on the surface in a contrasting color. (7-1-93)

05. Free Area. The area surrounding the quantity declaration shall be free of printed information as follows: (7-1-93)

a. Above and below, by a space equal to at least the height of the lettering in the declaration: and (7-1-93)

b. To the left and right, by a space equal to twice the width of the letter "N" of the style and size of type used in the declaration. (7-1-93)

06. Parallel Quantity Declaration. The quantity declaration shall be presented in such a manner as to be generally parallel to the declaration of identity and to the base on which the package rests as it is designed to be displayed. (7-1-93)

07. Calculation of Area of Principal Display Panel for Purposes of Type Size. The square-inch area of the principal display panel shall be as follows: (7-1-93)

a. In the case of a rectangular container, one (1) entire side, which properly can be considered to be the principal display panel, the product of the height times the width of that side; (7-1-93)

b. In the case of a cylindrical or nearly cylindrical container, forty percent (40%) of the product of the height of the container times the circumference; or (7-1-93)

c. In the case of any other shaped container, forty percent (40%) of the total surface of the container, unless such container presents an obvious principal display panel (e.g., the top of a triangular or circular package of cheese, or the top of a can of shoe polish), the area shall consist of the entire such surface. (7-1-93)

d. Determination of the principal display panel shall exclude tops, bottoms, flanges at tops and bottoms of cans, and shoulders and necks of bottles or jars. (7-1-93)

08. Minimum Height of Numbers and Letters. The height of any letter or number in the required quantity declaration shall be not less than that shown in Subsection 200.10, Table 1 with respect to the square-inch area of the panel, and the height of each number of a common fraction shall meet one-half (1/2) the minimum height standards. (7-1-93)

09. Numbers and Letters -- Proportion. No number or letter shall be more than three (3) times as high as it is wide. (7-1-93)

10. Minimum Height of Numbers and Letters -- Table 1.

Square-inch Area of Principal Display Panel	Minimum Height of Numbers and Letters	Minimum Height: Label Information Blown, Formed, or Molded on Surface of Container
5 square inches and less	1/16 inch	1/8 inch
Greater than 5 square inches and not greater than 25 square inches.	inch	3/16 inch
Greater than 25 square inches and not greater than 100 square inches.	3/16 inch	1/4 inch
Greater than 100 square inches and not greater than 400 square inches.	1/4 inch	5/16 inch
Greater than 400 square inches.	1/2 inch	9/16 inch

(7-1-93)

201. -- 209. (RESERVED)

210. PROMINENCE AND PLACEMENT -- NON-CONSUMER PACKAGES GENERAL.

All information required to appear on a non-consumer package shall be definitely and clearly stated thereon in the English language. Any required information that is either in hand lettering or hand script shall be entirely clear and equal to printing in legibility. (7-1-93)

211. -- 219. (RESERVED)

220. REQUIREMENTS -- SPECIFIC CONSUMER COMMODITIES, PACKAGES, CONTAINERS.

01. Display Card Package. For an individual package affixed to a display card, or for a commodity and display card together comprising a package, the type size of the quantity declaration is governed by the dimensions of the display card. (7-1-93)

02. Eggs. When cartons containing twelve (12) eggs have been designed so as to permit division in half by the retail purchaser, the required quantity declaration shall be so positioned as to have its context destroyed when the carton is divided. (7-1-93)

03. Aerosols and Similar Pressurized Containers. The declaration of quantity on an aerosol package, and on a similar pressurized package, shall disclose the net quantity of the commodity (including propellant), in terms of weight, that will be expelled when the instructions for use as shown on the container are followed. (7-1-93)

04. Multi-Unit Packages. Any package containing more than one (1) individual "commodity in package form" (see Subsection 151.01) of the same commodity shall bear on the outside of the package a declaration of the following: (7-1-93)

a. The number of individual units; (7-1-93)

b. The quantity of each individual unit; and (7-1-93)

c. The total quantity of the contents of the multi-unit package, provided, that the requirement for a declaration of the total quantity of contents of a multi-unit package shall be effective with respect to those labels revised after the effective date of this rule. Any such declaration of total quantity shall not be required to include the parenthetical quantity statement of a dual quantity representation. (7-1-93)

05. Combination Packages. Any package containing individual units of dissimilar commodities (such as an antiquing kit, for example) shall bear on the label of the package a quantity declaration for each unit. (7-1-93)

06. Variety Packages. Any package containing individual units of reasonably similar commodities (such as, for example, seasonal gift packages, variety packages of cereal) shall bear on the label of the package a declaration of the total quantity of commodity in the package. (7-1-93)

07. Cylindrical Containers. In the case of cylindrical or nearly cylindrical containers, information required to appear on the principal display panel shall appear within that forty percent (40%) of the circumference that is most likely to be displayed, presented, shown, or examined under customary conditions of display for retail sale. (7-1-93)

221. -- 229. (RESERVED)

230. MEASUREMENT OF CONTAINER-TYPE COMMODITIES, HOW EXPRESSED.

01. General. Commodities designed and sold at retail to be used as containers for other materials or objects, such as bags, cups, boxes, and pans, shall be labeled with the declaration of net quantity as follows: (7-1-93)

a. For bag-type commodities, in terms of count followed by linear dimensions of the bag (whether packaged in a perforated roll or otherwise). (7-1-93)

b. When the unit bag is characterized by two (2) dimensions because of the absence of a gusset, the width and length will be expressed in inches, except that a dimension of two (2) feet or more will be expressed in feet with any remainder in terms of inches or common or decimal fractions of the foot. (Example: "25 bags, 17 in x 20 in" or "100 bags, 20 in x 2 ft 6 in" or "50 bags, 20 in x 2-1/2 ft"). (7-1-93)

c. When the unit bag is gusseted, the dimensions will be expressed as width, depth, and length, in terms of inches, except that any dimension of two (2) feet or more will be expressed in feet with any remainder in terms of inches or the common or decimal fractions of the foot. (Examples: "25 bags, 17 in x 4 in x 20 in" or "100 bags, 20 in x 12 in x 2-1/2 ft"). (7-1-93)

d. For other square, oblong, rectangular, or similarly shaped containers, in terms of count followed by length, width, and depth, except depth need not be listed when less than two (2) inches. (Example: "2 cake pans, 8 in x 8 in" or "roasting pan, 12 in x 8 in x 3 in"). (7-1-93)

e. For circular or other generally round-shaped containers, except cups, and the like in terms of count followed by diameter and depth, except depth need not be listed when less than two (2) inches. (Example: "4 pie pans, 8 in diameter x 4 in"). (7-1-93)

02. Capacity. When the functional use of the container is related by label references in standard terms of measure to the capability of holding a specific quantity of substance or class of substances such references shall be a part of the net quantity statement and shall specify capacity as follows: (7-1-93)

a. Liquid measure for containers that are intended to be used for liquids, semisolids, viscous materials, or mixtures of solids and liquids. The expressed capacity will be stated in terms of the largest whole unit (gallon, quart, pint, ounce), with any remainder in terms of the common or decimal fraction of that unit. (Example: Freezer Boxes "4 boxes, 1-qt capacity, 5 in x 4 in x 3 in"). (7-1-93)

b. Dry measure for containers that are intended to be used for solids. The expressed capacity will be stated in terms of the largest whole unit (bushel, peck), with any remainder in terms of the common or decimal fraction of that unit. (Example: Leaf bags "8 bags, 6-bushel capacity, 3 ft x 5 ft"). (7-1-93)

c. Where containers are used as liners for other more permanent containers, in the same terms as are normally used to express the capacity of the more permanent container. (Example: Garbage Can Liners "10 liners, 2 ft 6 in x 3 ft 9 in, fits up to 30-gallon cans"). (7-1-93)

d. Notwithstanding the above requirements, the net quantity statement for containers such as cups will be listed in terms of count and liquid capacity per unit. (Example: "24 cups, 6 fl oz capacity"). For purposes of this

section, the use of the terms “capacity,” “diameter,” and “fluid” is optional. (7-1-93)

231. -- 239. (RESERVED)

240. TEXTILE PRODUCTS, THREADS, AND YARNS.

01. Wearing Apparel. Wearing apparel (including non-textile apparel and accessories such as leather goods and footwear) sold as single-unit items, or if normally sold in pairs (such as hosiery, gloves, and shoes) sold as single-unit pairs, shall be exempt from the requirements for a net quantity statement by count, as required by Subsection 171.05 of this rule. (7-1-93)

02. Textiles. Bedsheets, blankets, pillowcases, comforters, quilts, bedspreads, mattress covers and pads, afghans, throws, dresser and other furniture scarfs, tablecloths and napkins, flags, curtains, drapes, dish towels, dish cloths, towels, face cloths, utility cloths, bath mats, carpets and rugs, pot holders, fixture and appliance covers, non-rectangular diapers, slip covers, etc., shall be exempt from the requirements of Subsection 172.07 of this rule, provided that: (7-1-93)

a. The quantity statement for fitted sheets and mattress covers shall state, in inches, the length and width of the mattress for which the item is designed, such as “twin,” “double,” “king,” etc. (Example: “Twin Fitted Sheet for thirty-nine by seventy-five (39 x 75) inch mattress”) (7-1-93)

b. The quantity statement for flat sheets shall state the size designation of the mattress for which the sheet is designed, such as “twin,” “double,” “king,” etc. The quantity statement also shall state, in inches, the length and width of the mattress for which the sheet is designed, followed in parentheses by a statement, in inches, of the length and width of the sheet before hemming. (Example: “Double Flat Sheet for fifty-four by seventy-five (54 x 75) inch mattress (eighty-one by one hundred four (81 x 104) inch before hemming”) (7-1-93)

c. The quantity statement for pillowcases shall state the size designation of the pillow for which the pillowcase is designed, such as “youth,” “standard,” and “queen,” etc. The quantity statement also shall state, in inches, the length and width of the pillow for which the pillowcase is designed, followed in parentheses by a statement, in inches, of the length and width of the pillowcase before hemming. (Example: “Standard Pillowcase for twenty by twenty-six (20 x 26) inch pillow (forty-two by thirty-six (42 x 36) inch before hemming”) (7-1-93)

d. The quantity statement for blankets, comforters, quilts, bedspreads, mattress pads, afghans, and throws shall state, in inches, the length and width of the finished item. The quantity statement also may state the length of any ornamentation and the size designation of the mattress for which the item is designed, such as “twin,” “double,” “king,” etc. (7-1-93)

e. The quantity statement for tablecloths and napkins shall state, in inches, the length and width of the finished item. The quantity statement also may state parenthetically, in inches, the length and width of the items before hemming and properly identified as such. (7-1-93)

f. The quantity statement for curtains, drapes, flags, furniture scarfs, etc., shall state, in inches, the length and width of the finished item. The quantity statement also may state parenthetically, in inches, the length of any ornamentation. (7-1-93)

g. The quantity statement for carpets and rugs shall state, in feet, with any remainder in common or decimal fractions of the foot or in inches, the length and width of the item. The quantity statement also may state parenthetically, in inches, the length of any ornamentation. (7-1-93)

h. The quantity statement for woven dish towels, dish cloths, towels, face cloths, utility cloths, bath mats, etc., shall state, in inches, the length and width of the item. The quantity statement for such items, when knitted, need not state the dimensions. (7-1-93)

i. The quantity statement for textile products such as pot holders, fixture and appliance covers, non-rectangular diapers, slip covers, etc., shall be stated in terms of count and may include size designations and dimensions. (7-1-93)

j. The quantity statement for other than rectangular textile products identified in Subsections 240.02.a. through 240.02.h. shall state the geometric shape of the product and the dimensions which are customarily used in describing such geometric shape. (Example: "Oval Tablecloth fifty-four by forty-two (54x42) inch" representing the maximum length and width in this case). (7-1-93)

k. The quantity statement for packages of remnants of textile products of assorted sizes, when sold by count, shall be accompanied by the term "irregular dimensions" and the minimum size of such remnants. (7-1-93)

03. Textiles -- Variations from Declared Dimensions. (7-1-93)

a. For an item with no declared dimension less than twenty-four (24) inches, a minus variation greater than three percent (3%) of a declared dimension and a plus variation greater than six percent (6%) of a declared dimension should be considered unreasonable. (7-1-93)

b. For an item with a declared dimension less than twenty-four (24) inches, a minus variation greater than six percent (6%) of a declared dimension and a plus variation greater than twelve percent (12%) of a declared dimension should be considered unreasonable. (7-1-93)

04. Exemption -- Variety Textile Packages. Variety packages of textiles which are required by reason of Subsection 171.06 to provide a combination declaration stating the quantity of each individual unit, shall be exempt from the requirements in this rule for the following: (7-1-93)

a. Location (see Subsection 200.02); or (7-1-93)

b. Free area (see Subsection 200.05); or (7-1-93)

c. Minimum height of numbers and letters. (see Subsection 200.08). (7-1-93)

05. Sewing Threads, Handicraft Threads, and Yarns. Sewing and handicraft threads shall be exempt from the requirements of Subsections 172.02.a. through 172.02.d. of this rule, provided that: (7-1-93)

a. The net quantity statement for sewing and handicraft threads shall be expressed in terms of yards. (7-1-93)

b. The net quantity statement for yarns shall be expressed in terms of weight. (7-1-93)

c. Thread products may, in lieu of name and address, bear a trademark, symbol, brand, or other mark that positively identifies the manufacturer, packer, or distributor, provided that such marks, employed to identify the vendor, shall be filed with the Director. (7-1-93)

d. Each unit of industrial thread shall be marked to show its net measure in terms of yards or its net weight in terms of avoirdupois pounds or ounces, except that ready-wound bobbins which are not sold separately, shall not be required to be individually marked but the package containing such bobbins shall be marked to show the number of bobbins contained therein and the net yards of thread on each bobbin. (7-1-93)

241. -- 249. (RESERVED)

250. EXEMPTIONS.

01. General. Whenever any consumer commodity or package of consumer commodity is exempted from the requirements for dual quantity declaration, the net quantity declaration required to appear on the package shall be in terms of the largest whole unit (except see Subsection 220.04.c., Multi-Unit Packages). (7-1-93)

02. Random Packages. A random package bearing a label conspicuously declaring: (7-1-93)

a. The net weight; (7-1-93)

- b.** The price per pound, or other unit of weight, measure or count; and (7-1-93)
- c.** The total price shall be exempt from the type size, dual declaration, placement, and free area requirements of this rule. In the case of a random package packed at one place for subsequent sale at another, neither the price per unit of weight nor the total selling price need appear on the package, provided the package label includes both such prices at the time it is offered or exposed for sale at retail. This exemption shall also apply to uniform weight packages of cheese and cheese products labeled in the same manner and by the same type of equipment as random packages exempted by this section. (7-1-93)
- 03. Small Confections.** Individually wrapped pieces of “penny candy” and other confectionery of less than one-half (1/2) ounce net weight per individual piece shall be exempt from the labeling requirements of this rule when the container in which such confectionery is shipped is in conformance with the labeling requirements of this rule. Similarly, when such confectionery items are sold in bags or boxes, such items shall be exempt from the labeling requirements of this rule including the required declaration of net quantity of contents, when the declaration of the bag or box meets the requirements of this rule. (7-1-93)
- 04. Individual Servings.** Individual-serving-size packages of foods containing less than one-half (1/2) ounce or less than one-half (1/2) fluid ounce for use in restaurants, institutions, and passenger carriers, and not intended for sale at retail, shall be exempt from the required declaration of net quantity of contents specified in this rule. (7-1-93)
- 05. Cuts, Plugs, and Twists of Tobacco and Cigars.** When individual cuts, plugs, and twists of tobacco and individual cigars are shipped or delivered in containers that conform to the labeling requirements of this rule, such individual cuts, plugs, and twists of tobacco and cigars shall be exempt from such labeling requirements. (7-1-93)
- 06. Reusable (Returnable) Glass Containers.** Nothing in this rule shall be deemed to preclude the continued use of reusable (returnable) glass containers; provide, that such glass containers ordered after the effective date of this rule shall conform to all requirements of this rule. (7-1-93)
- 07. Cigarettes and Small Cigars.** Cartons of cigarettes and small cigars, containing ten (10) individual packages of twenty (20), labeled in accordance with the requirements of this rule shall be exempt from the requirements set forth in Subsection 200.02, Location, Subsection 200.08, Minimum Height of Numbers and Letters, and Subsection 220.04, Multi-Unit Packages, provided that such cartons bear a declaration of the net quantity of commodity in the package. (7-1-93)
- 08. Packaged Commodities with Labeling Requirements Specified in Federal Law.** Packages of meat and meat products, poultry and poultry products, tobacco and tobacco products, insecticides, fungicides, rodenticides, alcoholic beverages, and seeds shall be exempt from the requirements set forth in Subsection 172.03, Weight: Dual Quantity Declaration; Subsection 172.04, Fluid Measure: Dual Quantity Declaration; Subsection 172.05, Length Measure: Dual Quantity Declaration; Subsection 172.06, Area Measure: Dual Quantity Declaration; Subsection 200.02, Location; and Subsection 200.08, Minimum Height of Numbers and Letters, provided that quantity labeling requirements for such products are specified in Federal Law, so as to follow reasonably sound principles of providing consumer information. (7-1-93)
- 09. Fluid Dairy Products, Ice Cream, and Similar Frozen Desserts.** (7-1-93)
- a.** When packaged in one-half (1/2) liquid pint and one-half (1/2) gallon containers, are exempt from the requirements for stating net contents of eight (8) fluid ounces and sixty-four (64) fluid ounces, which may be expressed as one-half (1/2) pint and one-half (1/2) gallon, respectively. (7-1-93)
- b.** When packaged in one (1) liquid pint, one (1) liquid quart, and one-half (1/2) gallon containers, are exempt from the dual net contents declaration requirements of Subsection 172.04, Fluid Measure: Dual Quantity Declaration. (7-1-93)
- c.** When measured by and packaged in one-half (1/2) liquid pint, one (1) liquid pint, one (1) liquid

quart, one-half (1/2) gallon and one (1) gallon measure containers as defined in "Measure Container Code of National Bureau of Standards, or its successor organization, the National Institute of Standards and Technology, Handbook 44," are exempt from the requirement of Subsection 200.02, Location, that the declaration of net contents be located within the bottom thirty percent (30%) of the principal display panel. (7-1-93)

d. Milk and milk products when measured by and packaged in glass or plastic containers of one-half (1/2) liquid pint, one (1) liquid pint, one (1) liquid quart, one-half (1/2) gallon, and one (1) gallon capacities are exempt from the placement requirement of Subsection 200.02, Location, that the declaration of net contents be located within the bottom thirty percent (30%) of the principal display panel, provided that other required label information is conspicuously displayed on the cap or outside closure, and the required net quantity of contents declaration is conspicuously blown, formed, or molded on, or permanently applied to that part of the glass or plastic container that is at or above the shoulder of the container. (7-1-93)

10. Single Strength and Less Than Single Strength Fruit Juice Beverages, Imitations Thereof, and Drinking Water. (7-1-93)

a. When packaged in glass, plastic, or fluid milk type paper containers of eight (8) and sixty-four (64) fluid ounce capacity, are exempt from the requirements of Subsection 171.07.b., Units: Weight, Measure, to the extent that net contents of eight (8) fluid ounces and sixty-four (64) fluid ounces (or two (2) quarts) may be expressed as one-half (1/2) pint (or half pint) and one-half (1/2) gallon (or half gallon), respectively. (7-1-93)

b. When packaged in glass, plastic, or fluid milk type paper containers of one (1) pint, one (1) quart, and one-half (1/2) gallon capacities, are exempt from the dual net contents declaration requirements of Subsection 172.04, Fluid Measure: Dual Quantity Declaration. (7-1-93)

c. When packaged in glass or plastic containers of one-half (1/2) pint, one (1) pint, one (1) quart, one (1/2) gallon, and one (1) gallon capacities, are exempt from the placement requirement of Subsection 200.02, Location, that the declaration of net contents be located within the bottom thirty percent (30%) of the principal display panel; provided that other required label information is conspicuously displayed on the cap or outside closure and the required net quantity of contents declaration is conspicuously blown, formed, or molded into or permanently applied to that part of the glass or plastic container that is at or above the shoulder of the container. (7-1-93)

11. Soft-Drink Bottles. Bottles of soft drinks shall be exempt from the placement requirements for the declaration of: (7-1-93)

a. Identity, when such declaration appears on the bottle closure; and (7-1-93)

b. Quantity, when such declaration is blown, formed, or molded on or above the shoulder of the container and when all other information required by this rule appears only on the bottle closure. (7-1-93)

12. Multi-Unit Soft Drink Packages. Multi-unit packages of soft drinks are exempt from the requirement for a declaration of: (7-1-93)

a. Responsibility, when such declaration appears on the individual units and is not obscured by the multi-unit packaging, or when the outside container bears a statement to the effect that such declaration will be found on the individual units inside; and (7-1-93)

b. Identity, when such declaration appears on the individual units and is not obscured by the multi-unit packaging. (7-1-93)

13. Butter. When packaged in four (4) ounce, eight (8) ounce, and one (1) pound units with continuous label copy wrapping, butter is exempt from the requirements that the statement of identity (Subsection 170.01) and the net quantity declaration (Subsection 200.06) be generally parallel to the base of the package. When packaged in eight (8) ounce and one (1) pound units, butter is exempt from the requirement for location (Subsection 200.02) of net quantity declaration and, when packaged in one (1) pound units, is exempt from the requirement for dual quantity declaration (Subsection 172.03). (7-1-93)

14. Eggs. Carton containing twelve (12) eggs shall be exempt from the requirement for location (Subsection 200.02) of net quantity declaration. When such cartons are designed to permit division in half, each half (1/2) shall be exempt from the labeling requirements of this rule if the undivided carton conforms to all such requirements. (7-1-93)

15. Flour. Packages of wheat flour packaged in units of two (2), five (5), ten (10), twenty-five (25), fifty (50), and one-hundred (100) pounds shall be exempt from the requirement in this rule or location (Subsection 200.02) of the net quantity declaration and, when packaged in units of two (2) pounds, shall be exempt also from requirement for a dual quantity declaration (Subsection 172.03). (7-1-93)

16. Small Packages. On a principal display panel of five (5) square inches or less, the declaration of quantity need not appear in the bottom thirty (30%) of the principal display panel if that declaration satisfies the other requirements of this rule. (7-1-93)

17. Decorative Containers. The principal display panel of a cosmetic marketed in a “boudoir-type” container including decorative cosmetic containers of the “cartridge,” “pill box,” “compact,” or “pencil” variety, and those with a capacity of one-fourth (1/4) ounce or less, may be a tear-away tag or tape affixed to the decorative container and bearing the mandatory label information as required by this rule. (7-1-93)

18. Combination Packages. Combination packages are exempt from the requirements in this rule for: (7-1-93)

a. Location (see Subsection 200.02); (7-1-93)

b. Free area (see Subsection 200.05); and (7-1-93)

c. Minimum height of numbers and letters (see Subsection 200.08). (7-1-93)

19. Margarine. Margarine in one (1) pound rectangular packages, except for packages containing whipped or soft margarine or packages containing more than four (4) sticks, shall be exempt from the requirement in this rule for location (see Subsection 200.02) of the net quantity declaration, and shall be exempt from the requirement for a dual quantity declaration (see Subsection 172.03). (7-1-93)

20. Corn Flour. Corn flour packaged in conventional five (5), ten (10), twenty-five (25), fifty (50), and one-hundred (100) pound bags shall be exempt from the requirement in this rule for location (see Subsection 200.02) of the net quantity declaration. (7-1-93)

21. Prescription and Insulin Containing Drugs. Prescription and insulin containing drugs subject to the provisions of Section 503(b)(1) or 506 of the Federal Food, Drug, and Cosmetic Act shall be exempt from the provisions of this rule. (7-1-93)

22. Camera Film. Camera film packaged and labeled for retail sale is exempt from the net quantity statement requirements of this rule which specify how measurement of commodities should be expressed, provided that: (7-1-93)

a. The net quantity of contents on packages of movie film and bulk still film is expressed in terms of the number of lineal feet of usable film contained therein. (7-1-93)

b. The net quantity of contents on packages of still film is expressed in terms of the number of exposures the contents will provide. The length and width measurements of the individual exposures, expressed in millimeters or inches, are authorized as an optional statement. (Example: “36 exposures, 36 x 24 mm” or “12 exposures, 2-1/4 x 2-1/4 in”). (7-1-93)

23. Paints and Kindred Products. Paints, varnishes, lacquers, thinners, removers, oils, resins, and solvents, when packed in one (1) liquid pint and one (1) liquid quart units shall be exempt from the dual quantity declaration requirements of Subsection 172.04. (7-1-93)

24. Automotive Cooling System Antifreeze. Antifreeze, when packed in one (1) liquid quart units, in metal or plastic containers, shall be exempt from the dual quantity declaration requirements of Subsection 172.04. (7-1-93)

25. Motor Oils. Motor oils, when packed in one (1) liquid quart units, shall be exempt from the dual quantity declaration requirements of Subsection 172.04. Additionally, motor oil in one (1) liquid quart, one (1) gallon, one and one-fourth (1-1/4) gallon, two (2) gallon, and two and one-half (2-1/2) gallon units, bearing the principal display panel on the body of the container, is exempt from the requirements of Subsection 170.01 through 170.03. Identity, to the extent that the SAE grade is required to appear on the principal display panel, provided the SAE grade appears on the can lid and is expressed in letters and numerals in type size of at least one-fourth (1/4) inch. (7-1-93)

251. -- 259. (RESERVED)

260. VARIATIONS TO BE ALLOWED.

01. Packaging Variations. (7-1-93)

a. Variations from Declared Net Quantity. Variations from the declared net weight, measure, or count shall be permitted when caused by unavoidable deviations in weighing, measuring, or counting the contents of individual packages that occur in good packaging practice, but such variations shall not be permitted to such extent that the average of the quantities in the packages of a particular commodity, or a lot of the commodity that is kept, offered, or exposed for sale, or sold, is below the quantity stated, and no unreasonable shortage in any package shall be permitted, even though overages in other packages in the same shipment, delivery, or lot compensate for such shortage. Variations above the declared quantity shall not be unreasonably large. (7-1-93)

b. Variations Resulting from Exposure. Variations from the declared weight or measure shall be permitted when caused by ordinary and customary exposure to conditions that normally occur in good distribution practice and that unavoidably result in change of weight or measure, but only after the commodity is introduced into intrastate commerce, provided that the phrase "introduced into intrastate commerce" as used in this paragraph shall be construed to define the time and the place at which the first sale and delivery of a package is made within the state, the delivery being either: (7-1-93)

i. Directly to the purchaser or to his agent; or (7-1-93)

ii. To a common carrier for shipment to the purchaser, and this paragraph shall be construed as requiring that, so long as a shipment, delivery, or lot of packages of a particular commodity remains in the possession or under the control of the packager or the person who introduces the package into intrastate commerce, exposure variations shall not be permitted. (7-1-93)

02. Magnitude of Permitted Variations. The magnitude of variations permitted under Section 260 of this rule shall, in the case of any shipment, delivery, or lot, be determined by the facts in the individual case. (7-1-93)

261. -- 269. (RESERVED)

270. MISLEADING PACKAGES.

No commodity in package form shall be so wrapped, nor shall it be in a container so made, formed, or filled as to mislead the purchaser as to the quantity of the package, and the contents of a container shall not fall below such reasonable standard of fill as may have been prescribed for the commodity in question by the Director. (7-1-93)

271. ADVERTISING PACKAGES FOR SALE.

Whenever a packaged commodity is advertised in any manner with the retail price stated, there shall be closely and conspicuously associated with the retail price a declaration of quantity as is required by law or rule to appear on the package. Where a dual declaration is required, only the declaration that sets forth the quantity in terms of the smaller unit of weight or measure need appear in the advertisement. And provided further, that there shall not be included as part of the package declaration required under this section such qualifying terms as "when packed," "minimum," "not less than," or any other terms of similar import, nor any term qualifying a unit of weight, measure, or count (for

example, “jumbo,” “giant,” “full,” and the like) that tends to exaggerate the amount of commodity in the package. (7-1-93)

272. -- 299. (RESERVED)

300. PETROLEUM PRODUCTS.

01. Liquefied Petroleum. Liquefied petroleum gas shall be considered to be a petroleum product and shall be sold only by weight or liquid measure as provided in Sections 71-232 and 71-241, Idaho Code, of the Idaho Weights and Measures Law. (7-1-93)

02. Metering System Installation. A liquefied petroleum gas metering system installation shall be complete, that is, so installed to insure that liquefied petroleum gas is maintained in a liquid state while being metered. This includes an adequate means for vapor elimination upstream of meter and a properly installed and functioning differential valve downstream from meter. (7-1-93)

03. Maintaining Scales. Scales used for liquefied petroleum gas bottle filling shall be maintained in an adequate and accurate functioning condition. This means the periodic checking by a competent scale repairman, and checked regularly by your company’s serviceman for any foreign material and clearances around lever system and working parts. Scales shall be installed so that they are protected against weather effects so that weight value indicating elements can be accurately read. (7-1-93)

04. Gauge Stick Measurement. Petroleum products shall not be sold by gauge stick measurement. (7-1-93)

05. Single Meters. Trucks with a single meter which are used to meter oils and gasolines shall be calibrated and adjusted on one of the following only: furnace or heating oils, diesel fuels, kerosene and/or high flash solvents. (7-1-93)

06. Modified Procedure. In addition to standard gallon pricing, the following modified procedures for retail motor fuel dispenser (gas pumps) with limited variator capability of ninety-nine cents (\$0.999) shall be permitted until January 1, 1983, for all establishments charging more than ninety-nine (\$0.999) per gallon: (7-1-93)

a. When using “half-gallon” pricing, the price per gallon of gasoline computed in fractional cents per gallon shall end in even tenths of a cent. (Examples: \$1.012, \$1.014, \$1.016, etc.) (7-1-93)

b. Each establishment shall use only “gallon,” “half-pricing,” or “liter” pricing or any combination thereof. (7-1-93)

c. All establishments selling by the “liter” shall post in a conspicuous place on the premises a chart allowing comparisons between gallon and liter prices. (7-1-93)

d. Establishments using “half-pricing” shall set the unit price on the pump at one-half of the selling price and legible decals shall be affixed to the face of each pump using figures that are the approximate size and print as the pump figures in the following manner: (Illustrations of the following may be obtained from the Bureau of Weights and Measures, Idaho Department of Agriculture.) (7-1-93)

i. Immediately following the unit price indications add the term “per one-half (1/2) gallon.” (7-1-93)

ii. Immediately beneath the unit price indication, add the correct unit price “per gallon.” (7-1-93)

iii. Immediately following the total price, add the term “one-half total price.” (7-1-93)

e. Establishments using half-pricing shall post a notice in the vicinity of each island or group of pumps stating that the money values on the pump are computed at the one-half (1/2) gallon price basis. (7-1-93)

f. All roadside price signs must be complete and accurate. Price advertising using “liter” pricing must

also use comparison gallon pricing. (7-1-93)

g. All sales must be within one cent (\$.01) mathematical agreement, when total sales price is compared with volume actually dispensed. (7-1-93)

h. Half-gallon pricing with full total price retail motor fuel dispensers shall be considered to be in compliance with Handbook 44 requirements, but only at each dispenser's present installation site and only until such time as any one (1) of the following conditions has occurred: (7-1-93)

i. The selling unit price of the product being dispensed exceeds one dollar and ninety-nine cents (\$1.99) per gallon; or (7-1-93)

ii. The dispensing device or its computing head is retired from service or replaced; or (7-1-93)

iii. The date of January 1, 1983, has arrived. (7-1-93)

i. The correct price per gallon of the product being dispensed must be posted conspicuously next to, but not obscuring, the indicated price per half-gallon display on both sides of the dispenser face. (7-1-93)

j. The above sections relating to one half-gallon pricing shall not apply when the retail motor fuel dispenser is modified by a one hundred (100) cent wheel kit (see Subsection 300.06.k.i. below) prior to January 1, 1983. (7-1-93)

k. This section is an exemption to the National Bureau of Standards, or its successor organization, the National Institute of Standards and Technology, Handbook No. 44, Section GS-5.2.3., Size and Character of Indicating Elements. (7-1-93)

i. Retail motor fuel dispensers in service in the state of Idaho as of December 31, 1981, which are limited in computing capability to nine hundred ninety-nine one thousandths cents (\$.999) per gallon, but which are satisfactorily modified by zero to ninety-nine cents (\$.00 to \$.99) analog decal overlay strips or replacement wheels so as to change dispenser computations over to full cent per gallon increment basis from one dollar to nine dollars and ninety-nine cents (\$1.00 to \$9.99) per gallon, are hereby granted an exemption from Section GS-5.2.3. of Handbook No. 44 providing that the dispenser is presently installed. This exemption is temporary and lasts until (a) the dispensing device or its computing head is taken out of service, OR (b) the date of January 1, 1985, has arrived. (7-1-93)

ii. All dispensers modified pursuant to this provision must meet all other applicable provisions of the National Bureau of Standards, or its successor organization, the National Institute of Standards and Technology, Handbook No. 44, including but not limited to, general code Section GS-5.5., Money Values--Mathematical Agreement. (7-1-93)

07. Compressed Natural Gas. All compressed natural gas kept, offered or exposed for sale and sold at retail as a vehicle fuel shall be measured in terms of mass, and indicated in gasoline gallon equivalent (GGE), diesel gallon equivalent (DGE) units, or mass. (3-28-18)

08. Liquefied Natural Gas. All liquefied natural gas kept, offered, or exposed for sale and sold at retail as a vehicle fuel shall be measured in terms of mass, and indicated in diesel gallon equivalent (DGE) units, or mass. (3-28-18)

301. -- 349. (RESERVED)

350. SALE AND LABELING OF GASOLINE WHICH CONTAINS OXYGENATES.

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

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

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

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

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

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

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

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

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

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

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

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

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

a. All spark ignition engine fuel kept, offered, or exposed for sale, or sold, at retail containing at least one percent (1%) by volume and not more than ten percent (10%) by volume of any oxygenate or combination of oxygenates shall be identified as “with” or “containing” (or similar wording) the specific type of oxygenate(s) in the engine fuel. For example, the label may read “contains ethanol” or “with MTBE/ETBE.” This information shall be posted on the upper fifty percent (50%) of the dispenser front panel in a position clear and conspicuous from the driver’s position, in a type at least one half (1/2) inch in height, one-sixteenth (1/16) inch stroke (width of type). (4-11-15)

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

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

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

b. The label shall be displayed on both faces of the dispenser on the upper one-half (1/2) of the dispenser as near the unit price display as practical. (10-26-94)

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

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

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

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

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

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

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

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

351. BIODIESEL.
Identification and labeling requirements for biodiesel. (4-2-08)

01. Identification of Product. Biodiesel and biodiesel blends shall be identified by the capital letter B followed by the numerical value representing the volume percentage of biodiesel fuel. (Examples: B10, B20, B100). (4-2-08)

02. Labeling of Retail Dispensers. Each retail dispenser of biodiesel or biodiesel blend containing more than five percent (5%) shall be labeled with the capital letter B followed by the numerical value representing the volume percentage of biodiesel fuel and ending with the either "biodiesel" or "biodiesel blend." (Examples: B10 biodiesel, B20 biodiesel blend). (4-2-08)

a. The label shall have letters in bold face block not less than one-half (1/2) inch high, with the lettering clearly legible on a contrasting background. (4-2-08)

b. The label shall be displayed on both faces of the dispenser on the upper one-half (1/2) of the dispenser as near the unit price display as practical. (4-2-08)

03. Documentation for Dispenser Labeling Purposes. (4-2-08)

a. The retailer must be provided a declaration of the volume percent of the biodiesel on an invoice, bill of lading, shipping paper, or other document, at the time of delivery of the fuel. (4-2-08)

b. This documentation is for dispenser labeling purposes only; it is the responsibility of any potential blender to determine the amount of biodiesel in the diesel fuel prior to blending. (4-2-08)

04. Exemption. Biodiesel blends containing five percent (5%) or less biodiesel by volume are exempted from the requirements of Section 351 of this rule. (4-2-08)

05. Penalties. Any person who violates any provisions of these rules shall be punished as provided for in Sections 37-2501 and 37-2520, Idaho Code. (4-2-08)

352. -- 399. (RESERVED)

400. UNATTENDED VENDING MACHINES.

01. Vending Machine Displays. Any coin or currency operated device which automatically dispenses consumer commodities or consumer packages without a full-time attendant shall clearly display a sign or signs showing the following facts: (7-1-93)

a. The name of the commodity or commodities dispensed; (7-1-93)

b. The brand name or names of the commodity or commodities dispensed; (7-1-93)

c. A statement of the quantity of each commodity or package to be dispensed through the device, except that this paragraph shall not apply to candy bars, gum, or cigarettes; (7-1-93)

d. The name, city, street address, state, and telephone number of the local distributor or operator of such device. (7-1-93)

02. Units of Measurement. The units of measure used on such sign in the statement of quantity shall be standard units as prescribed by the Idaho Weights and Measures Law and the rules of this chapter. (7-1-93)

401. -- 449. (RESERVED)

450. REGISTRATION OF SERVICEMEN AND SERVICE AGENCIES FOR COMMERCIAL WEIGHING AND MEASURING DEVICES.

01. Definitions. (7-1-93)

a. Commercial Weighing and Measuring Device. The term “commercial weighing and measuring device” includes any weight or measure or weighing or measuring device commercially used or employed in establishing the size, quantity, extent, area or measurement of quantities, things, product, or articles for distribution or consumption, purchased, offered or submitted for sale, hire, or award, or in computing any basic charge or payment for services rendered on the basis of weight or measure, and includes any accessory attached to or used in connection with a commercial weighing or measuring device when such accessory is so designed or installed that its operation affects, or may affect, the accuracy of the device. (7-1-93)

b. Registered Serviceman. The term “registered serviceman” means any individual who for hire, award, commission or any other payment of any kind, installs, services, repairs or reconditions a commercial weighing or measuring device, and who voluntarily registers himself as such with the Bureau of Weights and Measures. (7-1-93)

c. Registered Service Agency. The term “registered service agency” means any agency, firm, company or corporation which, for hire, award, commission or any other payment of any kind, installs, services, repairs or reconditions a commercial weighing or measuring device, and which voluntarily registers itself as such with the Bureau of Weights and Measures. Under agency registration, identification of individual servicemen shall be required. (7-1-93)

02. Policy. It is the policy of the Director of the Department of Agriculture or the Director’s duly authorized agent, hereinafter referred to as “Director,” to accept voluntary registration of (a) an individual and (b) an agency that provides acceptable evidence that he or it is fully qualified to install, service, repair or recondition a commercial weighing or measuring device; has a thorough working knowledge of all appropriate weights and measures laws, orders, rules; and has possession of, or available for use, weights and measures standards and testing equipment appropriate in design and adequate in amount. (An employee of government shall not be eligible for registration). This policy in no way precludes or limits the right and privilege of any qualified individual or agency

not registered with the Director to install, service, repair, or recondition a commercial weighing or measuring device. (7-1-93)

03. Reciprocity. The Director may enter into an informal reciprocal agreement with any other state or states that has or have similar voluntary registration policies. Under such agreement, the registered servicemen and the registered service agencies of the states party to the reciprocal agreement are granted full reciprocal authority, including reciprocal recognition of certification of standards and testing equipment, in all states party to such agreement. (7-1-93)

04. Voluntary Registration. An individual or agency may apply for voluntary registration to service weighing devices or measuring devices on an application form supplied by the Director. Said form, duly signed and witnessed, shall include certification by the applicant that the individual or agency is fully qualified to install, service, repair, or recondition whatever devices for the service of which competence is being registered; has in possession, or available for use, all necessary testing equipment and standards; and has full knowledge of all appropriate weights and measures laws, orders, rules and regulations. An applicant also shall submit appropriate evidence or references as to qualifications. (7-1-93)

05. Certificate of Registration. Upon receipt and acceptance of a properly executed application form, the Director shall issue to the applicant a "Certificate of Registration," including an assigned registration number, which shall remain effective until either returned by the applicant or withdrawn by the Director. (7-1-93)

06. Privileges of a Voluntary Registrant. A bearer of a Certificate of Registration shall have the authority to remove an official rejection tag or mark placed on a weighing or measuring device by the authority of the Director; place in service, until such time as an official examination can be made, a weighing or measuring device that has been officially rejected; and place in service, until such time as an official examination can be made, a new or used weighing or measuring device. (7-1-93)

07. Placed in Service Report. The Director shall furnish each registered serviceman and registered service agency with a supply of report forms to be known as "Placed in Service Reports." Such a form shall be executed in triplicate, include the assigned registration number, and be signed by a registered serviceman or by a serviceman representing a registered agency for each rejected device restored to service and for each newly installed device placed in service. Within twenty-four (24) hours after a device is restored to service, or placed in service, the original of the properly executed Placed in Service Report, together with any official rejection tag removed from the device, shall be mailed to the Director at The Idaho State Department of Agriculture, Bureau of Weights and Measures, 2216 Kellogg Lane, Boise, Idaho, 83712. The duplicate copy of the report shall be handed to the owner or operator of the device, and the triplicate copy of the report shall be retained by the registered serviceman or agency. Also, a copy of a test report on the form used by the Bureau of Weights and Measures or a form approved by the Bureau of Weights and Measures must be submitted to the Bureau of Weights and Measures, 2216 Kellogg Lane, Boise, Idaho, 83712, on livestock, vehicle and mono-rail scales. (7-1-93)

08. Standards and Testing Equipment. A registered serviceman and a registered service agency shall submit, at least biennially, or as directed, to the Director, for his examination and certification, any standards and testing equipment that are used, or are to be used, in the performance of the service and testing functions with respect to weighing and measuring devices for which competence is registered. A registered serviceman or agency shall not use in servicing commercial weighing or measuring devices any standards or testing equipment that have not been certified by the Director. (7-1-93)

09. Revocation of Certificate of Registration. The Director may, for good cause, after careful investigation and consideration, suspend or revoke a Certificate of Registration. (7-1-93)

10. Publication of Lists of Registered Servicemen and Registered Service Agencies. The Director will publish, from time to time as he deems appropriate, and may supply upon request, lists of Registered Servicemen and Registered Service Agencies. (7-1-93)

451. -- 499. (RESERVED)

500. BREAD.

Each loaf of bread kept, offered, or exposed for sale, whether or not the bread is packaged or sliced, shall be sold by weight, as per Section 71-236 of Title 71, Chapter 2, Idaho Code. (4-2-08)

501. -- 549. (RESERVED)

550. GENERAL REVOCATION OF PREVIOUS RULES.

All provisions of all rules and all orders heretofore issued on the subject of weights and measures, particularly the rules on sale by count or weight for misleading the consumer adopted June 6, 1961, the regulations on meat and poultry adopted July 11, 1962, and the establishment of a guide for specifications and tolerances adopted October 10, 1963, and any other regulations or orders contrary to or inconsistent with the above rules are hereby revoked. (7-1-93)

551. -- 599. (RESERVED)

600. SINGLE DRAFT VEHICLE WEIGHING.

A highway vehicle or a coupled highway-vehicle or a coupled highway-vehicle combination shall be commercially weighed on a vehicle scale only as a single draft. That is, the total weight of such a vehicle or combination shall not be determined by adding together the results obtained by separately and not simultaneously weighing each end of such vehicle or individual elements of such coupled combination. However: (7-1-93)

01. Coupled Combination. The weight of a coupled combination may be determined by uncoupling the various elements (tractor, semitrailer, trailer), weighing each unit separately as a single draft, and adding together the results. (7-1-93)

02. Vehicle. The weight of a vehicle or coupled-vehicle combination may be determined by adding together the weights obtained while all individual elements are resting simultaneously on more than one (1) scale platform. (7-1-93)

601. -- 649. (RESERVED)

650. RULE FOR NATIONAL TYPE EVALUATION.

01. Application. This rule applies to all classes of devices and equipment as covered in the National Institute of Standards and Technology Handbooks 44, 105-1, 105-2, and 105-3. (7-1-93)

02. Definitions. (7-1-93)

a. National Type Evaluation Program. The term "National Type Evaluation Program" means a program of cooperation between the National Institute of Standards and Technology, the National Conference on Weights and Measures, the states, and the private sector for determining, on a uniform basis, conformance of a type with the relevant provisions of the National Institute of Standards and Technology Handbook 44, "Specifications, Tolerances, and Other Technical Requirements for Weighing and Measuring Devices," National Institute of Standards and Technology Handbook 105-1, "Specifications and Tolerances for Reference Standards and Field Standard Weights and Measures, Specifications and Tolerances for Field Standard Weights (NIST Class F)," National Institute of Standards and Technology Handbook 105-2, "Specifications and Tolerances for Reference Standards and Field Standard Weights and Measures, Specifications and Tolerances for Field Standard Measuring Flask," or National Institute of Standards and Technology Handbook 105-3, "Specifications and Tolerances for Reference Standards and Field Standard Weights and Measures, Specifications and Tolerances for Graduated Neck Type Volumetric Field Standards." (7-1-93)

b. Type Evaluation. The term "type evaluation" means the testing, examination, and evaluation of a type by a participating laboratory under the National Type Evaluation Program. (12-22-92)

c. Type. The term "type" means a model or models of a particular measurement system, instrument, element or a field standard that positively identifies the design. A specific type may vary in its measurement ranges, size, performance, and operating characteristics as specified in the Certificate of Conformance. (12-22-92)

d. Participating Laboratory. The term “participating laboratory” means any State Measurement Laboratory that has been certified by the National Institute of Standards and Technology, in accordance with its program for the Certification of Capability of State Measurement Laboratories, to conduct a type of evaluation under the National Type Evaluation Program. (12-22-92)

e. Certificate of Conformance. The term “certificate of conformance” means a document issued by the National Institute of Standards and Technology based on testing in participating laboratories, said document constituting evidence of conformance of a type with the requirements of National Institute of Standards and Technology Handbooks 44, 105-1, 105-2, 105-3. (12-22-92)

f. Director. The term “Director” means the Director of the Department of Agriculture. (12-22-92)

03. Certificate of Conformance. The Director may require any weight or measure, or any weighing or measuring instrument or device to be issued a Certificate of Conformance prior to use for commercial or law enforcement purposes. (12-22-92)

04. Participating Laboratory. The Director is authorized to operate a participating laboratory as part of the National Type Evaluation Program. (12-22-92)

651. -- 999. (RESERVED)

**IDAPA 02
TITLE 02
CHAPTER 15**

02.02.15 – RULES GOVERNING THE SEED INDEMNITY FUND

000. LEGAL AUTHORITY.

This chapter is adopted under the legal authority of Section 22-5129, Idaho Code. (4-2-03)

001. TITLE AND SCOPE.

01. Title. The title of this chapter is IDAPA 02.02.15, “Rules Governing the Seed Indemnity Fund.” (4-2-03)

02. Scope. These rules clarify the procedure for licensing, collection and remittance of assessments, determining claim value, maintaining electronic records, use of electronic scales and remedies of the ISDA for non-compliance. (4-2-03)

002. WRITTEN INTERPRETATIONS.

There are no written interpretations of these rules. (4-2-03)

003. ADMINISTRATIVE APPEALS.

There is no provision for administrative appeals before the Idaho State Department of Agriculture under this chapter. Hearing and appeal rights are pursuant to Title 67, Chapter 52, Idaho Code. (4-2-03)

004. INCORPORATION BY REFERENCE.

No documents are incorporated by reference in this chapter. (4-2-03)

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. PUBLIC RECORDS ACT COMPLIANCE.

