

Dear Senators BAIR, Guthrie, Buckner-Webb, and
Representatives ANDRUS, Boyle, Pence:

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

IDAPA 02.02.14 - Rules for Weights and Measures (Fee Rule) - Proposed Rule (Docket No.
02-0214-1403);

IDAPA 02.04.05 - Rules of the Department of Agriculture Governing Manufacture Grade Milk -
Proposed Rule (Docket No. 02-0405-1401);

IDAPA 02.04.19 - Rules Governing Domestic Cervidae (Fee Rule) - Temporary and Proposed Rule
(Docket No. 02-0419-1401);

IDAPA 02.04.21 - Rules Governing the Importation of Animals - Proposed Rule (Docket No.
02-0421-1401);

IDAPA 02.04.21 - Rules Governing the Importation of Animals - Proposed Rule (Docket No.
02-0421-1402);

IDAPA 02.04.24 - Rules Governing Tuberculosis - Proposed Rule (Docket No. 02-0424-1401);

IDAPA 02.04.28 - Rules Governing Livestock Dealers, Buying Stations, and Livestock Trader Lots -
Proposed Rule (Docket No. 02-0428-1401);

IDAPA 02.08.01 - Sheep and Goat Rules of the Idaho Sheep and Goat Health Board (Fee Rule) -
Proposed Rule (Docket No. 02-0801-1401).

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 09/19/2014. 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 10/20/2014.

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 334-4834, or send a written request to the address on the memorandum attached below.



Jeff Youtz
Director

Legislative Services Office

Idaho State Legislature

Serving Idaho's Citizen Legislature

MEMORANDUM

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

FROM: Principal Legislative Research Analyst - Katharine Gerrity

DATE: September 02, 2014

SUBJECT: Department of Agriculture

IDAPA 02.02.14 - Rules for Weights and Measures (Fee Rule) - Proposed Rule (Docket No. 02-0214-1403)

IDAPA 02.04.05 - Rules of the Department of Agriculture Governing Manufacture Grade Milk - Proposed Rule (Docket No. 02-0405-1401)

IDAPA 02.04.19 - Rules Governing Domestic Cervidae (Fee Rule) - Temporary and Proposed Rule (Docket No. 02-0419-1401)

IDAPA 02.04.21 - Rules Governing the Importation of Animals - Proposed Rule (Docket No. 02-0421-1401)

IDAPA 02.04.21 - Rules Governing the Importation of Animals - Proposed Rule (Docket No. 02-0421-1402)

IDAPA 02.04.24 - Rules Governing Tuberculosis - Proposed Rule (Docket No. 02-0424-1401)

IDAPA 02.04.28 - Rules Governing Livestock Dealers, Buying Stations, and Livestock Trader Lots - Proposed Rule (Docket No. 02-0428-1401)

IDAPA 02.08.01 - Sheep and Goat Rules of the Idaho Sheep and Goat Health Board (Fee Rule) - Proposed Rule (Docket No. 02-0801-1401)

1. IDAPA 02.02.14 - Rules for Weights and Measures

The Idaho State Department of Agriculture submits notice of a proposed fee rule at IDAPA 02.02.14 - Rules for Weights and Measures. According to the department, the rule change will remove language requiring proration of device license fees. The department states that the change will require new businesses or existing customers who add a device during the license period to pay the full license fee when a device is placed into service in lieu of prorating the license fee.

The department indicates that there will be no fiscal impact to the General Fund but that it anticipates a positive impact of approximately \$500 in annual revenue to the Weights and Measures Dedicated Fund. The department states that negotiated rulemaking was conducted. The rulemaking appears to be authorized pursuant to Section 71-111, Idaho Code.

Mike Nugent, Manager
Research & Legislation

Cathy Holland-Smith, Manager
Budget & Policy Analysis

April Renfro, Manager
Legislative Audits

Glenn Harris, Manager
Information Technology

2. IDAPA 02.04.05 - Rules of the Department of Agriculture Governing Manufacture Grade Milk

The Idaho State Department of Agriculture submits notice of proposed rule at IDAPA 02.04.05 - Rules of the Department of Agriculture Governing Manufacture Grade Milk. According to the department, the rule is being updated to reflect and be consistent with Senate Bill 1338 from the 2014 legislative session. The department notes that the last updates to the rule were made in 1994 and that since that time, some of the contents of the rule have become outdated and need to be revised or removed. The department indicates that documents referenced throughout the rule will be listed under the incorporation by reference section, all mention of the Babcock test will be removed since the test is no longer used, the Methods of Analysis section will be removed because another rule now covers the requirements for the methods of testing milk and cream for sale, and that standards of identity of products will be revised for consistency with federal definitions. The department states that the rule will also establish quality standards for coliform and bacteria testing to ensure that butter and whey butter made in Idaho are of high quality. The department adds that the format of the rule will be updated to bring it into compliance with current rulemaking formats and that the name of the rule itself will be changed to Rules Governing Manufacture Grade Milk to make it consistent with other department rules.

The department notes that negotiated rulemaking was conducted. The rulemaking appears to be authorized pursuant to Section 37-303, Idaho Code.

3. IDAPA 02.04.19 - Rules Governing Domestic Cervidae

The Idaho State Department of Agriculture submits notice of a temporary and proposed fee rule at IDAPA 02.04.19 - Rules Governing Domestic Cervidae. According to the department, the rule change will define the term "harvest" as it pertains to animals on domestic cervidae facilities, establish a new fee schedule consistent with statutory revisions made during the 2014 legislative session for cervidae producers (the purpose of the fee is to cover the cost of administering the program), alter the frequency of required facility inspections to coincide with statutory revisions, describe how the administrator will implement chronic wasting disease surveillance standards for facilities at a higher risk of disease exposure and establish new chronic wasting disease surveillance standards for cervids that die or are harvested on cervidae facilities.

The department states that the temporary rule has already been negotiated with stakeholders who have reached a consensus on all of the changes. The effective date of the temporary rule is September 1, 2014. The department notes that the annual assessment fee for domestic elk will be increased from \$5.00 per head per year to \$10 per head per year. Funds are used to cover the cost of administering the program. The department indicates that the fiscal impact to the industry due to the fee increase will be offset by the reduction of chronic wasting disease testing requirements and that it anticipates a net positive fiscal impact to the industry and to the dedicated fund utilized to manage the program. The rulemaking appears to be authorized pursuant to Section 25-3704, Idaho Code.

4. IDAPA 02.04.21 - Rules Governing the Importation of Animals

The Idaho State Department of Agriculture submits notice of proposed rule at IDAPA 02.04.21 - Rules Governing the Importation of Animals. According to the department, the purpose of the rulemaking is to add a deworming treatment specific to meningeal worm to the requirements that must be met prior to importing domestic cervids into Idaho to mitigate the risk of disease exposure. The department notes that the rule also requires the veterinarian who signs the certificate of veterinary inspection for shipment of domestic cervidae into Idaho to provide a statement verifying that none of the cervids in the shipment have been diagnosed or

exposed to the meningeal worm, *P. tenuis*. In addition, the rule change replaces the restriction that prohibits importing domestic cervidae from regions endemic with *P. tenuis* with a prohibition against importing cervids known to be infected with *P. tenuis*.

Negotiated rulemaking was conducted. The rulemaking appears to be authorized pursuant to Section 25-203, Idaho Code.

5. IDAPA 02.04.21 - Rules Governing the Importation of Animals

The Idaho State Department of Agriculture submits notice of proposed rule at IDAPA 02.04.21 - Rules Governing the Importation of Animals. According to the department, the purpose of the rulemaking is to remove the requirement that prohibits importing livestock that originate from within a ten-mile radius of a confirmed base of vesicular stomatitis. The department notes that the rule change allows dairy breeds of cattle to be granted a tuberculosis testing exemption when consigned directly to feedlots approved for finish feeding.

Negotiated rulemaking was conducted. The rulemaking appears to be authorized pursuant to Section 25-203, Idaho Code.

6. IDAPA 02.04.24 - Rules Governing Tuberculosis

The Idaho State Department of Agriculture submits notice of proposed rule at IDAPA 02.04.24 - Rules Governing Tuberculosis. According to the department, a new section will be added to establish criteria for cattle of unknown tuberculosis testing status to be fed to slaughter in feedlots approved for finish feeding.

Negotiated rulemaking was conducted. The rulemaking appears to be authorized pursuant to Section 25-203, Idaho Code.

7. IDAPA 02.04.28 - Rules Governing Livestock Dealers, Buying Stations, and Livestock Trader Lots

The Idaho State Department of Agriculture submits notice of proposed rule at IDAPA 02.04.28 - Rules Governing Livestock Dealers, Buying Stations, and Livestock Trader Lots. According to the department, the rule change requires that all livestock leaving an approved livestock trader lot shall require an accredited veterinarian to inspect the animals and issue an official certificate of veterinary inspection prior to release.

The department states that negotiated rulemaking was conducted. The rulemaking appears to be authorized pursuant to Section 25-203, Idaho Code.

8. IDAPA 02.08.01 - Sheep and Goat Rules of the Idaho Sheep and Goat Health Board

The Idaho State Department of Agriculture submits notice of a proposed fee rule at IDAPA 02.08.01 - Sheep and Goat Rules of the Idaho Sheep and Goat Health Board. According to the department, the proposed rule reflects the changes mandated by legislation passed during the 2014 legislative session that requires an eighty cent per head assessment on goats and an increase from eight cents to ten cents per pound on wool. The department notes that a total of twenty cents per head on goats and two cents per pound of wool will go to the newly created Wolf Control Fund. The department states that the rule also clarifies the age at which dairy

goats need to be tested for brucellosis prior to entering Idaho. The department notes that the rule also has been updated to change the name of the Idaho Sheep Commission to the Idaho Sheep and Goat Health Board.

Negotiated rulemaking was conducted. The rulemaking appears to be authorized pursuant to Section 25-129, Idaho Code.

cc: Department of Agriculture
Brian J. Oakey

PROPOSED RULE COST/BENEFIT ANALYSIS

Section 67-5223(3), Idaho Code, requires the preparation of an economic impact statement for all proposed rules imposing or increasing fees or charges. This cost/benefit analysis, which must be filed with the proposed rule, must include the reasonably estimated costs to the agency to implement the rule and the reasonably estimated costs to be borne by citizens, or the private sector, or both.

Department or Agency: Idaho State Department of Agriculture

Agency Contact: Stacie Ybarra **Phone:** (208) 332-8690

Date: _____

IDAPA, Chapter and Title Number and Chapter Name:

IDAPA 02.02.14, Section 014, Rules for Weights and Measures

Fee Rule Status: **Proposed** **Temporary**

Rulemaking Docket Number: 02-0214-1403

STATEMENT OF ECONOMIC IMPACT:

Eliminating the proration requirement to the fee structure will impact approximately 12 businesses annually. As a result, the Weights and Measures Dedicated Fund could see an increase of less than \$500 annually. The General Fund would not be impacted.

IDAPA 02 - IDAHO STATE DEPARTMENT OF AGRICULTURE

02.02.14 - RULES FOR WEIGHTS AND MEASURES

DOCKET NO. 02-0214-1403 (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 71-111, 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 September 17, 2014.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made no 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:

Amend IDAPA 02.02.14, Section 014. The rule change will remove language requiring proration of device license fees.

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

IDAPA 02.02.14, Section 014 requires that a device license be prorated based on when a device is placed into service. The proposed change is to remove this language. This change will require new businesses or existing customers who add a device during the license period to pay the full license fee when a device is placed into service in lieu of prorating the license fee.

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 as a result of this rulemaking:

There will be no fiscal impact to the General Fund. ISDA anticipates a positive impact of approximately \$500 in annual revenue to the Weights and Measures dedicated 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 July 2, 2014 Idaho Administrative Bulletin, [Vol. 14-7, page 21](#).

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: NA

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Stacie Ybarra, Program Specialist at (208) 332-8692.

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 September 24, 2014.

DATED this 25th day of July, 2014.

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) 334-7120

THE FOLLOWING IS THE PROPOSED TEXT OF FEE DOCKET NO. 02-0204-1403
(Only those Sections being amended are shown.)

014. ANNUAL LICENSE PERIOD.

Annual license applications and fees are due February 1 of each year and all licenses expire on January 31 of the following year. ~~License fees for new devices installed during the annual licensing period shall be prorated based on the remaining licensing cycle.~~ (2-13-04)()

IDAPA 02 - DEPARTMENT OF AGRICULTURE
02.04.05 - RULES OF THE DEPARTMENT OF AGRICULTURE
GOVERNING MANUFACTURE GRADE MILK

DOCKET NO. 02-0405-1401

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 37-303, 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 September 17, 2014.

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 rule is being updated to reflect and be consistent with Senate Bill No. 1338, passed during the 2014 Legislature and signed by Governor C. L. "Butch" Otter on April 3, 2014, effective July 1, 2014. The last changes to the rule were adopted in 1994. Since that time, some of the contents of the rule have become outdated and need to be revised or removed. Specifically, documents referenced throughout the rule will be listed under the incorporation by reference section. All mentions of the Babcock tests will be removed since this test is no longer used. Likewise, the Methods of Analysis section will be removed because IDAPA 02.04.09, "Rules Governing Milk and Cream Procurement and Testing," now covers the requirements for the methods of testing milk and cream for sale. The standards of identity of products will be consistent with the federal definitions.

Currently in Idaho Statute, there are no quality standards specified for butter or whey butter. The rule will establish quality standards for coliform and bacteria testing to ensure that butter and whey butter made in Idaho is of high quality.

The format of the rule will be updated to bring it into compliance with current rulemaking formats (adding incorporation by reference, address, office hours, telephone, and fax numbers, and the Idaho public records act). The name of the rule will also be changed to Rules Governing Manufacture Grade Milk to make it consistent with other Department rules.

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

No fee is being imposed or charged through the promulgation of 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 as a result of this rulemaking:

There is no fiscal impact to the general fund as a result of this rulemaking.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted on July 22, 2014. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the June 4, 2014, Idaho Administrative Bulletin, [Vol. 14-6 page 18](#).

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule:

The existing rule does not have an incorporation by reference section, however, the following texts are referenced in the existing rule: Standard Methods for the Examination of Dairy Products, Official Methods of Analysis of AOAC International, and the United States Sediment Standards for Milk and Milk Products. The United States Standards for Grades of Butter is incorporated into 37-313, but will now be explicitly listed in the rule text. Lastly, Appendix D "Standards for Water Sources" of the Grade "A" Pasteurized Milk Ordinance is being proposed for incorporation by reference.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact John Bilderback at (208) 332-8541 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 September 24, 2014.

DATED this 7th Day of August, 2014.

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

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 02-0405-1401
(Only those Sections being amended are shown.)

