

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

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

IDAPA 02.06.16 - Notice of Omnibus Rulemaking - Temporary and Proposed Rulemaking (Docket
No. 02-0616-1900) Rules of the Idaho Honey Commission.

Pursuant to Section 67-454, Idaho Code, a meeting on the enclosed rules may be called by the
cochairmen or by two (2) or more members of the subcommittee giving oral or written notice to Research
and Legislation no later than fourteen (14) days after receipt of the rules' analysis from Legislative
Services. The final date to call a meeting on the enclosed rules is no later than 07/19/2019. If a meeting is
called, the subcommittee must hold the meeting within forty-two (42) days of receipt of the rules' analysis
from Legislative Services. The final date to hold a meeting on the enclosed rules is 08/16/2019.

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

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



Eric Milstead
Director

Legislative Services Office

Idaho State Legislature

Serving Idaho's Citizen Legislature

MEMORANDUM

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

FROM: Deputy Division Manager - Katharine Gerrity

DATE: July 1, 2019

SUBJECT: Department of Agriculture

IDAPA 02.06.16 - Notice of Omnibus Rulemaking - Temporary and Proposed Rulemaking (Docket No. 02-0616-1900) Rules of the Idaho Honey Commission

The Idaho State Department of Agriculture submits notice of temporary and proposed rules at IDAPA 02.06.16, Rules Governing Honey Standards. The rulemaking adopts and re-publishes existing and previously approved chapters, with several minor nonsubstantive changes relating to redundancies and address streamlining.

These rules were previously analyzed and reviewed by the Legislative Services Office upon their initial promulgation. Rulemaking is authorized by section 22-2808, Idaho Code.

cc: Department of Agriculture
Brian J. Oakey

***** PLEASE NOTE *****

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

IDAPA 02.06 – IDAHO HONEY COMMISSION

DOCKET NO. 02-0616-1900

NOTICE OF OMNIBUS RULEMAKING – TEMPORARY AND PROPOSED RULEMAKING

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

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted temporary rules, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Section 22-2808, Idaho Code.

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

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

This temporary and proposed rulemaking adopts and re-publishes the following existing and previously approved and codified chapters under IDAPA 02, rules of the Idaho Honey Commission

IDAPA 02

02.06.16, *Rules Governing Honey Standards*, modifies Section 010; eliminates Section 024

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

These temporary rules are necessary to protect the public health, safety, and welfare of the citizens of Idaho and confer a benefit on its citizens. These previously approved and codified rules implement the duly enacted laws of the state of Idaho, provide citizens with the detailed rules and standards for complying with those laws, and assist in the orderly execution and enforcement of those laws. The expiration of these rules without due consideration and processes would undermine the public health, safety and welfare of the citizens of Idaho and deprive them of the benefit intended by these rules. These rules apply to all honey produced by honey bees from nectar and covers all styles of honey presentation that are processed and ultimately intended for direct consumption, and to all honey packed, processed or intended for sale in bulk containers as honey that may be repacked for retail sale or for sale or use as an ingredient in other foods. The expiration of these rules would hamper the ability of the state of Idaho from adequately controlling honey standards and would allow honey substitutes and/or imitations to flood the market without affirming that the product is not 100% honey.

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

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: This rulemaking is not anticipated to have any fiscal impact on the state general fund because the FY2020 budget has already been set by the Legislature, and approved by the Governor, anticipating the existence of the rules and fees being reauthorized by this rulemaking.

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

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

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Rick Waitley, Administrator, (208) 888-0988

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

Dated this 22nd day of May, 2019.

Rick Waitley, Administrator
Idaho Honey Commission
55 SW 5th Ave, Suite 100
Meridian, Idaho 83642
(208) 888-0988

**IDAPA 02
TITLE 06
CHAPTER 16**

02.06.16 – RULES GOVERNING HONEY STANDARDS

000. LEGAL AUTHORITY.

This chapter is adopted under the legal authority of Section 22-2808, Idaho Code. (4-4-13)

001. TITLE AND SCOPE.

01. Title. The title of this chapter is IDAPA 02.06.16, “Rules Governing Honey Standards. (4-4-13)

02. Scope. These rules apply to all honey produced by honey bees from nectar and covers all styles of honey presentation that are processed and ultimately intended for direct consumption, and to all honey packed, processed or intended for sale in bulk containers as honey that may be repacked for retail sale or for sale or use as an ingredient in other foods. (4-4-13)