These rules are public records and are available for inspection and copying at the ISDA. (4-2-03)

007. -- 009. (RESERVED)

010. DEFINITIONS.

The Idaho State Department of Agriculture adopts the definitions set forth in Section 22-5102, Idaho Code. In addition, as used in this chapter, “type” means the class of seed (i.e. foundation, certified, registered, noncertified). (4-2-03)

011. ABBREVIATIONS.

01. GAAP. Generally Accepted Accounting Principles. (4-2-03)

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

03. SIF. The Idaho Seed Indemnity Fund. (4-2-03)

04. USPS. United States Postal Service. (4-2-03)

012. DELIVERY VOUCHER.

If there are no receipts or scale weight tickets issued at the time of seed crop delivery, a delivery voucher may be issued. A delivery voucher is a document that may be used as written evidence of transfer in accordance with Section 22-5102(16), Idaho Code, evidencing delivery of producer's seed crop to seed buyer and shall include but is not

limited to: (4-2-03)

- 01. Producer.** The full name, address and phone number of the producer. (4-2-03)
- 02. Seed Buyer.** The full name, address and phone number of the seed buyer. (4-2-03)
- 03. Ship To.** The full name, address and phone number of the seed facility that the seed crop is to be transferred. (4-2-03)
- 04. Transportation Company.** The name, address and phone number of the transportation company delivering the seed crop to the seed facility. The truck, trailer and seal number, if applicable, driver name (printed), signature and date of transfer. (4-2-03)
- 05. Seed Crop Shipped.** For each seed crop delivery, the type, kind, variety, estimated volume or weight and date of shipment and container identification markings. (4-2-03)

013. WAREHOUSE RECEIPTS.

Shall include but not be limited to: (4-2-03)

- 01. Name of Producer.** (4-2-03)
- 02. Name and Address of Seed Buyer.** (4-2-03)
- 03. Kind of Seed Crop.** (4-2-03)
- 04. Date of Delivery.** (4-2-03)
- 05. Weight of Seed Crop Delivered.** (4-2-03)
- 06. Lot Identification.** (4-2-03)

014. SCALE WEIGHT TICKETS.

Scale weight tickets for electronic scales that are recorded and maintained electronically are exempt from the sequentially numbered and in triplicate requirement. (4-2-03)

- 01. Pre-Numbered Scale Tickets.** If a seed buyer has access to a scale which can be used for weighing seed, he shall use pre-numbered scale tickets. (3-16-04)
- 02. Numerical Order Requirement.** A copy of each ticket shall be maintained in numerical order. (3-16-04)
- 03. Custom Scale Requirement.** If a seed buyer does not have access to a scale and has seed crop custom weighed at various locations, the seed buyer shall maintain a copy of the scale ticket in chronological order as part of the seed crop records. (3-16-04)

015. -- 025. (RESERVED)

026. LICENSE.

01. Posting of License. Immediately upon receipt of the license or any renewal, extension or modification thereof under Title 22, Chapter 51, Idaho Code, the licensed seed buyer shall post the license in a conspicuous place in each place of business or in any other place as the director may determine. The ISDA will issue a duplicate license for each additional seed facility. (4-2-03)

02. License Fee. If an applicant is not licensed pursuant to the "Pure Seed Law," Title 22, Chapter 4, Idaho Code, the license fee shall be equal to the out-of-state license fees, pursuant to Title 22, Chapter 4, and be deposited to the state treasury and credited to the SIF. (4-2-03)

03. Return of Suspended or Terminated License. If a license issued to a seed buyer has lapsed or is suspended, revoked or canceled by the director, the license and all duplicates shall be returned to the ISDA. At the expiration of any period of suspension, revocation or cancellation, the license shall be returned to the seed buyer to whom it was originally issued and be posted as prescribed by these rules. (4-2-03)

04. Loss of License. Upon satisfactory proof of the loss or destruction of a license issued to a seed buyer, a duplicate may be issued under the same number or a new number at the discretion of the director. (4-2-03)

05. License Reinstatement Fee. If license renewal material is received by the ISDA after the current license has expired, but no later than thirty (30) days past due, a reinstatement fee of one hundred dollars (\$100) shall be assessed. If license renewal material is received after the thirty (30) day late period it will be considered an original license application and will be assessed a license fee equal to the requirements of Section 026. The exemption for license fees in Section 22-5103(3a), Idaho Code, will not apply to license renewals that have been received by the ISDA later than thirty (30) days. Fees collected by this subsection shall be deposited in the state treasury and credited to the SIF account. (4-2-03)

06. Additional License Application Information. The ISDA may request additional license information that may include, but not limited to: (4-2-03)

- a.** Names of officers of corporations or limited liability companies. (4-2-03)
- b.** Company information as required in the application form. (4-2-03)
- c.** Outstanding producer financial obligations. (4-2-03)
- d.** Name and address of banks that handle business accounts. (4-2-03)

07. License Duration. Licenses issued under the provisions of Title 22, Chapter 51, Idaho Code, expire on the 30th day of June of each year. (4-2-03)

027. -- 035. (RESERVED)

036. AMOUNT OF BOND FOR SEED STORED FOR WITHDRAWAL.

For the purpose of calculating the bond required pursuant to Section 22-5105, Idaho Code, the value for seed stored for withdrawal shall be calculated by either using the commonly accepted market price of similar seed crops within the same geographic location or equal to the average value of the same kind of seed crop owned by the seed buyer, whichever is greater, as determined by ISDA. (4-2-03)

037. AMOUNT OF BOND, IRREVOCABLE LETTER OF CREDIT, CERTIFICATE OF DEPOSIT, OR SINGLE BOND.

01. Bonding Requirement. The amount of bond to be furnished shall be fixed at a rate pursuant to Section 22-5105, Idaho Code. (3-16-04)

02. Single Bond, Irrevocable Letter of Credit or Certificate of Deposit. For the purposes of licensing as a seed buyer pursuant to Title 22, Chapter 51, Idaho Code, and as a warehouseman pursuant to Title 69, Chapter 2, Idaho Code, or as a commodity dealer pursuant to Title 69, Chapter 5, Idaho Code, a single bond, irrevocable letter of credit or certificate of deposit shall be fixed at whichever of the following amounts is greater: (3-16-04)

- a.** Combined total indebtedness paid and owed to producers for seed crop and agricultural commodity, without any deductions, for the previous license year; or (3-16-04)
- b.** The indebtedness owed and estimated to be owed to producers for seed crop and agricultural commodity, without any deductions, for the current license year. (3-16-04)

038. -- 046. (RESERVED)

047. MAINTENANCE OF RECORDS.

All records and accounts required under Title 22, Chapter 51, Idaho Code, shall be kept separate and distinct from all records and accounts of any other business of the seed buyer and be subject to inspection by the director at any reasonable time. Electronic records may be maintained out of Idaho provided they are available for examination by the ISDA within the state at any reasonable time. (4-2-03)

048. -- 049. (RESERVED)

050. INSURANCE REQUIREMENTS.

01. Insurance Coverage. Pursuant to Section 22-5114, Idaho Code, the seed buyer shall maintain a commercial property policy for loss against, but not limited to: (4-2-03)

- a.** Loss from fire; (4-2-03)
- b.** Loss from internal explosion; (4-2-03)
- c.** Loss from lightning; (4-2-03)
- d.** Loss from tornado. (4-2-03)

02. Insurance Deductible. The maximum deductible allowed for insurance required by Section 22-5114, Idaho Code, shall be fifty thousand dollars (\$50,000). However, a larger deductible may be allowed at the discretion of the director. The request shall be submitted in writing and kept on file. (4-2-03)

03. Seed Stored for Withdrawal. The amount of insurance coverage shall be sufficient to cover the full replacement value of similar or better kind and quality of seed crop. (4-2-03)

04. Self-Insurance. A request for self-insurance shall be submitted to the ISDA in writing and signed by the seed buyer or his representative. Supporting evidence of ability to pay seed crop obligations, in the event of a loss due to fire, internal explosions, lightning, or tornadoes, shall be attached to the self-insurance request. (4-2-03)

a. The director may accept or reject the self-insurance request. The director's findings will be in writing and kept on file. (4-2-03)

b. If a seed buyer is self-insured and the seed crop within the licensed seed buyer's facility has been damaged or destroyed, the seed buyer shall make complete settlement to all producers within thirty (30) days of the loss. Failure of the seed buyer to make such settlement shall be grounds for revocation of the seed buyer's license. If the seed buyer and producer agree to other terms, set out in writing, the settlement does not need to be made within the thirty (30) day time period. If only a portion of the seed crop is damaged, settlement may be made on a pro-rata basis to the producer. (4-2-03)

05. Insurance Settlement. When the seed crop within a licensed seed buyer's facility has been damaged or destroyed, the seed buyer shall make complete settlement to all producers having seed crops transferred to the seed buyer or stored for withdrawal within ten (10) days after settlement with the insurance company. Failure of the seed buyer to make such settlement shall be grounds for revocation of the seed buyer's license. If the seed buyer and producer agree to other terms, set out in writing, the settlement does not need to be made within the ten (10) day time period. If only a portion of the seed crop is damaged, settlement may be made on a pro-rata basis to the producer. (4-2-03)

051. -- 059. (RESERVED)

060. NONCOMPLIANCE -- REQUIREMENTS.

If a seed buyer is not meeting its obligations to producers, does not have the ability to pay producers, or refuses to submit records and papers for lawful inspection, the ISDA shall give written notice to the seed buyer and direct the

seed buyer to comply with all of the following requirements within ten (10) working days or as agreed to by the ISDA. (4-2-03)

01. Additional Security Requirements. If it appears the licensee does not have the ability to pay producers for seed crops transferred, or when it appears the licensee does not have a sufficient net worth to outstanding financial obligations ratio, the ISDA may require the licensee to post a bond or other additional acceptable security in the amount of two thousand dollars (\$2,000) for each one thousand dollars (\$1,000) or fraction thereof of deficiency. (4-2-03)

02. Provide an Audited or Reviewed Financial Statement. The ISDA may require the licensee to submit an audited or reviewed financial statement prepared for the current financial accounting year by an independent certified public accountant or licensed public accountant. The audited or reviewed financial statement shall be prepared in accordance with GAAP. The ISDA may request a follow-up review of the submitted financial statement. (4-2-03)

061. -- 069. (RESERVED)

070. HOW ASSESSMENTS ARE TO BE CALCULATED.

Pursuant to Section 22-5121, Idaho Code, all seed buyers shall collect assessments from producers who transfer seed crop or store for withdrawal. Assessments are calculated as follows: (4-2-03)

01. Contract. Assessments shall be collected on the gross dollar amount, without any deduction, owed to, or paid, or to be paid, on behalf of the producer of the seed crop. (4-2-03)

02. Seed Stored for Withdrawal. On the clean or estimated clean weight at the time the seed crop is withdrawn from the seed facility: (4-2-03)

a. The initial rate of assessment for cereal grain, lentil, pea, and dry edible bean and oil seed stored for withdrawal shall not exceed one hundredth (1/100) cent per pound. (4-2-03)

b. The initial rate of assessment for all seed crops stored for withdrawal other than seed crops pursuant to Section 070, shall not exceed one half (1/2) cent per pound. (4-2-03)

c. The SIF advisory board shall review the assessment rate annually and make recommendations for change, as necessary, to the director. (4-2-03)

d. If the amount of assessment for a producer on all seed stored for withdrawal made in a calendar year is calculated to be less than fifty cents (\$.50), no assessment will be collected. (4-2-03)

03. Incidental Costs and Expenses. All incidental costs and expenses including, but not limited to transportation, cleaning, in and out charges, insurance, taxes and additional services or charges shall not be included in the calculation to determine the assessment. (4-2-03)

04. Unpaid Assessments. If any assessment is unpaid and a failure occurs, the amount of the unpaid assessment will be deducted from any SIF recovery paid to the producer. (4-2-03)

071. -- 079. (RESERVED)

080. COLLECTION AND REMITTANCE OF SIF ASSESSMENTS.

SIF assessments shall be collected from obligations owed to the producer or at the time of withdrawal by the seed buyer and remitted to the ISDA. If assessment is paid by mail the payment must be postmarked not later than the twentieth day of the month following the close of the quarter to avoid interest and penalty charges. (3-16-04)

081. -- 089. (RESERVED)

090. CLAIM FORMS AND PAYMENT FROM THE FUND.

01. Claim Forms. Claim forms will be provided either via the USPS, by electronic transfer by the ISDA, or other commercial means. (4-2-03)

02. Contract. If the seed crop is contracted, the value of the contract price of the seed crop, at the time of payment, may be used to determine payment from the SIF. (4-2-03)

03. Not Contracted or Stored for Withdrawal. If the seed crop is not contracted or stored for withdrawal, the value for payment from the SIF shall be determined by a survey of prices, for similar seed crops and similar seed facilities, within the same geographic location as the failed seed buyer. (4-2-03)

091. -- 099. (RESERVED)

100. EXEMPTIONS.

Producers are not eligible to participate in SIF and no assessments shall be collect from: (4-2-03)

01. Producers With a Financial or Management Interest. Producers that have a financial or management interest in a seed facility, except members of a cooperative marketing association qualified under Title 22, Chapter 26, Idaho Code. (4-2-03)

02. Producers That Sell or Transfer to Another Producer. Producers that sell to another producer, none of which are seed buyers. (4-2-03)

03. Deliveries or Transfers to Unlicensed Seed Facilities. Producers that deliver or transfer seed crops to an unlicensed facility. (4-2-03)

101. -- 999. (RESERVED)

**IDAPA 02
TITLE 04
CHAPTER 03**

02.04.03 – RULES GOVERNING ANIMAL INDUSTRY

000. LEGAL AUTHORITY.

This chapter is adopted under the legal authority of Sections 25-203, 37-303, and 37-405, Idaho Code. (3-20-97)

001. TITLE AND SCOPE.

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

02. Scope. These rules govern procedures for the prevention, control and eradication of diseases among the animals in the state of Idaho. (1-10-94)

002. WRITTEN INTERPRETATIONS.

There are no written interpretations of these rules. (1-10-94)

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. IDAPA 02.04.03 incorporates by reference the following documents: (5-3-03)

a. The USDA Pseudorabies Eradication State-Federal-Industry Program Standards, November 1, 2003, which can be viewed online at http://www.aphis.usda.gov/animal_health/animal_diseases/pseudorabies/downloads/program_stds.pdf. (3-30-07)

b. National Poultry Improvement Plan and Auxiliary Provisions, February 12, 2008, which can be viewed online at <http://edocket.access.gpo.gov/2009/E9-7240.htm>. (5-8-09)

c. Title 9, Parts 145, 146, 147, and 161, CFR, January 1, 2008, which can be viewed online at http://www.access.gpo.gov/nara/cfr/waisidx_00/9cfrv1_00.html. (5-8-09)

d. The Compendium of Animal Rabies Prevention and Control, 2008, which can be viewed online at <http://www.nasphv.org/Documents/RabiesCompendium.pdf>. (5-8-09)

e. Equine Viral Arteritis Uniform Methods and Rules, April 19, 2004, which can be viewed online at <http://www.aphis.usda.gov/vs/nahss/equine/eva/eva-umr.pdf>. (5-8-09)

005. IDAHO PUBLIC RECORDS ACT.

These rules are public records available for inspection and copying at the department. (2-28-02)

006. 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

007. -- 009. (RESERVED)

010. DEFINITIONS.

As used in these rules the following terms have the following meanings: (5-3-03)

- 01. 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. (5-3-03)
- 02. Animal.** Any vertebrate member of the animal kingdom, except man. (3-20-04)
- 03. Approved Pseudorabies Vaccine.** Any pseudorabies vaccine produced under current USDA license and intended for immunizing swine against pseudorabies. (3-20-04)
- 04. Cachexia.** Weakness and emaciation caused by a serious disease such as tuberculosis or cancer. (3-20-04)
- 05. Epithelioma.** Cancer or tumor. (3-20-04)
- 06. Equidae.** Horses, ponies, mules, asses, and zebras. (5-8-09)
- 07. Exposed Livestock.** Any livestock that have been in contact with an animal infected with, or affected by, any contagious, infectious or communicable disease, including all livestock in a known infected herd. (3-20-04)
- 08. Gamebirds.** Domesticated gallinaceous fowl such as pheasants, partridge, quail, grouse, and guineas. (5-3-03)
- 09. Garbage.** Putrescible animal and vegetable waste containing animal parts resulting from the handling, preparation, processing, cooking or consumption of foods. (3-20-04)
- 10. Hatching Eggs.** Fertilized eggs. (5-3-03)
- 11. Herd.** A herd is any group of livestock maintained on common ground for any purpose, or two (2) or more groups of livestock under common ownership or supervision, geographically separated, but which have an interchange or movement of animals without regard to whether the animals are infected with or exposed to contagious, infectious, or communicable animal diseases. (3-20-04)
- 12. Infected Livestock.** Any livestock determined to be infected with a contagious infectious, of communicable disease by an official test or diagnostic procedure, or diagnosed by a veterinarian as infected. (3-20-04)
- 13. Interstate Movement.** Movements of livestock and poultry 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)
- 14. Intrastate Movement.** Movement of any animal from one location to another location within Idaho. (3-20-04)
- 15. Known Infected Herd.** Any herd in which any livestock has been determined to be infected with contagious, infectious, or communicable diseases by an official test or diagnostic procedure, or diagnosed by a veterinarian as being infected. (3-20-04)
- 16. Livestock.** Swine, cattle, sheep, goats, equidae, domestic bison, domestic cervidae, camelids, ratites, and other domestically raised animals. (4-2-08)
- 17. Necrosis.** Death of tissue. (3-20-04)
- 18. Negative.** An animal that has been tested with official test procedures and is found to be negative. (3-20-04)
- 19. Neoplastic Tissue.** New growth or tissue associated with a tumor. (3-20-04)

- 20. Official Pseudorabies Test.** Any test for the diagnosis of pseudorabies that has been approved by USDA/APHIS and is conducted by a state/federal approved laboratory. (3-20-04)
- 21. Orbital Region.** The cavity containing the eye and surrounding bones. (4-2-08)
- 22. Positive.** An animal that has been tested and found positive with official disease test procedures and is considered infected with any contagious, infectious, or communicable disease. (3-20-04)
- 23. Poultry.** Domesticated fowl, including chickens, turkeys, waterfowl, and gamebirds. (5-3-03)
- 24. Pseudorabies.** The contagious, infectious, and communicable disease of livestock and other animals also known as Aujeszky's disease, mad itch or infectious paralysis. (3-20-04)
- 25. Quarantine.** A written order, or a verbal order followed by a written order, executed by the Administrator, to confine or hold animals on a premise or any other location, and to prevent movement of animals from a premise or any other location when the Administrator has determined that the animals have been found or are suspected to be exposed to or infected with any contagious, infectious, or communicable disease, or the animals are not in compliance with the provisions of this chapter. (3-20-04)
- 26. Quarantined Area.** The counties, areas, or districts, portions thereof, quarantined by the Division of Animal Industries for specific contagious, infectious, or communicable animal diseases. (5-3-03)
- 27. 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. (9-6-61)
- 28. Ratites.** Large, non-flying birds including, but not limited to ostriches, emus, cassowaries, and rheas. (3-20-04)
- 29. Registered Veterinarians.** Veterinarians registered with, and approved by, the Division of Animal Industries to collect Trichomoniasis samples for official Trichomoniasis culture testing. (5-3-03)
- 30. Restrain.** The confinement of livestock, or other animals, in a chute, or other device, for the purpose of efficiently, effectively, and safely inspecting, treating, vaccinating, or testing, as approved by the Administrator. (3-20-04)
- 31. Stockyards.** A facility where trading in livestock is carried on, where yarding, feeding and watering places are provided by the stockyards or transportation companies, or where livestock associations or similar companies maintain corrals for feeding, shearing, dipping and separating animals. (3-20-04)
- 32. Suppuration.** The formation of pus. (3-20-04)
- 33. Suspect.** An animal that has a response to an official test, but the response is not sufficient to determine the disease status of the animal tested. (3-20-04)
- 34. Swine.** All breeds of domestic porcine and all wild and exotic porcine. (3-20-04)
- 35. Swine Feedlot.** Premises designed and used exclusively for the finish feeding of swine, from which the swine will be moved directly to slaughter. (3-20-04)
- 36. Waterfowl.** Domesticated fowl that normally swim such as ducks and geese. (5-3-03)
- 37. Wildfowl.** Wild gallinaceous fowl, turkeys, and waterfowl. (5-3-03)

011. ABBREVIATIONS.

- 01. AGID. Agar gel immunodiffusion. (3-30-07)
- 02. APHIS. Animal and Plant Health Inspection Service. (4-2-08)
- 03. c-ELISA. Competitive Enzyme Linked Immunosorbent Assay. (3-30-07)
- 04. CFR. Code of Federal Regulations. (5-3-03)
- 05. EIA. Equine Infectious Anemia. (3-20-04)
- 06. NPIP. National Poultry Improvement Plan. (5-3-03)
- 07. USDA. United States Department of Agriculture. (5-3-03)
- 08. VS. Veterinary Services. (5-3-03)
- 012. -- 013. (RESERVED)
- 014. **SAMPLES FOR OFFICIAL REGULATORY TESTS.**
No person shall collect samples, in Idaho, for official regulatory tests except: (3-20-04)
 - 01. **Accredited Veterinarians.** (3-20-04)
 - 02. **State or Federal Animal Health Officials.** (3-20-04)
 - 03. **Persons Approved by the Administrator.** (3-20-04)
- 015. **QUARANTINE.**
The Administrator and all state and federal animal health officials are authorized to quarantine any animals affected or infected with, or exposed to any contagious, infectious, or communicable disease where such animals are found, or quarantine to a place designated by the Administrator. (3-20-04)
 - 01. **Written Notice.** The owner or person in charge of the quarantined animals shall be given written notice of the quarantine. (3-20-04)
 - 02. **Acknowledgement of Quarantine.** A quarantine shall be valid whether or not it is acknowledged by the signature of the owner or person in charge of the quarantined animals. (3-20-04)
 - 03. **Disposition of Quarantined Animals.** No quarantined animals shall be moved, treated, or disposed of without the written approval of the Administrator. (3-20-04)
 - 04. **Hold Order.** A hold order is a form of quarantine that may be used to restrict the movement of animals while the disease status of the animals is being investigated. (3-20-04)
- 016. -- 019. (RESERVED)
- 020. **DISINFECTION OF PREMISES, BUILDINGS AND VEHICLES.**
The Administrator is authorized to order the cleaning and disinfecting of any barns, sheds, stockyards, railroad cars, ferryboats and other vehicles, feed yards, stable, pens, corrals, lanes and premises which have been used in confining, trailing or transporting any animals exposed to, affected by, or infected with any contagious, infectious or communicable diseases. (3-20-04)
 - 01. **Supervision of Cleaning and Disinfection.** State or federal animal health officials shall supervise the cleaning and disinfecting of such premises or conveyances. (3-20-04)
 - 02. **Owner Responsibility.** The owner of such premises or conveyances, shall be responsible for cleaning and disinfecting when directed to do so by the Administrator. (3-20-04)

03. Moving Contaminated Vehicle. Any conveyance that has contained cattle, swine or other livestock exposed to, or affected by, any contagious, infectious or communicable disease, shall not be moved for any purpose unless the Administrator has approved the movement in writing, prior to the movement occurring. (3-20-04)

04. Yards and Other Premises. Yards and other premises which have contained cattle, swine or other livestock exposed to, or affected by, any contagious, infectious or communicable disease shall not be used in connection with the movement of healthy animals until the said yards and premises have been cleaned and disinfected, under state or federal supervision, as directed by the Administrator. (3-20-04)

05. Disinfectants. Only disinfectants approved by USDA or the Administrator shall be used. (3-20-04)

021. -- 024. (RESERVED)

025. TRANSIT INSPECTION.

When deemed necessary, movements of animals will be stopped in transit for inspection. If the animals are suspected of being infected with or exposed to any contagious, infectious or communicable disease, all persons having control of the transportation or movement of the animals shall cease the movement of the animals upon receipt of an order from state or federal animal health officials. (3-20-04)

026. -- 029. (RESERVED)

030. SLAUGHTERING OF DISEASED ANIMALS.

01. Authorized by Law. When, in order to prevent the spread of contagious, infectious or communicable disease, it becomes necessary to slaughter any diseased or exposed livestock, the purchase of such livestock by the state is authorized by law, and an appropriation is available therefore, the value of the livestock shall be ascertained and compensation made therefore in accordance with the rules hereinafter provided. (9-6-61)

02. Not Authorized by Law. When, in order to prevent the spread of or to eradicate any contagious, infectious or communicable disease among any animals of this state, it becomes necessary to slaughter or destroy any diseased or exposed animals, and the purchase of such animals by the state is not authorized, and an appropriation not available therefore, the said animals shall be slaughtered under federal meat inspections rules and regulations, or destroyed and disposed of in accordance with IDAPA 02.04.17, "Rules Governing Dead Animal Movement and Disposal." (3-20-04)

031. -- 039. (RESERVED)

040. INSPECTION OF ANIMALS.

When animals are being inspected by a state or federal animal health official, proper facilities for restraining the animals, and assistance shall be provided by the owner in order that a careful inspection may be made, and state and federal animal health officials shall not be interfered with in any manner. (3-20-04)

041. -- 044. (RESERVED)

045. CERTIFICATES OF VETERINARY INSPECTION.

A copy of certificates issued by an accredited veterinarian, or a state or federal animal health official covering the movement of livestock shall accompany the livestock to destination, and be provided to the receiver of the livestock by the person who delivers the livestock. (3-20-04)

01. Copies. Legible copies of certificates of veterinary inspection shall be submitted to the Division of Animal Industries. (3-20-04)

02. Idaho Certificates. Accredited veterinarians in Idaho shall submit legible copies of all certificates that they issue to the Division of Animal Industries within five (5) business days of issuance. (3-20-04)

046. -- 049. (RESERVED)

050. STATE AND FEDERAL SEALS.

No person shall break, or in any way tamper with, a seal or other device applied to premises or conveyances by state or federal animal health officials, except: (3-20-04)

01. State or Federal Animal Health Officials; or (3-20-04)

02. Persons Designated by the Administrator. (3-20-04)

051. NOTIFICATION OF BROKEN SEALS.

Any person who discovers a state or federal seal that has been broken, tampered with, or is missing shall immediately notify the Administrator. (3-20-04)

052. LIVESTOCK IDENTIFICATION REMOVAL.

No person, except persons authorized by the Administrator, shall remove or tamper with any state or federal livestock identification, including but not limited to: (3-20-04)

01. Official Vaccination Tags. (3-20-04)

02. Official Identification Tags. (3-20-04)

03. Trichomoniasis Tags. (3-20-04)

04. Identification Tattoos. (3-20-04)

053. -- 149. (RESERVED)

150. ARTIFICIAL INSEMINATION.

01. **License Application.** Any person desiring to practice artificial insemination of domestic animals shall file an application for a license on an application form furnished by the Administrator and accompanied by a license fee of twenty-five (\$25) dollars. (3-20-04)

02. **Training.** Each applicant shall be required to take a course of training in artificial insemination at the place and time designated by the Administrator. (3-20-04)

03. **Examination.** Each applicant shall be examined in writing and in the arts and skill of artificial insemination. (9-6-61)

04. **Passing Examination.** No applicant shall be granted a license to practice artificial insemination who shall fail to answer correctly seventy-five percent (75%) of all questions asked. (3-20-04)

05. **Temporary License.** Temporary license to practice artificial insemination under the direct supervision of a licensed inseminator or veterinarian may be granted by the administrator, until such time as the next insemination course and examination is given. (3-20-04)

06. **License Expiration.** Licenses expire on the 30th day of June of each year, and all persons holding a license are entitled to renew and shall renew their license on or before the 1st day of July of each year. (9-6-61)

07. **License Renewal.** Each license holder shall make application for renewal of license to the Administrator and be accompanied by a renewal license fee of five dollars (\$5). (3-20-04)

08. **Renewal Delinquency.** Any license holder who does not renew his license by the 1st day of October following the date of delinquency shall have his license canceled. (9-6-61)

09. **Issuance Denial.** The Administrator may refuse to issue or renew a license pursuant to Section 25-810, Idaho Code. (3-20-04)

151. -- 159. (RESERVED)

160. CANCER EYE - EPITHELIOMA.

Any animal offered for sale and found to be affected with epithelioma of the eye or of the orbital region in which the eye has been destroyed or obscured by neoplastic tissue and which shows extensive infection, suppuration and necrosis, usually accompanied with foul odor, or any animal affected with epithelioma of the eye or the orbital region which, regardless of extent, is accompanied with cachexia shall not be sold for slaughter for human consumption. All such animals shall be humanely euthanized, or disposed of for immediate slaughter directly to: (3-20-04)

01. Animal Rendering Plants; or (3-20-04)

02. Fur Farms. Fur or mink farm or other establishment as approved by the Administrator. (3-20-04)

161. EPITHELIOMA -- PUBLIC LIVESTOCK MARKETS.

Any animal entering a public livestock market that is affected, as described in Section 160 of this rule, shall be held only in the quarantine pen and sold only there from. (3-20-04)

162. -- 174. (RESERVED)

175. RABIES.

In order to prevent the introduction or dissemination of rabies among the animals of the state, the Administrator is authorized to develop and implement a plan for rabies control in any portion of this state. (3-20-04)

01. Reporting. It is hereby made the duty of all persons practicing veterinary medicine in this state, or owners or persons in charge of animals, to report to the Administrator, by telephone, facsimile, or electronic mail, all cases of rabies within forty-eight (48) hours. (3-20-04)

02. Discharging Authority. State and federal animal health officials are authorized and empowered to: (3-20-04)

a. Inspect, quarantine, treat, condemn, slaughter and dispose of any animals affected or infected with or exposed to rabies. (3-20-04)

b. Quarantine, clean and disinfect all premises where such animals have been kept. (3-20-04)

c. Call upon sheriffs, constables and other peace officers to assist them in the discharge of their duties. (3-20-04)

176. -- 179. (RESERVED)

180. BIOLOGICALS.

Veterinary serums, vaccines, recombinant vaccines, bacterins, biologic remedies, diagnostic agents, immunoassay agents and diagnostic probes used in the treatment or diagnosis of disease of livestock, poultry, domestic animals, fish or fur bearing animals shall not be imported into or sold, distributed, or used within the state of Idaho unless such serum, vaccines, recombinant vaccines, bacterins, biologic remedies, diagnostic agents, immunoassay agents and diagnostic probes have been produced under a license by the United States Department of Agriculture and the manufacturers shall have a permit issued by the Idaho Department of Agriculture, Division of Animal Industries. (3-20-04)

181. -- 189. (RESERVED)

190. POULTRY AND RATITES.

Any person producing poultry or ratites for any of the following uses, is required to be in compliance with the NPIP program: (5-3-03)

01. Sale of Live Birds or Hatching Eggs. The sale of live birds or hatching eggs; or (5-3-03)

02. Release of Live Birds. Release of live birds, such as hunting clubs, hunting preserves, or dog trials; or the release of live birds into the wild. (5-3-03)

191. RECORD REQUIREMENTS.

In addition to meeting the record keeping requirements of the NPIP program, all NPIP participants shall forward a copy of their annual flock qualification test results to the Division of Animal Industries within fifteen (15) days of the completion of testing. (5-3-03)

192. INSPECTIONS.

The premises where participants in the NPIP program raise poultry or ratites shall be inspected at least once each calendar year by state or federal animal health officials. (5-3-03)

01. Scheduling of Inspections. State or federal animal health officials shall attempt to notify the NPIP participant prior to any inspection and schedule the annual inspections in advance with the NPIP participant. (5-3-03)

02. Inspecting Records. During normal business hours, state or federal animal health officials are authorized to inspect, review, and copy any poultry or ratite records deemed necessary to ensure compliance with these rules. State or federal animal health officials will attempt to notify the owner or operator of the premises where records are kept prior to inspecting records. (5-3-03)

193. NPIP CERTIFICATES OF PARTICIPATION.

The Division of Animal Industries will issue NPIP participation certificates annually to the owners of poultry and ratites that meet the following requirements: (4-2-08)

01. Records. Each NPIP participant must have on file records of their flock qualification testing; and (5-3-03)

02. Inspection Forms. Each NPIP participant shall have on file a copy of the annual inspection form from the previous year documenting compliance with the NPIP program. (5-3-03)

194. -- 199. (RESERVED)

200. EQUIDAE -- EQUINE INFECTIOUS ANEMIA.

Official tests for EIA shall include the AGID test, the C-ELISA test, and other EIA tests approved by USDA or the Administrator. (3-20-04)

01. Blood Samples. Equine blood samples collected for official EIA tests shall be collected by a state or federal animal health official or an accredited veterinarian who is licensed in the state in which the animal being tested is located. (3-20-04)

02. Official Samples. Official EIA test samples shall be accompanied to the testing laboratory by an official EIA test report on which is recorded the name and address of the owner or person in charge of the animal, the breed, sex, age and identification of the animal being tested. Identification shall include identifying tattoos, brands, color and distinctive markings. The accredited veterinarian or animal health official collecting the EIA test samples shall record the date the samples were collected and affix his signature to the official EIA test report. (3-20-04)

03. Official Tests. Official EIA tests shall be conducted in a laboratory approved by USDA or the state of Idaho to conduct EIA tests. (3-20-04)

201. EIA IS A REPORTABLE DISEASE.

All laboratories conducting EIA tests on Idaho origin equidae and all veterinarians who diagnose EIA in Idaho equidae shall report positive results of all EIA tests and diagnoses to the Administrator of Animal Industries within twenty-four (24) hours of such test or diagnosis. Negative test results shall be reported within forty-eight (48) hours. (3-20-04)

202. EIA INFECTED ANIMALS.

Any equidae which are positive to an official EIA test shall be declared to be infected with EIA and shall be designated as an EIA reactor. The Administrator may require or recommend a re-test of EIA reactors in order to confirm infection or identification of the animal. In cases where a confirmatory test is conducted, the final determination of infection will be delayed until the results of the confirmatory test are available. The animal on which a confirmatory test is to be conducted shall be placed under an official Hold Order until the results of the confirmatory test are available. (3-20-04)

203. DISPOSITION OF EIA REACTORS.

Equidae found to be infected with EIA shall be: (3-20-04)

01. Quarantined. Quarantined to the premises where the animal was found to be infected, the owner's premises, or another premises that is approved by the Administrator. (4-2-08)

02. Duration of Quarantine. The infected animal shall remain under quarantine until it is: (3-20-04)

a. Consigned to slaughter at a USDA approved equine slaughter establishment; or (3-20-04)

b. Euthanized and buried or incinerated; or (3-20-04)

c. Donated to a university or other research facility for use in EIA research projects. (3-20-04)

204. ISOLATION OF EIA REACTORS.

The quarantine premises or area for EIA reactors shall provide no less than two-hundred (200) yards separation from all other equidae. The quarantine area and quarantined animals therein may be monitored periodically by state or federal animal health officials to ensure that provisions of the quarantine are being met. (3-20-04)

205. IDENTIFICATION OF EIA REACTORS.

All equidae found to be infected with EIA shall be identified with an "82 A" brand on the left neck or left shoulder of the animal. Identification as an EIA reactor shall be accomplished within fifteen (15) days of notification that the animal is infected with EIA. The "82 A" brand shall be at least two (2) inches high and may be either a hot iron brand or a freeze brand. (3-20-04)

206. EXPOSED EQUIDAE.

EIA exposed equidae may include all equidae that are held within two-hundred (200) yards of the location where an EIA reactor is or was maintained. (3-20-04)

01. Hold Order. Exposed equidae shall be placed under a Hold Order until the animals have been tested negative to EIA at least sixty (60) days after the last reactor animal has been removed from the premises. (3-20-04)

02. Movement of Exposed Equids. Individual exposed equids, which have not had a negative sixty (60) day test, may be allowed to move under Hold Order for specific purposes if they have a negative EIA test prior to movement. Such movement shall not be for longer than fifteen (15) days. (3-20-04)

207. EXTENDED VALIDITY EQUINE CERTIFICATES.

Provided there is a written agreement between the Administrator and the chief livestock sanitary official of the state of destination, Idaho origin equidae may be moved from Idaho for shows, rides or other equine events and return to Idaho on an extended validity equine certificate under a state system of equine certification acceptable to the Administrator and the state of destination. The Administrator may authorize the movement of equidae into or out of Idaho on extended validity equine certificates. (3-20-04)

208. -- 299. (RESERVED)

300. FOREIGN ANIMAL AND REPORTABLE DISEASES.

It is the duty of all persons in Idaho to report to the Administrator immediately, by telephone, facsimile, or electronic mail, any lesions or symptoms resembling any of the foreign animal and reportable diseases listed in this chapter, that they may find existing among the animals in Idaho. The Administrator may add a foreign animal and reportable

disease by issuing an administrative order explaining in writing the reasons for requiring the disease to be reported.
(4-2-08)

301. FOREIGN ANIMAL AND REPORTABLE DISEASES: MULTIPLE SPECIES.

- 01. Anthrax. (4-2-08)
- 02. Brucellosis. (4-2-08)
- 03. Foot and Mouth Disease. (4-2-08)
- 04. Heartwater. (4-2-08)
- 05. Leishmaniasis. (4-2-08)
- 06. Plague (*Yersinia pestis*). (4-2-08)
- 07. Pseudorabies. (4-2-08)
- 08. Q Fever (*Coxiella burnetti*). (4-2-08)
- 09. Rabies. (4-2-08)
- 10. Rift Valley Fever. (4-2-08)
- 11. Scabies. (4-2-08)
- 12. Screw Worms. (4-2-08)
- 13. Theileriosis. (4-2-08)
- 14. Trypanosomiasis. (4-2-08)
- 15. Tuberculosis. (4-2-08)
- 16. Tularemia. (4-2-08)
- 17. Vesicular Stomatitis. (4-2-08)

302. FOREIGN ANIMAL AND REPORTABLE DISEASES - AVIAN DISEASES.

- 01. Avian Influenza. (4-2-08)
- 02. Avian Chlamydiosis (*Psittacosis*). (4-2-08)
- 03. Exotic Newcastle Disease. (4-2-08)

303. FOREIGN ANIMAL AND REPORTABLE DISEASES - BOVINE DISEASES.

- 01. Babesiosis. (4-2-08)
- 02. Bovine Brucellosis (*B. abortus*). (4-2-08)
- 03. Bovine Spongiform Encephalopathy. (4-2-08)
- 04. Bovine Tuberculosis. (4-2-08)

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| 05. | Contagious Bovine Pleuropneumonia. | (4-2-08) |
| 06. | Crimean Congo Hemorrhagic Fever. | (4-2-08) |
| 07. | Lumpy Skin Disease. | (4-2-08) |
| 08. | Malignant Catarrhal Fever (Foreign Type). | (4-2-08) |
| 09. | Rinderpest. | (4-2-08) |
| 10. | Trichomoniasis. | (4-2-08) |
| 304. | FOREIGN ANIMAL AND REPORTABLE DISEASES - CERVIDAE DISEASES. | |
| | Chronic Wasting Disease is a reportable disease. | (4-2-08) |
| 305. | FOREIGN ANIMAL AND REPORTABLE DISEASES - EQUINE DISEASES. | |
| 01. | African Horse Sickness. | (4-2-08) |
| 02. | Contagious Equine Metritis. | (4-2-08) |
| 03. | Dourine. | (4-2-08) |
| 04. | Equine Encephalomyelitis (Eastern, Western, Venezuelan). | (4-2-08) |
| 05. | Equine Infectious Anemia. | (4-2-08) |
| 06. | Equine Piroplasmosis (<i>Babesiosis</i>). | (4-2-08) |
| 07. | Equine Viral Arteritis. | (5-8-09) |
| 08. | Glanders. | (4-2-08) |
| 09. | Hendra Virus. | (4-2-08) |
| 10. | Japanese Encephalitis. | (4-2-08) |
| 11. | Surra (<i>Trypanosoma evansi</i>). | (4-2-08) |
| 306. | FOREIGN ANIMAL AND REPORTABLE DISEASES - FISH DISEASES. | |
| 01. | Asian Tapeworm of Carp. | (4-2-08) |
| 02. | Oncorhynchus Masou Virus Disease. | (4-2-08) |
| 03. | Spring Viremia of Carp. | (4-2-08) |
| 04. | Viral Hemorrhagic Septicemia. | (4-2-08) |
| 307. | FOREIGN ANIMAL AND REPORTABLE DISEASES - LAGOMORPH DISEASES. | |
| | Rabbit Hemorrhagic Disease is a reportable disease. | (4-2-08) |
| 308. | FOREIGN ANIMAL AND REPORTABLE DISEASES - SHEEP AND GOAT DISEASES. | |
| 01. | Contagious Caprine Pleuropneumonia. | (4-2-08) |
| 02. | Nairobi Sheep Disease. | (4-2-08) |

- 03. Ovine Brucellosis (*B. melitensis*). (4-2-08)
- 04. Peste des Petits Ruminants. (4-2-08)
- 05. Scrapie. (4-2-08)
- 06. Sheep and Goat Pox. (4-2-08)
- 309. **FOREIGN ANIMAL AND REPORTABLE DISEASES - SWINE DISEASES.**
 - 01. African Swine Fever. (4-2-08)
 - 02. Classical Swine Fever (Hog Cholera). (4-2-08)
 - 03. Enterovirus Encephalitis (Teschen Disease). (4-2-08)
 - 04. Nipah Virus Encephalitis. (4-2-08)
 - 05. Porcine Brucellosis (*B. suis*). (4-2-08)
 - 06. Swine Vesicular Disease. (4-2-08)
- 310. -- 329. **(RESERVED)**
- 330. **NOTIFIABLE DISEASES.**

All veterinarians licensed to practice in Idaho shall report any notifiable diseases listed in this chapter to the Administrator. The Administrator may add a notifiable disease by issuing an administrative order explaining in writing the reasons for requiring the disease to be reported. (4-2-08)
- 331. **NOTIFIABLE DISEASES: MIXED SPECIES DISEASES.**

West Nile Virus is a notifiable disease. (4-2-08)
- 332. **NOTIFIABLE DISEASES: AVIAN DISEASES.**
 - 01. Avian Mycoplasmosis (*M. gallisepticum* and *M. synoviae*). (4-2-08)
 - 02. Fowl Typhoid (*Salmonella gallinarum*). (4-2-08)
 - 03. Pullorum Disease (*Salmonella pullorum*). (4-2-08)
- 333. **NOTIFIABLE DISEASES: BOVINE DISEASES.**
 - 01. Hemorrhagic Septicemia (*Pasteurella multocida*). (4-2-08)
 - 02. Malignant Catarrhal Fever (Sheep Associated). (4-2-08)
- 334. **NOTIFIABLE DISEASES: EQUINE DISEASES.**
 - 01. Equine Herpesvirus Myeloencephalopathy. (5-8-09)
 - 02. Equine Rhinopneumonitis. (4-2-08)
- 335. **NOTIFIABLE DISEASES: FISH DISEASES.**
 - 01. Epizootic Hematopoietic Necrosis. (4-2-08)

02. Infectious Hematopoietic Necrosis. (4-2-08)
03. Whirling Disease. (4-2-08)
336. NOTIFIABLE DISEASES: LAGOMORPH DISEASES.
Myxomatosis is a notifiable disease. (4-2-08)
337. NOTIFIABLE DISEASES: SHEEP AND GOAT DISEASES.
01. Bluetongue. (4-2-08)
02. Caprine Arthritis/Encephalitis (CAE). (4-2-08)
03. Caseous Lymphadenitis. (4-2-08)
04. Contagious Agalactia (*Mycoplasma spp.*). (4-2-08)
05. Enzootic Abortion (*Chlamydia psittici*). (4-2-08)
06. Footrot. (4-2-08)
07. Haemonchus Contortus (drug-resistant). (4-2-08)
08. Johne's Disease. (4-2-08)
09. Maedi-Visna/Ovine Progressive Pneumonia (OPP). (4-2-08)
10. Ovine Epididymitis (*Brucella ovis*). (4-2-08)
11. Toxoplasma Gondii Abortion. (4-2-08)
12. Vibrionic Abortion (*Campylobacter fetus*). (4-2-08)
338. NOTIFIABLE DISEASES: SWINE DISEASES.
01. Porcine Reproductive and Respiratory Syndrome (PRRS). (4-2-08)
02. Transmissible Gastroenteritis. (4-2-08)
339. -- 359. (RESERVED)
360. ACTINOMYCOSIS (LUMP JAW).
01. **Selling Diseased Animal.** It shall be unlawful for any person to knowingly sell, offer for sale, or in any manner transfer ownership to another person any animal infected or affected with the disease known as actinomycosis or lump jaw if the disease shows well-marked clinical symptoms, or is in the advanced stage, except for immediate slaughter, and then only in accordance with the meat inspection rules and regulations of the USDA. (4-2-08)
02. **Public Livestock Markets.** Animals showing well marked clinical symptoms or in the advanced stage of actinomycosis or lump jaw passing through public livestock markets shall be placed in quarantine pens and sold only from the quarantine pen. (4-2-08)
361. -- 399. (RESERVED)
400. **GARBAGE FEEDING.**
No person shall feed garbage to swine. (3-20-04)

01. Household Wastes. Private household wastes not removed from the premises where produced shall not be considered garbage. (3-20-04)

02. Inspection and Investigation. The Administrator is authorized to enter upon any private or public property for the purpose of inspecting and investigating conditions relating to the feeding of garbage to swine. (3-20-04)

401. PSEUDORABIES -- PROCEDURES FOR CONTROL AND ERADICATION.

01. Laboratories. Blood, serum, tissues, or other samples are to be tested only by state/federal-approved laboratories. (3-20-04)

02. Supervision. State or federal veterinarians shall supervise pseudorabies control and eradication efforts. (3-20-04)

03. Quarantines. Any herd in which any livestock has been determined to be infected with pseudorabies by an official pseudorabies test or diagnosed by a veterinarian as having pseudorabies shall be placed under official state quarantine for pseudorabies. (3-20-04)

a. All swine on pseudorabies-infected premises shall be sold for slaughter under permit within fifteen (15) days of diagnosis. (3-20-04)

b. Livestock, other than swine, on pseudorabies infected premises shall be confined to the premises for a period of ten (10) days after the swine herd is sold for slaughter. Livestock, other than swine can, under permit, be moved to a separate holding area and be released from quarantine after a period of ten (10) days, if no signs of pseudorabies occur in the animals. (3-20-04)

402. PSEUDORABIES VACCINE.

No person shall import into Idaho, possess, use, keep, buy, sell, offer for sale, barter, exchange, give away, or otherwise dispose of any pseudorabies vaccine without written permission from the Administrator. (3-20-04)

403. VACCINATED SWINE.

No person shall import into Idaho any swine that have been vaccinated for Pseudorabies. (3-20-04)

404. -- 419. (RESERVED)

420. ERADICATION METHODS.

The elimination of pseudorabies from a herd shall be accomplished in accordance with the USDA Program Standards for pseudorabies. (3-20-04)

421. -- 429. (RESERVED)

430. IDENTIFICATION OF INFECTED SWINE.

All seropositive and infected swine are to be individually identified by placing an ear tag in the left ear of the animal. The reactor tag number shall be recorded on movement documents. Identification shall be accomplished within five (5) days of the date the animals were reported as positive or infected. (3-20-04)

431. IDENTIFICATION OF EXPOSED SWINE.

All exposed swine that are removed from the premises of origin shall be individually identified by placing a swine identification tag in the right ear of the animal. The identification number shall be recorded on movement documents. Individual identification may be waived for swine moving directly to slaughter, on a permit, in a sealed vehicle. (3-20-04)

432. -- 449. (RESERVED)

450. QUALIFIED PSEUDORABIES-NEGATIVE HERDS.

The qualifying method and development of a pseudorabies-negative herd shall be accomplished in accordance with the USDA Program Standards for pseudorabies. (3-20-04)

451. -- 459. (RESERVED)

460. CLEANING AND DISINFECTION.

All pens, wherein swine are held prior to or after their sale, shall be thoroughly cleaned and disinfected within seventy-two (72) hours following completion of the sale or before the next sale, whichever occurs first. (3-20-04)

461. -- 999. (RESERVED)

**IDAPA 02
TITLE 04
CHAPTER 09**

02.04.09 – RULES GOVERNING MILK AND CREAM PROCUREMENT AND TESTING

000. LEGAL AUTHORITY.

This chapter is adopted under the legal authority of Sections 37-303 and 37-516, Idaho Code. (3-21-12)

001. TITLE AND SCOPE.

01. Title. The title of this chapter is IDAPA 02.04.09, “Rules Governing Milk and Cream Procurement and Testing.” (3-21-12)

02. Scope. These rules govern the standards, procedures, and equipment for the analysis of milk components when analysis of milk components and quality parameters is used as a basis of payment. (3-21-12)

002. WRITTEN INTERPRETATIONS.

There are no written interpretations of this rule. (3-21-12)

003. ADMINISTRATIVE APPEALS.

Hearing and appeal rights are set forth in Title 67, Chapter 52, Idaho Code. There is no provision for administrative appeal before the Department of Agriculture under these rules. (3-21-12)

004. INCORPORATION BY REFERENCE.

These rules do not incorporate any material by reference. (3-21-12)

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/>. (3-21-12)

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. (3-21-12)

007. ABBREVIATIONS.

There are no abbreviations in this chapter. (3-21-12)

008. DEFINITIONS.

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

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

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

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

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

05. Clearance Test. A sample set issued to an official laboratory, by the Department, to maintain a probationary testing license or reinstate a suspended testing license. (4-11-19)

- 06. Control Samples.** Milk samples used to determine or set the calibration of the testing device. (3-21-12)
- 07. Component Testing.** An analysis of milk or cream constituents including milkfat, protein, lactose or solids-nonfat, which is used as a basis of payment. (3-21-12)
- 08. Detailed Pricing Description.** The method used by the purchaser of milk or cream as the criteria for determining the price paid. (3-21-12)
- 09. Milk Component or Component.** A unique compound within milk whose relative mass within the milk may be used to determine the payment to producers. Component parts of milk include milkfat, protein, lactose, solids-nonfat, other solids, and total solids. (3-21-12)
- 10. Official Laboratory.** A facility, licensed by the department, that tests milk or cream components or quality parameters for the purpose of determining the value of the product when sold or purchased by producers or processors. (3-21-12)
- 11. Outlier.** A regulatory sample result that appears to deviate markedly from other members of the sample set in which it occurs. (3-21-12)
- 12. Pay Records.** Signed written or printed records, which itemize milk volume, milk component and quality parameters used as payment to a producer or other processor. (3-21-12)
- 13. Performance Error.** The difference between the known percentage content of each milk component in the control sample, as determined by the sample provider, and the percentage content as measured by the testing device. (3-21-12)
- 14. Producer.** A dairy farm permitted by the department to sell milk for human consumption. (3-21-12)
- 15. Processor.** A creamery, milk plant, shipping or cream buying station, milk condensing plant, cheese factory, mix making plant, ice cream factory, reprocessing plant, casein plant, powdered milk plant, or factory of milk products, or other person receiving or purchasing milk or cream in bulk other than a retail vendor of milk on the basis of volume, milk components, or milk quality. (3-21-12)
- 16. Quality Parameter.** The quality of milk or cream as determined by the bacteria/plate count method, somatic cell count, temperature, drug residues or other parameters as approved by the department. (3-21-12)
- 17. Rolling Group of Thirteen (13).** A series of thirteen (13) consecutive sample testing dates where the lab performance error of each biweekly component test is averaged together to represent the long term accuracy of the lab. To be considered a valid testing date, a lab must evaluate and provide results on no less than nine (9) component samples from each round of testing. (4-11-19)
- 18. Testing Device.** The equipment used to determine the percentage of milk or cream components. (3-21-12)
- 19. Sample Set.** A group of not less than nine (9) milk samples issued by the Department to each official laboratory to evaluate component testing accuracy. (4-11-19)
- 20. Tolerance.** The acceptable performance error from the control values of each sample set as determined by the sample provider. (4-11-19)

009. -- 049. (RESERVED)

050. REGULATORY COMPLIANCE.

All milk and cream produced, purchased or sold in the state of Idaho at a price based upon or determined by the

milkfat, protein, lactose, solids-nonfat, somatic cell counts, or other quality parameters, shall comply with the requirements in these rules. (3-21-12)

051. LABORATORY LICENSING REQUIREMENTS.

01. License Required. All laboratories that test milk or cream components and quality parameters for a basis of payment must be licensed by the department as an official laboratory. (3-21-12)

02. License Application. A laboratory must apply for a license on a form prescribed by the department. The laboratory must identify (on the application form) the names of all persons who will test milk or cream components and quality parameters. (3-21-12)

03. License Fee. The license fee is twenty-five dollars (\$25). (3-21-12)

04. License Term. The official laboratory license is valid for three (3) calendar years after issuance by the department, unless otherwise suspended or revoked in accordance with these rules. The license expires on December 31 of the third year. (3-21-12)

052. -- 099. (RESERVED)

100. OFFICIAL LABORATORIES - RESPONSIBILITIES AND OPERATING PROCEDURES.

01. Competency in Testing. Official laboratories are responsible for ensuring that employees who operate testing devices are competent to operate the devices, and for conducting testing according to these rules. (3-21-12)

02. Facility Requirements. The areas in official laboratories where component or quality parameter testing is conducted shall be well lighted, kept clean, appropriately ventilated and sufficient in size to provide for accurate testing. Laboratories that are certified under the Grade A program set forth in IDAPA 02.04.08.000 et seq., "Rules Governing Grade A Milk and Milk Products," are deemed to satisfy the facility requirements for an official laboratory. (3-21-12)

03. Operating Procedures. An official laboratory shall establish and follow written standard operating procedures consistent with the recommended procedures for operation and maintenance set forth by the manufacturer of the testing device. (3-21-12)

101. THIRD PARTY LABORATORIES.

Procurers of milk who use official laboratories other than one owned or operated by the procurer are not responsible for that laboratory's failure to comply with these rules. (3-21-12)

102. - 109. (RESERVED)

110. MILK COMPONENT TESTING DEVICES.

If an automated testing device is used to perform a milk component test for any milk component, that device must be calibrated and regularly checked to ensure that it accurately tests for that milk component. (3-21-12)

01. Calibration and Checks. Calibration and checks must include the utilization of calibration samples, performance checks and accuracy checks. (3-21-12)

02. Calibration Standards. Calibration may be done either in accordance with the standards set forth by the manufacturer of the testing device, or as set forth in Sections 110, 111 and 130 of this rule. (3-21-12)

03. Calibration Record Keeping. In either case, the official laboratory must be able to demonstrate, through records kept in accordance with Section 350, that calibration and checks have been performed in accordance with these rules, and that the testing device produces test results within the tolerances established in these rules. (3-21-12)

111. CALIBRATION OF MILK COMPONENT TESTING DEVICES.

All testing devices shall be calibrated according to the protocols set by the testing device manufacturer, or as set forth in this Section. (3-21-12)

01. Calibration Frequency. A milk component testing device shall be calibrated whenever the mean difference on a daily performance check under Section 121 herein exceeds plus or minus forty-four thousandths percent (.044%) for milkfat or protein, or eighty-four thousandths percent (.084%) for total solids or solids-nonfat. (3-21-12)

02. Calibration Samples. A set of calibration samples may consist of commercially available samples or samples made by the official laboratory. A set of calibration samples must consist of at least nine (9) individual samples, each of which: (3-21-12)

- a.** Cannot be more than twenty-one (21) days old; (3-21-12)
- b.** Must be a fresh milk sample preserved with bronopol (2-bromo-2-nitro-1, 3-propanediol) or another approved preservative. Preservative methods, formulations and concentrations must be approved by the department. (3-21-12)
- c.** Must have a known percentage content of each relevant milk component, determined by the sample provider. (3-21-12)
- d.** Must meet the requirements of Section 120 of this rule. (3-21-12)

03. Calibration Procedure. To calibrate a testing device, the official laboratory must use the device to test a set of calibration samples. The testing device shall be adjusted, as necessary, to satisfy each of the following requirements: (3-21-12)

- a.** The performance error on each calibration sample shall be as near as practicable to zero (0). (3-21-12)
- b.** The mean difference for the entire set of calibration samples shall be as near as practicable to zero (0), and shall not exceed plus or minus forty-four thousandths percent (.044%) for milkfat or protein, or eighty-four thousandths percent (.084%) for total solids or solids-nonfat. The mean difference is the sum of the performance errors for the individual calibration samples, divided by the number of samples in the set. (3-21-12)
- c.** The standard deviation of test results, calculated for the set of calibration samples shall not exceed forty-four thousandths percent (.044%) for milkfat or protein, or eighty-four thousandths percent (.084%) for total solids or solids-nonfat. (3-21-12)

112 - 119. (RESERVED)

120. SAMPLE INTEGRITY.

Milk or cream samples must be handled, stored, and shipped in a manner that maintains the integrity of the samples. Samples must be maintained in a temperature range of thirty-three degrees (33°) to forty-five degrees (45°) Fahrenheit (zero point fifty-five hundredths degrees (0.55°) to seven point twenty-two hundredths degrees (7.22°) Celsius). (4-11-19)

121. DAILY PERFORMANCE CHECKS.

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

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

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

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

c. Requirements. The control samples must comply with the requirements set forth in Section 111 of this rule and fall within the component ranges typically found in the samples to be tested. (4-11-19)

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

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

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

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

122. -- 129. (RESERVED)

130. ACCURACY CHECKS.

All testing devices shall be subjected to daily and hourly accuracy checks in accordance with the protocols set by the testing device manufacturer, or as set forth in this Section. (3-21-12)

01. Daily Accuracy Check. A daily accuracy check must be conducted for each relevant milk component before each day's testing at the same time that the daily performance check is conducted. The official laboratory must perform ten (10) tests on a reference sample. The reference sample may be a homogenized milk sample prepared by the official laboratory, or it may be a daily performance check sample obtained from an approved sample provider. The ten (10) test results must be averaged, and the average result will be used as a comparison value for the hourly accuracy checks required in Subsection 130.02. (3-21-12)

02. Hourly Accuracy Check. An hourly accuracy check must be conducted for each milk component before each hour's testing for that component. (3-21-12)

a. To conduct an hourly accuracy check, the official laboratory must test the same reference sample used for the daily accuracy check. (3-21-12)

b. For each relevant milk component, the hourly accuracy check result must be compared to the average result obtained on the daily reference check under Subsection 130.01. If an hourly accuracy check result differs from the average result on the daily accuracy check by more than thirty-four thousandths percent (.034%) for milkfat or protein, or sixty-four thousandths percent (.064%) for total solids or solids-nonfat, the testing device shall not be used until the condition causing the difference is found and corrected. (3-21-12)

c. Test results obtained before the device is corrected, and subsequent to the last previous conforming accuracy check, must not be used in determining the amount paid to milk producers. (3-21-12)

131. -- 139. (RESERVED)

140. ABNORMAL TESTS.

Whenever an abnormal test occurs on a producer's sample, that result may not be used as a basis of payment. (3-21-12)

01. Alternate Tests. In the case of an abnormal test, the official laboratory will use an average of the previous three (3) tests from that producer or another department approved method. (3-21-12)

02. Accidents and Sampling Errors. Laboratory accidents or sampling errors on milk or cream to be tested will not be used as official results and the criteria in Subsection 140.01 will be instituted. (3-21-12)

03. Documentation. All abnormal tests must be documented by the person conducting the test. (3-21-12)

141. -- 199. (RESERVED)

200. DETAILED PRICING DESCRIPTION.

On each pay record to the seller, purchasers or procurers of milk or cream must provide the seller with all pricing detail needed to determine the net payment for the product sold. At a minimum, the detail must include the following: (3-21-12)

01. Pricing Method and Pounds Purchased. If more than one (1) pricing method is used, the detail must include the pounds purchased at each method. The pricing method may include: (3-21-12)

a. The value of each component per pound; (3-21-12)

b. The total value of total component pounds; (3-21-12)

c. The yield formula type and value of the end product(s); or (3-21-12)

d. Fixed pricing type. (3-21-12)

02. Total Weight or Volume. If weight is used, it must be expressed by pounds. If volume is used, it must be expressed in U.S. gallons. (3-21-12)

03. Component Information. All relevant component testing averages or pounds of solids for each component. (3-21-12)

04. Bonuses and Deductions. All quality bonuses or deductions and the applicable quality parameters used to calculate the bonuses or deductions. (3-21-12)

05. Hauling Charges. All hauling charges and any applicable surcharges. (3-21-12)

06. Other Deductions. All other payment deductions including check-offs, administrative fees, and laboratory fees. (3-21-12)

07. Other Factors. All other factors affecting net payment. (3-21-12)

08. Availability. Pay records must be made available to the department upon request, and be maintained by the procurer or processor for at least one (1) year. (3-21-12)

201. -- 300. (RESERVED)