02.04.05 - RULES ~~OF THE DEPARTMENT OF AGRICULTURE~~
GOVERNING MANUFACTURE GRADE MILK

000. LEGAL AUTHORITY.

This chapter is adopted under the legal authority of Title 37, Chapters 43 and 12, Idaho Code. ~~(4-8-94)~~()

001. TITLE AND SCOPE.

01. Title. The title of this chapter is "Rules ~~of the Department of Agriculture~~ Governing Manufacture Grade Milk." ~~(4-8-94)~~()

(BREAK IN CONTINUITY OF SECTIONS)

004. INCORPORATION BY REFERENCE.

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

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

02. Official Methods of Analysis of AOAC International (OMA), 19th Edition, 2012. ()

03. United States Sediment Standards for Milk and Milk Products (September 1, 1977) (USDA AMS Dairy Division). This document is available online at <http://www.ams.usda.gov/AMSv1.0/>

[getfile?dDocName=STELDEV3004474.](http://www.ams.usda.gov/AMSV1.0/getfile?dDocName=STELDEV3004474) ()

04. United States Standards for Grades of Butter (August 31, 1989) (USDA AMS Dairy Division).
This document is available online at <http://www.ams.usda.gov/AMSV1.0/getfile?dDocName=STELDEV3004474>. ()

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

005. 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, 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, 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. ()

006. PUBLIC RECORDS ACT COMPLIANCE.

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

~~0057.~~ -- 009. (RESERVED)

00410. DEFINITIONS.

The following definitions shall apply in the interpretation and enforcement of this chapter: (4-8-94)()

~~01.~~ *Regulatory Agency.* Department of Agriculture is authorized by law to administer these rules. (4-8-94)

201. 3-A Sanitary Standards. The standards for dairy equipment formulated by the 3-A Sanitary Standards ~~Committees representing the International Association of Milk, Food and Environmental Sanitarians, Inc. (3-A SSI). 3-A SSI is comprised of equipment fabricators, Dairy Processors, and regulatory sanitarians, which include state milk regulatory officials, USDA Agricultural Marketing Service Dairy Programs, the US. Public Health Service, and the Dairy Industry Committee. Published by the International Association of Milk, Food and Environmental Sanitarians~~ Food and Drug Administration, academic representatives, and others. (4-8-94)()

~~102.~~ **Acceptable Milk.** Milk that qualifies as to appearance and odor and that is classified No. 1 or No. 2 for sediment content. (4-8-94)

~~203.~~ **Atmosphere Relatively Free From Mold.** No more than ten (10) mold colonies per cubic foot of air as determined in Standard Methods. (4-8-94)

~~064.~~ **~~Milk Grader or Bulk Milk Collector~~ Hauler or Bulk Milk Sampler.** A person licensed by the Department ~~of Agriculture~~ who is qualified and trained for the grading ~~or sampling~~ of raw milk in accordance with the quality standards and procedures of ~~Sections 050 through 149~~ these rules and the Universal Sample. (4-8-94)()

05. Butter. Butter is the product made by gathering the fat of fresh or ripened milk or cream into a mass, which also contains a small portion of other milk constituents, with or without salt or a harmless coloring

~~matter. Butter shall be clean and non-rancid and shall contain not less than eighty percent (80%) of butterfat. ()~~

~~2106. C-I-P or Cleaned-in-Place.~~ The procedure by which sanitary pipelines or pieces of dairy equipment are mechanically cleaned in place by circulation. (4-8-94)

~~07. Commingled Milk.~~ Milk that has left the Dairy Farm and has been mixed with other individual Producer milk in a Transportation Tank or at a Dairy Plant. ()

~~08. Dairy Farm or Farm.~~ A place or premise certified by the Department where one (1) or more milking cows, sheep ~~or~~ goats, or water buffalo are kept, and from which all or a portion of the milk produced thereon is delivered, sold, or offered for sale to a manufacturing Dairy pPlant. (4-8-94)()

~~1709. Dairy-Farm Certification.~~ Certification by an ~~i~~Inspector or ~~a~~Approved ~~f~~Fieldman that a ~~p~~Producer's herd, milking facility and housing, milking procedure, cooling, milkhouse or milkroom, utensils and equipment and water supply have been found to meet the applicable requirements of Section 150 for the production of milk to be used for manufacturing purposes. (4-8-94)()

~~0910. Dairy Plant or-Plant Dairy Processor.~~ Any place, premise, or establishment licensed by the Department where milk or ~~d~~Dairy ~~p~~Products are transported, graded, received or handled for processing or manufacturing and/or prepared for distribution. ~~When "plant" is used in connection with the production, transportation, grading, or use of milk, it means any plant that handles or purchases milk for manufacturing purposes; when used in connection with requirements for plants or licensing of plants, it means only those plants that manufacture dairy products.~~ (4-8-94)()

~~1611. Dairy Products.~~ Butter, cheese (natural or processed), dry whole milk, nonfat dry milk, dry buttermilk, dry whey, evaporated milk (whole or skim), condensed whole milk and condensed skim milk (plain or sweetened), and such other products, for human consumption, as may be otherwise designated. (4-8-94)

~~12. Department.~~ The Idaho State Department of Agriculture. ()

~~13. Director.~~ The Director of the Idaho State Department of Agriculture or his designee. ()

~~154. Excluded Milk.~~ All of a ~~p~~Producer's milk excluded from the market by the provisions of Section 080. (4-8-94)()

~~15. Farm Tank.~~ A tank used to cool, store or cool, and store milk prior to transportation to the processing plant. ()

~~0316. Fieldman.~~ A person qualified and trained in the sanitary methods of production and handling of milk as set forth herein, and generally employed by a ~~processing or manufacturing Dairy pPlant~~ for the purpose of making ~~d~~Dairy ~~f~~Farm surveys and doing quality control work. (4-8-94)()

~~0417. Fieldman, Approved.~~ A ~~f~~Fieldman qualified, trained, and approved by the Department ~~of Agriculture~~ to perform Dairy fFarm inspections and raw milk grading or sampling. (4-8-94)()

~~0518. Inspector.~~ A qualified, trained person employed by the Department ~~of Agriculture~~ to perform ~~d~~Dairy ~~f~~Farm or Dairy pPlant inspections and raw milk grading or sampling. (4-8-94)()

~~0219. License.~~ A license issued under this section by the Department of Agriculture. (4-8-94)

~~120. Milk.~~ *The term "milk" shall include the following:* (4-8-94)

~~a. Milk is the lacteal secretion practically free from colostrum obtained by the complete milking of one (1) or more healthy cows.~~ (4-8-94)

~~b. Goat milk is the lacteal secretion practically free from colostrum obtained by the complete milking of one (1) or more healthy goats. Goat milk shall only be used to manufacture dairy products that are legally provided~~

~~for in 21 CFR or recognized as non-standardized traditional products normally manufactured from goat milk.~~
(4-8-94)

~~e. Sheep milk is the lacteal secretion practically free from colostrum obtained by the complete milking of one (1) or more healthy sheep.~~
(4-8-94)

~~d. The word "milk" used herein includes only milk, sheep and goat milk for manufacturing purposes. The lacteal secretion practically free from colostrum obtained by the complete milking of one (1) or more healthy cows, goats, sheep, or water buffalo for manufacturing purposes.~~
(4-8-94)()

~~21.~~ **Milk for Manufacturing Purposes.** Milk produced from a Department certified Dairy Farm for processing and manufacturing into products for human consumption but not subject to Grade A or comparable requirements.
(4-8-94)()

~~22.~~ **Probational Milk.** Milk classified No. 3 for sediment content. (4-8-94)

~~23.~~ **Producer.** The person or persons who exercise control over the production of the milk delivered to a Dairy ~~p~~Plant, ~~and who receives payment for this product. A "new producer" is one who is initiating the shipment of milk from a farm. A "transfer producer" is one whose shipment of milk from a farm is shifted from one (1) plant to another plant. A "producer/processor" is one who manufactures dairy products on the dairy farm entirely from his own milk, or from his own milk combined with milk from one or more other producers.~~
(4-8-94)()

~~24.~~ **Rejected Milk.** Milk rejected from the market according to the provisions of Section 070. (4-8-94)

~~25.~~ **Sanitizing Treatment.** Application of any effective method or sanitizing agent to clean surface for the destruction of pathogens and other organisms as far as is practicable. The sanitizing agents used shall comply with the ~~Federal Food, Drug, and Cosmetic Act~~ Standard Methods.
(4-8-94)()

~~18. Official Methods. Official Methods of Analysis of the Association of Official Agricultural Chemists, a publication of the Association of Official Analytical Chemists.~~
(4-8-94)

~~19. Standard Methods. Standard Methods for the Examination of Dairy Products, a publication of the American Public Health Association.~~
(4-8-94)

~~26. Transportation Tank. A tank used to transport milk or supply milk from a Dairy Farm to a Dairy Plant.~~
()

~~27. Universal Sample. A single milk sample taken for the purpose of chemical, biochemical, or bacterial analyses typically used for regulatory purposes.~~
()

~~28. Whey Butter. The food product made by gathering the fat of fresh or ripened whey cream separated from cheese whey formed into a mass, with or without added cream obtained from milk, which also contains a small portion of other whey or milk constituents, with or without the addition of salt or a harmless coloring matter. Whey Butter shall be clean and non-rancid and shall contain not less than eighty percent (80%) butter fat. Whey Butter shall be made from pasteurized Whey Cream or cream.~~
()

~~29. Whey Cream. The milk fat which is separated from whey.~~
()

~~005-009. (RESERVED)~~

~~0101.~~ **RAW MILK OR CREAM.**

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

~~01.~~ **Raw Milk.** The appearance and odor of acceptable raw milk shall be normal, fresh, and sweet and free from objectionable feed and other off odors that would adversely affect the finished Dairy ~~p~~Product.
(7-1-93)()

- 02. Milk or Cream.** Milk or cream is unacceptable which: (7-1-93)
- a.** Is other than the lacteal secretion obtained by the complete milking of one (1) or more healthy cows, ~~or~~ goats, sheep, or water buffalo properly kept and fed; (7-1-93)()
 - b.** Contains added water; (7-1-93)
 - c.** Contains colostrum, is ropy, bloody or gives any indication of having come from diseased or injured udders; (7-1-93)
 - d.** Contains filth, is contaminated with flies, earwigs or other insects, dirt, oil, economic poisons, pesticides or other foreign matter which renders it unfit for human consumption; (7-1-93)
 - e.** Tests positive for antibiotics or inhibitors as tested by the accepted methods of the latest edition of Standard Methods for the Examination of Dairy Products or by tests approved by the Department of Agriculture; (7-1-93)()
 - f.** Has more than seventeen one hundredths of one percent (.17%) acid calculated as lactic and does not meet the criteria in Subsection 0101.01; (7-1-93)()
 - g.** In the case of cream, is rancid, putrid, or actively foaming; (7-1-93)
 - h.** In the case of cream, contains more than eight tenths of one percent (.8%) acid calculated as lactic; (7-1-93)
 - i.** Is more than three (3) days or seventy-two (72) hours old when picked up at the Dairy ~~F~~ Farm; (7-1-93)()
 - j.** Does not meet the quality standards as set forth in these rules. (7-1-93)

0142. -- 049. (RESERVED)

050. QUALITY REQUIREMENTS FOR MILK FOR MANUFACTURING PURPOSES.

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

a. At least once each month the Bulk Milk ~~h~~ Haulers shall bring in not less than a ~~four (4)~~ two (2) ounce sample of mixed milk ~~for the two tenths (.2) inch diameter or a pint sample of mixed milk for the four tenths (.4) diameter,~~ from a ~~p~~ Producer's bulk milk ~~F~~ Farm ~~T~~ Tank. The sample shall be taken in accordance with recommended procedures outlined in the latest edition of Standard Methods for the Examination of Dairy Products and Section 37-413, Idaho Code. (4-8-94)()

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

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

- a.** No. 1 (acceptable) - not to exceed five tenths (.5) milligram ~~,~~ or equivalent. (4-8-94)()

- b. No. 2 (acceptable) - not to exceed one and five tenths (1.5) ~~milligram~~ or equivalent. ~~(4-8-94)~~()
- c. No. 3 (probational, not over ten (10) days) - not to exceed two and five tenths (2.5) ~~milligram~~ or equivalent. ~~(4-8-94)~~()
- d. No. 4 (reject) - over two and five tenths (2.5) ~~milligram~~ or equivalent. ~~(4-8-94)~~()

04. Method of Testing. Methods for determining the sediment content of the milk of individual producers shall be those described in the ~~latest edition of~~ Standard Methods ~~for Examination of Dairy Products~~. Sediment content shall be based on comparison with applicable charts of the United States Sediment Standards for Milk and Milk Products ~~at <http://www.gpo.gov/fdsys/pkg/CFR-2001-title7-vol1/content-detail.html>, as amended~~ ~~as incorporated by reference~~. ~~(4-8-94)~~()

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

- a. Milk in Cans. One (1) or more cans of milk selected at random from each ~~p~~Producer. ~~(4-8-94)~~()
- b. Milk in Farm ~~Bulk~~ Tanks. A sample shall be taken from each ~~f~~Farm ~~bulk~~ ~~t~~Tank. ~~(4-8-94)~~()

06. Acceptance or Rejection of Milk. If the sediment disc is classified as No. 1, No. 2, or No. 3, the ~~p~~Producer's milk may be accepted. If the sediment disc is classified No. 4 the milk shall be rejected: ~~p~~rovided, that if the shipment of milk is commingled with other milk in a ~~t~~ransport ~~t~~ank the next shipment shall not be accepted until its quality has been determined at the ~~Dairy~~ ~~f~~Farm before being picked up; however, if the person making the test is unable to get to the farm before the next shipment it may be accepted but no further shipments shall be accepted unless the milk meets the requirements of No. 3 or better. In the case of milk classified as No. 3 or No. 4, if in cans, all cans shall be tested. Producers in No. 3 or No. 4 (milk cans or bulk) shall be notified immediately and shall be furnished applicable sediment discs and the next shipment shall be tested. ~~(4-8-94)~~()

07. Retests. On test of the next shipment (if in cans, all cans shall be tested) milk classified as No. 1, No. 2, or No. 3, may be accepted, but No. 4 milk shall be rejected. Retests of bulk milk classified as No. 4 shall be made at the ~~Dairy~~ ~~f~~Farm before pickup. The ~~p~~roducers of No. 3 or No. 4 milk shall be notified immediately, furnished applicable sediment discs and the next shipment tested. This procedure of retesting successive shipments and accepting probational (No. 3) milk and rejecting No. 4 milk may be continued for not to exceed ten (10) calendar days. If at the end of this time all of the ~~p~~roducer's milk does not meet the acceptable sediment content classification (No. 1 or No. 2) ~~it~~ ~~the milk~~ shall be excluded from market. ~~(4-8-94)~~()

051. -- 059. (RESERVED)

060. BACTERIAL ESTIMATE CLASSIFICATION.

A laboratory examination to determine the bacterial estimate shall be made on each ~~p~~roducer's milk at least once each month at irregular intervals. Samples shall be analyzed at a laboratory approved by the Department ~~of Agriculture~~. ~~(4-8-94)~~()

01. Methods of Testing. Milk shall be tested for bacterial estimate by using one (1) of the following methods or any other method approved by Standard Methods ~~for the Examination of Dairy Products~~; ~~or a test approved by the Department~~: ~~(4-8-94)~~()

- ~~a.~~ ~~BactoScan FC.~~ ()
- ~~b.~~ Direct microscopic clump count. (4-8-94)
- ~~b.c.~~ Standard plate count. (4-8-94)
- ~~d.~~ Plate loop count. (4-8-94)

- ~~d.~~ ~~Pectin gel plate count.~~ (4-8-94)
- e. Petrifilm aerobic count. (4-8-94)
- f. Spiral plate count. (4-8-94)

02. Bacterial Estimate Procedures. Whenever the bacterial estimate indicates the presence of more than two hundred thousand (200,000) bacteria per milliliter, the following procedures shall be applied: (4-8-94)()

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

061. -- 069. (RESERVED)

070. REJECTED MILK.

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

071. -- 079. (RESERVED)

080. EXCLUDED MILK.

A Dairy ~~p~~Plant shall not accept milk from a ~~p~~Producer if: (4-8-94)()

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

02. Exceeding Maximum Bacteria. Three of the last five (5) milk samples have exceeded the maximum bacteria estimate of two hundred thousand (200,000) per milliliter. (4-8-94)()

03. Insanitary Conditions. If the milk is produced ~~in under insanitary~~ clean conditions such as, but not limited to, unclean milk contact surfaces, unclean conditions in the parlor or milk room, poor milking procedures, or poor animal housing conditions. (4-8-94)()

04. Maximum Somatic Cell Count. Three (3) of the last five (5) milk samples have exceeded the maximum somatic cell count level of seven hundred fifty thousand (750,000) per milliliter or one million (1,000,000) per milliliter for goat or sheep milk. (4-8-94)()

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

~~**06. Delinquent Review.** The producer is delinquent in completing a review of the "Milk and Dairy Beef Quality Assurance Program" with a licensed veterinarian following an occurrence of shipping milk testing positive for drug residue.~~ (4-8-94)

~~081. -- 089.~~ (Reserved)

~~090. Quality Testing Of Milk From Producers.~~

~~01. New Producers. An examination and tests shall be made on the first shipment of milk from a new producer or from a producer resuming shipment after a period of non-shipment. The milk shall meet the requirements for; "Acceptable milk," Somatic cell count, Drug residue level, and Bacteria estimate. (4-8-94)~~

~~a. Thereafter, each milk shipment shall meet the requirements of Section 050, and shall be tested in accordance with the provisions of Sections 060, 102, and 103. (4-8-94)~~

~~02. Transfer Producers. An examination and test shall be made by the new buyer on the first shipment of milk from a transfer producer. The milk shall meet the requirements for; "Acceptable milk," Somatic cell count, Drug residue level and Bacteria estimate. (4-8-94)~~

~~a. Thereafter, each milk shipment shall meet the requirements of Section 050, and shall be tested in accordance with the provisions of Sections 060, 102, and 103. (4-8-94)~~

~~b. In addition, the new buyer shall determine from the producer's records that: (4-8-94)~~

~~i. The milk is currently classified "acceptable" for bacteria and sediment; (4-8-94)~~

