

Dear Senators CORDER, Winder & Malepeai, and
Representatives TRAIL, Andrus & Pence:

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

- IDAPA 02.01.04 – Rules Governing the Idaho Preferred® Promotion Program –
Docket No. 02-0104-0901
- IDAPA 02.01.04 – Rules Governing the Idaho Preferred® Promotion Program –
Docket No. 02-0104-0902
- IDAPA 02.01.05 – Rules Governing Certificates of Free Sale –
Docket No. 02-0105-0901
- IDAPA 02.04.13 – Rules of the Department of Agriculture Governing Retail Raw
Milk – Docket No. 02-0413-0901
- IDAPA 02.04.13 – Rules of the Department of Agriculture Governing Retail Raw
Milk – Docket No. 02-0413-0902
- IDAPA 02.04.19 – Rules Governing Domestic Cervidae – Docket No. 02-0419-0901
- IDAPA 02.04.31 – Rules Governing the Stockpiling of Agricultural Waste
– Docket No. 02-0431-0901
- IDAPA 02.06.33 – Organic Food Product Rules – Docket No. 02-0633-0901.

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
10-23-09. 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 11-23-09.

_____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 334-2475, or send a written request to the
address or FAX number indicated on the memorandum enclosed.

MEMORANDUM

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

FROM: Principal Legislative Research Analyst - Katharine Gerrity

DATE: October 5, 2009

SUBJECT: Idaho State Department of Agriculture

IDAPA 02.01.04 – Rules Governing the Idaho Preferred® Promotion Program – Docket No. 02-0104-0901

IDAPA 02.01.04 – Rules Governing the Idaho Preferred® Promotion Program – Docket No. 02-0104-0902

IDAPA 02.01.05 – Rules Governing Certificates of Free Sale – Docket No. 02-0105-0901

IDAPA 02.04.13 – Rules of the Department of Agriculture Governing Retail Raw Milk – Docket No. 02-0413-0901

IDAPA 02.04.13 – Rules of the Department of Agriculture Governing Retail Raw Milk – Docket No. 02-0413-0902

IDAPA 02.04.19 – Rules Governing Domestic Cervidae – Docket No. 02-0419-0901

IDAPA 02.04.31 – Rules Governing the Stockpiling of Agricultural Waste – Docket No. 02-0431-0901

IDAPA 02.06.33 – Organic Food Product Rules – Docket No. 02-0633-0901

1. IDAPA 02.01.04 – Rules Governing the Idaho Preferred® Promotion Program

The Idaho State Department of Agriculture submits notice of proposed rule at IDAPA 02.01.04 – Rules Governing the Idaho Preferred® Promotion Program. The Department states that the changes will simplify fee payment for new participants who join midway through the year. Promotion opportunities, according to the Department, will be updated to reflect current program options and the annual renewal process will be clarified.

The action appears to be authorized pursuant to Section 22-112, Idaho Code.

2. IDAPA 02.01.04 – Rules Governing the Idaho Preferred® Promotion Program

The Idaho State Department of Agriculture submits notice of proposed rule at IDAPA 02.01.04 – Rules Governing the Idaho Preferred® Promotion Program. The Department states that the proposed changes will allow the Department to charge participants for promotional materials such as stickers, banners, signs, aprons, shopping bags, etc. The Department also points out that the new language is similar to a provision in the existing rule which authorizes the Department to charge participants for activities. The Department anticipates that charges for materials should increase the dedicated account by approximately \$3,000 annually.

The action appears to be authorized pursuant to Section 22-112, Idaho Code.

3. IDAPA 02.01.05 – Rules Governing Certificates of Free Sale

The Idaho State Department of Agriculture submits notice of proposed rule IDAPA 02.01.05 – Rules Governing Certificates of Free Sale. This is a new chapter. The Department states that certificates of free sale are most commonly used by processed food companies exporting products internationally, certifying that the products are manufactured and distributed generally throughout the state of Idaho and the United States and are in accordance with health laws and sanitary regulations of the state. The Department notes that Idaho is one of only a few states in the country that does not charge a fee for the service. This rule will provide for fees as well as application procedures and requirements.

The Department also notes that the rule would authorize a fee not to exceed \$50 for each certificate and that it anticipates the authorized fees would generate \$20,000 to \$30,000 to the dedicated fund.

The action appears to be authorized pursuant to Section 22-112, Idaho Code.

4. IDAPA 02.04.13 – Rules of the Department of Agriculture Governing Retail Raw Milk

The Idaho State Department of Agriculture submits notice of proposed rule IDAPA 02.04.13 – Rules of the Department of Agriculture Governing Retail Raw Milk. The current rule is being repealed and a chapter rewrite is proposed (see below). The Department notes that the

new rule will modify certain standards and requirements and will also be much more concise in that it will eliminate about twenty-five pages from the existing rule. The Department, for the sake of clarity, decided to repeal the old rule and promulgate a new one. Negotiated rulemaking was conducted.

The action appears to be authorized pursuant to Sections 37-308, 37-314, 37-401, 37-708 and 37-803, Idaho Code.

5. IDAPA 02.04.13 – Rules of the Department of Agriculture Governing Retail Raw Milk

The Idaho State Department of Agriculture submits notice of proposed rule IDAPA 02.04.13 – Rules of the Department of Agriculture Governing Retail Raw Milk. According to the Department, this rule replaces the existing rule which is proposed to be repealed. The Department states that the rule modifies the raw milk quality standards and sanitary requirements for human consumption and provides clarity for raw milk produced under a “cow share” program. The Department notes that the rule provides a small herd exemption for facility construction requirements and eliminates approximately twenty-five pages of outdated rules. The Department also states that the rule incorporates by reference the sanitary milk production and milk processing provisions of the 2009 Pasteurized Milk Ordinance, and also establishes sanitary criteria, milk quality, and permitting protocols for “cow share” programs. Negotiated rulemaking was conducted.

The action appears to be authorized pursuant to Sections 37-308, 37-314, 37-401, 37-708 and 37-803, Idaho Code.

6. IDAPA 02.04.19 – Rules Governing Domestic Cervidae

The Idaho State Department of Agriculture submits notice of proposed rule IDAPA 02.04.19 – Rules Governing Domestic Cervidae. According to the Department, the purpose of the proposed rulemaking is to introduce herd management plans to enable the agency to conduct facility inspections and herd inventories more efficiently. The Department also states that it has modified some of the language in the existing rule to improve interpretation.

Negotiated rulemaking was conducted. We contacted the Department to inquire about the tenor of the negotiations. Apparently the Department plans on one additional meeting. According to Department personnel, there were some elk breeders that voiced some opposition to the addition of herd management plan requirements. It appears, however, that the statutory authorization for the Department’s rulemaking, as set forth in Section 25-3704, Idaho Code, is sufficient to cover this new provision.

The statute provides as follows: “The administrator of the division of animal industries is hereby authorized and empowered to make, promulgate, and enforce general and reasonable rules not inconsistent with law, for the registration of domestic cervidae farm or ranch premises, *and for the prevention of the introduction or dissemination of diseases among domestic cervidae of this state*, and to otherwise effectuate enforcement of the provisions of chapters 2, 3, 4, 6 and

37, title 25, Idaho Code, applicable to domestic cervidae.” (Emphasis added.) The proposed rule requires herd management plans that describe the operation and sets forth protocols to address ingress of wildlife and/or egress of domestic cervidae, unaccounted death loss, management options to deal with severe weather events, as well as submission of samples for chronic wasting disease in accordance with the rules, all of which appear to be relevant to preventing the introduction or dissemination of disease.

The action appears to be authorized pursuant to Sections 25-3704 and 25-3706, Idaho Code.

7. IDAPA 02.04.31 – Rules Governing the Stockpiling of Agricultural Waste

The Idaho State Department of Agriculture submits notice of proposed rule IDAPA 02.04.31 – Rules Governing the Stockpiling of Waste. This is a new rule. According to the Department, the purpose of the proposed rulemaking is to establish specific setback distances for agricultural waste storage to minimize adverse quality of life issues. The Department states that the rules are intended to apply to stockpiled agricultural waste from livestock on property other than agricultural waste storage governed by the Rules Governing Dairy Waste or the Rules Governing Beef Cattle Animal Feeding Operations. Negotiated rulemaking was conducted.