301. REGULATORY COMPLIANCE - INSPECTIONS AND RECORDS REVIEW.

The department shall have access at any time to official laboratories to review testing procedures, records, or to conduct other inspections or tests to determine compliance with these rules and Title 37, Chapter 5, Idaho Code. Any time a testing device is being operated to test for milk components or other quality parameters, the department may provide samples to an official laboratory, and require the official laboratory to immediately process those samples in order to ensure compliance with these rules. (3-21-12)

302. REGULATORY SAMPLES.

01. Sample Set. (4-11-19)

a. The department will provide sample sets to official laboratories, on a bi-weekly basis or at a frequency determined by the department to be necessary to ensure accurate component testing results. (4-11-19)

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

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

d. The official laboratory must evaluate the sample set using identical control standards and device settings which are used to routinely evaluate Idaho producer milk components for basis of payment. (4-11-19)

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

02. Regulatory Sample Results. The regulatory sample results will be compiled and evaluated by the department in rolling groups of thirteen (13) (4-11-19)

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

04. Regulatory Sample Tolerances. Each group of rolling thirteen (13) average shall be within the following tolerances for those components used as a basis of payment by the processor or procurer: (4-11-19)

a. Plus or minus two hundredths percent (.02%) for milkfat and protein. (4-11-19)

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

303. LICENSE SUSPENSION AND REVOCATION BASED ON REGULATORY SAMPLES.

01. Two (2) Out of Four (4) Violation. Whenever the average performance error of two (2) of the last four (4) rolling groups of thirteen (13) exceed the tolerance for milkfat, protein, or solids as set forth in Subsection 302.04 of this rule, the Department will issue a written notice to the official laboratory. This notice shall be in effect as long as two (2) of the last four (4) rolling groups of thirteen (13) exceed the allowable tolerance for component testing. (4-11-19)

02. License Suspension. If two (2) out of four (4) of an official laboratory's rolling groups of thirteen (13) average are out of tolerance pursuant to Subsection 302.04 of this rule, the Department will evaluate the following items prior to suspending the testing license. (4-11-19)

a. Records Review. The Department shall review records kept by the official laboratory pursuant to Section 350 of this rule. (4-11-19)

b. Clearance Test. The average performance error of the official laboratory must be within plus or minus thirty-one thousandths percent (.031%) protein, thirty-three thousandths percent (.033%) milkfat and sixty-five thousandths percent (.065%) other solids on all scheduled sample sets, until the official laboratory no longer exceeds the performance tolerance on two (2) out of four (4) rolling groups of thirteen (13) average. If an official laboratory does not meet these performance requirements on each component of the clearance test, the testing license shall be suspended. (4-11-19)

c. Probation. The Department may place an official laboratory on probation for two (2) weeks if: (4-11-19)

i. The records demonstrate all calibration and performance checks of all testing devices were performed, as required under these rules, and are operating within the tolerances set forth in Sections 110, 111, and 130 of this rule; and (4-11-19)

ii. The average performance error in the clearance test sample set was within plus or minus thirty-one thousandths percent (.031%) protein, thirty-three thousandths percent (.033%) milkfat, and sixty-five thousandths percent (.065%) other solids. Clearance test results from laboratories on probationary status shall be included in the calculation of the rolling group of thirteen (13) average. (4-11-19)

03. License Reinstatement. An official laboratory may seek reinstatement of a suspended license by completing the following: (4-11-19)

a. Written Request. The official laboratory shall provide the Department a written request for reinstatement of their testing license. The request shall include documentation detailing the procedural corrections that have been made to the testing device(s), as well as a minimum of two (2) weeks of component testing results demonstrating that the testing device(s) have been and will remain in tolerance. (4-11-19)

b. Clearance Test. The average performance error of the official laboratory must be within plus or minus thirty-one thousandths percent (.031%) protein, thirty-three thousandths percent (.033%) milkfat, and sixty-five thousandths percent (.065%) other solids on a sample set issued by the Department. If the request for reinstatement does not coincide with the normal biweekly sample set issued by the Department, the official laboratory will be solely responsible for the cost of procuring and shipping the additional sample set. Clearance test results used for license reinstatement shall not be included in the calculation of the rolling group of thirteen (13) average. (4-11-19)

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

304. – 349. (RESERVED)

350. RECORD KEEPING.

Records must be maintained by the official laboratory in accordance with this section, and must be made available for examination by the department, upon the department's request. (3-21-12)

01. General Provisions. (3-21-12)

a. No record may be altered except that errors may be corrected by striking through the original entry and inserting the correct entry immediately adjacent to the original. A corrected entry shall be initialed by the person who made the corrected entry. (3-21-12)

b. Records may be maintained in paper or electronic format. In either case, the records must: (3-21-12)

i. Be effectively secured against loss or tampering. (3-21-12)

ii. Be readily retrievable for inspection by the dairy plant operator and the department. (3-21-12)

iii. If corrected, have the correction identified so that the reader may easily compare the corrected version to the original. (3-21-12)

02. Calibration Check Equipment Records. All calibration check and equipment maintenance records must be documented and provided during an inspection by the department. The documentation must include

- the following: (3-21-12)
- a. Instrument identification. (3-21-12)
 - b. Name of the laboratory technician or maintenance person who performed the calibration or maintenance. (3-21-12)
 - c. Time and date of the calibration check or maintenance. (3-21-12)
 - d. Type of analytical test or maintenance performed. (3-21-12)
 - e. Results of the analytical test or maintenance. (3-21-12)
 - f. Details of action taken to correct calibration tolerances or mechanical problems. (3-21-12)
- 03. Records Retention - Time Limit.** The dairy plant operator or the official laboratory must maintain the records required under this section for at least one (1) year. (3-21-12)

351. -- 399. (RESERVED)

400. ENFORCEMENT.

- 01. License Suspension.** The director may suspend official laboratory component testing from any laboratory not meeting these rules until the official laboratory has satisfactorily demonstrated compliance with these rules. (3-21-12)
- 02. Effect of License Suspension.** If an official laboratory's license is suspended, the official laboratory cannot conduct component testing for use as a basis of payment and must use a licensed third-party laboratory. Procurers of milk who must use a licensed third-party laboratory must pay any associated component testing fees. (3-21-12)

401. -- 999. (RESERVED)

**IDAPA 02
TITLE 04
CHAPTER 19**

02.04.19 – RULES GOVERNING DOMESTIC CERVIDAE

000. LEGAL AUTHORITY.

This chapter is adopted under the legal authority of Sections 25-303, 25-305, 25-401, and 25-601, Idaho Code. (4-2-03)

001. TITLE AND SCOPE.

01. Title. The title of this chapter is “Rules Governing Domestic Cervidae.” (4-2-03)

02. Scope. These rules govern procedures for the detection, prevention, control and eradication of diseases among domestic cervidae, and facilities, record keeping, and reporting requirements of domestic cervidae ranches. (4-2-03)

002. WRITTEN INTERPRETATIONS.

There are no written interpretations of these rules. (4-2-03)

003. ADMINISTRATIVE APPEAL.

Persons may be entitled to appeal agency actions authorized under these rules pursuant to Title 67, Chapter 52, Idaho Code. (4-2-03)

004. INCORPORATION BY REFERENCE.

The following documents are incorporated by reference and copies of these documents may be obtained from the Idaho State Department of Agriculture central office. (4-7-11)

01. Bovine Tuberculosis Eradication, Uniform Methods and Rules, Effective January 1, 2005. This document can be viewed online at https://www.aphis.usda.gov/animal_health/animal_diseases/tuberculosis/downloads/tb-umr.pdf. (3-29-17)

02. Code of Federal Regulations, Title 9, Part 161, January 1, 2016. This document can be viewed online at <http://www.ecfr.gov/cgi-bin/text-idx?SID=aded48cc1dcc4e565ec54ad6aefd2f27&mc=true&node=pt9.1.161&rgn=div5>. (3-29-17)

03. Code of Federal Regulations, Title 9, Part 55, January 1, 2016. This document can be viewed online at <http://www.ecfr.gov/cgi-bin/text-idx?SID=aded48cc1dcc4e565ec54ad6aefd2f27&mc=true&node=pt9.1.55&rgn=div5>. (3-29-17)

04. Code of Federal Regulations, Title 9, Subchapter A, Part 1 and 2, January 1, 2016. This document can be viewed online at <http://www.ecfr.gov/cgi-bin/text-idx?SID=aded48cc1dcc4e565ec54ad6aefd2f27&mc=true&tpl=/ecfrbrowse/Title09/9CSubchapA.tpl>. (3-29-17)

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 ISDA central office. (4-7-11)

007. -- 009. (RESERVED)

010. DEFINITIONS.

- 01. Accredited Veterinarian.** A veterinarian approved by the Administrator and USDA/APHIS/VS, in accordance with Title 9, Part 161, CFR, January 1, 2004, to perform functions required by cooperative state-federal animal disease control and eradication programs. (4-6-05)
- 02. Approved Laboratory.** NVSL, an AAVLD accredited laboratory that is qualified to perform CWD diagnostic procedures, or a laboratory designated by the Administrator to perform CWD diagnostic procedures. (4-2-03)
- 03. Approved Slaughter Establishment.** A USDA inspected slaughter establishment at which ante-mortem and post-mortem inspection is conducted by USDA inspectors. (4-2-03)
- 04. Area Veterinarian in Charge.** The USDA/APHIS/VS veterinary official who is assigned to supervise and perform official animal health activities in Idaho. (4-2-03)
- 05. Breed Associations and Registries.** Organizations maintaining permanent records of ancestry or pedigrees of animals, individual animal identification records and records of ownership. (4-2-03)
- 06. Certificate.** An official document issued by a state or federal animal health official or an accredited veterinarian at the point of origin of a shipment of cervidae that contains information documenting the age, sex, species, individual identification of the animals, the number of animals, the purpose of the movement, the points of origin and destination, the consignor, the consignee, the status of the animals relative to official diseases, test results and any other information required by the state animal health official for importation or translocation. (4-2-03)
- 07. Cervid Herd.** One (1) or more domestic cervidae or groups of domestic cervidae maintained on common ground or under common ownership or supervision that may be geographically separated but can have interchange or movement. (4-2-03)
- 08. Cervidae.** Deer, elk, moose, caribou, reindeer, and related species and hybrids including all members of the cervidae family and hybrids. (4-2-03)
- 09. Chronic Wasting Disease.** A transmissible spongiform encephalopathy of cervids that is a nonfebrile, transmissible, insidious, and degenerative disease affecting the central nervous system of cervidae. (4-2-03)
- 10. Commingling.** Within the last five (5) years, the animals have had direct contact with each other, had less than thirty (30) feet of physical separation, or shared management equipment, pasture, or surface water sources, except for periods of less than forty-eight (48) hours at sales or auctions when a state or federal animal health official has determined such contact presents minimal risk of CWD transmission. (4-2-03)
- 11. Custom Exempt Slaughter Establishment.** A slaughter establishment that is subject to facility inspection by USDA, but that does not have ante-mortem and post-mortem inspection of animals by USDA inspectors. (4-2-03)
- 12. CWD-Adjacent Herd.** A herd of domestic cervidae occupying premises that border a premises occupied by a CWD positive herd, including herds separated by roads or streams. (4-6-05)
- 13. CWD-Exposed Animal.** A cervid animal that is not exhibiting any signs of CWD, but has had contact within the last five (5) years with cervids from a CWD-positive herd or the animal is a member of a CWD-exposed herd. (4-2-03)
- 14. CWD-Exposed Herd.** A herd of cervidae in which no animals are exhibiting signs of CWD, but:
- a.** An epidemiological investigation indicates that contact with CWD positive animals or contact with animals from a CWD positive herd has occurred in the previous five (5) years; or (4-2-03)
 - b.** A herd of cervidae occupying premises that were previously occupied by a CWD positive herd

- within the past five (5) years as determined by the designated epidemiologist; or (4-2-03)
- c. Two (2) herds that are maintained on a single premises even if they are managed separately, have no commingling, and have separate herd records. (4-6-05)
- 15. CWD-Positive Cervid.** A domestic cervid on which a diagnosis of CWD has been confirmed through positive test results on any official cervid CWD test by an approved laboratory. (4-2-03)
- 16. CWD-Positive Herd.** A domestic cervidae herd in which any animal(s) has been diagnosed with CWD, based on positive laboratory results, from an approved laboratory. (4-2-03)
- 17. CWD-Suspect Cervid.** A domestic cervid for which laboratory evidence or clinical signs suggests a diagnosis of CWD. (4-2-03)
- 18. CWD-Suspect Herd.** A domestic cervidae herd in which any animal(s) has been determined to be a CWD-suspect. (4-2-03)
- 19. Death Certificate.** A form, approved by the administrator, provided by the Division for the reporting of cervidae deaths and for reporting sample submission for CWD testing. (4-6-05)
- 20. Designated Epidemiologist.** A state or federal veterinarian who has demonstrated the knowledge and ability to perform the functions required under these rules and who has been selected by the Administrator to fulfill the epidemiology duties relative to the state domestic cervidae disease control program. (4-2-03)
- 21. Disposal.** Final disposition of dead cervidae. (4-2-03)
- 22. Domestic Cervidae.** Fallow deer (*Dama dama*), elk (*Cervus elaphus*) or reindeer (*Rangifer tarandus*) owned by a person. (4-2-03)
- 23. Domestic Cervidae Ranch.** A premises where domestic cervidae are held or kept, including multiple premises under common ownership. (4-6-05)
- 24. Electronic Identification.** A form of unique, permanent individual animal identification such as radio frequency identification tag, radio frequency identification implant, or other forms approved by the Administrator. (4-6-05)
- 25. Escape.** Any domestic cervidae located outside the perimeter fence of a domestic cervidae ranch and not under the immediate control of the owner or operator of the domestic cervidae ranch. (4-2-03)
- 26. Federal Animal Health Official.** An employee of USDA/APHIS/VS who is authorized to perform animal health activities. (4-6-05)
- 27. Harvest.** Any healthy domestic cervid that is intentionally and lethally removed from a domestic cervidae facility, by an owner, designated employee or customer of the facility, strictly for the purposes of either shooting or meat production. (4-6-15)
- 28. Herd of Origin.** A cervid herd, on any domestic cervidae ranch or other premise, where the animals were born, or where they were kept for at least one (1) year prior to date of shipment. (4-2-03)
- 29. Herd Status.** Classification of a cervidae herd with regard to CWD. (4-2-03)
- 30. Intrastate Movement Certificate.** A form approved by the Administrator, and available from the Division, to document the movement of domestic cervidae between premises within Idaho. (4-2-03)
- 31. Individual CWD Herd Plan.** A written herd management agreement and testing plan developed by the herd owner and approved by the Administrator to identify and eradicate CWD from a positive, source, suspect, exposed, or adjacent herd. (4-7-11)

- 32. Limited Contact.** Incidental contact between animals of different herds in separate pens off of the herd's premises at fairs, shows, exhibitions and sales. (4-2-03)
- 33. National CWD Herd Certification Program.** A federal-state-industry cooperative program administered by APHIS and implemented by participating states that establishes CWD surveillance and testing standards that owners must achieve before interstate transport of cervids will be permitted. (3-20-14)
- 34. Official CWD Test.** A test approved by the Administrator and conducted at an approved laboratory to diagnose CWD. (4-2-03)
- 35. Official Identification.** Identification, approved by the Administrator, that individually, uniquely, and permanently identifies each cervid. (4-2-03)
- 36. Operator.** A person who has authority to manage or direct a domestic cervidae ranch. (4-2-03)
- 37. Premises.** The ground, area, buildings, and equipment utilized to raise, propagate, control, or harvest domestic cervidae. (4-2-03)
- 38. Quarantine.** An order issued on authority of the Administrator, by a state or federal animal health official or accredited veterinarian, prohibiting movement of cervids from any location without a written restricted movement permit. (4-2-03)
- 39. Quarantine Facility.** A confined area where selected domestic cervidae can be secured and isolated from all other cervidae and livestock. (4-2-03)
- 40. Ranch Management Plan.** A written plan for a domestic cervidae ranch that sets forth best management practices that mitigates the introduction or dissemination of disease among domestic cervidae. (4-7-11)
- 41. Reidentification.** The identification of a domestic cervid which had been officially identified, as provided by this chapter, but which has lost the official identification device, or the tattoo or official identification device has become illegible. (4-2-03)
- 42. Restrain.** The immobilization of domestic cervidae in a chute, other device, or by other means for the purpose of efficiently, effectively, and safely inspecting, treating, vaccinating, or testing. (4-2-03)
- 43. Restricted Movement Permit.** An official document that is issued by the Administrator, AVIC, or an accredited veterinarian for movement of animals from positive, suspect, or exposed herds. (4-2-03)
- 44. Source Herd.** A herd from which at least one (1) cervid has originated within the previous five (5) years and that cervid has been diagnosed CWD positive. (4-2-03)
- 45. State Animal Health Official.** The Administrator, or his designee. (4-2-03)
- 46. Status Date.** The date on which the Administrator approves in writing a herd status change with regard to CWD. (4-2-03)
- 47. Trace Back Herd.** An exposed herd in which at least one (1) CWD positive animal resided within any of the previous sixty (60) months prior to diagnosis with CWD. (4-2-03)
- 48. Trace Forward Herd.** A herd that has received exposed animals from a positive herd within sixty (60) months prior to the diagnosis of CWD in the positive herd or from the identified point of entry of CWD into the positive herd. (4-2-03)
- 49. Traceback.** The process of identifying the movements and the herd of origin of CWD positive, or exposed animals, including herds that were sold for slaughter. (4-2-03)

- 50. Wild Cervidae.** Any cervid animal not owned by a person. (4-2-03)
- 51. Wild Ungulate.** Any four (4) legged, hoofed herbivore, including cervids and other ruminants, not owned by a person. (4-6-05)
- 52. Wild Ungulate Cooperative Herd Plan.** A plan, developed cooperatively by the owner of the domestic cervidae ranch, the ISDA, and the Idaho Department of Fish and Game to determine the disposition of any wild ungulates that are found to be located on a domestic cervidae ranch. (4-6-05)

011. ABBREVIATIONS.

- 01. AAVLD.** American Association of Veterinary Laboratory Diagnosticians. (4-2-03)
- 02. APHIS.** Animal and Plant Health Inspection Service. (4-2-03)
- 03. AVIC.** Area Veterinarian in Charge. (4-2-03)
- 04. AZA.** Association of Zoos and Aquariums. (4-4-13)
- 05. CFR.** Code of Federal Regulations. (4-2-03)
- 06. CWD.** Chronic Wasting Disease. (4-2-03)
- 07. CWDP.** Chronic Wasting Disease Program. (4-2-03)
- 08. ISDA.** Idaho State Department of Agriculture. (4-2-03)
- 09. NAEBA.** North American Elk Breeders Association. (4-2-03)
- 10. NVSL.** National Veterinary Services Laboratory. (4-2-03)
- 11. TB.** Tuberculosis. (4-2-03)
- 12. UM&R.** Uniform Methods and Rules. (4-2-03)
- 13. USDA.** United States Department of Agriculture. (4-2-03)
- 14. VS.** Veterinary Services. (4-2-03)

012. APPLICABILITY.

These rules apply to all domestic cervidae located in, imported into, exported from, or transported through the state of Idaho. (4-2-03)

013. AZA ACCREDITED FACILITIES AND USDA LICENSED FACILITIES.

AZA accredited facilities and facilities licensed by USDA under 9CFR Subchapter A Parts 1 and 2 as licensees, dealers, exhibitors, research facilities and zoos are exempt from the provisions of this chapter provided that: (4-2-03)

01. Movement Between AZA and USDA Facilities. AZA accredited and USDA licensed facilities shall not sell, give, or in any way transfer cervidae to persons or domestic cervidae ranches within Idaho, except other to AZA accredited or USDA licensed facilities. (4-2-03)

02. Transfer of Cervidae. Any AZA accredited or USDA licensed facility that in any way transfers cervidae, or title to cervidae, to any person in Idaho, except to other AZA accredited or USDA licensed facilities, shall comply with all of the provisions of this chapter. (4-2-03)

014. IMPORTATION OF DOMESTIC CERVIDAE.

All domestic cervidae imported into the state of Idaho shall comply with the requirements of the APHIS National

CWD Herd Certification Program and IDAPA 02.04.21 “Rules Governing the Importation of Animals,” which apply to domestic cervidae. (3-20-14)

015. -- 019. (RESERVED)

020. LOCATION OF DOMESTIC CERVIDAE.

Any person who owns or has control of domestic cervidae in Idaho which are not located on a domestic cervidae ranch, which is in compliance with the applicable provisions of this chapter, or on an AZA accredited or USDA licensed facility in compliance with this chapter, is in violation of these rules. (4-2-03)

01. Department Action. In addition to any other administrative or civil action, the department may seize, require removal from the state, require removal to a domestic cervidae ranch that is in compliance with the provisions of this chapter, or require disposal of any domestic cervidae that are not located on a domestic cervidae ranch, an AZA accredited facility, or a USDA licensed facility which is in compliance with the provisions of this chapter. (4-2-03)

02. Reindeer. Reindeer shall not be owned, possessed, propagated or held in Idaho north of the Salmon River in order to protect the wild caribou herd in northern Idaho. (4-2-03)

03. Exceptions. The Administrator may grant exceptions from the provisions of Section 020 on a case specific basis. (4-2-03)

04. Natural Disasters. Damage caused to domestic cervidae ranch facilities by natural disasters shall not constitute a violation of this chapter, provided that the owner or operator begins any necessary repairs immediately upon discovering the damage, acts expeditiously, as determined by the Administrator, to complete any necessary repairs and reports the extent and cause of any damage to the Division within twenty-four (24) hours of the discovery of the damage. (4-6-05)

021. OFFICIAL IDENTIFICATION.

All domestic cervidae shall be individually, permanently, and uniquely identified, with two (2) types of official identification approved by the Administrator. (4-2-03)

01. Reporting of Identification. The unique individual identification number, type of identification, and the name, address, and telephone number of the owner of each animal identified shall be reported to the Administrator, in writing, by the owner or operator. (4-2-03)

02. Identification Assigned. Official identification, once assigned to an individual animal, shall not be changed or transferred to another animal. Animals that lose identification devices shall be re-identified in accordance with Section 031. (4-7-11)

03. Progeny. All progeny of domestic cervidae shall be officially identified by December thirty-first of the year of birth, upon sale or transfer of ownership, or upon leaving the domestic cervidae ranch, whichever is earlier. (4-2-03)

04. Visible Identification. At least one (1) of the official types of identification used shall be visible from one hundred and fifty (150) feet. (4-6-05)

022. TYPES OF OFFICIAL IDENTIFICATION.

All domestic cervidae shall be individually identified by two (2) of the following types of official identification, at least one (1) of the types of official identification must be a bangle or lamb tag that is visible from one hundred fifty (150) feet. (4-2-08)

01. Official USDA Eartag. (4-2-03)

02. Tattoo. Legible skin tattoo using an alphanumeric tattoo sequence that has been recorded with the Division of Animal Industries. The tattoo shall be applied to either the ear or escutcheon. (4-6-05)

- 03. Electronic Identification.** A form of electronic identification, approved by the Administrator. (4-6-05)
- 04. Official NAEBA Eartag.** (4-2-03)
- 05. Official ISDA Cervidae Program Eartag.** A tamper resistant, unique number sequenced, individual identification tag approved by the Administrator. (4-2-03)
- 06. Official HASCO Brass Lamb Tag.** This brass lamb tag shall be engraved with farm name and individual animal identification number. (4-2-03)
- 07. Freeze Brands.** Legible, freeze brands which uniquely identify the individual domestic cervid. (4-6-05)
- 08. Ranch Specific Unique Bangle or Lamb Tags.** The Administrator may grant written approval for the use of bangle or lamb tags that are: (4-2-08)
- a.** Ranch specific; and (4-2-08)
 - b.** Tamper resistant; and (4-2-08)
 - c.** Uniquely numbered; and (4-2-08)
 - d.** Correlated with another type of official identification on the annual inventory report. (4-2-08)
- 09. Other Identification.** Other forms of unique individual identification approved by the Administrator. (4-6-05)
- 023. NATIONAL CWD HERD CERTIFICATION PROGRAM OFFICIAL IDENTIFICATION.**
All domestic cervidae enrolled in the National CWD Herd Certification Program are required to be identified with two (2) forms of identification for each animal. One (1) form of identification must be a nationally unique official animal identification that uses an APHIS-approved numbering system that is linked to the CWD National Database or equivalent ISDA database. The second form of identification must be unique to the individual animal within the herd and also be linked to the CWD National Database or equivalent ISDA database. (3-20-14)
- 01. APHIS-Approved Identification Devices.** (3-20-14)
 - a.** Electronic Identification; (3-20-14)
 - b.** Official USDA Tamper-Resistant Ear Tag; (3-20-14)
 - c.** Legible Ear or Flank Tattoo; and (3-20-14)
 - d.** Other forms of Identification as approved by APHIS Administrator. (3-20-14)
- 024. -- 029. (RESERVED)**
- 030. OFFICIAL VISIBLE IDENTIFICATION.**
- 01. Ear Tags.** All domestic cervidae must be identified with a bangle or lamb tag that is visible from one hundred fifty (150) feet. (4-2-08)
 - 02. Size.** The large portion of the bangle or lamb tag must be at least two (2) square inches. (4-2-08)
 - 03. Color.** No visible identification shall have a primary color of brown, black, pink, tan, or silver. (4-2-08)

04. Camouflage Patterns. No visible identification shall utilize camouflage patterns. (4-2-08)

031. REIDENTIFICATION OF DOMESTIC CERVIDAE.

No domestic cervidae that were marked with official identification shall be re-tattooed for the purpose of reestablishing their identification nor shall any domestic cervidae be re-ear-tagged with an official identification eartag at any time subsequent to the original identification, except that re-tattooing or re-ear-tagging for the purpose of reestablishing the official identification shall be allowed under the following conditions: (4-2-03)

01. Supervision. Reidentification shall be accomplished under the supervision of an accredited veterinarian, or state or federal animal health officials. (4-2-03)

02. Permanent Identification. Animals that are presented for reidentification shall have some permanent identification which will identify the animals as those originally officially identified such as an individual animal registration tattoo, or other approved permanent identification, provided that such identification was submitted on the annual inventory report or other official record. (4-2-03)

03. Inventory Evaluation. In absence of permanent identification, the Administrator may conduct an investigation or inventory evaluation to determine identity of the animal that is being presented for reidentification. (4-2-03)

04. Reproduction of Original Tattoo. Re-tattooing shall reproduce the original tattoo that was placed in the animal's ear at the time of official identification. (4-2-03)

05. Records. The accredited veterinarian, or state or federal animal health official, who supervises the reidentification shall correlate the new identification with previous identification and record the eartag or other identification numbers, the tattoo symbols and the owner's name and address and submit the reidentification record to the Division within ten (10) days of the date of reidentification. (4-2-03)

032. -- 039. (RESERVED)

040. INSPECTIONS.

To prevent the introduction and dissemination, or to control and eradicate diseases, state and federal animal health officials are authorized to inspect cervidae records, premises, facilities, and domestic cervidae to ensure compliance with the provisions of this chapter and other state or federal laws or rules applicable to domestic cervidae. State and federal animal health officials shall comply with the operation's biosecurity protocol so long as the protocol does not inhibit reasonable access to: (4-2-08)

01. Entry. Enter and inspect, at reasonable times, the premises of domestic cervidae ranches and inspect domestic cervidae. (4-2-08)

02. Access to Records. Review or copy, at reasonable times, any records that must be kept in accordance with these rules. (4-2-08)

041. -- 049. (RESERVED)

050. GENETICS.

Domestic cervidae that have red deer genetic influence shall not be imported into Idaho. Additionally, any domestic cervidae located in Idaho that are identified as having red deer genetic influence shall be destroyed, removed from the state, or neutered. (4-2-03)

051. -- 059. (RESERVED)

060. WILD CERVIDAE.

Wild cervidae shall not be confined, kept or held on a domestic cervidae ranch. (4-2-03)

01. Duty of Ranch Owner. It shall be the duty of owners of all domestic cervidae ranches to take precautions, and to conduct periodic inspections, to ensure that wild cervidae are not located within the perimeter

fence of any domestic cervidae ranch. (4-2-03)

02. Notification of Administrator. All owners or operators of domestic cervidae ranches shall notify the Administrator within twenty-four (24) hours of gaining knowledge of the presence of wild cervidae inside the perimeter fence of the domestic cervidae ranch. (4-2-03)

03. Failure to Notify the Administrator. The failure of any owner or operator of a domestic cervidae ranch to notify the Administrator of the presence of wild cervidae within the perimeter fence of a domestic cervidae ranch is a violation of this chapter. (4-2-03)

04. Idaho Department of Fish and Game. Upon receiving notification that wild cervidae are on a domestic cervidae ranch the Administrator shall notify the Idaho Department of Fish and Game. (4-2-03)

05. Wild Ungulate Cooperative Herd Plan. The Idaho Department of Fish and Game shall cooperate with ISDA and the owners or operators of domestic cervidae ranches where any wild cervidae or wild ungulates are present within the external perimeter fence of the domestic cervidae ranch to develop and implement a site specific written herd plan to address the disposition of the wild cervidae or wild ungulates. (4-6-05)

061. -- 069. (RESERVED)

070. SUPERVISION OF DOMESTIC CERVIDAE PROGRAM.

A department veterinary medical officer shall provide routine supervision of the domestic cervidae program. (4-2-03)

071. -- 079. (RESERVED)

080. DISPOSAL OF DOMESTIC CERVIDAE.

All domestic cervidae carcasses and parts of carcasses not utilized for human consumption, except parts of carcasses utilized for taxidermy purposes, shall be disposed of in compliance with IDAPA 02.04.17, "Rules Governing Dead Animal Movement And Disposal." (4-2-03)

081. -- 089. (RESERVED)

090. FEES.

01. Annual Assessment Fee. A fee, not to exceed ten dollars (\$10) per head per year on elk or three dollars (\$3) per head per year on fallow deer and reindeer, is hereby assessed on all domestic cervidae in the state to cover the cost of administering the program covered in these rules. The fee shall include all domestic cervidae present at the ranch as of December 31 and all domestic cervidae that die during the same calendar year. This fee is due January first of each year. The annual assessment fee may be reduced if program revenue accumulates to a balance of at least one hundred thousand dollars (\$100,000) in excess of the projected annual cost of operating the program, as determined by the Department on July 1 of each year. (4-6-15)

02. Import, Export, and Movement Fees. The fees imposed in Section 25-3708(2) through (4), Idaho Code, are due no later than December 31 of each year, but the Department requests all movement fees be submitted within five (5) business days of the movement of the domestic cervids. (4-6-15)

091. -- 099. (RESERVED)

100. DOMESTIC CERVIDAE RANCHES.

In order to prevent the introduction or dissemination of diseases, and to control or eradicate diseases, all domestic cervidae ranches shall comply with the disease control, facility, and record keeping requirements and all other provisions of this chapter. (4-2-03)

01. Each Premises. Each separate premises where domestic cervidae are kept or held shall comply with all of the provisions of this chapter. (4-6-05)

02. Vehicle Access. Domestic cervidae ranches shall have motorized vehicle access to the restraining

system on each premises, during the portion of the year that cervidae are held or kept on the premises, adequate to facilitate disease prevention and control as determined by the Administrator. (4-6-05)

03. Premises Registration. Each premises where domestic cervidae are kept or held shall be registered with the Division and assigned a unique, individual number approved by the Administrator. (4-6-05)

101. DOMESTIC CERVIDAE RANCH FACILITY REQUIREMENTS.

All domestic cervidae ranches are required to have facilities that include, but are not limited to, perimeter fence, restraining system, gathering system, water system, and if required, a quarantine facility. (4-2-03)

01. Maintenance. All facilities shall be maintained, at all times that domestic cervidae are present, to prevent the escape of domestic cervidae or ingress of wild cervidae. (4-2-03)

02. Inspections. To ensure compliance with this chapter, state or federal animal health officials shall inspect all premises where domestic cervidae are, or will be, possessed, controlled, harvested, propagated, held, or kept. (4-2-03)

a. Each domestic cervidae ranch shall be inspected no less than once every five (5) years. Domestic cervidae ranches may be inspected more frequently if requested by the owner or if specified in a ranch management plan. The Administrator may require additional facility inspections as necessary to aid in the prevention, control, or eradication of disease or to ensure compliance with the provisions of this chapter or other state or federal rules applicable to domestic cervidae. (4-6-15)

b. All facilities relating to the handling or raising of domestic cervidae shall be inspected. (4-2-03)

102. PERIMETER FENCE REQUIREMENTS.

A perimeter fence, completely enclosing the domestic cervidae ranch shall be constructed of high-tensile, non-slip woven wire or other fencing material approved by the Administrator. (4-2-03)

01. Elk and Fallow Deer. For elk and fallow deer, the fence shall be a minimum of eight (8) feet in height for its entire length at all times. (4-2-03)

02. Reindeer. For reindeer, the fence shall be at least six (6) feet in height for its entire length at all times. (4-2-03)

03. Wire. The top two (2) feet of each fence may be smooth, barbed or woven wire (at least twelve and one-half (12-1/2) gauge) with horizontal strands spaced not more than six (6) inches apart. (4-2-03)

a. Wire shall be placed on the animal side of the fence to prevent pushing the wire away from the posts. (4-2-03)

b. Wire shall be attached to all posts at the top, bottom, and not more than eighteen (18) inches apart between the top and bottom of the wire. (4-2-08)

04. Posts. Wooden posts used in the perimeter fence shall be at least butt-end treated with a commercially available preservative and have a minimum of four (4) inch top for line posts and a minimum of five (5) inch top for corner posts. Metal pipe posts must be a minimum of two and one-eighth (2-1/8) inches outside diameter with a three-sixteenths (3/16) inch wall thickness for line posts and two and seven-eighths (2-7/8) inches outside diameter with a seven thirty-seconds (7/32) inch wall thickness for corner posts. Posts shall be spaced no more than twenty-four (24) feet apart, with stays, supports or braces as needed, and be placed in the ground a minimum of three (3) feet. (4-2-08)

05. Gates. Each domestic cervidae ranch shall have gates that prohibit the escape of domestic cervidae or the ingress of wild cervidae. (4-2-03)

06. Fence Maintenance. Fences shall be maintained, at all times that domestic cervidae are present, to prevent domestic cervidae from escaping or native wild cervidae from entering the enclosure. (4-2-03)

07. Exceptions. The Administrator may grant exceptions to the specifications in Section 102 on a case specific basis. (4-2-03)

103. GATHERING AND RESTRAINING SYSTEM.

Each domestic cervidae ranch shall have a system for humanely and effectively gathering and restraining domestic cervidae for the purpose of inspecting, identifying, treating, or testing of animals by state or federal animal health officials. (4-2-03)

01. Gathering System. Each domestic cervidae ranch shall have a system that facilitates the gathering of domestic cervidae so as to be able to move the domestic cervidae through the restraining system, at any time of the year that domestic cervidae are present. (4-2-03)

02. Restraining System. A system approved by the Administrator, to immobilize domestic cervidae for the purpose of efficient, effective, and safe handling for inspecting, treating, vaccinating, or testing. (4-2-03)

03. Exceptions. The Administrator may grant exceptions to the provisions of this section on a case specific basis. (4-2-03)

104. WATER SYSTEM.

Each domestic cervidae ranch shall have a water system adequate to supply the need of the cervidae herd. (4-2-03)

105. QUARANTINE FACILITY.

If animals are to be imported onto the domestic cervidae ranch, a quarantine facility, approved by the Administrator, shall be provided for holding animals until any disease retesting is accomplished or other requirements are met. (4-2-03)

106. -- 199. (RESERVED)

200. RECORDS AND REPORTING.

01. Reports. Owners of domestic cervidae ranches shall submit complete and accurate reports to the Administrator. Failure to submit complete and accurate reports within the designated time frames is a violation of this chapter. (4-2-03)

02. Records. All owners of domestic cervidae ranches shall, during normal business hours, present to state or federal animal health officials, for inspection, review, or copying, any cervidae records deemed necessary to ensure compliance with the provisions of this chapter. (4-2-03)

03. Notification. State or federal animal health officials shall attempt to notify the owners or operators of domestic cervidae ranches, and premises where records are kept prior to any inspections. (4-2-03)

04. Emergencies. In the event of an emergency, as determined by the Administrator, the notification requirements of Section 200 may be waived. (4-2-03)

201. ANNUAL INVENTORY REPORT.

01. Inventory Report. All owners of domestic cervidae ranches shall annually submit, to the Administrator, a complete and accurate inventory of all animals held no later than December 31st of each year. The annual inventory report shall contain the following minimum information: (3-29-17)

- a.** Name and address of the domestic cervidae ranch. (4-2-03)
- b.** Name and address of the owner of the domestic cervidae ranch. (4-2-03)
- c.** Date the inventory was completed. (4-2-03)

02. Individual Domestic Cervidae. For each individual domestic cervidae that was located on the domestic cervidae ranch during the year for which the report is being made, the following information shall be provided: (4-2-03)

- a. All types of official and unofficial identification; (4-2-03)
- b. Species; (4-2-03)
- c. Sex; and (3-29-17)
- d. Age or year born. (4-2-03)

202. INVENTORY VERIFICATION.

State or federal animal health officials shall verify all domestic cervidae ranch inventories of animals held and individual animal identification annually. (4-2-03)

01. Visible Identification. Individual animal identification verification may be accomplished by visually noting the unique official visible identification number or visually noting an unofficial visible identification number if the number is correlated with two (2) forms of official identification on the inventory submitted by the cervidae producer. The Administrator may, on a case by case basis, grant written permission for ranch specific unique bangle tags to be used for official identification. (4-2-08)

02. Duty to Gather and Restrain. It shall be the duty of the owner of each domestic cervidae ranch to gather and restrain any domestic cervidae that state or federal animal health officials determine are not readily identifiable for inventory verification purposes. The Administrator shall determine the suitability of the restraint system. (4-2-03)

203. CHANGE OF ADDRESS.

Owners of domestic cervidae ranches shall notify the Division in writing within thirty (30) days of any change in the address of the owners of domestic cervidae, the owner of the domestic cervidae ranch, or the domestic cervidae ranch. (4-6-05)

204. ESCAPE OF DOMESTIC CERVIDAE.

It shall be the duty of each owner or operator of a domestic cervidae ranch to take all reasonable actions to prevent the escape of domestic cervidae from a domestic cervidae ranch. (4-6-05)

01. Notification of Escape. When any domestic cervidae escape from a domestic cervidae ranch, the owner or operator of the domestic cervidae ranch shall notify the Administrator by phone, facsimile, or other means approved by the administrator within twenty-four (24) hours of the discovery of the escape. (4-6-05)

02. Duty to Retrieve Escaped Cervidae. It shall be the duty of each owner or operator of a domestic cervidae ranch to retrieve or otherwise bring under control all domestic cervidae that escape from a domestic cervidae ranch. (4-2-03)

03. Fish and Game. The Administrator shall notify the Idaho Department of Fish and Game of each escape. (4-2-03)

04. Sheriff and State Brand Inspector. When domestic cervidae escape from a domestic cervidae ranch and the owner or operator is unable to retrieve the animals within twenty-four (24) hours, the Administrator may notify the county sheriff or the state brand inspector of the escape pursuant to Title 25, Chapter 23, Idaho Code. (4-2-03)

05. Capture. In the event that the owner or operator of a domestic cervidae ranch is unable to retrieve escaped domestic cervidae in a timely manner, as determined by the Administrator, the Administrator may effectuate the capture of the escaped domestic cervidae to ensure the health of Idaho's livestock and wild cervidae populations. (4-2-03)

06. Failure to Notify. Failure of any owner or operator of a domestic cervidae ranch to notify the Administrator within twenty-four (24) hours of the discovery of an escape of domestic cervidae is a violation of this chapter. (4-6-05)

07. Taking of Escaped Domestic Cervidae. A licensed hunter may legally take domestic cervidae that have escaped from a domestic cervidae ranch only under the following conditions: (4-6-05)

a. The domestic cervidae has escaped and has not been in the control of the owner or operator of the domestic cervidae ranch for more than seven (7) days; and (4-6-05)

b. The hunter is licensed and in compliance with all the provisions of the Idaho Department of Fish and Game rules and code. (4-6-05)

205. NOTICE OF DEATH OF DOMESTIC CERVIDAE.

Notice of death of domestic cervidae twelve (12) months or older and all domestic cervidae officially identified and inventoried that died on a ranch or at an approved slaughter or custom exempt slaughter establishment must be submitted by the owner or operator to the division on a report approved by the Administrator: (3-29-17)

01. Submission of Death Certificates. A complete and accurate copy of all CWD sample submission forms/death certificates shall be submitted to the division by regular mail, facsimile, electronic mail, or by other means as approved by the Administrator within ten (10) business days of when the owner or operator knew or reasonably should have known of the death. The CWD sample submission form/death certificate shall contain the following minimum information: (3-29-17)

a. Name and address of the domestic cervidae ranch; and (3-29-17)

b. Name and address of the owner of the domestic cervidae ranch. (3-29-17)

02. Individual Domestic Cervidae. For each individual domestic cervidae death, the following minimum information shall be provided: (3-29-17)

a. All individual identification numbers; (3-29-17)

b. Sex; (3-29-17)

c. Age or year born; (3-29-17)

d. Date and time of death; (3-29-17)

e. Cause of death; (3-29-17)

f. Specify animals submitted for CWD testing; and (3-29-17)

g. Dated signature. (3-29-17)

206. (RESERVED)

207. NOTIFICATION OF EXPOSURE TO DISEASE.

Any owner, operator, veterinarian practicing in Idaho, laboratory conducting cervidae testing, or any other person who has reason to believe that domestic cervidae are exposed to or infected with a dangerous or reportable disease or parasite shall notify the Division immediately. (4-2-03)

208. INTRASTATE MOVEMENT CERTIFICATE.

All owners of domestic cervidae ranches who move cervidae, from one premises to another, including movement from one (1) premises to another premises owned, operated, leased, or controlled by the owner, within the state of Idaho shall submit, to the Administrator, a complete and accurate intrastate movement certificate signed by the owner, within ten (10) business days of the movement. The Administrator shall provide blank intrastate movement

certificates to the owners of domestic cervidae ranches upon request. (3-29-17)

209. RANCH MANAGEMENT PLAN.

01. Voluntary Ranch Management Plan. A domestic cervidae ranch may apply, on a form prescribed by the Administrator, to enter into a voluntary ranch management plan. The ranch management plan will be developed cooperatively by the owner or authorized agent and the Administrator. For the ranch management plan, the Administrator will conduct a risk assessment considering the factors in Subsection 209.03. A voluntary ranch management plan may, notwithstanding other rule requirements to the contrary, establish inventory verification requirements and CWD sampling requirements specific for a domestic cervidae ranch. Failure to adhere to an approved voluntary ranch management plan is a violation of these rules. (4-7-11)

02. Mandatory Ranch Management Plan. A domestic cervidae ranch shall be required to develop and implement an approved ranch management plan if the ranch is found in violation of Sections 060, 204 or 500 of these rules. The ranch management plan must be completed and implemented within six (6) months of the disposition of the violation. For the ranch management plan, the Administrator will conduct a risk assessment considering the factors in Subsection 209.03. Failure to comply with the mandatory ranch management plan is a violation of these rules. This requirement will become effective July 1, 2012 (4-7-11)

03. Risk Assessment for Ranch Management Plans. The Administrator will conduct a risk assessment for each ranch management plan. A ranch management plan will not include a double fencing requirement but may require that double gates be installed. The Administrator will consider the following factors when conducting a risk assessment at a domestic cervidae ranch: (4-7-11)

a. Risk of egress. The risk of egress may be evaluated based on, but not limited to, history of domestic cervidae escape during the previous five (5) years, recovery rate of escaped domestic cervidae, length of time domestic cervidae were outside of the perimeter fence, annual average precipitation, topography, altitude and tree density. (4-7-11)

b. Risk of ingress. The risk of ingress may be evaluated on, but not limited to, history of ingress during the previous five (5) years, annual average precipitation, topography, altitude, tree density and proximity to wildlife migration corridors. (4-7-11)

c. Compliance with CWD sample submission. The Administrator may, based on a risk assessment of the facility, adjust the number of tissue sample submissions required under this rule. The adjustment will be based on, but not limited to, the following: (4-6-15)

i. Whether the domestic cervidae on the ranch have commingled with any domestic cervids of unknown CWD status. (4-6-15)

ii. Whether the domestic cervidae ranch has been in compliance with all requirements of Title 25, Chapter 35, Idaho Code, and these rules. (4-6-15)

iii. Whether the domestic cervidae ranch has had documented cases of ingress of wild cervids or egress of domestic cervidae within the eighteen (18) months prior to the risk assessment. (4-6-15)

210. -- 249. (RESERVED)

250. INTRASTATE MOVEMENT OF DOMESTIC CERVIDAE.

All live domestic cervidae moving from one premises to another premises within the state of Idaho shall be officially identified, except calves during the year of birth accompanying their dam, and accompanied by: (4-6-05)

01. TB Test. An official negative test for tuberculosis of all cervidae over twelve (12) months of age, conducted within the last ninety (90) days, or written permission from the Administrator, except: (4-2-03)

a. Animals originating from an accredited, qualified or monitored herd, as described in "Bovine Tuberculosis Eradication, Uniform Methods and Rules," effective January 1, 2005, if they are accompanied by a

certificate signed by an accredited veterinarian or the Administrator stating such domestic cervidae have originated directly from such herd; or (3-29-17)

b. Those domestic cervidae consigned directly to an approved slaughter establishment or domestic cervidae approved feedlot; or (4-2-03)

c. Those domestic cervidae moving from one premises to another premises owned, operated, leased, or controlled by the same person. (4-6-05)

02. Intrastate Movement Certificate. All intrastate movements of live domestic cervidae, including movement from one premises to another premises owned, operated, leased, or controlled by the same person, shall be accompanied by a complete and accurate intrastate movement certificate, which has been signed by the owner or operator of the domestic cervidae ranch where the movement originates and includes a statement of the CWD and TB status of the cervidae. (4-6-05)

03. Movement of Cervidae Between Accredited AZA or USDA Licensed Facilities. Movement of cervidae between accredited AZA and USDA licensed facilities is exempt from the requirements of this chapter. All other movement from AZA accredited or USDA licensed facilities shall comply fully with all of the provisions of this chapter. (4-2-03)

251. -- 299. (RESERVED)

300. DISEASE CONTROL.

The Administrator may require domestic cervidae in the state to be tested for brucellosis (*Brucella abortus* or *Brucella suis*), tuberculosis (*Mycobacterium bovis*), meningeal worm (*Parelaphostrongylus tenuis*), muscle worm (*Elaphostrongylus cervus*), CWD or for other diseases or parasites determined to pose a risk to other domestic cervidae, livestock, or wildlife. (4-2-03)

301. DUTY TO RESTRAIN.

It shall be the duty of the owner of each domestic cervidae ranch to gather and restrain domestic cervidae for testing when directed to do so in writing by the Administrator. The Administrator shall determine the suitability of the restraint system. (4-2-03)

302. TESTING METHODS.

The Administrator shall determine appropriate testing procedures and methods. (4-2-03)

303. TESTING, TREATMENT, QUARANTINE, OR DISPOSAL REQUIRED.

The Administrator shall determine when testing, treatment, quarantine, or disposal of domestic cervidae is required at any domestic cervidae ranch pursuant to Title 25, Chapters 2, 3, 4, 6 and [37] 35, Idaho Code. If the Administrator determines that testing, treatment, quarantine, disposal of domestic cervidae, or cleaning or disinfection of premises is required, a written order shall be issued to the owner describing the procedure to be followed and the time period for carrying out such actions. (4-2-03)

304. QUARANTINES.

All domestic cervidae animals or herds that are determined to be exposed to, or infected with, any disease that constitutes an emergency, as provided in Title 25, Chapter 2, Idaho Code, shall be quarantined. (4-2-03)

01. Infected Herds. Infected herds or animals shall remain under quarantine until such time that the herd has been completely depopulated and the premises has been cleaned and disinfected as provided by the Administrator, or the provisions for release of a quarantine established in these rules have been met. (4-6-05)

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 and the provisions for release of a quarantine as established in these rules have been met. (4-2-03)

03. Validity of Quarantine. The quarantine shall be valid whether or not acknowledged by signature of the owner. (4-2-03)

305. DECLARATION OF ANIMAL HEALTH EMERGENCY.

The Director is authorized to declare an animal health emergency. (4-2-03)

01. Condemnation of Animals. In the event that the Director determines that an emergency exists, animals that are found to be infected, or affected with, or exposed to an animal health emergency disease may be condemned and destroyed. (4-2-03)

02. Indemnity. Any indemnity shall be paid in accordance with Sections 25-212 and 25-213, Idaho Code. (4-2-03)

03. Notification to Administrator. Every owner of cervidae, every breeder or dealer in cervidae, every veterinarian, and anyone bringing cervidae into this state who observes the appearance of, or signs of any disease or diseases, or who has knowledge of exposure of the cervidae to diseases that constitute an emergency shall give immediate notice to the Administrator by telephone, facsimile, or other means as approved by the Administrator. (4-6-05)

04. Failure to Notify. Any owner of cervidae who fails to report as herein provided shall forfeit all claims for indemnity for animals condemned and slaughtered or destroyed on account of the animal health emergency. (4-2-03)

306. -- 399. (RESERVED)

400. BRUCELLOSIS.

Owners of domestic cervidae ranches shall comply with IDAPA 02.04.20, "Rules Governing Brucellosis," that apply to domestic cervidae. (4-2-03)

401. -- 449. (RESERVED)

450. TUBERCULOSIS.

01. Change of Ownership. All domestic cervidae that are sold, or are in any way transferred from one person to another person in Idaho are required to be tested negative for TB within ninety (90) days prior to the change of ownership or transfer, except: (4-2-03)

a. Animals originating from an accredited, qualified or monitored herd, as described in "Bovine Tuberculosis Eradication, Uniform Methods and Rules," effective January 1, 2005, if they are accompanied by a certificate signed by an accredited veterinarian or the Administrator stating such domestic cervidae have originated directly from such herd; or (3-29-17)

b. Those domestic cervidae consigned directly to an approved slaughter establishment or domestic cervidae approved feedlot. (4-2-03)

c. The Administrator, following an evaluation, may grant exceptions to the provisions of this Section on a case-by-case basis. (4-4-13)

02. Rules and UM&R. Owners of domestic cervidae ranches shall comply with IDAPA 02.04.03, "Rules Governing Animal Industry," that apply to domestic cervidae, and the Bovine Tuberculosis Eradication, UM&R, Effective January 1, 2005. (3-29-17)

451. -- 499. (RESERVED)

500. SURVEILLANCE FOR CWD.

01. Slaughter Surveillance. Brain tissue from no less than ten percent (10%) of all domestic cervidae sixteen (16) months of age or older that are slaughtered at approved slaughter establishments or custom exempt slaughter establishments shall be submitted annually by the owner of the slaughtered cervidae to official laboratories

to be tested or examined for CWD as provided for in these rules. If ten (10) or less cervids on a domestic cervidae ranch are slaughtered in a calendar year, at least one (1) testable brain sample must be submitted to meet the annual CWD surveillance requirement. Tissues samples submitted to an official laboratory that are untestable or are given an indeterminate test result shall not count towards the tissue submission requirement. (3-29-17)

02. Domestic Cervidae Ranch Surveillance. Brain tissue from no less than ten percent (10%) of all domestic cervidae sixteen (16) months of age or older that are harvested on domestic cervidae ranches shall be submitted for CWD testing annually. If ten (10) or less cervids on a domestic cervidae ranch are harvested in a calendar year, at least one (1) testable brain sample must be submitted to meet the annual CWD surveillance requirement. In addition to the tissue samples from the harvested domestic cervidae, brain tissue from one hundred percent (100%) of all domestic cervidae sixteen (16) months of age or older that die for any reason other than being harvested shall also be submitted for CWD testing annually. Reindeer and fallow deer shall be exempt from CWD testing unless the reindeer and fallow deer are part of a CWD positive, exposed, trace, source, or suspect herd or part of an elk herd. The owner or operator of the domestic cervidae ranch shall submit all tissue samples to an official laboratory to be tested for CWD, as provided for in these rules. Tissues samples submitted to an official laboratory that are untestable or are given an indeterminate test result shall not count towards the tissue submission requirement. In the event a domestic cervidae ranch cannot submit a testable brain sample, the domestic cervidae ranch shall submit a CWD Sample Submission Waiver Request within ten (10) business days of determining that a testable brain sample cannot be submitted. (3-29-17)

501. COLLECTION OF SAMPLES FOR CWD TESTING.

Only accredited veterinarians, state and federal animal health officials, and other persons, approved by the Administrator, shall collect brain or other tissue samples for CWD testing. Samples shall be collected immediately upon discovery of the death of a domestic cervid. (4-2-03)

01. Brain Samples. Only persons trained by state or federal animal health officials, and approved by the Administrator, may remove the obex portion of the brainstem for submission as the sample for CWD testing. (3-29-17)

02. Submission of Head. Only persons trained by state or federal animal health officials, and approved by the Administrator, may submit a head with the official identification attached to the head as the sample for CWD testing. (4-6-05)

03. Handling of Samples. All CWD samples shall be handled in a manner that prevents degradation of the sample. (4-2-03)

04. Sample Submission Time. Fresh samples for CWD testing shall be submitted, to an approved laboratory, within seventy-two (72) hours of the date of collection. Formalin preserved samples shall be submitted, to an approved laboratory, within ten (10) business days of the date of collection. (3-29-17)

05. Non-Testable or Samples That Do not Contain Appropriate Tissues. The Administrator may conduct an investigation to determine if a domestic cervidae ranch is complying with the provisions of Section 500 if: (4-2-03)

a. The owner or operator of a domestic cervidae ranch submits samples for CWD testing which are non-testable; or (4-2-03)

b. The owner or operator of a domestic cervidae ranch submits samples for CWD testing that do not contain the obex portion of the brainstem or other appropriate tissues, if available, for CWD testing. (3-29-17)

c. The owner or operator of a domestic cervidae ranch submits samples for CWD testing which cannot be identified to the animal of origin. (4-6-05)