~~ii. Three (3) of the last five (5) consecutive milk samples do not exceed the maximum somatic cell count level requirements; (4-8-94)~~

~~iii. The last shipment of milk received from the producer by the former plant did not test positive for drug residue; (4-8-94)~~

~~iv. Milk shipments currently are not excluded from the market due to a positive drug residue test; and (4-8-94)~~

~~v. Meets farm certification requirements. (4-8-94)~~

~~03. Delivery. When a producer discontinues milk delivery at one (1) plant and begins delivery at another plant for any reason, the new buyer shall not accept the first milk delivery until he has requested from the previous buyer a copy of the record of: (4-8-94)~~

~~a. The producer's milk quality tests covering the preceding ninety (90) days; (4-8-94)~~

~~b. The producer's drug residue test results for the preceding twelve (12) month period; and (4-8-94)~~

~~c. A statement of the farm certification status and date of certification. (4-8-94)~~

~~04. Status of Quality Records. The previous buyer shall furnish the new buyer with such information within twenty-four (24) hours after receipt of the request. A new buyer may accept a transfer producer's milk after making the request for records, but before receiving them, if he first confirms the producer's records verbally from the previous buyer. If verbal communication is used to ascertain the status of quality records, the new buyer shall send to the previous buyer, as soon as possible, a written confirmation of the conversation. (4-8-94)~~

~~05. Reporting Failure to Provide Quality Records. If the new buyer fails to receive the quality records from the previous buyer, he shall report this fact to the State regulatory agency. The new buyer may then, alternatively, obtain from the producer a copy of the test results for sediment content, bacterial estimate, and somatic cell count for the preceding ninety (90) day period and a copy of the drug residue test results for the preceding twelve (12) month period. (4-8-94)~~

~~091. -- 099.~~ (RESERVED)

100. RECORDS OF TESTS.

Accurate records of the results of the milk quality and drug residue tests for each ~~p~~Producer shall be kept on file for a period of not less than twelve (12) months. The records shall be available for examination by the ~~regulatory agency~~ Department. (4-8-94)()

101. FIELD SERVICE.

A representative of the Dairy ~~p~~Plant shall arrange to promptly visit the Dairy ~~f~~Farm of each ~~p~~Producer whose milk tests positive for drug residue, exceeds the maximum somatic cell count level, or does not meet the requirements for ~~Acceptable m~~Milk. The purpose of the visit shall be to inspect the milking equipment and facilities and to offer assistance to improve the quality of the ~~p~~Producer's milk and eliminate any potential causes of drug residues. A representative of the Dairy ~~p~~Plant should routinely visit each ~~p~~Producer as often as necessary to assist and encourage the production of high quality milk. (4-8-94)()

102. SOMATIC CELL COUNT.

01. Level of Somatic Cells. A laboratory examination to determine the level of somatic cells shall be made on each producer's milk at least four (4) times in each six (6) month period at irregular intervals. Samples shall be analyzed at a laboratory and by a method approved by the ~~state regulatory agency~~ Department. (4-8-94)()

02. Procedures. Whenever the confirmatory somatic cell count indicates the presence of more than seven hundred fifty thousand (750,000) somatic cells per milliliter, (one million (1,000,000) per milliliter for goat and sheep) the following procedures shall be applied: (4-8-94)()

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

b. Whenever two (2) of the last four (4) consecutive somatic cell counts exceed seven hundred fifty thousand (750,000) per milliliter, (one million (1,000,000) per milliliter for goat and sheep) the ~~appropriate regulatory authority~~ Department shall be notified and a written warning notice given to the ~~p~~Producer. The notice shall be in effect so long as two (2) of the last four (4) consecutive samples exceed seven hundred fifty thousand (750,000) per milliliter, (one million (1,000,000) per milliliter for goat and sheep). (4-8-94)()

c. An additional sample shall be taken after a lapse of three (3) days but within twenty-one (21) days of the notice required in Subsection 102.02.b. ~~of this section~~. If this sample also exceeds seven hundred fifty thousand (750,000) per milliliter, (one million (1,000,000) per milliliter for goat and sheep) subsequent milkings shall be excluded from the market until satisfactory compliance is obtained. Shipment may be resumed and a temporary status assigned to the producer by the ~~appropriate State regulatory agency~~ Department when an additional sample of herd milk is tested and found satisfactory. The ~~p~~Producer shall be assigned a full reinstatement status when three (3) out of four (4) consecutive somatic cell count tests do not exceed seven hundred fifty thousand (750,000) per milliliter, (one million (1,000,000) per milliliter for goat and sheep). (4-8-94)()

103. DRUG RESIDUE LEVEL.

01. Industry's Dairy Plant's Sampling and Testing Responsibilities. All milk shipped for processing or intended to be processed on the Dairy ~~f~~Farm where it was produced shall be sampled and tested, prior to processing, for beta lactam drug residue or other drugs as determined by the Department. Collection, handling and testing of samples shall be done according to procedures established by the ~~appropriate State regulatory agency~~ Department. (4-8-94)()

a. When so specified by the US. Food and Drug Administration (FDA), all milk shipped for processing, or intended to be processed on the Dairy ~~f~~Farm where it was produced, shall be sampled and tested, prior to processing, for other drug residues under a random drug sampling program. ~~The~~ random drug sampling program shall include at least four (4) samples collected in at least four (4) separate months during any six (6) month period may be conducted at a frequency determined by the Department. (4-8-94)()

b. When the Commissioner of the FDA determines that a potential problem exists with an animal drug residue or other contaminant in the milk supply, a sampling and testing program shall be conducted, as determined by

the FDA. ~~The testing shall continue determines with reasonable assurance that the potential problem has been remedied.~~ (4-8-94)()

c. ~~The Dairy-industry Plants~~ shall analyze samples for beta lactams and other drug residues by methods evaluated by ~~the Association of Official Analytical Chemists (AOAC) OMA~~ and accepted by the FDA as effective in determining compliance with established "safe levels" or tolerances. "Safe levels" and tolerances for particular drugs are established and amended by the FDA. ~~The industry may employ on a temporary basis other test methods evaluated by the Virginia Polytechnic Institute and State University, or by other institutions using equivalent evaluation procedures, and determined to demonstrate accurate compliance results. These test methods may be used until they are evaluated by the AOAC and accepted or rejected by the FDA.~~ (4-8-94)()

d. Individual ~~p~~Producer sampling. (4-8-94)()

i. Bulk Milk. A milk sample for beta lactam drug residue testing shall be taken at each farm and shall include milk from each ~~Dairy f~~ Farm ~~bulk f~~ Tank. (4-8-94)()

ii. Can Milk. A milk sample for beta lactam drug residue testing shall be performed separately at the receiving ~~Dairy p~~ Plant for each can milk ~~p~~ Producer included in a delivery, and shall be representative of all milk received from the ~~p~~ Producer. (4-8-94)()

iii. ~~Producer/processor Dairy Plant. For those Producers who also have a licensed Dairy Plant, A~~ milk sample for beta lactam drug residue testing shall be performed ~~separately according to Subsections 103.01.d.i. and 103.01.d.ii. of this section for milk produced or received by a producer/processor~~ on each batch of milk to be processed. (4-8-94)()

e. Load sampling and testing. (4-8-94)

i. Bulk milk. A load sample shall be taken from the ~~bulk milk pickup tanker~~ Transport Tank after its arrival at the ~~Dairy p~~ Plant and prior to further commingling. (4-8-94)

ii. Can milk. A load sample representing all of the milk received on a shipment shall be formed at the plant, using a sampling procedure that includes milk from every can on the vehicle. (4-8-94)

iii. ~~Producer/processor Dairy Plant.~~ A load sample shall be ~~formed~~ tested at the ~~Dairy p~~ Plant using a sampling procedure that includes all milk produced and received. (4-8-94)()

f. Sample and record retention. A load sample that tests positive for drug residue shall be retained according to guidelines established by the ~~appropriate State regulatory agency~~ Department. The records of all sample test results shall be retained for a period of not less than twelve (12) months. (4-8-94)()

g. ~~Industry~~ Dairy Plant follow-up. (4-8-94)()

i. When a load sample or individual Producer sample tests positive for drug residue, ~~industry Dairy Plant~~ personnel shall notify the ~~appropriate State regulatory agency~~ Department immediately, ~~as directed by the Department of Agriculture~~, of the positive test result and of the intended disposition of the shipment of milk containing the drug residue. All milk testing positive for drug residue shall be disposed of in a manner that removes it from the human or animal food chain, except when acceptably reconditioned under FDA compliance policy guidelines. (4-8-94)()

ii. Each individual ~~p~~ Producer sample represented in the positive-testing load sample shall be singly individually tested as directed by the ~~appropriate State regulatory agency~~ Department to determine the ~~p~~ Producer of the milk sample testing positive for drug residue. Identification of the ~~p~~ Producer responsible for producing the milk testing positive for drug residue, and details of the final disposition of the shipment of milk containing the drug residue, shall be reported immediately to the ~~appropriate agency, according to State policy~~ Department. (4-8-94)()

iii. Milk shipment from the ~~p~~ Producer identified as the source of milk testing positive for drug residue

shall cease immediately and may resume only after a sample from a subsequent milking does not test positive for drug residue. (4-8-94)(____)

02. ~~Regulatory Agency's~~ **Department's Monitoring and Surveillance Responsibilities.** The Department of Agriculture shall monitor the ~~milk industry Dairy Plant's~~ drug residue program by conducting unannounced on-site inspections to observe testing and sampling procedures and to collect samples for comparison drug residue testing. In addition, the ~~regulatory agency~~ **Department** shall review industry records for compliance with ~~State policy~~ **these rules**. The review shall seek to determine that: (4-8-94)(____)

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

b. The ~~regulatory agency~~ **Department** receives prompt notification from industry personnel of each occurrence of a sample testing positive for drug residue, and of the identity of each ~~p~~**P**roducer identified as a source of milk testing positive for drug residue; (4-8-94)(____)

c. The ~~regulatory agency~~ **Department** receives prompt notification from industry personnel of the intended and final disposition of milk testing positive for drug residue, and that disposal of the load is conducted in a manner that removes it from the human or animal food chain, except when acceptably reconditioned under FDA compliance policy guidelines; and (4-8-94)(____)

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

03. Enforcement. ~~A penalty sanctioned by the Department of Agriculture shall be imposed on the producer for each occurrence of shipping milk testing positive for drug residue.~~ (4-8-94)

~~**a.** The producer shall review the "Milk and Dairy Beef Quality Assurance Program" with a licensed veterinarian within thirty (30) days after each occurrence of shipping milk testing positive for drug residue. A certificate confirming that the "Quality Assurance Program" has been reviewed shall be signed by the responsible producer and a licensed veterinarian. The Department of Agriculture shall receive a copy of the signed "Quality Assurance Program" certificate.~~ (4-8-94)

~~**b.** If a ~~p~~**P**roducer ships milk testing positive for drug residue three (3) times within a twelve (12) month period, the Department ~~of Agriculture shall~~ **may** initiate procedures to suspend the ~~p~~**P**roducer's milk shipping privileges.~~ (4-8-94)(____)

104. RADIONUCLIDES.

Composite milk samples from selected areas **within** in the state **of Idaho** should be tested for biologically significant radionuclides at a frequency which the ~~regulatory agency~~ **FDA** determines to be adequate to protect the consumer. (4-8-94)(____)

105. PESTICIDES AND HERBICIDES.

Composite milk samples should be tested for pesticides and herbicides at a frequency which the ~~regulatory agency~~ **FDA** determines is adequate to protect the consumer. The test results from the samples shall not exceed established FDA limits. (4-8-94)(____)

106. ADDED WATER.

Milk samples from each ~~p~~**P**roducer should be tested for added water at a frequency which the ~~regulatory agency~~ **Department** determines is adequate to prevent the addition of water to the milk. (4-8-94)(____)

107. -- 149. (RESERVED)

150. FARM REQUIREMENTS OF MILK FOR MANUFACTURING.

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

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

b. Tuberculin Test. The cows and water buffalo shall be located in a Modified Accredited Area, an Accredited Free State, or an Accredited Free Herd as determined by the US. Department of Agriculture (USDA). The goats shall be located in States meeting the current USDA Uniform Methods and Rules and for Bovine Tuberculosis Eradication or an Accredited Free Goat Herd. If the animals are not located in such areas, they shall be tested annually under the jurisdiction of the aforesaid program. All additions to the herd shall be from an area or from herds meeting those same requirements. (~~4-8-94~~)()

c. Brucellosis Test. The cows shall be located in States meeting Class B status, or Certified-Free Herds, or shall be involved in a milk ring test program or state of Idaho blood testing program ~~under the current USDA Brucellosis Eradication Uniform Methods and Rules~~. All additions to the herd shall be from an area or from herds meeting these same requirements. (~~4-8-94~~)()

d. Abnormal Milk. Milk from ~~cows~~ animals known to be infected with mastitis or milk containing residues of antibiotics or others drugs, or milk containing pesticides or other chemical residues in excess of the established limits shall not be sold or offered for sale for human ~~food~~ consumption. The milk shall be disposed of ~~as the regulatory agency~~ in a method approved by the Department ~~may direct~~. (~~4-8-94~~)()

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

a. A milking barn or milking parlor of adequate size and arrangement shall be provided to permit normal sanitary milking operations. It shall be well lighted and ventilated, and the floors and gutters in the milking area shall be constructed of concrete or other impervious material. The facility shall be kept clean, the manure removed daily and stored to prevent access of ~~cows~~ animals to accumulation thereof; and no swine or fowl shall be permitted in any part of the milking area. (~~4-8-94~~)()

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

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

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

a. The udders and flanks of all milking ~~cows~~ animals shall be kept clean. The udders and teats shall be washed or wiped immediately before milking with a clean, damp cloth or paper towel moistened with a sanitizing solution and wiped dry, or by any other sanitary method. (~~4-8-94~~)()

b. The milker's outer clothing shall be clean and his hands clean and dry. No person with an infected cut or open sores on their hands or arms shall milk ~~cows~~ animals, or handle milk or milk containers, utensils or equipment. (~~4-8-94~~)()

c. Cows/Animals which secrete abnormal milk shall be milked last or with separate equipment. This milk shall be excluded from the supply as required in Subsection 150.01.d. (~~4-8-94~~)()

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

04. Cooling. (4-8-94)

a. Milk in cans shall be cooled immediately after milking to forty-five (45) degrees Fahrenheit or lower unless delivered to the Dairy ~~Plant~~ within two (2) hours after milking. The devices such as cooler, tank, or refrigerated unit to cool milk can or canned milk shall be kept clean. (~~4-8-94~~)()

b. Milk in ~~Dairy~~ ~~Farm~~ ~~bulk~~ ~~Farm~~ ~~Tanks~~ shall be cooled to forty (40) degrees ~~Fahrenheit~~ or lower within two (2) hours after ~~the first~~ milking and maintained at forty-five (45) degrees ~~Fahrenheit~~ or lower until transferred to the ~~T~~ransport ~~T~~ank. (4-8-94)()

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

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

b. It shall be equipped with wash and rinse vat, utensil rack, milk cooling facilities and have an adequate supply of hot water available for cleaning milking equipment. If a part of the barn or other building, it shall be partitioned, screened, and sealed to prevent the entrance of dust, flies, or other contamination. A milking parlor used strictly as a milking facility in combination with a milkhouse or milkroom, when properly equipped, arranged and maintained, need not be partitioned. Concentrates and feed, if stored in the building, shall be kept in a tightly covered box or bin. The floor of the building shall be of concrete or other impervious material and graded to provide proper drainage. The walls and ceilings shall be constructed of smooth easily cleaned material. All outside doors shall open outward and be self-closing, unless they are provided with tight-fitting screen doors that open outward or unless other effective means are provided to prevent the entrance of flies. (4-8-94)

c. If a ~~Dairy~~ ~~Farm~~ ~~bulk~~ ~~Farm~~ ~~Tank~~ is used, it shall be properly located in the milkhouse or milkroom for access to all areas for cleaning and servicing. It shall not be located over a floor drain or under a ventilator. (4-8-94)()

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

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

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

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

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

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

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

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

a. Utensils, milk cans, milking machines (including pipeline systems), and other equipment used in the handling of milk shall be maintained in good condition, shall be free from rust, open seams, milkstone, or any ~~insanitary~~ condition, and shall be washed, rinsed, and drained after each milking, stored in suitable facilities, and sanitized immediately before use with at least fifty (50) ~~parts-per~~ ~~million~~ chlorine solution or its equivalent. New or

replacement can lids shall be umbrella type. All new utensils and equipment shall comply with applicable 3-A Sanitary Standards. (4-8-94)()

b. Dairy Farm ~~bulk Farm~~ Tanks shall meet 3-A Sanitary Standards for construction at the time of installation and shall be installed in accordance with regulations of the ~~regulatory agency~~ Department. (4-8-94)()