Section 060 of the rule also provides for penalties. Section 22-110, Idaho Code, authorizes similar penalties. We, however, note that the statute requires, prior to assessment of a civil penalty, that the person charged be provided with notice and opportunity for hearing. The rule does not mention the requirement for notice or hearing. Given the fact that statutory provisions supersede rule provisions, notice and hearing would be required.

The action appears to be authorized pursuant to Section 22-110, Idaho Code.

8. IDAPA 02.06.33 – Organic Food Product Rules

The Idaho State Department of Agriculture submits notice of proposed rule IDAPA 02.06.33 – Organic Food Product Rules. According to the Department, it proposes changing the application and registration deadline from March 31st to July 1st and to discontinue the late fees of \$250 for certification and \$100 for registration. The Department notes that the existing deadlines do not provide organic producers and handlers with sufficient time to make cropping decisions. The Department states that informal negotiations were conducted with the industry in drafting the proposed rule and the Organic Food Advisory Council met in October of 2008 and recommended the changes.

The action appears to be authorized pursuant to Section 22-1103, Idaho Code.

cc: Idaho State Department of Agriculture
Brian Oakey, Laura Johnson, Marv Patten, Brandon Lamb, Dr. Bill Barton, Dr. Debra Lawrence, and John Bilderback

IDAPA 02 - DEPARTMENT OF AGRICULTURE

02.01.04 - RULES GOVERNING THE IDAHO PREFERRED® PROMOTION PROGRAM

DOCKET NO. 02-0104-0901

NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 22-112, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 21, 2009.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

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

The proposed rule changes will simplify fee payment for new participants who join midway through the year. Promotion opportunities will be updated to reflect current program options and annual renewal process will be clarified.

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

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

NEGOTIATED RULEMAKING: Informal negotiated rulemaking was conducted. Input was solicited from all Idaho Preferred® participants.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Laura Johnson, Section Manager at (208) 332-8533 or Leah Clark, Trade Specialist at (208) 332-8684.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 28, 2009.

DATED this 27th day of August, 2009.

Brian J. Oakey, Deputy Director
Idaho State Department of Agriculture
2270 Old Penitentiary Rd.
P.O. Box 790
Boise, Idaho 83701
Phone: (208) 332-8503
Fax: (208) 334-2170

THE FOLLOWING IS THE PROPOSED TEXT FOR DOCKET NO. 02-0104-0901

101. PARTICIPATION DURATION AND RENEWAL.

01. Duration. Participation is on an annual basis, coinciding with the fiscal year beginning July 1 and ending June 30, unless otherwise provided for in this chapter. (3-16-04)

02. Renewing Participation. Renewals shall be submitted on forms established by the Director and will be due ~~June 30~~ August 1. (~~3-16-04~~)(____)

03. Reporting on Use of Logo. Participants renewing with the Department will report their use of the Idaho Preferred® logo from the concluding program year. The report will include, but may not be limited to, ~~data~~ information regarding ~~the number of times~~ how the Idaho Preferred® logo was used. (~~3-30-07~~)(____)

102. -- 109. (RESERVED).

110. PARTICIPATION FEES.

01. Annual Fee. The Director shall annually establish participation fees for each participation category by April first for the following program year. Participation fees will be listed in the participation application and will not exceed one thousand dollars (\$1,000). Fees for the first program year will be set by July 1, 2003. (3-16-04)

02. Participation Categories: (3-16-04)

a. Producer. (3-16-04)

b. Packer/Shipper/Processor. (3-16-04)

c. Supporting Organization. (3-16-04)

d. Retail/Foodservice. (3-16-04)

e. Broker/Distributor. (3-16-04)

03. Pro-Rated Fees. New participation agreements issued during the program year will be assessed ~~at~~ fee pro rated on a monthly basis for the duration of the program year one hundred percent (100%) of the annual fee if applying between July 1 and December 31 and fifty percent (50%) of the fee if applying between January 1 and June 30. (~~3-16-04~~)(____)

04. Participation in Multiple Categories. Persons qualifying in multiple participation categories shall be assessed the greater of participation fees. (3-16-04)

111. PARTICIPATION PRIVILEGES.

Participants will benefit from privileges including: (3-16-04)

01. Use of the Idaho Preferred® Logo. Use of the Idaho Preferred® Logo on product labels, advertising, signage, or other promotional materials as allowed by the department. (3-30-07)

02. Listing. Listing In Idaho Preferred® Product Directories. (3-30-07)

03. Promotion. Promotion through advertising, retail and foodservice promotions, consumer and education events, and the Idaho Preferred® website. (~~3-30-07~~)(____)

04. Visibility. Visibility from the department's promotion activities. (3-16-04)

05. Other Privileges. Other privileges as established by the Director. (3-16-04)

IDAPA 02 - DEPARTMENT OF AGRICULTURE

02.01.04 - RULES GOVERNING THE IDAHO PREFERRED® PROMOTION PROGRAM

DOCKET NO. 02-0104-0902

NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 22-112, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 21, 2009.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

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

The proposed rule changes will allow ISDA to charge Idaho Preferred® participants for promotional materials such as stickers, banners, signs, aprons, shopping bags, etc. The proposed fee language is similar to Section 301.02 allowing fees to be assessed for Idaho Preferred® activities.

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

Current rules allow for collection of fees for promotional activities, but not materials. This rule will allow ISDA to charge Idaho Preferred® participants for promotional materials. Fees collected will offset costs to produce promotional materials increasing the dedicated account by approximately \$3000 annually.

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

NEGOTIATED RULEMAKING: Informal negotiated rulemaking was conducted. Input was solicited from all Idaho Preferred® participants.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Laura Johnson, Section Manager at (208) 332-8533 or Leah Clark, Trade Specialist at (208) 332-8684.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 28, 2009.

DATED this 27th day of August, 2009.

Brian J. Oakey, Deputy Director
Idaho State Department of Agriculture
2270 Old Penitentiary Rd.
P.O. Box 790
Boise, Idaho 83701
Phone: (208) 332-8503
Fax: (208) 334-2170

THE FOLLOWING IS THE PROPOSED TEXT FOR DOCKET NO. 02-0104-0902

303. DISTRIBUTION OF PROMOTIONAL MATERIAL.

01. Authorized Use. The Idaho Preferred® program shall have the authority to provide retail and food service outlets, farmers' markets, schools, media, fairs, and other such businesses, organizations, and venues the opportunity to promote Idaho food and agricultural products using the program logo and promotional materials. Open distribution of any and all point-of-sale materials, signage, advertising, identification placards, and other such promotional material, in accordance with this chapter and other applicable laws and precedent, is acceptable use and not considered an infringement on the ownership rights of any mark or seal of a ~~an~~ supporting organization as defined in this chapter. ~~(3-30-07)~~()

02. Fees. The Department may assess a fee for promotional materials such as, but not limited to, banners, stickers, signs, aprons, shopping bags, etc. ()

IDAPA 02 - DEPARTMENT OF AGRICULTURE
02.01.05 - RULES GOVERNING CERTIFICATES OF FREE SALE
DOCKET NO. 02-0105-0901 (NEW CHAPTER - FEE RULE)
NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 22-112, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 21, 2009.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

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

Certificates of free sale are most commonly used by processed food companies exporting products internationally. The certificate states that the products are manufactured and distributed generally throughout the state of Idaho and the United States and are in accordance with health laws and sanitary regulations of said state. Idaho is one of only a few states in the country that does not charge a fee for the service. This rule provides for fees as well as application procedures and requirements.

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

This rule will provide for the Department to begin charging a fee for certificates of free sale not to exceed \$50 each. Idaho is one of the very few states that does not charge for this service. The new fee rule is expected to generate \$20,000 - \$30,000 to the dedicated fund.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking: There will be no impact to the general fund.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the September 2, 2009 Idaho Administrative Bulletin, Volume 09-9, page 16.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Laura Johnson at (208) 332-8533.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 28, 2009.