06. Failure to Meet Annual CWD Tissue Submission Requirement. An owner or operator of a domestic cervidae ranch who fails to submit samples for CWD testing or who fails to meet the annual tissue submission requirements of this chapter, or both, is in violation of these rules, except the Administrator may approve, in writing, a variance from sample submission requirements on a case specific basis. (3-29-17)

502. OFFICIAL CWD TESTS.

- 01. Official Tests.** Official tests for CWD, approved by the Administrator, include: (4-2-03)
- a.** Histopathology; (4-2-03)
 - b.** Immunohistochemistry; (4-2-03)
 - c.** Western Blot; (4-2-03)
 - d.** Negative Stain Electron Microscopy; (4-2-03)
 - e.** Bioassay; and (4-2-03)

02. Other Scientifically Validated Test. The Administrator may approve other scientifically validated laboratory or diagnostic tests to confirm a diagnosis of CWD. (4-2-03)

503. CWD STATUS.

CWD status shall be based on the number of years that a herd of domestic cervidae has been determined to be in compliance with the provisions of this chapter, during which there is no evidence of CWD in the herd. (4-2-03)

01. Status Review. The Administrator shall review the CWD status of each domestic cervidae herd located in Idaho on at least an annual basis. (4-2-03)

02. Status Date. The status date is the date that the Administrator approves a change in the CWD status of a domestic cervidae herd in Idaho. (4-2-03)

03. Cervidae of Lesser Status. If a herd of domestic cervidae has contact with cervidae of a lesser status, the status of the herd with the higher status shall be lowered to the status of the cervidae with the lesser status. (4-2-03)

04. Change of Ownership. A herd's status may remain with the herd when a change of ownership, management or premises occurs, if there is no contact with cervidae of lesser status, and no previous history of CWD on the premises. (4-2-03)

05. Contact with CWD Positive Animals. Any herd of domestic cervidae that has contact with CWD positive or exposed animals may have its status reduced or removed. (4-2-03)

504. INVESTIGATION OF CWD.

An epidemiological investigation shall be conducted on all CWD positive, suspect, and exposed animals and herds, herds of origin, source herds, all adjacent herds, and all trace herds as determined by the Administrator. (4-2-03)

01. Quarantine. All positive, suspect, and exposed herds or animals, herds of origin, adjacent herds, and herds having contact with positive or exposed animals shall be quarantined; and (4-2-03)

02. Identification. CWD suspect and exposed animals shall be identified and remain on the premises where they are found until they have met the provisions for release of quarantine established in this chapter, are destroyed and disposed of as directed by the Administrator, or are moved at the Administrator's direction on a restricted movement permit. (4-2-03)

505. DURATION OF CWD QUARANTINE.

Quarantines imposed because of CWD in accordance with this chapter shall remain in effect until one (1) of the following criteria are met: (4-2-03)

01. CWD Positive Herds. The quarantine may be released after the herd is completely depopulated as provided in Subsection 505.07, or after five (5) years of compliance with an individual herd CWD plan and all

provisions of these rules, during which there was no evidence of CWD. (4-7-11)

02. CWD Suspect Herds. The quarantine may be released after the herd is completely depopulated as provided in Subsection 505.07, or after a minimum of five (5) years of compliance with an individual CWD herd plan and all provisions of these rules and during which there was no evidence of CWD, or an epidemiologic investigation determines that there is no evidence CWD exists in the herd as determined by the Administrator. (4-7-11)

03. Source Herds and Herds of Origin. The quarantine may be released after a minimum of five (5) years of compliance with an individual CWD herd plan and all provisions of these rules and during which there was no evidence of CWD, or an epidemiologic investigation determines that there is no evidence CWD exists in the herd and that the herd is not the source of infection as determined by the Administrator. (4-7-11)

04. Exposed Herds. The quarantine may be released after the herd is completely depopulated as provided in Subsection 505.07, or after a minimum of five (5) years of compliance with an individual CWD herd plan and all provisions of these rules and during which there was no evidence of CWD, or an epidemiologic investigation determines that there is no evidence CWD exists in the herd as determined by the Administrator. (4-7-11)

05. Adjacent Herds. The quarantine may be released when directed by the Administrator based upon an epidemiological investigation and in consultation with the designated epidemiologist. (4-6-05)

06. Fencing Requirements. Any owner of a domestic cervidae ranch who chooses to remain under quarantine for five (5) years shall construct a second perimeter fence that meets the requirements for perimeter fence, as provided in Section 102, such that no domestic cervidae on the domestic cervidae ranch can get within ten (10) feet of the original exterior perimeter fence or as approved by the Administrator. (4-2-03)

07. Complete Depopulation. The quarantine may be released after: (4-2-03)

a. Complete depopulation of all cervidae on the premises as directed by the Administrator; and (4-2-03)

b. The premises have been free of all livestock as specified in an individual CWD herd plan approved by the Administrator; and (4-7-11)

c. The soil and facilities have been cleaned, treated, decontaminated, or disinfected as directed by the Administrator. (4-2-03)

08. Disposal of Positive or Exposed Cervidae. All CWD positive or exposed domestic cervidae shall be disposed of as directed by the Administrator. (4-2-03)

506. CLEANING, TREATING, DECONTAMINATING, OR DISINFECTING. Premises shall be cleaned, treated, decontaminated, or disinfected under state or federal supervision as directed by the Administrator within fifteen (15) days after CWD positive or suspect animals have been removed. (4-2-03)

01. Exemptions. The Administrator may authorize, in writing, an exemption from cleaning, treating, decontaminating, or disinfection requirements on a case-by-case basis. (4-2-03)

02. Extension of Time. The Administrator may authorize, in writing, an extension of time for cleaning and disinfection under extenuating circumstances. (4-2-03)

03. Requests for Extensions or Exemptions. The owner of the contaminated facility shall submit requests for extensions or exemptions to the Administrator in writing. (4-2-03)

507. -- 999. (RESERVED)

**IDAPA 02
TITLE 04
CHAPTER 26**

02.04.26 – RULES GOVERNING LIVESTOCK MARKETING

000. LEGAL AUTHORITY.

This chapter is adopted under the legal authority of Sections 25-1723(b), 25-3520, 25-203, and 35-305, and 25-601 Idaho Code. (4-6-05)

001. TITLE AND SCOPE.

01. Title. The title of this chapter is IDAPA 02.04.26, “Rules Governing Livestock Marketing.” (4-6-05)

02. Scope. These rules govern the facilities, record keeping, identification, quarantine facilities, and movement of livestock through public livestock markets. (4-6-05)

002. WRITTEN INTERPRETATIONS.

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

003. ADMINISTRATIVE APPEAL.

Persons may be entitled to appeal agency actions authorized under these rules pursuant to Title 67, Chapter 52, Idaho Code. (4-6-05)

004. INCORPORATION BY REFERENCE.

01. Incorporated Documents. The following documents are incorporated by reference: Code of Federal Regulations, Title 9, Parts 71, 75, 77, 78, 85, and 161, CFR, January 1, 2003, which can be viewed online at http://www.access.gpo.gov/nara/cfr/waisidx_03/9cfrv1_03.html. (4-6-05)

02. Availability of Documents. Copies of these documents may be obtained from the Idaho State Department of Agriculture central office. (4-6-05)

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. (4-6-05)

007. -- 009. (RESERVED)

010. DEFINITIONS.

The following definitions apply in the interpretation and enforcement of this chapter. (4-6-05)

01. Accredited Veterinarian. A veterinarian approved by the Administrator and the 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. (4-6-05)

02. Approved Slaughter Establishment. A USDA inspected slaughter establishment where ante-mortem and post-mortem inspections are conducted by USDA inspectors. (4-6-05)

03. Brucellosis. An infectious disease of animals and humans caused by bacteria of the genus *Brucella*. (4-6-05)

- 04. Cattle.** All domestic bovidae, including domestic bison. (4-6-05)
- 05. Domestic Bison.** All animals in the genus Bison, which are owned by a person. (4-6-05)
- 06. Domestic Cervidae.** Elk, fallow deer, and reindeer owned by a person. (4-6-05)
- 07. Epithelioma of the Eye.** Carcinoma of the eye of cattle commonly known as cancer eye. (4-6-05)
- 08. Federal Animal Health Official.** An employee of USDA/APHIS/VS who is authorized to perform animal health activities. (4-6-05)
- 09. Herd.** Any group of livestock maintained on common ground, or two (2) or more groups of livestock under common ownership or supervision that are geographically separated from other groups but can have an interchange or movement without regard to health status. (4-6-05)
- 10. Interstate Movement.** Movements of livestock 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. (4-6-05)
- 11. Livestock.** Cattle, domestic bison, swine, horses, mules, asses, domestic cervidae, sheep, goats, camelids, and raites. (4-6-05)
- 12. Lump Jaw.** A condition known as actinomycosis or actinobacillosis in cattle. (4-6-05)
- 13. Official Ear Tag.** An APHIS approved identification ear tag conforming to an alphanumeric national uniform ear tagging system, which provides unique identification for each animal. (4-6-05)
- 14. Official Individual Identification.** Official USDA approved ear tag, USDA back tag, registration tattoo, or identification approved by the Administrator. (4-6-05)
- 15. Official Vaccination Ear Tag.** An APHIS approved identification ear tag conforming to the alphanumeric national uniform ear tagging system, which provides unique identification for each animal. (4-6-05)
- 16. Operator.** The person who has authority to manage or direct a public livestock market. (4-6-05)
- 17. Owner.** The person who owns or has financial control of a public livestock market. (4-6-05)
- 18. Restraint.** The confinement of livestock in a chute, or other device, for the purpose of efficiently, effectively, and safely inspecting, treating, vaccinating, or testing. (4-6-05)
- 19. State Animal Health Official.** The Administrator, or his designee, responsible for disease control and eradication activities. (4-6-05)
- 20. Tuberculosis.** An infectious disease of humans and animals caused by *Mycobacterium bovis*. (4-6-05)
- 21. USDA Back Tag.** A back tag issued by APHIS that conforms to the eight (8) character alphanumeric National Back Tagging System and that provides unique identification for each animal. (4-6-05)
- 011. ABBREVIATIONS.**
- 01. APHIS.** Animal Plant Health and Inspection Service. (4-6-05)
- 02. CFR.** Code of Federal Regulations. (4-6-05)
- 03. USDA.** United States Department of Agriculture. (4-6-05)

- 04.** VS. Veterinary Services. (4-6-05)
- 012. -- 019. (RESERVED)**
- 020. APPLICABILITY.**
These rules apply to chartered public livestock markets operating in Idaho. (4-6-05)
- 021. -- 029. (RESERVED)**
- 030. INSPECTIONS.**
To prevent the introduction and dissemination, or to control and eradicate diseases, state and federal animal health officials are authorized to inspect livestock records, premises, facilities, and livestock to ensure compliance with the provisions of this chapter and other state or federal laws or rules applicable to public livestock markets. (4-6-05)
- 01. Entering Premises.** In order to conduct activities authorized by this chapter, state or federal animal health officials are authorized to enter public livestock market premises during normal business hours. (4-6-05)
- 02. Inspecting Records.** To ensure compliance with the provisions of this chapter, state or federal animal health officials are authorized, during normal business hours, to have access to, inspect, review, and copy any livestock records deemed necessary. (4-6-05)
- 031. -- 039. (RESERVED)**
- 040. LIVESTOCK TREATMENT.**
Each public livestock market shall humanely treat all livestock. All non-ambulatory livestock shall be: (4-6-05)
- 01. Returned.** Returned to the owner; or (4-6-05)
- 02. Feed and Water.** Provided adequate feed and clean water; or (4-6-05)
- 03. Euthanized.** Humanely euthanized, and disposed of in accordance with IDAPA 02.04.17 "Rules Governing Dead Animal Movement and Disposal." (4-6-05)
- 041. -- 049. (RESERVED)**
- 050. DEAD ANIMAL DISPOSAL.**
The movement and disposal of all dead animals shall be pursuant to the provisions of IDAPA 02.04.17 "Rules Governing Dead Animal Movement and Disposal." (4-6-05)
- 051. -- 059. (RESERVED)**
- 060. ENVIRONMENTAL REQUIREMENTS.**
All public livestock markets shall meet the provisions of IDAPA 02.04.15 "Rules Governing Beef Cattle Animal Feeding Operations." (4-6-05)
- 061. -- 099. (RESERVED)**
- 100. PUBLIC LIVESTOCK MARKET CHARTER.**
No person shall conduct or operate a public livestock market without first securing a charter from the Department. Charters shall expire on April 30 of each year. It is the responsibility of the public livestock market operator to apply each year for charter renewal on a form prescribed by the Department. The charter renewal form must be accompanied by an annual market charter fee of one hundred dollars (\$100). The charter renewal form and annual market charter fee must be received by the Department on or before May 1 of each year. (3-21-12)
- 101. PUBLIC LIVESTOCK MARKET MINIMUM SALE REQUIREMENT.**
Each chartered public livestock market shall conduct a minimum of one (1) sale during each calendar year. (4-6-05)

102. -- 109. (RESERVED)

110. MARKET RELEASE.

Prior to any livestock being released from a public livestock market, the following conditions shall be fulfilled: (4-6-05)

01. Veterinary Inspection. A visual inspection, of each animal, shall be made by an accredited veterinarian authorized to provide veterinary services to the market. (4-6-05)

02. Affected Animals. Any animals determined to be affected by any infectious or contagious disease shall be immediately isolated in quarantine pens and are subject to the market's bio-security protocol. (4-6-05)

03. Removal of Animals. No animals shall be removed from the livestock market until all animals determined to be affected with a contagious or infectious disease have been examined by an accredited veterinarian authorized to provide veterinary services to the market. (4-6-05)

04. Saleyard Release Form. An accurate and legible "Saleyard Release" form, certificate of veterinary inspection, or other market release mechanism, approved by the Administrator, shall be completed certifying that the animals meet the health requirements for movement to the point of destination. (4-6-05)

111. -- 114. (RESERVED)

115. BIO-SECURITY PLAN.

All public livestock markets shall submit a bio-security plan to the Administrator for approval. All approved bio-security plans shall be implemented by the public livestock market. Each bio-security plan shall include, but not be limited to, the following elements: (4-6-05)

01. Identification. Procedures for identifying animals that are affected by any contagious or infectious disease. (4-6-05)

02. Diagnosis. Procedures for examination and diagnosis, by an accredited veterinarian, of any animals affected by any contagious or infectious disease. (4-6-05)

03. Disposition. Procedures for the disposition of any livestock diagnosed as affected by any contagious or infectious disease. (4-6-05)

04. Records. Complete and accurate records shall be kept on site at the livestock market, showing that the market's bio-security plan is being implemented. (4-6-05)

116. -- 119. (RESERVED)

120. IDENTIFICATION.

All livestock entering a public livestock market shall be individually identified to the herd of origin. (4-6-05)

121. APPROVED FORMS OF IDENTIFICATION.

The following are approved methods of identification. (4-6-05)

01. Back Tag. USDA approved back tag; or (4-6-05)

02. Ear Tag. Official USDA ear tag; or (4-6-05)

03. Registration Tattoo; or (4-6-05)

04. Brand Inspection. Statement of ownership such as a brand inspection certificate. (4-6-05)

05. Administrator Approval. The Administrator may approve other forms of identification on a case by case basis. (4-6-05)

06. Removal of Identification. No animal identification shall be intentionally removed, tampered with, or otherwise altered, except as approved by the Administrator. (4-6-05)

122. -- 129. (RESERVED)

130. QUARANTINE PENS.

A quarantine pen or pens shall be provided at all public livestock markets and such pens shall only be used to hold animals that have reacted to the brucellosis or tuberculosis test or animals affected with, or suspected of being affected with a contagious or infectious disease, epithelioma of the eye, or lump jaw. The pens shall comply with the following requirements: (4-6-05)

01. Hard Surface. Hard surfaced with concrete or similar impervious material in good repair; and (4-6-05)

02. Feed and Water. Adequate feed and clean water facilities which are completely separate from all other livestock; and (4-6-05)

03. Signage. Identified with the word "QUARANTINE" in red letters, not less than four (4) inches high, on a white background on the pen gate; and (4-6-05)

04. Cleaning and Disinfection. Cleaned and disinfected no later than the day following date of sale; and (4-6-05)

05. Fence Construction. The fence shall be solid, constructed by boards or other material approved by the Administrator, and be a minimum of five and one-half (5 ½) feet high; and (4-6-05)

06. Drainage. Drainage shall not be onto adjoining pens, restraint facilities or alleys. (4-6-05)

131. -- 149. (RESERVED)

150. RESTRAINT FACILITIES.

Each public livestock market shall have a restraint system, approved by the Administrator, for humanely, efficiently, and effectively restraining livestock for the purpose of inspecting, identifying, treating, or testing of animals by state or federal animal health officials. (4-6-05)

151. -- 159. (RESERVED)

160. SANITARY CONDITIONS.

All pens, alleys, troughs, restraint facilities, and runways shall be kept in a sanitary condition. Operators of public livestock markets shall clean and disinfect livestock market facilities, under the supervision of a state or federal animal health official, upon request by the Administrator. (4-6-05)

161. -- 169. (RESERVED)

170. RECORDS.

Each public livestock market shall keep sufficient records of animals presented for sale to enable state or federal animal health officials to trace such animals satisfactorily to their herd of origin, and such records shall be maintained for a minimum of five (5) years. (4-6-05)

171. -- 999. (RESERVED)

**IDAPA 02
TITLE 06
CHAPTER 01**

02.06.01 – RULES GOVERNING THE PURE SEED LAW

000. LEGAL AUTHORITY.

This chapter is adopted under the legal authority of Sections 22-418(4) and 22-418(11), Idaho Code. (3-30-06)

001. TITLE AND SCOPE.

01. Title. The title of this chapter is “Rules Governing the Pure Seed Law.” (3-20-97)

02. Scope. These rules govern procedures for sale or distribution of seed in Idaho. These rules will also establish seed service testing fees for purity, germination, tetrazolium and special tests. (3-20-97)

002. WRITTEN INTERPRETATIONS.

There are no written interpretations of these rules. (3-30-06)

003. ADMINISTRATIVE APPEAL.

There is no provision for administrative appeals before the Department of Agriculture under this chapter. Hearing and appeal rights are pursuant to Title 67, Chapter 52, Idaho Code. (3-20-97)

004. INCORPORATION BY REFERENCE.

There are no documents incorporated by reference in this chapter. (3-30-06)

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/>. (3-30-06)

006. PUBLIC RECORDS ACT COMPLIANCE.

These rules are public records available for inspection and copying at the Department and the State Law Library. (3-30-06)

007. -- 009. (RESERVED)

010. DEFINITIONS.

In addition to the definitions set forth in Section 22-414, Idaho Code, the Department adopts the following definition: “Condition” means drying, cleaning, scarifying and other operations which could change the purity or germination of the seed and require the seed lot to be retested to determine the label information. (4-2-08)

011. (RESERVED)

012. METHODS OF SAMPLING -- GENERAL PROCEDURE.

01. Sample. In order to secure a representative sample, equal portions shall be taken from evenly distributed parts of the quantity of seed or screenings to be sampled. Access shall be had to all parts of that quantity. When more than one (1) trierful of seed is drawn from a bag, different paths shall be followed. When more than one (1) handful is taken from a bag, the handfuls shall be taken from well-separated points. (7-1-93)

02. Free Flowing Seed. For free-flowing seed in bags or bulk, a probe or trier shall be used. For small free-flowing seed in bags a probe or trier long enough to sample all portions of the bag shall be used. (7-1-93)

03. Non-Free Flowing Seed. Non-free-flowing seed, such as certain grass seed, uncleaned seed or screenings difficult to sample with a probe or trier, shall be sampled by thrusting the hand into the bulk and withdrawing representative portions. The hand is inserted in an open position and the fingers are held closely together

while the hand is being inserted and the portion withdrawn. (7-1-93)

04. Composite Samples. Composite samples shall be obtained to determine the quality of a lot of seed (i.e., percentages of pure seed, other crop seed, weed seed, inert matter and germination). Individual bag samples may be obtained to determine if the lot of seed is uniform. (7-1-93)

a. To determine if there is an obvious lack of uniformity of seed from which a composite sample is being obtained, each portion shall be examined and the portions shall then be combined to form a composite sample or samples. (7-1-93)

b. If the lot is found not to be uniform when obtaining a composite sample to determine its quality then additional individual bag samples shall be taken for the purpose of testing for uniformity. (7-1-93)

c. Such individual bag samples may also be taken for the purpose of testing for uniformity even though a composite sample has not previously been obtained. The identity of each individual bag sample must be maintained. (7-1-93)

05. Bulk. Bulk seed or screenings shall be sampled by inserting a long probe or thrusting the hand into the bulk, as circumstances require, in at least seven uniformly distributed parts of the quantity being sampled. At least as many trierfuls or handfuls shall be taken as the minimum which would be required for the same quantity of seed or screenings in bags of a size customarily used for such seed or screenings. (7-1-93)

06. Bags. (7-1-93)

a. For lots of six (6) bags or less, each bag shall be sampled. A total of at least five (5) trierfuls shall be taken. (7-1-93)

b. For lots of more than six (6) bags, five (5) bags plus at least ten percent (10%) of the number of bags in the lots shall be sampled. (Round off numbers with decimals to the nearest whole number, raising five tenths (.5) to the next whole number.) Regardless of the lot size it is not necessary that more than thirty (30) bags be sampled. (7-1-93)

c. Samples shall be drawn from unopened bags except under circumstances where the identity of the seed has been preserved. (7-1-93)

07. Packets. In sampling seed in packets, entire unopened packets shall be taken. (7-1-93)

08. Size of Sample. (7-1-93)

a. For composite sample to test for quality, the following are minimum weights for samples of seed to be submitted for analysis, test or examination (7-1-93)

i. Two (2) ounces (approximately fifty five (55) grams) of grass seed not otherwise mentioned, white or alsike clover, or seeds not larger than these. (7-1-93)

ii. Five (5) ounces (approximately one hundred fifty (150) grams) of red or crimson clover, alfalfa, lespedezas, ryegrasses, bromegrasses, millet, flax, rape, or seeds of similar size. (7-1-93)

iii. One (1) pound of Sudangrass, sorghum, proso, hemp seed, or seeds of similar size. (7-1-93)

iv. Two (2) pounds (approximately one thousand (1,000) grams) of cereals, vetches, or seeds of similar or larger size. (7-1-93)

b. For individual bag samples to test for uniformity. (7-1-93)

i. The size of any individual bag sample to determine uniformity in a lot of seed shall be not less than the quantities set out in the "Rules and Regulations, under the Federal Seed Act" (53 Statute 1275) (Subsection

201.46). (7-1-93)

ii. If the sample drawn is larger than desired, it shall be thoroughly mixed before it is divided to the desired size. (7-1-93)

09. Forwarding and Receipt of Official Samples. Before being forwarded for analysis test or examination, the containers of official samples shall be properly sealed and identified. The containers of official samples shall be initialed and dated and the sample weighed by the person who breaks the seals. (7-1-93)

113. -- 049. (RESERVED)

050. GERMINATION STANDARDS -- TABLE.

Germination Standards for Vegetable Seeds, which shall be construed to include hard seed.

	Percent
Artichoke	60
Asparagus	70
Asparagusbean	75
Bean, garden	70
Bean, lima	70
Bean, runner	75
Beet	65
Broadbean	75
Broccoli	75
Brussels sprouts	70
Burdock, great	60
Cabbage	75
Cabbage, tronchuda	75
Cantaloupe (See muskmelon)	
Cardoon	60
Carrot	55
Cauliflower	75
Celeriac	55
Celery	55
Chard, Swiss	65
Chicory	65
Chinese Cabbage	75
Chives	50
Citron	65
Collards	80

	Percent
Eggplant	60
Endive	70
Kale	75
Kale, Chinese	75
Kohlrabi	75
Leek	60
Lettuce	80
Muskmelon	75
Mustard, India	75
Mustard, spinach	75
Okra	50
Onion	70
Onion, Welsh	70
Pak-choi	75
Parsley	60
Parsnip	60
Pea	80
Pepper	55
Pumpkin	75
Radish	75
Rhubarb	60
Rutabaga	75
Salsify	75
Sorrel	65
Soybean	75

	Percent
Corn, sweet	75
Cornsalad	70
Cowpea	75
Cress, garden	75
Cress, upland	60
Cress, water	40
Cucumber	80
Dandelion	60

	Percent
Spinach	60
Spinach, New Zealand	40
Squash	75
Tomato	75
Tomato, husk	50
Turnip	80
Watermelon	70

(7-1-93)

051. -- 099. (RESERVED)

100. GERMINATION STANDARDS FOR FLOWER SEEDS.

The kinds of flower seeds listed below are those for which standard testing procedures have been prescribed by the Association of Official Seed Analysts (AOSA) and which are required by the labeling provisions of Section 22-415, Idaho Code. The percentage listed opposite each kind is the germination standard for that kind. For the kinds marked with an asterisk, the percentage is arrived at by totaling the percent germination and percent hard seed. (7-1-93)

01. Table 1.

Kind	Percent
Achillea (The Pearl) - <i>Achillea ptarmica</i>	50
African Daisy - <i>Dimorphotheca aurantiaca</i>	55
African Violet - <i>Saintpaulia</i> spp.	30
Ageratum - <i>Ageratum mexicanum</i>	60
Agrostemma (rose champion) - <i>Agrostemma coronaria</i>	65
Alyssum - <i>Alyssum campactum</i> , <i>A. maritimum</i> , <i>A. procumbens</i> , <i>A. saxatile</i>	60
Amaranthus - <i>Amaranthus</i> spp.	65
Anagalis (pimpernel) - <i>Anagalis arvensis</i> , <i>Anagalis coerulea</i> , <i>Anagalis grandiflora</i>	60
Anemone - <i>Anemone coronaria</i> , <i>A. pulsatilla</i>	55
Angel's Trumpet - <i>Datura arborea</i>	60
Arabis - <i>Arabis alpina</i>	60
Arctotis (African lilac daisy) - <i>Arctotis grandis</i>	45
Armeria - <i>Armeria formosa</i>	55
Asparagus, fern - <i>Asparagus plumosus</i>	50
Asparagus, sprenger - <i>Asparagus sprengeri</i>	55

Kind	Percent
Aster, China - Callistephus chinensis; except Pompon, Powderpuff, and Princess types	55
Aster, China - Callistephus chinensis; Pompon, Powderpuff, and Princess types	50
Aubretia - Aubretia deltoides	45
Baby Smilax - Asparagus asparagoides	25
Balsam - Impatiens balsamina	70
Begonia - Begonia fibrous rooted	60
Begonia - Begonia tuberous rooted	50
Bells of Ireland - Molucella laevis	60
Brachycome (swan river daisy) - Brachycome iberidifolia	60
Browallia - Browallia elata and B. speciosa	65
Buphthalmum (sunwheel) - Buphthalmum salicifolium	60
Calceolaria - Calceolaria spp.	60
Calendula - Calendula officinalis	65
California Poppy - Eschscholtzia californica	60
Calliopsis - Coreopsis bicolor, C. drummondii, C. elegans	65
Campanula: Canterbury Bells - Campanula medium	60
Cup and Saucer Bellflower - Campanula medium calycanthema	60
Carpathian Bellflower - Campanula carpatica	50
Peach Bellflower - Campanula persicifolia	50
Candytuft, Annual - Iberis amara, I. umbellata	65
Candytuft, Perennial - Iberis gibraltarica, I. sempervirens	55
*Castor Bean - Ricinus communis	60
Cathedral Bells - Cobaea scandens	65
Celosia - Celosia argentea	65
Centaurea: Basket Flower - Centaurea americana, Cornflower - C. cyanus, Dusty Miller - C. candidissima, Royal Centaurea - C. imperialis, Sweet Sultan - C. moschata, Velvet Centaurea - C. gymnocarpa	60
Cerastium (snow-in-summer) - Cerastium biebersteini and C. tomentosum	65
Chinese Forget-me-not - Cynoglossum amabile	55

Kind	Percent
Chrysanthemum, Annual - Chrysanthemum carinatum, C. coronarium, C. segetum	40
Cineraria - Senecio cruentus	60
Clarkia - Clarkia elegans	65
Cleome - Cleome gigantea	65
Coleus - Coleus blumei	65
Columbine - Aquilegia spp.	50
Coral Bells - Heuchera sanguinea	55
Coreopsis, Perennial - Coreopsis lanceolata	40
Corn, ornamental - Zea mays	75
Cosmos: Sensation, Mammoth and Crested types - Cosmos bipinnatus; Klondyke type - C. sulphureus	65
Crossandra - (Crossandra infundibuliformis)	50
Dahlia - Dahlia spp.	55
Daylily - Hemerocallis spp.	45
Delphinium, Perennial: Belladonna and Bellamosum types; Cardinal Larkspur - Delphinium cardinale; Chinensis types; Pacific Giant, Gold Medal and other hybrids of D. elatum	55
Dianthus: Carnation - Dianthus caryophyllus	60
China Pinks - Dianthus chinensis, heddewigi, heddensis	70
Grass Pinks - Dianthus plumarius	60
Maiden Pinks - Dianthus deltoides	60
Sweet William - Dianthus barbatus	70
Sweet Wivelsfield - Dianthus allwoodi	60
Didiscus - (blue lace flower) - Didiscus coerulea	65
Doronicum (leopard's bane) - Doronicum caucasicum	60
Dracaena - Dracaena indivisa	55
Dragon Tree - Dracaena draco	40
English Daisy - Bellis perennis	55
Flax - Golden flax (Linum flavum); Flowering flax L. grandiflorum; Perennial flax, L. perenne	60
Flowering Maple - Abutilon spp.	35
Foxglove - Digitalis spp.	60

Kind	Percent
Gaillardia, Annual - Gaillardia pulchella; G. picta; Perennial - G. grandiflora	45
Gerbera (transvaal daisy) - Gerbera jamesoni	60
Geum - Geum spp.	55
Gilia - Gilia spp.	65
Gloriosa daisy (rudbeckia) - Echinacea purpurea and Rudbeckia hirta	60
Gloxinia - (Sinningia speciosa)	40
Godetia - Godetia amoena, G. grandiflora	65
Gourds: Yellow Flowered - Cucurbita pepo; White Flowered - Lagenaria siceraria; Dishcloth - Luffa cylindrica	70
Gypsophila: Annual Baby's Breath - Gypsophila elegans; Perennial Baby's Breath - G. paniculata, G. pacifica, G. repens	70
Helenium - Helenium autumnale	40
Helichrysum - Helichrysum monstrosum	60
Heliopsis - Heliopsis scabra	55
Heliotrope - Heliotropium spp.	35
Helipterum (Acroclinium) - Helipterum roseum	60
Hesperis (sweet rocket) - Hesperis matronalis	65
*Hollyhock - Althea rosea	65
Hunnemania (mexican tulip poppy) - Hunnemania fumariaefolia	60
*Hyacinth bean - Dolichos lablab	70
Impatiens - Impatiens holstii, I. sultani	55
*Ipomea - Cypress Vine - Ipomea quamoclit; Moonflower - I. noctiflora; Morning Glories, Cardinal Climber, Hearts and Honey Vine - Ipomea spp.	75
Jerusalem cross (maltese cross) - Lychnis chalcedonica	70
Job's Tears - Coix lacrymajobi	70
Kochia - Kochia childsi	55
Larkspur, Annual - Delphinium ajacis	60
Lantana - Lantana camara, L. hybrida	35
Lilium (regal lily) - Lilium regale	50
Linaria - Linaria spp.	65

Kind	Percent
Lobelia, Annual - <i>Lobelia erinus</i>	65
Lunaria, Annual - <i>Lunaria annua</i>	65
*Lupine - <i>Lupinus</i> spp.	65
Marigold - <i>Tagetes</i> spp.	65
Marvel of Peru - <i>Mirabilis jalapa</i>	60
Matricaria (feverfew) - <i>Matricaria</i> spp.	60
Mignonette - <i>Reseda odorata</i>	55
Myosotis - <i>Myosotis alpestris</i> , <i>M. oblongata</i> , <i>M. palustris</i>	50
Nasturtium - <i>Tropaeolum</i> spp.	60
Nemesia - <i>Nemesia</i> spp.	65
Nemophila - <i>Nemophila insignis</i>	70
Nemophila, spotted - <i>Nemophila maculata</i>	60
Nicotiana - <i>Nicotiana affinis</i> , <i>N. sanderae</i> , <i>N. sylvestris</i>	65
Nierembergia - <i>Nierembergia</i> spp.	55
Nigella - <i>Nigella damascena</i>	55
Pansy - <i>Viola tricolor</i>	60
Penstemon - <i>Penstemon barbatus</i> , <i>P. grandiflorus</i> , <i>P. laevigatus</i> , <i>P. pubescens</i>	60
Petunia - <i>Petunia</i> spp.	45
Phacelia - <i>Phacelia campanularia</i> , <i>P. minor</i> , <i>P. tanacetifolia</i>	65
Phlox, Annual - <i>Phlox drummondii</i> all types and varieties	55
Physalis - <i>Physalis</i> spp.	60
Platycodon (balloon flower) - <i>Platycodon grandiflorum</i>	60
Plumbago, cape - <i>Plumbago capensis</i>	50
Ponytail - <i>Beaucarnea recurvata</i>	40
Poppy: Shirley Poppy - <i>Papaver rhoeas</i> ; Iceland Poppy - <i>P. nudicaule</i> ; Oriental Poppy - <i>P. orientale</i> ; Tulip Poppy - <i>P. glaucum</i>	60
Portulace - <i>Portulaca grandiflora</i>	55
Primula (Primrose) - <i>Primula</i> spp.	50
Pyrethrum (painted daisy) - <i>Pyrethrum coccineum</i>	60
Salpiglossis - <i>Salpiglossis gloxinaeflora</i> , <i>S. sinuata</i>	60

Kind	Percent
Salvia: Scarlet Sage - <i>Salvia splendens</i> ; Mealycup Sage (blue bedder) - <i>Salvia farinacea</i>	50
Saponaria - <i>Saponaria ocymoides</i> , <i>S. vaccaria</i>	60
Scabiosa, Annual - <i>Scabiosa atropurpurea</i>	50
Scabiosa, Perennial - <i>Scabiosa caucasica</i>	40
Schizanthus - <i>Schizanthus</i> spp.	60
*Sensitive plant (mimosa) - <i>Mimosa pudica</i>	65
Shasta Daisy - <i>Chrysanthemum maximum</i> , <i>C. leucanthemum</i>	65
Silk Oak - <i>Grevillea robusta</i>	25
Snapdragon - <i>Antirrhinum</i> spp.	55
Solanum - <i>Solanum</i> spp.	60
Statice - <i>Statice sinuata</i> , <i>S. suworonii</i> (flower heads)	50
Stocks: Common - <i>Mathiola incana</i> ; Evening Scented - <i>Mathiola bicornis</i>	65
Sunflower - <i>Helianthus</i> spp.	70
Sunrose - <i>Helianthemum</i> spp.	30
*Sweet Pea, Annual and Perennial other than dwarf bush - <i>Lathyrus odoratus</i> , <i>L. latifolius</i>	75
*Sweet Pea, dwarf bush - <i>Lathyrus odoratus</i>	65
Tahoka daisy - <i>Machaeanthera tanacetifolia</i>	60
Thunbergia - <i>Thunbergia alata</i>	60
Torch Flower - <i>Tithonia speciosa</i>	70
Torenia (wishbone flower) - <i>Torenia fournieri</i>	70
Tritoma Kniphofia spp.	65
Verbena, Annual - <i>Verbena hybrida</i>	35
Vinca - <i>Vinca rosea</i>	60
Viola - <i>Viola cornuta</i>	55
Virginian stocks - <i>Malcolmia maritima</i>	65
Wallflower - <i>Cheiranthus allioni</i>	65
Yucca (Adam's needle) - <i>Yucca filamentosa</i>	50
Zinnia (except Linearis and Creeping) - <i>Zinnia angustifolia</i> , <i>Z. elegans</i> , <i>Z. grandiflora</i> , <i>Z. gracillima</i> , <i>Z. haegeana</i> , <i>Z. multiflora</i> , <i>Z. pumila</i>	65
Zinnia, Linearis and Creeping - <i>Zinnia linearis</i> , <i>Sarvitalia procumbens</i>	50

Kind	Percent
All other kinds	50

(7-1-93)

02. Below Standard. A mixture of kinds of flower seeds will be considered to be below standard if the germination of any kind or combination of kinds constituting twenty-five percent (25%) or more of the mixture by number is below standard for the kind or kinds involved. (7-1-93)

101. -- 149. (RESERVED)

150. GERMINATION STANDARDS FOR SEED IN HERMETICALLY SEALED CONTAINERS.

The period of validity of germination tests is extended to the following period for seed packaged in hermetically sealed containers under conditions and label requirements set forth in this section. (7-1-93)

01. Germination Tests. The germination test for agricultural and vegetable seed shall have been completed within the following period, exclusive of the calendar month in which the test was completed, immediately prior to shipment, delivery, transportation or sales: (7-1-93)

a. In the case of agricultural or vegetable seeds shipped, delivered, transported or sold to a dealer for resale, eighteen (18) months; (7-1-93)

b. In the case of agricultural or vegetable seeds for sale or sold at retail, thirty-six (36) months. (7-1-93)

02. Conditions of Packaging. The following standards, requirements, conditions must be met before seed is considered to be hermetically sealed under the provisions of this Act: (7-1-93)

a. The seed was packaged within nine months after harvest. (7-1-93)

b. The container used does not allow water vapor penetration through any wall, including the seals, greater than five hundredths (0.05) gram of water per twenty-four (24) hours per one hundred (100) square inches of surface at one hundred degrees F. (100F) with a relative humidity on one side of ninety percent (90%) and on the other of zero percent (0%). Water vapor penetration or WVP is measured by the standards of the U.S. Bureau of Standards as-gm. H₂O/24 hr./100 sq. in./100 F/ 90% RHV. 0% RH. (7-1-93)

03. Moisture. The seed in the container does not exceed the percentage of moisture, on a wet weight basis, as listed below: (7-1-93)

a. Table 1.

Agricultural Seeds	Percent
Beet, field	7.5
Beet, sugar	7.5
Bluegrass, Kentucky	6.0
Clover, crimson	8.0
Fescue, red	8.0
Ryegrass, annual	8.0
Ryegrass, perennial	8.0
All other agricultural seeds	6.0

Agricultural Seeds	Percent
Mixtures of above	8.0

(7-1-93)

b. Table 2.

Vegetable Seeds	Percent
Bean, garden	7.0
Bean, lima	7.0
Beet	7.5
Broccoli	5.0
Brussels sprouts	5.0
Cabbage	5.0
Carrot	7.0
Cauliflower	5.0
Celeriac	7.0
Celery	7.0
Chard, Swiss	7.5
Chinese cabbage	5.0
Chives	6.5
Collards	5.0
Corn, sweet	8.0
Cucumber	6.0
Eggplant	6.0
Kale	5.0
Kohlrabi	5.0
Leek	6.5
Lettuce	5.5
Muskmelon	6.0
Mustard, India	5.0
Onion	6.5
Onion, Welsh	6.5
Parsley	6.5
Parsnip	6.0
Pea	7.0
Pepper	4.5

Vegetable Seeds	Percent
Pumpkin	6.0
Radish	5.0
Rutabaga	5.0
Spinach	8.0
Squash	6.0
Tomato	5.5
Turnip	5.0
Watermelon	6.5
All other vegetable seeds	6.0

(7-1-93)

04. Labeling. The container is conspicuously labeled in not less than eight (8) point type to indicate that the container is hermetically sealed, that the seed has been preconditioned as to moisture content, and the calendar month and year in which the germination test was completed. (7-1-93)

05. Germination. The percentage of germination of seed at the time of packaging was equal to or above the standards specified elsewhere in these rules. (7-1-93)

151. -- 199. (RESERVED)

200. NOXIOUS WEEDS.

01. Prohibited Noxious Weed Seeds -- Table 1.

Common Name	Scientific Name
1. Beancaper, Syrian	1. Zygophyllum fabago L.
2. Bindweed, Field	2. Convolvulus arvensis L.
3. Buffalobur	3. Solanum rostratum Dun.
4. Bursage, Skeleton leaf	4. Ambrosia tomentosa Nutt.
5. Camelthorn	5. Alhagi camelorum Fisch.
6. Carrot, Wild	6. Daucus carota L.
7. Cress, Hoary	7. Cardaria draba (L.) Desv.
8. Crupina, Common	8. Crupina vulgaris Cass.
9. Fieldcress, Austrian	9. Rorippa austriaca (Crantz) Bess.
10. Goatgrass	10. Aegilops cylindrica Host
11. Groundcherry, Smooth	11. Physalis subglabrata Mackenz. & Bush
12. Henbane, Black	12. Hyoscyamus niger L.
13. Johnsongrass	13. Sorghum halepense L.
14. Knapweed, Diffuse	14. Centaurea diffusa Lam.

Common Name	Scientific Name
15. Knapweed, Russian	15. <i>Centaurea repens</i> L.
16. Knapweed, Spotted	16. <i>Centaurea maculosa</i> Lam.
17. Lythrum, Purple	17. <i>Lythrum salicaria</i> L.
18. Nightshade, Silverleaf	18. <i>Solanum elaeagnifolium</i> Cav.
19. Pepperweed, Perennial	19. <i>Lepidium latifolium</i> L.
20. Poison-Hemlock	20. <i>Conium maculatum</i> L.
21. Puncturevine	21. <i>Tribulus terrestris</i> L.
22. Quackgrass	22. <i>Elytrigia repens</i> ; <i>Agropyron repens</i> (L.) Beauv.
23. Ragwort, Tansy	23. <i>Senecio jacobaea</i> L.
24. Skeletonweed, Rush	24. <i>Chondrilla juncea</i> L.
25. Sowthistle, Perennial	25. <i>Sonchus arvensis</i> L.
26. Spurge, Leafy	26. <i>Euphorbia esula</i> L.
27. St. Johnswort, Common	27. <i>Hypericum perforatum</i> L.
28. Starthistle, Yellow	28. <i>Centaurea solstitialis</i> L.
29. Swainsonpea	29. <i>Sphaerophys salsula</i> (Pall.) DC; <i>Swainsona salsula</i> (Pallas) Taubert
30. Thistle, Canada	30. <i>Cirsium arvense</i> (L.) Scop.
31. Thistle, Musk	31. <i>Carduus nutans</i> L.
32. Thistle, Scotch	32. <i>Onopordum acanthium</i> L.
33. Toadflax, Dalmatian	33. <i>Linaria genistifolia</i> spp. <i>dalmatica</i> (L.) Maire & Petitmengin
34. Toadflax, Yellow	34. <i>Linaria vulgaris</i> Mill.
35. Woad, Dyers	35. <i>Isatis tinctoria</i> L.

(7-1-93)

02. Restricted Noxious Weed Seeds -- Table 2.

Common Name	Scientific Name
1. Dodder	1. <i>Cuscuta</i> spp.
2. Halogeton	2. <i>Halogeton glomeratus</i> (Stephen ex Bieb.) C.A. Mey
3. Lettuce, Blue	3. <i>Lactuca pulchella</i> (Pursch) DC.
4. Oats, Wild	4. <i>Avena fatua</i> L.
5. Plantain, Buckhorn	5. <i>Plantago lanceolata</i> L.
6. Ragweed, Western and Perennial	6. <i>Ambrosia psilostachya</i> DC., (T. & G.) Farw.

Common Name	Scientific Name
7. Rye, Medusahead	7. Taeniatherum caput-medusae (L.) Nevski; Elymus caput-medusae (L.)
8. Sumpweed, Poverty	8. Iva axillaris Pursh

(7-1-93)

03. Restricted Noxious Weed Tolerances.

(7-1-93)

a. Seven (7) seeds in fifty (50) grams of Agrotis species, Poa species, Rhodes grass, Bermudagrass, timothy, celery, and other agricultural or vegetable seeds of similar size and weight, within this group. (7-1-93)

b. Seven (7) seeds in each fifty (50) grams of Dallisgrass, ryegrass, fescue species, foxtail millets, alfalfa, red clover, sweetclover, lespedeza, bromegrass, Brassica species, carrot, onion, and other agricultural or vegetable seeds of similar size and weight or mixtures within this group, or mixtures of this group with those in group A. (7-1-93)

c. Seven (7) seeds in fifty (50) grams of alsike clover, white clover, and other agricultural or vegetable seeds of similar size and weight or mixtures within this group, with those in group A or group B. (7-1-93)

d. Eight (8) seeds in one hundred fifty (150) grams of Proso millet, Sudangrass, and seeds of similar size and weight, or mixtures of seed within this group. (7-1-93)

e. Forty-five (45) seeds in each pound for all wheatgrass species. (7-1-93)

f. Four (4) seeds in each five hundred (500) grams of wheat, oats, rye, barley, buckwheat, sorghums, vetches, field peas, and other seeds of a size and weight similar to or greater than those within this group, or any mixtures within this group. (7-1-93)

g. Containing more than one percent (1%) by weight of weed seeds including restricted noxious weed seeds referred to in Section 22-414(17)(b), Idaho Code, provided, that three percent (3%) of cheat, chess, or downy brome shall be allowed in grass seed in which these weeds are found. (7-1-93)

201. -- 249. (RESERVED)

250. LABEL REQUIREMENTS OF SEEDS FOR SPROUTING.

The following information shall be indicated on all labels of seeds sold for sprouting in health food stores or other outlets: (7-1-93)

01. Name. Commonly accepted name of kind. (7-1-93)

02. Lot. Lot number. (7-1-93)

03. Percentage. Percentage by weight of the pure seed, crop seeds, inert matter, and weed seeds if required. (7-1-93)

04. Germination Percentage. Percentage of germination. (7-1-93)

05. Date. The calendar month and year the test was completed to determine such percentage. (7-1-93)

251. -- 299. (RESERVED)

300. VIABILITY BY TZ%.

A TZ (tetrazolium) test may be used in lieu of germination for the following species. The label shall read "viability by TZ%." (7-1-93)

- 01. Bitterbrush. (7-1-93)
- 02. Saltbush. (7-1-93)
- 03. Sagebrush. (7-1-93)
- 04. Indian Ricegrass. (7-1-93)
- 05. Winterfat. (7-1-93)

301. -- 399. (RESERVED)

400. METHODS OF TESTING.

All methods used in testing and analyzing seed subject to this Act and the tolerances used in the enforcement of this Act shall conform as nearly as practicable to the current "Rules for Testing Seed adopted by the Association of Official Seed Analysts" (AOSA) file at the Idaho Department of Agriculture, State Seed Lab located at 2240 Kellogg Lane, Boise, Idaho 83712 and through the Department of Administration, Office of Administrative Rules, located at 650 West State Street, Room 100, Boise, Idaho 83720. (7-1-93)

401. -- 499. (RESERVED)

500. SERVICE TESTING FEES -- PURITY, GERMINATION AND TETRAZOLIUM FEES.

Purity, Germination, and Tetrazolium Fees			
Kind of Seeds	Purity* \$/Unit	Germination \$/Unit	Tetrazolium** \$/Unit
AGRICULTURAL GRASS SEED			
Bluegrasses	\$45.00	\$25.00	\$40.00
Brome-grasses	\$38.00	\$24.00	\$40.00
Fescues	\$35.00	\$22.00	\$40.00
Orchardgrass	\$38.00	\$25.00	\$40.00
Ryegrasses	\$38.00	\$23.00 ***	\$40.00
Timothy	\$28.00	\$23.00	\$40.00
For all others the hourly rate will apply			
FIELD SEED			
Alfalfa, clovers and trefoils	\$20.00	\$17.00	\$40.00
Cereals (Barley, Oats, Rice, Rye, Triticale and Wheat	\$25.00	\$17.00	\$40.00
Beans	\$18.00	\$16.00	\$40.00
Corn (all types)	\$20.00	\$17.00	\$40.00
Peas, and Lentils	\$18.00	\$17.50	\$40.00
For all others the hourly rate will apply			

Purity, Germination, and Tetrazolium Fees			
Kind of Seeds	Purity* \$/Unit	Germination \$/Unit	Tetrazolium** \$/Unit
VEGETABLES, FLOWERS AND HERB SEED			
Brassica (Canola, Cauliflower, Broccoli, Radish, etc.)	\$40.00	\$17.00	\$50.00
Beets and Swiss chard	\$29.00	\$32.00	\$40.00
Carrots, celery, dill and parsley	\$27.00	\$20.00	\$40.00
Curcubits (Squash, melons, etc.)	\$25.00	\$20.00	\$40.00
Flowers (Bachelors button, poppy, etc.)	\$40.00	\$25.00	\$50.00
Lettuce, tomato, and pepper	\$25.00	\$20.00	\$40.00
Onion and Chives	\$25.00	\$20.00	\$40.00
For all others the hourly rate will apply			
TREE AND SHRUB SEED			
Bitterbrush	\$40.00	\$30.00	\$50.00
Saltbush	\$60.00	\$30.00	\$50.00
Chokecherry and Woods' rose	\$25.00	\$60.00	\$60.00
Serviceberry, cliff-rose and mahogany	\$30.00	\$30.00	\$40.00
Trees (Firs, pines, spruces, etc.)	\$25.00	\$30.00	\$40.00
For all others the hourly rate will apply			
RANGE AND NATIVE SEED			
Bluestems and grammas	Hourly Rate	\$30.00	\$50.00
Globemallow and penstemons	\$40.00	\$30.00	\$50.00
Kochia and forage Kochia	\$30.00	\$30.00	\$40.00
Rushes and Sedges	Hourly Rate	\$30.00	\$50.00
Sagebrush and Rabbitbrush	Hourly Rate	\$30.00	\$40.00
Wheatgrasses, wildryes, and squirreltail	\$40.00	\$25.00	\$40.00
Winterfat	Hourly Rate	\$30.00	Hourly Rate
For all others the hourly rate will apply			

* Samples with high levels of impurities (i.e. other crops, weeds, multiple florets, inert materials) requiring more than one (1) hour analyst time for purity testing will be charged the standard hourly rate of forty dollars (\$40) for each additional hour.

** For all samples submitted for a TZ or Germination test requiring more than one (1) hour for cleaning and/or preparing will be charged at the standard hourly rate of forty dollars (\$40) for each additional hour.

