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

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

IDAPA 02.04.03 - Rules Governing Animal Industry (New Chapter, Fee Rule) - Proposed Rule (Docket No. 02-0403-1901);

IDAPA 02.04.05 - Rules Governing Grade A Milk and Manufacture Grade Milk (New Chapter, Fee Rule) - Proposed Rule (Docket No. 02-0405-1901).

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 12/06/2019. If a meeting is called, the subcommittee must hold the meeting within forty-two (42) days of receipt of the rules' analysis from Legislative Services. The final date to hold a meeting on the enclosed rules is 01/07/2020.

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

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

Eric Milstead
Director

Legislative Services Office
Idaho State Legislature

Serving Idaho's Citizen Legislature

MEMORANDUM

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

FROM: Deputy Division Manager - Katharine Gerrity

DATE: November 18, 2019

SUBJECT: Department of Agriculture

IDAPA 02.04.03 - Rules Governing Animal Industry (New Chapter, Fee Rule) - Proposed Rule (Docket No. 02-0403-1901)

IDAPA 02.04.05 - Rules Governing Grade A Milk and Manufacture Grade Milk (New Chapter, Fee Rule) - Proposed Rule (Docket No. 02-0405-1901)

1. IDAPA 02.04.03 - Rules Governing Animal Industry (New Chapter, Fee Rule)

Summary and Stated Reasons for the Rule

The Idaho State Department of Agriculture submits notice of proposed rule at IDAPA 02.04.03 - Rules Governing Animal Industry. This is a new chapter and a fee rule. According to the department, two rules regarding general health, disease surveillance, and disease prevention requirements for domestic animals and livestock are being combined. The department notes that each of the rules addresses regulations pertaining to various disease prevention, mitigation, testing, and reporting requirements for domestic animals. The department states that in order to streamline and simplify all rules related to disease prevention, disease surveillance, and reporting, it is proposing to combine the two rules into a single rule. The department adds that no substantive changes are being made to the two rules that are being combined and that the rules were reviewed for amendment or repeal of select sections to comply with the Red Tape Reduction Act. The department also notes that the rule contains provisions that are broader in scope or more stringent than federal regulations.

The department states that there is a $25.00 license application fee for any person desiring to practice artificial insemination of domestic animals with a $5.00 annual renewal fee. These were existing and previously approved fees in the chapters that are being combined.

Negotiated Rulemaking / Fiscal Impact

Negotiated rulemaking was conducted.

Statutory Authority

The rulemaking appears to be authorized pursuant to Sections 25-203, 25-207B, 25-212, 25-804, and 25-3704, Idaho Code.

2. IDAPA 02.04.05 - Rules Governing Grade A Milk and Manufacture Grade Milk (New Chapter, Fee Rule)

Summary and Stated Reasons for the Rule

The Idaho State Department of Agriculture submits notice of proposed rule at IDAPA 02.04.05 - Rules Governing Grade A Milk and Manufacture Grade Milk. This is a new chapter and a fee rule. According to the department, four rules administered by it are related to the inspection, production, processing, analysis, and transport of Grade A and Manufacture Grade Milk and Milk Products. The department states that each of the rules addresses regulations pertaining to different variations of milk production and, in order to streamline and simplify all rules related to milk production, the rules are being combined. The department adds that no substantive changes are being made to the four rules that are being combined and all rules were reviewed for amendment or repeal of select sections in order to comply with the Red Tape Reduction Act. The department also states that the rule does contain provisions relating to quality standards that are more stringent than federal regulations.

The department notes that no changes were made to the fees already included in the original rules.

Negotiated Rulemaking / Fiscal Impact

Negotiated rulemaking was conducted.

Statutory Authority

The rulemaking appears to be authorized pursuant to Section 37-303, 37-402, 37-405, and 37-516, Idaho Code.

cc: Department of Agriculture
Brian J. Oakey

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

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

IDAPA 02 – DEPARTMENT OF AGRICULTURE

02.04.03 – RULES GOVERNING ANIMAL INDUSTRY

DOCKET NO. 02-0403-1901 (NEW CHAPTER, FEE RULE)

NOTICE OF RULEMAKING – PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 25-203, 25-207B, 25-212, 25-804, and 25-3704, Idaho Code.

