

Dear Senators RICE, Bayer, Ward-Engelking, and  
Representatives ANDRUS, Boyle, Pence:

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

IDAPA 02.02.14 - Rules for Weights and Measures - Proposed Rule (Docket No. 02-0214-1601);

IDAPA 02.04.08 - Rules Governing Grade A Milk and Milk Products - Proposed Rule (Docket  
No. 02-0408-1601);

IDAPA 02.06.02 - Rules Pertaining to the Idaho Commercial Feed Law - Proposed Rule (Docket  
No. 02-0602-1601);

IDAPA 02.06.12 - Rules Pertaining to the Idaho Fertilizer Law - Proposed Rule (Docket No.  
02-0612-1601);

IDAPA 02.06.41 - Rules Pertaining to the Idaho Soil and Plant Amendment Act of 2001 - Proposed  
Rule (Docket No. 02-0641-1601).

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 07/27/2016. 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 08/24/2016.

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.



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 08, 2016

**SUBJECT:** Idaho State Department of Agriculture

IDAPA 02.02.14 - Rules for Weights and Measures - Proposed Rule (Docket No. 02-0214-1601)

IDAPA 02.04.08 - Rules Governing Grade A Milk and Milk Products - Proposed Rule (Docket No. 02-0408-1601)

IDAPA 02.06.02 - Rules Pertaining to the Idaho Commercial Feed Law - Proposed Rule (Docket No. 02-0602-1601)

IDAPA 02.06.12 - Rules Pertaining to the Idaho Fertilizer Law - Proposed Rule (Docket No. 02-0612-1601)

IDAPA 02.06.41 - Rules Pertaining to the Idaho Soil and Plant Amendment Act of 2001 - Proposed Rule (Docket No. 02-0641-1601)

#### **1. IDAPA 02.02.14 - Rules for Weights and Measures**

The Idaho State Department of Agriculture submits notice of proposed rule at IDAPA 02.02.14 - Rules for Weights and Measures. According to the department, the purpose of the rule is to incorporate by reference the 2017 edition of the National Institute of Standard and Technology Handbook 44, "Specifications, Tolerances, and Other Technical Requirements for Weighing and Measuring Devices." The department notes that negotiated rulemaking was not conducted due to the simple nature of the proposed change. The rulemaking appears to be authorized pursuant to Section 71-111, Idaho Code.

#### **2. IDAPA 02.04.08 - Rules Governing Grade A Milk and Milk Products**

The Idaho State Department of Agriculture submits notice of proposed rule at IDAPA 02.04.08 - Rules Governing Grade A Milk and Milk Products. According to the department, the purpose of the rule is to incorporate by reference the 2015 edition of the Grade "A" Pasteurized Milk Ordinance, the 2015 edition of the Evaluation of Milk Laboratories reference document, the 2015 edition of the Methods of Making Sanitation Ratings of Milk Shippers reference document and the 2015 edition of Procedures Governing the Cooperative State-Public Health Service/Food and Drug Administration reference document. The department notes that negotiated rulemaking was not conducted due to the simple nature of the proposed change. The rulemaking appears to be authorized pursuant to Section 37-303, Idaho Code.

Mike Nugent, Manager  
Research & Legislation

Cathy Holland-Smith, Manager  
Budget & Policy Analysis

April Renfro, Manager  
Legislative Audits

Glenn Harris, Manager  
Information Technology

### **3. IDAPA 02.06.02 - Rules Pertaining to the Idaho Commercial Feed Law**

The Idaho State Department of Agriculture submits notice of proposed rule at IDAPA 02.06.02 - Rules Pertaining to the Idaho Commercial Feed Law. According to the department, the purpose of the rule is to incorporate by reference information and updates contained in the 2017 Official Publication of the Association of American Feed Control Officials (AAFCO) as they pertain to the methodology and practice of conducting regulatory commercial feed registration and label review. The department notes that negotiated rulemaking was not conducted due to the simple nature of the proposed change. The rulemaking appears to be authorized pursuant to Section 25-2710, Idaho Code.

### **4. IDAPA 02.06.12 - Rules Pertaining to the Idaho Fertilizer Law**

The Idaho State Department of Agriculture submits notice of proposed rule at IDAPA 02.06.12 - Rules Pertaining to the Idaho Fertilizer Law. According to the department, the purpose of the rule is to incorporate by reference information and updates contained in the 2017 Official Publication of the Association of American Plant Food Control Officials (AAPFCO) as they pertain to the methodology and practice of conducting regulatory fertilizer registration and label review. The department notes that negotiated rulemaking was not conducted due to the simple nature of the proposed change. The rulemaking appears to be authorized pursuant to Section 22-604, Idaho Code.

### **5. IDAPA 02.06.41 - Rules Pertaining to the Idaho Soil and Plant Amendment Act of 2001**

The Idaho State Department of Agriculture submits notice of proposed rule at IDAPA 02.06.41 - Rules Pertaining to the Idaho Soil and Plant Amendment Act of 2001. According to the department, the purpose of the rule is to incorporate by reference information and updates contained in the 2017 Official Publication of the Association of American Plant Food Control Officials (AAPFCO) as they pertain to the methodology and practice of conducting regulatory soil and plant amendment registration and label review. The department notes that negotiated rulemaking was not conducted due to the simple nature of the proposed change. The rulemaking appears to be authorized pursuant to Section 22-2204, Idaho Code.

cc: Idaho State Department of Agriculture  
Brian J. Oakey

## IDAPA 02 - DEPARTMENT OF AGRICULTURE

### 02.02.14 - RULES FOR WEIGHTS AND MEASURES

DOCKET NO. 02-0214-1601

#### 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 July 20, 2016.

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

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

To incorporate by reference the 2016 edition of the National Institute of Standard and Technology Handbook 44, Specifications, Tolerances, and Other Technical Requirements for Weighing and Measuring Devices. NIST documents are available online at <http://www.nist.gov/pml/wmd/index.cfm>.

**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:

ISDA does not anticipate any fiscal impact from the changes to be made to the Rule during this rulemaking.

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because of the simple nature of the proposed amendment.

**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:

This document is recognized nationally as the primary reference document, incorporating the most current version promotes uniformity throughout the United States.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Kevin Merritt, Section Manager at (208) 332-8690.

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 July 27, 2016.

DATED this 2nd Day of June, 2016.

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

**THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 02-0214-1601**  
**(Only Those Sections With Amendments Are Shown.)**

**004. INCORPORATION BY REFERENCE.**

**01. Required Reference Materials.** The 2016<sup>7</sup> edition of Handbook No. 44 of the National Institute of Standards and Technology, United States Department of Commerce, "Specifications, Tolerances, and Other Technical Requirements for Weighing and Measuring Devices," hereby incorporated by reference, shall be the specifications, tolerances and other technical requirements for commercial weighing and measuring devices, unless otherwise stated in these rules. (~~3-25-16~~)(    )

**02. Required Reference Materials for Checking Prepackaged Commodities.** The 4th Edition of Handbook No. 133 of the National Institute of Standards and Technology, United States Department of Commerce, "Checking the Net Contents of Packaged Goods," hereby incorporated by reference, shall be the authority in checking packaged commodities, unless otherwise stated in these rules. (2-13-04)

**03. Specifications for Diesel Fuel and Biodiesel Fuel.** American Society of Testing and Materials (ASTM) D975-07a, "Standard Specification for Diesel Fuel Oils," and ASTM D6751-07a, "Standard Specification for Biodiesel Fuel (B100) Blend Stock for Distillate Fuels," intended for blending with diesel fuel are hereby incorporated by reference and are the specifications for diesel fuel and biodiesel fuel blend stock (B100 biodiesel). (4-2-08)

**04. Specifications for Gasoline.** American Society of Testing and Materials (ASTM) D 4814-07a, "Standard Specification for Automotive Spark-Ignition Engine Fuel", dated October 17, 2007, is hereby incorporated by reference and is the specification for gasoline. (5-8-09)

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

## **INCORPORATION BY REFERENCE SYNOPSIS**

In compliance with Section 67-5223(4), Idaho Code, the following is a synopsis of the differences between the materials previously incorporated by reference in this rule that are currently of full force and effect and newly revised or amended versions of these same materials that are being proposed for incorporation by reference under this rulemaking.

The following agency of the state of Idaho has prepared this synopsis as part of the proposed rulemaking for the chapter cited here under the docket number specified:

### ***IDAPA 02 - DEPARTMENT OF AGRICULTURE***

#### ***02.02.14 - RULES FOR WEIGHTS AND MEASURES***

##### ***DOCKET NO. 02-0214-1601***

The following is a list of the significant changes that will occur in the 2017 edition of the National Institute of Standards and Technology (NIST) Handbook 44. This list does not include several clerical or editorial changes. This entire document can be viewed online after November of 2016 at <http://www.nist.gov/pml/wmd/index.cfm> . This document is adopted as a reference document by the ISDA Weights and Measures program.

- Identification of Software – Added the provision mandating electronic software based devices shall be capable of displaying the version of software, non-retroactive as of January 1, 2022. This change will mostly affect manufactures of weighing and measuring devices and regulatory officials.
- Metrological Software Update – Added a provision providing that software updates that change the metrological aspect of the device will be considered a sealable event. This affects manufactures of weighing and measuring devices, service entities and regulatory officials.
- Relationship of Load Cell Verification to Scale Division – This change clarifies the calculation used to determine the minimum load cell verification interval when a vehicle scale has more than one weighing platform. This affects manufacturers, service entities and regulatory officials.
- Prescribed Test Patterns and Test Loads for Livestock Scales – This changes how test loads are applied to the deck of livestock scales. This affects regulatory officials and service entities.
- Card Operated Retail Motor Fuel Devices – Gas pumps once authorized by the attendant must de-authorize after 2 minutes if not activated by the user. This requirement is to prevent unauthorized use of a device. This change will affect customers and regulatory officials.
- Verification of Linearization Factors - This change updates Handbook 44 to reflect technological changes in registers for liquid measuring devices and to alert Weights and Measures officials to the errors imposed by start-up and shut-down of devices. This affects regulatory officials.

- Return to Zero – This change requires that indicators (readouts) of weighing or measuring devices shall not be resettable to zero during a delivery. This affects regulatory officials.
- Categories of Sealing Methods – This allows security sealing of electronic devices event logger to be available on demand through the devices indicator or other available electronic means. This affects device manufactures and regulatory officials.
- Vapor Elimination – This change mandates that vapor elimination lines used on metering devices on gas pumps, propane meters and vehicle tank mounted meters shall be made of appropriate non-collapsible material. This affects service entities of measuring devices and regulatory officials.
- Test Drafts – This change allows for comparisons between master meters and calibrated transfer vessels (provers) as long as the test drafts are equal in amount and delivered at the devices maximum flow rate for 2 minutes. This affects regulatory officials.
- Wholesale Devices - This change allows for a “special” test to determine the characteristics of the metering system. The meter is tested at a flow rate slightly above the manufactures slowest flow rating. This affects regulatory officials.
- Multiple Dimension Measuring Devices – This change requires that multi-dimension measuring devices indicate the same unit of measure for all dimensions. This affects manufactures and regulatory officials. Also, there are changes to marking requirements for Multiple Dimension Measuring Systems – This change updates the required information on accompanying documents by the manufacturer, requiring the name of the manufacturer and model designation. This affects manufactures.
- Definitions – Updates to the definitions section of the handbook include adding the definition for “Diesel Gallon Equivalent” (DGE) and “Gasoline Gallon Equivalent” (GGE) and their metric equivalents. This addition to the handbook identifies the conversion factors used for liquefied natural gas and compressed natural gas used as a motor fuel to be identified and sold as DGE or GGE units, or their perspective metric equivalents. This change will affect retail establishments that sell natural gas for motor fuel, service entities and regulatory officials.
- Taxi Meters – This change requires that at the conclusion of the transaction, a customer receipt be printed and that no other charges shall occur until the meter has been cleared. Included in this change is a requirement that when a flat rate or negotiated rate is established, that fare may no longer be advanced by movement of the vehicle or the time mechanism on the meter. This change will affect taxi meter manufacturers and regulatory officials.

For additional information, please contact;

Kevin Merritt

Section Manager

ISDA Bureau of Weights and Measures

Telephone: 208-332-8690

Email: Kevin.Merritt@ISDA.IDAHO.GOV

**IDAPA 02 - DEPARTMENT OF AGRICULTURE**  
**02.04.08 - RULES GOVERNING GRADE A MILK AND MILK PRODUCTS**  
**DOCKET NO. 02-0408-1601**  
**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 July 20, 2016.

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

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

To incorporate by reference the 2015 edition of the Grade A Pasteurized Milk Ordinance; 2015 edition of the Evaluation of Milk Laboratories reference document; 2015 Methods of Making Sanitation Ratings of Milk Shippers reference document and 2015 edition of Procedures Governing the Cooperative State-Public Health Service/Food and Drug Administration reference document.

**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:

ISDA does not anticipate any fiscal impact from the changes to be made to the Rule during this rulemaking.

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because of the simple nature of the proposed amendment.

**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:

These documents are recognized nationally as the primary reference and regulatory documents related to Grade A milk and milk products. Incorporating the most current version of the documents promotes uniformity throughout the United States dairy industry and the U.S. Food and Drug Administration.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rulemaking, contact Dr. Scott Leibsle, Deputy Administrator – Division of Animal Industries at (208) 332-8540.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before July 27, 2016.

DATED this 2nd Day of June, 2016.