DATED this 6th day of August, 2009.

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

THE FOLLOWING IS THE PROPOSED TEXT FOR DOCKET NO. 02-0105-0901

IDAPA 02
TITLE 01
CHAPTER 05

02.01.05 - RULES GOVERNING CERTIFICATES OF FREE SALE

000. LEGAL AUTHORITY.

This chapter is adopted under the legal authority of Section 22-112, Idaho Code. ()

001. TITLE AND SCOPE.

01. Title. The title of this chapter is IDAPA 02.01.05, "Rules Governing Certificates of Free Sale." ()

02. Scope. These rules govern the issuing of certificates of free sale and establish applicant procedures for obtaining Certificates of Free Sale. The official citation of this chapter is IDAPA 02.01.05, et seq. ()

002. WRITTEN INTERPRETATIONS.

There are no written interpretations of these rules. ()

003. ADMINISTRATIVE APPEALS.

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

004. INCORPORATION BY REFERENCE.

There are no documents incorporated by reference in this chapter. ()

005. OFFICE -- OFFICE HOURS -- MAILING ADDRESS -- TELEPHONE AND FAX NUMBERS.

01. Office. The central office of the Idaho State Department of Agriculture is located at 2270 Old Penitentiary Road, Boise, Idaho 83712. ()

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

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

04. Telephone Number. The telephone number for the Market Development Division at the central office is (208) 332-8530. ()

05. Fax Number. The fax number for the Market Development Division at the central office is (208) 334-2879. ()

006. IDAHO PUBLIC RECORDS ACT COMPLIANCE.

The rules contained herein have been promulgated according to the provisions of Title 67, Chapter 52, Idaho Code, and are public records. ()

007. -- 009. (RESERVED).

010. DEFINITIONS.

01. Applicant. Any person applying for certification under these rules. ()

02. Certificate of Free Sale. A certificate issued by the Department for products grown or processed in Idaho to certify that the products are distributed generally throughout the state of Idaho and the United States and are in accordance with Idaho health laws and sanitary regulations. ()

03. Department. The Idaho State Department of Agriculture. ()

04. Director. The director of the Idaho State Department of Agriculture or the director's designee. ()

011. -- 099. (RESERVED).

100. APPLICATION FOR CERTIFICATION - PROCEDURES.

01. Application. Application must be made in writing (which includes electronic mail) and must include, but will not be limited to, the following information: ()

a. Company name; ()

b. Physical address of packing or processing facility; and ()

c. List of products to be certified. ()

02. Application Forms. No application form(s) are necessary. ()

03. Multiple Certificates. Multiple certificates may be requested at one time. ()

101. -- 109. (RESERVED).

110. APPLICANT REQUIREMENTS.

01. Applicant Health Inspection. The Department may request a copy of an applicants' most recent state, federal or third-party health inspection, if applicable. Such inspection records will be kept on file for one (1) year. ()

02. Applicant Licenses or Registrations. If the applicant is regulated by the Department, the applicant must meet all state laws and Department regulations. ()

111. -- 119. (RESERVED).

120. SPECIAL REQUESTS.

01. Customized Certificates. The applicant may request customized text for the certificate of free sale in order to meet the import requirements of a specific country. The Department will make every effort to comply with the request. ()

02. Additional Charges. There will be no additional charges for special requests. ()

121. -- 299. (RESERVED).

300. FEES AND CHARGES.

01. Certification Fees. The Director will establish certification fees annually under this chapter. Fees will not exceed fifty dollars (\$50) each. Fees will be set by July 1 of each year. ()

02. Notary Charges. Notary certification will be provided for each certificate at no additional charge. ()

03. Shipping and Delivery Charges. There will be no fees for mailing costs unless the applicant requests express mailing. ()

04. Express Mailing. The applicant will be responsible for express mailing charges. The applicant may provide an account number for the carrier, pre-paid air bill or be invoiced for the actual costs. ()

05. Payment. The applicant will be sent an invoice for fees and charges and will be responsible for payment within thirty (30) days. The Department will not issue a certificate of free sale to any company with an outstanding account balance. ()

301. -- 999. (RESERVED).

IDAPA 02 - DEPARTMENT OF AGRICULTURE

02.04.13 - RULES OF THE DEPARTMENT OF AGRICULTURE GOVERNING RETAIL RAW MILK

DOCKET NO. 02-0413-0901 (CHAPTER REPEAL)

NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 37-308, -314, -401, -708, and -803, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 21, 2009.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

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

ISDA proposes to repeal the existing "Rules of the Department of Agriculture Governing Retail Raw Milk." Under a separate rulemaking docket, ISDA has promulgated a new rule, "Rules Governing Raw Milk." The purpose of the new rule is to modify the raw milk quality standards and sanitary requirements for raw milk for human consumption, to provide clarity for raw milk produced under a "cow share" program and provide a small herd exemption for facility construction requirements. The new rule will be more concise by eliminating approximately twenty-five (25) pages from the rules to be repealed. Due to the significant amount of changes made to the existing rule, ISDA determined that there would be less confusion if ISDA repealed the existing "Rules of the Department of Agriculture Governing Retail Raw Milk," and adopted the new "Rules Governing Raw Milk," rather than make amendments to the existing rules.

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

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

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking, which resulted in the new "Rules Governing Raw Milk" was published in the August 5, 2009 Idaho Administrative Bulletin, Volume 09-8, page 22.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Marv Patten, Chief Dairy and CAFO Programs, 208-332-8550 or marv.patten@agri.idaho.gov.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 28, 2009.

Signed this 26th Day of August, 2009.

Brian J. Oakey, Deputy Director
Idaho State Department of Agriculture
2270 Old Penitentiary Road, Boise, ID 83712
P.O. Box 790, Boise, ID 83701-0790
Phone: (208) 332-8500 / Fax: (208) 332-4062

IDAPA 02.04.13 IS BEING REPEALED IN ITS ENTIRETY

IDAPA 02 - DEPARTMENT OF AGRICULTURE

02.04.13 - RULES GOVERNING RAW MILK

DOCKET NO. 02-0413-0902 (CHAPTER REWRITE)

NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 37-308, -314, -401, -708, and -803, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 21, 2009.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

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

This rule will replace the proposed repeal of IDAPA 02.04.13, "Rules of the Department of Agriculture Governing Retail Raw Milk," to modify the raw milk quality standards and sanitary requirements for raw milk for human consumption, to provide clarity for raw milk produced under a "cow share" program and provide a small herd exemption for facility construction requirements. This rule will also eliminate approximately twenty-five (25) pages of outdated rules.

This rule will incorporate by reference the sanitary milk production and milk processing provisions of the 2009 Pasteurized Milk Ordinance, and will also establish sanitary criteria, milk quality, and permitting protocols for "cow share" programs.

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

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

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the August 5, 2009 Idaho Administrative Bulletin, Volume 09-8, page 22.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Marv Patten, Chief Dairy and CAFO Programs, 208-332-8550 or marv.patten@agri.idaho.gov.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 28, 2009.

Signed this 26th Day of August 2009.