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

08. Water Supply. The ~~Dairy Farm~~ water supply shall ~~be properly located, protected, and operated, and shall be easily accessible, ample, and of safe, sanitary quality for the cleaning of dairy utensils and equipment. The water supply shall come from source which is approved by the Department of Agriculture; or from a spring, dug well, driven well, bored well, or drilled well, the water from which complies with the standards of the Department of Agriculture~~ meet the requirements in Appendix D of the Pasteurized Milk Ordinance as incorporated herein by reference. A source that does not conform with the construction requirements of ~~the Department of Agriculture~~ Appendix D, but is tested annually by an approved laboratory and found to be safe and of sanitary quality shall be satisfactory: ~~Provided, That after adoption of these rules,~~ any new sources of water supply or any farm water supply requiring repairs or reconstruction or any source from which tested samples have been found unsatisfactory shall meet the construction requirements of the Department of Agriculture. (4-8-94)()

09. Sewage Disposal. House, milkhouse or milkroom and toilet wastes shall be disposed of in a manner that will not pollute the soil surface, contaminate any water supply, or be exposed to insects. (4-8-94)

10. Qualifications for Dairy Farm Certification. Dairy Farm eCertification requires satisfactory compliance with the requirements in Section 150. (4-8-94)()

151. -- 159. (RESERVED)

160. DAIRY FARM CERTIFICATION.

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

01. Initial Inspection. Certified Dairy fFarms shall be inspected at least annually after initial certification to determine eligibility for recertification. The inspection ~~procedure~~ criteria for recertification shall be the same as that for initial certification. (4-8-94)()

02. Inspection. Each fFarm shall be inspected by an iInspector or ~~a~~Approved fFieldman. When evidence indicates that it is advisable to do so, the Department ~~of Agriculture~~ may require an examination of the herd by a licensed veterinarian. If the Dairy fFarm meets the applicable requirements for Dairy Farm eCertification described in Section 150, as indicated by the Farm Certification Report Form, the Dairy fFarm shall be certified as described in Subsection 160.03. If the Dairy fFarm does not meet the requirements for certification, ~~# the Dairy Farm~~ shall be reinspected within thirty (30) days after the initial inspection. If the Dairy fFarm then meets the requirements for certification, ~~# the Dairy Farm~~ shall be certified. If the Dairy fFarm does not meet the requirements for certification, ~~# the Dairy Farm~~ shall not be certified, and the pProducer's authorization to sell milk for human ~~food consumption~~ from that Dairy fFarm shall be withheld by the Department ~~of Agriculture~~ until such time as the Dairy fFarm qualifies for certification. Repeat violations on any item may cause a Dairy fFarm to lose certification. Provided that, if the iInspector determines during any of these inspections that corrections on the Dairy fFarm will require some capital investment, a reasonable extension of the prescribed time limits may be granted by the Department ~~of Agriculture~~. (4-8-94)()

03. Certification. An iInspector or ~~a~~Approved fFieldman shall certify Dairy fFarms that meet the requirements of Section 150, as applicable, based upon the inspection ~~procedure~~ criteria described in Subsection 160.02. The scoring criteria ~~established on USDA Form DA 181 (11/90) as amended,~~ approved by the Department shall be utilized in determining compliance with the provisions of Section 150. Dairy Farm eCertification shall authorize the sale from that Dairy fFarm of milk for manufacturing purposes that meets the quality standards. (4-8-94)()

04. **Probationary Period.** If at any time an ~~i~~Inspector or ~~a~~Approved ~~f~~Fieldman determines that a certified ~~Dairy f~~Farm does not meet the requirements for certification, the Department ~~of Agriculture~~ may allow a reasonable probationary period for the ~~p~~Producer to bring the ~~Dairy f~~Farm within the requirements for certification. If at the end of this time the ~~Dairy f~~Farm does not meet the requirements for certification, the Department ~~of Agriculture~~ may revoke the ~~Dairy f~~Farm ~~e~~Certification. (4-8-94)()

05. **Reinstatement.** If, after a period of withholding, probation, or revocation of ~~Dairy f~~Farm ~~e~~Certification, a ~~p~~Producer makes the necessary corrections at the ~~Dairy f~~Farm, ~~they~~ the ~~Producer~~ may apply for reinspection. When conditions have been corrected, the ~~Dairy f~~Farm shall be reinspected by an inspector or ~~a~~Approved ~~f~~Fieldman. When the ~~i~~Inspector or ~~a~~Approved ~~f~~Fieldman determines that requirements for certification have been met, the ~~Dairy f~~Farm shall be certified. (4-8-94)()

161. -- ~~29349~~. (RESERVED)

~~300. METHODS OF ANALYSIS:~~

~~All milk or cream purchased in or from the state of Idaho at a purchase price based upon or determined by weight and the milkfat, protein or solids non fat content thereof, shall be tested for milkfat protein or solids non fat under the methods approved by the latest edition of "The Methods of Analysis of the Association of Official Analytical Chemists."~~ (7-1-93)

~~01. Methods of Testing. The methods of testing milk and cream for sale recognized by the state of Idaho are:~~ (7-1-93)

~~a. The Babcock test in the above named work, Section 15.030. (7-1-93)~~

~~b. Solids not fat to be determined by subtracting the results of the Babcock test, Section 15.030, from the total solids test, Section 15.014, of the same work. (7-1-93)~~

~~c. Butterfat testing by light transmission as set forth in the same work. (7-1-93)~~

~~i. The latest edition of the manufacturer's operation manual shall be available at all times in conjunction with the instrument, and the procedures therein shall be followed. (7-1-93)~~

~~ii. A constant flow voltage regulator must be supplied if the instrument does not have one. If an external regulator is supplied, it must be installed immediately ahead of the instrument. (7-1-93)~~

~~iii. The calibration of the instrument may be checked by the Babcock method or the ether fat extraction method. If the Babcock method is used, a total of ten (10) or more individual tests will be run on the Babcock tester and the same samples run on the instrument. The mathematical average of the tests will be used to adjust the instrument. If the ether extraction method is used, a total of four samples will be run on the Mojonnier and on the instrument. The mathematical average of the four tests shall be used to adjust the instrument. The variation average between the Babcock or Mojonnier and the instrument shall not exceed fifteen thousandths percent (.015%). (7-1-93)~~

~~iv. At the beginning of each testing day and after each thirty (30) tests during the testing period, a pilot sample of homogenized milk of a known butterfat content shall be tested on the instrument and the results recorded on the permanent test record. If there is a variation of four hundredths percent (.04%), the instrument must be rinsed thoroughly with versene solution and the instrument checked for zero setting in order to get agreement on the test of the standard. At least three (3) standard checks must then be run and if the average is in excess of four hundredths percent (.04%), the instrument must be recalibrated. If after the three standard checks are run and the instrument recalibrated, then all samples run after the last check sample must be retested. The results of the rechecks will become official. When any sample varies in butterfat content by more than two percent (2%) from the sample preceding it through the instrument, there shall be an immediate retest and the second test shall be the one recorded. (7-1-93)~~

~~v. The samples used for calibration shall include samples in butterfat ranges normally comprised in the milk or cream purchased. These samples shall be prepared in the same manner as samples upon which producer payments are to be based. (7-1-93)~~

~~vi. All calibration results and check test for initial or subsequent calibration shall be recorded in the original record book and all tests for checking accuracy of calibration shall be recorded in the original record book. (7-1-93)~~

~~vii. The laboratory record shall be kept in a permanently bound record book in chronological order in the laboratory where the tests are made. Such record book shall be known as the original record. Entries shall be dated and subscribed to by the person making the determination and shall be kept for not less than one (1) year following test. (7-1-93)~~

~~viii. Fresh samples of milk to be used where composite samples are not prepared shall be taken in the manner prescribed and approved by the Department of Agriculture. Composite samples, if used, shall be preserved, with not more than one percent (1%) by weight of sample, of Potassium Bichromate or any equally approved preservative. No mercury compound. (7-1-93)~~

~~ix. The minimum sample for use by the light transmission method for fat both fresh and preserved samples. If fresh samples are the basis for payment, then the samples shall be from fresh milk. (7-1-93)~~

~~x. After making the fresh milk fat tests and the results being normal, the samples may be discarded. (7-1-93)~~

~~xi. All milk samples shall be tempered to ninety (90) degrees F one hundred (100) degrees F in a controlled water bath which is provided with an accurate thermometer or a thermostatically controlled, enclosed, hot air bath at ninety (90) degrees F one hundred (100) degrees F. (7-1-93)~~

~~xii. No person shall test milk by the light transmission method where the results are used as a payment for butterfat therein, unless licensed as a Babcock tester and is qualified to operate the instrument by the manufacturer's standards. (7-1-93)~~

02. Methods of Payment. ~~Methods of payment for butterfat shall be made by daily extensions of weight and butterfat or by the random stratified testing procedure. The stratified testing procedure shall be as follows: (7-1-93)~~

~~a. A minimum of three (3) tests per pay period must be used to calculate the pay test on a two (2) pay periods per month basis, or six (6) tests per pay period for monthly pay purposes. (7-1-93)~~

~~b. The dates on which samples are to be tested are to be determined by the plant manager and the quality control manager or production supervisor. The dates are to be recorded in a log book for the month prior to testing. If routes are to be tested on different days, the dates by individual routes are to be recorded in a log book. The book is to be kept in a locked place available to management personnel only. Under no circumstances shall the dates of testing be made known in advance to anyone other than management personnel. Lab personnel are to be notified on the days the tests are to be made which routes are to be tested. (7-1-93)~~

~~c. To insure proper stratified random sampling one (1) sample is to be tested each five (5) days. (7-1-93)~~

~~d. Samples will be collected from every producer's shipment or delivery of milk. These samples shall be collected on Saturdays, Sundays, and holidays as the normal random sampling procedure. (7-1-93)~~

03. Infrared Milk Analyzer (I.R.M.A.). ~~The latest edition of the manufacturer's operational manual shall be available at all times in conjunction with the operation of the Milk Analyzer and the procedures therein shall be followed. The instrument performance shall therefore conform to the accepted Standard Methods specification as outlined in the latest Journal of the A.O.A.C. (7-1-93)~~

301. -- 349. (RESERVED)

350. STANDARDS FOR BULK MILK HAULERS.

01. **Permits.** All Bulk Milk Haulers must possess a permit issued by the Department of Agriculture. The permit shall cost twenty-five dollars (\$25) and will be issued to the applicant after a training session on proper procedures and successfully passing an examination administered by the Department of Agriculture. (4-8-94)()

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

b. A training and refresher course conducted by the Idaho Department of Agriculture will be given in each area of the state of Idaho once each year. (7-1-93)()

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

d. Each new prospective Bulk Milk Hauler must immediately shall apply to the Department of Agriculture for a permit. The bulk milk hauling company shall provide basic instructions on bulk milk protocols including milk sample collection, pick-up procedures, and safety measures. A date will be set for a special training and licensing session and upon satisfactory completion, a Hauler and Samplers permit will be issued upon satisfactory completion of a special training and licensing session held by the Department. (7-1-93)()

e. A substitute Bulk Milk Hauler in case of emergency can haul milk for three (3) days without a permit provided the state regulatory official Department has been notified and the substitute Bulk Milk Hauler is given some provided instruction on approved milk pickup and delivery requirements by the bulk milk hauling company. At the end of three (3) days the substitute Bulk Milk Hauler must apply for a permit. (7-1-93)()

02. **Adulteration.** If the truck is left unattended, Bulk Milk Haulers shall affix a seal or lock on all tanker Transportation Tank ports, covers, and doors to protect the milk from possible adulteration. (7-1-93)()

03. **Authorization.** No Bulk Milk Hauler shall grade, measure or sample his own milk without written authorization from the processor Dairy Plant receiving the milk. (7-1-93)()

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

a. The Bulk Milk Hauler fails to grade milk in a Dairy Farm Tank to its odor and appearance and fails to reject all milk which is abnormal in odor or flavor or that contains visible garget or other extraneous matter. (7-1-93)()

b. The Bulk Milk Hauler does not accurately take and record the temperature of milk or if he fails to reject the milk in excess of forty-five (45) degrees F. (7-1-93)()

c. The Bulk Milk Hauler fails to wash his hands before he proceeds to measure and sample the milk. (7-1-93)()

d. The Bulk Milk Hauler fails to follow acceptable procedures in measuring the amount of milk in the bulk Farm Tank or if he does not, immediately after taking the reading convert the reading to pounds or gallons using the chart of the Farm Tank manufacturer and record it on duplicate forms, with one (1) copy to be posted in the milk house and one (1) transmitted to the Dairy Plant. (7-1-93)()

e. The Bulk Milk Hauler fails to agitate the milk for at least five (5) minutes in bulk Farm Tanks less than one thousand (1,000) gallons and ten minutes in Farm Tanks over one thousand (1,000) gallons before taking a sample or if he withdraws any part of the milk from the Farm Tank before the sample is taken. (7-1-93)()

f. The Bulk Milk Hauler does not take a sample for butterfat component testing and/or bacterial milk quality analysis in an approved manner, or sufficient size, in an approved container properly labeled, and cool and maintain the sample between thirty-two (32) degrees Fahrenheit to forty (40) degrees Fahrenheit. (7-1-93)()

g. The Bulk Milk Hauler rinses the bulk Farm Tank before disconnecting and capping the hose. (7-1-93)()

h. The Bulk Milk #Hauler siphons milk from milk cans, water troughs or other containers other than the ~~bulk Farm #Tank~~. Milk poured into the bulk Farm #Tank from other than regular milking machine pails will not be allowed. (7-1-93)()

351. -- 399. (RESERVED)

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

~~01. Authority. The standards set forth herein are promulgated pursuant to Section 37-1201, Idaho Code.~~ (7-1-93)

~~021. Definitions. For purposes of these rules, the standards of identity for ice cream and frozen custards, frozen yogurt, frozen yogurt dessert mix, frozen yogurt dairy products, frozen dairy dessert, ice milk, sherbet and water ices are as defined by the Food and Drug Administration, United States Department of Health Education and Welfare, in Section 135.3, Section 135.110, Section 135.120, Section 135.140 and Section 135.160, Title 21, Part 135, of the Code of Federal Regulations, the Food and Drug Administration, United States Department of Health Education and Welfare, as set forth in Volume 21, Parts 100 to 199, Code of Federal Regulations, are by reference and adopted as amended. "Lite ice cream" or "light ice cream" shall comply with the provisions set forth for ice cream; provided it meets the following:~~ (7-1-93)()

- ~~a. "Lite ice cream" or "light ice cream" shall contain not less than five percent (5%) milkfat. (7-1-93)~~
- ~~b. The total amount of milkfat shall not exceed four and twenty five hundredths (4.25) grams per four (4) ounce serving. (7-1-93)~~
- ~~c. Total milk solids shall be at least eleven percent (11%). (7-1-93)~~
- ~~d. "Lite ice cream" or "light ice cream" shall contain not less than one and three tenths (1.3) pounds of total solids to the gallon and weigh not less than four (4) pounds to the gallon. (7-1-93)~~
- ~~e. "Lite ice cream" or "light ice cream" shall be labeled as such. Further descriptive or non-deceptive labeling may be permitted. (7-1-93)~~
- ~~f. All labels shall be submitted to and approved by the Idaho Department of Agriculture prior to sale or offering for sale of any "lite ice cream" or "light ice cream." (7-1-93)~~

~~03. Frozen Yogurt Dessert Mix. Frozen yogurt dessert mix is the food prepared from milk, with or without added milk solids, flavoring or seasoning and which has been pasteurized and afterwards fermented by one or more strains of Lactobacillus Bulgaricus, including yogurt strains Streptococcus Thermophilus and Lactobacillus Acidophilus. It shall be free of molds, yeasts, and other fungi, as well as other objectionable bacteria which may impair the quality of the product. Mature, clean and wholesome fruit or approved flavors may be added for fruit, fruit flavored or flavored yogurts. (7-1-93)~~