002. WRITTEN INTERPRETATIONS.

There are no written interpretations of these rules. (4-4-13)

003. ADMINISTRATIVE APPEAL.

There is no provision for administrative appeal before the Department of Agriculture under this chapter. Hearing and appeal rights are pursuant to Title 67, Chapter 52, Idaho Code. (4-4-13)

004. INCORPORATION BY REFERENCE.

01. United States Standards for Grades of Extracted Honey, Effective Date May 23, 1985. The United States Standards for Grades of Extracted Honey adopted by the Agriculture Marketing Service, United States Department of Agriculture effective May 23, 1985 are hereby adopted for the purposes of this rule for extracted honey grades. See Section 016 of this rule. A copy of such federal standards is available at the following USDA Website <http://www.ams.usda.gov/AMSV1.0/getfile?dDocName=STELDEV3011895>. (4-4-13)

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

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

006. PUBLIC RECORDS ACT COMPLIANCE.

These rules are public records available for inspection and copying at the Idaho State Department of Agriculture Central Office. (4-4-13)

007. -- 009. (RESERVED)

010. DEFINITIONS.

The Department adopts the definitions set forth in Section 22-2803, Idaho Code. In addition, as used in this chapter, the following definitions apply: (4-4-13)

01. Air Bubble. The small visible pockets of air in suspension that may be numerous in the honey and contribute to the lack of clarity in filtered style. (4-4-13)

02. Bees. Honey-producing insects of the genus *Apis* and includes the adults, eggs, larvae, pupae or other immature stages thereof. (4-4-13)

03. Comb. The wax-like cellular structure that bees use for retaining their brood or as storage for pollen and honey. (4-4-13)

- 04. Crystallize.** The spontaneous solidification of the natural glucose content from solution as the monohydrate. (4-4-13)
- 05. Floral Source.** The flower from which the bees gather nectar to make honey. (4-4-13)
- 06. Food.** (4-4-13)
- a.** Articles used for food or drink, including ice, for human consumption or food for dogs and cats; (4-4-13)
- b.** Chewing gum; and (4-4-13)
- c.** Articles used for components of any such article. (4-4-13)
- 07. Food Additive.** Any substance the intended use of which results or may reasonably be expected to result, directly or indirectly, in its becoming a component of or otherwise affecting the characteristics of any food, including any substance intended for use in producing, manufacturing, packing, processing, preparing, treating, packaging, transporting, or holding food. It also includes any source of radiation intended for any such use, if such substance is not generally recognized, among experts qualified by scientific training and experience to evaluate its safety, as having been adequately shown through scientific procedures or experience based on common use in food to be safe under the conditions of its intended use. 'Food additive' does not include: (4-4-13)
- a.** A pesticide chemical in or on a raw agricultural commodity; (4-4-13)
- b.** A pesticide chemical to the extent that it is intended for use, or is used in the production, storage or transportation of any raw agricultural commodity; or (4-4-13)
- c.** A color additive. (4-4-13)
- 08. Granulate.** The initial formation of crystals in honey. (4-4-13)
- 09. Honey.** The natural sweet substance produced by bees resulting from the harvest of plant nectar or plant secretions that has been collected and transformed by the deposition, dehydration, and storage in comb to ripen and mature. (4-4-13)
- 10. Pollen Grain.** The granular, dust-like microspores that bees gather from flowers. Pollen grains in suspension contribute to the lack of clarity in filtered style. (4-4-13)
- 011. COMPLAINT PROCESS.**
- 01. Complaint Contents.** Complaints shall be directed to the department, in writing, and contain the following information: (4-4-13)
- a.** The name, address and contact information of the complainants; and (4-4-13)
- b.** The location and brand name of the product which is the subject of complaint. (4-4-13)
- 02. Initial Review.** The department will forward written complaints to the commission for initial review. (4-4-13)
- 03. Sampling and Analysis.** Upon review, the commission may request the department to acquire an official sample of the product, in accordance with Title 22, Chapter 28, Idaho Code, and send it to an analytical laboratory that possesses the ability to analyze honey for adulteration, or other testing deemed appropriate in accordance with the nature of the complaint. The laboratory analysis shall be reviewed by the commission and the department for compliance with Title 22, Chapter 28, Idaho Code, and these rules. (4-4-13)
- 04. Violations.** If, after investigation, the commission and the department find that a violation of title

22, Chapter 28, Idaho Code and/or these rules has occurred the commission and the department shall confer and agree on an appropriate course of action as authorized by Section(s) 22-2811 or 22-2812, Idaho Code. (4-4-13)