PUBLIC HEARING SCHEDULE: A public hearing concerning this rulemaking will be held as follows:

PUBLIC HEARING

Thursday, November 14, 2019 @ 9:00 a.m.

Idaho State Department of Agriculture
2270 Old Penitentiary Road
Boise, ID 83712

The hearing site 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:

Two rules administered by the ISDA are related to general health, disease surveillance and disease prevention requirements for domestic animals and livestock. These rules are IDAPA 02.04.03, "Rules Governing Animal Industry," and IDAPA 02.04.22, "Rules Governing Animal Health Emergencies." Each of these rules addresses regulations pertaining to various disease prevention, mitigation, testing and reporting requirements for domestic animals. In order to streamline and simplify all rules related to disease prevention, disease surveillance and reporting, the ISDA is proposing to combine these two rules into a single rule to be titled ***"02.04.03, Rules Governing Animal Industry."*** No substantive changes are being made to the two rules cited above. All rules were reviewed for amendment or repeal of select sections in order to comply with the Red Tape Reduction Act

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

A license applications fee of twenty-five ($25) dollars is required for any person desiring to practice artificial insemination of domestic animals. A license renewal fee of five ($5) dollars is required annually thereafter.

IDAHO CODE SECTION 22-101A STATEMENT: Section 22-101A, Idaho Code, requires that in this notice of proposed rulemaking, the Director must specify whether this rule is broader in scope or more stringent than federal law or regulations, or regulates an activity not regulated by the federal government. This rule contains provisions that are broader in scope or more stringent than federal regulations. Those specific provisions are as follows:

02.04.03.200	Not regulated
02.04.03.220	Not regulated
02.04.03.257	Broader in scope
02.04.03.300-338	Broader in scope
02.04.03.400	More stringent
02.04.03.402	More stringent
02.04.03.460	More stringent
02.04.03.504-591	Broader in scope

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

The agency does not anticipate any fiscal impact as a result of this rulemaking.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted on September 21, 2019. The Notice of Intent to Promulgate Rules – Omnibus Negotiated Rulemaking was published in the September 4, 2019 Idaho Administrative Bulletin, **Vol. 19-9, pages 15-19**.

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:

Subchapter A:

1. The USDA Pseudorabies Eradication State-Federal-Industry Program Standards, November 1, 2003, outlines program standards to be utilized in the eradication of pseudorabies in swine. As this is a federal-state cooperative effort, it is important that this document be incorporated by reference.

2. National Poultry Improvement Plan and Auxiliary Provisions, February 12, 2008, outlines new and or modified sampling and testing procedures for management of the National Poultry Improvement Program. As these provisions may change, it is more efficient to incorporate by reference the entire document to keep the rule current.

3. Title 9, Parts 145, 146, 147, and 161, CFR, January 1, 2008. Parts 145, 146 and 147 address roles and responsibilities pertaining the National Poultry Improvement Program. Part 161 addresses roles and responsibilities of state-federal accredited veterinarians.

4. The Compendium of Animal Rabies Prevention and Control, 2008, is produced by the National Association of Public Health Veterinarian and provides guidance for the management of rabies. It is not a regulatory document for informational and guidance purposes. The document can be viewed online at: **http://www.nasphv.org/Documents/NASPHVRabiesCompendium.pdf**

5. Equine Viral Arteritis Uniform Methods and Rules, April 19, 2004. This publication, "Equine Viral Arteritis: Uniform Methods and Rules" (UM&R), contains minimum standards for detecting, controlling, and preventing EVA as well as minimum EVA requirements for the intrastate and interstate movement of equines.

Subchapter B:

1. 9 C.F.R. § 53.2, January 1, 2002 authorizes the USDA to Upon agreement of the authorities of the State to enforce quarantine restrictions and orders and directives properly issued in the control and eradication of livestock disease.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, 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 November 27, 2019.

Dated this 3rd day of October, 2019.