- ~~a. Frozen yogurt dessert mix shall contain not less than three and twenty five hundredths percent (3.25%) milkfat. (7-1-93)~~
- ~~b. The milkfat may be reduced to not less than two and eight tenths percent (2.8%) in flavored products. (7-1-93)~~
- ~~c. The solids not fat in frozen yogurt dessert shall be not less than nine percent (9%) and the total solids not less than twenty three percent (23%). (7-1-93)~~
- ~~d. The weight of the frozen yogurt dessert mix shall be not less than five (5) pounds per gallon. (7-1-93)~~

- ~~e. Harmless, edible stabilizers may be added not to exceed six tenths percent (.6%). (7-1-93)~~
- ~~f. Addition of sugar is optional. (7-1-93)~~
- ~~g. The freezing and air incorporation shall not exceed sixty percent (60%) by volume of the product. (7-1-93)~~
- ~~04. **Frozen Yogurt Dessert.** Frozen yogurt dessert is a frozen product produced from a frozen yogurt dessert mix identified in Subsection 400.03 and which complies with all the identity standards herein contained. (7-1-93)~~
- ~~05. **Frozen Lowfat and Nonfat Yogurt Dessert.** Frozen lowfat yogurt dessert shall be the same as frozen yogurt dessert except it shall contain not more than two percent (2%) milkfat with the addition of fruit. Frozen nonfat yogurt dessert shall be the same as frozen yogurt dessert except that it shall contain not more than five tenths percent (.5%) milkfat. (7-1-93)~~
- ~~06. **Dietetic or Dietary Frozen Dessert.** Dietetic or dietary frozen dessert is the food prepared from the same ingredients and in the same manner as ice cream except that: (7-1-93)~~
- ~~a. The optional sweetening ingredients shall be low caloric or non-caloric sweetening agent. (7-1-93)~~
- ~~b. The milkfat content shall be not less than five tenths percent (.5%) nor more than two percent (2%) by weight. (7-1-93)~~
- ~~c. The total milk solids shall be not less than twelve percent (12%) by weight. (7-1-93)~~
- ~~d. The content of total food solids shall be not less than twenty-eight percent (28%) by weight or one and four tenths (1.4) pounds per gallon. (7-1-93)~~
- ~~e. The weight of the finished product shall be not less than four and one-half (4 1/2) pounds per gallon. (7-1-93)~~
- ~~f. The name of the product is Dietetic Frozen Dessert or Dietary Frozen Dessert. (7-1-93)~~
- ~~g. In addition to the labeling requirements of Section 37-1202, Idaho Code, labeling shall be in accordance with applicable Federal requirements. (7-1-93)~~
- ~~h. Dietetic or dietary frozen dessert shall be sold only in packages of one-half (1/2) gallon or less. (7-1-93)~~
- ~~i. Dietetic or dietary frozen dessert shall not be sold as novelties. (7-1-93)~~
- ~~07. **Milk Shake Base.** Milk shake base is the food prepared from the same ingredients and in the same manner as ice milk except that: (7-1-93)~~
- ~~a. Its milkfat content is not less than two percent (2%) by weight. (7-1-93)~~
- ~~b. Its content of milk solids not fat is not less than eleven percent (11%) by weight. (7-1-93)~~
- ~~c. The total food solids is not less than twenty five percent (25%) by weight. (7-1-93)~~
- ~~d. The provision for reduction in milkfat and total milk solids by the addition of bulky ingredients does not apply. (7-1-93)~~
- ~~e. No person except a manufacturer of frozen dessert mix or frozen dessert shall reduce the percentage by weight of milkfat by the addition of any milk product. (7-1-93)~~

~~08. **Lowfat Frozen Dairy Dessert and Nonfat Dairy Dessert.** Lowfat frozen dessert is the food prepared by freezing while stirring a pasteurized mix prepared from the same ingredients and in the same manner as ice cream except that:~~ (7-1-93)

~~a. Its content of milkfat is more than five-tenths percent (.5%) but not more than two percent (2%).~~ (7-1-93)

~~b. It shall contain not less than twelve percent (12%) total milk solids not including milk components which may be added as ingredients.~~ (7-1-93)

~~c. The weight per gallon of frozen product is not less than four and five-tenths (4.5) pounds.~~ (7-1-93)

~~d. Its content of food solids per frozen gallon shall be not less than one and three-tenths (1.3) pounds.~~ (7-1-93)

~~09. **Nonfat Frozen Dairy Dessert.** Nonfat frozen dairy dessert shall meet all the requirements of lowfat frozen dessert except the milkfat content shall be less than five-tenths (.5%) by weight. The product shall be labeled in the same manner as lowfat frozen dairy dessert except the name of the food which shall be "nonfat frozen dairy dessert."~~ (7-1-93)

~~10. **Nondairy Frozen Dessert.**~~ (7-1-93)

~~a. Nondairy frozen dessert is the food which is prepared by freezing, while stirring, a nondairy frozen dessert mix composed of one (1) or more of the optional characterizing ingredients specified in Subsection 400.10.b. sweetened with one (1) or more of the optional sweetening ingredients specified in Subsection 400.10.c. The nondairy product, with or without water added, may be seasoned with salt. One (1) or more of the ingredients specified in Subsection 400.10.d. may be used. Pasteurization is not required.~~ (7-1-93)

~~b. The optional flavoring ingredients referred to in Subsection 400.10.a., are natural and artificial flavoring and characterized food ingredients.~~ (7-1-93)

~~c. The optional sweetening ingredients referred to in Subsection 400.10.a. are sugar (sucrose), dextrose, invert sugar paste or syrup, glucose syrup, dried glucose syrup, corn sweetener, dried corn sweetener, malt syrup, malt extract, dried malt syrup, dried malt extract, maltose syrup and dried maltose syrup.~~ (7-1-93)

~~d. The optional ingredients referred to in Subsection 400.10.a. are caseinates, hydrogenated vegetable oil, dipotassium phosphate, coloring, mono and diglycerides or polysorbates and other safe and suitable thickening agents.~~ (7-1-93)

~~e. Such non dairy frozen desserts are deemed "processed" when manufactured as a dry powdered mix. The addition of water is the manner in which such nondairy frozen desserts are served.~~ (7-1-93)

~~H02. **Labeling.** Each of the products identified in Subsections 400.02 through 400.10 shall be labeled as provided in Section 37-1202, Idaho Code. In addition, each container shall bear an identifiable code so as to identify the lot and/or date in which the product was manufactured.~~ (7-1-93)

~~03. **Quality Standards.** The following quality standards must be met:~~ ()

~~12a. Coliform Standard. Compliance with the coliform standard shall be deemed to have been met if the number of coliform organisms count does not exceed ten (10) colonies per gram per sample in more than two (2) of the last fivefour (54) consecutive samples. No enforcement action shall be taken if the last sample is within the standard.~~ (7-1-93)()

~~13b. Bacteria Standard. Compliance with the bacteria standard shall be deemed to have been met if the number of bacteria count per gram does not exceed twenty thousand (20,000) bacteria per gram per sample in more than two (2) of the last fivefour (54) consecutive samples. Whenever the Dairy Product is cultured, the bacteria test,~~

using the standard plate count or equivalent method, would not be applicable. (7-1-93)()

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

~~404.~~ **Licensed Manufacturers.** All frozen dessert mixes except nondairy frozen dessert shall be secured from a licensed manufacturer and shall be manufactured into a semifrozen state without adulteration. Freezing device salvage shall not be reused as a mix. (7-1-93)

~~405.~~ **Violations.** The Director ~~of the Idaho Department of Agriculture or the Director's authorized representative~~ shall issue and enforce a written stop sale order to the owner or custodian of any quantity of frozen desserts or frozen novelties which ~~have~~ are in violation of Title 37 Chapters 3, ~~4, 5, 6, 7, 8, 9, 10, 11~~ Idaho Code, or ~~regulations adopted pursuant thereto~~ these rules. Disposition of products not in compliance shall be at the discretion of the Director. (7-1-93)()

401. -- 499. (RESERVED)

500. STANDARDS FOR BUTTER.

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

02. Quality Standards. The following quality standards must be met: ()

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

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

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

~~500~~1. ~~IDAHO~~ STANDARDS FOR WHEY BUTTER.

~~01. Definition.~~ (7-1-93)

~~a. Whey Butter: The food product made by gathering the fat of fresh or ripened whey cream separated from cheese whey formed into a mass, with or without added cream obtained from milk, which also contains a small portion of other whey or milk constituents, with or without the addition of salt or a harmless coloring matter. Whey butter shall be clean and non rancid and shall contain not less than eighty percent (80%) butter fat. For the purposes of these rules whey butter shall be pasteurized.~~ (7-1-93)

~~b. Whey Cream: That portion of whey rich in milk fat which is separated from whey.~~ (7-1-93)

021. Basis for Determining the Acceptability of Whey Butter. The acceptability of ~~W~~Whey ~~b~~Butter is determined on the basis of classifying first the flavor characteristics and then the characteristics in body, color and salt. Flavor is the basic quality factor in grading ~~W~~Whey ~~b~~Butter and is determined organoleptically by taste and smell. The flavor characteristic is identified and together with it relative intensity, is rated according to the applicable classification. When more than one flavor characteristic is discernible in a sample of ~~W~~Whey ~~b~~Butter, the flavor classification of the sample shall be established on the basis of the flavor that carries the lowest rating. Body, color

and salt characteristics are then noted and any defects are disrated in accordance with the established classification. Acceptability for the sample is then established in accordance with the flavor classification, subject to disratings for body, color and salt. When the disratings for body, color and salt exceed the permitted amount or if the flavor is not acceptable, the ~~W~~Whey ~~B~~Butter will not be allowed to be sold or distributed within the state of Idaho unless the packages are labeled as provided. (7-1-93)()

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

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

a. The name of the product shall be ~~W~~Whey ~~B~~Butter or Whey Cream Butter or “Butter made from whey cream.” (7-1-93)()

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

c. The manufacturer identification number shall be conspicuously placed on each wrapper and container of ~~W~~Whey ~~B~~Butter. (7-1-93)()

d. Labels of ~~W~~Whey ~~B~~Butter sold or distributed within Idaho shall be approved by the ~~director of the~~ Department of Agriculture. (7-1-93)()

04. Quality Standards. The following quality standards must be met: ()

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

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

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

05. Enforcement. Whey ~~B~~Butter which fails to meet flavor or body, color and salt requirements as defined in Section 500 may be sold or distributed within the state of Idaho, provided the word, “undergrade” is placed on the principal display panel(s) immediately preceding or following the product name and is of uniform type size and prominence. (7-1-93)()

06. Table I -- Classification of Flavor Characteristics.

Identified Flavors	Acceptable	Un acceptable Un acceptable
Flat	S	D
Malty	S	D

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

(7-1-93)()

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

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

S -- Slight; D -- Definite; P -- Pronounced (7-1-93)

08. Explanation of Terms with Respect to Flavor, Intensity, and Characteristics: (7-1-93)

- a. Slight: Detected only upon critical examination. (7-1-93)
- b. Definite: Detectable but not intense. (7-1-93)
- c. Pronounced: Readily detectable and intense. (7-1-93)
- d. Aged: Characterized by lack of freshness. (7-1-93)

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

(7-1-93)

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

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

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

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

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

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

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

d. Wavy: “Wavy” color in butter is ~~an~~ unevenness in the color that appears as waves of different shades of yellow. The intensity is described as “slight” when the waves are barely discernible and “definite” when they are readily noticeable on the trier plug. (7-1-93)()

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

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

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

5072. -- 599. (RESERVED)

600. NEW DAIRY PRODUCTS.

01. General. Upon request of any interested person, the Director ~~of the Idaho Department of Agriculture~~ may establish a temporary definition and standard for a new ~~d~~Dairy ~~p~~Product provided, all the following conditions exist: (7-1-93)()

a. Research in the uses of milk and the products or by products of milk has developed a new ~~d~~Dairy ~~p~~Product for which no definition or standard is prescribed. (7-1-93)()

b. The new ~~Dairy p~~Product cannot be produced or marketed because no definition in standard is prescribed for it. (7-1-93)()

- c. The public interest would be served by the Dairy pProduct. (7-1-93)()
- d. The quality, wholesomeness and manufacturing requirements of the dDairy pProduct are at least equal to established standards for similar dDairy pProducts. (7-1-93)()
- e. The Dairy pProduct is labeled in accordance to ~~F.D.A.~~ guidelines for a food product and approved by ~~the~~ Department ~~of Agriculture~~. (7-1-93)()
- 02. Permits.** The Director ~~of the Department of Agriculture~~ may issue a special permit to the manufacturer/distributor for the production and sale of a new dDairy pProduct(s). The fee for this permit shall be twenty five dollars (\$25) per dDairy pProduct. Such manufacturer/distributor shall be subject to the provisions of Title 37 Idaho Code and regulations adopted pursuant thereto applicable to ~~milk~~ Dairy pPlants and milk products. (7-1-93)()
- 03. Expiration.** After two (2) years from the date a temporary permit has been issued for a new dDairy pProduct(s), the Department ~~of Agriculture~~ shall promulgate rules to establish definitions and standards for the new, nonstandardized dDairy pProduct(s). (7-1-93)()

PROPOSED RULE COST/BENEFIT ANALYSIS

Section 67-5223(3), Idaho Code, requires the preparation of an economic impact statement for all proposed rules imposing or increasing fees or charges. This cost/benefit analysis, which must be filed with the proposed rule, must include the reasonably estimated costs to the agency to implement the rule and the reasonably estimated costs to be borne by citizens, or the private sector, or both.

Department or Agency: Idaho State Department of Agriculture

Agency Contact: Dr. Scott Leibslle **Phone:** 208.332.8614

Date: July 22, 2014

IDAPA, Chapter and Title Number and Chapter Name: 02.04.19. Rules Governing Domestic Cervidae

Fee Rule Status: **Proposed** **Temporary**

Rulemaking Docket Number: 02-0419-1401

STATEMENT OF ECONOMIC IMPACT:

The overall fiscal impact to the industry should be positive. The temporary rule enforces a new fee schedule, approved by the 2014 Idaho Legislature in House Bill 431, which will increase revenue to the program in the form of increased annual assessment fees and transfer fees. However, this increased financial burden to the producer will be offset by the reduction of chronic wasting disease testing requirements and will result in considerable overall savings to the average producer. ISDA anticipates a net positive fiscal impact to the industry and to the dedicated fund utilized to manage the domestic cervidae program. If the fee is not implemented as a temporary rule, the industry will not generate sufficient funds to maintain operations for an entire fiscal year and will be at risk of being shut down for a third consecutive year.

	<u># Cervidae ranches</u>	<u># Cervidae</u>	<u>Revenue</u>	<u>Expenses</u>
FY13	62	4229	\$43,218	\$56,187 (program shut down after 9mos)
FY14	58	4411	\$48,238	\$49,451 (program shut down after 10mos)
Projected FY15 Budget (w/ new fee schedule):			\$70,200	\$35,000

IDAPA 02 - DEPARTMENT OF AGRICULTURE

02.04.19 - RULES GOVERNING DOMESTIC CERVIDAE

DOCKET NO. 02-0419-1401 (FEE RULE)

NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is September 1, 2014.

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rulemaking procedures have been initiated. 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 September 17, 2014.

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:

Amend Section 010 - The rule change defines the term "harvest" as it pertains to animals on a domestic cervidae facility.

Amend Section 090 - The rule change will establish the new fee schedule for cervidae producers, collected by ISDA, to cover the cost of administering the program, pursuant to the change in statute.

Amend Section 101 - The rule change will alter the frequency of required facility inspections to coincide with the statutory amendment.

Amend Section 209 - The rule change will describe how the Administrator will implement Chronic Wasting Disease Surveillance standards for facilities at a higher risk of disease exposure.

Amend Section 500 - The rule change will establish the new Chronic Wasting Disease surveillance standards for cervids that die or are harvested on cervidae facilities.

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

The domestic cervidae industry is at risk for a program shut-down for a third consecutive year due to a shortage of funds unless the 2014 amendments to the domestic cervidae law (House Bill 431) are implemented as a temporary rule, prior to fees being collected at the end of this calendar year. The temporary rule has already been negotiated with stakeholders, who have reached a consensus on all of the changes.

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

The annual assessment fee for domestic elk will be increased from five dollars (\$5) per head per year, to ten dollars (\$10) per head per year. These funds are used to cover the cost of administering the program, as described in IDAPA 02.04.19.

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:

The fiscal impact to the industry due to the increased fee schedule will be offset by the reduction of chronic wasting disease testing requirements. ISDA anticipates a net positive fiscal impact to the industry and to the dedicated fund utilized to manage the domestic cervidae program.