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



**THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 02-0408-1601**  
**(Only Those Sections With Amendments Are Shown.)**

**004. INCORPORATION BY REFERENCE.**

The Idaho State Department of Agriculture incorporates by reference the following documents in this chapter. Copies of these documents may be obtained at the Idaho State Department of Agriculture central office. (4-7-11)

**01. Grade "A" Pasteurized Milk Ordinance.** The Grade "A" Pasteurized Milk Ordinance, 20~~11~~<sup>15</sup> revision, published by the U. S. Department of Health and Human Services, Public Health Service, Food and Drug Administration, except the bacterial limit standard and the somatic cell count standard in Section 7 of the document. Available online at <http://www.fda.gov/downloads/Food/FoodSafety/Product-SpecificInformation/MilkSafety/NationalConferenceonInterstateMilkShipmentsNCIMSModelDocuments/UCM291757.pdf>. (~~4-4-13~~)(    )

**02. Evaluation of Milk Laboratories.** The Evaluation of Milk Laboratories, 20~~11~~<sup>15</sup> revision, published by the U. S. Department of Health and Human Services, Public Health Service, Food and Drug Administration. Available online at <http://www.fda.gov/downloads/Food/FoodSafety/Product-SpecificInformation/MilkSafety/NationalConferenceonInterstateMilkShipmentsNCIMSModelDocuments/UCM293265.pdf>. (~~4-4-13~~)(    )

**03. Methods of Making Sanitation Ratings of Milk Shippers.** The Methods of Making Sanitation Ratings of Milk Shippers, 20~~11~~<sup>15</sup> revision, published by the U. S. Department of Health and Human Services, Public Health Service, Food and Drug Administration. Available online at <http://www.fda.gov/downloads/Food/FoodSafety/Product-SpecificInformation/MilkSafety/NationalConferenceonInterstateMilkShipmentsNCIMSModelDocuments/UCM290758.pdf>. (~~4-4-13~~)(    )

**04. Interstate Milk Shipments.** The Procedures Governing the Cooperative State-Public Health Service/Food and Drug Administration Program of the National Conference on Interstate Milk Shipments, 20~~11~~<sup>15</sup> revision, published by the U. S. Department of Health and Human Services, Public Health Service, Food and Drug Administration, and the National Conference on Interstate Milk Shipments. Available online at <http://www.fda.gov/downloads/Food/FoodSafety/Product-SpecificInformation/MilkSafety/NationalConferenceonInterstateMilkShipmentsNCIMSModelDocuments/UCM283586.pdf>. (~~4-4-13~~)(    )

## **INCORPORATION BY REFERENCE SYNOPSIS**

In compliance with Section 67-5223(4), Idaho Code, the following is a synopsis of the differences between the materials previously incorporated by reference in this rule that are currently of full force and effect and newly revised or amended versions of these same materials that are being proposed for incorporation by reference under this rulemaking.

The following agency of the state of Idaho has prepared this synopsis as part of the proposed rulemaking for the chapter cited here under the docket number specified:

### ***IDAPA 02 - DEPARTMENT OF AGRICULTURE***

#### ***02.04.08 - RULES GOVERNING GRADE A MILK AND MILK PRODUCTS***

##### ***DOCKET NO. 02-0408-1601***

#### **Amendments to the 2015 Grade A Pasteurized Milk Ordinance (PMO)**

The PMO was modified to bring requirements in line with the Preventative Controls Rule of the Food Safety Modernization Act (FSMA) that will allow FDA to accept the PMO as a Food Safety Plan, specifically, the bacterial standards and examination of single service container requirements

#### **Amendments to the 2015 Methods of Making Sanitation Ratings of Milk Shippers**

Single Service Ratings procedure was modified to include a scoring system to objectively determine if facilities will pass or fail a rating inspection. Previous rules gave the rating officer to authority to subjectively “judge” if the facility would pass or fail a rating, with minimal guidelines as to how to make that determination.

#### **Amendments to the 2015 Interstate Milk Shipments**

A certification and re-certification procedure for delegated sample surveillance officers has been created. This allows individuals certified to conduct foreign facility inspections under the Third party Certification program to establish a procedure that is with consistent with current protocol in the US.

#### **Significant changes for the 2015 Evaluation of Milk Laboratories (EML)**

The process for application and approval of future dairy product testing modalities has been described. This will provide Milk Laboratories the opportunity to apply for and acquire additional testing options that are more economical, more accurate and generate quicker results when performing quality control testing in the dairy industry.

## IDAPA 02 - DEPARTMENT OF AGRICULTURE

### 02.06.02 - RULES PERTAINING TO THE IDAHO COMMERCIAL FEED LAW

DOCKET NO. 02-0602-1601

#### 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 25-2710, 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 July 20, 2016.

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

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

To incorporate by reference information and updates contained in the 2017 Official Publication of the Association of American Feed Control Officials (AAFCO) as they pertain to the methodology and practice of conducting regulatory commercial feed registration and label review.

**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:

ISDA does not anticipate any fiscal impact from the changes to be made to the Rule during this rulemaking.

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because of the simple nature of the proposed amendment.

**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:

ISDA has incorporated the Association of American Feed Control Officials (AAFCO) Official Publication into the Rules Pertaining to the Idaho Commercial Feed Law for a number of years. The only change to the incorporation by reference section is to the date of the Official Publication.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Jared Stuart, Agriculture Section Manager at (208) 332-8622 or email [jared.stuart@isda.idaho.gov](mailto:jared.stuart@isda.idaho.gov).

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be delivered on or before July 27, 2016.

DATED this 2nd Day of June, 2016.

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

**THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 02-0602-1601**  
**(Only Those Sections With Amendments Are Shown.)**

**004. INCORPORATION BY REFERENCE.**

Copies of these documents may be viewed at the Idaho State Department of Agriculture, 2270 Old Penitentiary Road, PO Box 790, Boise, Idaho 83701. IDAPA 02.06.02 incorporates by reference: (3-30-07)

**01. The Association of American Feed Control Officials (AAFCO) Official Publication.** The Terms, Ingredient Definitions and Policies as published in the “2016~~7~~ Official Publication” of AAFCO where those terms and ingredient definitions, and policy statements do not conflict with terms and ingredient definitions, and policy statements adopted under Title 25, Chapter 27, Idaho Code, and any rule promulgated thereunder. The AAFCO Official Publication is a copyrighted publication and not available in electronic format. A copy may be purchased online from the AAFCO website at: [www.aafco.org](http://www.aafco.org). (~~3-25-16~~)(    )

**02. The Merck Index.** The “2006 Merck Index,” 14th Edition, as published by Merck Research Laboratories Division of Merck & Co., Incorporated. The Merck Index is a copyrighted publication and not available in an electronic format. A copy may be purchased online from Merck & Co., Inc at: <http://www.rsc.org/merckindex>.

# Overview of Incorporations by Reference for IDAPA

## 02.06.02–Rules Pertaining to the Commercial Feed Law

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### INCORPORATION BY REFERENCE SYNOPSIS

In compliance with Section 67-5223(4), Idaho Code, the following is a synopsis of the differences between the materials previously incorporated by reference in this rule that are currently of full force and effect and newly revised or amended versions of these same materials that are being proposed for incorporation by reference under this rulemaking.

The following agency of the state of Idaho has prepared this synopsis as part of the proposed rulemaking for the chapter cited here under the docket number specified:

*Idaho State Department of Agriculture  
IDAPA 02.06.02 - Rules Pertaining to the Commercial Feed Law  
Proposed Rulemaking - Docket No. 02-0602-1601*

IDAPA 02.06.02 incorporates by reference the official publication of the Association of American Feed Control Officials (AAFCO).

*IDAPA 02.06.02 {...} 004. INCORPORATION BY REFERENCE.*

*Copies of these documents may be viewed at the Idaho State Department of Agriculture, 2270 Old Penitentiary Road, PO Box 790, Boise, Idaho 83701. IDAPA 02.06.02 incorporates by reference: (3-30-07)*

*01. The Association of American Feed Control Officials (AAFCO) Official Publication. The Terms, Ingredient Definitions and Policies as published in the “2016 Official Publication” of AAFCO where those terms and ingredient definitions, and policy statements do not conflict with terms and ingredient definitions, and policy statements adopted under Title 25, Chapter 27, Idaho Code, and any rule promulgated thereunder. The AAFCO Official Publication is a copyrighted publication and not available in electronic format. A copy may be purchased online from the AAFCO website at: [www.aafco.org](http://www.aafco.org). (3-25-16)*

The following changes will be made to the 2017 AAFCO official publication incorporated by reference.

### **Ingredient Definitions 1-13:**

- 1.) Publish the following modified feed term in the Official Publication:
  - a. Feed Grade: Material that has been determined to be safe, functional and suitable for its intended use in animal food, is handled and labeled appropriately, and conforms to the Federal Food, Drug and Cosmetic Act unless otherwise expressly permitted by the appropriate state or federal agency (Suitable for use in animal feed).

2.) Publish the following new feed terms in the Official Publication:

- a. Suitable for use in animal feed: See *Feed Grade*.
- b. Human Grade: Every ingredient and the resulting product are stored, handled, processed, and transported in a manner that is consistent and compliant with regulations for current good manufacturing practices (cGMPs) for human edible foods as specified in 21 CFR Part 117.

3.) Publish the following new definitions as Tentative in the Official Publication.

- a. 30.1 Add a Beta-Mannanase from Dried *Bacillus subtilis* fermentation solubles; edit enzyme table to show:

Classification/Name	Source organism	Typical substrate	Function	Current supported use
Beta-mannanase	<i>Bacillus subtilis</i> , var.	distillers dried grains with solubles	(no change)	reduction of digesta viscosity with swine diets

4.) Publish the following revised definitions as Tentative in the Official Publication:

- a. 33.1 Animal Fat is obtained from the tissues of mammals and/or poultry in commercial processes of rendering or extracting. It consists predominately of glyceride esters of fatty acids and contains no additions of free fatty acids or other materials obtained from fats. It must contain, and be guaranteed for, not less than 90% total fatty acids, not more than 2.5% unsaponifiable matter, and not more than 1% insoluble impurities. Maximum free fatty acids and moisture must also be guaranteed. If the product bears a name descriptive of its' kind or origin; e.g. "beef", "pork", "poultry", it must correspond thereto. Rendered animal fat derived from only pork raw materials can be labeled as white grease. Rendered animal fat derived from only cattle raw materials can be labeled as beef tallow. Tallow containing greater than 0.15% insoluble impurities must be labeled with the BSE caution statement "do not feed to cattle or other ruminants." If an antioxidant(s) is used, the common name or names must be indicated, followed by the words "used as a preservative".

b. Add "**Lactobacillus animalis**" to the organism list in definition 36.14.

- i. **36.14 Direct-Fed Microorganisms**-- The following microorganisms were reviewed by the Food and Drug Administration, Center for Veterinary Medicine and found to present no safety concerns when used in direct-fed microbial products: *Aspergillus niger* *Aspergillus oryzae* *Bacillus coagulans* *Bacillus lentus* *Bacillus licheniformis* *Bacillus pumilus* *Bacillus subtilis* *Bacteroides amylophilus* *Bacteroides capillosus* *Bacteroides ruminicola* *Bacteroides suis* *Bifidobacterium adolescentis* *Bifidobacterium animalis* *Bifidobacterium bifidum* *Bifidobacterium infantis* *Bifidobacterium longum* *Bifidobacterium thermophilum* \**Enterococcus cremoris* \**Enterococcus diacetylactis* \**Enterococcus faecium* \**Enterococcus intermedius* \**Enterococcus lactis* \**Enterococcus thermophilus* *Lactobacillus acidophilus* *Lactobacillus brevis* *Lactobacillus buchneri* (cattle only) *Lactobacillus bulgaricus* *Lactobacillus casei* *Lactobacillus cellobiosus* *Lactobacillus curvatus* *Lactobacillus delbruekii* *Lactobacillus farciminis* (swine only) *Lactobacillus fermentum* *Lactobacillus helveticus* *Lactobacillus lactis* *Lactobacillus plantarum* *Lactobacillus reuteri* *Leuconostoc mesenteroides* *Megasphaera elsdenii* (cattle only) *Pediococcus acidilactici* *Pediococcus cerevisiae* (*damnosus*) *Pediococcus pentosaceus* *Propionibacterium acidipropionici* (cattle only) *Propionibacterium freudenreichii*

*Propionibacterium shermanii Rhodopseudomonas palustris (broiler chickens only)*  
*Saccharomyces cerevisiae Yeast (as defined elsewhere)*  
(Proposed 1991, Adopted 1993, Amended 2001, 2004, 2006, 2011)\*Formerly  
cataloged as *Streptococcus*.