Brian J. Oakey
Deputy Director
Idaho State Department of Agriculture
2270 Old Penitentiary Road, Boise, ID 83712
P.O. Box 790, Boise, ID 83701-0790
Phone: (208) 332-8500
Fax: (208) 332-4062

IDAPA 02
TITLE 04
CHAPTER 13

02.04.13 - RULES GOVERNING RAW MILK

000. LEGAL AUTHORITY.

This chapter is adopted under the legal authority of Title 37, Chapters 3, 4, 7, and 8, Idaho Code. ()

001. TITLE AND SCOPE.

01. Title. The title of this chapter is "Rules Governing Raw Milk." ()

02. Scope. These rules will govern the production, processing and sale of Raw Milk for human consumption, but not intended for pasteurization. The official citation of this chapter is IDAPA 02.04.13.000 et seq. For example, this section's citation is IDAPA 02.04.13.001. ()

002. WRITTEN INTERPRETATIONS.

There are no written interpretations of these rules. ()

003. ADMINISTRATIVE APPEAL.

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 this chapter. ()

004. INCORPORATION BY REFERENCE.

The following document is incorporated by reference, and copies of the document may be obtained from the Idaho State Department of Agriculture central office at 2270 Old Penitentiary Road, Boise, Idaho, 83712: The Grade A Pasteurized Milk Ordinance 2009 Revision, U.S. Department of Health and Human Services Public Health Service Food and Drug Administration ("2009 Pasteurized Milk Ordinance"), except those provisions establishing raw milk standards for raw milk for pasteurization. ()

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

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

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

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

04. Telephone Number. The telephone number of the Division of Animal Industries, Dairy Bureau at the central office is (208) 332-8550. ()

05. Fax Number. The fax number of the Division of Animal Industries, Dairy Bureau at the central office is (208) 334-4062. ()

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. ()

007. DEFINITIONS.

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

01. Adulterated. The addition or inclusion of unclean, unwholesome, inferior, impure or foreign material into a food product, or the production and sale of raw milk or raw milk products from a facility that does not possess a valid permit from the Department. ()

02. Cow Share. The investment of monetary value into the ownership or care of cows, goats, or sheep in exchange for raw milk or raw milk products. ()

03. Dairy Farm. Any place or premises where one (1) or more cows, goats or sheep are milked, and from which a part or all of the raw milk or raw milk products are produced and are not intended for pasteurization, but are sold or offered for sale for human consumption without pasteurization. ()

04. Denatured. To change the usual or normal nature of a material or substance by either chemical or physical means. ()

05. Department. The Idaho State Department of Agriculture. ()

06. Director. The Director of the Idaho State Department of Agriculture or his designee. ()

07. Milk Plant. Any place, premises, or establishment where raw milk is collected, handled, stored, bottled, or processed into raw milk or raw milk products for sale or offered for sale for human consumption. ()

08. Official Laboratory. A biological, chemical, or physical laboratory that is under the direct supervision of the State or the Department. ()

09. Person. An individual, plant operator, partnership, corporation, company, firm, trustee, association or institution. ()

10. Raw Milk. The lacteal secretion, practically free from colostrum, obtained by the complete milking of one (1) or more healthy cows, goats, or sheep, and that has not been pasteurized and is sold or offered for sale for human consumption. ()

11. Raw Milk Products. Raw milk products include any milk product processed from raw milk that has not been pasteurized. Cheese made from raw milk that has been processed and aged for a minimum of sixty (60) days at a temperature greater than thirty-five degrees (35°) Fahrenheit (F) in a licensed dairy processing plant is exempt from these rules. ()

12. Sanitization. The application of any effective method or substance to a clean surface for the destruction of pathogens, and of other organisms as far as is practicable. Such treatment shall not adversely affect the equipment, the raw milk or raw milk products or the health of consumers, and shall be acceptable to the Department. ()

13. Small Herd. The production of raw milk or raw milk products for human consumption, for use by people other than members of their immediate household or non-paying guests, in a facility with no more than three (3) lactating cows or seven (7) lactating goats or sheep. ()

14. Sterilized. The condition achieved by application of heat, chemical sterilant or other appropriate treatment that renders the piping, equipment and containers used for raw milk and raw milk products free of viable microorganisms. ()

008. -- 010. (RESERVED).

011. ADULTERATED OR MISBRANDED RAW MILK OR RAW MILK PRODUCTS.

No person shall produce, provide, sell, offer, or expose for sale, or possess with intent to sell, within the State or its jurisdiction, any adulterated or misbranded raw milk or raw milk products for human consumption. Any adulterated

or misbranded raw milk or raw milk product may be impounded and disposed of as directed by the Department.

()

012. -- 019. (RESERVED).

020. PERMITS.

01. Requirements. It shall be unlawful for any person who does not possess a permit from the Department to produce, process, sell or offer for sale raw milk or raw milk products for human consumption. Raw milk shall not be sold or offered for sale through restaurant type establishments or establishments where the consumer may not know that raw milk or raw milk products are from a raw milk source. Grocery stores and similar establishments where raw milk or raw milk products are sold at retail, but not processed, are exempt from the requirements of these rules, provided those stores and establishments receive raw milk or raw milk products from Department-approved facilities.

()

02. Obtaining a Permit. Only a person who complies with these rules may receive and retain a permit. Permits shall not be transferable with respect to persons or locations.

()

03. Permit Suspension. The Department may suspend a permit whenever it has reason to believe that a public health hazard exists; whenever the permit holder has violated any of the requirements of these rules; or whenever the permit holder has interfered with the Department in the performance of its duties.

()

a. Prior to suspending a permit the Department will serve a written notice of intent to suspend permit on the permit holder. The notice will specify the alleged violation(s) and afford the permit holder a reasonable opportunity to correct such violation(s) in a manner agreed to by the parties. In the absence of such agreement, the corrective actions may be designated by the Department. The reasonable opportunity to correct will be given before the permit suspension order becomes effective. A permit suspension will remain in effect until the violation has been corrected to the satisfaction of the Department.

()

b. In cases in which the raw milk or raw milk products create or appear to create an imminent hazard to the public health, or in case of a willful refusal to permit an authorized inspection, the Department may immediately suspend the permit without the prior notice procedure set forth in these rules. The Department will provide notice and opportunity for hearing after the suspension, in accordance with Title 67, Chapter 52, Idaho Code.

()

c. Upon written request by any person whose permit has been suspended, or any person who has been served with a notice of intent to suspend, the Department will proceed to a hearing, and upon evidence presented at such hearing may affirm, modify, or rescind the suspension or intention to suspend.

()

d. The Department may forego permit suspension, provided the raw milk or raw milk products in violation are not sold or offered for sale or distributed for human consumption.

()

04. Permit Revocation. Upon repeated violations, the Department may revoke a permit following reasonable notice to the permit holder and an opportunity for a hearing. This Section is not intended to preclude the institution of court action.

()

05. Permit Reinstatement. Any raw milk producer whose permit has been suspended or revoked may make written application for the reinstatement of his permit.

()

a. When the permit has been suspended due to a violation of any of the bacterial, coliform, or cooling-temperature standards, the Department may issue a temporary permit after raw milk samples show that the conditions responsible for the violation have been corrected.

()

b. When the permit has been suspended due to a violation of the somatic cell count standard, the Department may issue a temporary permit if resampling of the herd milk supply indicates that the milk supply is within the somatic cell count standard.

()

c. Whenever the permit has been suspended due to a violation of a requirement other than bacteriological, coliform, somatic cell count or cooling-temperature standards, the application for reinstatement must show that the violation has been corrected. Within one (1) week of the receipt of such application, the Department will make an inspection of the applicant's establishment, and may make additional subsequent inspections as deemed necessary. If the inspection shows that the raw milk or raw milk products meet the applicable standards and are in compliance with these rules, the permit will be reinstated. ()

021. -- 029. (RESERVED).

030. LABELING.

01. requirements. all bottles, containers, and packages enclosing raw milk or raw milk products shall be conspicuously marked with the word "raw," the quantity of contents and the identity of the packaging facility. The word "goat" or "sheep," if applicable, shall precede the name of the raw milk or raw milk products. ()

02. Misleading Labels. It is a violation of these rules to use any misleading marks, words, or endorsements upon the label. Registered trade designs or similar terms on the bottle cap or label may be used if the Department determines that the designs or terms are not misleading and do not obscure the labeling required by these rules. Any misleading labeling on the final container will cause the product to be considered misbranded. ()

031. -- 039. (RESERVED).