*** With germination fluorescence testing thirty dollars (\$30). (3-30-06)

501. SERVICE TESTING FEES -- SPECIAL TESTS.

Special Testing Fees	
Test Procedures:	Fees \$/Unit
All States Noxious	\$25.00
Canada:	
Purity	\$13.00 Added to purity fee
Germination	\$2.50 Added to germination fee
Certified Grains	\$13.00 Added to purity fee
Cold Test	\$23.50
Crop & Weed Check	\$24.50
Dormancy Percentage	\$10.00 Minimum or Dormant % found x germination fee
E.C. Norms	\$20.00
Ergot Check	\$13.50
Noxious Weed Germination (Compost/Mulch, etc.)	\$18.00
Noxious Weed Purity (Hay, Straw, etc.)	\$40
Identification	\$5.00 Minimum or hourly if necessary
Inventory Germinations (For Carryover Seed Only, when requested)	20% Discount of listed germination fee; Available only for the months of March through July.
ISTA:	
Purity	\$13.00 Added to purity fee
Germination	\$2.50 Added to germination fee
Mixtures:	
Purity	\$12.50 Added per kind exceeding 5%
Germination	\$12.50 Added per kind exceeding 5%
Tetrazolium	\$18.00 Added per kind exceeding 5%
Moisture Test	\$14.00
Round-Up-Ready Trait Test (Alfalfa, Canola, Corn)	\$40.00
Sand Germination	\$25.00
Seed Count	\$13.50
Soil Exam	\$13.50
Sod Quality:	
Bentgrass	\$66.00
Bermudagrass	\$64.00
Bluegrass	\$64.00
Soil Germination	\$23.50

Special Testing Fees	
Test Procedures:	Fees \$/Unit
Species Exam	\$24.50
Undesirable Grass Species	\$25.50

(4-1-19)

502. SERVICE TESTING FEES -- MISCELLANEOUS FEES.

Miscellaneous Fees	
Type of Service:	Fees \$/Unit
Administrative Charge per Test for Internet Access and Data Processing.	Not to exceed \$2.00 per test
Hourly Charge	\$40.00
Reports:	
Merge Records	\$4.00
Rush Service	\$25.00

(4-1-19)

503. -- 599. (RESERVED)

600. SEED DEALER'S LICENSE FEES.

Seed dealers shall obtain a seed dealer's license for each location in Idaho before they can sell, offer for sale, expose for sale or deliver agricultural seeds in packages of eight (8) ounces or more or bulk under contract within the state of Idaho. Seed dealers shall pay only for the service or services they render according to the following fee schedule:
 (3-18-99)

- 01. In-State Seed Dealer's License Fees:** (4-2-03)
 - a.** License to condition or clean agricultural seeds in Idaho - one-hundred dollars (\$100). (4-2-03)
 - b.** License to label container or bulk agricultural seeds for sale in Idaho - fifty dollars (\$50). (4-2-03)
 - c.** License to sell, offer for sale, expose for sale, or deliver agricultural seeds in packages of eight (8) ounces or more or in bulk under a contract in Idaho: (4-2-03)
 - i.** For annual gross sales of five hundred dollars (\$500) or more, but less than one thousand dollars (\$1,000) - fifty dollars (\$50). (4-2-03)
 - ii.** For annual gross sales of one thousand dollars (\$1,000) or more - one hundred dollars (\$100). (4-2-03)
- 02. Out-of-State Seed Dealer's License Fee.** Three hundred fifty dollars (\$350). (3-30-06)
- 03. Exemptions.** (3-24-05)

a. Any person selling seed who has total annual gross seed sales not exceeding five hundred dollars (\$500) is exempt from Section 600. (3-24-05)

b. An in-state dealer or out-of-state dealer who sells, offers for sale, exposes for sale or delivers seed only in packages of less than eight (8) ounces is exempt from Section 600. (3-24-05)

601. -- 999. (RESERVED)

**IDAPA 02
TITLE 06
CHAPTER 02**

02.06.02 – RULES PERTAINING TO THE IDAHO COMMERCIAL FEED LAW

000. LEGAL AUTHORITY.

This chapter is adopted under the legal authority of Section 25-2710, Idaho Code. (3-30-07)

001. TITLE AND SCOPE.

01. Title. The title of this chapter is IDAPA 02.06.02, “Rules Pertaining to the Idaho Commercial Feed Law.” (4-6-05)

02. Scope. These rules specify general commercial feed label and ingredient requirements, special requirements for cottonseed and procedures concerning detained commercial feedstuffs. These rules also apply to pet food and specialty pet food except where specifically addressed in this rule under Section 475 Pet Food and Specialty Pet Food. (3-30-07)

002. WRITTEN INTERPRETATIONS.

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

003. ADMINISTRATIVE APPEAL.

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

004. INCORPORATION BY REFERENCE.

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

01. The Association of American Feed Control Officials (AAFCO) Official Publication. The Terms, Ingredient Definitions and Policies as published in the “2019 Official Publication” of AAFCO where those terms and ingredient definitions, and policy statements do not conflict with terms and ingredient definitions, and policy statements adopted under Title 25, Chapter 27, Idaho Code, and any rule promulgated thereunder. A copy may be purchased online from the AAFCO website at: www.aafco.org. (4-11-19)

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

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/>. (4-6-05)

006. PUBLIC RECORDS ACT COMPLIANCE.

These rules are public records and are available for inspection and copying at the department. (4-6-05)

007. -- 009. (RESERVED)

010. DEFINITIONS AND TERMS.

The Idaho State Department of Agriculture adopts the definitions set forth in Section 25-2703, Idaho Code. In addition as used in this chapter: (3-30-07)

01. All Life Stages. Gestation/lactation, growth, and adult maintenance life stages. (3-30-07)

02. Family. A group of products, which are nutritionally adequate for any or all life stages based on their nutritional similarity to a lead product, which has been successfully test-fed according to an AAFCO feeding protocol(s). (3-30-07)

03. Hay. The aerial portion of grass or herbage especially cut, cured and baled or stacked for animal feeding, without further processing. (4-6-05)

04. Immediate Container. The unit, can, box, tin, bag, or other receptacle or covering in which a pet food or specialty pet food is displayed for sale to retail purchasers, but does not include containers used as shipping containers. (3-30-07)

05. Ingredient Statement. A collective and contiguous listing on the label of the ingredients of which the pet food or specialty pet food is composed. (3-30-07)

06. Principal Display Panel. The part of a label that is most likely to be displayed, presented, shown, or examined under normal and customary conditions of display for retail sale and may include the front, back, or side panels of the package. (4-7-11)

07. Viable Noxious Weed Seed. Any seed or propagule of a noxious weed, as identified or listed by Title 22, Chapter 24, Idaho Code, or any rules promulgated thereunder, that has not been ground fine enough or otherwise treated to destroy the ability to germinate. (3-30-07)

011. EXEMPTIONS.
Exemptions from product registration include: (3-27-13)

01. Unmixed Whole Seeds. Unmixed whole seeds and physically altered entire unmixed seeds, when such whole or physically altered seeds are not chemically changed or are not adulterated within the meaning of Section 25-2707, Idaho Code, or misbranded within the meaning of Section 25-2708, Idaho Code. (3-27-13)

02. Seed Mixtures. Seeds mixed and planted as such mixture, grown and harvested as one (1) crop and processed as one (1) mixture when not adulterated within the meaning of Section 25-2707, Idaho Code, or misbranded within the meaning of Section 25-2708, Idaho Code. (3-27-13)

03. Hay. All hay, except commercially dehydrated legumes and grasses and when not adulterated within the meaning of Section 25-2707, Idaho Code, or misbranded within the meaning of Section 25-2708, Idaho Code. (3-27-13)

04. Straw. Whole or ground straw, stover, silage, cobs, husks, hulls, wet or pressed beet pulp, pea screenings and beet discard molasses when not mixed with other materials and when not adulterated within the meaning of Section 25-2707, Idaho Code, or misbranded within the meaning of Section 25-2708, Idaho Code. (3-27-13)

05. Animals. Live, whole or unprocessed animals when not adulterated within the meaning of Section 25-2707, Idaho Code, or misbranded within the meaning of Section 25-2708, Idaho Code. (3-27-13)

06. Animal Remedies. Animal remedies when not adulterated within the meaning of Section 25-2707, Idaho Code, or misbranded within the meaning of Section 25-2708, Idaho Code. (3-27-13)

07. Minerals. Individual mineral substances when not mixed with another material and when not adulterated within the meaning of Section 25-2707, Idaho Code, or misbranded within the meaning of Section 25-2708, Idaho Code. (3-27-13)

08. Byproducts or Production Waste. Processing byproducts or production waste, which do not undergo further processing, received by the end user directly from the fuel or food processor, when not adulterated within the meaning of Section 25-2707, Idaho Code, or misbranded within the meaning of Section 25-2707, Idaho Code. This may include wet or pressed beet pulp, pea screenings, and beet discard molasses. (3-27-13)

012. -- 019. (RESERVED)

020. REGISTRATION AND FEES.

01. Product Registration Fee. Whenever a commercial feed is registered for distribution in the state of Idaho, a fee of forty dollars (\$40) per product shall be collected. (3-27-13)

a. The Department shall utilize these funds for the operation of all program activities, including but not limited to, registration, label review, inspection and sampling, and laboratory analysis. (3-27-13)

b. The fee shall be set by the Department such that all costs associated with the commercial feed program will be covered by the registration fee without the need for additional state general or dedicated funding. (3-27-13)

02. Product Registration Fee Exemption. Sellers who are not regularly engaged in the business of manufacturing or selling commercial feed and whose total amount of gross annual sales does not exceed five hundred dollars (\$500) shall be exempt from payment of the registration fee. However, the Department retains the right to inspect any feed in the possession of those persons exempted by Subsection 020.02 at any time. (3-27-13)

a. This exemption pertains to the registration fee only, and does not exempt a person or business from other sections of these rules and/or the Idaho Commercial Feed Law. (3-27-13)

b. The Department reserves the right to review the records of sellers who are claiming or who have claimed that they are exempt from the payment of the registration fee, in order to ensure that they qualify for the exemption. (3-27-13)

c. The Department further reserves the right to conduct any and all inspections allowed under Section 25-2709, Idaho Code, in order to ensure compliance with these rules and/or the Idaho Commercial Feed Law. (3-27-13)

021. -- 049. (RESERVED)

050. LABEL FORMAT.

01. Label Format. Commercial feeds shall be labeled with the information prescribed in this rule on the principal display panel of the product and in the following general format. (8-16-71)

a. Net Weight. (8-16-71)

b. Product name and brand name if any. (8-16-71)

c. If a drug is used: (8-16-71)

i. The word "Medicated" shall appear directly following and below the product name in type size, no smaller than one-half (1/2) the type size of the product name. (8-16-71)

ii. The purpose of medication (claim statement). (8-16-71)

iii. An active drug ingredient statement listing the active drug ingredients by their established name and the amounts in accordance with Subsection 150.04. (8-16-71)

iv. The required directions for use and precautionary statements or reference to their location if the detailed feeding directions and precautionary statements required by Sections 250 and 300 appear elsewhere on the label. (8-16-71)

d. The guaranteed analysis of the feed as required under the provisions of Section 25-2705(1)(c) of the Commercial Feed Law include the following items, unless exempted in Subsection 050.01.d.viii., and in the order

- listed: (3-30-07)
- i. Minimum percentage of crude protein. (8-16-71)
 - ii. Maximum or minimum percentage of equivalent protein from non-protein nitrogen as required in Subsection 150.05. (8-16-71)
 - iii. Minimum percentage of crude fat. (8-16-71)
 - iv. Maximum percentage of crude fiber. (8-16-71)
 - v. Minerals, to include, in the following order: minimum and maximum percentages of calcium (Ca), minimum percentage of phosphorus (P), minimum and maximum percentages of salt (NaCl), and other minerals. (8-16-71)
 - vi. Vitamins in such terms as specified in Subsection 150.03. (8-16-71)
 - vii. Total sugars as invert on dried molasses products or products being sold primarily for their sugar content. (8-16-71)
 - viii. Exemptions. Guarantees for minerals are not required when there are no specific label claims and when the commercial feed contains less than six and one-half percent (6 1/2%) of Calcium, Phosphorus, Sodium, or Chloride. Guarantees for vitamins are not required when the commercial feed is neither formulated for nor represented in any manner as a vitamin supplement. Guarantees for crude protein, crude fat, and crude fiber are not required when the commercial feed is intended for purposes other than to furnish these substances or they are of minor significance relating to the primary purpose of the product, such as drug premixes, mineral or vitamin supplements, and molasses. (4-7-11)
- e. Feed ingredients, collective terms for the grouping of feed ingredients, or appropriate statements as provided under the provisions of Section 25-2705(1)(d) of the Commercial Feed Law shall be listed in decreasing order of predominance by weight: (4-7-11)
- i. The name of each ingredient as defined in the Official Publication of the Association of American Feed Control Officials, common or usual name, or one approved by the Director. (8-16-71)
 - ii. Collective terms for the grouping of feed ingredients as defined in the Official Definitions of Feed Ingredients published in the Official Publication of the Association of American Feed Control Officials in lieu of the individual ingredients; provided that when a collective term for a group of ingredients is used on the label, individual ingredients within that group shall not be listed on the label. The manufacturer shall provide the feed control official, upon request, with a list of individual ingredients within a defined group, that are or have been used at manufacturing facilities distributing in or into the state. (8-16-71)
 - iii. The registrant may affix the statement, "ingredients as registered with the State" in lieu of the ingredient list on the label. The list of ingredients must be on file with the Director. This list shall be made available to the feed purchaser upon request. (8-16-71)
- f. Name and principal mailing address of the manufacturer or person responsible for distributing the feed. The principal mailing address shall include the street address, city, state, and zip code; however, the street address may be omitted if it is shown in the current city directory or telephone directory. (8-16-71)
- g. The information required in Section 25-2705 of the Commercial Feed Law must appear in its entirety on the principal display panel of the container. (4-7-11)
- h. Labeling shall include all statements and promotion on company websites or other internet based customer interfaces. (3-27-13)
- 02. Customer Formula Invoice and Tag Requirements. (8-16-71)**

a. Bulk shipments of customer-formula feed shall be accompanied by an invoice, delivery slip or other shipping documents identifying the shipment as customer-formula feed and the name and address of the customer to whose order it is made. (8-16-71)

b. Bagged customer-formula feed will be labeled with a tag identifying each bag as such. The total bags in each customer's shipment will be segregated from other bagged feed and identified with the name and address of the customer to whose order it is made. (8-16-71)

c. Nutritional guarantees and guarantees of other analytes, and a list of ingredients, in descending order of predominance by weight, of a customer-formula feed may be used in lieu of specific weights or volumes of each ingredient, as required in Section 25-2705(2)(d), Idaho Code, when so ordered by the customer. (4-7-11)

051. -- 099. (RESERVED)

100. BRAND AND PRODUCT NAMES.

01. Intended Use. The brand or product name must be appropriate for the intended use of the feed and must not be misleading. If the name indicates the feed is made for a specific use, the character of the feed must conform therewith. A mixture labeled "Dairy Feed," for example, must be suitable for that purpose. (8-16-71)

02. Listings. Commercial, registered brand or trade names are not permitted in guarantees or ingredient listings and only in the product name of feeds produced by or for the firm holding the rights to such a name. (4-7-11)

03. Name of Feed. The name of a commercial feed shall not be derived from one (1) or more ingredients of a mixture to the exclusion of other ingredients and shall not be one representing any components of a mixture unless all components are included in the name: Provided, that if any ingredient or combination of ingredients is intended to impart a distinctive characteristic to the product which is of significance to the purchaser, the name of that ingredient or combination of ingredients may be used as part of the brand name or product name if the ingredient or combination of ingredients is quantitatively guaranteed in the guaranteed analysis, and the brand or product name is not otherwise false or misleading. (8-16-71)

04. Protein. The word "protein" shall not be permitted in the product name of a feed that contains added non-protein nitrogen. (8-16-71)

05. Percentage Value. When the name carries a percentage value, it shall be understood to signify protein and/or equivalent protein content only, even though it may not explicitly modify the percentage with the word "protein": Provided, that other percentage values may be permitted if they are followed by the proper description and conform to good labeling practice. Digital numbers shall not be used in such a manner as to be misleading or confusing to the customer. (8-16-71)

06. Single Ingredient. Single ingredient feeds shall have a product name in accordance with the designated definition of feed ingredients as recognized by the Association of American Feed Control Officials unless the Director designates otherwise. (8-16-71)

07. Vitamin. The word "vitamin," or a contraction thereof, or any word suggesting vitamin can be used only in the name of a feed which is represented to be a vitamin supplement, and which is labeled with the minimum content of each vitamin declared, as specified in Subsection 150.03. (8-16-71)

08. Mineralized. The term "mineralized" shall not be used in the name of a feed except for "TRACE MINERALIZED SALT." When so used, the product must contain significant amounts of trace minerals which are recognized as essential for animal nutrition. (8-16-71)

09. Meat and Meat By-Products. The term "meat" and "meat by-products" shall be qualified to designate the animal from which the meat and meat by-products is derived unless the meat and meat by-products are made from cattle, swine, sheep and goats. (8-16-71)

101. -- 149. (RESERVED)

150. EXPRESSION OF GUARANTEES.

01. Percentage by Weight. The guarantees for crude protein, equivalent protein from non-protein nitrogen, crude fat, crude fiber and mineral guarantees (when required) will be in terms of percentage by weight. (8-16-71)

02. Commercial Feeds. Commercial feeds containing six and one-half percent (6 1/2%) or more Calcium, Phosphorus, Sodium or Chloride shall include in the guaranteed analysis the minimum and maximum percentages of calcium (Ca), the minimum percentage of phosphorus (P), and if salt is added, the minimum and maximum percentage of salt (NaCl). Minerals, except salt (NaCl) shall be guaranteed in terms of percentage of the element. When calcium and/or salt guarantees are given in the guaranteed analysis such shall be stated and conform to the following: (4-7-11)

a. When the minimum is five percent (5%) or less, the maximum shall not exceed the minimum by more than one (1) percentage point. (8-16-71)

b. When the minimum is above five percent (5%), the maximum shall not exceed the minimum by more than twenty percent (20%) and in no case shall the maximum exceed the minimum by more than five (5) percentage points. (8-16-71)

03. Vitamin Content. Guarantees for minimum vitamin content of commercial feeds and feed supplements, when made, shall be stated on the label in milligrams per pound of feed except that: (8-16-71)

a. Vitamin A, other than precursors of vitamin A, shall be stated in International or USP units per pound. (8-16-71)

b. Vitamin D, in products offered for poultry feeding, shall be stated in International Chick Units per pound. (8-16-71)

c. Vitamin D for other uses shall be stated in International or USP units per pound. (8-16-71)

d. Vitamin E shall be stated in International USP units per pound. (8-16-71)

e. Guarantees for vitamin content on the label of a commercial feed shall state the guarantee as true vitamins, not compounds, with the exception of the compounds, Pyridoxine Hydrochloride, Choline Chloride, Thiamine, and d-Pantothenic Acid. (8-16-71)

f. Oils and premixes containing vitamin A or vitamin D or both may be labeled to show vitamin content in terms of units per gram. (8-16-71)

04. Drugs. Guarantees for drugs shall be stated in terms of percent by weight, except: (8-16-71)

a. Antibiotics present at less than two thousand (2,000) grams per ton (total) of commercial feed shall be stated in grams per ton of commercial feed. (8-16-71)

b. Antibiotics present at two thousand (2,000) or more grams per ton (total) of commercial feed shall be stated in grams per pound of commercial feed. (8-16-71)

c. Labels for commercial feeds containing growth promotion and/or feed efficiency levels of antibiotics, which are to be fed continuously as the sole ration, are not required to make quantitative guarantees except as specifically noted in the Federal Food Additive Regulations for certain antibiotics, wherein, quantitative guarantees are required regardless of the level or purpose of the antibiotic. (8-16-71)

d. The term "milligrams per pound" may be used for drugs or antibiotics in those cases where a

dosage is given in “milligrams” in the feeding directions. (8-16-71)

05. Non-Protein Nitrogen. Commercial feeds containing any added non-protein nitrogen shall be labeled as follows: (8-16-71)

a. For ruminants: (8-16-71)

i. Complete feeds, supplements, and concentrates containing added non-protein nitrogen and containing more than five percent (5%) protein from natural sources shall be guaranteed as follows:

Crude Protein, minimum, ____%
(This includes not more than ____% equivalent non-protein nitrogen.) (8-16-71)

ii. Mixed feed concentrates and supplements containing less than five percent (5%) protein from natural sources may be guaranteed as follows:

Equivalent Crude Protein from Non-Protein Nitrogen, minimum ____%. (8-16-71)

iii. Ingredient sources of non-protein nitrogen such as Urea, Di-Ammonium Phosphate, Ammonium Polyphosphate Solution, Ammoniated Rice Hulls, or other basic non-protein nitrogen ingredients defined by the Association of American Feed Control Officials shall be guaranteed as follows:

Nitrogen, minimum ____%
Equivalent Crude Protein from Non-Protein Nitrogen, minimum ____% (8-16-71)

b. For non-ruminants: (8-16-71)

i. Complete feeds, supplements and concentrates containing crude protein from all forms of non-protein nitrogen, added as such, shall be labeled as follows:

Crude protein, minimum ____%

(This includes not more than ____% equivalent crude protein which is not nutritionally available to species of animal for which feed is intended.) (8-16-71)

ii. Premixes, concentrates or supplements intended for non-ruminants containing more than one and twenty-five hundredths percent (1.25%) equivalent crude protein from all forms of non-protein nitrogen, added as such, must contain adequate directions for use and a prominent statement: “WARNING: This feed must be used only in accordance with directions furnished on the label.” (8-16-71)

06. Mineral Phosphate Materials. Mineral phosphatic materials for feeding purposes shall be labeled with the guarantee for minimum and maximum percentage of calcium (when present), the minimum percentage of phosphorus, and the maximum percentage of fluorine. (8-16-71)

151. -- 199. (RESERVED)

200. INGREDIENTS.

01. Name. The name of each ingredient or collective term for the grouping of ingredients, when required to be listed, shall be the name as defined in the Official Definitions of Feed Ingredients as published in the Official Publication of the Association of American Feed Control Officials, the common or usual name, or one approved by the Director. (4-7-11)

02. Same Size. The name of each ingredient must be shown in letters or type of the same size. (8-16-71)

03. Quality or Grade. No reference to quality or grade of an ingredient shall appear in the ingredient

statement of a feed. (8-16-71)

04. Dehydrated. The term “dehydrated” may precede the name of any product that has been artificially dried. (8-16-71)

05. Single Ingredient. A single ingredient product defined by the Association of American Feed Control Officials or by the Director is not required to have an ingredient statement. (8-16-71)

06. Tentative Definitions. Tentative definitions for ingredients shall not be used until adopted as official, unless no official definition exists or the ingredient has a common accepted name that requires no definition, (e.g. sugar). (8-16-71)

07. Iodized. When the word “iodized” is used in connection with a feed ingredient, the feed ingredient shall contain not less than seven thousandths percent (0.007%) iodine, uniformly distributed. (8-16-71)

201. -- 249. (RESERVED)

250. DIRECTIONS FOR USE AND PRECAUTIONARY STATEMENTS.

01. Labeling. Directions for use and precautionary statements on the labeling of all commercial feeds containing additives (including drugs, special purpose additives, or non-nutritive additives) shall: (8-16-71)

a. Be adequate to enable safe and effective use for the intended purposes by users with no special knowledge of the purpose and use of such articles; and, (8-16-71)

b. Include, but not be limited to, all information described by all applicable regulations under the Federal Food, Drug and Cosmetic Act. (8-16-71)

02. Non-Protein Nitrogen. Adequate directions for use and precautionary statements are required for feeds containing non-protein nitrogen as specified in Section 300. (8-16-71)

03. Safe and Effective Use. Adequate directions for use and precautionary statements necessary for safe and effective use are required on commercial feeds distributed to supply particular dietary needs or for supplementing or fortifying the usual diet or ration with any vitamin, mineral, or other dietary nutrient or compound. (8-16-71)

251. -- 299. (RESERVED)

300. NON-PROTEIN NITROGEN.

01. Urea. Urea and other non-protein nitrogen products defined in the Official Publication of the Association of American Feed Control Officials or by the Director are acceptable ingredients only in commercial feeds for ruminant animals as a source of equivalent crude protein. If the commercial feed contains more than eight and seventy-five hundredths percent (8.75%) of equivalent crude protein from all forms of non-protein nitrogen, added as such, or the equivalent crude protein from all forms of non-protein nitrogen, added as such, exceeds one-third (1/3) of the total crude protein, the label shall bear adequate directions for the safe use of feeds and a precautionary statement: “CAUTION: USE AS DIRECTED.” The directions for use and the caution statement shall be in type of such size so placed on the label that they will be read and understood by ordinary persons under customary conditions of purchase and use. (8-16-71)

02. Non-Protein Nitrogen Defined. Non-protein nitrogen defined in the Official Publication of the Association of American Feed Control Officials, when so indicated, are acceptable ingredients in commercial feeds distributed to non-ruminant animals as a source of nutrients other than equivalent crude protein. The maximum equivalent crude protein from non-protein nitrogen sources when used in non-ruminant rations shall not exceed one and twenty-five hundredths percent (1.25%) of the total daily ration. (8-16-71)

03. Labels for Medicated Feeds. On labels such as those for medicated feeds which bear adequate

feeding directions and/or warning statements, the presence of added non-protein nitrogen shall not require a duplication of the feeding directions or the precautionary statements as long as those statements include sufficient information to ensure the safe and effective use of this product due to the presence of non-protein nitrogen. (8-16-71)

301. -- 349. (RESERVED)

350. DRUG AND FEED ADDITIVES.

01. Evidence. Prior to approval of a registration application and/or approval of a label for commercial feeds which contain additives (including drugs, other special purpose additives, or non-nutritive additives) the distributor may be required to submit evidence to prove the safety and efficacy of the commercial feed when used according to the directions furnished on the label. (8-16-71)

02. Satisfactory Evidence. Satisfactory evidence of safety and efficacy of a commercial feed may be: (8-16-71)

a. When the commercial feed contains such additives, the use of which conforms to the requirements of the applicable regulation in the Code of Federal Regulations, Title 21, or which are “prior sanctioned” or “generally recognized as safe” for such use; or (8-16-71)

b. When the commercial feed is itself a drug and is generally recognized as safe and effective for the labeled use or is marketed subject to an application approved by the Food and Drug Administration under Title 21 U.S.C. 360(b). (8-16-71)

351. -- 399. (RESERVED)

400. ADULTERANTS.

01. Substances. For the purpose of Section 25-2707 of the Commercial Feed Law, the terms “poisonous or deleterious substances” include, but are not limited to, the following: (3-30-07)

a. Fluorine and any mineral or mineral mixture which is to be used directly for the feeding of domestic animals and in which the fluorine exceeds two tenths percent (0.2%) for breeding and dairy cattle; three tenths percent (0.3%) for slaughter cattle; three tenths percent (0.3%) for sheep; thirty-five hundredths percent (0.35%) for lambs; forty-five hundredths percent (0.45%) for swine; and six tenths percent (0.6%) for poultry. (8-16-71)

b. Fluorine bearing ingredients when used in such amounts that they raise the fluorine content of the total ration (exclusive of roughage) above the following amounts: four thousandths percent (0.004%) for breeding and dairy cattle; nine thousandths percent (0.009%) for slaughter cattle; six thousandths percent (0.006%) for sheep; one hundredths percent (0.01%) for lambs; fifteen thousandths percent (0.015%) for swine and three hundredths percent (0.03%) for poultry. (8-16-71)

c. Fluorine bearing ingredients incorporated in any feed that is fed directly to cattle, sheep or goats consuming roughage (with or without) limited amounts of grain, that results in a daily fluorine intake in excess of fifty (50) milligrams of fluorine per one hundred (100) pounds of body weight. (8-16-71)

d. Soybean meal, flakes or pellets or other vegetable meals, flakes or pellets which have been extracted with trichlorethylene or other chlorinated solvents. (8-16-71)

e. Sulfur dioxide, Sulfurous acid, and salts of Sulfurous acid when used in or on feeds of feed ingredients which are considered or reported to be a significant source of vitamin B1 (Thiamine). (8-16-71)

02. Screenings or By-Products. All screenings or by-products of grains and seeds containing weed seeds, when used in commercial feed or sold as such to the ultimate consumer, shall be ground fine enough or otherwise treated to destroy the viability of such weed seeds. (8-16-71)

03. Viable Noxious Weed Seed. Viable noxious weed seed as defined in Subsection 010.07. (3-30-07)

401. -- 449. (RESERVED)

450. ADOPTIONS AND PROMULGATION.

All rules heretofore adopted and promulgated August 16, 1971 pertaining to the Idaho Commercial Feed Law, Title 25, Chapter 27, Idaho Code, are hereby repealed, and are replaced by the above rules. (8-16-71)

451. -- 474. (RESERVED)

475. PET FOOD AND SPECIALTY PET FOOD.

01. Label Format and Labeling. (3-30-07)

a. Pet food and specialty pet food shall be labeled with the following information prescribed in this rule: (3-30-07)

i. Product name and brand name, if any, on the principal display panel as stipulated in Subsection 475.02: (3-30-07)

ii. A statement specifying the species name of pet or specialty pet for which the food is intended, conspicuously designated on the principal display panel; (3-30-07)

iii. Quantity statement, as defined in Section 25-2705(1)(a), Idaho Code, on the principal display panel; (4-7-11)

iv. Guaranteed Analysis as stipulated in Subsection 475.03; (3-30-07)

v. Ingredient statement as stipulated in Subsection 475.04.a.; (3-30-07)

vi. A statement of nutritional adequacy or purpose if required under Subsection 475.06; (3-30-07)

vii. Feeding directions if required under Subsection 475.07; and (3-30-07)

viii. Name and address of the manufacturer or distributor as stipulated in Subsection 475.10. (3-30-07)

b. When a pet food or specialty pet food enclosed in an outer container or wrapper is intended for retail sale, all required label information shall appear on the outer container or wrapper. (3-30-07)

c. A vignette, graphic, or pictorial representation on a pet food or specialty pet food label shall not misrepresent the contents of the package. (3-30-07)

d. The use of the word "proven" in connection with a label claim for a pet food or specialty pet food is not permitted unless the claim is substantiated by scientific or other empirical evidence. (3-30-07)

e. No statement shall appear upon the label or labeling of a pet food or specialty pet food which makes false or misleading comparisons between that product and any other product. (3-30-07)

f. A personal or commercial endorsement is permitted on a pet food or specialty pet food label provided the endorsement is not false or misleading. (3-30-07)

g. A statement on a pet food or specialty pet food label stating "improved," "new," or similar designation shall be substantiated and limited to six (6) months production. (3-30-07)

h. A statement on a pet food or specialty pet food label stating preference or comparative attribute claims shall be substantiated and limited to one (1) year production, after which the claim shall be removed or re-substantiated. (3-30-07)

02. Brand and Product Names. (3-30-07)

a. The words “one hundred percent (100%),” or “all,” or words of similar designation shall not be used in the brand or product name of a pet food or specialty pet food if the product contains more than one (1) ingredient, not including water sufficient for processing, decharacterizing agents, or trace amounts of preservatives and condiments. (3-30-07)

b. An ingredient or a combination of ingredients may form a part of the product name of a pet food or specialty pet food: (3-30-07)

i. When the ingredient(s) derived from animals, poultry, or fish constitutes at least ninety-five percent (95%) of the total weight of the product. Water sufficient for processing may be excluded when calculating the percentage; however, the ingredient(s) shall constitute at least seventy percent (70%) of the total product weight. (3-30-07)

ii. When any ingredient(s) constitutes at least twenty-five percent (25%) of the weight of the product, provided that: (3-30-07)

(1) Water sufficient for processing may be excluded when calculating the percentage, however, the ingredients(s) shall constitute at least ten percent (10%) of the total product weight; and (3-30-07)

(2) A descriptor is used with the ingredient name(s). This descriptor shall imply other ingredients are included in the product formula. Examples of descriptors include “dinner,” “platter,” “entree,” “formula,” and “recipe”; and (3-30-07)

(3) The descriptor shall be in the same size, style, and color print as the ingredient name(s). (3-30-07)

iii. When a combination of ingredients which are included in the product name in accordance with Subsection 475.02.b. meets all of the following: (3-30-07)

(1) Each ingredient constitutes at least three percent (3%) of the product weight, excluding water sufficient for processing; (3-30-07)

(2) The names of the ingredients appear in the order of their respective predominance by weight in the product; and (3-30-07)

(3) All such ingredient names appear on the label in the same size, style, and color print. (3-30-07)

c. When the name of any ingredient appears in the product name of a pet food or elsewhere on the product label and includes a descriptor such as “with” or similar designation, the named ingredient(s) must each constitute at least three percent (3%) of the product weight exclusive of water for processing. If the names of more than one (1) ingredient are shown, they shall appear in their respective order of predominance by weight in the product. The three percent (3%) minimum level shall not apply to claims for nutrients, such as, but not limited to vitamins, minerals, and fatty acids, as well as condiments. The word “with,” or similar designation, and named ingredients shall be in the same size, style, color and case print and be of no greater size than:

Panel Size	Max “with claim” Type Size
< 5 sq. in.	1/8”
5-25 sq. in.	1/4”
25-100 sq. in.	3/8”
100-400 sq. in.	1/2”
400 sq. in +	1”

- (3-30-07)
- d.** A flavor designation may be included as part of the product name or elsewhere on the label of a pet food or specialty pet food when the flavor designation meets all of the following: (3-30-07)
- i. The flavor designation: (3-30-07)
- (1) Conforms to the name of the ingredient as listed in the ingredient statement; or (3-30-07)
- (2) Is identified by the source of the flavor in the ingredient statement; and (3-30-07)
- ii. The word “flavor” is printed in the same size type and with an equal degree of conspicuousness as the name of the flavor designation; and (3-30-07)
- iii. Substantiation of the flavor designation, the flavor claim, or the ingredient source is provided upon request. (3-30-07)
- e.** The product name of the pet food or specialty pet food shall not be derived from one (1) or more ingredients unless all ingredients are included in the name, except as specified by Subsection 475.04.a. or 475.04.b.; provided that the name of an ingredient or combination of ingredients may be used as a part of the product name if: (3-30-07)
- i. The ingredient or combination of ingredients is present in sufficient quantity to impart a distinctive characteristic to the product or is present in amounts which have a material bearing upon the price of the product or upon acceptance of the product by the purchaser thereof; or (3-30-07)
- ii. It does not constitute a representation that the ingredient or combination of ingredients is present to the exclusion of other ingredients. (3-30-07)
- f.** Contractions or coined names referring to ingredients shall not be used in the brand name of a pet food or specialty pet food unless it is in compliance with Subsections 475.04.b., 475.04.c., or 475.04.d. (3-30-07)
- 03. Expression of Guarantees.** (3-30-07)
- a.** The Guaranteed Analysis shall be listed in the following order and format unless otherwise specified in these rules: (3-30-07)
- i. A pet food or specialty pet food label shall list the following required guarantees; (3-30-07)
- (1) Minimum percentage of crude protein; (3-30-07)
- (2) Minimum percentage of crude fat; (3-30-07)
- (3) Maximum percentage of crude fat, if required by Subsection 475.09; (3-30-07)
- (4) Maximum percentage of crude fiber; (3-30-07)
- (5) Maximum percentage of moisture; and (3-30-07)
- (6) Additional guarantees shall follow moisture. (3-30-07)
- ii. When ash is listed in the guaranteed analysis on a pet food or specialty pet food label, it shall be guaranteed as a maximum percentage and shall immediately follow moisture. (3-30-07)
- iii. A dog or cat food label shall list other required or voluntary guarantees in the same order and units of the nutrients in the AAFCO Dog (or Cat) Food Nutrient Profiles. Guarantees for substances not listed in the AAFCO Dog (or Cat) Food Nutrient Profiles, or not otherwise provided for in these rules, shall immediately follow

the listing of the recognized nutrients and shall be accompanied by an asterisk referring to the disclaimer “not recognized as an essential nutrient by the AAFCO Dog (or Cat) Food Nutrient Profiles.” The disclaimer shall appear immediately after the last such guarantee in the same size type as the guarantees. (3-30-07)

iv. A specialty pet food label shall list other required or voluntary guarantees as required by Subsection 475.01 of this rule. (4-7-11)

b. The sliding scale method of expressing a guaranteed analysis on a pet food or specialty pet food label (for example, “Minimum crude protein fifteen to eighteen percent (15-18%)”) is prohibited. (3-30-07)

c. The label of a pet food or a specialty pet food which is formulated as and represented to be a mineral supplement shall include: (3-30-07)

i. Minimum guarantees for all minerals from sources declared in the ingredient statement and established by an AAFCO-recognized nutrient profile, expressed as the element in units specified in the nutrient profile; or (3-30-07)

ii. Minimum guarantees for all minerals from sources declared in the ingredient statement expressed as the element in units specified in Section 150 of this rule when no species-specific nutrient profile has been recognized by AAFCO; and provided that: (4-7-11)

iii. Mineral guarantees required by Subsections 475.03.c.i. and 475.03.c.ii. may be expressed in milligrams (mg) per unit (e.g., tablets, capsules, granules, or liquids) consistent with those employed in the quantity statement and directions for use; and (3-30-07)

iv. A weight equivalent (e.g., one (1) fl. oz. = twenty-eight (28) grams) for liquid products. (3-30-07)

d. The label of a pet food or a specialty pet food which is formulated as and represented to be a vitamin supplement shall include: (3-30-07)

i. Minimum guarantees for all vitamins from sources declared in the ingredient statement and established by an AAFCO-recognized nutrient profile, expressed in units specified in the nutrient profile; or (3-30-07)

ii. Minimum guarantees for all vitamins from sources declared in the ingredient statement expressed in units specified in Section 150 of this rule when no species-specific nutrient profile has been recognized by AAFCO; and provided that: (4-7-11)

iii. Vitamin guarantees required by Subsections 475.03.d.i. and 475.03.d.ii., may be expressed in approved units (e.g., IU, mg, g) per unit (e.g., tablets, capsules, granules, or liquids) consistent with those employed in the quantity statement and directions for use; and (3-30-07)

iv. A weight equivalent (e.g., one (1) fl. oz. = twenty-eight (28) grams) for liquid products. (3-30-07)

e. When the label of a pet food or specialty pet food includes a comparison of the nutrient content of the food with levels established by an AAFCO-recognized nutrient profile, such as a table of comparison, a percentage, or any other designation referring to an individual nutrient or all of the nutrient levels, the following apply: (3-30-07)

i. The product shall meet the AAFCO-recognized nutrient profile; and (3-30-07)

ii. The statement of comparison shall be preceded by a statement that the product meets the AAFCO-recognized profile: however, the statement that the product meets the AAFCO-recognized nutrient profile is not required provided that the nutritional adequacy statement as per Subsections 475.06.a.i. or 475.06.b.ii.(1) appears elsewhere on the product label; and (3-30-07)

iii. The statement of comparison of the nutrient content shall constitute a guarantee, but need not be

repeated in the guaranteed analysis; and (3-30-07)

iv. The statement of comparison may appear on the label separate and apart from the guaranteed analysis. (3-30-07)

f. The maximum moisture declared on a pet food or specialty pet food label shall not exceed seventy-eight percent (78%) or the natural moisture content of the ingredients, whichever is higher. However, pet food and specialty pet food such as, but not limited to, those consisting principally of stew, gravy, sauce, broth, aspic, juice, or a milk replacer, and which are so labeled, may contain moisture in excess of seventy-eight percent (78%). (3-30-07)

g. Guarantees for crude protein, crude fat, and crude fiber are not required when the pet food or specialty pet food is intended for purposes other than to furnish these substances or they are of minor significance relative to the primary purpose of the product, such as a mineral or vitamin supplement. (3-30-07)

h. Guarantees for microorganisms and enzymes shall be stated in the format as stipulated in AAFCO Model Regulations 4(g) and (h). (3-30-07)

04. Ingredients. (3-30-07)

a. Each ingredient of a pet food or specialty pet food shall be listed in the ingredient statement as follows: (3-30-07)

i. The names of all ingredients in the ingredient statement shall be shown in letters or type of the same size; (3-30-07)

ii. The ingredients shall be listed in descending order by their predominance by weight in non-quantitative terms; (3-30-07)

iii. Ingredients shall be listed and identified by the name and definition established by AAFCO; and (3-30-07)

iv. Any ingredient for which no name and definition have been so established shall be identified by the common or usual name of the ingredient. (3-30-07)

b. The ingredients "meat" or "meat by-products" shall be qualified to designate the animal from which the meat or meat by-products are derived unless the meat or meat by-products are derived from cattle, swine, sheep, goats, or any combination thereof. For example, ingredients derived from horses shall be listed as "horsemeat" or "horsemeat by-products." (3-30-07)

c. Brand or trade names shall not be used in the ingredient statement. (3-30-07)

d. A reference to the quality, nature, form, or other attribute of an ingredient shall be allowed when the reference meets all of the following: (3-30-07)

i. The designation is not false or misleading; (3-30-07)

ii. The ingredient imparts a distinctive characteristic to the pet food or specialty pet food because it possesses that attribute; and (3-30-07)

iii. A reference to quality or grade of the ingredient does not appear in the ingredient statement. (3-30-07)

05. Drugs and Pet Food Additives. (3-30-07)

a. An artificial color may be used in a pet food or specialty pet food only if it has been shown to be harmless to pets or specialty pets. The permanent or provisional listing of an artificial color in the United States Food and Drug regulations as safe for use, together with the conditions, limitations, and tolerances, if any, incorporated

therein, shall be deemed to be satisfactory evidence that the color is, when used pursuant to such regulations, harmless to pets or specialty pets. (3-30-07)

b. Evidence may be required to prove the safety and efficacy or utility of a pet food or specialty pet food which contains additives or drugs, when used according to directions furnished on the label. Satisfactory evidence of the safety and efficacy of a pet food or specialty pet food may be established: (3-30-07)

i. When the pet food or specialty pet food contains such additives, the use of which conforms to the requirements of the applicable regulation in the Code of Federal Regulations, Title 21, or which are “prior sanctioned” or “informal review sanctioned” or “generally recognized as safe” for such use; or (3-30-07)

ii. When the pet food or specialty pet food itself is a drug or contains a drug as defined in Section 3 (g) of the Model Bill and is “generally recognized as safe and effective” for the labeled use or is marketed subject to an application approved by the Food and Drug Administration under Title 21, U.S.C. 360(b). (3-30-07)

c. When a drug is included in a pet food or specialty pet food, the format required by Model Regulation 3(a)(2) for labeling medicated feeds shall be used. (3-30-07)

06. Nutritional Adequacy. (3-30-07)

a. The label of a pet food or specialty pet food which is intended for all life stages of the pet or specialty pet may include an unqualified claim, directly or indirectly, such as “complete and balanced,” “perfect,” “scientific,” or “100% nutritious” if at least one (1) of the following apply: (3-30-07)

i. The product meets the nutrient requirements for all life stages established by an AAFCO-recognized nutrient profile; or (3-30-07)

ii. The product meets the criteria for all life stages as substantiated by completion of the appropriate AAFCO-recognized animal feeding protocol(s); or (3-30-07)

iii. The product is a member of a product family which is nutritionally similar to a lead product which contains a combination of ingredients that has been fed to a normal animal as the sole source of nourishment in accordance with the testing procedures established by AAFCO for all life stages, provided that: (3-30-07)

(1) The nutritional similarity of the family product can be substantiated according to the Procedures for Establishing Pet Food Product Families developed by AAFCO; and (3-30-07)

(2) The family product meets the criteria for all life stages; and (3-30-07)

(3) Under circumstances of reasonable doubt, the Director may require the manufacturer to perform additional testing of the family product in order to substantiate the claim of nutritional adequacy. (3-30-07)

b. The label of a pet food or specialty pet food which is intended for a limited purpose or a specific life stage, but not for all life stages, may include a qualified claim such as “complete and balanced,” “perfect,” “scientific,” or “100% nutritious” when the product and claim meets all of the following: (3-30-07)

i. The claim is qualified with a statement of the limited purpose or specific life stage for which the product is intended or suitable, for example, “complete and balanced for puppies (or kittens).” The claim and the required qualification shall be juxtaposed on the same label panel and in the same size, style and color print; and (3-30-07)

ii. The product meets at least one (1) of the following: (3-30-07)

(1) The nutrient requirements for the limited purpose or specific life stage established by an AAFCO-recognized nutrient profile; or (3-30-07)

(2) The criteria for a limited purpose or a specific life stage as substantiated by completion of the

appropriate AAFCO-recognized animal feeding protocol(s); or (3-30-07)

(3) The requirements of a product family which is nutritionally similar to a lead product which contains a combination of ingredients which, when fed for such limited purpose, will satisfy the nutrient requirements for such limited purpose and has had its capabilities in this regard demonstrated by adequate testing; and provided that: (3-30-07)

(a) The nutritional similarity of the family product can be substantiated according to the Procedures for Establishing Pet Food Product Families developed by AAFCO; and (3-30-07)

(b) The family product meets the criteria for such limited purpose; and (3-30-07)

(c) Under circumstances of reasonable doubt, the Director may require the manufacturer to perform additional testing for the family product to substantiate the claim of nutritional adequacy. (3-30-07)

c. Dog and cat food labels shall include a statement of nutritional adequacy or purpose of the product except when the dog or cat food is clearly and conspicuously identified on the principal display panel as a “snack” or “treat.” The statement shall consist of one (1) of the following: (3-30-07)

i. A claim that the dog or cat food meets the requirements of one (1) or more of the recognized categories of nutritional adequacy: gestation/lactation, growth, maintenance, and all life stages. The claim shall be stated verbatim as one (1) of the following: (3-30-07)

(1) “(Name of product) is formulated to meet the nutritional levels established by the AAFCO Dog (or Cat) Food Nutrient Profiles for ____.” (Blank is to be completed by using the stage or stages of the pet's life, such as, gestation/lactation, growth, maintenance or the words “all life stages”); or (3-30-07)

(2) “Animal feeding tests using AAFCO procedures substantiate that (Name of Product) provides complete and balanced nutrition for ____.” (Blank is to be completed by using the stage or stages of the pet's life tested, such as, gestation/lactation, growth, maintenance or the words “All Life Stages”); or (3-30-07)

(3) “(Name of Product) provides complete and balanced nutrition for ____.” (Blank is to be completed by using the stage or stages of the pet's life, such as gestation, lactation, growth, maintenance or the words “all life stages”) and is comparable in nutritional adequacy to a product which has been substantiated using AAFCO feeding tests.” (3-30-07)

ii. A nutritional or dietary claim for purposes other than those listed in Subsections 475.06.a. or 475.06.b. if the claim is scientifically substantiated; or (3-30-07)

iii. The statement: “This product is intended for intermittent or supplemental feeding only,” if a product does not meet the requirements of Subsections 475.06.a. or 475.07.b. or any other special nutritional or dietary need and so is suitable only for limited or intermittent or supplementary feeding. (3-30-07)

d. A product intended for use by, or under the supervision or direction of a veterinarian shall make a statement in accordance with Subsections 475.06.c.i. or 275.06.c.iii. (3-30-07)

e. A signed affidavit attesting that the product meets the requirements of Subsections 475.07.a. or 475.06.b.ii. shall be submitted to the Director upon request. (3-30-07)

f. If the nutrient content of a product does not meet those nutrient requirements established by an AAFCO-recognized nutrient profile, or if no requirement has been established by an AAFCO recognized nutritional authority for the life stage(s) of the intended species, the claimed nutritional adequacy or purpose of the product shall be scientifically substantiated. (3-30-07)

g. The following AAFCO-recognized nutritional authority, nutrient profile, and/or animal feeding protocol shall be acceptable as the basis for a claim of nutritional adequacy: (3-30-07)

- i. As an AAFCO-recognized nutrient profile or nutritional authority: (3-30-07)
 - (1) For dogs, the AAFCO Dog Food Nutrient Profiles; (3-30-07)
 - (2) For cats, the AAFCO Cat Food Nutrient Profiles; (3-30-07)
 - (3) For specialty pets, the nutrient recommendations approved by the Committee on Animal Nutrition of the National Research Council of the National Academy of Sciences, provided that, this nutrient recommendation is recognized only for the specific specialty pet for which the profile is intended. (3-30-07)

ii. As an AAFCO-recognized animal feeding protocol(s), the AAFCO Dog and Cat Food Feeding Protocols. (3-30-07)

07. Feeding Directions. (3-30-07)

a. Dog or cat food, including snacks or treats, labeled as complete and balanced for any or all life stages, as provided in Subsection 475.06.c.i., except those pet foods labeled in accordance with Subsection 475.06 of this rule, shall list feeding directions on the product label. These directions shall be consistent with the intended use(s) indicated in the nutritional adequacy statement, unless a limited use or more limited life stage designation is declared elsewhere (e.g., "adult formula"). These directions shall be expressed in common terms and shall appear prominently on the label. Feeding directions shall, at a minimum, state, "feed (weight/unit of product) per (weight only) of dog (or cat)." The frequency of feeding shall also be specified. (4-7-11)

b. When a dog or cat food is intended for use by or under the supervision or direction of a veterinarian, the statement: "use only as directed by your veterinarian" may be used in lieu of feeding directions. (3-30-07)

c. Specialty pet food, including snacks or treats, labeled as complete and balanced for any or all life stages, as provided in Subsection 475.06.a., shall list feeding directions on the product label. These feeding directions shall be adequate to meet the nutrient requirements of the intended species of specialty pet as recommended by the AAFCO-recognized nutritional authority. These directions shall be expressed in common terms and shall appear prominently on the label. The frequency of feeding shall also be specified. (3-30-07)

08. Statements of Calorie Content. (3-30-07)

a. Except as required in Subsection 475.09, the label of a dog or cat food may bear a statement of calorie content when the label meets all of the following: (3-30-07)

i. The statement shall be separate and distinct from the Guaranteed Analysis and shall appear under the heading "Calorie Content"; (3-30-07)

ii. The statement shall be measured in terms of metabolizable energy (ME) on an "as fed" basis and must be expressed as "kilocalories per kilogram" ("kcal/kg") of product, and may also be expressed as kilocalories per familiar household measure (e.g., cans, cups, pounds); and (3-30-07)

iii. The calorie content is determined by one (1) of the following methods: (3-30-07)

(1) By calculation using the following "Modified Atwater" formula: (3-30-07)

(a) $ME(kcal/kg) = 10[(3.5 \times CP) + (8.5 \times CF) + (3.5 \times NFE)]$ (3-30-07)

(b) Where: ME = Metabolizable Energy:

CP = % crude protein "as fed"
CF = % crude fat "as fed"

NFE = % nitrogen-free extract (carbohydrate) "as fed" and the percentages of CP and CF are the arithmetic averages from proximate analyses of at least four production batches of the product, and the NFE is calculated as the difference between one hundred (100) and the sum of CP, CF, and the percentages of crude fiber, moisture and ash (determined in the same manner as CP and CF); or

(3-30-07)

(2) In accordance with a testing procedure established by AAFCO. (3-30-07)

iv. An affidavit shall be provided upon request to the Department substantiating that the calorie content was determined by: (3-30-07)

(1) Subsection 475.08.a.iii.(1) in which case the results of all the analyses used in the calculation shall accompany the affidavit; or (3-30-07)

(2) Subsection 475.08.a.iii.(2) in which case the summary data used in the determination of calorie content shall accompany the affidavit. (3-30-07)

v. The calorie content statement shall appear as one (1) of the following: (3-30-07)

(1) The claim on the label or other labeling shall be followed parenthetically by the word "calculated" when the calorie content is determined in accordance with Subsection 475.08.a.iii.(1); or (3-30-07)

(2) The value of calorie content stated on the label which is determined in accordance with Subsection 475.08.a.iii.(2) shall not exceed or understate the value determined in accordance with Subsection 475.08.a.iii.(1) by more than fifteen percent (15%). (3-30-07)

b. Comparative claims shall not be false, misleading, or given undue emphasis and shall be based on the same methodology for the products compared. (3-30-07)

09. Descriptive Terms. (3-30-07)

a. Calorie Terms: (3-30-07)

i. "Light"; (3-30-07)

(1) A dog food product which bears on its label the terms "light," "lite," "low calorie," or words of similar designation shall: (3-30-07)

(a) Contain no more than three thousand one hundred (3,100) kcal ME/kg for products containing less than twenty percent (20%) moisture, no more than two thousand five hundred (2,500) kcal ME/kg for products containing twenty percent (20%) or more but less than sixty-five percent (65%) moisture, and no more than nine-hundred (900) kcal ME/kg for products containing sixty-five percent (65%) or more moisture; and (3-30-07)

(b) Include on the label a calorie content statement: (3-30-07)

(i) In accordance with the format provided in Subsection 475.08; and (3-30-07)

(ii) Which states no more than three-thousand one-hundred (3,100) kcal ME/kg for products containing less than twenty percent (20%) moisture, no more than two-thousand five-hundred (2,500) kcal ME/kg for products containing twenty percent (20%) or more but less than sixty-five percent (65%) moisture, and no more than nine hundred (900) kcal ME/kg for products containing sixty-five percent (65%) or more moisture; and (3-30-07)

(c) Include on the label feeding directions which reflect a reduction in calorie intake consistent with the intended use. (3-30-07)

(2) A cat food product which bears on its label the terms “light,” “lite,” “low calorie,” or words of similar designation shall: (3-30-07)

(a) Contain no more than three thousand two hundred fifty (3,250) kcal ME/kg for products containing less than twenty percent (20%) moisture, no more than two thousand six hundred fifty (2,650) kcal ME/kg for products containing twenty percent (20%) or more but less than sixty-five (65%) moisture, and no more than nine-hundred fifty (950) kcal ME/kg for products containing sixty-five percent (65%) or more moisture; and (3-30-07)

(b) Include on the label a calorie content statement: (3-30-07)

(i) In accordance with the format provided in Subsection 475.08; and (3-30-07)

(ii) Which states no more than three thousand two hundred fifty (3,250) kcal ME/kg for products containing less than twenty percent (20%) moisture, no more than two thousand six hundred fifty (2,650) kcal ME/kg for products containing twenty percent (20%) or more but less than sixty-five (65%) moisture, and no more than nine-hundred fifty (950) kcal ME/kg for products containing sixty-five percent (65%) or more moisture; and (3-30-07)

(c) Include on the label feeding directions which reflect a reduction in calorie intake consistent with the intended use. (3-30-07)

ii. “Less” or “Reduced Calories”; (3-30-07)

(1) A dog or cat food product which bears on its label a claim of “less calories,” “reduced calories,” or words of similar designation, shall include on the label: (3-30-07)

(a) The name of the product of comparison and the percentage of calorie reduction (expressed on an equal weight basis) explicitly stated and juxtaposed with the largest or most prominent use of the claim on each panel of the label on which the term appears; and (3-30-07)

(b) The comparative statement printed in type of the same color and style and at least one-half (1/2) the type size used in the claim; and (3-30-07)

(c) A calorie content statement in accordance with the format provided in Subsection 475.08; and (3-30-07)

(d) Feeding directions which reflect a reduction in calories compared to feeding directions for the product of comparison. (3-30-07)

(2) A comparison between products in different categories of moisture content (i.e., less than twenty percent (20%), twenty percent (20%) or more but less than sixty-five percent (65%), sixty-five percent (65%) or more) is misleading. (3-30-07)

b. Fat Terms. (3-30-07)

i. “Lean”; (3-30-07)

(1) A dog food product which bears on its label the terms “lean,” “low fat,” or words of similar designation shall: (3-30-07)

(a) Contain no more than nine percent (9%) crude fat for products containing less than twenty percent (20%) moisture, no more than seven percent (7%) crude fat for products containing twenty percent (20%) or more but less than sixty-five percent (65%) moisture, and no more than four percent (4%) crude fat for products containing sixty-five percent (65%) or more moisture; (3-30-07)

- (b) Include on the product label in the Guaranteed Analysis: (3-30-07)
- (i) A maximum crude fat guarantee immediately following the minimum crude fat guarantee in addition to the mandatory guaranteed analysis information as specified in Subsection 475.03.a.i.; and (3-30-07)
- (ii) A maximum crude fat guarantee which is no more than nine percent (9%) crude fat for products containing less than twenty percent (20%) moisture, no more than seven percent (7%) crude fat for products containing twenty percent (20%) or more but less than sixty-five percent (65%) moisture, and no more than four percent (4%) crude fat for products containing sixty-five percent (65%) or more moisture. (3-30-07)
- ii. A cat food product which bears on its label the terms “lean,” “low fat,” or words of similar designation shall: (3-30-07)
- (a) Contain a maximum percentage of crude fat which is no more than ten percent (10%) crude fat for products containing less than twenty percent (20%) moisture, no more than eight percent (8%) crude fat for products containing twenty percent (20%) or more but less than sixty-five percent (65%) moisture, and no more than five percent (5%) crude fat for products containing sixty-five percent (65%) or more moisture; and (3-30-07)
- (b) Include on the product label in the Guaranteed Analysis: (3-30-07)
- (i) A maximum crude fat guarantee immediately following the minimum crude fat guarantee in addition to the mandatory guaranteed analysis information as specified in Regulation PF4(a)(1); and (3-30-07)
- (ii) A maximum crude fat guarantee which is no more than ten percent (10%) crude fat for products containing less than twenty percent (20%) moisture, no more than eight percent (8%) crude fat for products containing twenty percent (20%) or more but less than sixty-five percent (65%) moisture, and no more than five percent (5%) crude fat for products containing sixty-five percent (65%) or more moisture. (3-30-07)
- iii. “Less” or “Reduced Fat”; (3-30-07)
- (1) A dog or cat food product which bears on its label a claim of “less fat,” “reduced fat,” or words of similar designation, shall include on the label: (3-30-07)
- (a) The name of the product of comparison and the percentage of fat reduction (expressed on an equal weight basis) explicitly stated and juxtaposed with the largest or most prominent use of the claim on each panel of the label on which the term appears; and (3-30-07)
- (b) The comparative statement printed in type of the same color and style and at least one-half (1/2) the type size used in the claim; and (3-30-07)
- (c) A maximum crude fat guarantee in the Guaranteed Analysis immediately following the minimum crude fat guarantee in addition to the mandatory Guaranteed Analysis information as specified in Subsection 475.03.a.i. (3-30-07)
- (2) A comparison on the label between products in different categories of moisture content (i.e., less than twenty percent (20%), twenty percent (20%) or more but less than sixty-five percent (65%), sixty-five percent (65%) or more) is misleading. (3-30-07)