5.) Publish the following tentative definitions in the Official Publication:

- a. T33.24 Used Cooking Oil, Feed Grade is the product of used cooking or frying oil from human food preparation, consisting of animal and/or vegetable fats or oils, collected from commercial human food facilities then heated to reduce moisture. It must contain, and be guaranteed for, not less than 90% total fatty acids, not more than 1% unsaponifiable matter, not more than 0.5% insoluble impurities, and not more than 1% moisture. Maximum free fatty acids must also be guaranteed. This product may not include recovered trap grease or material recovered from sanitary sewer sources. If an antioxidant(s) is used, the common name or names must be indicated, followed by the words "used as a preservative".
- b. T40.100 Recovered Retail Food- is composed of edible human food products safe and suitable for livestock feed that are collected from retail food establishments, domestic holding facilities, and domestic packing facilities. Permitted recovered retail foods are products from overstocks, lacking consumer acceptance, or beyond their sell-by date that include items such as bruised, cut, or overly-ripe produce (fruit and vegetables), bakery goods, eggs, and dairy products. It shall be safe and appropriately labeled for its intended use and shall be free of material harmful to animals. Materials excluded from this definition include pet foods, products containing: beef, lamb, pork, poultry, fish or shellfish. It must not contain packaging materials (e.g., plastics, glass, metal, string, styrofoam, cardboard, and similar materials), flowers, potted plants, or potting soil.  
The recovered foods shall be collected and intermixed in secure holding containers to exclude unauthorized addition of trash, materials harmful to animals, or infestation and adulteration by pests. Egg and dairy products (and other products ordinarily held at refrigerator temperatures) must be kept in cold storage until the scheduled pick-up. To minimize spoilage, the recovered retail food shall be collected at least weekly, or more frequently if necessary. The establishment should have a sanitation plan in place, and the containers should be cleaned and sanitized as necessary. The collected material may be further processed or delivered as-is to an animal feeding facility. The product must be handled to preserve its safety and nutritional value.
- c. T60.117 Dried Black Soldier Fly Larvae is the dried larvae of the Black Soldier Fly, *Hermetia illucens*, that has been raised on a feedstock composed exclusively of feed grade materials. The ingredient must contain not less than 34% crude protein and 32% fat on an as-fed basis. The ingredient is dried by artificial means to no more than 10% moisture. It is for use in salmonid fish feed as a source of protein and fat consistent with good feeding practices.
- d. T87.35 Glucose syrup is the purified, concentrated, aqueous solution of nutritive saccharides obtained from edible starch. It shall meet the following specifications: total solids content not less than 70.0 percent mass/mass (m/m) and reducing sugar content (dextrose equivalent), expressed as D-glucose, not less than 20.0 percent m/m calculated on a dry basis. The sulfated ash content is not more than 1.0 % m/m (calculated on a dry basis) and the sulfur dioxide content is not more than 40 mg/kg. If the product bears a name descriptive of its kind or origin, e.g., "corn syrup", "grain sorghum syrup", it must correspond thereto. (21 CFR 168.120)

e. T33.21 Yellow Grease, Feed Grade is the rendered product from the tissues of mammals and/or poultry blended with used cooking or frying oil from human food preparation, consisting of animal and/or vegetable fats or oils. It must contain, and be guaranteed for, not less than 90% total fatty acids, not more than 1% unsaponifiable matter, not more than 0.5% insoluble impurities, and not more than 1% moisture. Maximum free fatty acids must also be guaranteed. This product may not include recovered trap grease or material recovered from sanitary sewer sources. If an antioxidant(s) is used, the common name or names must be indicated, followed by the words "used as a preservative." If the product contains tallow (from cattle) containing greater than 0.15% insoluble impurities then it must be labeled with the BSE caution statement "do not feed to cattle or other ruminants."

6.) Publish the Note to add under the header in Section 40 in the Official Publication:

a. Section 40 Human Food By Products

NOTE: All ingredients must be feed grade. Firms should perform a safety assessment of materials that may be included in the offered feed ingredient, at the maximum use level (including cocoa products and non-nutritive sweeteners), to determine safety for the intended animal species and the safety of milk, meat, or eggs from animals consuming the ingredient. The safety assessment should be archived in the firm's files and provided to State or Federal Regulators upon request.

7.) Publish the nine prior Section 60 ingredient definitions in Section 40 in the Official Publication using new Section 40 numbering:

- a. 60.96 Food processing waste
- b. 60.35 Sugar Food By-Product
- c. 60.93 Pasta Product
- d. 60.14 Cereal Food Fines
- e. 60.29 Gelatin By Products
- f. 60.34 Dried Beans
- g. 60.15 Dried Bakery Product
- h. 60.97 Restaurant Food waste
- i. 60.107 Mixed feed Nuts

8.) Publish the modified definition in the Official Publication:

a. **57.163 Selenium Yeast** is a dried non-viable yeast, *Saccharomyces cerevisiae*, cultivated in a fed-batch fermentation which provides incremental amounts of cane molasses and selenium salts in a manner which minimizes the detrimental effects of selenium salts on the growth rate of the yeast and allows for optimal incorporation of inorganic selenium into cellular organic material. Residual inorganic selenium is eliminated in a rigorous washing process and must not exceed 2% of the total selenium content in the final selenium yeast product. Guaranteed organic selenium content must be declared on the product label. The additive selenium yeast may be added to:

- 1) complete feeds for chickens, turkeys, swine, beef cattle, dairy cattle, bison, sheep, goats, llamas, alpacas, and horses at a level not to exceed 0.3 part per million of selenium, and to complete dog foods at a level not to exceed 0.333 part per million of selenium on a dry matter basis;
- 2) feed supplements for limit feeding for beef cattle, bison and horses at a level not to exceed an intake of 3 milligrams per head per day:



3) feed supplements for limit feeding for goats, llamas, and alpacas at a level not to exceed an intake of 0.7 milligrams per head per day:

4) salt-mineral mixtures for free-choice feeding of beef cattle, bison, and horses up to 120 parts per million in a mixture for free-choice feeding at a rate not to exceed an intake of 3 milligrams per head per day:

5) salt-mineral mixtures for free-choice feeding for goats, llamas and alpacas up to 90 parts per million in a mixture for free-choice feeding at a rate not to exceed an intake of 0.7 milligrams per head per day.

Selenium yeast shall be incorporated into each ton of complete feed by adding no less than 1 pound of a premix containing no more than 272.4 milligrams of added selenium per pound.

21 CFR 573.920. **The label or labeling of any selenium premix shall bear adequate directions and cautions for use including this statement: "Caution: Follow label directions. The addition to feed of higher levels of this premix containing selenium is not permitted."** (Proposed 2002, Amended 2003, 2004, 2007\*, 2008, 2009, Adopted 2011).

9.) Replace the current definition of 87.1 Algae Meal with the official definition (from the color additive definition 21 CFR 73.275) in the OP of 87.1 Dried Algae Meal.

a. **87.1 Algae Meal** – The color additive, algae meal, may be safely used in the manufacture of chicken feed in accordance with the following prescribed conditions:

(a) Identity.

The color additive dried algae meal is a dried mixture of algae cells (genus *Spongiococcum*, separated from its culture broth), molasses, cornsteep liquor, and a maximum of 0.3 percent ethoxyquin. The algae cells are produced by suitable fermentation, under controlled conditions, from a pure culture of the genus *Spongiococcum*.

(b) Uses and restrictions.

The color additive dried algae meal may be safely used in chicken feed in accordance with the following prescribed conditions:

(1) The color additive is used to enhance the yellow color of chicken skin and eggs.

(2) The quantity of the color additive incorporated in the feed is such that the finished feed:

(i) Is supplemented sufficiently with xanthophyll and associated carotenoids so as to accomplish the intended effect described in paragraph (b)(1) of this definition; and

(ii) Meets the tolerance limitation for ethoxyquin in animal feed prescribed in part 573.380 of Title 21 of the Code of Federal Regulations (21 CFR 573.380).

(c) Labeling.

The label of the color additives and any premixes prepared therefrom shall bear in addition to the information required by 21 CFR 70.25.

(1) A statement of the concentrations of xanthophyll and ethoxyquin contained therein.

(2) Adequate directions to provide a final product complying with the limitations prescribed in paragraph (b) of this definition.

(d) Exemption from certification.

Certification of this color additive is not necessary for the protection of the public health and therefore batches thereof are exempt from the certification requirements of section 721(c) of the Federal Food, Drug, and Cosmetic Act.

21 FR 73.275

10.) Publish these new definitions in the Official Publication:

a. **87.36 Phaffia yeast** – The color additive, phaffia yeast, may be safely used in the manufacture of salmonid fish feed in accordance with the following prescribed conditions:

(a) Identity.

(1) The color additive phaffia yeast consists of the killed, dried cells of a nonpathogenic and nontoxicogenic strain of the yeast phaffia rhodozyma.

(2) Phaffia yeast may be added to the fish feed only as a component of a stabilized color additive mixture. Color additive mixtures for fish feed use made with phaffia yeast may contain only those diluents that are suitable and are listed in part 73.1 of Title 21 of the Code of Federal Regulations (21 CFR 73.1) as safe for use in color additive mixtures for coloring foods.

(b) Specifications.

Phaffia yeast shall conform to the following specifications and shall be free from impurities other than those named to the extent that such impurities may be avoided by good manufacturing practice:

Physical state, solid.

Lead (as Pb), not more than 5 parts per million.

Arsenic (as As), not more than 2 parts per million.

Mercury (as Hg), not more than 1 part per million.

Heavy metals, not more than 10 parts per million.

Astaxanthin, not less than 0.4 percent.

(c) Uses and restrictions.

Phaffia yeast may be safely used in the feed of salmonid fish in accordance with the following prescribed conditions:

(1) The color additive is used to enhance the pink to orange-red color of the flesh of salmonid fish.

(2) The quantity of astaxanthin in finished feed, from phaffia yeast when used alone or in combination with other astaxanthin color additive sources listed in 21 CFR 73, shall not exceed 80 milligrams per kilogram (72 grams per ton) of finished feed.

(d) Labeling requirements.

(1) The labeling of the color additive and any premixes prepared therefrom shall bear expiration dates for the sealed and open container (established through generally accepted stability testing methods), other information required by 21 CFR 70.25, and adequate directions to prepare a final product complying with the limitations prescribed in paragraph (c) of this definition.

(2) The presence of the color additive in finished fish feed prepared according to paragraph (c) of this definition shall be declared in accordance with 21 CFR 501.4.

(3) The presence of the color additive in salmonid fish that have been fed feeds containing phaffia yeast shall be declared in accordance with 21 CFR 101.22(b), (c), and (k)(2) and 21 CFR 101.100(a)(2).

(e) Exemption from certification.

Certification of this color additive is not necessary for the protection of the public health, and therefore batches thereof are exempt from the certification requirements of section 721(c) of the Federal Food, Drug, and Cosmetic Act.

21 CFR 73.355 (adopted xxxxx)

11.) Publish official definitions for the following color additives in the Official Publication: Found on page 44 of the Committee Report Book

- a. 87.100 FD&C Blue No 1.
- b. 87.102 FD&C Blue No 2.
- c. 87.103 FD&C Green No 3.
- d. 87.104 FD&C Red No 3.
- e. 87.105 FD&C Red No 40.
- f. 87.106 FD&C Yellow No 6.
- g. 87.107 FD&C Yellow No 5.
- h. 87.110 Annatto Extract
- i. 87.112 Astaxanthin dimethyldisuccinate
- j. 87.114 Astaxanthin
- k. 87.116 Caramel
- l. 87.118 Carmine
- m. 87.120 Carrot Oil
- n. 87.122 Cochineal Extract
- o. 87.124 Corn Endosperm Oil
- p. 87.126 Dehydrated Beets
- q. 87.128 Fruit Juice
- r. 87.130 Haematococcus algae meal
- s. 87.132 Paprika Oleoresin
- t. 87.134 Paprika
- u. 87.136 Paracoccus pigment
- v. 87.138 Riboflavin
- w. 87.140 Saffron
- x. 87.142 Synthetic Iron Oxide
- y. 87.144 Tagetes (Aztec Marigold) Extract
- z. 87.145 Tagetes (Aztec Marigold) Meal
- aa. 87.146 Titanium Dioxide
- bb. 87.148 Toasted Partially Defatted
- cc. 87.150 Tomato Lycopene Concentrate
- dd. 87.152 Tomato Lycopene Extract
- ee. 87.154 Turmeric Oleoresin
- ff. 87.155 Turmeric
- gg. 87.156 Ultramarine Blue
- hh. 87.158 Vegetable Juice
- ii. 87.160  $\beta$ -Apo-8'-carotenal
- jj. 87.164  $\beta$ -Carotene

12.) Renumber Section 73 ingredients of the OP according to the list in attachment A page 42 of the Committee Report Book, and leave the cross-reference to the old number there for 2 years and then remove cross-reference

**Section 73 edits: (page 430 2015 OP revision 1)**

73.001 (old 73.1) Technical Additives table

**Acidifiers** (73.020- 029)

73.020 (87.26) Ammonium Formate

73.025 (87.27) Formic Acid

**Antimicrobial Agents** (73.030-039)

73.030 (old 87.15) Formaldehyde

**Anticaking Agents** (73.040-060)

73.040 (old 87.12) Bentonite

73.042 (old 87.28) Castor Oil

73.044 (old 87.17) Perlite

73.046 (old 87.3) Silicon Dioxide

73.048 (old 87.13) Sodium Bentonite

73.050 (old 87.4) Verxite (incl flake and grits)

**Binders** (73.106-130)

73.107 (old 87.2) Lignin Sulfonate

T73.109 (old T73.300) Sodium salts of Fatty Acids .... Stays in tentative section ....

T73.111 (old T73.301) Potassium Salts of Fatty Acids .... Stays in tentative section ....

**Biofuel Production** (73.090-104)

73.100 Yeast for Production of Distillers Products

**Emulsifiers** (73.200-220)

73.200 Xanthan gum

**Floculants** (73.221-240)

73.221 (old 87.16) Chitosan

73.223 (old 87.21) Kraft Lignin

**Nutritional Diluents** (73.241-249)

73.241 (old 87.18) Reed-Sedge Peat

**Pelleting Aids** (73.300–340)

73.305 (old 87.24) Hide Glue

73.307 (old 87.6) Rice By-Products Fractions

73.309 (old 87.19) Urea Formaldehyde Condensation Polymer

73.105 Sodium Hydroxide Lignin Dehydrated

**Surfactants** (73.341-360)

73.341 (old 87.10) Poloxalene

**Thickening agents** (73.370-390)

73.370 (old 87.23) Cassia Gum

13.) Publish the modified definition in the Official Publication:

a. **60.73- Salts of Volatile Fatty Acids-** Is a blend containing the ammonium or calcium salt of isobutyric acid and the ammonium or calcium salts of a mixture of 5-carbon acids/ isovaleric, 2-methylbutyric and n-valeric. The contained ammonium or calcium salts of volatile fatty acids shall conform to the specifications in 21 CFR 573.914. It is used as a source of energy in dairy cattle feed. The label of the product shall bear adequate directions for use including statements expressing maximum use levels: For ammonium salts of volatile fatty acids *Not to exceed 160 grams per head per day* thoroughly mixed in dairy cattle feed as a source of energy; For calcium salts of volatile fatty acids—*Not to exceed 135 grams per head per day* thoroughly mixed in dairy cattle feed as a source of energy. (Proposed 1985, Adopted 1986, Amended xxxx) Reg 21 CFR 573.914

**IDAPA 02 - DEPARTMENT OF AGRICULTURE**  
**02.06.12 - RULES PERTAINING TO THE IDAHO FERTILIZER LAW**  
**DOCKET NO. 02-0612-1601**  
**NOTICE OF RULEMAKING - PROPOSED RULE**

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 22-604, 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 July 20, 2016.