Brian Oakey, Deputy Director
Idaho Department of Agriculture
2270 Old Penitentiary Road
P.O. Box 7249
Boise, Idaho 83707
Phone: (208) 332-8552
Fax: (208) 334-2710

THE FOLLOWING IS THE PROPOSED TEXT OF FEE DOCKET NO. 02-0403-1901
(New Chapter)

02.04.03 – RULES GOVERNING ANIMAL INDUSTRY

000. LEGAL AUTHORITY.
This chapter is adopted under the legal authority of Sections 22-103(20), 25-203, 25-207, 25-207B, 25-212, and 25-804, 25-3704 Idaho Code. ( )

001. TITLE AND SCOPE.

01. Title. The title of this chapter is "Rules Governing Animal Industry." ( )

02. Scope. These rules govern procedures for the prevention, control and eradication of diseases among the animals in the state of Idaho and the declaration of an animal health emergency. ( )

002. -- 010. (RESERVED)

011. ABBREVIATIONS.

01. APHIS. Animal and Plant Health Inspection Service. ( )

02. CFR. Code of Federal Regulations. ( )

03. USDA. United States Department of Agriculture. ( )

04. VS. Veterinary Services. ( )

012. -- 103. (RESERVED)

SUBCHAPTER A – ANIMAL INDUSTRY

104. INCORPORATION BY REFERENCE.
The following documents are incorporated by reference and apply only to Subchapter A, Sections 110-460: ( )

01. Incorporated Documents. ( )

a. The USDA Pseudorabies Eradication State-Federal-Industry Program Standards, November 1, 2003, which can be viewed online at http://www.aphis.usda.gov/animal_health/animal_diseases/pseudorabies/downloads/program_stds.pdf. ( )

b. National Poultry Improvement Plan and Auxiliary Provisions, February 12, 2008, which can be viewed online at http://edocket.access.gpo.gov/2009/E9-7240.htm. ( )

c. Title 9, Parts 145, 146, 147, and 161, CFR, January 1, 2008, which can be viewed online at http://www.access.gpo.gov/nara/cfr/waisidx_00/9cfrv1_00.html. ( )

d. The Compendium of Animal Rabies Prevention and Control, 2008, which can be viewed online at http://www.nasphv.org/Documents/NASPHVRabiesCompendium.pdf. ( )

e. Equine Viral Arteritis Uniform Methods and Rules, April 19, 2004, which can be viewed online at http://www.aphis.usda.gov/vs/nahss/equine/eva/eva-umr.pdf. ( )

110. DEFINITIONS.
In addition to the definitions found in Idaho Code Sections 25-239 and 25-802, the definitions in Section 110 apply in the interpretation and enforcement of Subchapter A only: ( )

01. Accredited Veterinarian. A veterinarian approved by the Administrator and USDA/APHIS/VS, in accordance with the provisions of Title 9, Part 161, Code of Federal Regulations, to perform functions of State-Federal animal disease control programs. ( )

02. Animal. Any vertebrate member of the animal kingdom, except man. ( )

03. Approved Pseudorabies Vaccine. Any pseudorabies vaccine produced under current USDA license and intended for immunizing swine against pseudorabies. ( )

04. Cachexia. Weakness and emaciation caused by a serious disease such as tuberculosis or cancer. ( )

05. Epithelioma. Cancer or tumor. ( )

06. Equidae. Horses, ponies, mules, asses, and zebras. ( )

07. Exposed Livestock. Any livestock that have been in contact with an animal infected with, or affected by, any contagious, infectious or communicable disease, including all livestock in a known infected herd. ( )

08. Gamebirds. Domesticated gallinaceous fowl such as pheasants, partridge, quail, grouse, and guineas. ( )

09. Garbage. Putrescible animal and vegetable waste containing animal parts resulting from the handling, preparation, processing, cooking or consumption of foods. ( )

10. Hatching Eggs. Fertilized eggs. ( )

11. Herd. A herd is any group of livestock maintained on common ground for any purpose, or two (2) or more groups of livestock under common ownership or supervision, geographically separated, but which have an interchange or movement of animals without regard to whether the animals are infected with or exposed to contagious, infectious, or communicable animal diseases. ( )