040. INSPECTION OF RAW MILK PRODUCERS.

Each dairy farm whose raw milk or raw milk products are intended for human consumption within the state of Idaho shall be inspected and approved by the Department prior to the issuance of a permit. ()

01. Inspection Frequency. Following the issuance of a permit, the Department will inspect each raw milk producer and raw milk processor at least once every three (3) months. ()

02. Sanitation Requirements. All raw milk dairy farms and milk plants that process raw milk or raw milk products for human consumption into final containers, for use other than for members or their immediate household or non-paying guests, shall meet the requirements of the 2009 Pasteurized Milk Ordinance, in addition to Section 060 of these rules. ()

03. Processing Location. All raw milk and raw milk products must be produced and processed on the same premises. ()

04. Cow Share Programs. Cow Share programs are allowed, provided that the raw milk and raw milk products are produced and processed in facilities with raw milk dairy farm and raw milk plant permits issued by the Department. ()

05. Applicability. Persons or a person with more than three (3) lactating cows or seven (7) lactating goats or sheep may sell raw milk and raw milk products for human consumption, provided that the raw milk and raw milk products are produced and processed in facilities with raw milk dairy farm and raw milk plant permits issued by the Department. ()

041. -- 049. (RESERVED).

050. SMALL HERD EXEMPTION.

The production of raw milk and raw milk products for human consumption by a person or by individuals participating in a Cow Share program is exempt from the sanitary construction and operation standards of the 2009 Pasteurized Milk Ordinance, provided the following conditions are met: ()

01. Testing Frequency. The raw milk and raw milk products comply with the testing frequency set forth in the 2009 Pasteurized Milk Ordinance and quality standards set forth in Section 060 of these rules. ()

02. Applicability. The number of animals in lactation does not exceed three (3) cows or seven (7) goats

or sheep. ()

03. Permit. The person or the Cow Share owners obtain a small herd exemption permit from the Department. The permit will indicate the physical location of the facility; the mailing address of the owner or operator in charge of the herd's care and milk quality. ()

04. Test Results Made Available. Milk quality test results shall be available from the permit holder to all individuals who purchase raw milk or raw milk products. ()

05. Restriction for Sale. The raw milk or raw milk products may not be sold or offered for sale through restaurant-type establishments or other establishments where the consumer may not know that raw milk or raw milk products are from a raw milk source. ()

06. Labeling. All raw milk and raw milk products must have approved labeling by the Department if sales take place at locations other than the point of production. ()

051. -- 059. (RESERVED).

060. STANDARDS FOR RAW MILK AND RAW MILK PRODUCTS.

01. Requirements. All raw milk and raw milk products shall be produced and processed to conform with the standards listed in Table 1 below. Raw milk and raw milk products shall meet the sanitation requirements of the 2009 Pasteurized Milk Ordinance, unless the facility has a small herd exemption. ()

02. Chemical, Bacteriological, and Temperature Standards.

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

()

061. -- 069. (RESERVED).

070. PENALTY.

Any person who violates any of the provisions of these rules shall be subject to the penalties provided in Section 37-408, Idaho Code, or may have their permit to sell raw milk or raw milk products for human consumption revoked or suspended. ()

071. -- 999. (RESERVED).

IDAPA 02 - DEPARTMENT OF AGRICULTURE

02.04.19- RULES GOVERNING DOMESTIC CERVIDAE

DOCKET NO. 02-0419-0901

NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 25-3704, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 21, 2009.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

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

The purpose of the proposed rulemaking is to introduce herd management plans to enable the agency to conduct facility inspections and herd inventories more efficiently. Ambiguous, unclear, or redundant language in IDAPA 02.04.19 will be also be changed to improve interpretation of the rule.

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

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

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the May 6, 2009 Idaho Administrative Bulletin, Volume 09-5, page 20.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Dr. Bill Barton or Dr. Debra Lawrence at (208) 332-8540.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 28, 2009.

DATED this 27th day of August, 2009.

Brian Oakey, Deputy Director
Idaho State Department of Agriculture
2270 Old Penitentiary Road PO Box 7249
Boise, ID 83707
Phone 208-332-8500
Fax 208-334-2170

THE FOLLOWING IS THE PROPOSED TEXT FOR DOCKET NO. 02-0419-0901

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 ~~and the state Law Library.~~ (4-2-03)(____)

- 01. **Bovine Tuberculosis Eradication**, Uniform Methods and Rules, Effective January 22, 1999. (4-2-03)
- 02. **Code of Federal Regulations, Title 9, Part 161, January 1, 2004.** (4-6-05)
- 03. **Code of Federal Regulations, Title 9, Part 55, January 1, 2004.** (4-6-05)
- 04. **Code of Federal Regulations, Title 9, Subchapter A, Part 1 and 2, January 1, 2004.** (4-6-05)

(BREAK IN CONTINUITY OF SECTIONS)

006. IDAHO PUBLIC RECORDS ACT.

These rules are public records and are available for inspection and copying at the ISDA central office ~~and the State Law Library.~~ (4-2-03)(____)

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. **Administrator.** Administrator of the Division of Animal Industries or his designee. (4-2-03)

03. **Approved Laboratory.** NVSL, an AAFLD 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)

04. **Approved Slaughter Establishment.** A USDA inspected slaughter establishment at which ante-mortem and post-mortem inspection is conducted by USDA inspectors. (4-2-03)

05. **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)

06. **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)

07. **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, which 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)

08. **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)

09. **Cervidae.** Deer, elk, moose, caribou, reindeer, and related species and hybrids including all

members of the cervidae family and hybrids. (4-2-03)

10. Chronic Wasting Disease. A transmissible spongiform encephalopathy of cervids, which is a nonfebrile, transmissible, insidious, and degenerative disease affecting the central nervous system of cervidae. (4-2-03)

11. 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)

12. Custom Exempt Slaughter Establishment. A slaughter establishment that is subject to facility inspection by USDA, but which does not have ante-mortem and post-mortem inspection of animals by USDA inspectors. (4-2-03)

13. 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)

14. CWD-Exposed Animal. A domestic cervid animal that is not exhibiting any signs of CWD, but has had contact within the last five (5) years with domestic cervids from a CWD-positive herd or the animal is a member of a CWD-exposed herd. (~~4-2-03~~)(____)

15. CWD-Exposed Herd. A herd of domestic cervidae in which no animals are exhibiting signs of CWD, but: (~~4-2-03~~)(____)

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 domestic 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)

16. 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)

17. 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)

18. CWD-Suspect Cervid. A domestic cervid for which laboratory evidence or clinical signs suggests a diagnosis of CWD. (4-2-03)

19. CWD-Suspect Herd. A domestic cervidae herd in which any animal(s) has been determined to be a CWD-suspect. (4-2-03)

20. Department. The Idaho State Department of Agriculture. (4-2-03)

21. Death Certificate. A form approved by the ~~an~~Administrator and provided by the Division for the reporting of domestic cervidae deaths and for reporting sample submission for CWD testing. (~~4-6-05~~)(____)

22. 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)

23. Director. The Director of the Idaho State Department of Agriculture, or his designee. (4-2-03)

- 24. Disposal.** Final disposition of dead cervidae. (4-2-03)
- 25. Division.** Idaho State Department of Agriculture, Division of Animal Industries. (4-2-03)
- 26. Domestic Cervidae.** Fallow deer (*Dama dama*), elk (*Cervus elaphus*) or reindeer (*Rangifer tarandus*) owned by a person. (4-2-03)
- 27. Domestic Cervidae Ranch.** A premises where domestic cervidae are held or kept, including multiple premises under common ownership. (4-6-05)
- 28. 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)
- 29. 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)
- 30. Federal Animal Health Official.** An employee of USDA/APHIS/VS who is authorized to perform animal health activities. (4-6-05)
- 31. Herd of Origin.** A domestic 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~~)()
- 32. Herd Status.** Classification of a cervidae herd with regard to CWD. (4-2-03)
- 33. 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)
- 34. Individual 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. (4-2-03)
- 35. 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)
- 36. Natural Disaster.** Any hurricane, tornado, storm, flood, high water, wind-driven water, tidal wave, earthquake, landslide, mudslide, snowstorm, drought, fire, explosion, or other catastrophe that results in substantial damage to property, hardship, suffering or possible loss of life. ()
- 367. Official CWD Test.** A test approved by the Administrator and conducted at an approved laboratory to diagnose CWD. (4-2-03)
- 378. Official Identification.** Identification, approved by the Administrator, that individually, uniquely, and permanently identifies each domestic cervid. (~~4-2-03~~)()
- 389. Operator.** A person who has authority to manage or direct a domestic cervidae ranch. (4-2-03)
- 3940. Owner.** The person that has legal title to, or has financial control of, any domestic cervidae or domestic cervidae ranch (4-2-03)
- 401. Person.** Any individual, association, partnership, firm, joint stock company, joint venture, trust, estate, political subdivision, public or private corporation, or any legal entity, which is recognized by law as the subject of rights and duties. (4-2-03)
- 412. Premises.** The ground, area, buildings, and equipment utilized to raise, propagate, control, or harvest domestic cervidae. (4-2-03)