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

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

To incorporate by reference information and updates contained in the 2017 Official Publication of the Association of American Plant Food Control Officials (AAPFCO) as they pertain to the methodology and practice of conducting regulatory fertilizer registration and label review.

**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:

ISDA does not anticipate any fiscal impact from the changes to be made to the Rule during this rulemaking.

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because of the simple nature of the proposed amendment.

**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 Association of American Plant Food Control Officials (AAPFCO) Official Publication and the Official Methods of Analysis (OMA) published by the Association of Official Agricultural Chemists (AOAC) International are the recognized and primary reference books of approved fertilizer terms, ingredient definitions and policies used by the fertilizer industry and all state and federal fertilizer control officials and regulators.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Jared Stuart, Agriculture Section Manager at (208) 332-8622 or email [jared.stuart@isda.idaho.gov](mailto:jared.stuart@isda.idaho.gov).

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be delivered on or before July 27, 2016.

DATED this 2nd Day of June, 2016.

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

**THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 02-0612-1601**  
**(Only Those Sections With Amendments Are Shown.)**

**004. INCORPORATION BY REFERENCE.**

Copies of these documents may be viewed at the Idaho State Department of Agriculture, 2270 Old Penitentiary Road, PO Box 790, Boise, Idaho 83701. IDAPA 02.06.12 incorporates by reference: (4-7-11)

**01. The Association of American Plant Food Control Officials (AAPFCO) Official Publication.**

The Terms, Ingredient Definitions, and Policies, as published in the “2016~~7~~ Official Publication” of AAPFCO where those terms and ingredient definitions, and policy statements do not conflict with terms and ingredient definitions, and policy statements adopted under Title 22, Chapter 6, Idaho Code, and any rule promulgated thereunder. The AAPFCO Official Publication is a copyrighted publication and not available in electronic format. A copy may be purchased online from the AAPFCO website at: [http://www.aapfco.org/pdf/order\\_form\\_69.pdf](http://www.aapfco.org/pdf/order_form_69.pdf). (~~3-25-16~~)(    )

**02. The Merck Index.** The “2006 Merck Index,” 14th Edition as published by Merck Research Laboratories Division of Merck & Co., Incorporated. The Merck Index is a copyrighted publication and not available in an electronic format. A copy may be purchased online from Merck & Co., Inc. (now hosted by the Royal Society of Chemistry) at: <http://www.rsc.org/merckindex>. (4-7-11)

**03. The Association of Official Agricultural Chemists (AOAC) International.** The “2005 Official Methods of Analysis (OMA) of the AOAC,” 18th Edition, a copyrighted publication, is maintained and published by the AOAC International. The AOAC OMA is available in electronic format at: [www.EOMA.AOAC.org](http://www.EOMA.AOAC.org). A copy may be purchased online from AOAC International. (3-29-12)

# Overview of Incorporations by Reference for IDAPA 02.06.12–Rules Pertaining to the Idaho Fertilizer Law

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## INCORPORATION BY REFERENCE SYNOPSIS

In compliance with Section 67-5223(4), Idaho Code, the following is a synopsis of the differences between the materials previously incorporated by reference in this rule that are currently of full force and effect and newly revised or amended versions of these same materials that are being proposed for incorporation by reference under this rulemaking.

The following agency of the state of Idaho has prepared this synopsis as part of the proposed rulemaking for the chapter cited here under the docket number specified:

*Idaho State Department of Agriculture  
IDAPA 02.06.12 - Rules Pertaining to the Idaho Fertilizer Law  
Proposed Rulemaking - Docket No. 02-0612-1601*

IDAPA 02.06.12 incorporates by reference the official publication of the Association of American Plant Food Control Officials (AAPFCO).

*IDAPA 02.06.12 {...} 004. INCORPORATION BY REFERENCE. Copies of these documents may be viewed at the Idaho State Department of Agriculture, 2270 Old Penitentiary Road, PO Box 790, Boise, Idaho 83701. IDAPA 02.06.12 incorporates by reference: (4-7-11)*

*01. The Association of American Plant Food Control Officials (AAPFCO) Official Publication. The Terms, Ingredient Definitions, and Policies, as published in the “2016 Official Publication” of AAPFCO where those terms and ingredient definitions, and policy statements do not conflict with terms and ingredient definitions, and policy statements adopted under Title 22, Chapter 6, Idaho Code, and any rule promulgated thereunder. The AAPFCO Official Publication is a copyrighted publication and not available in electronic format. A copy may be purchased online from the AAPFCO website at: [http://www.aapfco.org/pdf/order\\_form\\_69.pdf](http://www.aapfco.org/pdf/order_form_69.pdf). (3-25-16)*

The following changes will be made to the 2017 AAFCO official publication incorporated by reference.

Moved to Official

## ELECTRONIC AND CONFERENCE CALL VOTING POLICY

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### \* **Electronic Voting (email)**

- Although a meeting held via email would be very difficult, a vote on an action item is feasible
- a motion can be made by any committee member

- Only the Chair or the Vice Chair may be in charge of the voting
- If this is a working group, the Chair or Vice Chair may not be in attendance and is not mandatory
- Need to give the entire committee (members and industry liaisons) 10 business day notice that the committee will propose official action and a vote will be taken
- item to be voted should be presented to the committee
- Roberts Rules apply
- A motion and a second must be made before any discussion
- Only members can vote, no industry liaisons
- The committee should be instructed that any replies to an action, friendly amendment or discussion must be available for all to read by use of the "reply all" button
- Must give deadlines for each action
- Allow 3 business days for a second to a motion
- If no second, motioner should consult with the Chair for further action
- After second, allow 3 business days for discussion and friendly amendments
- Following discussion and amendments, the Chair shall present the final motion to the committee members for a vote, allowing 3 business days for the vote
- Motion passes on an official vote of [75%] [51%] or greater [*favorable vote of the voting members present.*]
- Committee meeting minutes shall be forwarded to the AAPFCO Secretary for posting in the Official Publication (Adopted by Board August 2012) (**Tentative 2015 SA**)

#### **Pg 433 OP69 - AAPFCO ORGANIZATIONAL AND PROCEDURAL POLICIES**

##### **CONSENSUS-BUILDING AND DECISION-MAKING PROCEDURES**

The Association of American Plant Food Control Officials' (AAPFCO) board of directors, committees and task forces will seek consensus on decisions and recommendations regarding developing and implementing Association policies and procedures. (Association business)

The Association's consensus building and decision making process is a participatory one whereby on matters of substance, the members jointly strive for agreements which all of the members can accept, support or at least agree not to oppose. In instances where, after vigorously exploring possible ways to enhance the members' support for the final decision on an issue or package of recommendations, and where 100% acceptance or support is not achievable, final decisions of the Association will require at least a [75%] [51%] favorable vote of all voting members present and voting. [*This super majority decision rule underscores the Association's view of the importance of seeking and developing agreements with the participation of all members and with which all can live with and support.*] (**Tentative 2015 SA**)

The Association will make decisions only when a quorum is present. A quorum shall be constituted by those members present in person or by alternate. [*The Association will utilize Robert's Rules of Order to make and approve motions; however, the 75% supermajority voting requirement will supercede the normal voting requirements used in Robert's Rules of Order for decision making on substantive motions and amendments to motions. In addition, the Association will utilize their adopted meeting guidelines for conduct during meetings.*] (**Tentative 2015**)

The presiding chair and/or facilitator of the Association of American Plant Food Control Officials, in general, should use parliamentary procedures set forth in Robert's Rules of Order:



- Any voting member may make a motion when a quorum is present.
- A second is required to discuss the motion.
- If a motion is seconded, the chair/facilitator opens the floor for discussion. The chair/facilitator will recognize members wishing to speak on the motion. The chair/facilitator will, if time permits, recognize other participants wishing to speak on the motion.
- The chair/facilitator may elect or be requested by the member making the motion to take a “straw poll” on the motion. Based on the result, the chair/facilitator may table the motion with the agreement of the member moving it, pending further discussion. The member making the motion may accept friendly amendments to the motion.
- After completing discussion, the chair/facilitator will call the discussion to a close and restate the motion, with any friendly amendments, and call for a vote.
- If the motion receives a [75%] [51%] favorable vote of the voting members present.

*(Tentative 2015, SA)*

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**MEETING PROCESS FORMAT GUIDELINES**

- Chair introduces each agenda item.
- Proponent/Presenter provides overview, rationale for proposal, and any requested action.
- Clarifying questions from members (something you don’t understand). Names stacked.
- Committee/board begins discussion only after all questions are answered.
- General discussion by committee members.
- Chair asks if any members of the public wishes to address the board/committee on the current issue under board/committee consideration
- Chair asks for those who wish to speak in favor of the proposal or topic under discussion to offer brief comments, others who wish to speak in favor will be asked to offer new points or simply state agreement with previous speakers.
- The same opportunity and requirements will be offered for those who wish to speak in opposition to the proposal or topic under discussion.
- Chair ensures that all views are expressed and similar views are not repeated.
- Chair may instruct public to avoid repeating points, and to summarize key points and to submit lengthy prepared statements into the record (instead of reading them).
- Members of the public will be provided one opportunity to comment per discussion agenda item, and may be limited to three (3) minutes.
- Members may, through the chair, ask clarifying questions to members of the public offering comments.
- After public comment, chair calls for members discussion and stacks names of members wishing to speak.
- Members explore all options (pros and cons) prior to making a formal motion.
- Any voting member may make a motion when a quorum is present. Requires a second.
- If a motion is seconded, the chair opens the floor for discussion. The chair will recognize members wishing to speak on the motion.
- If the motion involves an option that the public has already commented on, then no additional public comment is taken, if the proposed action (motion) is materially different from what was previously discussed, an additional opportunity is provided for public comment, and then the board/committee votes on the motion.

- Once a motion is on the floor discussion is restricted to committee/board members except as allowed by the chair for purposes of clarification.
- Voting member offers a second (may be seconded for purposes of discussion, and not necessarily due to agreement with the motion).
- Voting members may offer friendly amendments and if accepted by maker of the motion, friendly amendment becomes a part of the motion currently under discussion.
- In order to get a “read” on a motion, the chair may elect or be requested by the member making the motion to take a “straw poll” on the motion Based on the result, the chair may withdraw or table the motion with the agreement of the member moving it, pending further discussion.
- Voting members may offer an amendment to the motion: second required, discussion, vote on the amendment only.
- The motion on the table is now the motion as amended (if amendment was approved).
- After completing discussion, the chair will call the discussion to a close and restate the motion, with any friendly amendments or approved amendments, and call for a vote.
- If the motion receives a [75%] [51%] or greater favorable vote of the voting members it will be deemed approved. (*Tentative 2015 SA*)

### **Moved to Tentative**

#### **Environmental Control Concerning the Application of Fertilizer (Page 129 in Official Publication No. 69)**

*The Environmental Affairs Committee moved this version to tentative status on August 7, 2015*

The Association of American Plant Food Control Officials is vitally interested in the protection of the environment. Research has established the beneficial effects of proper fertilizer application on crop growth, which lessens pollution of surface waters by protecting soils from erosion. Conversely, research has also shown that under certain management and climatic conditions, *[improper]* applications of fertilizer can result in movement of fertilizer nutrients to surface and/or ground water sources.

The Association *[is extremely concerned that future]* ***[supports]*** that use of fertilizer *[does not undesirably affect our environment and has organized our Associations Environmental Affairs Committee to address this issue]* *[W][w]*hen combined with best management practices*[, the Association believes that appropriate fertilizer applications can improve the quality of the environment by]* ***[such as the 4R’s (right product, right time, right place, and right rate) can improve the quality of the environment by]***:

(1) Increasing the quality of biomass produced per unit area of land surface, which aids in stabilizing and protecting the soil from erosion.

(2) Increasing production of food and fiber per unit area, thereby eliminating the necessity for producing crops on land unsuited for cultivation.

(3) Increasing accumulation of soil nutrients into biomass, thereby minimizing *[percolation of]* ***[the loss]*** of soluble nutrients to ground water.

(4) Reducing the *[forest land]* ***[conversion of non-agricultural land]*** placed into cultivation as a result of improved yields.

The Association strongly [*commends the research efforts of various which will provide additional*] [*supports peer reviewed research to provide scientifically credible*] information vital to the continued use of plant nutrients without adversely affecting the environment. The [*continued*] use of this information by extension service agronomists, commercial agronomists and other advisors in an educational program [*and in making*] [*or*] in making [*specific nutrient*] recommendations will [*surely provide for*] [*be critical for ensuring*] an adequate [*but safe*] source of food for the nation and world.

The Association recognizes and endorses the following activities:

(1) [*The use of soil testing and plant tissue analysis as*] [*Soil, plant, or other forms of testing needs to be*] scientifically correlated with [*the fertilizer*] [*the nutrient*] needs of [*soil, crop, climate, and yield*] [*specific crops. Outreach and education for consumers and laboratories is necessary to make testing convenient and understandable.*]

(2) Protecting our land resources against erosion losses through employment of best management practices which include application of appropriate quantities of fertilizer.