10. Manufacturer or Distributor; Name and Address. (3-30-07)

a. The label of a pet food or specialty pet food shall specify the name and address of the manufacturer or distributor. The statement of the place of business shall include the street address, city, state, and zip code; however, the street address may be omitted if such street address is shown in a current city directory or telephone directory for the city listed on the label. (3-30-07)

b. When a person manufactures or distributes a pet food or specialty pet food in a place other than the principal place of business, the label may state the principal place of business in lieu of the actual place where each

package of such pet food or specialty pet food was manufactured or packaged or from where each package is to be distributed. (3-30-07)

476. -- 499. (RESERVED)

500. COTTONSEED.

01. Certification. Prior to entry into the state of Idaho all shipments of cottonseed or cottonseed seed products destined for animal feed shall be certified as having been sampled and analyzed and no greater amount than twenty (20) ppb of aflatoxin shall be contained within the product or products, except that cottonseed meal intended for use as an animal feed or feed ingredient for beef cattle, swine and poultry, may be certified to contain more than twenty (20) ppb but less than three hundred (300) ppb of aflatoxin. (4-21-92)

02. Storage Location and Destination. Whole cottonseed, cottonseed meal or cottonseed seed products entering the state certified to contain no greater than twenty (20) ppb aflatoxin, or cottonseed meal certified to contain more than twenty (20) ppb but less than three hundred (300) ppb aflatoxin shall be accompanied by the certification document aboard carrier, be identified with a storage location at destination, and the certification document shall be maintained on file at the shipment destination for no less than one (1) year. In the case of bulk rail car shipments, the certification document shall accompany the invoice or bill-of-lading and be identified with a storage location at destination. The certification document shall be maintained on file at the shipment destination for no less than one (1) year. (4-21-92)

03. Registration. Idaho firms wishing to import into the state and/or handle cottonseed meal containing more than twenty (20) ppb but less than three hundred (300) ppb aflatoxin for distribution or sale shall register annually with the Department their intent to do so. Feedlots and other end user operations importing the cottonseed meal as defined above in this paragraph for their own use are exempted from registration requirement. The importing firm shall also register the cottonseed meal (if not already registered by another firm) with the Department and pay any applicable registration and tonnage fees (Title 25, Chapter 27, Sections 25-2704 and 25-2706, Idaho Code). As a condition of registration, firms importing and/or handling cottonseed meal certified to contain more than twenty (20) ppb but less than three hundred (300) ppb aflatoxin, shall enter into a compliance agreement with the Department agreeing to: (3-30-07)

- a.** Store and label cottonseed meal certified to contain more than twenty (20) ppb but less than three hundred (300) ppb aflatoxin separately from cottonseed meal certified to contain less than twenty (20) ppb aflatoxin; (4-21-92)
- b.** Inform the purchaser in writing of the certified aflatoxin level in the meal purchased; and (4-21-92)
- c.** Submit to periodic record and facility inspections, and product testing by the Department. (4-21-92)

04. Certification Performance. Required certification shall be performed by any state government or Federal government engaged in this type of certification. In the event that a state government or Federal government laboratory is not available, an independent or company laboratory may upon request be approved by the Department. Requests and approval shall be made in advance of the shipment entering the state. (4-21-92)

501. -- 549. (RESERVED)

550. COTTONSEED -- EXEMPTIONS.

Cottonseed hulls are exempted from laboratory certification requirements as stated in Subsections 500.01 through 500.04, provided that, cottonseed hulls shall not contain greater than twenty (20) ppb aflatoxin as required by the U. S. Food and Drug Administration. Any invoice or bill of lading accompanying or sent in regard to a shipment of cottonseed hulls shall state the level of aflatoxin in parts per billion contained in the shipment. (4-21-92)

551. -- 599. (RESERVED)

600. DETAINED COMMERCIAL FEEDS.

01. Stop Sale, Use, or Removal. Any commercial feed or identified lot of commercial feed that is the subject of a “stop sale, use, or removal” order under Section 25-2711(1), Idaho Code, may be released from such an order by the following means: (4-7-11)

a. A commercial feed detained for nutritional violation(s) may be: (4-21-92)

i. Remanufactured, using ingredients listed on the approved label, to meet label guarantees. The remixed feed shall be resampled and analyzed to ensure compliance prior to its return to sale. (4-21-92)

ii. Relabeled to reflect actual values, upon approval of a new label and registration, provided that these values are appropriate for their intended use. (4-21-92)

iii. Returned to the manufacturer if the seller and manufacturer are not the same. (4-21-92)

iv. Diverted to an alternate use such as inclusion into another feed, or feeding to the manufacturer’s own livestock, provided that it is appropriate for the diverted use and that it does not conflict with labeling or other State or Federal requirements for the diverted use. (4-21-92)

v. Destroyed. (4-21-92)

b. A commercial feed detained for a drug or antibiotic violation may be: (4-21-92)

i. Remanufactured to meet label guarantees. The remixed feed shall be resampled and analyzed prior to its return to sale. (4-21-92)

ii. Returned to the manufacturer if the seller and manufacturer are not the same. (4-21-92)

iii. Diverted to an alternate use, provided that it is appropriate for the diverted use labeling or other State or Federal requirements for the diverted use. (4-21-92)

iv. Destroyed. (4-21-92)

c. A commercial feed deemed to be adulterated under Section 25-2707(1), Idaho Code, or which cannot safely be remanufactured, relabeled, or diverted to an alternate use may be: (3-30-07)

i. Returned to the manufacturer if the seller and manufacturer are not the same. (4-21-92)

ii. Destroyed. (4-21-92)

02. Appropriate Compliance Procedure. The Department shall indicate which of the above listed compliance procedures are appropriate for the particular “withdrawal from sale” order. The seller shall indicate which procedure is to be followed and, upon approval from the Department, shall carry out the procedure within thirty (30) days. Other procedures may be considered upon application by the state inspector or seller to the Chief, Bureau of Feeds and Plant Services, Idaho Department of Agriculture, Boise, Idaho. (4-21-92)

03. Violation of Stop Sale, Use, or Removal Order. Any violation of the terms or conditions of a Stop Sale, Use, or Removal Order shall be considered a prohibited act. (4-7-11)

601. -- 999. (RESERVED)

**IDAPA 02
TITLE 06
CHAPTER 03**

02.06.03 – RULES PERTAINING TO THE IDAHO NURSERIES AND FLORISTS LAW

000. LEGAL AUTHORITY.

This chapter is adopted under the legal authority of Section 22-2303(5), Idaho Code. (3-29-10)

001. TITLE AND SCOPE.

01. Title. The title of this chapter is IDAPA 02.06.03, “Rules Pertaining to the Idaho Nurseries and Florists Law.” (3-29-10)

02. Scope. These rules establish a fee schedule for special services and to set forth conditions under which a shipping permit will be issued. (3-29-10)

002. WRITTEN INTERPRETATIONS.

There are no written interpretations of these rules. (3-29-10)

003. ADMINISTRATIVE APPEAL.

There is no provision for administrative appeal before the Department of Agriculture under this chapter. Hearing and appeal rights are pursuant to Title 67, Chapter 52, Idaho Code. (3-29-10)

004. INCORPORATION BY REFERENCE.

IDAPA 02.06.03 does not incorporate any material by reference. (3-29-10)

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 available for inspection and copying at the department. (3-29-10)

007. -- 049. (RESERVED)

050. SPECIAL SERVICE.

When nurseries or florists require additional inspections and special services, a special service fee will be charged. Refer to IDAPA 02.06.04, “Phytosanitary and Post-Entry Certification Rules,” Section 500, “Fees and Charges,” for a complete schedule of services and fees. (3-29-10)

051. -- 099. (RESERVED)

100. SHIPPING PERMIT NUMBER.

Upon request, a licensed nurseryman who holds a valid certificate of inspection from the Idaho Department of Agriculture for his nursery will be issued a shipping permit number. Application for a number must be made annually, and the use of the number is subject to the following conditions: (4-13-86)

01. Accompaniment. The shipping permit number shall accompany all shipments and deliveries of nursery stock. (4-13-86)

02. Changes. Once issued, the shipping permit number will not change unless request is made for a new number. (4-13-86)

03. Application Deadline. Application for a number or renewal of a number must be made by January 1 of each year. Failure to do so will result in suspension of the shipping permit number. (4-13-86)

04. Fees. A number will be issued or renewed only after the proper nursery license fees have been paid for the current license year. A shipping permit number will be held in abeyance until the proper license fees are paid. (4-13-86)

05. Reissue Application. If the business entity of a licensee is changed, or if the membership of a partnership is changed, irrespective of whether or not the business name is changed, application for reissuance of the shipping permit number must be made to the Idaho Department of Agriculture. (4-13-86)

06. Permit Number. The shipping permit number, if printed on containers or cartons, will read as follows:

(SEAL)

IDAHO DEPARTMENT OF AGRICULTURE
DIVISION OF PLANT INDUSTRIES
BOISE, IDAHO 83701

SHIPPING
PERMIT NO.

The nursery doing business under the above permit number has been regularly inspected and, to the best of our knowledge, is free from dangerous insect pests and diseases.

(4-13-86)

07. No Other Statements. No other statements, other than the business name and address, may appear on the side of the container on which the shipping permit number and accompanying statement are printed. The printing of the shipping permit number is the responsibility of the licensee and all costs incurred in printing are his responsibility. (4-13-86)

101. -- 999. (RESERVED)

**IDAPA 02
TITLE 06
CHAPTER 04**

02.06.04 – PHYTOSANITARY AND POST-ENTRY CERTIFICATION RULES

000. LEGAL AUTHORITY.

This chapter is adopted under the legal authority of Sections 22-103(22), 22-107 and 22-702, Idaho Code. (2-1-95)

001. TITLE AND SCOPE.

01. Title. The title of this chapter is “Phytosanitary and Post-Entry Certification Rules.” (2-1-95)

02. Scope. These rules govern the production of pest-free plants and plant products, and provide procedures for compliance with phytosanitary regulations of other states and foreign countries, in order to protect Idaho agriculture from the introduction of foreign pests on imported plant materials. (2-1-95)

002. WRITTEN INTERPRETATIONS.

There are no written interpretations of these rules. (2-1-95)

003. ADMINISTRATIVE APPEAL.

There is no provision for administrative appeal before the Department of Agriculture under this chapter. Hearing and appeal rights are pursuant to Title 67, Chapter 52, Idaho Code. (2-1-95)

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. Applicant. Any person applying for an inspection or certification under these rules. (2-1-95)

02. Federal Phytosanitary Certificate. This certificate is issued by the Department pursuant to a “Memorandum of Understanding” with the United States Department of Agriculture, Animal and Plant Health Inspection Service, Plant Protection and Quarantine, in accordance with the Code of Federal Regulations, Title 7, Part 353, Sections 353.1 - 353.7 as amended. This type certificate may only be issued for domestic plants and plant products being exported into a foreign country. (2-1-95)

03. Federal Phytosanitary Certificate for Reexport. This certificate is issued by the Department pursuant to a “Memorandum of Understanding” as referenced in Subsection 004.04 above. This type certificate may only be issued for plants and plant products of foreign origin to certify that, based on the original foreign phytosanitary certificate and/or an additional inspection, the plants and plant products entered the United States in conformance with the phytosanitary regulations of the importing country and have not been subjected to the risk of infestation or infection during storage in the United States. Shipments transiting the United States under a Customs bond are not eligible for reexport certification. (2-1-95)

04. Post-Entry Quarantine Certification. This program is carried out pursuant to a “Memorandum of

Understanding” between the Department and the United States Department of Agriculture, Animal and Plant Health Inspection Service, Plant Protection and Quarantine, in accordance with the Code of Federal Regulations, Title 7, Part 319.37-7 as amended. The purpose of this program is to prevent the accidental introduction of plant pests in living plants that are imported into the United States and Idaho under permit. (2-1-95)

05. Rush Service. This service is to accommodate phytosanitary certification applications that must be issued earlier than the routine three (3) to four (4) day turn-around. This service will be carried out only after a mutual agreement between the applicant and the Department. (2-1-95)

06. State Phytosanitary Certificate. This certificate may be issued for shipments of Idaho produced plants and plant products to foreign or domestic locations. This certificate is issued to confirm a field or commodity inspection for foreign destinations. This certificate must be issued to the same standard as a federal certificate as outlined in Subsection 004.04. Idaho Crop Improvement Association field inspections may serve as the basis for the issuance of a state phytosanitary certificate for domestic markets only. This certificate shall also bear any notation or comment the Director may make as to any findings concerning the inspection or import requirements of the products being certified. (2-1-95)

011. -- 049. (RESERVED)

050. DESIGNATED INSPECTION AREAS.

The land mass of the state has been divided into fourteen (14) “inspection areas” to facilitate the inspection of all seed-producing localities and to confine the loci of disease infestations when they arise. These areas shall be numbered serially and the boundaries of each shall remain fixed as described below. The cultural conditions, i.e., weather, elevation, soil type and general farming practices, are relatively uniform within each area; therefore, the disease content of the seed produced within each respective area may be expected to be uniform. (2-1-95)

- 01. Area 1.** Kootenai County. (2-1-95)
- 02. Area 2.** Benewah County. (2-1-95)
- 03. Area 3.** That portion of Latah County above two thousand (2,000) feet elevation and that portion of Nez Perce County north of the Clearwater River and above two thousand (2,000) feet elevation. (2-1-95)
- 04. Area 4.** That portion of Latah County below two thousand (2,000) feet elevation and all of the Clearwater River and below two thousand (2,000) feet elevation (2-1-95)
- 05. Area 5.** Lewis County. (2-1-95)
- 06. Area 6.** Canyon, Ada, Owyhee, Payette, Washington and Gem Counties. (2-1-95)
- 07. Area 7.** Gooding, Jerome, Lincoln and Elmore Counties. (2-1-95)
- 08. Area 8.** Twin Falls County. (2-1-95)
- 09. Area 9.** Cassia County. (2-1-95)
- 10. Area 10.** That portion of Minidoka County lying south of the main line of the Union Pacific Railroad. (2-1-95)
- 11. Area 11.** That portion of Minidoka County lying north of the main line of the Union Pacific Railroad. (2-1-95)
- 12. Area 12.** Bingham, Bonneville, Power and Bannock Counties. (2-1-95)
- 13. Area 13.** Jefferson, Madison, Fremont, Teton, Clark and Butte Counties. (2-1-95)
- 14. Area 14.** All other agricultural areas of the state not specifically designated above. (2-1-95)

051. -- 099. (RESERVED)

100. CROP/COMMODITY, DISEASE AND PEST(S) INSPECTIONS.

01. Minimum Field Inspection(s). Unless otherwise requested by the applicant, minimum field inspections for diseases shall be as follows: (2-1-95)

a. Corn: Stewart's wilt, - *Erwinia stewartii* ((E.F.Sm.)Dye), head smut - *Sphacelotheca reiliana*, common smut - *Ustilago zeae* (U. maydis), and maize dwarf mosaic virus. (2-1-95)

b. Peas: Bacterial blight, *Pseudomonas* species. (2-1-95)

c. Beans: Halo Blight, caused by *Pseudomonas syringae* pv. *phaseolicola* (Burkholder 1926) Young, Dye & Wilkie 1978, (synonym *P. phaseolicola* (Burkholder 1926) Dawson 1943); common blight caused by *Xanthomonas campestris* pv. *phaseoli* (Smith 1897) Dye 1978, (synonyms *X. phaseoli* (Smith 1897) Dawson 1939, *X. phaseoli* var. *fuscans* (Burkholder 1930) Starr and Burkholder 1942); brown spot, caused by *Pseudomonas syringae* pv. *syringae*, van Hall 1902, (synonym *P. syringae*, van Hall 1902) only strains virulent to *Phaseolus* sp.; bacterial wilt, caused by *Corynebacterium flaccumfaciens* (Hedges 1922) Dawson 1942; or any variations or new strains of these bacteria, which are recognized as virulent to and seedborne in *Phaseolus* spp., and are a potential threat to seed production, all of which are hereafter referred to as bacterial diseases of beans. Anthracnose, *Colletotrichum lindemuthianum* (Sacc. and Magn.) Scrib. (2-1-95)

d. Alfalfa: Verticillium Wilt - *Verticillium albo-atrum*, stem and bulb nematode - *Ditylenchus dipsaci*. (2-1-95)

e. Lettuce: Lettuce mosaic virus. (2-1-95)

f. Radish: Bacterial spot - *Xanthomonas campestris* pv. *vesicatoria*, Anthracnose -- *Colletotrichum higginsianum*, blackleg - *Leptosphaera maculans*. (2-1-95)

g. Onion: Stem and bulb nematode -- *Ditylenchus dipsaci*, Onion white rot -- *Sclerotium cepivorum*, onion smut -- *Urocystis cepulae*, neck rot -- *Botrytis alli*, purple blotch -- *Alternari porri*. (2-1-95)

h. Carrot: Bacterial blight *Xanthomonas campestris* pv. *carotae*, soft rot - *Erwinia carotovera*. (2-1-95)

02. Special Inspection Requests. Requests for inspection of plants and plant products for plant diseases or pests not specifically listed in these rules will be performed subject to the availability of Department inspectors and the biology of the pest and plant or plant products for which the request is being made. Procedures for conducting the special field or commodity inspections, the time the inspection is to be made, and any charges or fees will be made at the discretion of the Department and may be in addition to those listed in Section 500. (2-1-95)

101. -- 149. (RESERVED)

150. APPLICATION FOR INSPECTION - PROCEDURES.

01. Application for Field Inspection. Application(s) must include but will not be limited to the following: company name, grower name, crop, variety, lot number (if available), pest(s)/disease(s) inspections being requested, field location, number of acres and type of irrigation. Application(s) must be filed with the Idaho Department of Agriculture, Division of Plant Industries, P.O. Box 7249, Boise, ID 83707 or Idaho Department of Agriculture, Division of Plant Industries, P.O. Box 401, 434 Shoshone St. West, Twin Falls, Idaho 83303-0401, on forms provided by the Department. (2-1-95)

02. Application for Area Inspection (Peas and Corn Only). Application shall be made in writing on company letterhead listing crop, grower name, variety, lot number, acres, and area grown in as outlined in Subsections 050.01 through 050.14. A minimum of two hundred (200) acres per company per designated inspection

area must be submitted to be eligible for an area inspection. Applicants submitting under two hundred (200) acres within a designated inspection area must do so pursuant to Subsection 150.01 above. (2-1-95)

03. Deadlines. Applications for individual and/or area field inspections shall be submitted no later than: April 30 for Alfalfa, May 1 for peas and mint, May 15 for lettuce, radish, onion, or other vegetable crops, and July 1 for beans and corn. Applications submitted after these dates will be performed only at the discretion of the Director. (2-1-95)

04. Special Field Inspection Requests. Requests for field inspections of plants and plant products for diseases or pests not listed in Subsections 100.01.a. through 100.01.h. above shall be written in on the application as provided in Subsection 150.01 above and be subject to the conditions as outlined in Subsection 100.02. (2-1-95)

151. -- 199. (RESERVED)

200. INSPECTION AUTHORITY.

The Director will authorize the crop inspections and will delegate competent agents or agencies to conduct the work. Phytosanitary certificates will be issued only by the Director. (2-1-95)

201. -- 249. (RESERVED)

250. INSPECTION PROCEDURES.

01. Mechanics of Inspection. The mechanics of inspection for a particular crop(s) will be left to the discretion of the Department, but will take into account sound sampling procedures, the biology of the pest, and the crop being inspected. A crop will be inspected a minimum of, but not limited to, one (1) time during the growing season, depending on the biology of the pest or disease being inspected. (2-1-95)

02. Reports of Inspection Summaries and Requests for Inventory. Written reports of the field and area inspections will be filed and retained in the office of the Director, for a minimum of five (5) years after the inspection of the fields is completed. At the end of each inspection season, each applicant will be sent a summary of the inspections performed with a request for any corrections or adjustments to be made as far as lot numbers, varietal names, or other information is concerned. A request will also be made at that time for the clean weights of the product harvested from each lot inspected. No phytosanitary certificate will be issued for any inspected lot for which there is incomplete documentation. (2-1-95)

03. Notification of the Detection of Disease(s) or Pest(s). The Department will notify the applicant in writing upon the confirmation of the presence of a disease or pest. Notification will be limited to those disease(s) or pest(s) outlined in Subsections 100.01.a. through 100.01.h. above or as specifically requested on the applicant's application for inspection for phytosanitary certification pursuant to Subsection 150.04. (2-1-95)

251. -- 299. (RESERVED)

300. PROCEDURE FOR OBTAINING PHYTOSANITARY CERTIFICATES.

01. Requests for Phytosanitary Certificates. Application shall be made in writing to the Department on the appropriate application form(s) provided by the Department for the certificate(s) being requested. Only fully completed applications will be accepted. Applications can be submitted to either the State of Idaho, Department of Agriculture, Plant Industries Division, P.O. Box 7249, Boise, ID 83707, or State of Idaho, Department of Agriculture, P.O. Box 401, Twin Falls, Idaho 83301. (2-1-95)

02. Application Information. Applications for phytosanitary certificates must include, but will not be limited to the following information: variety, crop (including scientific name), lot number (in the case of blends, all lots used in the blend must be included), number of pounds in each lot, name of grower, area and year in which crop was grown, state number, consignor and consignee, and chemical treatment applied. (2-1-95)

03. "Rush" Service. As defined in Subsection 004.08 must be requested before or upon submission of an application for phytosanitary certification. The request may be made by telephone. "Rush" service will be subject

to the fees as outlined in Subsection 500.02.d. (2-1-95)

301. -- 349. (RESERVED)

350. SIZE OF SAMPLES.

Size of samples for visual inspection for phytosanitary seed inspection certificates shall be: When shipment is: under two hundred (200) pounds - one half (1/2) pound sample (minimum); two hundred (200) pounds up to one thousand (1,000) pounds - two (2) pound samples; over one thousand (1,000) pounds - five (5) pound samples (maximum); or as may be required by the importing state or country. (2-1-95)

351. -- 449. (RESERVED)

450. POST-ENTRY QUARANTINE CERTIFICATION.

Applications shall be made on forms provided by the Department and accompanied by the fee as stated in Subsection 500.05. The applicant must allow inspection by the Department as a condition of application approval, and additional inspections as required by the Department or the United States Department of Agriculture. The United States Department of Agriculture has final approval authority. The minimum period of the quarantine shall be two (2) years, with a minimum of one (1) inspection being performed during each of the two (2) years. (2-1-95)

451. -- 499. (RESERVED)

500. FEES AND CHARGES.

01. Phytosanitary Certificates. (3-16-04)

a. Federal Phytosanitary Inspection Certificates or like documents: sixty dollars (\$60) per certificate. (3-29-10)

b. State Phytosanitary Inspection Certificates or like documents: twenty-five dollars (\$25) per certificate. (3-16-04)

02. Phytosanitary Certification and Like Inspections and Official Treatment Observations. (2-1-95)

a. Officially Drawn Samples: (i.e., purity and germ samples, referee samples, lab analysis) - twenty dollars (\$20) per sample. (3-16-04)

b. Submitted Samples: twenty dollars (\$20) per item submitted. (3-16-04)

c. Treatment Observations: for official verification of seed and plant treatment, seed lot fumigation, cold storage treatments, and treatment of agricultural products brought into the state in violation of a state quarantine, fees are thirty dollars (\$30) per hour (including travel time), and any per diem incurred. Per diem will be at established state rates. (3-29-10)

d. Rush service fees will be one hundred dollars (\$100) per certification which will be in addition to the normal phytosanitary certification charges outlined in this Section 500. (2-1-95)

e. Request for phytosanitary or treatment observation services after normal working hours, on weekends, or holidays are subject to overtime and state per diem charges in addition to the normal charges outlined in this section. (2-1-95)

03. Area Inspections. Area Inspection: fourteen cents (\$.14) per hundred-weight. (3-16-04)

04. Field or Lot Inspections. (2-1-95)

a. Application for Field Inspection: five dollars (\$5) per application. (3-16-04)

b. Acreage Inspection Fee: three dollars and fifty cents (\$3.50) per acre per inspection. A minimum of fifty dollars (\$50) per inspection will be charged when the total acreage submitted by any one (1) applicant is fifteen (15) acres or less. (3-16-04)

05. Post-Entry Quarantine Inspections. The inspection fee is two hundred dollars (\$200) for the required two (2) year quarantine and an additional one hundred dollars (\$100) per year for each year beyond the initial two (2) years, if required. For rejected applications, twenty-five dollars (\$25) of the two hundred dollar (\$200) inspection fee is non-refundable, and will be retained to cover administrative costs. (2-1-95)

06. Plant Pathological Laboratory Services. Fees available upon request. (2-1-95)

07. Special Project Fee. (3-29-10)

a. Special projects not covered by the existing fee schedule may be billed at twenty-five dollars (\$25) per hour with a minimum twenty-five dollar (\$25) fee. Special projects include, but are not limited to, the following: (3-29-10)

i. Research; (3-29-10)

ii. Lot history verification; (3-29-10)

iii. Data entry; (3-29-10)

iv. Sales and purchases; (3-29-10)

v. Transfer of lots into ISDA database; (3-29-10)

vi. ISDA training of private company personnel; (3-29-10)

vii. Special plant pest detection surveys; or (3-29-10)

viii. Any other circumstance approved by the Director. (3-29-10)

b. This fee does not include any laboratory analysis fees that might be required as part of a special plant pest detection survey. (3-29-10)

501. -- 999. (RESERVED)

**IDAPA 02
TITLE 06
CHAPTER 05**

02.06.05 – RULES GOVERNING DISEASES OF HOPS

000. LEGAL AUTHORITY.

This chapter is adopted under legal authority of Sections 22-702, 22-2004, and 22-2006, Idaho Code. (6-30-19)T

001. TITLE AND SCOPE.

01. Title. The title of this chapter is IDAPA 02.06.05, “Rules Governing Diseases of Hops.” (5-3-03)

02. Scope. This rule establishes definitions, regulated pests, regulated products, control areas, quarantine areas and special permits. This rule requires farm machinery to be clean of plant debris and soil, sets forth consequences if a regulated pest is found, including penalties for violations, and sets a fee schedule. This rule will provide for consistency among the quarantine rules of Oregon, Washington, and Idaho for the shipment of hop propagating materials among Idaho, Oregon, and Washington. (6-30-19)T

002. WRITTEN INTERPRETATIONS.

There are no written interpretations of these rules. (3-19-99)

003. ADMINISTRATIVE APPEAL.

There is no provision for administrative appeal before the Idaho State Department of Agriculture under this chapter. Hearing and appeal rights are set forth in Title 67, Chapter 52, Idaho Code. (3-19-99)

004. INCORPORATION BY REFERENCE.

There are no documents incorporated by reference in this chapter. (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. PUBLIC RECORDS ACT COMPLIANCE.

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

007. -- 009. (RESERVED)

010. DEFINITIONS.

The Idaho State Department of Agriculture adopts the definitions set forth in Section 22-2005, Idaho Code. (5-3-03)

011. (RESERVED)

012. REGULATED PESTS.

01. Verticillium Wilt. Plant Material infected with the disease caused by the fungus *Verticillium nonalfalfae* (formerly known as *Verticillium albo-atrum Reinke* and *Berth*) and any species or strains of the genus *Verticillium* pathogenic to hops. (4-6-15)

02. Powdery Mildew. Plant Material infected with the disease caused by the fungus *Podosphaera macularis* (Wallr. Fr.), synonyms *Sphaerotheca macularis* (Wallr. Fr.) Lind and *Sphaerotheca humuli* (Burril) Lind. (4-6-15)

03. Hop Stunt Viroid. Plant Material infected with the disease caused by the viroid *Hostuviroid hop stunt viroid* and all strains and genetic variants associated with the genus. (4-6-15)

04. Harvirus Species. Plant Material infected with the disease caused by virus species within the Genus Harvirus, including but not limited to Apple Mosaic Virus and Prunus Necrotic Ringspot Virus. (4-6-15)

013. -- 049. (RESERVED)

050. REGULATED ARTICLES.

01. Plant Material. Plants and all plant parts of hops, except kiln dried cones. (4-6-15)

02. Machinery. Machinery, vehicles, tools, equipment, trellis poles, wire, anchor irons, and any other appurtenances used in the culture and/or production of hops. (8-1-80)

051. -- 099. (RESERVED)

100. QUARANTINE AREA.

All areas outside of the territorial borders of Idaho, Oregon, and Washington. (4-6-15)

101. -- 149. (RESERVED)

150. RESTRICTIONS ON IMPORT.

No person may import restricted articles from the quarantined area into Idaho unless the person importing the regulated articles first obtains a special permit from the department as set forth in Section 200. (4-6-15)

151. MOVEMENT OF USED FARMING EQUIPMENT.

01. Clean and Free. Used farm equipment including, but not limited to, tillage equipment, vehicles, and hop yard appurtenances moving into Idaho from the quarantine area, must be clean and free of soil and plant material including, but not limited to, hop debris. (4-6-15)

02. Requirements. Freedom from plant material and soil may be accomplished by washing, steam cleaning, and/or use of a disinfectant appropriately labeled for the purpose. (8-1-80)

152. -- 199. (RESERVED)

200. SPECIAL PERMITS.

Any person(s) or agencies wishing to import covered commodities from the area under quarantine must apply in writing for a special permit as authorized by the director of the department. (4-6-15)

01. Application. Application for special permits must list the prospective buyer and seller; the number, and origin of stock; location of proposed planting site; and any other relevant information. (4-6-15)

02. Conditions. Special permits, when granted, may include such conditions as may be necessary to prevent disease establishment. All permitted material must be found free from regulated pests by the Clean Plant Center at Washington State University, Prosser, Washington, or an equivalent lab approved by the department. (4-6-15)

201. -- 299. (RESERVED)

300. PEST DETECTION.

01. Inspection. If evidence of a regulated pest is detected by visual inspection, the Department, in cooperation with the University of Idaho, Department of Plant, Soil and Entomological Sciences, will perform laboratory procedures sufficient to determine the causal organism. (4-6-15)

02. Consequences. Positive identification of the presence of Verticillium wilt, hop stunt viroid, ilar viruses, or powdery mildew virulently pathogenic to hops will result in loss of eligibility for sale or transfer for those

rootstocks within the infected field. The director may also order that the infested area be removed from hop production and the soil be disinfested. (4-6-15)

301. -- 399. (RESERVED)

400. AUTHORITY TO ENTER AND INSPECT.

The Director of the Idaho State Department of Agriculture or his designated agents are authorized to enter and inspect any and all hop plantings within the state of Idaho. (3-19-99)

401. -- 499. (RESERVED)

500. FEES AND CHARGES.

01. Special Permits. For special permits for importation of hops from areas under quarantine, the fee will be sixty dollars (\$60) per permit. (4-6-15)

02. General Fees and Charges. The fees and charges for inspection, certificates, and permits are as set forth in IDAPA 02.06.04, "Idaho Department of Agriculture, Phytosanitary and Post-Entry Certification Rules," Section 500. (4-6-15)

501. -- 999. (RESERVED)

**IDAPA 02
TITLE 06
CHAPTER 06**

02.06.06 – RULES GOVERNING THE PLANTING OF BEANS

000. LEGAL AUTHORITY.

This chapter is adopted under the legal authority of Sections 22-1907, 22-2004, and 22-2006, Idaho Code. (4-2-03)

001. TITLE AND SCOPE.

01. Title. The title of this chapter is IDAPA 02.06.06, “Rules Governing the Planting of Beans.” (6-30-19)T

02. Scope. These rules will govern the planting of beans in Idaho. (6-30-19)T

002. WRITTEN INTERPRETATIONS.

There are no written interpretations of these rules. (4-2-03)

003. ADMINISTRATIVE APPEAL.

Hearing and appeal rights are set forth in Title 67, Chapter 52, Idaho Code. (4-2-03)

004. INCORPORATION BY REFERENCE.

There are no documents incorporated by reference in this chapter. (4-2-03)

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. 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.

The Department adopts the definitions set forth in Section 22-2005, Idaho Code. In addition, as used in this chapter: (4-2-03)

01. Department Approved Tag (Yellow Tag) (Phaseolus). A tag issued by the Department to seed lots produced west of the Continental Divide in the contiguous United States. The seed lot must be accompanied by a phytosanitary certificate issued by the regulatory agency of the state of origin, listing the diseases the crop was inspected for, that must include the regulated pests as defined in Section 012 of these rules and be based on growing season and windrow or pre-harvest inspections. Seed lots must pass laboratory testing done by the Department on samples drawn in Idaho by the Department and found free from regulated pest(s) as listed in Section 012 of this rule. (6-30-19)T

02. Department Approved Tag (Yellow Tag) (Non-Phaseolus). A tag issued by the Department to seed lots produced outside of Idaho and imported into Idaho for planting. The seed lot must be certified by the seed certification agency of the state of origin and be accompanied by a phytosanitary certificate or official field inspection report issued by the regulatory agency of the state of origin. Seed lots must pass laboratory testing performed by the Department, or Department approved laboratories, on samples drawn in Idaho by the Department and found free from regulated pest(s) and soil as listed in Sections 012 and 013 of this rule. (6-30-19)T

03. Department In-State Planting Tag (Green Tag). A tag issued by the Department to seed lots in compliance with growing season and windrow inspections in Idaho. (4-2-03)

- 04. Detailed Varietal Planting Plan.** A plan that shows the variety name, seed lot number, In-state planting tag number (State Number) if applicable, pounds planted, acres planted, origin of seed, and the results of laboratory testing. (4-2-03)
- 05. Edible Harvest.** Seed planted in Idaho intended for edible purposes (fresh green pod or dried edible seed). (6-30-19)T
- 06. Experimental Plots.** Subdivisions of trial grounds used for the introduction of seed otherwise ineligible for planting in Idaho. (4-2-03)
- 07. Farmstead.** All land farmed in common with the land upon which the trial ground is located. (4-2-03)
- 08. Home Garden.** Personal use home gardens wherein Phaseolus or Non-Phaseolus species are planted for consumption and will not be utilized for replanting outside the same home garden where they were produced or offered for sale or sold for further propagation in Idaho. (6-30-19)T
- 09. ICIA Tag.** A tag issued by ICIA provided that the lot was field and windrow inspected by ICIA in accordance with these rules. (4-2-03)
- 10. In-State Planting Tag Number (State Number).** A number assigned by the Department to each lot which has successfully passed the Department's field and windrow inspection requirements in which no regulated pests were found. (4-2-03)
- 11. Introduction Plots.** Subdivisions of trial grounds used for the introduction or increase of bean seed. (4-2-03)
- 12. Oregon Department of Agriculture Inspection Tag.** A tag issued to seed lots produced in Malheur County, Oregon which were inspected in the growing season and in the windrow by the Oregon Department of Agriculture for the regulated pests as defined in Section 012 and Subsections 013.01 and 013.02 of these rules. (6-30-19)T
- 13. Pre-Harvest Inspection.** Inspection done prior to harvest, where harvest methods or crop condition do not allow for windrow inspection. (6-30-19)T
- 14. Rill Irrigation.** A method of applying non-pressurized irrigation water to crops in a free flow manner by using a series of drip ditches, canals, siphon tubes, and gated pipe utilizing gravity as means of conveyance within the field. (6-30-19)T
- 15. Seed Borne.** Pest(s) that can be found on the seed or within the seed coat but do not necessarily result in the transfer of the pest to the resulting plant. (6-30-19)T
- 16. Seed Lot.** A definite quantity of seed identified by a lot number, every portion or bag of which is uniform, within permitted tolerances, for factors that appear in the labeling. (4-2-03)
- 17. Seed Transmitted.** Pest(s) that can be transferred from the seed into the resulting plant. (6-30-19)T
- 18. Sprinkler Irrigation.** An overhead water delivery system used to disperse irrigation water to crops in a designated pattern utilizing a pump, a network series of pipes and delivering water under a controlled pressure in a predetermined quantity. (4-2-03)
- 19. Trial Grounds.** Parcels of land located on one (1) farmstead set aside for the purpose of research testing or introduction of bean seed. (4-2-03)
- 20. True Identity of Seed Lot.** True identity of seed lot is recorded using information provided by the applicant on the application for field inspection or on the detailed varietal planting plan and harvest records. The true identity of the seed lot is maintained by the Department after the applicant has finalized the harvest information and

provided such to the Department. (4-2-03)

21. Windrow Inspection. An inspection procedure performed on a seed crop prior to harvest but after the crop has been cut and allowed for curing or drying out. (4-2-03)

011. ABBREVIATIONS.

01. ICIA. Idaho Crop Improvement Association. (4-2-03)

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

012. REGULATED PESTS (PHASEOLUS AND NON-PHASEOLUS).

01. Anthracnose. Caused by (*Colletotrichum lindemuthianum*), (*Glomerella lindemuthiana*). (4-2-03)

02. Bacterial Wilt. Caused by (*Curtobacterium flaccumfaciens pv. flaccumfaciens*), (*Corynebacterium flaccumfaciens*). (4-2-03)

03. Brown Spot. Caused by (*Pseudomonas syringae pv. syringae*), (*P. syringae*). (4-2-03)

04. Common Blight. Caused by (*Xanthomonas axonopodis pv. phaseoli*), (*X. phaseoli*), (*X. phaseoli var. fuscans*). (4-2-03)

05. Halo Blight. Caused by (*Pseudomonas savastanoi pv. phaseolicola*), (*P. phaseolicola*). (4-2-03)

013. REGULATED PESTS (NON-PHASEOLUS ONLY).

01. Soybean Cyst Nematode. (*Heterodera glycines*). (6-30-19)T

02. Asian Soybean Rust. Caused by (*Phakopsora pachyrhizi*). (6-30-19)T

03. Soil. There shall be a zero (0) tolerance, as defined by the soil tolerance standards of the Association of Official Seed Analysts (AOSA), for soil in any lot of a regulated article imported into Idaho and destined for planting in Idaho. This prohibition shall not apply to seed of Idaho or Malheur County, Oregon origin. (6-30-19)T

014. -- 049. (RESERVED)

050. REGULATED ARTICLES.

All seed and growing plants of (*Phaseolus*) species, from any source, being grown or planted for the production of seed or planted for edible harvest within the state of Idaho. All seed of soybean (*Glycine max*), mung bean (*Vigna radiata*), and azuki bean (*Vigna angularis*) and any other plant species capable of spreading a regulated pest as a contaminant or in a seed borne or seed transmitted manner, from any source and being planted within the state of Idaho, unless otherwise exempted in this rule. (6-30-19)T

051. EDIBLE HARVEST EXEMPTION.

Seeds planted for edible harvest must bear an approved tag as defined in Section 200.08 or 201.06 of this rule. Seeds planted for edible harvest are not required to undergo inspection requirements defined in Section 150 and 151, and are not covered by the irrigation restrictions defined in Section 200.09. (6-30-19)T

052. HOME GARDEN EXEMPTION.

Seeds planted for home garden use and consumption that will not be sold for replanting outside the original home garden space are allowed to utilize small package, non-tagged seed and are exempt from inspection requirements defined in Section 150 and 151 of this rule and from irrigation restrictions defined in Section 200.09. All seed intended for production of seed for replanting outside the home garden where they were produced are defined as Regulated Articles in Section 050. (6-30-19)T

053. -- 049. (RESERVED)

150. INSPECTION (PHASEOLUS).

All seeds harvested from bean fields in Idaho intended for replanting in Idaho shall be submitted to the Department or ICIA for growing season and windrow inspections. (4-2-03)

01. Application for Inspection. (4-2-03)

a. Deadline for Submission. Received by the Department on or before July 1 of each year. (4-2-03)

b. Application Forms. Forms will be provided by the Department or may be company generated. Company generated application forms must be approved by the Department prior to submission. (4-2-03)

c. Additional or Substitute Acreage. Applications for additional or substitute acreage may be submitted until September 1 and will be accepted on a case by case basis and the cost of inspection to be determined by the Director. (4-2-03)

02. Active Growth Inspection. Unless the Director, in his sole discretion, deems additional inspections are necessary, the bean seed for replanting will be inspected as follows: (4-2-03)

a. Fields under rill irrigation -- at least once. (4-2-03)

b. Fields under sprinkler irrigation -- at least twice. (4-2-03)

03. Windrow or Pre-Harvest Inspection. (4-2-03)

a. Number of inspections -- at least once. (4-2-03)

b. The Director may authorize qualified personnel to perform windrow inspections under the supervision of the Department. (4-2-03)

c. The Director may upon written request of the seed company agent perform standing crop pre-harvest inspection. (6-30-19)T

151. INSPECTION (NON-PHASEOLUS)

All imported or Idaho origin seeds intended for planting or replanting in Idaho shall be submitted to the Department for growing season and pre-harvest/windrow inspections. (6-30-19)T

01. Application for Inspection. (6-30-19)T

a. Deadline for Submission. Received by the Department on or before July 1 of each year. (6-30-19)T

b. Application Forms. Forms will be provided by the Department or may be company generated. Company generated application forms must be approved by the Department prior to submission. (6-30-19)T

c. Additional or Substitute Acreage. Applications for additional or substitute acreage may be submitted until September 1 and will be accepted on a case by case basis and the cost of inspection to be determined by the Director. (6-30-19)T

02. Inspections. Unless the Director, at his sole discretion, deems additional inspections are necessary, the bean seed for planting will be inspected as follows: (6-30-19)T

a. Fields under rill or sprinkler irrigation -- at least once; (6-30-19)T

b. Pre-Harvest or Windrow Inspection -- at least once. (6-30-19)T

151. -- 199. (RESERVED)

200. REQUIREMENTS FOR PLANTING BEAN SEED IN IDAHO (PHASEOLUS).

In order to be eligible for planting bean seed in Idaho: (4-2-03)

01. Idaho Grown Seed. Seeds planted must be from a lot that has an in-state planting tag number (state number) assigned by the Department based on growing season and windrow inspections and be tagged by the Department with a Department In-State Planting Tag (Green tag) or be tagged by the ICIA in accordance with these rules. (4-2-03)

02. Malheur County, Oregon Grown Seed. Bean seed produced in Malheur County, Oregon must be from a lot inspected in the growing season and in the windrow for the regulated pests as defined in Section 012 of these rules and tagged by the Oregon Department of Agriculture. The ICIA may inspect and issue tags for bean seed grown in Malheur County, Oregon provided that each field is inspected according to these rules and the Malheur County Bean Disease Control Area order. (3-29-10)

03. Imported Seed Grown West of the Continental Divide in the Contiguous United States. Imported bean seed grown west of the Continental Divide in the contiguous United States must: (4-2-03)

a. Be accompanied by a phytosanitary certificate issued by the regulatory agency of the state of origin, listing the diseases for which the crop was inspected, that must include the regulated pests as defined in Section 012 of these rules, and stating that the crop was field and windrow or pre-harvest inspected; (6-30-19)T

b. Seed lot shall successfully pass laboratory tests conducted by the Department from samples officially drawn in the state of Idaho by the Department; (4-2-03)

c. Must bear a Department approved tag (yellow); (4-2-03)

d. Shall not be planted under sprinkler irrigation; and (4-2-03)

e. Each field planted in Idaho must be submitted for field and windrow or pre-harvest inspections. (4-2-03)

04. Imported Seed Grown East of the Continental Divide in the Contiguous United States or of Foreign Origin. Imported bean seed grown east of the Continental Divide in the Contiguous United States or of foreign origin to be planted in Idaho shall be planted only on an approved trial ground as outlined in Section 250. (4-2-03)

05. Idaho Grown Seeds Shipped West of the Continental Divide in the Contiguous United States, Except Malheur County, Oregon, or to a Foreign Country and Returned. Bean seeds shipped outside Idaho or Malheur County, Oregon, west of the Continental Divide in the contiguous United States, or to a foreign country, which were tagged prior to leaving the state and at the Director's discretion were segregated in such a way to ensure freedom from regulated pests, may be returned to Idaho for planting under the following conditions: (6-30-19)T

a. Seed tags and packaging are intact with the segregation of the seed deemed satisfactory by the Director, (6-30-19)T

b. Bean seed not tagged prior to leaving the state, returned to Idaho without seed tags and packaging intact, or not segregated to the satisfaction of the Director, may be returned to Idaho but upon return shall fall under Section 200.03 or 201.03 of these rules or may be planted on an approved trial ground as outlined in Section 250. (6-30-19)T

06. Contaminated Seeds. The seeds from any bean field found or known to be contaminated with a regulated pest, as defined in Section 012 of these rules, shall not be planted in Idaho. (4-2-03)

07. True Identity of Seed Lots. Failure to maintain the true identity of any seed lot intended for seed purposes will automatically disqualify that lot for future planting in Idaho. (4-2-03)

08. Tags. Bean seeds planted in Idaho shall be from an approved lot bearing an approved tag on each bag or container, stating the kind, variety, and lot number. The following is a list of approved planting tags in Idaho: (4-2-03)

- a. Department in-state planting tag (green tag); (4-2-03)
- b. Department approved tag (yellow tag); (4-2-03)
- c. ICIA tag, provided the lot was field and windrow inspected by ICIA in accordance to these rules; or (4-2-03)
- d. Oregon Department of Agriculture inspection tag. (4-2-03)

09. Irrigation. (4-2-03)

a. Pintos, Reds, Pinks, Great Northerns, Small Whites, Navy Beans, Blacks, Kidneys, Yellows, Cranberries, and Lima beans: (6-30-19)T

- i. First generation of seed grown in Idaho must be grown and inspected under rill irrigation. (4-2-03)
- ii. Thereafter, the seed may be grown and inspected for two (2) consecutive generations in Idaho under sprinkler irrigation. (4-2-03)

iii. Seed grown under sprinkler irrigation for two (2) consecutive generations shall then be grown and inspected for one (1) generation in Idaho under rill irrigation. (4-2-03)

b. All other beans: (3-29-10)

- i. First generation of seed grown in Idaho must be grown and inspected under rill irrigation. (4-2-03)
- ii. Thereafter, the seed may be grown and inspected for one (1) generation in Idaho under sprinkler irrigation. (4-2-03)

iii. Any time seed has been grown and inspected for one (1) generation in Idaho under sprinkler irrigation and prior to planting the seed under sprinkler irrigation or rill irrigation in Idaho, the seed must be sampled and laboratory tested by the Department in Idaho and found negative for the regulated pests. (3-29-10)

iv. Following a second consecutive planting of the seed under sprinkler irrigation in Idaho, the seed must be sampled and laboratory tested by the Department in Idaho and found negative for the regulated pests. (3-29-10)

v. After meeting the requirements of Subsections 200.09.b.i. through 200.09.b.iv., the seed must be grown and inspected for one (1) generation in Idaho under rill irrigation. (4-2-03)

201. REQUIREMENTS FOR PLANTING BEAN SEED IN IDAHO (NON-PHASEOLUS). In order to be eligible for planting seed in Idaho: (6-30-19)T

01. Idaho Origin Seed to Be Replanted. Seeds planted must be from a lot that was produced in accordance with these rules and has an in-state planting tag number (state number) assigned by the Department based on growing season and pre-harvest or windrow inspections and be tagged by the Department with a Department In-State Planting Tag (Green tag). (6-30-19)T

02. Malheur County, Oregon Grown Seed. Seed produced in Malheur County, Oregon must be from a lot inspected in the growing season and pre-harvest or windrow for the regulated pests as defined in Section 012, 013.01, and 013.02 of these rules and tagged by the Oregon Department of Agriculture. (6-30-19)T

03. Imported Seed From Other Than Malheur County, Oregon. Imported seed must: (6-30-19)T

a. Be certified by the seed certification agency of the state of origin and be accompanied by a state phytosanitary certificate issued by the regulatory agency of the state of origin, listing the diseases for which the crop was inspected, that must include the regulated pests and soil as defined in Sections 012 and 013 of these rules, as identified from official field inspection, official samples and official laboratory testing; or (6-30-19)T

b. Each seed lot shall successfully pass laboratory tests on untreated seed for regulated pests and soil conducted by the Department (in the case of nematodes and soil by a Department approved lab) from samples officially drawn in the state of Idaho by the Department; and (6-30-19)T

c. Must bear a Department Approved Tag (Yellow Tag) at the time of planting; and (6-30-19)T

d. Be submitted for a growing season inspection in compliance with Section 151 of this rule; and (6-30-19)T

e. If intended for seed production, not be planted under sprinkler irrigation for the first growing season. (6-30-19)T

04. Contaminated Seeds. The seeds from any field found or known to be contaminated with a regulated pest or soil, as defined in Section 012 and 013 of these rules, shall not be planted in Idaho. (6-30-19)T

05. True Identity of Seed Lots. Failure to maintain the true identity of any seed lot intended for seed purposes will automatically disqualify that lot for future planting in Idaho. (6-30-19)T

06. Tags. Seeds planted in Idaho shall be from an approved lot bearing an approved tag on each bag or container, stating the kind, variety, and lot number. The following is a list of approved planting tags in Idaho: (6-30-19)T

a. Department in-state planting tag (green tag); (6-30-19)T

b. Department approved tag (yellow tag); (6-30-19)T

c. Oregon Department of Agriculture inspection tag. (6-30-19)T

202. -- 249. (RESERVED)

250. TRIAL GROUNDS.

01. General Trial Ground Requirements. (4-2-03)

a. A written request for trial ground must be submitted to the Director for approval prior to May 20 of the year the bean seed will be planted and must contain: (4-2-03)

i. Name of person in charge. (4-2-03)

ii. Geographic location and size of trial ground. (4-2-03)

iii. Detailed varietal planting plan. If the original planting plan is changed, the person in charge of the trial ground must notify the Director. (4-2-03)

b. Must be jointly supervised by the Department and personnel approved by the Director. (4-2-03)

c. The land must be owned or leased by the applicant. If leased, a copy of the lease must accompany the application. (4-2-03)

d. More than one (1) trial ground may be approved provided that a separate application is submitted and each trial ground meets the requirements of Section 250. (4-2-03)

02. Trial Ground Subdivisions. (4-2-03)

a. Experimental Plots. A maximum of one (1) pound of bean seed per variety may be planted in an experimental plot without laboratory testing. (4-2-03)

b. Introduction Plots. Introduction plots are limited to a maximum of two (2) acres per variety per company or designated agent for any given year and each seed lot to be planted in an introduction plot must successfully pass laboratory tests conducted by the Department from samples officially drawn in the state of Idaho by the Department. (6-30-19)T

03. Trial Ground Restrictions and Inspection Procedures. (4-2-03)

a. Any machinery used in production of bean seed on trial grounds must be disinfected, to the satisfaction of the Director, prior to movement to other bean fields. (4-2-03)

b. Approved trial grounds shall not be planted under sprinkler irrigation. (4-2-03)

c. During each growing season there will be a minimum of four (4) active growth inspections and one (1) windrow or pre-harvest inspection. (6-30-19)T

04. Detection of Regulated Pest. If a regulated pest is found by field inspection, windrow or pre-harvest inspection or subsequent laboratory seed testing, the infested seed must be destroyed. None of the remaining bean seed produced on that farmstead may be released for general planting in Idaho. The remaining seeds must be sampled and laboratory tested by the Department. If the laboratory test is negative for the regulated pests, then the seeds must be planted on an approved trial ground for one (1) additional year and are limited to a maximum of two (2) acres. (6-30-19)T

251. -- 299. (RESERVED)

300. SPECIAL SITUATIONS.

The Director may grant specific exemptions for research purposes for the planting of beans that do not meet the requirements of Sections 200, 201, or 250. Seed not meeting the requirements of Sections 200, 201, or 250 must be planted only in counties where commercial beans or bean seed is not produced, as determined by the Director. (6-30-19)T

301. -- 349. (RESERVED)

350. DETECTION, IDENTIFICATION, AND REPORTING OF REGULATED PESTS.

01. Reporting. Any person may report to the Department the detection of any of the regulated pests. (4-2-03)

02. Observation. Detection of regulated pests will be based on the observance of symptoms in the field. (4-2-03)

03. Disagreement. In case of disagreement concerning the identity of the regulated pest or the virulence of the pathogen to Phaseolus or non-Phaseolus, the Department will submit cultures of the suspected pathogen to a plant pathologist appointed by the Dean of the College of Agriculture, University of Idaho. The results and findings obtained by the approved pathologist are final. (6-30-19)T

04. Release of Information. When the presence of a regulated pest is confirmed, information regarding the location and acres involved will be released upon request. (4-2-03)

351. -- 399. (RESERVED)

400. DISPOSITION OF DISEASED SEED AND INFECTED FIELDS.

01. Quarantine. Any field in which there is a disagreement concerning the identity of the regulated pest or the virulence of the pathogen to its host will be placed under quarantine. Entry to the quarantined area will be restricted to the grower or his agents, Department officials, University of Idaho plant pathologists, and persons authorized in writing by the Director. Persons granted entry to the quarantined area will be required to take all necessary sanitary precautions prescribed by the Director. (6-30-19)T

02. Destruction. Upon the confirmation of a regulated pest, any bean fields within the boundaries of the state shall be destroyed in part or in total, as required by the Director, to eliminate the pest at the expense of the grower and his landlord. The Director will notify the grower or his landlord of the method and extent of the destruction and safeguards against pest spread in order for the parties to comply. (4-2-03)

03. Threshing and Segregating. When the symptoms of a regulated pest are first detected during windrow inspection and laboratory confirmation is necessary, the Director may allow the beans to be threshed and segregated until laboratory results are obtained. (4-2-03)

401. -- 449. (RESERVED)

450. EXEMPTIONS FROM DESTRUCTION (PHASEOLUS).

01. Brown Spot. Fields contaminated with brown spot, (*Pseudomonas syringae* pv. *syringae*), are exempt from destruction. The Department will review this exemption as necessary. (4-2-03)

02. Beans for Processing or Fresh Consumption. Snap beans or lima beans for processing or fresh consumption are exempt from destruction if the diseased portion of the field is destroyed or harvested within five (5) days after first detection or verification as per Section 350 and Subsection 400.01 and the crop residue is promptly and completely destroyed after harvest, as required by the Director. (4-2-03)