423. Quarantine. An order issued on authority of the Administrator, by a state or federal animal health official or accredited veterinarian, prohibiting movement of domestic cervids from any location without a written restricted movement permit. (4-2-03)(____)

434. Quarantine Facility. A confined area where selected domestic cervidae can be secured and isolated from all other cervidae and livestock. (4-2-03)

445. 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)

456. 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)

467. 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)

478. Source Herd. A herd from which at least one (1) domestic cervid has originated within the previous five (5) years and that cervid has been diagnosed CWD positive. (4-2-03)(____)

489. State Animal Health Official. The Administrator or his designee. (4-2-03)

4950. Status Date. The date on which the Administrator approves in writing a herd status change with regard to CWD. (4-2-03)

501. 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)

512. 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)

523. 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)

534. Wild Cervidae. Any cervid animal not owned by a person. (4-2-03)

545. Wild Ungulate. Any four (4) legged, hooved herbivore, including cervids and other ruminants, not owned by a person. (4-6-05)

556. 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. American Zoological Association. (4-2-03)

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)
087.	ISDA. Idaho State Department of Agriculture.	(4-2-03)
098.	NAEBA. North American Elk Breeders Association.	(4-2-03)
109.	NVSL. National Veterinary Services Laboratory.	(4-2-03)
110.	TB. Tuberculosis.	(4-2-03)
121.	UM&R. Uniform Methods and Rules.	(4-2-03)
132.	USDA. United States Department of Agriculture.	(4-2-03)
143.	VS. Veterinary Services.	(4-2-03)

(BREAK IN CONTINUITY OF SECTIONS)

014. IMPORTATION OF DOMESTIC CERVIDAE.

All domestic cervidae imported into the state of Idaho shall comply with the requirements of IDAPA 02.04.21 "Rules Governing the Importation of Animals," ~~which apply to~~ applicable to domestic cervidae. ~~(4-2-03)~~(____)

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 reidentified in accordance with Section 0231. ~~(4-2-03)~~(____)

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~~ official visible identification, as set forth in Section 030. ~~(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 in writing and in advance by the Administrator. ~~(4-6-05)~~(____)

(BREAK IN CONTINUITY OF SECTIONS)

040. INSPECTIONS.

To prevent the introduction and dissemination, or to control and eradicate diseases, state and federal animal health officials are authorized to inspect domestic 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)

(BREAK IN CONTINUITY OF SECTIONS)

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. The failure to provide notice as required by this Subsection is a violation of this chapter. (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)

~~**043. Idaho Department of Fish and Game.** Upon receiving notification that wild cervidae are ~~on~~ within the perimeter fence of 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)

(BREAK IN CONTINUITY OF SECTIONS)

080. DISPOSAL OF DOMESTIC CERVIDAE.

All domestic cervidae carcasses and parts of carcasses not utilized for human consumption, ~~except parts of carcasses utilized~~ or 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.

A fee, not to exceed five dollars (\$5) per head on elk or three dollars (\$3) per head on fallow deer and reindeer, ~~is to~~ will be assessed on all domestic cervidae that have been present on a facility in the state ~~to cover the cost of administering the program covered in these rules~~ for any portion of the preceding twelve (12) months. This fee is due

January 1st of each year.

(4-2-08)(____)

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 and each separate premises 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)~~

021. 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)

032. 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 including, but not limited to, perimeter fence, restraining system, gathering system, water system and, if required, a quarantine facility. (4-2-03)

01. Maintenance. All facilities, including the perimeter fence described in Section 102, 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. 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. (____)

023. 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 at least annually. (4-2-03)

b. All facilities relating to the handling, care, 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 in a safe and efficient manner at any time of the year that domestic cervidae are present. (4-2-03)(____)

02. Restraining System. ~~A~~ Each domestic cervidae ranch shall have a restraining system approved by the Administrator, that is adequate 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 domestic cervidae herd. (4-2-03)(____)

105. QUARANTINE FACILITY.

If ~~animals~~ domestic cervidae are to be imported onto the domestic cervidae ranch, a quarantine facility, approved by the Administrator, shall be provided for holding ~~animals~~ domestic cervidae until any disease retesting is accomplished or other requirements are met. (4-2-03)(____)

106. HERD MANAGEMENT PLAN.

01. Herd Management Plan. All domestic cervidae ranches shall develop and maintain a herd management plan that must be approved by the Administrator. The herd management plan shall describe the operation and set forth protocols to address: (____)

a. Ingress of wildlife and or egress of domestic cervidae. (____)

b. Unaccounted death loss. (____)

c. Management options to deal with severe weather events. (____)

d. Submission of samples for Chronic Wasting Disease (CWD), in accordance with these Rules. ()

02. Revision of Herd Management Plan. Revision of the herd management plan shall be required as deemed necessary by the Administrator or if any of the following occur: ()

a. Ingress of wildlife and or egress of domestic cervidae. ()

b. Unaccounted death loss. ()

c. Failure to properly submit samples for CWD testing. ()

03. Violation of Herd Management Plan. A violation of the herd management plan shall be considered a violation of this chapter. ()

~~1067.~~ -- 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, no later than December 31st of each year,~~ a complete and accurate inventory of all ~~animals held no later than December 31st of each year~~ domestic cervidae that have been present on the facility during the calendar year on a form approved by the Administrator. The annual inventory report, which shall be submitted to the Administrator, shall contain the following minimum information: (~~4-2-03~~)()

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; (4-2-03)

- d. Age or year born; (4-2-03)
- e. Disposition, including the date of sale, death, or purchase; and (4-2-03)
- f. Name and address of the prior and current owner of the domestic cervidae. (~~4-2-03~~)(____)

(BREAK IN CONTINUITY OF SECTIONS)

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 domestic cervidae producer owner. ~~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, which state or federal animal health officials determine are not readily identifiable, for inventory verification purposes. The Administrator, or his designee, shall determine the suitability of the restraint system. (4-2-03)(____)

(BREAK IN CONTINUITY OF SECTIONS)

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 of discovery of the escape, 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 which 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.

The death of all domestic cervidae over one (1) year of age and all domestic cervidae that have been officially identified and inventoried must be reported by the owner or operator to the division: (4-2-08)

01. Reports. The initial report of a cervidae death may be made by telephone, facsimile, or electronic mail, ~~and then.~~ Such report must be followed by the submission of the death certificate. (4-2-08)(____)

02. Submission of Death Certificates. 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. (4-6-05)(____)

03. Reporting Deaths at Domestic Cervidae Ranches. The owner or operator of a domestic cervidae ranch shall notify the Division within five (5) business days of when the owner or operator knew or reasonably should have known of the death. (4-2-08)

04. Reporting Deaths at Approved and Custom Exempt Slaughter Establishments. The owners of cervidae that are slaughtered shall report the death within five (5) business days of the date that the cervidae was slaughtered. (4-2-08)

206. CWD SAMPLE SUBMISSION FORM/DEATH CERTIFICATE.

The owner or operator of a domestic cervidae ranch shall submit, ~~to the Administrator,~~ a complete and accurate copy of all CWD sample submission forms/death certificates to the Administrator at the same time that CWD samples are submitted to an approved laboratory. (4-2-03)(____)

(BREAK IN CONTINUITY OF SECTIONS)

~~**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 five (5) business days of the movement. The Administrator shall provide blank intrastate movement certificates to the owners of domestic cervidae ranches upon request. (4-6-05)~~

~~2098. -- 249. (RESERVED).~~

250. INTRASTATE MOVEMENT OF DOMESTIC CERVIDAE.

All live domestic cervidae moving from one premises to another premises within the state of Idaho, including movement from one premises to another premises owned, operated, leased, or controlled by the same person, shall be officially identified, except calves during the year of birth accompanying their dam, and accompanied by: (4-6-05)(____)

01. Officially Identified. All live domestic cervidae undergoing intrastate movement must be

officially identified, except calves during the year of birth that are accompanying their dam. ()

012. ~~TB Test In Compliance With Section 450.~~ ~~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:~~ All live domestic cervidae undergoing intrastate movement must be in compliance with Section 450 of these Rules. (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 22, 1999, 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~~ (4-2-03)

~~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)

023. Accompanied by an 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. The certificate shall be submitted to the Administrator within five (5) days of the movement. (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*),~~ CWD₂ 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 or inventory verification when directed to do so in writing by the Administrator. The Administrator, or his designee, shall determine the suitability of the restraint system. (4-2-03)()

(BREAK IN CONTINUITY OF SECTIONS)

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. The failure of any owner, breeder, dealer, veterinarian, or anyone bringing cervidae into the state of Idaho shall constitute a violation of this chapter. (~~4-2-03~~)()

306. -- 399. (RESERVED).