12. Infected Livestock. Any livestock determined to be infected with a contagious infectious, of communicable disease by an official test or diagnostic procedure, or diagnosed by a veterinarian as infected. ( )

13. Interstate Movement. Movements of livestock and poultry from Idaho into any other state, territory or the District of Columbia or from any other state, territory or the District of Columbia into Idaho. ( )

14. Intrastate Movement. Movement of any animal from one location to another location within Idaho. ( )

15. Known Infected Herd. Any herd in which any livestock has been determined to be infected with contagious, infectious, or communicable diseases by an official test or diagnostic procedure, or diagnosed by a veterinarian as being infected. ( )

16. Livestock. Swine, cattle, sheep, goats, equidae, domestic bison, domestic cervidae, camelids, ratites, and other domestically raised animals. ( )

17. **Necrosis**. Death of tissue. ( )

18. **Negative**. An animal that has been tested with official test procedures and is found to be negative. ( )

19. **Neoplastic Tissue**. New growth or tissue associated with a tumor. ( )

20. **Official Pseudorabies Test**. Any test for the diagnosis of pseudorabies that has been approved by USDA/APHIS and is conducted by a state/federal approved laboratory. ( )

21. **Orbital Region**. The cavity containing the eye and surrounding bones. ( )

22. **Positive**. An animal that has been tested and found positive with official disease test procedures and is considered infected with any contagious, infectious, or communicable disease. ( )

23. **Poultry**. Domesticated fowl, including chickens, turkeys, waterfowl, and gamebirds. ( )

24. **Pseudorabies**. The contagious, infectious, and communicable disease of livestock and other animals also known as Aujeszky's disease, mad itch or infectious paralysis. ( )

25. **Quarantine**. A written order, or a verbal order followed by a written order, executed by the Administrator, to confine or hold animals on a premise or any other location, and to prevent movement of animals from a premise or any other location when the Administrator has determined that the animals have been found or are suspected to be exposed to or infected with any contagious, infectious, or communicable disease, or the animals are not in compliance with the provisions of this chapter. ( )

26. **Quarantined Area**. The counties, areas, or districts, portions thereof, quarantined by the Division of Animal Industries for specific contagious, infectious, or communicable animal diseases. ( )

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

28. **Ratites**. Large, non-flying birds including, but not limited to ostriches, emus, cassowaries, and rheas. ( )

29. **Registered Veterinarians**. Veterinarians registered with, and approved by, the Division of Animal Industries to collect Trichomoniasis samples for official Trichomoniasis culture testing. ( )

30. **Restrain**. The confinement of livestock, or other animals, in a chute, or other device, for the purpose of efficiently, effectively, and safely inspecting, treating, vaccinating, or testing, as approved by the Administrator. ( )

31. **Stockyards**. A facility where trading in livestock is carried on, where yarding, feeding and watering places are provided by the stockyards or transportation companies, or where livestock associations or similar companies maintain corrals for feeding, shearing, dipping and separating animals. ( )

32. **Suppuration**. The formation of pus. ( )

33. **Suspect**. An animal that has a response to an official test, but the response is not sufficient to determine the disease status of the animal tested. ( )

34. **Swine**. All breeds of domestic porcine and all wild and exotic porcine. ( )

35. **Swine Feedlot**. Premises designed and used exclusively for the finish feeding of swine, from which the swine will be moved directly to slaughter. ( )

36. **Waterfowl**. Domesticated fowl that normally swim such as ducks and geese. ( )

37. **Wildfowl**. Wild gallinaceous fowl, turkeys, and waterfowl. ( )

111. ABBREVIATIONS.

01. **AGID**. Agar gel immunodiffusion. ( )

02. **c-ELISA**. Competitive Enzyme Linked Immunosorbent Assay. ( )

03. **EIA**. Equine Infectious Anemia. ( )

04. **NPIP**. National Poultry Improvement Plan. ( )

112. -- 113. (RESERVED)

114. SAMPLES FOR OFFICIAL REGULATORY TESTS.
No person shall collect samples, in Idaho, for official regulatory tests except: ( )

01. **Accredited Veterinarians**. ( )

02. **State or Federal Animal Health Officials**. ( )