451. EXEMPTIONS FROM DESTRUCTION (NON-PHASEOLUS)

Those non-Phaseolus crops for forage production are exempt from destruction if the diseased portion of the field is destroyed or harvested within five (5) days after first detection or verification as per Section 350 and Subsection 400.01, as required by the Director. (6-30-19)T

452. -- 549. (RESERVED)

550. FEES AND CHARGES.

The fees and charges for tags and inspections under these rules are: (4-2-03)

01. Tags. Green tags or Yellow tags for In-State Planting Purposes -- Eighteen cents (\$0.18) per hundred-weight. (3-16-04)

02. Applications. (4-2-03)

a. Application for Field Inspection -- Five dollars (\$5) each. (3-16-04)

b. Late Application for Field Inspection -- Ten dollars (\$10) each. (4-2-03)

03. Field Inspections. (4-2-03)

a. Inspection Fees. (4-2-03)

i. Active Growth Fees -- Three dollars and fifty cents (\$3.50) per acre, per inspection, fifty dollar (\$50) minimum. (6-30-19)T

ii. Windrow or Pre-harvest Fees -- Three dollars and fifty cents (\$3.50) per acre, fifty dollars (\$50) minimum. (6-30-19)T

iii. Department Approved Trial Grounds - origin east of the Continental Divide -- Ten dollars (\$10) per

acre, per inspection, fifty dollars (\$50) minimum. (6-30-19)T

iv. Department Approved Trial Grounds - origin West of the Continental Divide -- Three dollars and fifty cents (\$3.50) per acre, per inspection, fifty dollars (\$50) minimum. (6-30-19)T

v. Requests for pre-harvest or windrow inspections after office hours, on weekends or holidays will be charged at cost plus mileage. (6-30-19)T

04. Laboratory Seed Sampling. Official Sample -- twenty dollars (\$20) per sample. Sample size requirements for imported seed:

Lot size	Sample Size
<10 pounds	Negotiable
10 - 14 pounds	0.5 pounds
15 - 25 pounds	1.0 pounds
26 - 50 pounds	1.5 pounds
51 - 200 pounds	2.0 pounds
201 - 1,000 pounds	3.0 pounds
>1,000 pounds	5.0 pounds for every 10,000 pounds or portion thereof

(3-16-04)

05. Plant Pathological Laboratory Services. Fees will be charged at current laboratory rates and are available upon request. (4-2-03)

06. Confirmation Fees. The party disputing the Department's determination of the presence of a regulated pest per Subsection 350.03 will be responsible for the payment of fees charged by the University of Idaho. (3-16-04)

07. Soil Analysis. Testing for the presence of soil shall be performed by the Idaho State Seed Laboratory or other seed laboratory approved by the Department. The cost of soil analysis shall be at the normal rates as is charged by those approved laboratories. (6-30-19)T

08. Nematode Analysis. Nematodes testing shall be performed by the University of Idaho Nematology Laboratory or other laboratory approved by the Department. The cost of analysis for nematodes shall be at the normal rates for testing as is charged by those approved laboratories. (6-30-19)T

09. Special Project Fee. Special projects not covered by existing fee schedule may be billed at twenty-five dollars (\$25) per hour with a minimum twenty-five dollar (\$25) fee. Special projects, include but are not limited to, research, lot history verification, data entry, sales and purchases, transfer of lots into ISDA database, ISDA training of private company personnel or any other circumstance approved by the Director. (3-16-04)

551. -- 999. (RESERVED)

**IDAPA 02
TITLE 06
CHAPTER 12**

02.06.12 – RULES PERTAINING TO THE IDAHO FERTILIZER LAW

000. LEGAL AUTHORITY.

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

001. TITLE AND SCOPE.

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

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

002. WRITTEN INTERPRETATIONS.

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

003. ADMINISTRATIVE APPEAL.

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

004. INCORPORATION BY REFERENCE.

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

01. The Association of American Plant Food Control Officials (AAPFCO) Official Publication. The Terms, Ingredient Definitions, and Policies, as published in the “2019 Official Publication” of AAPFCO where those terms and ingredient definitions, and policy statements do not conflict with terms and ingredient definitions, and policy statements adopted under Title 22, Chapter 6, Idaho Code, and any rule promulgated thereunder. A copy may be purchased online from the AAPFCO website at: www.aapfco.org. (4-11-19)

02. The Merck Index. The “2006 Merck Index,” 14th Edition as published by Merck Research Laboratories Division of Merck & Co., Incorporated. The Merck Index is a copyrighted publication and not available in an electronic format. A copy may be purchased online from Merck & Co., Inc. (now hosted by the Royal Society of Chemistry) at: <http://www.rsc.org/merckindex>. (4-7-11)

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

005. PUBLIC RECORDS ACT COMPLIANCE.

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

006. ADDRESS, OFFICE HOURS, TELEPHONE, 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

007. DEFINITIONS.

01. Deficient. Where the amount of nutrient found by analysis is less than that guaranteed, which may

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

008. SAMPLING AND ANALYSIS.

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

009. FINDINGS.

These rules are promulgated pursuant to Title 22, Chapter 6, Idaho Code. The adoption of these rules will update and replace outdated fertilizer labeling guarantees and general label requirements, which have not been revised since 1968. In addition, investigational allowances used to determine whether or not a fertilizer product meets its labeled guarantees after laboratory analysis, are expanded and updated to better accommodate advances in product formulation and laboratory analysis techniques. (3-30-01)

010. FERTILIZER REGISTRATION.

Each separately identifiable fertilizer product shall be registered pursuant to Section 22-605, Idaho Code. (4-7-11)

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

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

Element	Percent
Calcium (Ca)	1.0000
Magnesium (Mg)	0.5000
Sulfur (S)	1.0000
Boron (B)	0.0200
Chlorine (Cl)	0.1000
Cobalt (Co)	0.0005
Copper (Cu)	0.0500
Iron (Fe)	0.1000
Manganese (Mn)	0.0500
Molybdenum (Mo)	0.0005
Nickel (Ni)	0.0010
Sodium (Na)	0.1000
Zinc (Zn)	0.0500

(4-2-08)

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

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

012. -- 019. (RESERVED)

020. WARNING OR CAUTION STATEMENTS.

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

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

a. The word "Warning" or "Caution" conspicuously displayed; (3-30-01)

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

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

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

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

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

- a. Directions: Apply this fertilizer at a maximum rate of (number of pounds) per acre for (name of crop). (3-30-01)
- b. CAUTION: Do not use on other crops. The (name of micro-nutrient) may cause injury to them. (3-30-01)
- c. CAUTION: Apply this fertilizer at a maximum rate of (number of pounds) per acre for (name of crop). Do not use on other crops; the (name of micro-nutrient) may cause serious injury to them. (3-30-01)
- d. WARNING: This fertilizer carries added (name(s) of micro-nutrient(s)) and is intended for use only on (name of crop). Its use on any other crops or under conditions other than those recommended may result in serious injury to the crops. (3-30-01)
- e. CAUTION: This fertilizer is to be used only on soil that responds to (name of micro-nutrient). Crops high in (name of micro-nutrient) are toxic to grazing animals (ruminants). (3-30-01)
- f. CAUTION: (Name of micro-nutrient) is recommended for all crops where (name of micro-nutrient) may be deficient; however excessive application to susceptible crops may cause damage. (3-30-01)

021. -- 029. (RESERVED)

030. FERTILIZER LABELS.

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

- 01. Net Weight or Net Volume, If Liquid.** Weight per gallon shall be included on the label of liquid fertilizers if net volume is stated. (4-7-11)
- 02. Brand.** (3-30-01)
- 03. Grade.** Grade (provided that the grade shall not be required when no primary nutrients are claimed). (3-30-01)
- 04. Guaranteed Analysis.** A fertilizer label must contain the results of the guaranteed analysis. Zero

(O) guarantees should not be made and shall not appear in any statement except in nutrient guarantee itemizations. The sliding scale method of expressing a guaranteed analysis on fertilizer labels (for example, “Available Phosphate fifteen to eighteen percent (15-18%)”) is prohibited. If chemical forms of nitrogen are claimed or required, said form shall be set forth on the label. Nutrients other than nitrogen, phosphate and potash shall be set forth, on an elemental basis, as required by Subsection 011.01. The results of the guaranteed analysis required by this rule shall be in the following form:

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

(4-7-11)

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

06. Name and Address. Name and address of manufacturer, guarantor or registrant. (4-2-08)

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

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

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

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

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

031. -- 034. (RESERVED)

035. PRODUCT REGISTRATION.

01. Registration. All fertilizer companies, including companies engaged in custom-formula mixing of dry or liquid fertilizers, shall comply with the product registration requirements of the Idaho Fertilizer Act of 2000, Section 22-605, Idaho Code, subject to the provisions of this chapter. (4-7-11)

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

03. Registering -- Altered Fertilizers. When a registered grade is altered by any commercial fertilizer manufacturer or ultimate dealer, such manufacturer or ultimate dealer, shall register the altered grade as provided under Section 22-605, Idaho Code. (4-7-11)

04. Brand Name. The addition of another prominent name or graphic design to the brand displayed on the label, other than descriptive words associated with the grade, shall constitute a different brand and thus, must be registered as provided under Section 22-605, Idaho Code. For example, changing "Rose Bud 5-10-5" to "Kilmer's Rose Bud 5-10-5" would constitute a change in brand. (4-7-11)

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

036. -- 039. (RESERVED)

040. SLOWLY RELEASED PLANT NUTRIENTS.

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

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

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

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

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

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

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

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

041. -- 049. (RESERVED)

050. INVESTIGATIONAL ALLOWANCES.

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

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

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

Guaranteed Percent	Nitrogen Percent	Available Phosphate Percent	Potash Percent
04 or less	0.49	0.67	0.41
05	0.51	0.67	0.43
06	0.52	0.67	0.47
07	0.54	0.68	0.53
08	0.55	0.68	0.60
09	0.57	0.68	0.65
10	0.58	0.69	0.70
12	0.61	0.69	0.79
14	0.63	0.70	0.87
16	0.67	0.70	0.94
18	0.70	0.71	1.01
20	0.73	0.72	1.08
22	0.75	0.72	1.15
24	0.78	0.73	1.21
26	0.81	0.73	1.27
28	0.83	0.74	1.33
30	0.86	0.75	1.39
32 or more (*)	0.88	0.76	1.44

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

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

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

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

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

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

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

Nutrient	Guaranteed	x price/lb	Found	x price/lb
N	12.0	\$2.76 (\$.23 x 12.0)	10.6	\$2.438 (\$.23 x 10.6)
P ₂ O ₅	16.0	\$4.32 (\$.27 x 16.0)	16.4	\$4.428 (\$.27 x 16.4)
K ₂ O	14.0	\$2.52 (\$.18 x 14.0)	14.3	\$2.574 (\$.18 x 14.3)
Total		\$9.60		\$9.44

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

However, the nitrogen value is in violation. The investigational allowance for a nitrogen guarantee of 12.0% is 0.61% (see the chart in section 02.06.12.050.03 above) plus an additional 5% of the guarantee for customer formula mixes.

Therefore the nitrogen value must be at least 10.79%: $(12.0 - [.61 + 12.0(.05)] = 10.79\%)$ in order to be within permissible values.

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

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

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

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

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

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

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

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

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

The penalty will be calculated as follows:

Nutrient	Guaranteed lbs	-	Found lbs	=	Deficient lbs	x	price/lb
N	1200 (.12 x 10,000)	-	1110 (.111 x 10,000)	=	90	x	\$20.70 (\$.23 x 90 lbs)
P ₂ O ₅	1600 (.16 x 10,000)	-	1530 (.153 x 10,000)	=	70	x	\$18.90 (\$.27 x 70 lbs)
K ₂ O	1400 (.14 x 10,000)	-	1310 (.131 x 10,000)	=	90	x	\$16.20 (\$.18 x 90 lbs)
Total							\$55.80

$$3 (\$55.80) = \$167.40$$

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

051. -- 069. (RESERVED)

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

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

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

(3-30-01)

071. -- 079. (RESERVED)

080. ORGANIC NITROGEN.

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

081. -- 999. (RESERVED).

**IDAPA 02
TITLE 06
CHAPTER 14**

02.06.14 – RULES GOVERNING BLUEGRASS

000. LEGAL AUTHORITY.

This chapter is adopted under the legal authority of Sections 22-2004 and 22-2006, Idaho Code. (3-30-01)

001. TITLE AND SCOPE.

01. Title. This chapter is titled IDAPA 02.06.14, “Rules Governing Bluegrass.” (5-3-03)

02. Scope. This chapter has the following scope: these rules are to prevent the introduction of annual or rough bluegrass into major Kentucky bluegrass, fescue (*Festuca*) species, ryegrass (*Lolium*) species and bentgrass (*Agrostis*) species in the regulated areas as defined in Sections 050 and 051, of this rule. (6-30-19)T

002. WRITTEN INTERPRETATIONS.

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

003. ADMINISTRATIVE APPEAL.

There is no provision for administrative appeal before the Department of Agriculture under this chapter. (6-30-19)T

004. INCORPORATION BY REFERENCE.

There are no documents incorporated by reference in this chapter. (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. PUBLIC RECORDS ACT COMPLIANCE.

These rules are public records. (6-30-19)T

007. -- 009. (RESERVED)

010. DEFINITIONS.

The Department adopts the definitions set forth in Section 22-2005, Idaho Code. In addition, as used in this chapter: (5-3-03)

01. Annual Bluegrass. *Poa annua* and all related species off-types or sub-species of *Poa annua*, hereinafter referred to as annual bluegrass. (3-30-01)

02. Annual Bluegrass Analysis Certificate. A test report from an official laboratory showing freedom from annual bluegrass. (3-30-01)

03. Grass Species. All bluegrass (*Poa*) species, fescue (*Festuca*) species, ryegrass (*Lolium*) species and all bentgrass (*Acrostic*) species. (3-30-01)

04. Official Seed Laboratory. A seed testing laboratory approved by the Director. (4-6-90)

05. Annual Bluegrass Quarantine Release Tag. A numbered tag printed and issued by the Idaho Department of Agriculture to be attached to each bag showing said seed has met quarantine requirements and giving the following information: “This lot of seed was tested and found to be apparently free of annual bluegrass and is eligible for planting in Idaho.” (6-30-19)T

06. Rough Bluegrass Quarantine Release Tag. A numbered tag printed and issued by the Idaho State

Department of Agriculture to be attached to each bag showing said seed has met quarantine requirements and giving the following information: "This lot of seed was tested and found to be apparently free of rough bluegrass and is eligible for planting in Idaho." (6-30-19)T

07. Regulated Pest. The seeds of *Poa annua* (Annual bluegrass) and all related off-types or sub-species of *Poa annua* hereinafter referred to as Annual bluegrass which are objectionable in grass seed stock, are considered weeds for the purposes of this chapter. (5-3-03)

08. Representative Sample. A sample of seed drawn in accordance IDAPA 26.06.01, "Rules Governing the Pure Seed Law." (6-30-19)T

09. Rough Bluegrass. *Poa trivialis* and all related off-types or sub-species of *Poa trivialis*, hereinafter referred to as rough bluegrass. (6-30-19)T

10. Rough Bluegrass Analysis Certificate. A test report from an official laboratory showing freedom from rough bluegrass. (6-30-19)T

11. Seed Stock. Those seeds of grass species which are to be planted for seed increase or with intent of seed increase. (3-30-01)

011. -- 049. (RESERVED)

050. ANNUAL BLUEGRASS REGULATED AREA.
The regulated area is the entire state of Idaho. (6-30-19)T

051. ROUGH BLUEGRASS REGULATED AREA.
The regulated areas are the Idaho counties of Benewah, Bingham, Blaine, Bonner, Camas, Clark, Clearwater, Elmore, Idaho, Jerome, Kootenai, Latah, Lewis, Madison, Nez Perce, Power, Shoshone and Twin Falls. (6-30-19)T

052. ROUGH BLUEGRASS QUARANTINE – RESTRICTIONS.
No rough bluegrass shall be planted for seed production in the regulated areas. (6-30-19)T

053. -- 149. (RESERVED)

150. REGULATED ARTICLES.
Those articles which are regulated are seed stocks as defined in Subsection 010.11. (6-30-19)T

151. -- 199. (RESERVED)

200. RULES GOVERNING PLANTING OF REGULATED ARTICLES (ANNUAL BLUEGRASS).

01. Requirements. Prior to any person planting any grass species seed stock in Idaho, that person shall comply with the following requirements: (3-30-01)

a. Submit for an official laboratory analysis a representative sample showing freedom from annual bluegrass based on a five (5) gram sample for bentgrass or redtop, a twenty-five (25) gram sample for bluegrass, or a fifty (50) gram sample for other grasses; or (4-4-13)

b. Have a representative sample submitted for testing. (3-30-01)

02. Tags. Upon receipt by the Director of an official seed laboratory analysis showing freedom from annual bluegrass, sequentially numbered tags will be issued for each bag found free of annual bluegrass from those lots according to Subsection 010.06. (5-3-03)

03. Analysis Certificate. In lieu of tags, a seed analysis certificate from an official seed laboratory showing each lot being planted to be free from annual bluegrass must be kept on file for a minimum of one (1) year after all of the inventory of that lot's harvested seed has been sold. (4-4-13)

201. QUALIFICATIONS OF REGULATED ARTICLES FOR QUARANTINE RELEASE (ROUGH BLUEGRASS).

01. Planting Seed Stock of Regulated Articles. Any person planting seed stock of regulated articles shall comply with the following requirements: (6-30-19)T

a. Submit to the Director an official laboratory analysis of a representative sample showing freedom from rough bluegrass based on a five (5) gram sample for bentgrass or redtop, a twenty-five (25) gram sample for bluegrass, or a fifty (50) gram sample for other grasses; or (6-30-19)T

b. Submit to the Director a representative sample for laboratory analysis. (6-30-19)T

02. Quarantine Release Tag. Upon receipt of an official seed laboratory analysis, the Director may upon request issue sequentially numbered tags for each bag of regulated article found free of rough bluegrass. (6-30-19)T

03. Analysis Certificate. In lieu of tags, a seed analysis certificate from an official seed laboratory showing each lot being planted to be free from rough bluegrass must be kept on file for a minimum of one (1) year after all of the inventory of that lots harvested seed has been sold. (6-30-19)T

201. -- 249. (RESERVED)

250. INFESTED SEED STOCK (ANNUAL BLUEGRASS).

Each lot of seed found to contain annual bluegrass shall be placed under a "Hold Order" pursuant to Section 22-103(22), Idaho Code, to be released only for shipment out of Idaho or for planting in nurseries of two (2) acres or less under supervision of the Director. The nursery shall be seeded in rows spaced twenty-four (24) inches apart and it shall be the duty of the person receiving such seed to rogue this increase area or chemically treat to eradicate the annual bluegrass. Seed increases shall be inspected by the department or the Idaho Crop Improvement Association at least three (3) times during the seedling year. Any areas not passing inspection shall not be harvested but shall be destroyed upon the order of the Director at the owner's expense. (6-30-19)T

251. ROUGH BLUEGRASS QUARANTINE - INSPECTIONS.

The Director shall cause inspections to be made in accordance with the provisions of Section 22-2007, Idaho Code. (6-30-19)T

01. Infested Seed Stock. Lots of turf seed stock contaminated with rough bluegrass seeds may be planted in an approved nursery of two (2) acres or less under the supervision of the Director. The nursery shall be seeded in rows spaced twenty-four (24) inches apart and it shall be the duty of the person receiving such seed stock to rogue the planting or chemically treat to eradicate the rough bluegrass. The approved nursery shall be inspected by the Department or the Idaho Crop Improvement Association at least three (3) times during the seedling year. Any approved nursery not passing inspection shall not be harvested but shall be destroyed upon the order of the Director at the owner's expense. ()

251. -- 299. (RESERVED)

300. APPLICATION FOR NURSERY INSPECTION.

A person shall make application for nursery inspection to the Idaho Department of Agriculture or the Idaho Crop Improvement Association at least fourteen (14) days prior to planting. (4-4-13)

301. -- 349. (RESERVED)

350. EXEMPTIONS (ANNUAL BLUEGRASS).

01. Forage. These rules shall not apply to seed sown for forage. (12-1-92)

02. Experiments. These rules shall not apply to: (12-1-92)

- a. Experiments or trial grounds of the United States Department of Agriculture; or (12-1-92)
- b. Experiments or trial grounds of the Idaho State Experiment Station; or (12-1-92)
- c. Trial grounds of any person, firm, or corporation provided said trial ground plantings are approved by the Director and under supervision of technically-trained personnel familiar with annual bluegrass control. (12-1-92)

351. EXEMPTIONS (ROUGH BLUEGRASS).

01. Experiments or Trial Grounds. This quarantine shall not apply to: experiments or trial grounds of the United States Department of Agriculture, experiments or trial grounds of the University of Idaho Agriculture Experiment Station, or trial grounds of any person, provided said trial ground plantings are approved by the Director and under supervision of technically-trained personnel familiar with rough bluegrass. (6-30-19)T

02. Rough Bluegrass. Rough bluegrass may be planted in the regulated areas for turf but shall not be allowed to mature to the seed producing stage. (6-30-19)T

352. -- 399. (RESERVED)

400. FEES AND CHARGES.

01. Sampling. Fees for official sampling drawn by the Director shall be twelve dollars (\$12) per sample. (4-6-90)

02. Seed Analysis. Fees for seed analysis shall be that fee provided in the fee schedule of the official Seed Testing Laboratory. (4-6-90)

03. Inspection. Inspection fees for nursery plantings shall be fifty dollars (\$50) per acre or portion thereof for each inspection. Any field of less than one acre shall be a minimum fee of fifty dollars (\$50). (4-6-90)

04. Quarantine Release Tags. Quarantine release tags will be twenty-five cents (\$0.25) per tag and charged to person(s) when issued. (4-6-90)

401. -- 999. (RESERVED)

**IDAPA 02
TITLE 06
CHAPTER 18**

02.06.18 – RULES GOVERNING MINT ROOTSTOCK AND CLONE PRODUCTION

000. LEGAL AUTHORITY.

This chapter is adopted under the legal authority of Sections 22-1907, 22-2004, 22-2006, 22-3805(11), and 22-3805(12), Idaho Code. (6-30-19)T

001. TITLE AND SCOPE.

01. Title. The title of this chapter is “Rules Governing Mint Rootstock and Clone Production.” (3-23-98)

02. Scope. These rules govern procedures for planting or sale of mint rootstock and clones. (3-23-98)

002. WRITTEN INTERPRETATIONS.

There are no written interpretations of these rules. (9-1-94)

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. (3-23-98)

004. INCORPORATION BY REFERENCE.

There are no documents incorporated by reference in this chapter. (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. PUBLIC RECORDS ACT COMPLIANCE.

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

007. -- 009. (RESERVED)

010. DEFINITIONS.

The Department adopts the definitions set forth in Section 22-2005, Idaho Code. In addition, as used in this chapter: (5-3-03)

01. Certified Defined Generation. Certified defined generation of mint rootstock means its origin is in the restricted area and its history may be directly traced, not to exceed five (5) generations, to its source as healthy clones. (7-1-93)

02. Healthy Clones (HC). Those plants, which are cloned, having been cleansed, tested and maintained in an approved greenhouse and under the supervision of the state of origin’s agricultural regulatory authority. The origin of all clones shall be listed on all clone transfer permits. (5-3-03)

03. Nuclear Planting Stock (NPS). Those rootstocks originating from healthy clones. (9-1-94)

04. Certified Defined Generation 1 (CDG-1). Those rootstocks one (1) generation removed from nuclear planting stock, and fulfilling the requirements as herein provided. (9-1-94)

05. Certified Defined Generation 2 (CDG-2). Those rootstocks one (1) generation removed from CDG-1 planting stock and fulfilling the requirements as herein provided. (9-1-94)

06. Certified Defined Generation 3 (CDG-3). Those rootstocks one (1) generation removed from CDG-2 planting stock and fulfilling the requirements as herein provided. (9-1-94)

07. Certified Defined Generation 4 (CDG-4). Those rootstocks one (1) generation removed from CDG-3 planting stock and fulfilling the requirements as herein provided. (9-1-94)

08. In-State Defined Generation. In-state defined generation of mint rootstock means the roots have been grown in the commercial production area and their history may be directly traced, not to exceed five (5) generations, to their source as healthy clones. (3-23-98)

09. In-State Defined Generation 1 (SDG-1). Those rootstocks one (1) generation removed from nuclear planting stock, and fulfilling the requirements as herein provided. (9-1-94)

10. In-State Defined Generation 2 (SDG-2). Those rootstocks one (1) generation removed from SDG-1 or CDG-1 planting stock and fulfilling the requirements as herein provided. (9-1-94)

11. In-State Defined Generation 3 (SDG-3). Those rootstocks one (1) generation removed from SDG-2 or CDG-2 planting stock and fulfilling the requirements as herein provided. (9-1-94)

12. In-State Defined Generation 4 (SDG-4). Those rootstocks one (1) generation removed from SDG-3 or CDG-3 planting stock and fulfilling the requirements as herein provided. (9-1-94)

13. Field. A parcel of land submitted to the department for inspection of the mint being grown thereon, and physically separated by a minimum of five (5) feet of bare ground, or irrigation ditch, or road, or other physically discernible barrier separating it from an adjacent parcel of land planted with mint. (3-23-98)

011. (RESERVED)

012. REGULATED PESTS.

01. Diseases. Verticillium wilt (*Verticillium dahliae* Kleb) a persistent soil-borne fungal disease of mint and any virulently pathogenic, persistent disease known to be detrimental to the production of mint rootstock in the restricted area and the commercial production area. (5-3-03)

02. Insects. (3-3-93)

a. Restricted area as defined in Subsection 100.02: Mint stem borer (*Pseudobaris nigrina*), insect pests of mint rootstocks and any persistent insect pest known to be detrimental to the production of mint rootstocks and without effective control options. (5-3-03)

b. Commercial production area as defined in Subsection 100.01: Mint stem borer (*Pseudobaris nigrina*), insect pest of mint rootstocks and any persistent insect pest known to be detrimental to the production of mint rootstocks and without effective control options. (3-23-98)

03. Noxious Weeds. (3-23-98)

a. In both the commercial production area and restricted area as defined in Subsections 100.01 and 100.02: those weeds declared noxious by authority of Title 22, Chapter 24, Idaho Code (Noxious Weed Law) and Rules. (5-3-03)

b. Growers shall be notified by the Department of existing noxious weed problems. If noxious weeds have not been effectively controlled as determined by the Department, prior to the second inspection, the field will be rejected for certification by the Department. (5-3-03)

013. -- 049. (RESERVED)

050. REGULATED PRODUCTS.

01. Mentha. Rootstocks of all species of the genus *Mentha*. (7-1-93)

02. Mentha Production Equipment. Machinery, tools, and equipment used in the production of *Mentha* species. (7-1-93)

051. -- 099. (RESERVED)

100. CONTROL AREAS.

To facilitate inspection and control, the land mass of the state of Idaho is divided into two (2) areas, currently defined as: (1-21-92)

01. Commercial Production Area. Ada, Canyon, Elmore, Gem, Gooding, Payette, Owyhee, and Washington Counties. (3-23-98)

02. Restricted Area. That land mass of the state of Idaho not included in the commercial production area. (3-23-98)

a. Certified defined generation mint shall not be grown when the specific location is within five (5) miles of uncertified mint unless there are adequate physical and cultural barriers. (3-23-98)

101. -- 149. (RESERVED)

150. REQUIREMENTS FOR MINT ROOTSTOCK TO BE PLANTED IN IDAHO.

01. Restricted Area as Defined in Subsection 100.02. (9-1-94)

a. Healthy clones shall be accompanied by a phytosanitary certificate issued by a regulatory agency of the state of origin with zero (0) tolerance for regulated disease(s), insect(s) and noxious weed(s); or (3-23-98)

b. Certified rootstock from the restricted area shall be accompanied by a certified defined generation transfer permit with the parent rootstock number and with zero (0) tolerance for stem borer, or insect(s) without effective control options (i.e. stem borer), regulated disease(s) and noxious weed(s). (3-23-98)

02. Commercial Production Area. As defined in Subsection 100.01, has no restrictions except for those wishing to participate in the inspection program. Those wishing to participate shall adhere to the following rules: (3-23-98)

a. Healthy clones shall be accompanied by a phytosanitary certificate, issued by a regulatory agent of the state of origin with zero (0) tolerance for regulated disease(s), insect(s) and noxious weeds; or (3-23-98)

b. Certified rootstock from the restricted area shall be accompanied by a certified defined generation transfer permit with the parent rootstock number, level of mint root borer infestation and zero (0) tolerance for stem borer, or, insect(s) without effective control options (i.e., stem borer) regulated disease(s) and weed(s); or (3-23-98)

c. In-state defined generation rootstock from the commercial production area shall be accompanied by a transfer permit with the parent rootstock number, level of mint root borer infestation and zero (0) tolerance for stem borer, regulated disease(s) and weed(s). (3-23-98)

151. -- 199. (RESERVED)

200. INSPECTION PROCEDURES.

01. Inspection Requests. All requests for inspection shall be made prior to May 1 of each year on forms provided by the Department. (3-23-98)

- a. Incomplete applications for inspection will not be accepted. (3-9-93)
- b. No application for field inspection will be accepted after June 1 of each year except in the case of healthy clones. (3-23-98)
- 02. First Field Inspection.** Mint fields submitted for inspection shall be inspected during active growth prior to oil harvest, but not earlier than the third week of July and not later than the first week of August, by the Idaho Department of Agriculture inspector. The inspection protocol is as follows: (4-9-09)
- a. Inspectors shall walk the entire field at ten (10) row intervals. (4-9-09)
- b. The inspector shall wear rubber boots which are sanitized between each field. A ten percent (10%) solution of sodium hypochlorite shall be used to sanitize boots. (3-9-93)
- c. The site of any sample taken for a Verticillium wilt determination shall be marked. (3-23-98)
- d. Fields found with Verticillium wilt during the first inspection will result in the entire field being disapproved and permanently ineligible for certification purposes by the Department. (4-9-09)
- 03. Second Field Inspection.** Mint fields submitted for inspection shall be sampled after oil harvest or removal of foliage in early to mid September for the presence of the mint root borer. The sampling protocol is as follows: (4-9-09)
- a. Three (3) samples per five (5) acres will be collected. (3-23-98)
- b. Sampling sites shall include areas of plant stress. (3-9-93)
- c. In each sampling site one (1) square foot samples of mint roots and two (2) to three (3) inches of soil shall be selected. (3-9-93)
- d. The mint roots and the soil in each sample shall be examined for evidence of regulated pests. (3-9-93)
- e. The site of any sample taken will be appropriately marked. (3-23-98)
- f. Fields found with Verticillium wilt during the second inspection will result in the entire field being disapproved by the Department and permanently ineligible for certification purposes, by the Department. (3-23-98)
- g. Fields with stem borer or other insects without control options (i.e., stem borer), will be disapproved by the Department for certification but, if proven clean at a later date, could again be considered for certification. (3-23-98)
- 04. Notification of Infestation.** The Idaho Department of Agriculture shall notify the grower immediately upon the completion of any test results for regulated pest(s). (3-23-98)
- 05. Issuance of Certified Defined Generation and In-State Defined Generation Transfer Permits.** (9-1-94)
- a. Restricted area as defined in Subsection 100.02: a certified defined generation transfer permit with the parent rootstock number will be issued for rootstock that meets the following requirements: (9-1-94)
- i. Roots shall be grown in restricted areas. (3-23-98)
- ii. Field submitted and inspected per Subsections 200.01 through 200.04. (3-23-98)
- iii. Zero (0) tolerance for regulated disease(s), insect(s) without effective control options (i.e., stem borer), and noxious weed(s). (3-23-98)

iv. Levels of mint root borer infestation will be listed in the transfer permit. (3-23-98)

b. Commercial production area as defined in Subsection 100.01: an in-state defined generation transfer permit with the parent rootstock number and level of mint root borer infestation issued for rootstock that meets the following requirements: (3-23-98)

i. Field submitted and inspected per Subsections 200.01 through 200.04. (3-23-98)

ii. Zero (0) tolerance for regulated disease(s), insect(s) without effective control options (i.e., stem borer), and noxious weed(s). (3-23-98)

iii. Levels of mint root borer infestation will be listed in the transfer permit. (3-23-98)

06. Exemptions -- Issuance of In-State Transfer Numbers. (9-1-94)

a. Restricted area as defined in Subsection 100.02: rootstock found to be infested with noxious weed(s), shall not be eligible for a certified defined generation transfer permit for the current year. The Department of Agriculture will issue an in-state transfer number to allow the grower to plant rootstock within their farm for the purpose of controlling the infestation. The field must be submitted for inspection per Subsections 200.01 through 200.04. If the rootstock is found to be free of the noxious weed(s), the rootstock will be eligible for a certified defined generation transfer permit with parent rootstock number. The eligible rootstock will be assigned a certified defined generation transfer permit with parent rootstock number corresponding to the next generation had it not been denied certification the previous year. Rootstock denied certification two consecutive years shall not be eligible for future certification. (3-23-98)

b. Commercial production area as defined in Subsection 100.01: rootstock found to be infested with a noxious weed(s) or insect(s) shall not be eligible for an in-state defined generation transfer permit for the current year. The Department of Agriculture will issue an in-state transfer number to allow the grower to plant the rootstock within their farm for the purpose of controlling the infestation. The field must be submitted for inspection per Subsections 200.01 through 200.04. If the rootstock is found to be free from the noxious weed(s) the rootstock will be eligible for an in-state defined generation transfer permit with parent rootstock number. The eligible rootstock will be assigned an in-state defined generation transfer permit corresponding to the next generation had it not been denied certification the previous year. Rootstock denied certification two consecutive years shall not be eligible for future certification. (3-23-98)

07. Laboratory Tests. In the event visual examination reveals evidence of a regulated pest, laboratory tests, if necessary to determine the causal organism, will be conducted by the Idaho Department of Agriculture laboratory on official samples in addition to the field inspection. In the case of a disagreement between the state Department of Agriculture and the interested party concerning the identity of the regulated pest in question, the state Department of Agriculture will submit an official sample to any lab of the University of Idaho, for a final determination. (3-23-98)

08. Transfer Permits and Resale. (3-9-93)

a. It shall be the responsibility of each grower producing certified or in-state defined generation mint rootstock originating within the state to obtain transfer permits from the Department prior to moving planting stocks for resale. (4-9-09)

b. Each time a transfer permit is issued, the Idaho Department of Agriculture will send a copy and/or notification to the office of the Idaho Mint Commission. (3-23-98)

201. MOVEMENT OF FARM EQUIPMENT.

Farm equipment, including but not limited to tillage equipment, planters and digging equipment moving from the infested area into the restricted area shall be clean and free of soil to the satisfaction of the Director or the Director's designated agent. (4-9-09)

202. -- 209. (RESERVED)

210. GREENHOUSES.

Greenhouses shall be screened and tightly constructed to preclude the entry of any regulated insect or noxious weed as defined in Subsections 012.02 and 012.03 above. Planting media shall be sterilized prior to planting, and shall not be re-used for planting of any mint destined to be entered in the mint certification process as outlined in this rule. Greenhouses shall be disinfected annually with a ten percent (10%) sodium hypochlorite solution. Greenhouses shall be licensed as such under Chapter 23, Title 22, Idaho Code, Idaho Nursery Law. (5-3-03)

211. -- 249. (RESERVED)

250. POSTING OF FIELDS.

01. Posting. All mint fields within the restricted area shall be posted to prevent entry of unauthorized personnel. (3-9-93)

02. Approval by Department. Signs and method of placement shall be of a type and manner approved by the Department with the advice of the Idaho Mint Commission. (3-9-93)

251. -- 299. (RESERVED)

300. AUTHORITY TO ENTER, INSPECT, AND CONTROL REQUIREMENTS.

01. Agent Authorization. The Idaho Director of Agriculture or the Director's designated agents are authorized to enter and inspect any and all mint plantings in the restricted area and any and all mint plantings that have been submitted for inspection. (4-9-09)

02. Submission for Inspection. Additionally, all mint planted in the restricted area shall be submitted to the Idaho Department of Agriculture for annual inspection. (3-23-98)

301. -- 349. (RESERVED)

350. PENALTY.

Restricted area as defined in Subsection 100.02: any field of mint rootstock determined to be infected with a regulated pest including those without control options may be destroyed to eliminate the regulated pest by or at the expense of the grower or landlord. Except if the county, or any portion thereof, as determined by the Department, in which a field of mint rootstock determined to be infected with the regulated disease(s) or infested with insects without control options is to be made part of the commercial production area, then destruction of the field shall not be required. The method of destruction shall include but not be limited to uprooting to expose and desiccate the rootstocks. All destruction shall have been completed by November 1st of each year. (4-9-09)

351. -- 399. (RESERVED)

400. EXEMPTIONS.

01. Government Agencies. These rules do not apply to any governmental agency growing mint in experimental plots approved by the Director of the Idaho Department of Agriculture and under the supervision of qualified plant scientists. (3-9-93)

02. Private, Non-Commercial Home Use. These rules do not apply to species of the genus *Mentha* intended for private, non-commercial home use. However, species of the genus *Mentha* intended for private, non-commercial home use entering Idaho shall be accompanied by a phytosanitary certificate issued by the state of origin's department of agriculture certifying them free of pests and diseases listed under Section 010. (3-9-93)

401. -- 449. (RESERVED)

450. FEES AND CHARGES.

Under provisions of Title 22, Chapter 7, Idaho Code, the fees and charges for inspections, certificates, and permits under these rules are as follows: (7-1-93)

01. Transfer Permits. For in-state sale or movement of certified or in-state defined generation rootstock: ten dollars (\$10) per permit. (4-9-09)

02. Field Inspections. (7-1-93)

a. Application for field inspection: five dollars (\$5) per field. (4-9-09)

b. Field inspection, collection of samples and examination of samples shall be assessed at a rate of fifteen dollars (\$15) per acre per inspection. (4-9-09)

c. Travel costs and lodging shall be charged according to established state rates and policy. (7-1-93)

d. Every effort will be made to schedule field inspections to insure the most efficient use of travel time. Charges for travel time will be charged on a prorated basis when more than one (1) farm is inspected during a trip. (7-1-93)

451. -- 999. (RESERVED)

**IDAPA 02
TITLE 06
CHAPTER 27**

02.06.27 – RULES GOVERNING BACTERIAL RING ROT

000. LEGAL AUTHORITY.

This chapter is adopted under legal authority of Sections 22-103(20), 22-505, 22-1907, 22-2004, and 22-2006, Idaho Code. (6-30-19)T

001. TITLE, SCOPE, AND INVESTIGATIONS.

01. Title. The title of this chapter is IDAPA 02.06.27, “Rules Governing Bacterial Ring Rot.” (4-6-15)

02. Scope. These rules are to prevent the introduction and/or spread of *Cms* and subsequently bacterial ring rot into and through Idaho and the United States. These rules govern mandatory and voluntary reporting, mandatory testing, trace back, inspection, investigation, sampling and laboratory analysis of samples. Further, these rules will help ensure that, along with all other Idaho agricultural commodities, commercial potatoes grown in and exported from Idaho and, in particular, that seed potatoes being grown for planting in, exported from or imported into Idaho are of the highest quality. (4-6-15)

03. Trace Back Investigations. The public disclosure of information obtained during an investigation conducted under this rule is subject to disclosure to the public only insofar as it is allowed by Title 9, Chapter 3, Idaho Code. (4-6-15)

002. WRITTEN INTERPRETATIONS.

There are no written interpretations of these rules. (4-6-15)

003. ADMINISTRATIVE APPEAL.

There is no provision for administrative appeal before the Idaho State Department of Agriculture under this chapter. Persons may be entitled to appeal agency actions authorized under these rules pursuant to Title 67, Chapter 52, Idaho Code. (4-6-15)

004. INCORPORATION BY REFERENCE.

Copies of the following document may be viewed at the Idaho State Department of Agriculture, 2270 Old Penitentiary Road, Boise, Idaho 83701. IDAPA 02.06.27 incorporates by reference: (4-6-15)

01. IDAPA 08.05.01.000 et seq., “Rules Governing Seed and Plant Certification” and materials incorporated therein by reference. A copy of which may be accessed online at: <http://adminrules.idaho.gov/rules/current/08/index.html>. (4-6-15)

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. PUBLIC RECORDS ACT COMPLIANCE.

These rules are public records and are available for inspection and copying at the Idaho State Department of Agriculture central office. (4-6-15)

007. -- 009. (RESERVED)

010. DEFINITIONS.

In addition to the definitions in Sections 22-1904 and 22-2005, Idaho Code, the following definitions apply in the interpretation and the enforcement of this rule: (4-6-15)

01. Bacterial Ring Rot. Caused by a bacterium, *Clavibacter michiganensis* subsp. *sepedonicus* (*Cms*).

- (4-6-15)
- 02. Contact Lot.** A seed lot produced on a farming operation using common production and handling equipment and/or storage facilities. (4-6-15)
- 03. Department.** The Idaho State Department of Agriculture. (4-6-15)
- 04. Director.** The Director of the Idaho State Department of Agriculture. (4-6-15)
- 05. Idaho Crop Improvement Association, Inc.** A grower association of certified seed producers and conditioners. In 1959, the Regents of the University of Idaho appointed the Idaho Crop Improvement Association, Inc. as its duly authorized agent to administer and conduct seed certification in Idaho. (4-6-15)
- 06. Person.** An individual, partnership, corporation, firm, association, agent, grower, processor, shipper or inspector. (4-6-15)
- 07. Seed Lot.** A field or a group of fields producing seed potatoes or the potatoes (tubers) harvested from a seed potato field, identified with a certification number and a North American Plant Health Certificate, enabling identity preservation and tracking. (4-6-15)
- 08. Seed Potato Certification Process.** The process, timing and requirements for the certification of seed potatoes in Idaho, as set forth in IDAPA 08.05.01, Rules Governing Seed and Plant Certification and the materials incorporated therein by reference. (4-6-15)
- 09. Seed Stock.** Seed potatoes intended for use as a planting source for certification that are “Identity Preserved” with a certification number and a North American Plant Health Certificate. (4-6-15)
- 10. Sister Lot.** Seed lots originating from the same lot of seed stock. (4-6-15)
- 011. ABBREVIATIONS.**
- 01. BRR.** Bacterial Ring Rot. (4-6-15)
- 02. Cms.** *Clavibacter michiganensis* subsp. *sepedonicus*. (4-6-15)
- 03. ISDA.** Idaho State Department of Agriculture. (4-6-15)
- 04. ICIA.** Idaho Crop Improvement Association. (4-6-15)
- 012. – 019. (RESERVED)**
- 020. REGULATED PEST - BACTERIAL RING ROT.**
Caused by a bacterium, *Clavibacter michiganensis* subsp. *sepedonicus* (*Cms*). (4-6-15)
- 021. -- 100. (RESERVED)**
- 101. REPORTING OF BRR.**
- 01. Mandatory Reporting.** It is mandatory for any person, including but not limited to a grower, processor, shipper, laboratory staff member, field inspector, and/or shipping point inspector, to immediately report the presence of BRR to the Department when: (4-6-15)
- a.** The BRR is discovered or observed in seed potato plants or tubers prior to final seed potato certification by ICIA; and (4-6-15)
- b.** The presence of BRR is confirmed via laboratory testing; and (4-6-15)

c. The positive tubers or plant parts are still in the possession of the original seed grower. (4-6-15)

02. Contents. All reports shall, to the best of the reporter's ability, contain the following information: (4-6-15)

a. The field, facility or other location at which *Cms* was found; (4-6-15)

b. The date of discovery; (4-6-15)

c. The location at which the suspect potatoes were grown; (4-6-15)

d. The variety and generation of the suspect potatoes; (4-6-15)

e. The laboratory submission report and test results; (4-6-15)

f. The certification tags and origin of the seed potatoes used to produce the suspect crop; (4-6-15)

g. North American Plant Health Certificate. (4-6-15)

03. Methods of Reporting. The report shall be made by phone, in person or in writing (which may include electronic mail sent to BRR@agri.idaho.gov). Full Department headquarters contact information is listed in Section 005 of this rule. (4-6-15)

102. HOLD HARMLESS.

Reporting parties and those parties participating in and cooperating with the Department's trace back investigation of any alleged *Cms* contaminated potatoes will be held harmless from any civil penalties the Department has authority to issue. (4-6-15)

103. TRACE BACK INVESTIGATION, SAMPLING, AND TESTING.

01. Trace Back and Investigation. The department shall, upon receiving a mandatory report of *Cms* infected potatoes, investigate the origin and destination of such potatoes. Trace back and investigation activities may include, but not be limited to: (4-6-15)

a. A review of all inspection, certification, shipping and production records held by any person for the potatoes in question; (4-6-15)

b. Inspection and sampling at the reporting operation as well as points for origin, storage and destination related to that operation; and (4-6-15)

c. Laboratory testing records of any samples. (4-6-15)

02. Mutual Cooperation. The Department and the Idaho Crop Improvement Association shall mutually cooperate with each other in trace back investigations where appropriate. (4-6-15)

03. Testing Positive for *Cms*. If certified seed potatoes in a lot test positive for *Cms* after they have left the control of the grower of that lot, ISDA's trace back investigation may include *Cms* testing any remaining seed from that lot that is still at the seed potato grower's facility. The testing level will be at a rate, depending on lot size, up to a maximum of four hundred (400) randomly selected tubers. (4-6-15)

104. RESTRICTION ON THE USE OF INFECTED POTATOES.

Those potatoes found to be infected with *Cms* may not be utilized for planting as seed. (4-6-15)

105. -- 149. (RESERVED)

150. TESTING FOR BRR.

01. Compliance With Certification Standards. Seed potato tubers for planting for commercial production or for seed certification in Idaho or being imported into Idaho as seed potatoes for commercial production or certification as seed for planting must comply with the ICIA Rules of Certification for Seed Potatoes in Idaho as they relate to *Cms*, as incorporated in Section 004 of this rule. (4-6-15)

02. Seed Potatoes to Be Exported Tested. Seed potato tubers being exported from Idaho to a foreign country as seed potatoes for planting must meet all ICIA requirements for certification and export tag placement, as well as all phytosanitary certification requirements of the importing country. All costs for sampling, transport and testing shall be borne by the exporter. (4-6-15)

151. -- 399. (RESERVED)

400. HOLD ORDERS.

The Director may authorize Hold Orders restricting the movement of infested or suspect potatoes until investigation, trace back, and sample analysis are complete. Hold Orders may require verification that said potatoes will not be utilized for any purposes not authorized in writing by the Department. When potatoes from a certified seed potato lot are sampled and test positive for BRR after the seed potatoes have left the seed potato grower's facility, the department will not issue a hold order on any seed potatoes from that lot that remain on the seed potato grower's facility unless and until potatoes from the affected lot are sampled at the seed potato grower's facility and test positive for BRR. (4-6-15)

401. -- 449. (RESERVED)

450. FEES.

Fees for samples for laboratory testing for *Cms* shall be those normally charged by the approved laboratory doing the testing. (4-6-15)

451. -- 999. (RESERVED)

**IDAPA 02
TITLE 06
CHAPTER 30**

02.06.30 – RULES UNDER THE IDAHO BEE INSPECTION LAW

000. LEGAL AUTHORITY.

This chapter is adopted under the legal authority of Sections 22-2503 and 22-2511, Idaho Code. (6-30-19)T

001. TITLE AND SCOPE.

01. Title. The title of this chapter is IDAPA 02.06.30, “Rules Under the Idaho Bee Inspection Law.” (3-29-12)

02. Scope. These rules are to prevent the introduction or further dissemination of certain bee diseases into the state of Idaho. To provide authority to enter, inspect, and control bee pests and levy penalties. (3-29-12)

002. WRITTEN INTERPRETATIONS.

There are no written interpretations of these rules. (3-29-12)

003. ADMINISTRATIVE APPEAL.

Hearing and appeal rights are set forth in Title 67, Chapter 52, Idaho Code. (3-29-12)

004. INCORPORATION BY REFERENCE.

There are no documents incorporated by reference in this chapter. (3-29-12)

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 available for inspection and copying at the Department and the State Law Library. (3-29-12)

007. -- 009. (RESERVED)

010. DEFINITIONS.

The Department adopts the definitions set forth in Section 22-2502, Idaho Code. (3-29-12)

011. -- 014. (RESERVED)

015. REGULATED BEE DISEASES.

Specifically, American foulbrood, European foulbrood, sac brood and bee paralysis, Varroa mite, tracheal mite, or any other disease or abnormal condition of egg, larval, pupal, or adult stages of honey bees, hereinafter is referred to as bee diseases. (3-29-12)

016. -- 049. (RESERVED)

050. REGULATED PRODUCTS AND RELATED EQUIPMENT.

These rules concern any stage of the common honey bee, *Apis mellifera* L., all equipment used in handling and manipulation of bees, wax, and hives, and shall also include any containers for honey and wax which may be used in any apiary or in transporting bees and their products and apiary supplies, which are located within the state of Idaho. (11-21-91)

051. -- 099. (RESERVED)

100. REGISTRATION AND COLLECTION OF FEES.

On or before July 1 of each year any person engaging in the activities of apiculture shall file with the Idaho Department of Agriculture a "Registration" form provided by the Idaho Department of Agriculture specifying the name, residence, place of apiaries, number of hives or colonies of bees owned or controlled, and such other information as may be required, accompanied by the applicable registration fee. (11-21-91)

101. -- 149. (RESERVED)

150. INSPECTION PROCEDURES.

01. Request for Inspection. All beekeepers requiring an apiary inspection shall complete the "Request for Inspection" form provided by the Department of Agriculture. Information shall include name, address, telephone number of the applicant, number of colonies to be inspected and the state(s) to which entry is desired. The applicant agrees to pay the costs of the inspection according to the fee schedule in Section 300. The request for inspection must be returned to the Department of Agriculture no later than August 15 of each year. Late requests will be accepted through August 31, after which no requests for inspection will be accepted. No inspections will be conducted after November 15 of each year. Apiaries found free of disease will be entitled to receive a health certificate valid for one (1) year from date of issuance permitting access to those states which require and recognize Idaho certification. (3-29-12)

02. Disease Inspection. The apiary inspector shall inspect for all diseases and pests cited in Section 015, specifically for American foulbrood and Varroa mite or other bee diseases as specified by the importing state regulatory agency. (3-29-12)

03. Posting of Registration. All apiaries located within the state of Idaho shall be conspicuously posted with the name, address and telephone number and state registration number of the owner. (11-21-91)

04. Necessary Precautions. The apiary inspector shall take all necessary precautions to properly disinfect all tools and any other thing which may have come into contact with diseased bees or equipment to prevent spread of the disease. (11-21-91)

151. -- 199. (RESERVED)

200. DUTY OF OWNER OF BEES.

01. Compliance With Rules. Upon receipt of disease notification, the owner shall control the disease through the use of registered and approved agents in accordance with label directions or eradicate the disease by burning, then burying under not less than eighteen (18) inches of soil, the contaminated bees and equipment. (6-30-19)T

02. Quarantined Apiary. Bees shall not be removed from an infested or quarantined apiary without permission, in writing, from the Director or his agents. (11-21-91)

201. -- 299. (RESERVED)

300. FEES AND CHARGES.

01. Inspection, Sampling and Other Field Work: (11-21-91)

a. Inspection time: fifteen dollars (\$15) per hour. (11-21-91)

b. Travel costs: mileage, meals and lodging shall be charged according to established state rates. (11-21-91)

02. Laboratory Examination. Twenty-five dollars (\$25) per worker hour. (11-21-91)

301. -- 999. (RESERVED)

**IDAPA 02
TITLE 06
CHAPTER 31**

02.06.31 – NOXIOUS WEED FREE FORAGE AND STRAW CERTIFICATION RULES

000. LEGAL AUTHORITY.

This chapter is adopted under the legal authority of Sections 22-101(3), 22-2403, 22-2411, 22-2412, and 22-2413, Idaho Code. (3-10-00)

001. TITLE AND SCOPE.

01. Title. The title of this chapter is the “Noxious Weed Free Forage and Straw Certification Rules.” (3-19-07)

02. Scope. This chapter has the following scope: these rules shall govern the inspection, certification, and marking of noxious weed free forage and straw to allow for the transportation and use of forage and straw in Idaho and states where regulations and restrictions are placed on such commodities. (4-4-13)

002. WRITTEN INTERPRETATIONS.

There are no written interpretations of these rules. (7-1-94)

003. ADMINISTRATIVE APPEALS.

There is no provision for administrative appeals before the Department of Agriculture under this chapter. (7-1-94)

004. INCORPORATION BY REFERENCE.

There are no documents incorporated by reference in this chapter. (3-19-07)

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/>. (3-19-07)

006. PUBLIC RECORDS.

The records associated with this chapter are subject to Title 9, Chapter 3, Idaho Code. (3-10-00)

007. -- 009. (RESERVED)

010. DEFINITIONS.

The definitions found in Section 22-2402, Idaho Code, apply to this chapter. In addition, as used in this chapter: (7-1-94)

01. Agent. Any instrumentality or entity authorized by the Director of the Department, and acting on behalf of the Department, to administer the provisions of this rule. Any designated agent shall act in an official capacity for the Department and under the supervision of the Director of the Department. The principal purpose of the agent is to establish, conduct, and maintain a uniform and reasonable system of inspection and certification of forage and straw crops to determine if such crops are noxious weed free. (3-19-07)

02. Approved Inspector. An individual who has been accredited by the Department or by the Department’s agent in the noxious weed free forage and straw certification program. (3-19-07)

03. Bale. A mechanically compressed package of forage or straw bound by string or wire, or other binding material. (3-19-07)

04. Bale Tag. A tag or label which is attached to the string or wire, or other binding material of a bale of certified forage or straw, and identifies the bale as being certified noxious weed free. (3-19-07)