400. BRUCELLOSIS.

Owners of domestic cervidae ranches shall comply with those provisions of IDAPA 02.04.20, "Rules Governing Brucellosis," that apply to domestic cervidae. (~~4-2-03~~)()

(BREAK IN CONTINUITY OF SECTIONS)

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 brain stem containing the obex portion for submission as the sample for CWD testing. (4-6-05)

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 five (5) business days of the date of collection. (4-2-03)

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 appropriate tissues for CWD testing. (4-2-03)

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 Submit Samples for CWD Testing. An owner or operator of a domestic cervidae ranch that fails to submit samples for CWD testing as required in this chapter is in violation of these rules, ~~except the Administrator may approve, in writing, a variance from sample submission requirements on a case specific basis.~~ (~~4-2-03~~)()

(BREAK IN CONTINUITY OF SECTIONS)

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~~ annually ~~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)~~

032. Cervidae of Lesser Status. If a ~~herd of~~ domestic cervidae herd 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~~)(____)

043. 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)

~~**054. 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)~~

(BREAK IN CONTINUITY OF SECTIONS)

990. PENALTY FOR VIOLATIONS.

Any person violating any of the provisions of this Chapter shall be subject to the penalty provisions of Title 25, Chapters 2, 3, 4, 6, and [35] 37, Idaho Code, applicable to domestic cervidae. In addition, any person violating any of the provisions of this chapter may be subject to a compliance plan under the conditions set forth below in Subsection 990.02. (~~4-2-03~~)(____)

01. Monetary Penalties. The imposition or computation of monetary penalties shall take into account the seriousness of the violation, good faith efforts to comply with the law, the economic impact of the penalty on the violator and such other matters as justice requires. (4-2-03)

02. Compliance Plan. (____)

a. First Offense. When the Director identifies a first violation of these rules or those portions of Title 25, Chapters 2, 3, 4, 6 and [35] 37, Idaho Code, by a person, the Department may offer that person the option of following a compliance plan and order, drafted by the Department, as an alternative to a monetary penalty. (____)

b. Second or More Offenses. When the Director identifies a second violation (or more) of any one of these rules or those portions of Title 25, Chapters 2, 3, 4, 5, and 35 [37], Idaho Code, by a person within five (5) years of a previous violation of these rules or those provisions of Title 25, Chapters 2, 3, 4, 5, and 35[37], Idaho Code, the person will be required to follow a compliance plan and order, drafted by the Department. The compliance plan and order will be required in addition to any monetary penalty that may be assessed by the Department. (____)

c. Failure to Follow Compliance Plan. The failure to follow the requirements of a compliance plan is a violation of these rules. (____)

023. Minor Violations. Nothing in this Chapter shall be construed as requiring the Director to report minor violations when the Director believes that the public interest will be best served by suitable warnings or other administrative action. (4-2-03)

IDAPA 02 - DEPARTMENT OF AGRICULTURE

02.04.31 - RULES GOVERNING THE STOCKPILING OF AGRICULTURAL WASTE

DOCKET NO. 02-0431-0901 (NEW CHAPTER)

NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 22-110, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 21, 2009.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

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

This rule will establish specific setback distances for agricultural waste storage to minimize adverse quality of life issues. These rules are intended to apply to stockpiled agricultural waste from livestock on property other than agricultural waste storage governed by IDAPA 02.04.14, the Rules Governing Dairy Waste, and IDAPA 02.04.15, the Rules Governing Beef Cattle Animal Feeding Operations.

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

No fee is associated with this proposed rule.

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

There is no impact involved with this proposed rule. ISDA estimates that the costs will be less than \$10,000 annually to implement and enforce this rule.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the August 5, 2009 Idaho Administrative Bulletin, Volume 09-8, page 23.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact John Bilderback, Section Manager, Dairy and CAFO Programs, 208-332-8550 or john.bilderback@agri.idaho.gov.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 28, 2009.

Signed this 26th day of August, 2009.

Brian J. Oakey
Deputy Director
Idaho State Department of Agriculture
2270 Old Penitentiary Road
Boise, ID 83712
P.O. Box 790
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THE FOLLOWING IS THE PROPOSED TEXT FOR DOCKET NO. 02-0431-0901

IDAPA 02
TITLE 04
CHAPTER 31

02.04.31 - RULES GOVERNING THE STOCKPILING OF AGRICULTURAL WASTE

000. LEGAL AUTHORITY.

This chapter is adopted under the legal authority of Section 22-110, Idaho Code. ()

001. TITLE AND SCOPE.

01. Title. The title of this chapter is "Rules Governing the Stockpiling of Agricultural Waste." ()

02. Scope. These Rules govern the Stockpiling of Agricultural Waste at Agricultural Operations to safeguard and protect animals, man, and the environment. The official citation of this chapter is IDAPA 02.04.31.000 et seq. For example, this section's citation is IDAPA 02.04.31.001. ()

002. WRITTEN INTERPRETATIONS.

The Idaho State Department of Agriculture may have written statements that pertain to the interpretation of the rules in this chapter. Any such written statement shall be available for review at the Idaho State Department of Agriculture, 2270 Old Penitentiary Road, Boise, Idaho 83712. ()

003. ADMINISTRATIVE APPEALS.

Persons may be entitled to administrative appeal as set forth in Title 67, Chapter 52, Idaho Code. ()

004. OFFICE -- OFFICE HOURS -- MAILING ADDRESS AND STREET ADDRESS.

01. Office. The central office of the Idaho State Department of Agriculture is located at 2270 Old Penitentiary Road, Boise, ID 83712. ()

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

03. Mailing Address. The mailing address for the central office is Idaho State Department of Agriculture, PO Box 790, Boise, Idaho 83701. ()

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

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

005. PUBLIC RECORDS ACT COMPLIANCE.

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

006. -- 009. (RESERVED).