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 June 2014 Idaho Administrative Bulletin, [Vol. 14-6, page 27](#). A negotiated rulemaking meeting was held at the Idaho State Department of Agriculture on July 1, 2014. There were twenty (20) people in attendance and multiple comments were entered into the record and taken into consideration when drafting this temporary and proposed rule. The final language represents consensus of the stakeholders present at the negotiated rulemaking.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: NA

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Dr. Scott Leibsle, Deputy Administrator at (208) 332-8614.

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 September 24, 2014.

DATED this 7th Day of August, 2014.

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

THE FOLLOWING IS THE PROPOSED TEXT OF FEE DOCKET NO. 02-0419-1401
(Only those Sections being amended are shown.)

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 AAVLD accredited laboratory that is qualified to perform CWD diagnostic procedures, or a laboratory designated by the Administrator to perform CWD diagnostic procedures. (4-2-03)

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

15. CWD-Exposed Herd. A herd of 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 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 administrator, provided by the Division for the reporting of 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. **Harvest.** Any healthy domestic cervid that is intentionally and lethally removed from a domestic cervidae facility, by an owner, designated employee or customer of the facility, strictly for the purposes of either shooting or meat production. (9-1-14)T
- ~~31~~2. **Herd of Origin.** A cervid herd, on any domestic cervidae ranch or other premise, where the animals were born, or where they were kept for at least one (1) year prior to date of shipment. (4-2-03)
- ~~32~~3. **Herd Status.** Classification of a cervidae herd with regard to CWD. (4-2-03)
- ~~33~~4. **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~~5. **Individual CWD Herd Plan.** A written herd management agreement and testing plan developed by the herd owner and approved by the Administrator to identify and eradicate CWD from a positive, source, suspect, exposed, or adjacent herd. (4-7-11)
- ~~35~~6. **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~~7. **National CWD Herd Certification Program.** A federal-state-industry cooperative program administered by APHIS and implemented by participating states that establishes CWD surveillance and testing standards that owners must achieve before interstate transport of cervids will be permitted. (3-20-14)
- ~~37~~8. **Official CWD Test.** A test approved by the Administrator and conducted at an approved laboratory to diagnose CWD. (4-2-03)

- 389. Official Identification.** Identification, approved by the Administrator, that individually, uniquely, and permanently identifies each cervid. (4-2-03)
- 3940. Operator.** A person who has authority to manage or direct a domestic cervidae ranch. (4-2-03)
- 401. Owner.** The person that has legal title to, or has financial control of, any domestic cervidae or domestic cervidae ranch (4-2-03)
- 412. 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)
- 423. Premises.** The ground, area, buildings, and equipment utilized to raise, propagate, control, or harvest domestic cervidae. (4-2-03)
- 434. Quarantine.** An order issued on authority of the Administrator, by a state or federal animal health official or accredited veterinarian, prohibiting movement of cervids from any location without a written restricted movement permit. (4-2-03)
- 445. Quarantine Facility.** A confined area where selected domestic cervidae can be secured and isolated from all other cervidae and livestock. (4-2-03)
- 456. Ranch Management Plan.** A written plan for a domestic cervidae ranch that sets forth best management practices that mitigates the introduction or dissemination of disease among domestic cervidae. (4-7-11)
- 467. 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)
- 4748. 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)
- 4849. 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)
- 4950. Source Herd.** A herd from which at least one (1) cervid has originated within the previous five (5) years and that cervid has been diagnosed CWD positive. (4-2-03)
- 501. State Animal Health Official.** The Administrator, or his designee. (4-2-03)
- 512. Status Date.** The date on which the Administrator approves in writing a herd status change with regard to CWD. (4-2-03)
- 523. 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)
- 534. 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)
- 545. 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)
- 556. Wild Cervidae.** Any cervid animal not owned by a person. (4-2-03)
- 567. Wild Ungulate.** Any four (4) legged, hooved herbivore, including cervids and other ruminants, not

owned by a person.

(4-6-05)

578. 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)

(BREAK IN CONTINUITY OF SECTIONS)

090. FEES.

01. Annual Assessment Fee. A fee, not to exceed ~~five ten~~ dollars (\$~~510~~) per head per year on elk or three dollars (\$3) per head per year on fallow deer and reindeer, is ~~to be~~ hereby assessed on all domestic cervidae in the state to cover the cost of administering the program covered in these rules. The fee shall include all domestic cervidae present at the ranch as of December 31 and all domestic cervidae imported from outside of the state that die during the same calendar year. This fee is due January first of each year. The annual assessment fee may be reduced if program revenue accumulates to a balance of at least one hundred thousand dollars (\$100,000) in excess of the projected annual cost of operating the program, as determined by the Department on July 1 of each year.

~~(4-7-H)~~(9-1-14)T

02. Import, Export, and Movement Fees. The fees imposed in Section 25-3708(2) through (4), Idaho Code, are due no later than December 31 of each year, but the Department requests all movement fees be submitted within five (5) business days of the movement of the domestic cervids.

(9-1-14)T

(BREAK IN CONTINUITY OF SECTIONS)

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 shall be maintained, at all times that domestic cervidae are present, to prevent the escape of domestic cervidae or ingress of wild cervidae. (4-2-03)

02. Inspections. To ensure compliance with this chapter, state or federal animal health officials shall inspect all premises where domestic cervidae are, or will be, possessed, controlled, harvested, propagated, held, or kept. (4-2-03)

a. Each domestic cervidae ranch shall be inspected ~~at least annually~~ no less than once every five (5) years. Domestic cervidae ranches may be inspected more frequently if requested by the owner or if specified in a ranch management plan. The Administrator may require additional facility inspections as necessary to aid in the prevention, control, or eradication of disease or to ensure compliance with the provisions of this chapter or other state or federal rules applicable to domestic cervidae.

~~(4-2-03)~~(9-1-14)T

b. All facilities relating to the handling or raising of domestic cervidae shall be inspected. (4-2-03)

(BREAK IN CONTINUITY OF SECTIONS)

209. RANCH MANAGEMENT PLAN.

01. Voluntary Ranch Management Plan. A domestic cervidae ranch may apply, on a form prescribed by the Administrator, to enter into a voluntary ranch management plan. The ranch management plan will be developed cooperatively by the owner or authorized agent and the Administrator. For the ranch management plan, the Administrator will conduct a risk assessment considering the factors in Subsection 209.03. A voluntary ranch

management plan may, notwithstanding other rule requirements to the contrary, establish inventory verification requirements and CWD sampling requirements specific for a domestic cervidae ranch. Failure to adhere to an approved voluntary ranch management plan is a violation of these rules. (4-7-11)

02. Mandatory Ranch Management Plan. A domestic cervidae ranch shall be required to develop and implement an approved ranch management plan if the ranch is found in violation of Sections 060, 204 or 500 of these rules. The ranch management plan must be completed and implemented within six (6) months of the disposition of the violation. For the ranch management plan, the Administrator will conduct a risk assessment considering the factors in Subsection 209.03. Failure to comply with the mandatory ranch management plan is a violation of these rules. This requirement will become effective July 1, 2012 (4-7-11)

03. Risk Assessment for Ranch Management Plans. The Administrator will conduct a risk assessment for each ranch management plan. A ranch management plan will not include a double fencing requirement but may require that double gates be installed. The Administrator will consider the following factors when conducting a risk assessment at a domestic cervidae ranch: (4-7-11)

a. Risk of egress. The risk of egress may be evaluated based on, but not limited to, history of domestic cervidae escape during the previous five (5) years, recovery rate of escaped domestic cervidae, length of time domestic cervidae were outside of the perimeter fence, annual average precipitation, topography, altitude and tree density. (4-7-11)

b. Risk of ingress. The risk of ingress may be evaluated on, but not limited to, history of ingress during the previous five (5) years, annual average precipitation, topography, altitude, tree density and proximity to wildlife migration corridors. (4-7-11)

c. Compliance with CWD sample submission. The Administrator may, based on a risk-based assessment of the facility, ~~waive up to twenty percent (20%)~~ adjust the number of the tissue sample submissions required under this rule. The ~~waiver~~ adjustment will be based on, but not limited to, the following: ~~(4-7-03)(9-1-14)T~~

i. ~~Whether~~ Whether the domestic cervidae on the ranch have ~~not had contact~~ commingled with any ~~animals~~ domestic cervids of unknown CWD status. ~~(4-7-03)(9-1-14)T~~

ii. ~~Whether~~ Whether the domestic cervidae ranch ~~must be~~ has been in compliance with all requirements of Title 25, Chapter 35, Idaho Code, and these rules. ~~(4-7-03)(9-1-14)T~~

iii. ~~Whether~~ Whether the domestic cervidae ranch ~~must have no~~ has had documented cases of ingress of wild cervids or egress of domestic cervidae within the eighteen (18) months ~~of the request for a waiver prior to the risk assessment.~~ ~~(4-7-03)(9-1-14)T~~

(BREAK IN CONTINUITY OF SECTIONS)

500. SURVEILLANCE FOR CWD.

01. Slaughter Surveillance. Brain tissue from ~~one hundred percent (100%)~~ no less than ten percent (10%) of all domestic cervidae sixteen (16) months of age or older that are slaughtered at approved slaughter establishments or custom exempt slaughter establishments shall be submitted by the owner of the slaughtered cervidae to official laboratories to be tested or examined for CWD as provided for in these rules. Tissues samples submitted to an official laboratory that are untestable or are given an indeterminate test result shall not count towards the tissue submission requirement. ~~(4-2-08)(9-1-14)T~~

02. Domestic Cervidae Ranch Surveillance. Unless a domestic cervidae ranch is operating with a ranch management plan approved by the Administrator, brain tissue from ~~one hundred percent (100%)~~ no less than ten percent (10%) of all domestic cervidae sixteen (16) months of age or older that ~~die or~~ are harvested on domestic cervidae ranches shall be submitted ~~by the owner or operator of the domestic cervidae ranch to official laboratories to be tested or examined for CWD, as provided for in these rules, except Reindeer and fallow deer unless the~~

~~Reindeer or fallow deer are part of a CWD positive, exposed, trace, source or suspect herd or part of an elk herd.~~ for CWD testing. In addition to the tissue samples from the Harvested domestic cervidae, brain tissue from one hundred percent (100%) of all domestic cervidae sixteen (16) months of age or older that die for any reason other than being harvested shall also be submitted for CWD testing. Reindeer and fallow deer shall be exempt from CWD testing unless the reindeer and fallow deer are part of a CWD positive, exposed, trace, source, or suspect herd or part of an elk herd. The owner or operator of the domestic cervidae ranch shall submit all tissue samples to an official laboratory to be tested for CWD, as provided for in these rules. Tissues samples submitted to an official laboratory that are untestable or are given an indeterminate test result shall not count towards the tissue submission requirement. In the event a domestic cervidae ranch cannot submit a ~~viable~~ testable brain sample, the domestic cervidae ranch shall submit, on a form approved by the Administrator, a waiver request within forty eight (48) hours of determining that a ~~viable~~ testable brain sample cannot be submitted. ~~(4-7-11)~~(9-1-14)T

IDAPA 02 - DEPARTMENT OF AGRICULTURE
02.04.21 - RULES GOVERNING THE IMPORTATION OF ANIMALS
DOCKET NO. 02-0421-1401
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 25-203 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 September 17, 2014.

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:

Add Subsection 600.04 - To mitigate the risk of disease exposure, a deworming treatment that is specific to the meningeal worm (*P. tenuis*) will be added to the requirements that must be met prior to importing domestic cervids into Idaho.

Add Subsection 600.05 - The accredited veterinarian who signs the certificate of veterinary inspection (CVI) for a shipment of domestic cervidae into Idaho must provide a statement, on the CVI, verifying that none of the cervids in the shipment have been diagnosed or exposed to the meningeal worm, *P. tenuis*.

Modify Section 605 - The rule change removes the restriction that prohibits importing domestic cervidae from regions endemic with *P. tenuis*, but now prohibits importing cervids known to be infected with *P. tenuis*.

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

No fee is being imposed or charged through the adoption of 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 fiscal impact to the general fund as a result of this rulemaking.

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 June 2014 Idaho Administrative Bulletin, [Vol. 14-6, page 28](#). A negotiated rulemaking meeting was held at the Idaho State Department of Agriculture on July 1, 2014, with twenty (20) people in attendance. Attendees provided multiple comments at the meeting and ISDA took those comments into consideration when drafting this proposed rule.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: NA

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Dr. Scott Leibsle, Deputy Administrator at (208) 332-8614.

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 September 24, 2014.

DATED this 7th Day of August, 2014.

Brian J. Oakey, Deputy Director
Idaho State Department of Agriculture
Phone: (208) 332-8500 / Fax: (208) 334-2170

2270 Old Penitentiary Rd.
P.O. Box 790
Boise, Idaho 83701

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 02-0421-1401
(Only those Sections being amended are shown.)

011. ABBREVIATIONS.

- | | | |
|-------------|---|------------|
| 01. | APHIS. Animal and Plant Health Inspection Service. | (4-2-08) |
| 02. | AVIC. Area Veterinarian in Charge. | (5-3-03) |
| 03. | AZA. Association of Zoos and Aquariums. | (4-4-13) |
| 04. | CF. Complement Fixation Test. | (3-30-07) |
| 05. | CFR. Code of Federal Regulations. | (5-3-03) |
| 06. | CWD. Chronic Wasting Disease. | (5-3-03) |
| 07. | EIA. Equine Infectious Anemia. | (5-3-03) |
| 08. | EVA. Equine Viral Arteritis. | (5-8-09) |
| 09. | NAEBA. North American Elk Breeders Association. | (5-3-03) |
| 10. | NPIP. National Poultry Improvement Plan. | (5-3-03) |
| 11. | <u>P. tenuis. Paralephastromylyus tenuis (meningeal worm of deer).</u> | () |
| 12. | PCR. Polymerase Chain Reaction. | (4-2-08) |
| 123. | RDGF. Red Deer Genetic Factor. | (4-4-13) |
| 134. | TB. Tuberculosis. | (5-3-03) |
| 145. | UM&R. Uniform Methods and Rules. | (5-3-03) |
| 156. | USDA. United States Department of Agriculture. | (5-3-03) |
| 167. | VHSV. Viral Hemorrhagic Septicemia Virus. | (4-2-08) |
| 178. | VS. Veterinary Services. | (5-3-03) |

(BREAK IN CONTINUITY OF SECTIONS)

600. IMPORTATION OF DOMESTIC CERVIDAE.

Domestic cervidae may enter the state of Idaho, by permit, provided: (5-3-03)

01. Certificate of Veterinary Inspection. The cervidae are accompanied by a certificate of veterinary inspection certifying that they have been inspected within thirty (30) days prior to the date of shipment, that they are free from evidence of infectious, contagious, or communicable diseases, or known exposure thereto during the preceding sixty (60) days; and (5-3-03)

02. Meet Testing Requirements. The cervidae shall meet the testing requirements of Section 601. (5-3-03)

03. National CWD Herd Certification Program Participation. All cervidae must originate from a herd that is in good standing and actively participating in the National CWD Herd Certification Program. (3-20-14)

04. Deworming Requirement. All cervidae are required to receive anthelmintic, approved for treatment of *P. tenuis*, within thirty (30) days prior to import into Idaho. Treatment must be documented on the certificate of veterinary inspection. ()

05. *P. tenuis* Statement. The certificate of veterinary inspection accompanying the cervidae shipment must contain the following written statement from the accredited veterinarian on the certificate: "No cervids identified on this certificate of veterinary inspection have displayed symptoms consistent with *P. tenuis* infection. These cervids have neither been exposed to *P. tenuis* or originated from a premises where *P. tenuis* has been identified." ()

(BREAK IN CONTINUITY OF SECTIONS)

605. MENINGEAL WORM-~~ENDEMIC REGION.~~

~~Importation of~~ Domestic cervidae ~~shall be imported only from a region not~~ known to be ~~endemic~~ infected with *Parelaphostrongylus tenuis* (~~meningeal worm of white tail deer~~); ~~is prohibited, as reported by the Southeastern Cooperative Wildlife Disease Study.~~ (5-3-03)()

IDAPA 02 - DEPARTMENT OF AGRICULTURE
02.04.21 - RULES GOVERNING THE IMPORTATION OF ANIMALS
DOCKET NO. 02-0421-1402
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 25-203 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 September 17, 2014.

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 statement in nontechnical language of the substance and purpose of the proposed rulemaking:

Amend Section 109 - The rule change removes the requirement that prohibits importing livestock that originate from within a 10-mile radius of a confirmed case of vesicular stomatitis (VS).