03. **Persons Approved by the Administrator**. ( )

115. QUARANTINE.
The Administrator and all state and federal animal health officials are authorized to quarantine any animals affected or infected with, or exposed to any contagious, infectious, or communicable disease where such animals are found, or quarantine to a place designated by the Administrator. ( )

01. **Written Notice**. The owner or person in charge of the quarantined animals shall be given written notice of the quarantine. ( )

02. **Acknowledgment of Quarantine**. A quarantine is valid whether or not it is acknowledged by the signature of the owner or person in charge of the quarantined animals. ( )

03. **Disposition of Quarantined Animals**. No quarantined animals shall be moved, treated, or disposed of without the written approval of the Administrator. ( )

04. **Hold Order**. A hold order is a form of quarantine that may be used to restrict the movement of animals while the disease status of the animals is being investigated. ( )

116. -- 119. (RESERVED)

120. DISINFECTION OF PREMISES, BUILDINGS AND VEHICLES.
The Administrator is authorized to order the cleaning and disinfecting of any barns, sheds, stockyards, railroad cars, ferryboats and other vehicles, feed yards, stable, pens, corrals, lanes and premises which have been used in confining, trailing or transporting any animals exposed to, affected by, or infected with any contagious, infectious or communicable diseases. ( )

01. **Supervision of Cleaning and Disinfection**. State or federal animal health officials supervise the cleaning and disinfecting of such premises or conveyances. ( )

02. **Owner Responsibility**. The owner of such premises or conveyances, is responsible for cleaning and disinfecting when directed to do so by the Administrator. ( )

03. **Moving Contaminated Vehicle**. Any conveyance that has contained cattle, swine or other

livestock exposed to, or affected by, any contagious, infectious or communicable disease, may not be moved for any purpose unless the Administrator has approved the movement in writing, prior to the movement occurring. ( )

04. Yards and Other Premises. Yards and other premises which have contained cattle, swine or other livestock exposed to, or affected by, any contagious, infectious or communicable disease shall not be used in connection with the movement of healthy animals until the said yards and premises have been cleaned and disinfected, under state or federal supervision, as directed by the Administrator. ( )

05. Disinfectants. Only disinfectants approved by USDA or the Administrator may be used. ( )

121. -- 124. (RESERVED)

125. TRANSIT INSPECTION.
When deemed necessary, movements of animals will be stopped in transit for inspection. If the animals are suspected of being infected with or exposed to any contagious, infectious or communicable disease, all persons having control of the transportation or movement of the animals shall cease the movement of the animals upon receipt of an order from state or federal animal health officials. ( )

126. -- 129. (RESERVED)

130. SLAUGHTERING OF DISEASED ANIMALS.

01. Authorized by Law. When, in order to prevent the spread of contagious, infectious or communicable disease, it becomes necessary to slaughter any diseased or exposed livestock, the purchase of such livestock by the state is authorized by law, and an appropriation is available therefore, the value of the livestock is ascertained and compensation made therefore in accordance with the rules hereinafter provided. ( )

02. Not Authorized by Law. When, in order to prevent the spread of or to eradicate any contagious, infectious or communicable disease among any animals of this state, it becomes necessary to slaughter or destroy any diseased or exposed animals, and the purchase of such animals by the state is not authorized, and an appropriation not available therefore, the said animals shall be slaughtered under federal meat inspections rules and regulations, or destroyed and disposed of in accordance with IDAPA 02.04.17, "Rules Governing Dead Animal Movement and Disposal." ( )

131. -- 139. (RESERVED)

140. INSPECTION OF ANIMALS.
When animals are being inspected by a state or federal animal health official, proper facilities for restraining the animals, and assistance shall be provided by the owner in order that a careful inspection may be made, and state and federal animal health officials shall not be interfered with in any manner. ( )

141. -- 144. (RESERVED)

145. CERTIFICATES OF VETERINARY INSPECTION.
A copy of certificates issued by an accredited veterinarian, or a state or federal animal health official covering the movement of livestock shall accompany the livestock to destination, and be provided to the receiver of the livestock by the person who delivers the livestock. ( )

