

MINUTES
SENATE AGRICULTURAL AFFAIRS COMMITTEE

DATE: Tuesday, January 16, 2018

TIME: 8:00 A.M.

PLACE: Room WW53

MEMBERS PRESENT: Chairman Rice, Vice Chairman Den Hartog, Senators Patrick, Bayer, Guthrie, Thayn, Harris, Foreman, and Jordan

ABSENT/ EXCUSED: None

NOTE: The sign-in sheet, testimonies and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

CONVENED: **Chairman Rice** called the meeting of the Agricultural Affairs Committee (Committee) to order at 8:01 a.m.

PASSED THE GAVEL: Chairman Rice passed the gavel to Vice Chairman Den Hartog.

DOCKET NO. 02-0101-1701 **Idaho Rules of Practice and Procedure of the Idaho Department of Agriculture. Brian Oakey**, Deputy Director, Idaho State Department of Agriculture (ISDA) explained this docket repeals the existing Rules of Practice and Procedure of ISDA. The Idaho Administrative Procedures Act (APA) requires all state agencies to utilize the Idaho Rules of Practice and Procedure of the Attorney General or promulgate alternative procedures. The Idaho APA also requires that agencies not utilizing the Attorney General's rules to include a "finding that states the reasons why the relevant portion of the Attorney General's rules were inapplicable to the agency." The rules ISDA proposes to repeal show an effective date of 1994. The rules are an abbreviated version of the Attorney General's rules focusing only on contested case procedures and are silent on rulemaking procedures. This has resulted in a bifurcated process where ISDA has its own rules for some proceedings and the Attorney General's rules apply to others. There are no findings stating why the Attorney General's rules are inapplicable to ISDA. The Attorney General's rules are more detailed and are utilized by other Idaho agencies. The ISDA proposes that the old Rules of Practice and Procedure of ISDA be repealed.

MOTION: **Senator Patrick** moved to approve **Docket No. 02-0101-1701**. Seconded by **Senator Thayn**. The motion carried by **voice vote**.

DOCKET NO. 02-0101-1702 **Rules of Procedure. Mr. Oakey** said the new Rules of Procedure accept in whole the "Idaho Rules of Administrative Procedure of the Attorney General" governing rulemaking and contested cases. The APA directed the Office of the Attorney General to promulgate these rules of procedure appropriate for use by as many agencies as possible. The rules cover the general functions and duties performed in common by most state agencies. The ISDA reviewed these rules and found them to be appropriate and adequate for ISDA. The adoption of the Attorney General's rules will provide Idaho citizens one rule, instead of two, to review and comply. The goal of this rulemaking is to simplify the procedures of the ISDA.

MOTION: **Senator Harris** moved to approve **Docket No. 02-0101-1702**. Seconded by **Senator Patrick**. The motion carried by **voice vote**.

**DOCKET NO.
02-0214-1701**

Rules for Weights and Measures. Kevin Merritt, Program Manager, ISDA stated this docket updates Idaho's incorporation by reference for automotive spark engine fuel, diesel fuel, and biodiesel fuel blends. Currently, Idaho incorporates by reference the 2007 American Society of Testing Materials (ASTM) specification for fuel. ISDA requests to update these specifications to more current versions of the ASTM specifications.

Fuel entering Idaho comes from out-of-state refineries. This fuel already meets the most current ASTM specification. This docket change will have little effect on Idaho's petroleum industry that receives fuel directly from refineries. Updating Idaho's fuel specifications to the current ASTM version will protect the fuel consumers from adulterated fuels that fail to meet current ASTM quality standards.

Senator Patrick asked if diesel and biodiesel are part of this docket's change. Mr. Merritt answered that each fuel has its own specification and ISDA is proposing to update the fuel specifications for each fuel.

MOTION:

Senator Foreman moved to approve **Docket No. 02-0214-1701**. Seconded by **Senator Guthrie**. The motion carried by **voice vote**.

**DOCKET NO.
02-0214-1702**

Rules for Weights and Measures. Mr. Merritt explained this Pending Rule will add definitions for Liquefied and Compressed Natural Gas, Diesel Gallon Equivalent (DGE), Gasoline Gallon Equivalent (GGE), and their metric equivalents. The rule adds a provision allowing the GGE and DGE units of measurement as an acceptable method of sale for compressed and liquefied natural gas motor fuel. Idaho's current rule does not recognize these units of measurement or allow petroleum products to be sold in units other than volume or weight.