(3) Funding of long term research programs to quantify the effects of fertilizer on the environment under diverse combinations of soils, climate, crop, and management.

*[(4) A continuing dialogue between fertilizer and environment experts that achieves a mutual understanding of environmental issues related to the use of crop inputs.*

*(5) Balancing the need for environmental protection with the need to beneficially reuse materials that would otherwise be waste.*

*(6) The development and implementation of uniform requirements.]*

The Association further encourages the thorough evaluation of all appropriate [*peer reviewed*] research data before additional regulations on fertilizer application are invoked. Inappropriate or unnecessary regulations [*of inputs*] could [*reduce the amount of biomass produced,*] increase erosion of crop land, increase cost of food and fiber to consumers, and cause deterioration of the competitive position of the American farmer in the world market. [*(Official 1988)*]

*[The Policy of the Association of American Plant Food Control Officials Regarding Fertilizer for Urban Landscapes*

*The Environmental Affairs Committee moved this version to tentative status on August 7, 2015*

*Fertilizer is essential for maintaining vigorous, attractive and functional urban landscapes. However, if fertilizer is adulterated or is improperly or excessively applied, then fertilizer can adversely affect public health and the environment. Issues range from contaminants in vegetable gardens to nutrient runoff from turf. To prevent these problems, fertilizer use must involve the right product, the right rate, the right time, and the right place (4Rs).*

*Manufacturers, retailers, testing laboratories, professional landscapers, consumers, and lawmakers each play a role in preventing inappropriate fertilizer use in urban landscapes.*

*(1) Fertilizer formulations need to be appropriate for their intended use.*

*(2) Application instructions for the end user need to be clear and accurate.*

*(3) Soil, plant tissue, or other forms of sampling and analysis to evaluate nutrient requirements needs to be convenient and understandable.*

*(4) Users need to apply fertilizer appropriately.*

*(5) Legal requirements limiting fertilizer application should be based on peer reviewed science, and written to be easily understood, implemented, and enforced.*

*Therefore, the Association of American Plant Food Control Officials supports:*

*(1) Including environmental scientists, policy makers, fertilizer manufacturers, control officials and educators in discussions of nutrient issues, policy, and legal requirements;*

*(2) Soil, plant tissue, and other forms of testing, and nutrient management planning to ensure that fertilizer applications are appropriate for the specific needs of the soil, climate, and plants;*

*(3) Outreach and education to consumers, landscaping professionals, and laboratories to make soil, plant tissue, and other forms of testing convenient, understandable, and useful;*

*(4) Discussions of public policy for nutrient management should be informed by the latest peer reviewed research regarding how nutrients, including fertilizers, in urban landscapes affect public health and the environment;*

*(5) Continuing research to improve understanding of how nutrient management in urban landscapes affects the environment.*

*(6) Balancing the need for environmental protection with the need to beneficially reuse materials that would otherwise be waste.*

*(7) Outreach and education to consumers promoting best management practices in urban landscapes.]*

**The following terms or definitions were moved by committee to stay or approved to tentative status:**

**T-93 Soluble Silicon** – is that portion of the silicon contained in non-liquid fertilizer materials and/or beneficial compounds that is soluble in a mixture of 0.094 Molar Sodium Carbonate and 0.20 Molar Ammonium Nitrate and is a measure of monosilicic acid by a validated or approved method. It is expressed as  $H_4SiO_4$  (*Tentative 2016*) Pg 80 OP69

**T-70 Enhanced Efficiency Fertilizer** – Describes fertilizer products with characteristics that allow increased nutrient availability and reduce potential of nutrient losses to the environment e.g., gaseous losses, leaching or runoff when compared to an appropriate reference product. (*Tentative 201*) Pg 76 OP69

**T-71 Slow Release** – Are fertilizer products that release (convert to a plant-available form) their plant nutrients at a slower rate relative to a “reference soluble” product. Examples of slow-release products are coated or occluded, which control the release of soluble nutrients through coating or occlusion of the water soluble nutrient compounds, water insoluble, or slowly available water-soluble.

(*Tentative 2016*) Pg 79 OP69

**BSC-1 Calcium Silicate** – Is derived from naturally occurring minerals such as Wollastonite or may be synthetically derived, having the principal formula of  $CaSiO_3$ , and is a source of Calcium and Soluble Silicon.

(*Tentative 2016*) Pg 100 OP69

**N-62 Feather Meal** - Consisting of ground and processed bird feathers, a byproduct of poultry processing. (*Tentative 2016*) Pg 83 OP69

*Motion to accept as tentative made by Katie, Second by Lance. Motion Passed*

**T-77 Low Phosphate Fertilizer** – Means fertilizer products intended for new or established urban turf or lawns, with available phosphate levels equal to or above 0.5%  $P_2O_5$  and an

application rate not to exceed 0.25 lb P<sub>2</sub>O<sub>5</sub>/1000 sq ft/application and 0.5 lb P<sub>2</sub>O<sub>5</sub>/1000 sq ft/year.

*(Tentative 2016) Pg 77 OP69*

**Calcium Polysaccharide** – a complex formed by the reaction of calcium with polysaccharide long chain carbohydrates.

*(Tentative 2016)*

**Iron EDDHSA** – Is an iron(III) chelate of ethylenediamine di-(2-hydroxyl-5sulfophenylacetic) acid and is commonly expressed as FeEDDHSA.

*(Tentative 2016)*

**UAN/Calcium Solutions** – Manufactured as liquid mixtures of UAN solution and water soluble calcium solutions containing calcium chloride or calcium nitrate. If sufficient water soluble calcium is added to produce a calcium to urea nitrogen ratio equal to or greater than 0.2, the resulting product can be considered an enhanced efficiency fertilizer since the soluble calcium mitigates ammonia volatilization loss when compared to UAN, the enhanced efficiency reference product standard

*(Tentative 2016)*

**BSC-7 Calcium Magnesium Silicates** - are compounds derived from fused silicates, mined materials, or synthetically manufactured materials contained in fertilizer, fertilizer materials, fertilizer blends, and/or beneficial compounds and are sources of calcium and magnesium when extracted with a validated method that includes hydrochloric acid. They may also be a source of Soluble Silicon.

*(Tentative 2016)*

**N-47 Soybean Meal** – Is the product remaining after extracting most of the oil from whole soybeans.

*(Tentative 2016)*

**The following terms or definitions were moved by committee to official status:**

**K-8 Sulfate of Potash-Magnesia** - Is a potash salt containing not less than twenty percent (20%) soluble potash (K<sub>2</sub>O) nor less than ten percent (10%) magnesium (Mg) and not more than two and one-half percent (2.5%) chlorine (Cl) [*may be expressed as chloride (Cl-)*].

*(Official 2016) Pg 91 OP69*

**K-9 Double Sulfate of Potash and Magnesia (Langbeinite)** - Is a commercial product containing not less than twenty-one percent (21%) soluble potash (K<sub>2</sub>O) nor less than fifty-three percent (53%) sulfate of magnesia and not more than two and one-half percent (2.5%) chlorine [*may be expressed as chloride (Cl-)*].

*(Official 2016) Pg 90 OP69*

**SUIP 32** – When appearing on a label, chlorine (Cl) may be expressed as Chloride (Cl-) or Chlorine (Cl).

*(Official 2016) Pg 73 OP69*

**N-42 Protein Hydrolysate** – is the organic material obtained by the hydrolysis of proteins to their constituent amino acids and short polypeptides. They are a source of nitrogen. The definition is used by prefixing the term with the name of the protein from which the hydrolysate is derived. *Examples include Fish Protein Hydrolysate or Soy Protein Hydrolysate.*

*(Official 2016) Pg 85 OP69*

**T-101 Biochar** - is a solid material obtained from thermochemical conversion of biomass in an oxygen-limited environment (pyrolysis) containing at least 60% carbon. Feedstocks may be composed of crop residue, wood or other forest waste, and animal manures. Materials

transported in salt water, painted, or treated with preservatives are not permitted. When listing biochar in an ingredient statement, the feedstock shall be designated by prefixing the term biochar with the feedstock from which it was produced; i.e. poultry litter biochar, green waste biochar, papermill biochar, etc. When more than one feedstock is involved, all feedstocks greater than 10% of the total volume are to be listed by decreasing volume. Their uses include soil amendments

(Official 2016) Pg 74 OP69

### **Moved to Tentative Status**

**T-93 Soluble Silicon (Si)** – is that portion of the silicon contained in non-liquid fertilizer materials and/or beneficial compounds that is soluble in a mixture of 0.094 Molar Sodium Carbonate and 0.20 Molar Ammonium Nitrate and **[can be determined by validated or approved method and is expressed as a % soluble silicon (SI)]** [*by an is a measure of monosilicic acid by a validated or approved method. It is expressed as  $H_4SiO_4$* ] (Tentative 2015)(OP 69, page 80)

**T-70 Enhanced Efficiency Fertilizer** – Describes fertilizer products with characteristics that allow increased nutrient availability and reduce potential of nutrient losses to the environment e.g., gaseous losses, leaching or runoff when compared to an appropriate reference product.(Tentative 2015) (OP 69, page 76)

**T-71 Slow Release** – [*Are fertilizer products that release (convert to a plant-available form) their plant nutrients at a slower rate relative to a “reference soluble” product. Examples of slow-release products are coated or occluded, which control the release of soluble nutrients through coating or occlusion of the water soluble nutrient compounds, water insoluble, or slowly available water-soluble.*] – **[Are solid or liquid fertilizer products that release (convert to a plant available form) their nutrients at a slower rate relative to a “reference soluble” product. This may be accomplished by biodegradation and/or by limited solubility and/or by hydrolysis or other recognized chemical or biochemical means. Some examples include solid fertilizers such as: methylene urea (MU), Magnesium Potassium Phosphate and bio-solids, and liquid fertilizer such as Triazone.]** (Tentative 2015, SA) (OP 69, page 79)

**[T-102 Controlled Release Fertilizers - are solid fertilizer products that release nutrients at a controlled rate relative to a “reference soluble” product. The controlled rate of nutrient release is achieved by modifying readily available nutrient forms with recognized physical mechanisms such as coatings, occlusions or other similar means. Some examples include Polymer coated N-P-K fertilizers, Polymer Coated Urea (PCU) and occluded fertilizers.]**

**N-62 Feather Meal** – Consisting of ground and processed bird feathers, a byproduct of poultry processing. **[Ground and dried poultry feathers.]** (Tentative 2015) (OP 69, page 83)

**[T-103 Aquaculture By-product - A solid material, primarily organic matter, produced by cultivating aquatic animals and plants. It can be beneficially recycled for its soil amending characteristics.]** Motion to Tentative as a Term Slater, Second Hunt, Motion Carried

**[T-104 N-(n-propyl) thiophosphoric triamide (NPPT)** – *Compound that is the normal propyl derivative of thiophosphoric triamides and is a urease inhibitor. CAS Number 916809-14-8*

**[K-22 Potassium Sulphite** – *Is a potash salt ( $K_2SO_3$ ) containing not less than 59% soluble  $K_2O$  soluble potash ( $K_2O$ ) and 20% S sulfur (S). It is often sold as an aqueous solution containing twenty-three percent (23%) soluble potash ( $K_2O$ ), and eight percent (8%) sulfur (S).]*

**[Ca-25 Calcium Gluconate** – *Is a calcium complex of gluconic acid, and is commonly expressed as Ca gluconate.*]

**[Mg-6 Magnesium Gluconate** – *is a magnesium complex of gluconic acid, and is commonly expressed as Mg gluconate.*]

**[Mn-20 Manganese Gluconate** – *is a manganese complex of gluconic acid, and is commonly expressed as Mn gluconate.*]

**[Fe-25 Iron Gluconate** – *is an iron complex of gluconic acid, and is commonly expressed as Fe gluconate.*]

**[Zn-22 Zinc Gluconate** – *is a zinc complex of gluconic acid, and is commonly expressed as Zn gluconate.*]

**[B-10 Boron Gluconate** – *is a boron complex of gluconic acid, and is commonly expressed as B gluconate.*]

**P – 27 Tripotassium Phosphate** (tribasic potassium phosphate (K<sub>3</sub>PO<sub>4</sub>) (fertilizer quality)

Editorial change of definition for Tri-potassium phosphate change the “di” in the definition to “tri” (OP 69, page 89)

### **Moved to Official**

**BSC-1 Calcium Silicate** – Is derived from naturally occurring minerals such as Wollastonite or may be synthetically derived, having the principal formula of CaSiO<sub>3</sub>, and is a source of Calcium and Soluble Silicon. (Tentative 2016) (OP 69, page 100)

**T-77 Low Phosphate Fertilizer** – Means fertilizer products intended for new or established urban turf or lawns, with available phosphate levels equal to or above 0.5% P<sub>2</sub>O<sub>5</sub> and an application rate not to exceed 0.25 lb P<sub>2</sub>O<sub>5</sub>/1000 sq ft/application and 0.5 lb P<sub>2</sub>O<sub>5</sub>/1000 sq ft/year. (Tentative 2016) (OP 69, page 77)

**Ca-24 Calcium Polysaccharide** – a complex formed by the reaction of calcium with polysaccharide long chain carbohydrates. (Tentative 2016)

**FE-24 Iron EDDHSA** – Is an iron(III) chelate of ethylenediamine di-(2-hydroxyl-5-sulfophenylacetic) acid and is commonly expressed as FeEDDHSA.(Tentative 2016)

**N-64 UAN/Calcium Solutions** – Manufactured as liquid mixtures of UAN solution and water soluble calcium solutions containing calcium chloride or calcium nitrate. If sufficient water soluble calcium is added to produce a calcium to urea nitrogen ratio equal to or greater than 0.2, the resulting product can be considered an enhanced efficiency fertilizer since the soluble calcium mitigates ammonia volatilization loss when compared to UAN, the enhanced efficiency reference product standard. (Tentative 2016)

**BSC-7 Calcium Magnesium Silicates** - are compounds derived from fused silicates, mined materials, or synthetically manufactured materials contained in fertilizer, fertilizer materials, fertilizer blends, and/or beneficial compounds and are sources of calcium and magnesium when extracted with a validated method that includes hydrochloric acid. They may also be a source of Soluble Silicon. Tentative 2016)

### **Moved to Official**

(OP 69, page 74)

1. GHS labeling SUIP 33 Globally Harmonized System Labeling: Products which must meet the Globally Harmonized System of Classification and Labeling of Chemicals (GHS) requirements in accordance with the Occupational Safety & Health Administration's (OSHA) Hazard Communication Standards, may include the information required by OSHA on the fertilizer label. Such statements and labeling are recognized as valid label text and will not be considered in violation of the State fertilizer laws. (Tentative 2015)

### **Moved to Tentative**

#### **Uniform State Fertilizer Bill** (OP 69, page 37)

##### Section 4(A)(1)

(o) The term "labeling" means all written, printed, or graphic matter, upon or accompanying any fertilizer, or advertisements, brochures, posters, television and radio announcements ***[any advertising, promotional or promotion of any fertilizer including but not limited to all written, printed, graphic or electronic communication]*** used in promoting the sale of such fertilizer.