01. Copies. Legible copies of certificates of veterinary inspection shall be submitted to the Division of Animal Industries. ( )

02. Idaho Certificates. Accredited veterinarians in Idaho shall submit legible copies of all certificates that they issue to the Division of Animal Industries within five (5) business days of issuance. ( )

146. -- 149. (RESERVED)

150. STATE AND FEDERAL SEALS.
No person may break, or in any way tamper with, a seal or other device applied to premises or conveyances by state or federal animal health officials, except: ( )

01. State or Federal Animal Health Officials; or ( )

02. Persons Designated by the Administrator. ( )

151. NOTIFICATION OF BROKEN SEALS.
Any person who discovers a state or federal seal that has been broken, tampered with, or is missing shall immediately notify the Administrator. ( )

152. LIVESTOCK IDENTIFICATION REMOVAL.
No person, except persons authorized by the Administrator, may remove or tamper with any state or federal livestock identification, including but not limited to: ( )

01. Official Vaccination Tags. ( )

02. Official Identification Tags. ( )

03. Trichomoniasis Tags. ( )

04. Identification Tattoos. ( )

153. -- 199. (RESERVED)

200. ARTIFICIAL INSEMINATION.

01. License Application. Any person desiring to practice artificial insemination of domestic animals may file an application for a license on an application form furnished by the Administrator and accompanied by a license fee of twenty-five ($25) dollars. ( )

02. Training. Each applicant is required to take a course of training in artificial insemination at the place and time designated by the Administrator. ( )

03. Examination. Examinations are in writing and focused on the skill of artificial insemination. ( )

04. Passing Examination. To be granted a license to practice artificial insemination applicants must answer correctly seventy-five percent (75%) of all questions asked. ( )

05. Temporary License. Temporary license to practice artificial insemination under the direct supervision of a licensed inseminator or veterinarian may be granted by the administrator, until such time as the next insemination course and examination is given. ( )

06. License Expiration. Licenses expire on the 30th day of June of each year, and all persons holding a license shall renew their license on or before the 1st day of July of each year. ( )

07. License Renewal. Each license renewal is to be addressed to the Administrator and accompanied by a renewal license fee of five dollars ($5). ( )

08. Renewal Delinquency. Licenses not renewed by the 1st day of October following the date of delinquency are canceled. ( )

09. Issuance Denial. The Administrator may refuse to issue or renew a license pursuant to Section 25-810, Idaho Code. ( )

201. -- 209. (RESERVED)

210. CANCER EYE - EPITHELIOMA.
Any animal offered for sale and found to be affected with epithelioma of the eye or of the orbital region in which the eye has been destroyed or obscured by neoplastic tissue and which shows extensive infection, suppuration and necrosis, usually accompanied with foul odor, or any animal affected with epithelioma of the eye or the orbital region which, regardless of extent, is accompanied with cachexia shall not be sold for slaughter for human consumption. All such animals shall be humanely euthanized, or disposed of for immediate slaughter directly to: ( )

01. Animal Rendering Plants; or ( )

02. Fur Farms. Fur or mink farm or other establishment as approved by the Administrator. ( )

211. EPITHELIOMA -- PUBLIC LIVESTOCK MARKETS.
Any animal entering a public livestock market that is affected, as described in Section 210 of this rule, shall be held only in the quarantine pen and sold only there from. ( )

212. -- 219. (RESERVED)

220. RABIES.
The Administrator is authorized to develop and implement a plan for rabies control in any portion of this state. ( )

01. Reporting. It is hereby made the duty of all persons practicing veterinary medicine in this state, or owners or persons in charge of animals, to report to the Administrator, by telephone, facsimile, or electronic mail, all cases of rabies within forty-eight (48) hours. ( )

02. Discharging Authority. State and federal animal health officials are authorized and empowered to: ( )

a. Inspect, quarantine, treat, condemn, slaughter and dispose of any animals affected or infected with or exposed to rabies. ( )

b. Quarantine, clean and disinfect all premises where such animals have been kept. ( )

c. Call upon sheriffs, constables and other peace officers to assist them in the discharge of their duties. ( )

221. -- 229. (RESERVED)