Amend Subsection 240.03 - The rule change allows dairy breeds of cattle to be granted a tuberculosis testing exemption when consigned directly to feedlots approved for finish feeding.

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 on July 21, 2014, at the Idaho State Department of Agriculture. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the July 2014 Idaho Administrative Bulletin, [Vol. 14-7, page 22](#). No comments have been submitted to the rulemaking record.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: NA

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Dr. Scott Leibsle, Deputy Administrator at (208) 332-8614.

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 September 24, 2014.

DATED this 7th Day of August, 2014.

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

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 02-0421-1402
(Only those Sections being amended are shown.)

109. VESICULAR STOMATITIS.

No livestock may enter Idaho from another state if Vesicular Stomatitis has been diagnosed ~~within ten (10) miles of on~~ the premises of origin of the shipment within the last thirty (30) days. ~~(3-30-07)~~ (5-3-03)

01. Certificate of Inspection. Any livestock entering Idaho from a state where Vesicular Stomatitis has been diagnosed within the last thirty (30) days shall be accompanied by a certificate of veterinary inspection with the following statement written by the accredited veterinarian on the certificate: "All animals identified on this certificate of veterinary inspection have been examined and found to be free from Vesicular Stomatitis. During the last thirty (30) days; these animals have neither been exposed to Vesicular Stomatitis nor located within an area where Vesicular Stomatitis has been diagnosed." (5-3-03)

02. Permit for Entry. Livestock from states in which Vesicular Stomatitis has been diagnosed within the last thirty (30) days shall be accompanied by a permit for entry into Idaho. The permit number shall be written on the certificate of veterinary inspection. (5-3-03)

(BREAK IN CONTINUITY OF SECTIONS)

240. TUBERCULOSIS TEST REQUIREMENTS.

Cattle and domestic bison may enter the state of Idaho provided: (5-3-03)

01. Tuberculosis Accredited Free State or Zone. Cattle and bison that originate from a bovine tuberculosis accredited free state or zone, as defined by USDA in Title 9, Part 77, CFR, in which there are no animals or herds infected with or exposed to tuberculosis may be imported upon meeting the following requirements: (4-11-06)

a. Cattle of beef breeds may enter the state without a tuberculosis test. (4-11-06)

b. All sexually intact male and female cattle, six (6) months of age and older, of dairy breeds, shall be officially identified and tested negative for tuberculosis, within sixty (60) days prior to entry into the state of Idaho except intact male and female cattle of dairy breeds consigned directly to a feedlot approved for finish feeding of cattle for slaughter only relative to tuberculosis may enter by permit without a tuberculosis test provided the cattle have been individually identified on a certificate of veterinary inspection. (4-2-08)

c. All sexually intact male and female cattle, six (6) months of age and older, of dairy breeds, may enter Idaho for the purpose of participating in shows or exhibitions, by permit, without a tuberculosis test. (4-11-06)

02. Tuberculosis Accredited Free Herd. Cattle and bison that originate in an accredited tuberculosis free herd in either an accredited free state or zone, a modified accredited advanced state or zone, or a modified accredited state or zone, as defined by USDA in Title 9, Part 77, CFR, and for which both an accredited herd number and date of last tuberculosis test are shown on the certificate of veterinary inspection, may enter the state without a tuberculosis test. (5-3-03)

03. Tuberculosis Modified Accredited Advanced State or Zone. Cattle and bison that originate from a modified accredited advanced state or zone, as defined by USDA in Title 9, Part 77, CFR, and are not known to be infected with or exposed to tuberculosis, may be imported upon meeting the following requirements: (5-3-03)

a. Steers, spayed heifers, and intact heifers of beef and dairy breeds that are less than fifteen (15) months of age, which are consigned for grazing, or steers, spayed heifers, and intact heifers of beef and dairy breeds

that are consigned directly to a feedlot approved for finish feeding of cattle or bison relative to tuberculosis, may enter without individual identification or testing for tuberculosis; and ~~(3-20-04)~~()

b. All other cattle and bison, except those moving on grazing permits issued by the Administrator under the provisions of Section 220 and those consigned for immediate slaughter at an approved slaughter establishment, shall be tested for tuberculosis with negative results within sixty (60) days prior to entry into Idaho. (3-20-04)

c. Tuberculosis testing requirements in Subsection 240.03 may be waived, with administrator approval, for feeder animals of beef breeds and bison originating from a modified accredited advanced state or zone previously classified as accredited free if the state of origin has had no laboratory confirmed case or other epidemiological evidence of tuberculosis in the previous twelve (12) months and the herd of origin is not under hold order, quarantine, or epidemiological investigation for tuberculosis. (4-7-11)

04. Tuberculosis Modified Accredited State or Zone. Cattle and bison that originate in a modified accredited state or zone, as defined by USDA in Title 9, Part 77, CFR, and which are not known to be infected with or exposed to tuberculosis, may enter Idaho under one (1) of the following conditions: (5-3-03)

a. The cattle and bison are steers, spayed heifers or intact heifers which are consigned directly to a feedlot approved for finish feeding of cattle and bison relative to tuberculosis and that have been individually identified and classified negative on an official tuberculosis test within sixty (60) days prior to entry into Idaho; or (5-3-03)

b. The cattle and bison are consigned for immediate slaughter at an approved slaughter establishment; or (5-3-03)

c. The cattle and bison have been subjected to two (2) official tuberculosis tests, the results of which are negative, the first test shall be a whole herd test, the second test shall be at least sixty (60) days, and no more than six (6) months, after the whole herd test and shall be not more than sixty (60) days prior to entry into Idaho. (5-3-03)

05. Tuberculosis Accredited Preparatory State or Zone. Cattle and bison that originate in an accredited preparatory state or zone, as defined by USDA in Title 9, Part 77, CFR, and which are not known to be infected with or exposed to tuberculosis, may enter Idaho under one (1) of the following conditions: (5-3-03)

a. The cattle and bison are steers, spayed heifers or intact heifers which are consigned directly to a feedlot approved for finish feeding of cattle and bison relative to tuberculosis and that are individually identified and have been classified negative on two (2) official tuberculosis tests conducted at least sixty (60) days, but not more than six (6) months apart, with the second test being conducted not more than sixty (60) days prior to entry into Idaho; or (5-3-03)

b. The cattle and bison originate in a tuberculosis accredited free herd, are individually identified, and have been tested negative on an official tuberculosis test within sixty (60) days prior to entry into Idaho; or (5-3-03)

c. The cattle and bison are individually identified, are from a herd that has been subjected to a complete tuberculosis herd test with negative results within the past twelve (12) months and the animals being imported have been subjected to two (2) additional official tuberculosis tests with negative results, conducted not less than sixty (60) days apart with the second test being conducted not more than sixty (60) days prior to the date of importation. (5-3-03)

06. Tuberculosis Non-Accredited State or Zone. Cattle and bison that originate in a non-accredited state or zone, as defined by USDA in Title 9, Part 77, CFR, may not enter Idaho except by special permit issued by the administrator and under the conditions specified by the administrator at the time the permit is issued. (5-3-03)

07. Rodeo Stock. All cattle six (6) months of age or older imported into Idaho for rodeo or timed events must have been tested negative for bovine tuberculosis within twelve (12) months prior to importation into Idaho. (4-7-11)

IDAPA 02 - DEPARTMENT OF AGRICULTURE

02.04.24 - RULES GOVERNING TUBERCULOSIS

DOCKET NO. 02-0424-1401

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 25-203 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 September 17, 2014.

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 statement in nontechnical language of the substance of the proposed rule:

Adds new Section 401 that establishes criteria for cattle of unknown tuberculosis testing status to be fed to slaughter in feedlots approved for finish feeding.

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 on July 21, 2014 at the Idaho State Department of Agriculture. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the July 2014 Idaho Administrative Bulletin, [Vol. 14-7, page 23](#). No comments have been submitted to the rulemaking record.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: NA

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Dr. Scott Leibsle, Deputy Administrator at (208) 332-8614.

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 September 24, 2014.

DATED this 7th day of August, 2014.

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

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 02-0424-1401
(Only those Sections being amended are shown.)

010. DEFINITIONS.

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

- 01. Accredited Herd.** A herd that meets the standards of the UMR for bovine tuberculosis. (3-20-04)
- 02. Accredited Veterinarian.** A veterinarian approved by the Administrator and USDA/APHIS/VS, in accordance with the provisions of Title 9, Part 161, Code of Federal Regulations, to perform functions of State-Federal animal disease control programs. (3-20-04)
- 03. Administrator.** The administrator of the Division of Animal Industries, Idaho State Department of Agriculture or his designee. (3-20-04)
- 04. Affected Herd.** A herd in which there is strong and substantial evidence that *Mycobacterium bovis* may exist. (3-20-04)
- 05. Approved Laboratory.** A state or federal veterinary diagnostic laboratory. The primary laboratory for tuberculosis histopathology and bacteriology culture shall be the National Veterinary Services Laboratories, Ames, Iowa. (3-20-04)
- 06. Approved Feedlot.** A feedlot approved by the Administrator to feed cattle and domestic bison of unknown Tuberculosis test status. ()
- 067. Area-Veterinarian-in-Charge.** The veterinary official of USDA/APHIS/VS, who is assigned by the deputy administrator of APHIS to supervise and perform official APHIS animal health work. (3-20-04)
- 078. Bovine Tuberculosis.** A disease caused by *Mycobacterium bovis*. (3-20-04)
- 089. Cattle.** All domestic bovidae, including domestic bison. (3-20-04)
- 0910. Department.** The Idaho State Department of Agriculture. (3-20-04)
- 101. Director.** The director of the Idaho State Department of Agriculture or his designee. (3-20-04)
- 112. Division of Animal Industries.** Idaho State Department of Agriculture, Division of Animal Industries. (3-20-04)
- 123. Domestic Bison.** All animals of the genus *Bison*, which are owned by a person. (3-20-04)
- 134. Domestic Cervidae.** Elk, fallow deer, and reindeer owned by a person. (3-20-04)
- 145. Eradication.** The complete elimination of bovine tuberculosis from cattle, domestic cervidae, bison and goats in a state so that the disease does not appear unless introduced from another species or from outside the state. (3-20-04)
- 156. Exposed.** Animals that have had contact with other animals, herds, or materials that have been determined to be infected with or affected by *Mycobacterium bovis*. (3-20-04)
- 167. Federal Animal Health Official.** An employee of USDA/APHIS/VS who is authorized to perform animal health activities. (3-20-04)

178. **Free Area.** The counties, areas or districts not quarantined by the Division of Animal Industries for tuberculosis. (3-20-04)

189. **Herd.** Any group of cattle, bison, goats, and domestic cervidae maintained on common ground, or two (2) or more groups of cattle, bison, goats, and domestic cervidae under common ownership or supervision that are geographically separated from other groups but can have an interchange or movement without regard to health status. (3-20-04)

1920. **Herd Depopulation.** The destruction of all cattle, bison, goats, and domestic cervidae exposed to bovine tuberculosis in a herd. (3-20-04)

201. **Interstate Movement.** Movements of cattle, bison, goats, and domestic cervidae from Idaho into any other state, territory or the District of Columbia or from any other state, territory or the District of Columbia into Idaho. (3-20-04)

212. **Intrastate Movement.** Movement of cattle, bison, goats, and domestic cervidae within Idaho. (3-20-04)

223. **Negative.** Any cattle, bison, domestic cervidae, or goats that show no response to the tuberculin test, or are classified by the testing laboratory as negative for tuberculosis. (3-20-04)

234. **Official Tuberculin Test.** A test for bovine tuberculosis, approved by APHIS, applied and reported by approved personnel in accordance with the UMR. (3-20-04)

245. **Person.** Any individual, association, partnership, firm, joint stock company, joint venture, trust, estate, political subdivision, public or private corporation, or any legal entity, which is recognized by law as the subject of rights and duties. (3-20-04)

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

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

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

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

2930. **Restrain.** The confinement of cattle, bison, goats, or domestic cervidae in a chute, or other device, for the purpose of efficiently, effectively, and safely inspecting, treating, vaccinating, or testing. (3-20-04)

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

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

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

(BREAK IN CONTINUITY OF SECTIONS)

401. APPROVED FEEDLOT.

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

402. APPLICATION FOR DESIGNATION AS AN APPROVED FEEDLOT

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

403. ADMINISTRATOR APPROVAL.

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

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

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

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

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

404. APPROVED FEEDLOT NUMBER.

Feedlots approved by the Administrator shall receive an Idaho Approved Feedlot Number. ()

405. EXPIRATION OF APPROVED STATUS.

Approved feedlot status shall expire on September 1 of each year. It shall be the responsibility of feedlot management to apply each year for renewal of approved status. ()

~~406~~ -- 499. (RESERVED)

IDAPA 02 - DEPARTMENT OF AGRICULTURE

02.04.28 - RULES GOVERNING LIVESTOCK DEALERS, BUYING STATIONS, AND LIVESTOCK TRADER LOTS

DOCKET NO. 02-0428-1401

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 25-203 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 September 17, 2014.

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 statement in nontechnical language of the substance of the proposed rule:

The rule change amends Section 540 to require that all livestock leaving an approved livestock trader lot shall require an accredited veterinarian to inspect the animals and issue an official certificate of veterinary inspection (CVI) prior to release.

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 on July 28, 2014 at the Idaho State Department of Agriculture. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the July 2014 Idaho Administrative Bulletin, [Vol. 14-7, page 24](#). No comments have been submitted to the rulemaking record.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: NA

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Dr. Scott Leibsle, Deputy Administrator at (208) 332-8614.

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 September 24, 2014.

DATED this 5th Day of August, 2014.

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

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 02-0428-1401
(Only those Sections being amended are shown.)

540. REMOVAL REQUIREMENTS.

All *brucellosis test eligible* cattle that are removed from an approved livestock trader lot shall be accompanied by a certificate of veterinary inspection issued by an accredited veterinarian prior to removal, except: ~~(4-2-08)~~()

- 01. Livestock Markets.** Cattle shipped directly to a specifically approved livestock market. (4-2-08)
- 02. Slaughter.** Cattle shipped directly to an approved slaughter establishment must be individually identified with an approved USDA Backtag. (4-2-08)
- 03. ~~Approved Feedlots.~~** ~~Cattle shipped directly to an Idaho approved feedlot.~~ (4-2-08)

PROPOSED RULE COST/BENEFIT ANALYSIS

Section 67-5223(3), Idaho Code, requires the preparation of an economic impact statement for all proposed rules imposing or increasing fees or charges. This cost/benefit analysis, which must be filed with the proposed rule, must include the reasonably estimated costs to the agency to implement the rule and the reasonably estimated costs to be borne by citizens, or the private sector, or both.

Department or Agency: Idaho Sheep and Goat Health Board

Agency Contact: Stanley T. Boyd, Executive Secretary Phone: 208-334-3115

Date: August 6, 2014

IDAPA, Chapter and Title Number and Chapter Name:

IDAPA 02 – Department of Agriculture, 02.08.01 - Rules Governing the Idaho Sheep and Goat Health Board

NOTICE OF RULEMAKING - PROPOSED RULE

Fee Rule Status: XX Proposed ___ Temporary

Rulemaking Docket Number: DOCKET NO. 02-0801-1401

STATEMENT OF ECONOMIC IMPACT:

As directed by recent legislation passed by the Idaho Legislature (HB512 in 2012 and HB468 in 2014), an eighty cent (\$.80) per head assessment on goats will be implemented and an increase from eight cents (\$.08) to ten cents (\$.10) per pound on wool will be implemented. A total of twenty cents (\$.20) per head on goats and two cents (\$.02) per pound of wool will go to the newly created "Wolf Control Fund". These assessments will amount to approximately \$7,000 per year to the goat industry and approximately \$20,000 per year to the sheep industry. There is no financial impact to the general fund.

IDAPA 02 - DEPARTMENT OF AGRICULTURE

02.08.01 - SHEEP AND GOAT RULES OF THE IDAHO SHEEP AND GOAT HEALTH BOARD

DOCKET NO. 02-0801-1401 (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 25-129, 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 September 17, 2014.

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 reflects the changes mandated by legislation passed that requires an eighty (80) cent per head assessment on goats and an increase from eight (8) cents to ten (10) cents per pound on wool. A total of twenty (20) cents per head on goats and two (2) cents per pound of wool will go to the newly created "Wolf Control Fund". The rule also clarifies the age at which dairy goats need to be tested for brucellosis prior to entering Idaho. Changes were also made in order to update the rule from the name "Idaho Sheep Commission" to "Idaho Sheep and Goat Health Board."