#### **Uniform Agricultural Liming Materials Bill** (OP 69, page 101)

##### Section 2(p)

***[(p) Labeling means any advertising, promotional or promotion of any ag liming material including but not limited to all written, printed, graphic or electronic communication.]***

#### **Uniform Soil Amendment Bill** (OP 69, page 106)

##### Section 3(i)

(i) "Labeling" means all written, printed or graphic matter, upon or accompanying any soil amendment, or advertisements, brochures, posters, or television or radio announcements ***[any advertising, promotional or promotion of any soil amendment including but not limited to all written, printed, graphic or electronic communication]*** used in promoting the sale of such soil amendment.

#### **Uniform Horticultural Growing Media Labeling Bill** (OP 69, page 120)

##### Section 3(6)

(6) "Labeling" means, in addition to the label, any written, printed, or graphic matter accompanying any horticultural growing medium or any advertisements, brochures, posters, television, radio, or other announcements ***[any advertising, promotional or promotion of any horticultural growing medium including but not limited to all written, printed, graphic or electronic communication]*** used in promoting the sale of a horticultural growing medium. Registration documents provided by manufacturers to the \_\_\_\_\_ shall not be part of product labeling. (Official 1998)

Environmental Affairs Committee:

### **Moved to Official.**

#### **Environmental Control Concerning the Application of Fertilizer** (OP 69, page 129)

The Association of American Plant Food Control Officials is vitally interested in the protection of the environment. Research has established the beneficial effects of proper fertilizer application on crop growth, which lessens pollution of surface waters by protecting soils from erosion. Conversely, research has also shown that under certain management and climatic conditions,



applications of fertilizer can result in movement of fertilizer nutrients to surface and/or ground water sources.

The Association supports that use of fertilizer when combined with best management practices such as the 4R's (right product, right time, right place, and right rate) can improve the quality of the environment by:

- (1) Increasing the quality of biomass produced per unit area of land surface, which aids in stabilizing and protecting the soil from erosion.
- (2) Increasing production of food and fiber per unit area, thereby eliminating the necessity for producing crops on land unsuited for cultivation.
- (3) Increasing accumulation of soil nutrients into biomass, thereby minimizing the loss of soluble nutrients to ground water.
- (4) Reducing the conversion of non-agricultural land placed into cultivation as a result of improved yields.

The Association strongly supports peer reviewed research to provide scientifically credible information vital to the continued use of plant nutrients without adversely affecting the environment. The use of this information by extension service agronomists, commercial agronomists and other advisors in an educational program or in making specific nutrient recommendations will be critical for ensuring an adequate source of food for the nation and world.

The Association recognizes and endorses the following activities:

- (1) Soil, plant, or other forms of testing needs to be scientifically correlated with the nutrient needs of specific crops. Outreach and education for consumers and laboratories is necessary to make testing convenient and understandable.
- (2) Protecting our land resources against erosion losses through employment of best management practices which include application of appropriate quantities of fertilizer.
- (3) Funding of long term research programs to quantify the effects of fertilizer on the environment under diverse combinations of soils, climate, crop, and management.
- (4) A continuing dialogue between fertilizer and environment experts that achieves a mutual understanding of environmental issues related to the use of crop inputs.
- (5) Balancing the need for environmental protection with the need to beneficially reuse materials that would otherwise be waste.
- (6) The development and implementation of uniform requirements.

The Association further encourages the thorough evaluation of all appropriate peer reviewed research data before additional regulations on fertilizer application are invoked. Inappropriate or unnecessary regulations of inputs could reduce the amount of biomass produced, increase

erosion of crop land, increase cost of food and fiber to consumers, and cause deterioration of the competitive position of the American farmer in the world market.

### **Urban Landscape Policy**

Fertilizer is essential for maintaining attractive and functional urban landscapes. However, if fertilizer is adulterated or is improperly or excessively applied, then fertilizer can adversely affect public health and the environment. Issues range from contaminants in vegetable gardens to nutrient runoff from turf. To prevent these problems, fertilizer use must involve the right product, the right rate, the right time, and the right place (4Rs).

Manufacturers, retailers, testing laboratories, professional landscapers, consumers, and lawmakers each play a role in preventing inappropriate fertilizer use in urban landscapes.

- (1) Fertilizer formulations need to be appropriate for their intended use.
- (2) Application instructions for the end user need to be clear and accurate.
- (3) Soil, plant tissue, or other forms of sampling and analysis to evaluate nutrient requirements needs to be convenient and understandable.
- (4) Users need to apply fertilizer appropriately.
- (5) Legal requirements limiting fertilizer application should be based on peer reviewed science, and written to be easily understood, implemented, and enforced.

Therefore, the Association of American Plant Food Control Officials supports:

- (1) Including environmental scientists, policy makers, fertilizer manufacturers, control officials and educators in discussions of nutrient issues, policy, and legal requirements;
- (2) Soil, plant tissue, and other forms of testing, and nutrient management planning to ensure that fertilizer applications are appropriate for the specific needs of the soil, climate, and plants;
- (3) Outreach and education to consumers, landscaping professionals, and laboratories to make soil, plant tissue, and other forms of testing convenient, understandable, and useful;
- (4) Discussions of public policy for nutrient management should be informed by the latest peer reviewed research regarding how nutrients, including fertilizers, in urban landscapes affect public health and the environment;
- (5) Continuing research to improve understanding of how nutrient management in urban landscapes affects the environment.
- (6) Balancing the need for environmental protection with the need to beneficially reuse materials that would otherwise be waste.
- (7) Outreach and education to consumers promoting best management practices in urban landscapes. (Tentative 2015)

## IDAPA 02 - DEPARTMENT OF AGRICULTURE

### 02.06.41 - RULES PERTAINING TO THE IDAHO SOIL AND PLANT AMENDMENT ACT OF 2001

#### DOCKET NO. 02-0641-1601

#### NOTICE OF RULEMAKING - PROPOSED RULE

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 22-2204, 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 July 20, 2016.

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

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

To incorporate by reference information and updates contained in the 2017 Official Publication of the Association of American Plant Food Control Officials (AAPFCO) as they pertain to the methodology and practice of conducting regulatory soil and plant amendment registration and label review.

**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:

ISDA does not anticipate any fiscal impact from the changes to be made to the Rule during this rulemaking.

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because of the simple nature of the proposed amendment.

**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 Association of American Plant Food Control Officials (AAPFCO) Official Publication and the Official Methods of Analysis (OMA) published by the Association of Official Agricultural Chemists (AOAC) International are the recognized and primary reference books of approved fertilizer terms, ingredient definitions and policies used by the industry and all state and federal soil and plant amendments control officials and regulators.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Jared Stuart Agriculture Section Manager at (208) 332-8622 or [jared.stuart@isda.idaho.gov](mailto:jared.stuart@isda.idaho.gov). Anyone may submit written comments regarding this proposed rulemaking. All written comments must be delivered on or before July 27, 2015.

DATED this 2nd Day of June, 2016.

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

**THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 02-0641-1601  
(Only Those Sections With Amendments Are Shown.)**

**004. INCORPORATION BY REFERENCE.**

Copies of these documents may be viewed at the Idaho State Department of Agriculture, 2270 Old Penitentiary Road, PO Box 790, Boise, Idaho 83701. IDAPA 02.06.41 incorporates by reference: (4-7-11)

**01. The Association of American Plant Food Control Officials (AAPFCO) Official Publication.**

The terms, ingredient definitions and policies as published in the “2016~~7~~ Official Publication” of AAPFCO where those terms and ingredient definitions, and policy statements do not conflict with terms and ingredient definitions, and policy statements adopted under Title 22, Chapter 22, Idaho Code, and any rule promulgated thereunder. The AAPFCO Official Publication is a copyrighted publication and not available in electronic format. A copy may be purchased online from the AAPFCO website at: [http://www.aapfco.org/pdf/order\\_form\\_69.pdf](http://www.aapfco.org/pdf/order_form_69.pdf). (~~3-25-16~~)(    )

**02. The Merck Index.** The “2006 Merck Index,” 14th Edition, as published by Merck Research Laboratories Division of Merck & Co., Incorporated. The Merck Index is a copyrighted publication and not available in an electronic format. A copy may be purchased online from Merck & Co., Inc. (now hosted by the Royal Society of Chemistry) at: <http://www.rsc.org/merckindex..> (4-7-11)

**03. The Association of Official Agricultural Chemists (AOAC) International.** The “2005 Official Methods of Analysis (OMA) of the AOAC,” 18th Edition, a copyrighted publication, is maintained and published by the AOAC International. The AOAC OMA is available in electronic format at: [www.EOMA.AOAC.org](http://www.EOMA.AOAC.org). A copy may be purchased online from AOAC International. (3-29-12)

# Overview of Incorporations by Reference for IDAPA 02.06.41–Rules Pertaining to the Idaho Soil and Plant Amendment Act of 2001

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## INCORPORATION BY REFERENCE SYNOPSIS

In compliance with Section 67-5223(4), Idaho Code, the following is a synopsis of the differences between the materials previously incorporated by reference in this rule that are currently of full force and effect and newly revised or amended versions of these same materials that are being proposed for incorporation by reference under this rulemaking.

The following agency of the state of Idaho has prepared this synopsis as part of the proposed rulemaking for the chapter cited here under the docket number specified:

*Idaho State Department of Agriculture  
IDAPA 02.06.41 - Rules Pertaining to the Idaho Soil and Plant Amendment Act of 2001  
Proposed Rulemaking - Docket No. 02-0641-1601*

IDAPA 02.06.41 incorporates by reference the official publication of the Association of American Plant Food Control Officials (AAPFCO).

*IDAPA 02.06.41 {...} 004. INCORPORATION BY REFERENCE. Copies of these documents may be viewed at the Idaho State Department of Agriculture, 2270 Old Penitentiary Road, PO Box 790, Boise, Idaho 83701. IDAPA 02.06.41 incorporates by reference: (4-7-11)*

*01. The Association of American Plant Food Control Officials (AAPFCO) Official Publication. The terms, ingredient definitions and policies as published in the “2016 Official Publication” of AAPFCO where those terms and ingredient definitions, and policy statements do not conflict with terms and ingredient definitions, and policy statements adopted under Title 22, Chapter 22, Idaho Code, and any rule promulgated thereunder. The AAPFCO Official Publication is a copyrighted publication and not available in electronic format. A copy may be purchased online from the AAPFCO website at: [http://www.aapfco.org/pdf/order\\_form\\_69.pdf](http://www.aapfco.org/pdf/order_form_69.pdf). (3-25-16)*

The following changes will be made to the 2017 AAPFCO official publication incorporated by reference.