Adoption of these units of measurement will facilitate the use of uniform standards across the country and provide value comparisons for consumers to determine the price of natural gas purchased for transportation purposes. Passage of this rule will align Idaho with surrounding states that recognize and allow these units of measurement in the retail sales of natural gas used for motor fuel.

MOTION:

Senator Guthrie moved to approve **Docket No. 02-0214-1702**. Seconded by **Senator Bayer**. The motion carried by **voice vote**.

**DOCKET NO.
02-0214-1703**

Rules for Weights and Measures. Mr. Merritt said this rule change is an annual housekeeping item to incorporate by reference the most current date specific edition of Handbook 44.

Maintaining a current Handbook is important to weights and measure officials and the service industry that installs and repairs commercial weighing or measuring devices because it promotes uniformity.

MOTION:

Senator Jordan moved to approve **Docket No. 02-0214-1703**. Seconded by **Senator Thayn**. The motion carried by **voice vote**.

**DOCKET NO.
02-0602-1701**

Rules Pertaining to the Idaho Commercial Feed Law. Jared Stuart, Section Manager, ISDA stated Idaho incorporates by reference standard manuals used nationally by industry and regulatory officials that provide producers with clear and defined guidelines and terms. These standard manuals also provide acceptable standard practices and policies.

The manual incorporated by reference is American Association of Feed Control Officials (AAFCO) which is the official publication of the industry. This publication is heavily used by manufacturers in the production and labeling of their products. This change to the rule updates the reference to the most recently available copy of the manual so that terms, definitions, and standards are up-to-date for producers and regulators. The publication standards ensure that producers and distributors do not encounter changing standards from state to state while producing and distributing product in Idaho and nationwide.

MOTION: **Senator Foreman** moved to approve **Docket No. 02-0602-1701**. Seconded by **Senator Bayer**. The motion carried by **voice vote**.

DOCKET NO. 02-0612-1701 **Rules Pertaining to the Idaho Fertilizer Law. Mr. Stuart** indicated that the Idaho commercial fertilizer rule incorporates by reference the standard manual of the American Association of Plant Food Control Officials (AAPFCO). This publication is used by officials and industry members for consensus of terms, ingredients, definitions, and standards ensuring consistency from state to state.

Vice Chairman Den Hartog asked if there were significant changes in the manual. **Mr. Stuart** replied that there were changes to official ingredients that can be included in commercial fertilizer.

MOTION: **Senator Harris** moved to approve **Docket No. 02-0612-1701**. Seconded by **Senator Foreman**. The motion carried by **voice vote**.

DOCKET NO. 02-0621-1701 **Rules for Voluntary Public Services of the Idaho Department of Agriculture Laboratories. Dan Salmi**, Bureau Chief, ISDA said the Feed and Fertilizer Laboratory's primary function has always been regulatory/enforcement testing. This is chemical testing that the ISDA conducts to ensure feed and fertilizer products are formulated as described on the product label.

In the past, the lab occasionally accepted public service samples on a fee basis. Service samples have never amounted to any significant level of work, since 2014 only 28 customers were served.

The primary mission of the feed and fertilizer lab is to provide enforcement testing services in an accurate and timely manner. The public service samples tie up valuable lab space and time. ISDA is requesting elimination of this rule and chooses to halt voluntary service sample testing as of January 1, 2017.

Senator Harris asked how many private labs are available to the public for this service. **Mr. Salmi** answered that there are ten.

MOTION: **Senator Thayn** moved to approve **Docket No. 02-0621-1701**. Seconded by **Senator Jordan**. The motion carried by **voice vote**.

DOCKET NO. 02-0641-1701 **Rules Pertaining to the Idaho Soil and Plant Amendment Act of 2001. Mr. Stuart** explained the Idaho Soil and Plant Amendment Act of 2001 incorporates the Association of American Plant Food Control Officials (AAPFCO) publication which incorporates the latest available publication for reference in the rule and updates the terms, definitions, and standards for producers and regulators. There are nine new ingredient changes and those are the only changes to the publication.

MOTION: **Senator Jordan** moved to approve **Docket No. 02-0641-1701**. Seconded by **Senator Thayn**. The motion carried by **voice vote**.

ADJOURNED: There being no further business, **Vice Chairman Den Hartog** adjourned the meeting at 8:32 a.m.

Senator Rice
Chair

Carol Deis
Secretary