010. DEFINITIONS.

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

- 01. Agricultural Operation.** Facilities that generate or receive and stockpile agricultural waste and that are not regulated under IDAPA 02.04.14, "Rules Governing Dairy Waste," or IDAPA 02.04.15, "Rules Governing Beef Cattle Animal Feeding Operations." ()
- 02. Agricultural Waste.** Agricultural waste means livestock waste. ()
- 03. Department.** The Idaho State Department of Agriculture. ()
- 04. Director.** The Director of the Idaho State Department of Agriculture or his designee. ()
- 05. Duration.** The length of time agricultural waste is stockpiled. ()
- 06. Dwelling.** The house, residence, abode, or other structure where a person lives. ()
- 07. Livestock.** Bovidae, suidae, equidae, captive cervidae, camelidae, ratitidae, gallinaceous birds, and captive waterfowl. ()
- 08. Livestock Waste.** Manure that may also contain bedding, spilled feed, feathers, water, or soil. It also includes wastes not particularly associated with manure, such as milking center or washing wastes, milk, feed leachate, or livestock carcasses or parts thereof. ()
- 09. Non-Compliance.** A practice or facility condition that does not comply with Section 22-110, Idaho Code, or the provisions of these rules. ()
- 10. Person.** Any individual, partnership, association, firm, joint stock company, trust, political subdivision, public or private corporation, or any other legal entity which is recognized by law as the subject of rights and duties. ()
- 11. Public Highway.** All highways open to public use in the state, whether maintained by the state or by any county, highway district, city, or other political subdivision. ()
- 12. Responsible Party.** A person who generates or receives and stockpiles agricultural waste on property the person owns, leases, or otherwise has permission to use as a stockpile site. ()
- 13. Setbacks for a Stockpile Site.** The distance from a stockpile site to a location identified in Section 020 of this rule. ()
- 14. Stockpile Staging Site.** A physical area where stockpiling occurs for a duration of no longer than thirty (30) days. ()
- 15. Stockpile Site.** A physical location where agricultural waste is stockpiled for a duration of more than thirty (30) days and that stockpiles more than fifty (50) cubic yards of agricultural waste. ()
- 16. Stockpiling.** The accumulation of agricultural waste on an agricultural operation. ()
- 17. Surface Waters of the State.** All accumulations of surface water, natural and artificial, public and private, or parts thereof that are wholly or partially within, that flow through or border upon the state. ()
- 011. ABBREVIATIONS.**
There are no abbreviations in this chapter. ()
- 012. -- 019. (RESERVED).**
- 020. SETBACKS FOR STOCKPILE SITES.**
Stockpile sites at agricultural operations must meet the following setback requirements. ()

- 01. Setback Distances.** Stockpile sites shall maintain the following setbacks: ()
- a.** Three hundred (300) feet from a non-responsible party's dwelling. ()
 - b.** Five hundred (500) feet from a hospital, church, or school. ()
 - c.** One hundred (100) feet from a domestic or irrigation well. ()
 - d.** One hundred (100) feet from surface waters of the State. ()
 - e.** Fifty (50) feet from a public highway. ()
- 02. Responsible Party's Dwellings.** Stockpile sites shall not have setbacks from a responsible party's dwelling or dwellings owned by the responsible party. ()

03. Stockpile Staging Sites. Stockpile staging sites shall not be subject to the setbacks set forth in these rules. ()

021. -- 039. (RESERVED).

040. RESPONSE TO COMPLAINTS.

Complaints regarding a stockpile site or a stockpile staging site will be investigated by the Department to determine compliance with these rules. ()

041. -- 059. (RESERVED).

060. PENALTIES.

Any person violating the provisions of these rules may be assessed a civil penalty by the Department of not more than three thousand dollars (\$3,000) for each offense and shall be liable for reasonable attorney's fees. Assessment of a civil penalty may be in conjunction with any other Department administrative action. If the Department identifies a non-compliance violation, the Director will identify appropriate corrective actions and establish a deadline to remedy the non-compliance violation. The Director may develop a formal compliance schedule with a person to correct non-compliance violation. Through the formal compliance schedule, the Director may allow all or part of the value of the assessed civil penalties to be applied toward the correction of a non-compliance violation. ()

061. -- 999. (RESERVED).

IDAPA 02 - DEPARTMENT OF AGRICULTURE

02.06.33 - ORGANIC FOOD PRODUCT RULES

DOCKET NO. 02-0633-0901 (FEE RULE)

NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 22-1103, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 21, 2009.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

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

To change the application and registration deadline from March 31st to July 1st and to discontinue the late fees of \$250 for certification and \$100 for registration. The existing March 31st deadline does not provide organic producers and handlers with sufficient time to make cropping decisions.

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

To change the application and registration deadline from March 31st to July 1st and to discontinue the late fees of \$250 for certification and \$100 for registration.

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

NEGOTIATED RULEMAKING: Informal negotiations were conducted with industry. The Organic Food Advisory Council met October 27, 2008 and recommended the changes.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Brandon Lamb, Agricultural Program Manager, 208-332-8675.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 28, 2009.

DATED this 19th day of August, 2009.

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

THE FOLLOWING IS THE PROPOSED TEXT FOR DOCKET NO. 02-0633-0901

300. REGISTRATION REQUIREMENTS, DEADLINES AND FEES.

01. Registration Requirements and Deadlines. All applicants applying for registration with the Department, shall submit the application to the Department on forms prescribed by the Department. (3-19-07)

a. All organic producers/handlers in Idaho with five thousand dollars (\$5,000) or less annual gross organic sales shall register with the Department by ~~March 31~~ July 1st of each year. (~~3-19-07~~)()

b. All organic producers/handlers in Idaho certified by agents other than the Department shall register with the Department within thirty (30) days of initial certification and by ~~March 31st~~ July 1st of each year thereafter. (~~3-19-07~~)()

c. All agents certifying producers/handlers in Idaho shall register with the Department within thirty (30) days of issuing their first Idaho producer/handler certificate. (3-19-07)

d. Agents shall provide the Department, by January 2 of each year, a list of Idaho producers/handlers, addresses, and telephone numbers for each certificate issued during the prior calendar year. (3-19-07)

02. Registration Fees, ~~Late Fees.~~ (~~3-19-07~~)()

a. The annual registration fee is fifty dollars (\$50). (3-19-07)

~~**b.** Applications for registration postmarked after the deadline listed in Subsection 300.01.a. will be assessed a late fee of one hundred dollars (\$100).~~ (~~3-19-07~~)

eb. A person who produces and handles their own organic food products shall pay only one (1) annual registration fee. (3-19-07)

301. CERTIFICATION REQUIREMENTS, DEADLINES AND FEES.

01. Certification Requirements and Deadlines. All applicants applying for certification with the Department, shall submit the application to the Department on forms prescribed by the Department by ~~March 31st~~ July 1st of each year. (~~3-19-07~~)()

a. All organic food producers/handlers in Idaho with annual gross organic sales of more than five thousand dollars (\$5,000) shall be certified with the Department, unless certified by agents other than the Department accredited under the National Organic Program. (3-19-07)

b. Producers/handlers with annual gross organic income of five thousand dollars (\$5,000) or less may select certification in place of registration. (3-19-07)

c. All organic food producers and organic handlers certifying with the Department are subject to an annual on-site inspection. (3-19-07)

~~**d.** Applications for crop producer certification will not be accepted if postmarked after June 1st.~~ (~~3-19-07~~)

ed. Livestock producer and handler applications will be accepted throughout the year. (3-19-07)

02. Certification Fees, ~~Late Fees.~~ (~~3-19-07~~)()

a. Organic producers/handlers with annual gross organic income of more than five thousand dollars (\$5,000) up to fifteen thousand dollars (\$15,000) or producers with annual gross income of five thousand dollars (\$5,000) or less requesting certification - One hundred twenty-five dollars (\$125). (3-19-07)

b. Organic producer/handler with annual gross organic income of more than fifteen thousand dollars

(\$15,000) –Two hundred dollars (\$200). (3-19-07)

c. A person who produces and handles their own organic food products shall pay only one (1) annual certification fee based on gross annual organic sales. (3-19-07)

~~**d.** Applications for producer/handler certification postmarked after March 31st will be assessed a late fee of two hundred fifty dollars (\$250). (3-19-07)~~

03. Certification Inspection Fees. (3-19-07)

a. The hourly rate is thirty-five dollars (\$35) including travel time. (3-19-07)

b. Travel time from an inspector's normal duty station to the inspection site and return to normal duty station will be compensable time charged to the applicant. (3-19-07)

c. There will be a minimum charge of thirty-five dollars (\$35) plus mileage for any inspection. (3-19-07)

d. A mileage rate as approved by the Board of Examiners will be included in the inspection fees. (3-19-07)

e. The costs for chemical residue analysis of soil or organically grown food products may be assessed against the producer or handler. (3-19-07)

f. Inspections conducted on weekends, holidays, or after normal office hours will be charged at an hourly rate of forty-seven dollars and fifty cents (\$47.50) including travel time with a minimum charge of one (1) hour plus mileage. (3-19-07)

g. Upon approval by the Department, private inspectors may be utilized ~~for operations that submitted their application after March 31 or under special circumstances.~~ The applicant shall bear the total cost of the private inspection. ~~(3-19-07)()~~