Moved to Official

ELECTRONIC AND CONFERENCE CALL VOTING POLICY

Pg 34 OP 69

\* **Electronic Voting (email)**

- Although a meeting held via email would be very difficult, a vote on an action item is feasible

- a motion can be made by any committee member
- Only the Chair or the Vice Chair may be in charge of the voting
- If this is a working group, the Chair or Vice Chair may not be in attendance and is not mandatory
- Need to give the entire committee (members and industry liaisons) 10 business day notice that the committee will propose official action and a vote will be taken
- item to be voted should be presented to the committee
- Roberts Rules apply
- A motion and a second must be made before any discussion
- Only members can vote, no industry liaisons
- The committee should be instructed that any replies to an action, friendly amendment or discussion must be available for all to read by use of the "reply all" button
- Must give deadlines for each action
- Allow 3 business days for a second to a motion
- If no second, motioner should consult with the Chair for further action
- After second, allow 3 business days for discussion and friendly amendments
- Following discussion and amendments, the Chair shall present the final motion to the committee members for a vote, allowing 3 business days for the vote
- Motion passes on an official vote of [75%] [51%] or greater [*favorable vote of the voting members present.*]
- Committee meeting minutes shall be forwarded to the AAPFCO Secretary for posting in the Official Publication (Adopted by Board August 2012) (**Tentative 2015 SA**)

## **Pg 433 OP69 - AAPFCO ORGANIZATIONAL AND PROCEDURAL POLICIES**

### **CONSENSUS-BUILDING AND DECISION-MAKING PROCEDURES**

The Association of American Plant Food Control Officials' (AAPFCO) board of directors, committees and task forces will seek consensus on decisions and recommendations regarding developing and implementing Association policies and procedures. (Association business)

The Association's consensus building and decision making process is a participatory one whereby on matters of substance, the members jointly strive for agreements which all of the members can accept, support or at least agree not to oppose. In instances where, after vigorously exploring possible ways to enhance the members' support for the final decision on an issue or package of recommendations, and where 100% acceptance or support is not achievable, final decisions of the Association will require at least a [75%] [51%] favorable vote of all voting members present and voting. [*This super majority decision rule underscores the Association's view of the importance of seeking and developing agreements with the participation of all members and with which all can live with and support.*] (**Tentative 2015 SA**)

The Association will make decisions only when a quorum is present. A quorum shall be constituted by those members present in person or by alternate. [*The Association will utilize Robert's Rules of Order to make and approve motions; however, the 75% supermajority voting requirement will supercede the normal voting requirements used in Robert's Rules of Order for decision making on substantive motions and amendments to motions. In addition, the Association will utilize their adopted meeting guidelines for conduct during meetings.*] (**Tentative 2015**)

The presiding chair and/or facilitator of the Association of American Plant Food Control Officials, in general, should use parliamentary procedures set forth in Robert’s Rules of Order:

- Any voting member may make a motion when a quorum is present.
- A second is required to discuss the motion.
- If a motion is seconded, the chair/facilitator opens the floor for discussion. The chair/facilitator will recognize members wishing to speak on the motion. The chair/facilitator will, if time permits, recognize other participants wishing to speak on the motion.
- The chair/facilitator may elect or be requested by the member making the motion to take a “straw poll” on the motion. Based on the result, the chair/facilitator may table the motion with the agreement of the member moving it, pending further discussion. The member making the motion may accept friendly amendments to the motion.
- After completing discussion, the chair/facilitator will call the discussion to a close and restate the motion, with any friendly amendments, and call for a vote.
- If the motion receives a [75%] [51%] favorable vote of the voting members present.

*(Tentative 2015, SA)*

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### **MEETING PROCESS FORMAT GUIDELINES**

- Chair introduces each agenda item.
- Proponent/Presenter provides overview, rationale for proposal, and any requested action.
- Clarifying questions from members (something you don’t understand). Names stacked.
- Committee/board begins discussion only after all questions are answered.
- General discussion by committee members.
- Chair asks if any members of the public wishes to address the board/committee on the current issue under board/committee consideration
- Chair asks for those who wish to speak in favor of the proposal or topic under discussion to offer brief comments, others who wish to speak in favor will be asked to offer new points or simply state agreement with previous speakers.
- The same opportunity and requirements will be offered for those who wish to speak in opposition to the proposal or topic under discussion.
- Chair ensures that all views are expressed and similar views are not repeated.
- Chair may instruct public to avoid repeating points, and to summarize key points and to submit lengthy prepared statements into the record (instead of reading them).
- Members of the public will be provided one opportunity to comment per discussion agenda item, and may be limited to three (3) minutes.
- Members may, through the chair, ask clarifying questions to members of the public offering comments.
- After public comment, chair calls for members discussion and stacks names of members wishing to speak.
- Members explore all options (pros and cons) prior to making a formal motion.
- Any voting member may make a motion when a quorum is present. Requires a second.
- If a motion is seconded, the chair opens the floor for discussion. The chair will recognize members wishing to speak on the motion.
- If the motion involves an option that the public has already commented on, then no additional public comment is taken, if the proposed action (motion) is materially different from what was

previously discussed, an additional opportunity is provided for public comment, and then the board/committee votes on the motion.

- Once a motion is on the floor discussion is restricted to committee/board members except as allowed by the chair for purposes of clarification.
- Voting member offers a second (may be seconded for purposes of discussion, and not necessarily due to agreement with the motion).
- Voting members may offer friendly amendments and if accepted by maker of the motion, friendly amendment becomes a part of the motion currently under discussion.
- In order to get a “read” on a motion, the chair may elect or be requested by the member making the motion to take a “straw poll” on the motion Based on the result, the chair may withdraw or table the motion with the agreement of the member moving it, pending further discussion.
- Voting members may offer an amendment to the motion: second required, discussion, vote on the amendment only.
- The motion on the table is now the motion as amended (if amendment was approved).
- After completing discussion, the chair will call the discussion to a close and restate the motion, with any friendly amendments or approved amendments, and call for a vote.
- If the motion receives a [75%] [51%] or greater favorable vote of the voting members it will be deemed approved. (*Tentative 2015 SA*)

### **Moved to Tentative**

#### **Environmental Control Concerning the Application of Fertilizer (Page 129 in Official Publication No. 69)**

*The Environmental Affairs Committee moved this version to tentative status on August 7, 2015*

The Association of American Plant Food Control Officials is vitally interested in the protection of the environment. Research has established the beneficial effects of proper fertilizer application on crop growth, which lessens pollution of surface waters by protecting soils from erosion. Conversely, research has also shown that under certain management and climatic conditions, *[improper]* applications of fertilizer can result in movement of fertilizer nutrients to surface and/or ground water sources.

The Association *[is extremely concerned that future] [supports]* that use of fertilizer *[does not undesirably affect our environment and has organized our Associations Environmental Affairs Committee to address this issue] [W][w]hen combined with best management practices[, the Association believes that appropriate fertilizer applications can improve the quality of the environment by] [such as the 4R’s (right product, right time, right place, and right rate) can improve the quality of the environment by]:*

- (1) Increasing the quality of biomass produced per unit area of land surface, which aids in stabilizing and protecting the soil from erosion.
- (2) Increasing production of food and fiber per unit area, thereby eliminating the necessity for producing crops on land unsuited for cultivation.
- (3) Increasing accumulation of soil nutrients into biomass, thereby minimizing *[percolation of] [the loss]* of soluble nutrients to ground water.



(4) Reducing the *[forest land]* ***[conversion of non-agricultural land]*** placed into cultivation as a result of improved yields.

The Association strongly *[commends the research efforts of various which will provide additional]* ***[supports peer reviewed research to provide scientifically credible]*** information vital to the continued use of plant nutrients without adversely affecting the environment. The *[continued]* use of this information by extension service agronomists, commercial agronomists and other advisors in an educational program *[and in making]* ***[or]*** in making ***[specific nutrient]*** recommendations will *[surely provide for]* ***[be critical for ensuring]*** an adequate *[but safe]* source of food for the nation and world.

The Association recognizes and endorses the following activities:

(1) *[The use of soil testing and plant tissue analysis as]* ***[Soil, plant, or other forms of testing needs to be]*** scientifically correlated with *[the fertilizer]* ***[the nutrient]*** needs of *[soil, crop, climate, and yield]* ***[specific crops. Outreach and education for consumers and laboratories is necessary to make testing convenient and understandable.]***

(2) Protecting our land resources against erosion losses through employment of best management practices which include application of appropriate quantities of fertilizer.

(3) Funding of long term research programs to quantify the effects of fertilizer on the environment under diverse combinations of soils, climate, crop, and management.

***[(4) A continuing dialogue between fertilizer and environment experts that achieves a mutual understanding of environmental issues related to the use of crop inputs.***

***(5) Balancing the need for environmental protection with the need to beneficially reuse materials that would otherwise be waste.***

***(6) The development and implementation of uniform requirements.]***

The Association further encourages the thorough evaluation of all appropriate ***[peer reviewed]*** research data before additional regulations on fertilizer application are invoked. Inappropriate or unnecessary regulations ***[of inputs]*** could ***[reduce the amount of biomass produced,]*** increase erosion of crop land, increase cost of food and fiber to consumers, and cause deterioration of the competitive position of the American farmer in the world market. *[(Official 1988)]*

***[The Policy of the Association of American Plant Food Control Officials Regarding Fertilizer for Urban Landscapes***

***The Environmental Affairs Committee moved this version to tentative status on August 7, 2015***

***Fertilizer is essential for maintaining vigorous, attractive and functional urban landscapes. However, if fertilizer is adulterated or is improperly or excessively applied, then fertilizer can adversely affect public health and the environment. Issues range from contaminants in vegetable gardens to nutrient runoff from turf. To prevent these problems, fertilizer use must involve the right product, the right rate, the right time, and the right place (4Rs).***

***Manufacturers, retailers, testing laboratories, professional landscapers, consumers, and lawmakers each play a role in preventing inappropriate fertilizer use in urban landscapes.***

***(1) Fertilizer formulations need to be appropriate for their intended use.***

***(2) Application instructions for the end user need to be clear and accurate.***

*(3) Soil, plant tissue, or other forms of sampling and analysis to evaluate nutrient requirements needs to be convenient and understandable.*

*(4) Users need to apply fertilizer appropriately.*

*(5) Legal requirements limiting fertilizer application should be based on peer reviewed science, and written to be easily understood, implemented, and enforced.*

*Therefore, the Association of American Plant Food Control Officials supports:*

*(1) Including environmental scientists, policy makers, fertilizer manufacturers, control officials and educators in discussions of nutrient issues, policy, and legal requirements;*

*(2) Soil, plant tissue, and other forms of testing, and nutrient management planning to ensure that fertilizer applications are appropriate for the specific needs of the soil, climate, and plants;*

*(3) Outreach and education to consumers, landscaping professionals, and laboratories to make soil, plant tissue, and other forms of testing convenient, understandable, and useful;*

*(4) Discussions of public policy for nutrient management should be informed by the latest peer reviewed research regarding how nutrients, including fertilizers, in urban landscapes affect public health and the environment;*

*(5) Continuing research to improve understanding of how nutrient management in urban landscapes affects the environment.*

*(6) Balancing the need for environmental protection with the need to beneficially reuse materials that would otherwise be waste.*

*(7) Outreach and education to consumers promoting best management practices in urban landscapes.]*

**The following terms or definitions were moved by committee to stay or approved to tentative status:**

**T-93 Soluble Silicon** – is that portion of the silicon contained in non-liquid fertilizer materials and/or beneficial compounds that is soluble in a mixture of 0.094 Molar Sodium Carbonate and 0.20 Molar Ammonium Nitrate and is a measure of monosilicic acid by a validated or approved method. It is expressed as H<sub>4</sub>SiO<sub>4</sub> (*Tentative 2016* ) Pg 80 OP69

**T-70 Enhanced Efficiency Fertilizer** – Describes fertilizer products with characteristics that allow increased nutrient availability and reduce potential of nutrient losses to the environment e.g., gaseous losses, leaching or runoff when compared to an appropriate reference product. (*Tentative 201* ) Pg 76 OP69

**T-71 Slow Release** – Are fertilizer products that release (convert to a plant-available form) their plant nutrients at a slower rate relative to a “reference soluble” product. Examples of slow-release products are coated or occluded, which control the release of soluble nutrients through coating or occlusion of the water soluble nutrient compounds, water insoluble, or slowly available water-soluble.

(*Tentative 2016*) Pg 79 OP69

**BSC-1 Calcium Silicate** – Is derived from naturally occurring minerals such as Wollastonite or may be synthetically derived, having the principal formula of CaSiO<sub>3</sub>, and is a source of Calcium and Soluble Silicon.

(*Tentative 2016*) Pg 100 OP69

**N-62 Feather Meal** - Consisting of ground and processed bird feathers, a byproduct of poultry processing. (*Tentative 2016*) Pg 83 OP69

*Motion to accept as tentative made by Katie, Second by Lance. Motion Passed*

**T-77 Low Phosphate Fertilizer** – Means fertilizer products intended for new or established urban turf or lawns, with available phosphate levels equal to or above 0.5% P<sub>2</sub>O<sub>5</sub> and an application rate not to exceed 0.25 lb P<sub>2</sub>O<sub>5</sub>/1000 sq ft/application and 0.5 lb P<sub>2</sub>O<sub>5</sub>/1000 sq ft/year.

*(Tentative 2016) Pg 77 OP69*

**Calcium Polysaccharide** – a complex formed by the reaction of calcium with polysaccharide long chain carbohydrates.

*(Tentative 2016)*

**Iron EDDHSA** – Is an iron(III) chelate of ethylenediamine di-(2-hydroxyl-5sulfophenylacetic) acid and is commonly expressed as FeEDDHSA.

*(Tentative 2016)*

**UAN/Calcium Solutions** – Manufactured as liquid mixtures of UAN solution and water soluble calcium solutions containing calcium chloride or calcium nitrate. If sufficient water soluble calcium is added to produce a calcium to urea nitrogen ratio equal to or greater than 0.2, the resulting product can be considered an enhanced efficiency fertilizer since the soluble calcium mitigates ammonia volatilization loss when compared to UAN, the enhanced efficiency reference product standard

*(Tentative 2016)*

**BSC-7 Calcium Magnesium Silicates** - are compounds derived from fused silicates, mined materials, or synthetically manufactured materials contained in fertilizer, fertilizer materials, fertilizer blends, and/or beneficial compounds and are sources of calcium and magnesium when extracted with a validated method that includes hydrochloric acid. They may also be a source of Soluble Silicon.

*(Tentative 2016)*

**N-47 Soybean Meal** – Is the product remaining after extracting most of the oil from whole soybeans.

*(Tentative 2016)*

**The following terms or definitions were moved by committee to official status:**

**K-8 Sulfate of Potash-Magnesia** - Is a potash salt containing not less than twenty percent (20%) soluble potash (K<sub>2</sub>O) nor less than ten percent (10%) magnesium (Mg) and not more than two and one-half percent (2.5%) chlorine (Cl) [*may be expressed as chloride (Cl-)*].

*(Official 2016) Pg 91 OP69*

**K-9 Double Sulfate of Potash and Magnesia (Langbeinite)** - Is a commercial product containing not less than twenty-one percent (21%) soluble potash (K<sub>2</sub>O) nor less than fifty-three percent (53%) sulfate of magnesia and not more than two and one-half percent (2.5%) chlorine [*may be expressed as chloride (Cl-)*].