012. -- 014. (RESERVED)

015. STANDARDS OF IDENTITY - HONEY.

Honey sold as such shall not have added to it any food additives, nor shall any other additions be made other than honey. It shall not have begun to ferment or effervesce and no pollen or constituent unique to honey may be removed except where unavoidable in the removal of foreign matter. (4-4-13)

01. Treatments. Chemical or biochemical treatments shall not be used to influence honey crystallization. (4-4-13)

02. Moisture Content. Honey shall not have a moisture content exceeding twenty-three percent (23%). (4-4-13)

03. Sugars Content. (4-4-13)

a. The ratio of fructose to glucose shall be greater than zero point nine (0.9). (4-4-13)

b. Fructose and glucose (Sum of Both) shall not be less than 60g/100g. (4-4-13)

c. Sucrose content for honey not listed below shall not be more than 5g/100g. (4-4-13)

i. Honey from Alfalfa (*Medicago sativa*), Citrus spp., False Acacia (*Robinia pseudoacacia*), French Honeysuckle (*Hedysarum*), Menzies Banksia (*Banksia menziesii*), Red Gum (*Eucalyptus camaldulensis*), Leatherwood (*Eucryphia lucida*), and Eucryphia milligani shall have sucrose levels not to exceed 10g/100g. (4-4-13)

ii. Honey from Lavender (*Lavandula* spp.) and Borage (*Borago officinalis*) shall have sucrose levels not to exceed 15g/100g. (4-4-13)

04. Name of the Food. Products conforming to the standard of identity as adopted in this rule shall be designated "honey". Foods containing honey and any flavoring, spice, or other added ingredient or honey that is processed in such a way that materially changes the flavor, color, viscosity or other material characteristics of pure honey, shall be distinguished from honey in the food name by declaration of the food additive or modification. (4-4-13)

a. Honey may be designated according to floral or plant source if it comes predominately from that particular source and has the organoleptic and physicochemical properties corresponding with that origin. (4-4-13)

b. Where honey has been designated according to floral or plant source, as stated in Paragraph 015.04.a., then the common name or the botanical name of the floral source shall be used in conjunction with or joined with the word "honey". (4-4-13)

c. Honey may be designated according to the following styles, which style shall be declared on packaging: (4-4-13)

i. "Honey" - this is honey in liquid or crystalline state or a mixture of the two (2); (4-4-13)

ii. "Comb Honey" - this is honey stored by bees in the cells of freshly built brood-less combs and which is sold in sealed whole combs or sections of such combs. (4-4-13)

iii. "Cut Comb in Honey," "Honey with Comb," or "Chunk Honey" - this is honey containing one (1) or more pieces of comb honey. (4-4-13)

016. TYPES AND STYLES OF HONEY.

01. Extracted Honey. Honey that has been separated from the comb by centrifugal force, gravity, straining, or other means. It is identified in the following types: (4-4-13)

a. Liquid Honey. Honey that is free of visible crystals; (4-4-13)

b. Crystallized Honey. Honey that is solidly granulated or crystallized, irrespective of whether candied, fondant, creamed or spread types of crystallized honey; and (4-4-13)

c. Partially Crystallized Honey. Honey that is a mixture of liquid honey and crystallized honey. (4-4-13)

02. Styles. Extracted honey styles are: (4-4-13)

a. Filtered Honey. Honey of any type defined in these standards that has been filtered to the extent that all or most of the fine particles, pollen grains, air bubbles, or other materials normally found in suspension, have been removed. Honey shall not be filtered to less than one point zero (1.0) micron. (4-4-13)

b. Strained Honey. Honey of any type defined in these standards that has been strained to the extent that most of the particles, including comb, propolis, or other defects normally found in honey, have been removed. Pollen grains, small air bubbles, and very fine particles are not normally removed from strained honey. (4-4-13)

c. Unfiltered/Unstrained - Unfiltered/Unstrained Honey. Honey that has not been filtered or strained by United States Standards for Grades of Extracted honey and may include extracted or non-extracted honey. (4-4-13)

d. Raw Honey. Honey that has not been pasteurized. (4-4-13)

017. -- 022. (RESERVED)

023. MISBRANDING.

Food labeled as a honey product, but not meeting the provisions of this rule may be subject to a stop sale order as authorized under Section 22-2812, Idaho Code. (4-4-13)

024. -- 999. (RESERVED)