- 05. Certificate of Inspection.** A record of inspection issued by an approved inspector that states the results of a field or commodity inspection. The certificate shall document that the inspected field or commodity is Idaho State Noxious Weed Free, North American Noxious Weed Free, or that the field or commodity contains noxious weeds. (5-8-09)
- 06. Certification.** The process whereby an approved inspector conducts field or commodity inspections to determine that the field or commodity is noxious weed free. (3-19-07)
- 07. Certification Markings.** Bale tags, purple and yellow colored twine, compressed forage bale binding material, and forage cubes/pellets container tags/labels. (4-4-13)
- 08. Certified Compressed Forage Bale Binding Material.** An ISDA approved binding material which is attached to a compressed forage bale of certified noxious weed free forage and identifies the bale as being certified to the North American Standards. (5-8-09)
- 09. Compressed Forage Bale.** A bale that has been twice compressed, once in the field by a forage baler and then recompressed a second time and bound by string, wire or other binding material. (3-19-07)
- 10. Field.** The land on which a forage or straw crop is grown and is not divided by streams, public roads, other crops, or other barriers. (3-19-07)
- 11. Field Certification Inspection.** An on-site inspection of forage or straw in the field, and areas adjacent to the field, for the presence of noxious weeds. The inspection shall be conducted prior to cutting or harvesting. (3-19-07)
- 12. Forage.** Alfalfa, grain, and grass hay, and/or combinations of alfalfa, grain, or grass hay; the term “forage” includes forage cubes, compressed forage bales, and pellets. (3-19-07)
- 13. Forage Cubes.** Forage that is harvested from a field certified to North American Standards and is mechanically compacted into wafers or cubes. (3-19-07)
- 14. Forage Cube/Pellet Tag.** A tag, label, or statement which is attached or printed on a container of certified noxious weed free forage cubes or pellets, and identifies the container as being certified to the North American Standards. (5-8-09)
- 15. Idaho State Noxious Weed Free.** Forage and straw inspected for weeds designated by the Director as noxious as defined in Section 22-2402(15), Idaho Code, and determined to be free of such weeds. (3-19-07)
- 16. Idaho State Noxious Weed Free Standards.** Forage and straw that meets the requirements Idaho State Noxious Weed Free. (3-19-07)
- 17. North American Noxious Weed Free.** Forage and straw inspected for, and determined to be free of, weeds designated as noxious by the Director as defined in Section 22-2402(15), Idaho Code, and noxious weeds listed on the North American Designated Weed List. (3-29-17)
- 18. North American Weed Free Forage Certification Program.** The North American Invasive Species Management Association standard for forage certification. (3-29-17)
- 19. North American Twine.** Special purple and yellow colored twine approved by NAISMA that is used to mark bales as certified to the North American Standards. (3-29-17)
- 20. North American Standards.** Requirements of the North American Weed Free Forage Certification Program. (3-19-07)
- 21. Noxious Weed Free.** No noxious weeds with viable seed, injurious portions, or propagating parts were found during inspection procedures. (3-19-07)

22. Pellets. Forage that is harvested from a field certified to North American Standards and is manufactured into an agglomerated feed, formed by compacting and forcing through die openings by a mechanical process. (3-19-07)

23. Straw. The dried stalks or stems remaining after grain is harvested. (3-19-07)

24. Transit Certificate. A document completed by an approved inspector to certify products proposed for movement as certified noxious weed free into states that require noxious weed free forage and straw certification. The transit certificate must be in the possession of the transporter. (3-29-17)

011. ABBREVIATIONS.

01. ISDA. The Idaho State Department of Agriculture. (3-19-07)

02. NAISMA. North American Invasive Species Management Association. (3-29-17)

03. NWFF&S. Noxious Weed Free Forage and Straw. (3-19-07)

012. -- 099. (RESERVED)

100. VOLUNTARY NOXIOUS WEED FREE FORAGE AND STRAW CERTIFICATION PROGRAM.

01. Purpose. The noxious weed free forage and straw certification program is a voluntary program, the purpose of which is to provide a means for the inspection, certification, and marking of forage and straw as noxious weed free. The program will be managed by the Department and may be implemented through an agent of the Department. The program will allow for the preparation of a transit certificate for the purpose of interstate transport or shipping of forage and straw into and through states which place regulations and restrictions on such commodities. The program is intended to reduce the exportation, importation, growth, and spread of noxious weeds. (4-4-13)

02. Certifying Authority. The Department or its agent is the certifying authority. The certifying authority shall appoint, as needed, approved inspectors throughout the state, who may issue certificates of inspection. (3-10-00)

03. Certification Training. The Department will determine minimum training and accreditation standards for approved inspectors. Training will be provided annually by the Department or its agent. Attendance at annual training will certify accreditation for the inspector for that calendar year. Approved inspectors will be issued a certificate of training for the calendar year. Annual training includes: (3-19-07)

a. Field inspection techniques and procedures; (3-19-07)

b. ISDA and North American Noxious weed list plant identification; (3-19-07)

c. ISDA and North American certification standards and guidelines; (3-19-07)

d. Knowledge of weed management, including: (3-19-07)

i. Burning; (3-19-07)

ii. Mowing, cutting or roguing; (3-19-07)

iii. Mechanical methods; and (3-19-07)

iv. Herbicides. (3-19-07)

e. Inspection forms. (3-19-07)

04. Certification Program. (3-10-00)

- a.** The Department or its agent shall: (3-10-00)

 - i.** Coordinate forage and straw inspections within the state; (3-10-00)
 - ii.** Select, train, and supervise persons who serve as approved inspectors; (3-10-00)
 - iii.** Issue certificates of inspection, transit certificates, North American Twine, forage cubes/pellets tags/labels, certified compressed forage bale binding material, and bale tags to qualifying participants; (3-19-07)
 - iv.** Maintain a record of inspections performed and certificates and tags issued; (7-1-94)
- b.** Under the direction of the Department or its agent an approved inspector may perform inspections and issue certificates of inspection, transit certificates, North American Twine, forage cubes/pellets tags/labels, and bale tags within the state at cost. (3-19-07)
- 05. Application for Certification.** (7-1-94)

 - a.** Application for certification inspection shall be made on forms available from the Department or its agent and submitted to the Department or its agent. (5-8-09)
 - b.** An applicant's signature on the application for certification is verification of the accuracy of the information submitted, and signifies the applicant's intent to comply with the post-certification and distribution requirements. (3-10-00)
- 06. Field Inspection Procedures.** (7-1-94)

 - a.** Forage or straw shall be inspected within a maximum of ten (10) days prior to cutting/harvesting in the field of origin for each field and cutting to be certified. Fields must be inspected again if circumstances prevent harvest of the forage for a period greater than ten (10) days from the first inspection. (3-29-17)
 - b.** Each field inspected shall be identified by the name of the owner and a field name or number. The certification inspection may be performed on an entire field or a portion of a field, if the portion is plainly marked and identified prior to inspection. (3-10-00)
 - c.** Field inspections must take place prior to any operation that will limit the approved inspector's ability to properly inspect and certify the field. Fields that have been cut or harvested prior to inspection are ineligible for certification. (3-19-07)
 - d.** There shall be a minimum of two (2) entry points per field. (3-19-07)
 - e.** There shall be minimum of one (1) entry point per each ten (10) acres (four (4) hectares). (3-29-17)
 - f.** Each point of entry shall be at least one hundred fifty (150) feet (forty-five (45) meters) into the field, and each additional one hundred fifty (150) feet (forty-five (45) meters) traveled shall constitute an entry point. Travel shall be uninterrupted, proceeding through the field being inspected. (3-29-17)
 - g.** The entire field border shall be physically inspected. (3-19-07)
 - h.** The field inspection will include all ditches, fence rows, roads, easements, rights-of-way, or buffer zones surrounding the field. (3-19-07)
 - i.** Forage which contains any noxious weeds as identified in Section 22-2402(15) or noxious weeds listed on the North American Noxious Weed List, may be certified if the following requirements are met: (3-19-07)

 - i.** Forage that contains any noxious weeds may still be certified if the field upon which the forage was

produced is treated to prevent noxious weed seed or other propagule viability according to agricultural practices acceptable to, and to the satisfaction of, the approved inspector. (3-29-17)

ii. Noxious weed(s) were treated not later than rosette to bud stage, or boot stage for grass species classified as noxious weeds, prior to cutting or harvesting; and (3-19-07)

iii. Treatment method can include, but is not limited to burning, mowing, cutting or roguing, mechanical methods, or chemicals. (3-19-07)

j. An inspection certificate shall document that the above requirements have been met. (3-19-07)

k. Baling equipment must be cleaned of any noxious weeds prior to harvesting certified forage. If the baling equipment is not cleaned, the first three (3) small square bales or the first large round or square bale produced shall be considered non-certified. (3-19-07)

l. Interstate shipment of baled forage and straw shall be accompanied by an original transit certificate issued by the approved inspector in the county of origin. The storage area shall also be inspected and be free of noxious weeds. (3-29-17)

m. An approved inspector may not inspect fields of which said inspector has ownership or financial interest. (3-19-07)

07. Certification Standards. After completing an inspection, the approved inspector shall complete a certificate of inspection. (3-10-00)

a. If the field or commodity inspected is certified as North American Noxious Weed Free, the approved inspector shall issue a certificate of inspection for that harvest or cutting. If the field or commodity contains North American Noxious Weeds, but does not contain Idaho State noxious weeds, it may be certified as Idaho State noxious weed free, and such certification shall be noted on the certificate of inspection. (3-19-07)

b. If the field or commodity inspected is certified as noxious weed free, as defined in these rules, the approved inspector may also issue, upon request, any of the following documents: (3-19-07)

i. Transit certificates. (7-1-94)

ii. Bale tags. The date on the bale tag must accurately reflect the year in which the bale was produced. (4-4-13)

iii. North American Twine only if the field or commodity is certified as North American Noxious Weed Free. (3-19-07)

iv. Forage cube/pellet tag/labels only if the field or commodity is certified as North American Noxious Weed Free. (3-19-07)

v. Certified compressed forage bale binding material only if the field or commodity is certified as North American Noxious Weed Free. (3-19-07)

c. Certificates of inspection, transit certificates and bale tags shall be on forms prescribed by the Department or its agent. (3-10-00)

d. North American Twine and bale tags must be purchased from the Department or its agent. (5-8-09)

08. Copy of Inspections and a List of Approved Inspectors. Upon request, the agent shall provide the Department with a copy of certificates of inspections issued and a current list of approved inspectors. (3-10-00)

09. Reciprocity. Forage or straw certified under a reciprocal agreement between the Department and another state, and certified as North American Noxious Weed Free according to the other state's approved

certification standards, may be shipped into the state of Idaho and shall be considered to meet the requirements of the Idaho program. (3-19-07)

10. Exports. Certification under these rules does not qualify a commodity for export from the United States. Applications for certification for export should be made directly to the Division of Plant Industries within the Department. (3-10-00)

11. Voluntary Posting. After certification, a producer may post signs, or other forms of notification, on the certified commodity indicating that the commodity is certified as noxious weed free. (3-10-00)

12. Post-Certification and Distribution Requirements. After a producer's commodity has been inspected and certified, the producer shall: (3-19-07)

a. Take reasonable and prudent steps to protect the certified commodity from contamination; (7-1-94)

b. Keep the certified commodity separated from all uncertified commodity; (3-10-00)

c. Attach bale tags, certified compressed forage bale binding material, or North American Twine to each bale of certified forage or straw intended for sale as noxious weed free forage or straw prior to the bales leaving the producers stack yard or storage area; and (3-19-07)

d. Attach cube/pellet tag/label to each container of certified forage cubes/pellets intended for sale as noxious weed free forage prior to the containers leaving the producer's facility. (3-19-07)

e. Provide the shipper, trucker, or transporter with the appropriate number of transit certificates. (3-29-17)

13. Cancellation for Failure to Comply. Any person who provides false information on an application for inspection or who fails to comply with the post-certification and distribution requirements may, upon order of the Director, be suspended for a period of up to two (2) years from participating in the forage and straw certification program. (7-1-94)

14. Enforcement and Cancellation. Harvested lots of forage or straw from certified fields may be checked at any time by an approved inspector. Manufactured lots of forage cubes, pellets, and compressed forage bales may be checked at any time by an approved inspector. Evidence that forage, straw, forage cubes/pellets, or compressed forage bales are not from a certified field or that any lot has not been protected from contamination shall be cause for cancellation of certification. (3-19-07)

15. Misuse of Transit Certificate and Certification Markings. Using a transit certificate or certification marking for forage from a field that has not been certified shall constitute a violation of these rules. (3-19-07)

16. Certification Fees. A minimum of thirty dollars (\$30) per inspection shall be charged for up to ten (10) acres, and three dollars (\$3) per acre thereafter, for fields up to ninety-nine (99) acres. Fields that are one-hundred (100) acres or larger in size, the fee is three dollars (\$3) per acre for the first one-hundred (100) acres and two dollars (\$2) per acre thereafter. The agent is authorized to assess a general fee of thirty dollars (\$30) per year to recover overhead costs. (3-29-17)

101. -- 149. (RESERVED)

150. NORTH AMERICAN NOXIOUS WEED LIST.

Common Name	Scientific Name
Absinth wormwood	<i>Artemisia absinthium</i>
Austrian fieldcress	<i>Rorippa austriaca</i>

Common Name	Scientific Name
Black henbane	<i>Hyoscyamus niger</i>
Buffalobur	<i>Solanum rostratum</i>
Canada thistle	<i>Cirsium arvense</i>
Common burdock	<i>Arctium minus</i>
Common crupina	<i>Crupina vulgaris</i>
Common mullein	<i>Verbascum thapsus</i>
Common tansy	<i>Tanacetum vulgare</i>
Common teasel	<i>Dipsacus fullonum</i>
Cutleaf teasel	<i>Dipsacus laciniatus</i>
Dame's rocket	<i>Hesperis matronalis</i>
Dalmatian toadflax	<i>Linaria dalmatica</i>
Diffuse knapweed	<i>Centaurea diffusa</i>
Dyers woad	<i>Isatis tinctoria</i>
Field bindweed	<i>Convolvulus arvensis</i>
Field scabious	<i>Knautia arvensis</i>
Hoary alyssum	<i>Berteroa incana</i>
Hoary cress	<i>Cardaria spp.</i>
Horsenettle	<i>Solanum carolinense</i>
Houndstongue	<i>Cynoglossum officinale</i>
Johnsongrass	<i>Sorghum halepense</i>
Jointed goatgrass	<i>Aegilops cylindrica</i>
Leafy spurge	<i>Euphorbia esula</i>
Meadow knapweed	<i>Centaurea pratensis</i>
Medusahead	<i>Taeniatherum caput-medusae</i>
Musk thistle	<i>Carduus nutans</i>
Orange hawkweed	<i>Hieracium aurantiacum</i>
Oxeye daisy	<i>Chrysanthemum leucanthemum</i>
Perennial pepperweed	<i>Lepidium latifolium</i>
Perennial sowthistle	<i>Sonchus arvensis</i>
Plumeless thistle	<i>Carduus acanthoides</i>
Poison hemlock	<i>Conium maculatum</i>
Puncturevine	<i>Tribulus terrestris</i>
Purple loosestrife	<i>Lythrum salicaria</i>
Quackgrass	<i>Agropyron repens</i>

Common Name	Scientific Name
Rush skeleton weed	<i>Chondrilla juncea</i>
Russian knapweed	<i>Centaurea repens</i>
Scentless chamomile	<i>Matricaria perforata</i> or <i>M. milaceum</i>
Scotch thistle	<i>Onopordum acanthium</i>
Sericea Lespedeza	<i>Lespedeza cuneata</i>
Spotted knapweed	<i>Centaurea maculosa</i>
Squarrose knapweed	<i>Centaurea virgata</i>
St. Johnswort	<i>Hypericum perforatum</i>
Sulfur cinquefoil	<i>Potentilla recta</i>
Tall buttercup	<i>Ranunculus acris</i>
Tansy ragwort	<i>Senecio jacobaea</i>
Vipers bugloss/blueweed	<i>Echium vulgare</i>
Wild oats	<i>Avena fatua</i>
Wild proso millet	<i>Panicum miliaceum</i>
Yellow hawkweed	<i>Hieracium pratense</i>
Yellow starthistle	<i>Centaurea solstitialis</i>
Yellow toadflax	<i>Linaria vulgaris</i>

(3-29-17)

151. -- 199. (RESERVED)

200. APPLICATION FORM REQUIREMENTS.

A person wishing to participate in the noxious weed free forage and straw program shall make an application for NWFF&S certification annually. There are no fees for application. The application shall be made with the ISDA agent in the county in which the person resides or in the county in which the person owns or leases land on which forage will be produced. The request for application shall be made in writing on application forms prescribed by ISDA. (3-19-07)

201. -- 249. (RESERVED)

250. CERTIFICATION MARKING.

Each certified bale or container shall be marked by one (1) of the following: (3-19-07)

- 01. North American Twine.** Only one (1) strand is required per bale. (3-19-07)
- 02. Bale Tag.** The following information shall be shown on baled forage and straw: (3-29-17)
 - a.** The words - “North American Weed Free Forage Certification Program” or “Idaho State Noxious Weed Free Forage & Straw Certification Program”; (3-19-07)
 - b.** Bale tag serial number; (3-19-07)
 - c.** County of origin identification; (3-19-07)

- d. ISDA emblem; (3-19-07)
- e. ISDA telephone number; and (3-19-07)
- f. A statement that the product is “Certified to the North American Standards” or “Certified to the Idaho State Noxious Weed Free Standards.” (3-19-07)

g. Year the bale tag was issued. (4-4-13)

03. Forage Cube/Pellet Tag/Label. Certification tags/labels shall be attached to or a statement with the following information shall be printed on each container of noxious weed free product: (3-19-07)

- a. The words - “North American Weed Free Forage Certification Program”; (3-19-07)
- b. ISDA forage manufacturer identification number; (3-19-07)
- c. ISDA emblem; (3-19-07)
- d. ISDA telephone number; and (3-19-07)
- e. A statement that the product is “Certified to the North American Standards.” (3-19-07)

04. Certified Compressed Forage Bale Binding Material. The following information shall be printed in purple ink on yellow binding material. Two (2) consecutive vertical purple lines approximately one-eighth of an inch (1/8”) wide, spaced approximately one and one-quarter inches (1 1/4”) apart, placed before and after written text which includes the acronym “ISDA NWFFS” and can include the manufacturer’s name. (5-8-09)

251. -- 299. (RESERVED)

300. PROCEDURES FOR CERTIFICATION OF FORAGE CUBES/PELLETS/COMPRESSED FORAGE BALES.

01. Application. A person desiring to certify forage cubes/pellets/compressed forage bales as noxious weed free must make an annual application on the ISDA's forage cube/pellet/compressed forage bale certification application form. (3-19-07)

02. Validity. The application shall be valid from the date of Department approval through December 31 of that calendar year. (3-19-07)

03. Equipment. Equipment shall be cleaned of any noxious weed propagules prior to processing forage for certification. (3-19-07)

04. Purging. After cleaning equipment, a minimum of five hundred (500) pounds of certified forage must be purged through the entire system prior to processing certified forage cubes/pellets/compressed forage bales. The five hundred (500) pounds of forage used to eliminate any noxious weed seeds shall not be certified. (3-19-07)

05. Documentation. A person who manufactures products referenced in Section 300 shall retain the following records for two (2) years: (3-19-07)

a. All NWFF&S inspection certificates relating to the certified forage delivered to their manufacturing facility each calendar year. (3-19-07)

b. Quantity of certified forage cubes/pellets/compressed forage bales processed each calendar year; and (3-19-07)

c. Quantity of non-certified forage cubes/pellets/compressed forage bales processed each calendar year. (3-19-07)

301. -- 999. (RESERVED)

**IDAPA 02
TITLE 06
CHAPTER 34**

02.06.34 – RULES CONCERNING VIRUS-FREE CERTIFICATION OF NURSERY STOCK

000. LEGAL AUTHORITY.

This chapter is adopted under the legal authority of Sections 22-103(22), 22-107, 22-702 and 22-2303(5), Idaho Code. (6-30-19)T

001. TITLE AND SCOPE.

01. Title. The title of this chapter is “Rules Concerning Virus-Free Certification of Nursery Stock.” (3-20-97)

02. Scope. These rules govern procedures for voluntary certification of virus-free nursery stock for export. (3-20-97)

002. WRITTEN INTERPRETATIONS.

There are no written interpretations of these rules. (3-20-97)

003. ADMINISTRATIVE APPEAL.

There is no provision for administrative appeals before the Department of Agriculture under this chapter. Hearing and appeal rights are pursuant to Title 67, Chapter 52, Idaho Code. (3-20-97)

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. Certification. Verification that proper field sampling procedures were followed and that the indexing results as outlined in this rule are those determined by an approved laboratory designated to test for virus diseases under this rule. (3-20-97)

02. Idaho Certified Nursery Seed. Seed produced from registered seed trees or commercial seed having been tested and found to have a transmissible virus content that does not exceed five percent (5%). (3-20-97)

03. Idaho Certified Nursery Stock. Nursery-grown, true seedlings, clonal rootstocks originating from certified virus-free trees, and nursery-grown trees or seedlings propagated by using top-stock from certified virus-free trees and rootstock originating from certified virus-free trees except as herein provided for certain rootstocks. (3-20-97)

04. Index. To determine virus infection by means of inoculation from the plant to be tested to an indicator plant or by any other acceptable method as designated by the Director. (3-20-97)

05. Indicator Plant. Any herbaceous or woody plant used to index or determine virus infection. (3-20-97)

- 06. Interstock.** Scionwood used for compatibility purposes to graft between a particular top-stock and rootstock. (3-20-97)
- 07. Nursery Stock.** For purposes of this rule includes the plants and plant parts of the genera *Prunus*, *Malus*, *Pyrus*, *Chaenomeles* and *Cydonia*. (3-20-97)
- 08. Off-Type.** Not true-to-name (phenotype) as registered under this rule. (3-20-97)
- 09. Registered Tree.** A tree or clonal planting that has been inspected and tested in accordance with the provisions of this program and assigned a registration number by the Department. (3-20-97)
- 10. Rootstock.** That part of a plant including the roots on which another variety of plant material may be grafted. (3-20-97)
- 11. Scion-Block.** A planting of certified virus-free trees which serves as a source of scionwood for the propagation of "Idaho certified nursery stock." (3-20-97)
- 12. Scion (Scionwood).** A detached shoot or other portion of a plant consisting of one or more buds used in propagation by grafting. (3-20-97)
- 13. Seed Block.** A planting of certified virus-free trees which serves as a source of seed for producing rootstock used in the propagation of "Idaho certified nursery stock." (3-20-97)
- 14. Stool Bed.** A clonal planting of self-rooted, certified virus-free trees for the specific purpose of producing vegetatively propagated rootstock used in the propagation of "Idaho certified nursery stock." (3-20-97)
- 15. Top-Stock.** Usually scionwood used for grafting onto interstock or rootstock, may include seed. (3-20-97)
- 16. True Seedling.** A tree which has been grown from seed. (3-20-97)
- 17. Virus-Infected.** The presence of a harmful virus(es) in a plant or plant part. (3-20-97)
- 18. Virus-Like.** A disorder of genetic or non-transmissible origin and also includes mycoplasma-like organisms and rickettsia-like organisms. (3-20-97)

011. – 049. (RESERVED)

050. REQUIREMENTS.

- 01. Participation.** Participation is open only to those nurseries registered under Title 22, Chapter 23, Idaho Code, and is voluntary. (3-20-97)
- 02. Application.** Application forms for the establishment of new blocks will be provided by the Idaho Department of Agriculture. The applicant nurseryman shall furnish to the Department all information pertinent to the operation of this program, including a diagram of each block and shall give his consent to the Department to take plant parts (buds, leaves, roots, etc.) from any tree for testing purposes. (3-20-97)
- 03. Registration.** Trees may be registered as rootstock, top-stock, or seedstock sources for the propagation of certified nursery stock when inspected, tested, and found to be true-to-name and discernibly free from known harmful virus and virus-like diseases by procedures outlined in this program. (3-20-97)
- 04. Responsibility.** The applicant nurseryman is responsible, subject to the approval of the Director, for the selection of the location and the proper maintenance of registered plantings grown under the provisions of this rule. The applicant nurseryman is responsible for maintaining the identity of all nursery stock entered into this program in a manner approved by the Department. Any planting entered into this program shall be kept in a healthy

growing condition and free of plant pests. (3-20-97)

05. Filing Date. Application for inspection and testing of new or existing blocks of registered scion, seed, and stool-bed trees and for inspection of nursery stock for certification shall be filed by June 1 of each year with the Idaho Department of Agriculture. (3-20-97)

06. Nematode Sampling. The ground being submitted for planting with virus-free stock as outlined in this rule shall be officially sampled, using established procedures acceptable to the Director, tested, and found free of virus transmitting nematodes prior to planting of any stock. Subsequent sampling for the presence of nematodes after planting may be carried out at the discretion of the Director, to ensure that a nematode-free status is maintained. (3-20-97)

07. Grafting. There shall be no budding, grafting, or top-working of registered trees in any scion-block, seed-block, or stool-block. (3-20-97)

08. Inspection. Maintenance of virus-free integrity of all plants entered into this program shall be by inspection and spot-testing at a minimum of every three (3) years or as stated elsewhere in this rule. (3-20-97)

09. Diseased Plants. Immediately following notice from the Director or his agent, any plant found to be infected by a virus or virus-like disease or if off-type, the plant(s) shall be removed and destroyed. Any ground found to be infested with virus transmitting nematodes must be fumigated with a fumigant registered and approved by the Idaho Department of Agriculture prior to planting, at the grower's expense. (3-20-97)

051. -- 099. (RESERVED)

100. SCION-BLOCKS.

01. Location. A scion-block shall be located not less than one hundred (100) feet away from any non-registered cultivated plant of the Rosaceae family. The ground in a scion-block and for a distance of twenty (20) feet surrounding it shall be kept either clean-cultivated or in an approved, properly controlled ground cover. Registered scion-block trees shall be planted and maintained in a manner and at sufficient distance so that branches of different varieties do not overlap. Care shall be taken in the use of pollenizing insects and pollen application to prevent the transmission and spread of virus diseases through the use of infected pollen or its application. Registered scion-block trees shall not be used for propagation purposes until trueness-to-name or variety has been established. Each tree shall bear a permanent registration number. The ground in the scion-block shall be sampled, using established procedures acceptable to the Director, and be tested and found free of virus transmitting nematodes prior to planting of any stock. (3-20-97)

02. Acceptability. The rootstock and top-stock sources of the scion-block trees shall have originated from foundation trees established under this program or from virus-tested trees originating through the USDA-ARS Inter-Regional Project No. 2 (IR-2) or other approved programs. If the tree is scion-rooted, its source shall have met the requirements stated in this subsection. Only registered trees shall be permitted in the scion-block. (3-20-97)

101. -- 149. (RESERVED)

150. SEED-BLOCKS.

01. Location. A Prunus seed-block shall be located not less than three hundred (300) feet from any non-registered flowering plant of the Prunus species. The ground in a seed-block and for a distance of twenty (20) feet surrounding it shall be kept clean-cultivated or in an approved, controlled ground cover. Care shall be taken in the use of pollenizing insects and pollen application to prevent the transmission and spread of virus diseases through the use of infected pollen or its application. Each tree shall bear a permanent registration number. (3-20-97)

02. Acceptability. The rootstock and top-stock sources of the seed-tree shall have originated from foundation trees established under this program or from virus-tested trees originating through the USDA-ARS Inter-Regional Project No. 2 (IR-2) or other approved program. If the tree is scion-rooted, its source shall have met the requirements stated in this subsection. Only registered trees shall be permitted in the seed-block. (3-20-97)

151. -- 199. (RESERVED)

200. STOOL-BEDS.

01. Location. A stool-bed shall be located not less than fifty (50) feet from any non-registered cultivated plant of the Rosaceae family. The following exception will apply: Non-registered stool-beds may be located not less than ten (10) feet from registered stool-bed plantings. The ground in a stool-bed and for a distance of ten (10) feet surrounding it shall be kept clean-cultivated. (3-20-97)

02. Acceptability. Existing stool-beds that index clean on the commonly used virus indicators will qualify as Registered Stool-Beds. New stool-beds (those planted after the effective date of this rule) shall have originated from foundation stock established under this program or from virus-tested plants originating through the USDA-ARS Inter-Regional No. 2 (IR-2) or other approved program. If the tree is scion-rooted, its source shall have met the requirements stated in this subsection. Only registered trees shall be permitted in the stool-beds. (3-20-97)

201. -- 249. (RESERVED)

250. NURSERY STOCK.

01. Rootstocks. All nursery stock being grown for certification, shall be on rootstock from registered trees except for stone fruit trees grown on peach seedlings and pome fruit trees grown on apple and pear seedlings. These seedling rootstocks, when grown from commercial seed, will be acceptable if seed transmissible virus content does not exceed five percent (5%). Clonal rootstock used in the production of Idaho Certified Nursery Stock must originate from Registered Stool-Beds. (3-20-97)

02. Location. The isolation distances between certified and non-certified nursery stock shall be: (3-20-97)

a. Not less than fifty (50) feet from non-certified plants of the Rosaceae family; (3-20-97)

b. Not less than twenty (20) feet from other non-certified nursery stock; (3-20-97)

c. Program participants shall maintain a twenty (20) foot clean-cultivated area around all certified nursery stock beds. Nursery stock shall be designated as to rootstock, top-stock, and inter-stock sources. There shall be no re-budding or re-grafting of nursery raw stock unless such stock is re-worked with scions from the original registered scion-tree. (3-20-97)

03. Identity Maintenance. The maintenance of certified stock identity shall be a tagging program identifying trees produced from: (3-20-97)

a. Registered rootstock produced from registered seed or stool-beds; (3-20-97)

b. Registered scion source trees. The tracking system shall involve a numbering diagram system of each participant's nursery stock beds in the program. (3-20-97)

04. Seed. Certified seed shall have been produced on Registered Seed Trees or commercial seed having been tested and found to have a transmissible virus content that does not exceed five percent (5%). (3-20-97)

05. Tagging. An Idaho Certified Nursery Stock Tag shall designate trees produced from registered scion-source trees and which have been propagated on rootstocks produced from registered seed-source or stool-bed trees, or which are self-rooted. All nursery stock meeting the requirements of this program when sold shall have the variety, inter-stock, and rootstock designated where applicable as follows: variety/inter-stock/rootstock. (3-20-97)

06. Acceptability. All nursery stock meeting the requirements of this program shall be known as Idaho Certified Nursery Stock. (3-20-97)

251. -- 299. (RESERVED)

300. BLOCK EXPANSION.

Expansion within a scion or stool-bed will be allowed with no restriction regarding the number of generations, provided accepted tissue culture methods are employed. Only two (2) propagative steps will be allowed between “mother plants” and foundation trees for scion, seed, and stool-bed blocks. (3-20-97)

301. -- 349. (RESERVED)

350. INSPECTION PROCEDURES.

01. Time of Inspection. Inspections will be made at the discretion of the Department and at times when specific disease symptoms are most likely to be expressed. (3-20-97)

02. Inspection of Nursery Stock for Certification. At least one (1) visual inspection shall be made of nursery rootstock in a planting being grown for certification during the first growing season. At the request of the Department, any undesirable rootstock shall be rogued before propagation. At least two (2) visual inspections shall be made of nursery stock during the growing season following bud or graft placement. (3-20-97)

03. Refusal of Certification. The Department shall refuse certification if plants have been propagated from registered trees determined to be affected by a virus or virus-like disease or if other requirements of this program have not been met. (3-20-97)

351. -- 399. (RESERVED)

400. TESTING PROCEDURES.

Testing standards prescribed in this program shall conform to USDA-ARS Inter-Regional Project No. 2 (IR-2) standards or to any other acceptable and approved procedures developed and used for determining the presence of virus diseases in nursery stock. All testing results shall be made available directly to the Department by the approved agency or laboratory. (3-20-97)

401. -- 449. (RESERVED)

450. TAGGING, IDENTITY, AND RECORDS.

01. Official Certification Tags. The Department will authorize the use of official certification tags for identification of nursery stock or seed that meet the requirements of this program. These tags will be supplied at cost to all program cooperators by the Idaho Department of Agriculture. (3-20-97)

02. Identity. Any person selling Idaho Certified Nursery Stock is responsible for the identity of the stock bearing each tag and for such nursery stock meeting the requirements of this program. (3-20-97)

03. Records. Any person selling Idaho Certified Nursery Stock shall keep record on a form prescribed by the Director which shall include but not limited to the source of the stock, quantity, and disposition. (3-20-97)

451. -- 499. (RESERVED)

500. FEES.

01. Application Fees. A fee of fifty dollars (\$50) per application submitted plus ten cents (\$0.10) per tree being certified shall be submitted with each application. (3-20-97)

02. Laboratory Fees. Laboratory fees shall be those as established by a Department approved testing facility and will be paid directly to the facility. (3-20-97)

03. Service Fees. Fees for plant or soil sampling and inspection services provided by the Idaho Department of Agriculture shall be in accordance with the following schedule. (3-20-97)

- a.** A fee of twenty-five dollars (\$25) per hour for inspection and travel time with a minimum charge of fifty dollars (\$50). (3-20-97)
 - b.** Per diem costs shall be charged according to established state rates. (3-20-97)
 - c.** The fees charged for tags shall be at cost plus an administrative fee of ten percent (10%) for each order. (3-20-97)
- 501. -- 999. (RESERVED)**

**IDAPA 02
TITLE 06
CHAPTER 40**

02.06.40 – RULES GOVERNING GINSENG EXPORT

000. LEGAL AUTHORITY.

This chapter is adopted under the legal authority of Section 22-112, Idaho Code. (3-20-04)

001. TITLE AND SCOPE.

01. Title. The title of this chapter is IDAPA 02.06.40, “Rules Governing Ginseng Export.” (3-20-04)

02. Scope. These rules will satisfy the USFWS rules and allow ginseng growers in Idaho to export their product. (6-30-19)T

002. WRITTEN INTERPRETATIONS.

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

003. ADMINISTRATIVE APPEAL.

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

004. INCORPORATION BY REFERENCE.

There are no documents incorporated by reference in this chapter. (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. PUBLIC RECORDS ACT COMPLIANCE.

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

007. -- 009. (RESERVED)

010. DEFINITIONS.

The Idaho State Department of Agriculture adopts the definitions set forth in Section 22-2005, Idaho Code. In addition, as used in this chapter: (5-3-03)

01. Cultivated Ginseng. Any part of a ginseng plant that is growing or grown in managed beds under artificial or natural shade and cultivated according to recognized ginseng horticultural practices. Cultivated ginseng includes woodsgrown ginseng. (5-3-03)

02. Dealer. Anyone who buys ginseng for resale, or grows and sells it for export. This definition does not apply to persons who buy ginseng solely for the purpose of final retail sale to consumers in the United States. (5-3-03)

03. Dealer Registration. An annual registration issued by the department authorizing a dealer to buy, collect, or otherwise acquire ginseng for resale or export. (5-3-03)

04. Dry Weight. The weight in pounds and ounces of harvested or collected ginseng root that is dried and is no longer viable. (5-3-03)

05. Export. Outside the boundaries of the United States. (5-3-03)

06. Ginseng. Any and all parts of the plant known as American ginseng (*Panax quinquefolius*)

- including but not limited to: (5-3-03)
- a. Plants; (3-30-01)
 - b. Whole roots; (3-30-01)
 - c. Essentially intact roots; (3-30-01)
 - d. Root chunks; (3-30-01)
 - e. Slices; (3-30-01)
 - f. Seeds; and (3-30-01)
 - g. Tissue. (3-30-01)
- 07. Green Ginseng.** A ginseng root from which the moisture has not been removed by drying. (5-3-03)
- 08. Green Weight.** The weight in pounds and ounces of freshly harvested or collected ginseng root that is not dried and is still viable. (5-3-03)
- 09. Grower.** A person who grows “cultivated,” “wild simulated,” and or “woodsgrown” ginseng, and sells it to a dealer. (5-3-03)
- 10. Grower Registration.** An annual registration issued by the department which enables a grower to sell cultivated ginseng that the grower has produced. (5-3-03)
- 11. Out-of-State Ginseng.** Ginseng that is grown or originated outside the state of Idaho. (5-3-03)
- 12. Person.** An individual, partnership, corporation, firm, association or agent. (5-3-03)
- 13. Wild Ginseng.** Ginseng growing naturally within its native range. (5-3-03)
- 14. Wild Simulated Ginseng.** Wild ginseng seeds or roots planted in natural habitat, within the natural range, in suitable ginseng habitat that is not further cultivated. (5-3-03)
- 15. Woodsgrown Ginseng.** Ginseng grown in managed beds under natural shade. (5-3-03)
- 011. -- 049. (RESERVED)**
- 050. REGULATED PRODUCTS.**
American ginseng (*Panax quinquefolius*). (3-30-01)
- 051. -- 099. (RESERVED)**
- 100. COLLECTION OF WILD GINSENG.**
No grower’s or dealer’s registration will be issued for the collection, sale or distribution of wild ginseng. (3-30-01)
- 101. DEALERS AND GROWERS ANNUAL REGISTRATION WITH THE DEPARTMENT.**
No person shall act as a dealer or grower without first registering with the department. Any person who acts as a dealer and a grower shall register as both. The department will assign a registration number to each person registered. Registration with the applicable fee shall be made annually no later than January 15 of each year on a form provided by the department and the registration will expire on December 31. (3-30-01)
- 102. -- 149. (RESERVED)**

150. GROWER RECORDS.

A grower selling cultivated ginseng shall do all of the following when selling to a dealer: (3-30-01)

- 01. Record of Sale.** Provide to the dealer a record of sale containing all of the following information: (3-30-01)
 - a.** Grower's name and address; (3-30-01)
 - b.** Grower's registration number; (3-30-01)
 - c.** Ginseng certificate number; (3-30-01)
 - d.** Ginseng dry weight; (3-30-01)
 - e.** Year harvested; (3-30-01)
 - f.** County of harvest; and (3-30-01)
 - g.** Date of transaction. (3-30-01)

02. Certificate of Origin. Certify that the ginseng was grown in the state of Idaho. The certificate of origin shall be in the form prescribed by the department. (3-30-01)

03. Records. Maintain records of all ginseng production and sales. Records must be maintained for a period of three (3) years. (3-30-01)

151. -- 199. (RESERVED)

200. DEALER RECORDS.

Dealers shall keep true and accurate records of transactions, including both sales and purchase records, in a format prescribed by the department. Records must be maintained for a period of three (3) years. (3-30-01)

- 01. Purchase Records.** Purchase records shall include: (3-30-01)
 - a.** Dealer's name, address and registration number; (3-30-01)
 - b.** Grower/seller name and registration number; (3-30-01)
 - c.** Ginseng weight in pounds and ounces; (3-30-01)
 - d.** Designation of green or dry ginseng; (3-30-01)
 - e.** Designation of wild or cultivated ginseng; (3-30-01)
 - f.** Harvest year of ginseng; (3-30-01)
 - g.** County in which the ginseng was harvested; and (3-30-01)
 - h.** Date of transaction. (3-30-01)
- 02. Sales Records Shall Include the Following Information:** (3-30-01)
 - a.** Dealer's name, address and registration number; (3-30-01)
 - b.** Buyer's name, address and registration number; (3-30-01)
 - c.** Ginseng weight in pounds and ounces; (3-30-01)

- d. Designation of green or dry ginseng; (3-30-01)
- e. Designation of wild or cultivated ginseng; (3-30-01)
- f. Harvest year; (3-30-01)
- g. County in which the ginseng was harvested; and (3-30-01)
- h. Date of transaction. (3-30-01)

201. -- 249. (RESERVED)

250. OUT-OF-STATE GINSENG.

01. Certificate of Origin. No dealer may purchase, receive or import out-of-state ginseng unless it is accompanied by a valid certificate of origin issued by the state or country of origin. The certificate must include: (3-30-01)

- a. The state or country of origin; (3-30-01)
- b. The source (wild or cultivated); (3-30-01)
- c. Year of harvest; and (3-30-01)
- d. Dry weight of the out-of-state ginseng. (3-30-01)

02. Recordkeeping. The dealer shall retain for a period of three (3) years a copy of each written certificate of origin received. (3-30-01)

03. Uncertified Ginseng. If a dealer receives ginseng not accompanied by a valid certificate of origin, the uncertified ginseng must be returned within thirty (30) days to the state or country of origin. Failure to do so shall render the ginseng illegal for commerce. (3-30-01)

251. SELLING OR SHIPPING OF GINSENG -- CERTIFICATES.

01. Export. Except as described in Subsection 251.06, no person shall sell or ship ginseng out-of-state or export Idaho grown ginseng unless it is accompanied by a valid, prenumbered certificate of origin on a form issued by the department. The department shall, upon request and receipt of the required fee(s), provide each registered grower or dealer with forms for certificates of origin. The department shall identify each certificate of origin form with a serial number, and the registration number of the grower or dealer. Registered growers or dealers may certify their own cultivated ginseng by filling out and signing a certificate of origin form. The certificate of origin shall contain the following information: (3-30-01)

- a. State of origin; (3-30-01)
- b. Serial number of certificate; (3-30-01)
- c. Dealer's and/or grower's state registration number; (3-30-01)
- d. Year of harvest of ginseng being certified; (3-30-01)
- e. Designation as cultivated roots or plants; (3-30-01)
- f. Designation as dried or fresh (green) roots, or live plants; (3-30-01)
- g. Weight of roots or plants (or number of plants) separately expressed both numerically and in

- writing; (3-30-01)
- h.** Date of certification; and (3-30-01)
 - i.** Signature of grower or dealer making certification. (3-30-01)
- 02. Idaho Certificate of Origin.** All of the following conditions must be met in order for an Idaho certificate of origin to be valid: (3-30-01)
- a.** The grower or dealer whose registration number was entered on it by the department shall sign the certificate; and (3-30-01)
 - b.** The ginseng shall be cultivated ginseng grown in Idaho. (3-30-01)
- 03. Forms.** Forms for certificates of origin are issued by the department in triplicate. The original is designated for the dealer's use in commerce; the first copy is for the dealer's records; and the grower or dealer shall send the second copy, within two (2) weeks of issuance, to the Division of Plant Industries, Idaho State Department of Agriculture, P.O. Box 7249, Boise, ID 83707. (3-30-01)
- 04. Out-of-State Issued Certificates.** No person shall export ginseng grown in Idaho using an out-of-state issued certificate. (3-30-01)
- 05. Wild Ginseng Certificates.** Certificates of origin shall not be issued for wild ginseng. (3-30-01)
- 06. Final Retail Sales.** Subsection 251.01 shall not apply to a person who sells or ships cultivated ginseng out-of-state to a person who is buying or receiving it solely for the purpose of final retail sale to consumers in the United States, if the person selling or shipping keeps a record for a period of three (3) years which includes: (3-30-01)
- a.** Name and address of the buyer or receiver; (3-30-01)
 - b.** Weight of the ginseng in pounds and ounces; (3-30-01)
 - c.** Date of the sale or shipment; (3-30-01)
 - d.** County of harvest of the ginseng; and (3-30-01)
 - e.** Year of harvest of the ginseng. (3-30-01)
- 252. -- 299. (RESERVED)**
- 300. MAINTAINING SEPARATE LOTS OF GINSENG.**
Dealers shall maintain separation between lots of out-of-state ginseng and that harvested in Idaho until a certificate of origin has been issued for the ginseng harvested in Idaho. (3-30-01)
- 301. DEALER OR GROWER HOLDING GINSENG AFTER DECEMBER 31 OF THE YEAR.**
Any grower or dealer holding ginseng on or after December 31 shall report all carryover stocks on a form provided by the department. The form shall list the following: (3-30-01)
- 01. Name and Address of the Grower or Dealer.** (3-30-01)
 - 02. Location of the Lot.** (3-30-01)
 - 03. Lot Identification.** (3-30-01)
 - 04. County of Harvest.** (3-30-01)

- 05. Dry or Green Weight in Pounds and Ounces.** (3-30-01)
- 06. Year of Harvest.** (3-30-01)
- 302. -- 399. (RESERVED)**
- 400. INSPECTION AND DISCLOSURE OF RECORDS.**
- 01. Inspection.** All records required to be kept under this chapter shall be made available to the department upon request for inspection and copying. (3-30-01)
- 02. Disclosure.** The department shall not disclose information obtained regarding purchases, sales, or production of an individual ginseng dealer, except for providing reports to the United States Fish and Wildlife Service. (3-30-01)
- 401. -- 449. (RESERVED)**
- 450. EXPORT PROCEDURES.**
Valid federal Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) documents are necessary to export ginseng. (3-30-01)
- 451. FEES - HOURLY, OVERTIME.**
Fees shall be charged to cover the department's cost of implementing these rules. (3-30-01)
- 01. Certification and Overtime Rate.** Ginseng certification services shall be provided at an hourly and overtime rate as provided in Section 452 of these rules. The overtime rate shall apply for service provided subsequent to a regularly scheduled eight (8) hour week day shift or on Saturdays, Sundays, and state legal holidays. No service will be performed on Thanksgiving Day, Christmas Day or New Year's Day, beginning at 5 p.m., on the previous day. (3-30-01)
- 02. Minimum Charges.** Charges shall be for a minimum of one (1) hour. Additional time shall be charged in one-half (1/2) hour increments. (3-30-01)
- 452. SCHEDULE OF FEES AND CHARGES.**
The following schedule for ginseng certification services apply: (3-30-01)
- 01. Registration.** Registration (grower or dealer or grower and dealer), twenty-five dollars (\$25). (3-30-01)
- 02. Certificate of Origin Form.** Certificate of origin form, each, ten dollars (\$10). (3-30-01)
- 03. Hourly Rate.** Hourly rate for certification services, twenty-eight dollars (\$28). (3-30-01)
- 04. Overtime Rate.** Overtime rate for certification services, thirty-three dollars (\$33). (3-30-01)
- 453. -- 999. (RESERVED)**

**IDAPA 02
TITLE 06
CHAPTER 41**

02.06.41 – RULES PERTAINING TO THE SOIL AND PLANT AMENDMENT ACT

000. LEGAL AUTHORITY.

This chapter is adopted under the legal authority of Section 22-2204, Idaho Code. (3-15-02)

001. TITLE AND SCOPE.

01. Title. The title of this chapter is IDAPA 02.06.41, “Rules Pertaining to the Soil and Plant Amendment Act.” (3-15-02)

02. Scope. These rules specify general registration and label requirements, sampling methods and analysis, and the necessity for warning or caution statements. (3-15-02)

002. WRITTEN INTERPRETATIONS.

There are no written interpretations of these rules. (3-15-02)

003. ADMINISTRATIVE APPEAL.

There is no provision for administrative appeals before the Idaho State Department of Agriculture under this chapter. Hearing and appeal rights are pursuant to Title 67, Chapter 52, Idaho Code. (3-15-02)

004. INCORPORATION BY REFERENCE.

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

01. The Association of American Plant Food Control Officials (AAPFCO) Official Publication. The terms, ingredient definitions and policies as published in the “2019 Official Publication” of AAPFCO where those terms and ingredient definitions, and policy statements do not conflict with terms and ingredient definitions, and policy statements adopted under Title 22, Chapter 22, Idaho Code, and any rule promulgated thereunder. A copy may be purchased online from the AAPFCO website at: www.aapfco.org. (4-11-19)

02. The Merck Index. The “2006 Merck Index,” 14th Edition, as published by Merck Research Laboratories Division of Merck & Co., Incorporated. The Merck Index is a copyrighted publication and not available in an electronic format. A copy may be purchased online from Merck & Co., Inc. (now hosted by the Royal Society of Chemistry) at: <http://www.rsc.org/merckindex..> (4-7-11)

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

005. PUBLIC RECORDS ACT COMPLIANCE.

These rules are public records and are available for inspection and copying at the department. (3-15-02)

006. 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/>. (3-15-02)

007. DEFINITIONS.

The Idaho State Department of Agriculture adopts the definitions set forth in Section 22-2203, Idaho Code. In addition as used in this chapter: (3-15-02)

01. Animal Manure. The excreta of animals together with whatever bedding material is present. (3-15-02)

02. Dried Animal Manure. Animal manure resulting from confined animal feeding operations manipulated only to reduce the moisture content. (3-15-02)

008. ABBREVIATIONS.

01. AAPFCO. Association of American Plant Food Control Officials. (3-15-02)

02. AOAC. Association of Official Analytical Chemists, International. (3-15-02)

03. ISDA. Idaho State Department of Agriculture. (3-15-02)

009. FINDINGS.

These rules are promulgated pursuant to Title 22, Chapter 22, Idaho Code. The adoption of these rules will update and replace outdated soil and plant amendment label requirements, sampling methods and analysis, investigational allowances, and add warning or caution statements. (3-15-02)

010. SOIL AMENDMENT AND PLANT AMENDMENT REGISTRATION.

Each separately identifiable soil amendment or plant amendment product shall be registered pursuant to Section 22-2205, Idaho Code. (3-15-02)

01. Product Registration. All soil amendment and plant amendment companies, including companies engaged in custom-formula mixing of dry or liquid soil amendments or plant amendments, shall comply with the product registration requirements of the Idaho Soil and Plant Amendment Act, Section 22-2205, Idaho Code, subject to the provisions of this chapter. (3-15-02)

02. Exemptions from Registration. (3-15-02)

a. Dried animal manure without nutrient claims and not commercially packaged or labeled. (3-15-02)

b. Horticultural growing media containing live plant material. (3-15-02)

03. Alteration from Original State. When a soil amendment or plant amendment that has been registered is mixed, added to, or in any way changed from its original content, it is a different product, and must be registered as provided under Section 22-2205, Idaho Code. (3-15-02)

04. Sale of Soil Amendment or Plant Amendment. When a commercial soil amendment or plant amendment is removed from the package or container in which it was placed by the original registrant and then offered for sale by a person other than the original registrant, it is a different product and shall be registered in accordance with Section 22-2205, Idaho Code, except that it is not subject to an additional inspection fee as provided under Section 22-2208, Idaho Code, provided that said fee was paid on the product by the original or prior registrant. (3-15-02)

011. -- 029. (RESERVED)

030. SOIL AMENDMENT AND PLANT AMENDMENT LABELS.

01. Content or Guaranteed Analysis Exemptions. (3-29-12)

a. The labeling requirements of the Idaho Soil and Plant Amendments Act, Section 22-2207(1)(c), Idaho Code, requiring that soil and plant amending ingredients and other ingredients shall be stated in terms of percentage is required except the following single ingredient soil amendments, when clearly and conspicuously identified as such on the label, are exempt from the content or guaranteed analysis: (3-29-12)

i. Mulch; (3-29-12)

ii. Peat; (3-29-12)

- iii. Perlite; (3-29-12)
- iv. Vermiculite; and (3-29-12)
- v. Vermicompost. (3-29-12)

b. In lieu of a content or guaranteed analysis as required in Section 22-2207(1)(c), Idaho Code, the label of the following soil amendments when clearly and conspicuously identified as such on the label may include an ingredient statement: (3-29-12)

- i. Compost; (3-29-12)
- ii. Garden Soil; (3-29-12)
- iii. Landscape Soil; (3-29-12)
- iv. Mulch; (3-29-12)
- v. Planting Mix; and (3-29-12)
- vi. Potting Mix. (3-29-12)

c. In lieu of a content or guaranteed analysis as required in Section 22-2207(1)(c), Idaho Code, a product that claims the presence of a microbe(s), other than naturally occurring microbes, shall guarantee the microbe(s) as follows: (3-29-12)

- i. Minimum number of each claimed viable organism at the genus and species level in colony forming units (CFU), spores or propagules per gram or milliliter (cm3); (3-29-12)
- ii. Expiration date; and (3-29-12)
- iii. Storage & handling instructions. (3-29-12)

02. Nutrient Claims and the Use of the Term “Fertilizer.” (3-15-02)

a. The term “fertilizer” and like terms shall not be used in labeling or literature to describe a soil amendment or plant amendment. (3-15-02)

b. Nutrient claims do not change the primary intended use of a soil or plant amendment product. Any nutrient claim shall be provided on the labeling and literature as an estimated range and shall be stated as a percentage. Nutrient claims and estimates must be supported by lab analysis or documentation acceptable by the ISDA. (3-15-02)

c. Labeling or literature that makes nutrient claims or estimates is required to contain the following statement: “This product is recognized for its soil amendment characteristics. It is recognized that it has nutrient value. Any nutrient claims, verbal or written, are estimates and not guaranteed.” (3-15-02)

d. At the discretion of the registrant, labeling or literature that does not make nutrient claims or estimates may contain the following statement: “This product is recognized for its soil amendment characteristics. It is recognized that it has nutrient value. Any nutrient claims, verbal or written, are estimates and not guaranteed.” (3-15-02)

e. A guaranteed analysis of plant nutrients will be permitted on potting soils, landscape and garden soils, and related amendment products containing only levels of fertilizer sufficient to initiate growth. (4-7-11)

03. Microbiological Product. If the soil amendment or plant amendment is a microbiological product

intended as an inoculum, the product label shall include an expiration date and state the number and kind of viable organisms per milliliter or, if the product is other than liquid, state the number and kind of viable organisms per gram. However, if the soil amendment or plant amendment is derived from a microbiological process or culture but is not intended as an inoculum, then the product label shall state that the product is not a viable culture. (3-15-02)

04. Ninety-Five Percent Rule. When a soil amendment or plant amendment is labeled as a specific material, such as peat moss or leaf mold, the product shall consist of not less than ninety-five percent (95%) of that specific material. (3-15-02)

05. Other Ingredients. When the name of an ingredient(s) appears on the label of a soil amendment or plant amendment and is not one of the ingredients required to be listed, the percentage of that ingredient(s) shall appear prominently in print of the same size and color. (3-15-02)

06. Warning or Caution Statements. The ISDA may require a registrant to include a warning or caution statement to ensure safety to handlers, crops, and the environment. (3-15-02)

07. Precautionary Statements. ISDA may require precautionary statements when needed for safe and effective use of the soil amendment or plant amendment. (3-29-12)

031. -- 048. (RESERVED)

049. SAMPLING AND ANALYSIS.

The methods of sampling and analysis shall be those of AAPFCO, AOAC, or other methods as approved by the ISDA. (3-15-02)

050. DEFICIENCIES AND PENALTIES.

01. Deficiency. Soil amendments or plant amendments are deemed deficient according to Section 22-2212, Idaho Code, and are subject to penalty. (3-15-02)

02. Penalties. Penalties will be assessed on deficient soil amendments or plant amendments according to Sections 22-2212 through 22-2213, Idaho Code. (3-15-02)

051. -- 999. (RESERVED)