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

The rule will reflect the changes mandated by legislation requiring an eighty (80) cent per head assessment on goats and an increase from eight (8) cents to ten (10) cents per pound on wool. A total of twenty (20) cents per head on goats and two (2) cents per pound of wool will go to the newly created "Wolf Control Fund". These fees are authorized by Section 25-131, Idaho Code.

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 July 2, 2014, Idaho Administrative Bulletin, [Vol. 14-7, page 26](#).

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: NA

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Stanley T. Boyd, Executive Secretary, Idaho Sheep and Goat Health Board, P.O. Box 2596, Boise, ID 83701 or (208) 334-3115. 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 September 24, 2014.

DATED this 7th Day of August, 2014.

Stanley T. Boyd, Executive Secretary
Idaho Sheep and Goat health Board
802 W. Bannock St., Suite 205
P.O. Box 2596, Boise, ID 83701
Phone: (208) 334-3115
Fax: (208) 336-9447

THE FOLLOWING IS THE PROPOSED TEXT OF FEE DOCKET NO. 02-0801-1401
(Only those Sections being amended are shown.)

010. DEFINITIONS.

- 01. Accredited Veterinarian.** A veterinarian approved by the Administrator and USDA/APHIS/Vs in accordance with provisions of Title 9, Part 161, Code of Federal Regulations to perform functions of State-Federal animal disease control programs. (3-20-04)
- 02. Administrator.** The administrator of the Division of Animal Industries, Idaho State Department of Agriculture or his designee. (3-20-04)
- 03. Animals.** All vertebrates, except humans. (3-20-04)
- 04. Authorized Federal Inspector.** An employee of USDA authorized by the Board to perform the functions of the Idaho Sheep and Goat Health Board. (3-20-04)
- 05. Authorized State Inspector.** An employee of the state of Idaho authorized by the Board to perform the functions of the Idaho Sheep and Goat Health Board. (3-20-04)
- 06. Board.** The Idaho-~~State~~ Sheep-~~Commission~~ and Goat Health Board or its designee. ~~(3-20-04)~~ ()
- 07. Breeding Stock.** Intact male or female sheep or goats of any age. (3-20-04)
- 08. Brucellosis.** An infectious disease of animals and humans caused by bacteria of the genus *Brucella*. (3-20-04)
- 09. *Brucella Ovis* Test Positive.** An animal that tests in the positive range on an approved *Brucella ovis* ELISA test. (3-20-04)
- 10. *Brucella Ovis* Test Suspect.** An animal that tests in the suspect range on an approved *Brucella ovis* ELISA test. (3-20-04)
- 11. *Brucella Ovis* Test Negative.** An animal that tests in the negative range on an approved *Brucella ovis* ELISA test. (3-20-04)
- 12. Certificate.** An official certificate of veterinary inspection or other approved certificate issued by an accredited veterinarian, state or federal animal health official, or other approved official at the point of origin of the shipment of animal(s) being imported. (3-20-04)
- 13. Commercial Low-Risk Goats.** Intact or castrated goats, raised for fiber or meat, that are not registered or exhibited, that are not scrapie positive, suspect, high risk, or exposed animals and that have not been exposed to sheep or are not from a state that has scrapie in goats. (3-20-04)
- 14. Contemporary Lambing Group.** The time from the first birth to sixty (60) days post birthing of the entire group in a given lambing season. (3-20-04)
- 15. Department.** The Idaho State Department of Agriculture. (3-20-04)
- 16. Division of Animal Industries.** Idaho State Department of Agriculture, Division of Animal Industries. (3-20-04)
- 17. Exposed.** Animals that have had direct contact with other animals, herds, or materials that have

been determined to be infected with or affected by any infectious, contagious, or communicable disease. (3-20-04)

18. Federal Animal Health Official. An employee of USDA/APHIS/VS who has been authorized to perform animal health activities. (3-20-04)

19. Flock. Flock or flocks shall be interchangeable with the terms herd or herds and denote a group of one (1) or more animals that are fed, housed and birthed together on the same premises, or animals maintained in separate geographic areas that have interchange at or around the time of birth. Changes in ownership of a flock do not change the identity of the flock or the regulatory requirements applicable to the flock. (3-20-04)

20. Flock Plan. A written flock management agreement signed by the owner, his accredited veterinarian if there is one, a representative of the Division of Animal Industries, and an APHIS representative in which each signatory agrees to undertake action specified in the Flock Plan to eradicate or control scrapie as defined in 9 CFR Part 54.8 a-f. Goats exposed to scrapie will be subjected to the same rules as sheep. (3-20-04)

21. Goats Requiring Premises/Flock Identification Number. Sexually intact goats or goats that have resided on the same premises as sheep or any other goats not defined in Subsection 010.13. (3-20-04)

22. Idaho Premises/Flock Identification Number. A unique identification number or alphanumeric designation approved by APHIS, and assigned by the Board to each premises/flock of breeding sheep or goats, as defined in Subsection 010.21, in the state of Idaho. (3-20-04)

23. Low Risk Commercial Sheep. Commercial whiteface, whitefaced cross, or commercial hair sheep from a flock with no known risk factors for scrapie, including any exposure to female blackfaced sheep, that are identified with a permanent brand or ear notch pattern registered with an official brand registry and that are not scrapie-positive, suspect, high-risk, or exposed animals and are not animals from an infected, source, or exposed flock. (3-20-04)

24. Negative. Animals are classified as negative when they have been subjected to official tests for a disease, and the tests performed have failed to disclose evidence of the disease. (3-20-04)

25. Official Individual Identification. The unique identification of individual animals with an alpha numeric number applied as a tag, a legible tattoo, electronic device, or any other device approved by APHIS. The Idaho Premises/Flock Identification number can serve as the official individual identification number if it contains a unique individual animal number in addition to the Idaho premises/flock identification number. (3-20-04)

26. Post Exposure Monitoring and Management Plan. A monitoring plan which includes a written agreement signed by the owner of the flock and a representative of the Division of Animal Industries and an APHIS representative in which each participant agrees to undertake actions specified in the agreement to monitor for the occurrence of scrapie in the flock for at least five (5) years after an approved Flock Plan has been completed. The PEMMP requires at least once a year flock inspections and prompt reporting of any animal over fourteen (14) months of age which dies in the flock so that some of these animals can be selected and submitted for scrapie testing. The Plan also includes the requirements outlined in 9 CFR Part 54.8. Owners may request to join the Scrapie Flock Certification Program after two (2) years of participation in the PEMMP. (3-20-04)

27. Premises. The ground, area, buildings and equipment utilized to raise, propagate or control sheep and goats. (3-20-04)

28. Quarantine. A written order, executed by the Board or the Administrator, to confine or hold animals on a premises or any other location, where found, and prevent movement of animals from a premises or any other location. (3-20-04)

29. Scrapie. A transmissible spongiform encephalopathy that is a nonfebrile, transmissible, insidious, degenerative disease affecting the central nervous system of sheep and goats. (3-19-99)

30. Scrapie Exposed Animal. Any animal which has been in the same flock at the same time within the previous seventy-two (72) months as a scrapie positive female animal excluding limited contacts. Limited

contacts are contacts between animals that occur off the premises of the flock and do not occur during or within sixty (60) days after parturition for any of the animals involved. (3-20-04)

31. Scrapie Flock Certification Program. A cooperative Federal-State-Industry voluntary program for reducing the incidence and controlling the spread of scrapie through flock certification. (3-20-04)

32. Scrapie High Risk Animal. An animal determined by epidemiologic investigation to face a high risk of developing clinical scrapie because the animal was: (3-20-04)

a. Progeny of a scrapie-positive dam; (3-20-04)

b. Born in the same contemporary lambing group as a scrapie-positive animal, or (3-20-04)

c. During any subsequent lambing season if born before the flock completes the requirements of a flock plan; or (3-20-04)

d. Born in the same contemporary lambing group as progeny of a scrapie-positive dam or any QQ, at codon 171, sheep present in the lambing facility/area where a scrapie-positive animal was born during the contemporary birth of a scrapie-positive animal. (3-20-04)

e. Animals that fit the criteria for high risk animals which are determined by genetic testing to be QR or RR at the 171 codon, or are determined by other recognized testing procedures to pose no risk, may be exempted as high risk animals by the Board, upon the recommendation of the State Scrapie Certification Board, based upon evidence from the latest research information available. (3-20-04)

33. Scrapie Infected Flock. Any flock in which a scrapie-positive animal has been born, birthed or aborted. A flock will no longer be considered infected after an approved Flock Plan has been completed. (3-20-04)

34. Scrapie-Positive Animal. An animal for which a diagnosis of scrapie has been made by the National Veterinary Services Laboratories, or another laboratory authorized by state or federal officials to conduct scrapie tests approved for scrapie diagnosis by APHIS or the Administrator. (3-20-04)

35. Scrapie Source Flock. A flock in which an animal was born and subsequently diagnosed as scrapie-positive at less than seventy-two (72) months of age. The flock will no longer be considered a source flock after the requirements of an approved Flock Plan have been completed. A trace to a flock must meet the following criteria to designate the flock as a source flock: The scrapie-positive animal must: (3-20-04)

a. Be identified with a Premises/Flock Identification Number, or on an official eartag, electronic device, ear tattoo, or flank tattoo which is correlated to the Premises/Flock Identification number on flock records; or (3-20-04)

b. Be identified with a genetic heredity test or nose print; or (3-20-04)

c. Possess the original registry eartag or individual identification ear tag along with the movement, production, or registry records indicating birth in the source flock; or (3-20-04)

d. Be traced to the flock by a veterinary epidemiologist through a thorough epidemiological investigation of records and all other available evidence. (3-19-99)

36. State Animal Health Official. The Administrator, or his designee, responsible for disease control and eradication programs. (3-20-04)

37. State Scrapie Certification Board. The State Scrapie Certification Board will consist of APHIS-AVIC, the State animal health official, animal producers and accredited veterinarians. Animal producers and accredited veterinarians will be appointed by the AVIC and the State animal health official. (3-20-04)

38. Terminal Feedlot. As defined in Title 9 CFR, Parts 54 and 79. (3-20-04)

39. **Trace.** All actions required to identify the flock of origin or destination of an animal. (3-20-04)

(BREAK IN CONTINUITY OF SECTIONS)

013. OFFICIAL IN CHARGE OF SHEEP AND GOATS.

The Idaho ~~Board of Sheep Commission~~ and Goat Health Board is authorized to regulate all matters concerning sheep and goats. (3-20-04)()

(BREAK IN CONTINUITY OF SECTIONS)

101. PERMITS.

01. Request for Permits. Request for the permits required under Section 100 shall be in writing, by telephone or facsimile and shall set forth the name and address of the owner of the animals offered for movement into the state of Idaho, the number and class of sheep and goats to be brought in, the destination, the name and address of the consignee, and the approximate date and place of entry. A copy of the permit, or permit number written on the face of the waybill or certificate of veterinary inspection accompanying movement, shall be shown to a representative of the Board or any law enforcement officer of the state, county, or municipality of the state of Idaho upon request. (3-20-04)

02. Certificates of Veterinary Inspection to Be Furnished. Copies of the certificates of veterinary inspection from the point of origin shall accompany the shipment and shall include a copy of the permit or the permit number written on the face of the certificate of veterinary inspection and shall be shown to a representative of the Board or any law enforcement officer of the state, county, or municipality of the state of Idaho upon request, and a copy forwarded to the Idaho Department of Agriculture, Division of Animal Industries, c/o Idaho ~~Board of Sheep Commission~~ and Goat Health Board, P.O. Box 7249, Boise, Idaho 83707 immediately after issuance for sheep and goats entering the state of Idaho. (3-19-04)()

03. Inspection Fees. An inspection fee of one hundred dollars (\$100) per incidence, plus mileage, shall be paid on all sheep and goats exported from or imported into Idaho in violation of these rules. Such incidences require an inspection of animals, certificates of veterinary inspection and permit. (3-20-04)

04. Examination and Treatment Fees. The Board may assess a fee on sheep and goat producers who receive services from the Board or its representatives, such as examination and treatment of animals for diseases or parasites. The fees assessed shall not exceed the actual costs for the services rendered. (3-19-99)

(BREAK IN CONTINUITY OF SECTIONS)

104. DAIRY GOATS.

All dairy type goats, including bucks, entering the state of Idaho shall be accompanied by a permit issued by the Board, together with a certificate of veterinary inspection issued at point of origin by an authorized veterinarian, ~~to which certificate of veterinary inspection there shall be attached a negative test chart~~ All dairy type goats, including bucks, aged six (6) months or older shall have been tested negative for *Brucella melitensis*, ~~conducted~~ within thirty (30) days of the date of entry into the state of Idaho. The negative test chart shall be signed by the person in charge of the laboratory where the test was made and approved by the state animal health official of the state of origin and attached to the certificate of veterinary inspection. Goats entering Idaho on a short term temporary basis for show or other temporary purposes may be exempted from having a negative test for *Brucella melitensis* completed, with permission from the Board. (3-20-04)()

(BREAK IN CONTINUITY OF SECTIONS)

107. INTERSTATE SHIPMENTS.

01. **Waybill Requirement.** All sheep and goats leaving the state of Idaho by any common carrier, by railroad, truck, private conveyance, or any kind of transportation shall be accompanied by a waybill, stating the owner's name and indicating destination of sheep or goats, or shall be accompanied by a certificate of veterinary inspection issued by an inspector appointed by the Board or a representative of the APHIS or accredited veterinarian; said certificates of veterinary inspection to be dated not more than ~~ten~~ thirty (~~30~~) days prior to date of movement, and shall comply with the rules for the state of destination. (3-20-04)()

02. **Waybill Violation.** Failure to have such waybills or other documents accompanying the sheep or goats shall constitute a violation of these rules and shall be punishable as provided in Section 900. (3-20-04)

03. **Carriers.** No common or contract carrier or owner or caretaker shall unload any breeding sheep, breeding goats, or dairy goats within the state of Idaho from other states or country, other than as provided in Sections 103, 105, 106, and 107, of these rules, unless such shipments be accompanied by an Idaho Origin Sheep Interstate Grazing Permit issued by the Board or other permit issued by the Board, and the official certificate as provided herein. The original or true copy of each certificate with permit shall be attached to the waybill covering such shipments or be in possession of the owner or caretaker of shipment. (3-20-04)()

04. **Who May Inspect.** Authorized state or federal inspectors and accredited veterinarians may inspect sheep and goats. (3-20-04)

(BREAK IN CONTINUITY OF SECTIONS)

700. SHEEP ASSESSMENTS.

The following rules shall apply to all sheep. (3-20-04)

01. **Payment of Assessment.** The owner of sheep on July 1st of the assessment year shall be responsible for the payment of the assessment levied by the Boards as provided for in Section 25-130 and 25-131, Idaho Code. The rate of assessment shall be ~~six~~ eight cents (\$.068) per pound on all wool, in the grease basis, except tags, crutchings, and dead wool. (3-18-99)()

02. **Assessment as Resident Sheep.** The assessment shall be levied and assessed to the producer at the time of the first sale of wool and shall be deducted by the first purchaser from the price paid to the producer at the time of such sale. (5-5-80)

03. **Migratory Sheep.** In the event that a sheep, which produces wool subject to this assessment, shall be located outside the state of Idaho during a part of the assessment year, the amount of the assessment shall be reduced on a pro rata basis. A grower will be required to request a pro rata adjustment in writing to the Board. (3-19-99)

04. **Costs of Collection.** All costs of collection of delinquent assessments shall be borne as an additional charge against the delinquent assessee first purchaser. (7-1-93)

(BREAK IN CONTINUITY OF SECTIONS)

701. GOAT ASSESSMENTS.

The following rules shall apply to all goats. ()

01. Payment of Assessment. The owner of goat(s) shall be responsible for the payment of the assessment levied by the Board as provided for in Sections 25-130 and 25-131, Idaho Code. The rate of assessment shall be eighty cents (\$.80) per head. ()

02. Assessment as Resident Goats. The assessment shall be levied and assessed to the producer at the time of the sale of said goat(s) and shall be deducted by the first purchaser from the price paid to the producer at the time of such sale. ()

03. Migratory Goats. In the event that a goat, which is subject to this assessment, shall be located outside the state of Idaho during a part of the assessment year, the amount of the assessment shall be reduced on a pro rata basis. A grower will be required to request a pro rata adjustment in writing to the Board. ()

04. Costs of Collection. All costs of collection of delinquent assessments shall be borne as an additional charge against the delinquent assessee first purchaser. ()

7042. -- 899. (RESERVED)