*(Official 2016) Pg 90 OP69*

**SUIP 32** – When appearing on a label, chlorine (Cl) may be expressed as Chloride (Cl-) or Chlorine (Cl).

*(Official 2016) Pg 73 OP69*

**N-42 Protein Hydrolysate** – is the organic material obtained by the hydrolysis of proteins to their constituent amino acids and short polypeptides. They are a source of nitrogen. The definition is used by prefixing the term with the name of the protein from which the hydrolysate is derived. *Examples include Fish Protein Hydrolysate or Soy Protein Hydrolysate.*

*(Official 2016) Pg 85 OP69*

**T-101 Biochar** - is a solid material obtained from thermochemical conversion of biomass in an oxygen-limited environment (pyrolysis) containing at least 60% carbon. Feedstocks may be composed of crop residue, wood or other forest waste, and animal manures. Materials transported in salt water, painted, or treated with preservatives are not permitted. When listing biochar in an ingredient statement, the feedstock shall be designated by prefixing the term biochar with the feedstock from which it was produced; i.e. poultry litter biochar, green waste biochar, papermill biochar, etc. When more than one feedstock is involved, all feedstocks greater than 10% of the total volume are to be listed by decreasing volume. Their uses include soil amendments

(Official 2016) Pg 74 OP69

### **Moved to Tentative Status**

**T-93 Soluble Silicon (Si)** – is that portion of the silicon contained in non-liquid fertilizer materials and/or beneficial compounds that is soluble in a mixture of 0.094 Molar Sodium Carbonate and 0.20 Molar Ammonium Nitrate and **[can be determined by validated or approved method and is expressed as a % soluble silicon (SI)]** *[by an is a measure of monosilicic acid by a validated or approved method. It is expressed as  $H_4SiO_4$  ]* (Tentative 2015)(OP 69, page 80)

**T-70 Enhanced Efficiency Fertilizer** – Describes fertilizer products with characteristics that allow increased nutrient availability and reduce potential of nutrient losses to the environment e.g., gaseous losses, leaching or runoff when compared to an appropriate reference product.(Tentative 2015) (OP 69, page 76)

**T-71 Slow Release** – *[Are fertilizer products that release (convert to a plant-available form) their plant nutrients at a slower rate relative to a “reference soluble” product. Examples of slow-release products are coated or occluded, which control the release of soluble nutrients through coating or occlusion of the water soluble nutrient compounds, water insoluble, or slowly available water-soluble.]* – **[Are solid or liquid fertilizer products that release (convert to a plant available form) their nutrients at a slower rate relative to a “reference soluble” product. This may be accomplished by biodegradation and/or by limited solubility and/or by hydrolysis or other recognized chemical or biochemical means. Some examples include solid fertilizers such as: methylene urea (MU), Magnesium Potassium Phosphate and bio-solids, and liquid fertilizer such as Triazone.]** (Tentative 2015, SA) (OP 69, page 79)

**[T-102 Controlled Release Fertilizers - are solid fertilizer products that release nutrients at a controlled rate relative to a “reference soluble” product. The controlled rate of nutrient release is achieved by modifying readily available nutrient forms with recognized physical mechanisms such as coatings, occlusions or other similar means. Some examples include Polymer coated N-P-K fertilizers, Polymer Coated Urea (PCU) and occluded fertilizers.]**

**N-62 Feather Meal** – Consisting of ground and processed bird feathers, a byproduct of poultry processing. **[Ground and dried poultry feathers.]** (Tentative 2015) (OP 69, page 83)

**[T-103 Aquaculture By-product - A solid material, primarily organic matter, produced by cultivating aquatic animals and plants. It can be beneficially recycled for its soil amending characteristics.]** Motion to Tentative as a Term Slater, Second Hunt, Motion Carried

**[T-104 N-(n-propyl) thiophosphoric triamide (NPPT)** – *Compound that is the normal propyl derivative of thiophosphoric triamides and is a urease inhibitor. CAS Number 916809-14-8*

**[K-22 Potassium Sulphite** – *Is a potash salt (K<sub>2</sub>SO<sub>3</sub>) containing not less than 59% soluble K<sub>2</sub>O soluble potash (K<sub>2</sub>O) and 20% S sulfur (S). It is often sold as an aqueous solution containing twenty-three percent (23%) soluble potash (K<sub>2</sub>O), and eight percent (8%) sulfur (S).]*

**[Ca-25 Calcium Gluconate** – *Is a calcium complex of gluconic acid, and is commonly expressed as Ca gluconate.*]

**[Mg-6 Magnesium Gluconate** – *is a magnesium complex of gluconic acid, and is commonly expressed as Mg gluconate.*]

**[Mn-20 Manganese Gluconate** – *is a manganese complex of gluconic acid, and is commonly expressed as Mn gluconate.*]

**[Fe-25 Iron Gluconate** – *is an iron complex of gluconic acid, and is commonly expressed as Fe gluconate.*]

**[Zn-22 Zinc Gluconate** – *is a zinc complex of gluconic acid, and is commonly expressed as Zn gluconate.*]

**[B-10 Boron Gluconate** – *is a boron complex of gluconic acid, and is commonly expressed as B gluconate.*]

**P – 27 Tripotassium Phosphate** (tribasic potassium phosphate (K<sub>3</sub>PO<sub>4</sub>) (fertilizer quality)

Editorial change of definition for Tri-potassium phosphate change the “di” in the definition to “tri” (OP 69, page 89)

### **Moved to Official**

**BSC-1 Calcium Silicate** – Is derived from naturally occurring minerals such as Wollastonite or may be synthetically derived, having the principal formula of CaSiO<sub>3</sub>, and is a source of Calcium and Soluble Silicon. (Tentative 2016) (OP 69, page 100)

**T-77 Low Phosphate Fertilizer** – Means fertilizer products intended for new or established urban turf or lawns, with available phosphate levels equal to or above 0.5% P<sub>2</sub>O<sub>5</sub> and an application rate not to exceed 0.25 lb P<sub>2</sub>O<sub>5</sub>/1000 sq ft/application and 0.5 lb P<sub>2</sub>O<sub>5</sub>/1000 sq ft/year. (Tentative 2016) (OP 69, page 77)

**Ca-24 Calcium Polysaccharide** – a complex formed by the reaction of calcium with polysaccharide long chain carbohydrates. (Tentative 2016)

**FE-24 Iron EDDHSA** – Is an iron(III) chelate of ethylenediamine di-(2-hydroxyl-5-sulfophenylacetic) acid and is commonly expressed as FeEDDHSA.(Tentative 2016)

**N-64 UAN/Calcium Solutions** – Manufactured as liquid mixtures of UAN solution and water soluble calcium solutions containing calcium chloride or calcium nitrate. If sufficient water soluble calcium is added to produce a calcium to urea nitrogen ratio equal to or greater than 0.2, the resulting product can be considered an enhanced efficiency fertilizer since the soluble calcium mitigates ammonia volatilization loss when compared to UAN, the enhanced efficiency reference product standard. (Tentative 2016)

**BSC-7 Calcium Magnesium Silicates** - are compounds derived from fused silicates, mined materials, or synthetically manufactured materials contained in fertilizer, fertilizer materials, fertilizer blends, and/or beneficial compounds and are sources of calcium and magnesium when extracted with a validated method that includes hydrochloric acid. They may also be a source of Soluble Silicon. Tentative 2016)

### **Moved to Official**

(OP 69, page 74)

1. GHS labeling SUIP 33 Globally Harmonized System Labeling: Products which must meet the Globally Harmonized System of Classification and Labeling of Chemicals (GHS) requirements in accordance with the Occupational Safety & Health Administration's (OSHA) Hazard Communication Standards, may include the information required by OSHA on the fertilizer label. Such statements and labeling are recognized as valid label text and will not be considered in violation of the State fertilizer laws. (Tentative 2015)

### **Moved to Tentative**

#### **Uniform State Fertilizer Bill** (OP 69, page 37)

##### Section 4(A)(1)

(o) The term "labeling" means all written, printed, or graphic matter, upon or accompanying any fertilizer, or advertisements, brochures, posters, television and radio announcements *[any advertising, promotional or promotion of any fertilizer including but not limited to all written, printed, graphic or electronic communication]* used in promoting the sale of such fertilizer.

#### **Uniform Agricultural Liming Materials Bill** (OP 69, page 101)

##### Section 2(p)

*[p) Labeling means any advertising, promotional or promotion of any ag liming material including but not limited to all written, printed, graphic or electronic communication.]*

#### **Uniform Soil Amendment Bill** (OP 69, page 106)

##### Section 3(i)

(i) "Labeling" means all written, printed or graphic matter, upon or accompanying any soil amendment, or advertisements, brochures, posters, or television or radio announcements *[any advertising, promotional or promotion of any soil amendment including but not limited to all written, printed, graphic or electronic communication]* used in promoting the sale of such soil amendment.

#### **Uniform Horticultural Growing Media Labeling Bill** (OP 69, page 120)

##### Section 3(6)

(6) "Labeling" means, in addition to the label, any written, printed, or graphic matter accompanying any horticultural growing medium or any advertisements, brochures, posters, television, radio, or other announcements *[any advertising, promotional or promotion of any horticultural growing medium including but not limited to all written, printed, graphic or electronic communication]* used in promoting the sale of a horticultural growing medium. Registration documents provided by manufacturers to the \_\_\_\_\_ shall not be part of product labeling. (Official 1998)

Environmental Affairs Committee:

### **Moved to Official.**

#### **Environmental Control Concerning the Application of Fertilizer** (OP 69, page 129)

The Association of American Plant Food Control Officials is vitally interested in the protection of the environment. Research has established the beneficial effects of proper fertilizer application on crop growth, which lessens pollution of surface waters by protecting soils from erosion.

Conversely, research has also shown that under certain management and climatic conditions, applications of fertilizer can result in movement of fertilizer nutrients to surface and/or ground water sources.

The Association supports that use of fertilizer when combined with best management practices such as the 4R's (right product, right time, right place, and right rate) can improve the quality of the environment by:

- (1) Increasing the quality of biomass produced per unit area of land surface, which aids in stabilizing and protecting the soil from erosion.
- (2) Increasing production of food and fiber per unit area, thereby eliminating the necessity for producing crops on land unsuited for cultivation.
- (3) Increasing accumulation of soil nutrients into biomass, thereby minimizing the loss of soluble nutrients to ground water.
- (4) Reducing the conversion of non-agricultural land placed into cultivation as a result of improved yields.

The Association strongly supports peer reviewed research to provide scientifically credible information vital to the continued use of plant nutrients without adversely affecting the environment. The use of this information by extension service agronomists, commercial agronomists and other advisors in an educational program or in making specific nutrient recommendations will be critical for ensuring an adequate source of food for the nation and world.

The Association recognizes and endorses the following activities:

- (1) Soil, plant, or other forms of testing needs to be scientifically correlated with the nutrient needs of specific crops. Outreach and education for consumers and laboratories is necessary to make testing convenient and understandable.
- (2) Protecting our land resources against erosion losses through employment of best management practices which include application of appropriate quantities of fertilizer.
- (3) Funding of long term research programs to quantify the effects of fertilizer on the environment under diverse combinations of soils, climate, crop, and management.
- (4) A continuing dialogue between fertilizer and environment experts that achieves a mutual understanding of environmental issues related to the use of crop inputs.
- (5) Balancing the need for environmental protection with the need to beneficially reuse materials that would otherwise be waste.
- (6) The development and implementation of uniform requirements.

The Association further encourages the thorough evaluation of all appropriate peer reviewed research data before additional regulations on fertilizer application are invoked. Inappropriate or

unnecessary regulations of inputs could reduce the amount of biomass produced, increase erosion of crop land, increase cost of food and fiber to consumers, and cause deterioration of the competitive position of the American farmer in the world market.

### **Urban Landscape Policy**

Fertilizer is essential for maintaining attractive and functional urban landscapes. However, if fertilizer is adulterated or is improperly or excessively applied, then fertilizer can adversely affect public health and the environment. Issues range from contaminants in vegetable gardens to nutrient runoff from turf. To prevent these problems, fertilizer use must involve the right product, the right rate, the right time, and the right place (4Rs).

Manufacturers, retailers, testing laboratories, professional landscapers, consumers, and lawmakers each play a role in preventing inappropriate fertilizer use in urban landscapes.

- (1) Fertilizer formulations need to be appropriate for their intended use.
- (2) Application instructions for the end user need to be clear and accurate.
- (3) Soil, plant tissue, or other forms of sampling and analysis to evaluate nutrient requirements needs to be convenient and understandable.
- (4) Users need to apply fertilizer appropriately.
- (5) Legal requirements limiting fertilizer application should be based on peer reviewed science, and written to be easily understood, implemented, and enforced.

Therefore, the Association of American Plant Food Control Officials supports:

- (1) Including environmental scientists, policy makers, fertilizer manufacturers, control officials and educators in discussions of nutrient issues, policy, and legal requirements;
- (2) Soil, plant tissue, and other forms of testing, and nutrient management planning to ensure that fertilizer applications are appropriate for the specific needs of the soil, climate, and plants;
- (3) Outreach and education to consumers, landscaping professionals, and laboratories to make soil, plant tissue, and other forms of testing convenient, understandable, and useful;
- (4) Discussions of public policy for nutrient management should be informed by the latest peer reviewed research regarding how nutrients, including fertilizers, in urban landscapes affect public health and the environment;
- (5) Continuing research to improve understanding of how nutrient management in urban landscapes affects the environment.
- (6) Balancing the need for environmental protection with the need to beneficially reuse materials that would otherwise be waste.
- (7) Outreach and education to consumers promoting best management practices in urban landscapes. (Tentative 2015)