230. BIOLOGICALS.
Veterinary serums, vaccines, recombinant vaccines, bacterins, biologic remedies, diagnostic agents, immunoassay agents and diagnostic probes used in the treatment or diagnosis of disease of livestock, poultry, domestic animals, fish or fur bearing animals shall not be imported into or sold, distributed, or used within the state of Idaho unless such serum, vaccines, recombinant vaccines, bacterins, biologic remedies, diagnostic agents, immunoassay agents and diagnostic probes have been produced under a license by the United States Department of Agriculture and the manufacturers shall have a permit issued by the Idaho Department of Agriculture, Division of Animal Industries. ( )

231. -- 239. (RESERVED)

240. POULTRY AND RATITES.
Any person producing poultry or ratites for any of the following uses, is required to be in compliance with the NPIP program: ( )

01. Sale of Live Birds or Hatching Eggs. The sale of live birds or hatching eggs; or ( )

02. Release of Live Birds. Release of live birds, such as hunting clubs, hunting preserves, or dog trials; or the release of live birds into the wild. ( )

241. RECORD REQUIREMENTS.
In addition to meeting the record keeping requirements of the NPIP program, all NPIP participants shall forward a copy of their annual flock qualification test results to the Division of Animal Industries within fifteen (15) days of the completion of testing. ( )

242. INSPECTIONS.
The premises where participants in the NPIP program raise poultry or ratites shall be inspected at least once each calendar year by state or federal animal health officials. ( )

01. Scheduling of Inspections. State or federal animal health officials will attempt to notify the NPIP participant prior to any inspection and schedule the annual inspections in advance with the NPIP participant. ( )

02. Inspecting Records. During normal business hours, state or federal animal health officials are authorized to inspect, review, and copy any poultry or ratite records deemed necessary to ensure compliance with these rules. State or federal animal health officials will attempt to notify the owner or operator of the premises where records are kept prior to inspecting records. ( )

243. NPIP CERTIFICATES OF PARTICIPATION.
The Division of Animal Industries will issue NPIP participation certificates annually to the owners of poultry and ratites that meet the following requirements: ( )

01. Records. Each NPIP participant must have on file records of their flock qualification testing; and ( )

02. Inspection Forms. Each NPIP participant shall have on file a copy of the annual inspection form from the previous year documenting compliance with the NPIP program. ( )

244. -- 249. (RESERVED)

250. EQUIDAE -- EQUINE INFECTIOUS ANEMIA.
Official tests for EIA include the AGID test, the C-ELISA test, and other EIA tests approved by USDA or the Administrator. ( )

01. Blood Samples. Equine blood samples collected for official EIA tests shall be collected by a state or federal animal health official or an accredited veterinarian who is licensed in the state in which the animal being tested is located. ( )

02. Official Samples. Official EIA test samples shall be accompanied to the testing laboratory by an official EIA test report on which is recorded the name and address of the owner or person in charge of the animal, the breed, sex, age and identification of the animal being tested. Identification includes identifying tattoos, brands, color and distinctive markings. The accredited veterinarian or animal health official collecting the EIA test samples shall record the date the samples were collected and affix his signature to the official EIA test report. ( )

03. Official Tests. Official EIA tests shall be conducted in a laboratory approved by USDA or the state of Idaho to conduct EIA tests. ( )

251. EIA IS A REPORTABLE DISEASE.
All laboratories conducting EIA tests on Idaho origin equidae and all veterinarians who diagnose EIA in Idaho equidae shall report positive results of all EIA tests and diagnoses to the Administrator of Animal Industries within twenty-four (24) hours of such test or diagnosis. Negative test results shall be reported within forty-eight (48) hours. ( )

252. EIA INFECTED ANIMALS.

Any equidae which are positive to an official EIA test are to be declared infected with EIA and designated as an EIA reactor. The Administrator may require or recommend a re-test of EIA reactors in order to confirm infection or identification of the animal. In cases where a confirmatory test is conducted, the final determination of infection will be delayed until the results of the confirmatory test are available. The animal on which a confirmatory test is to be conducted will be placed under an official Hold Order until the results of the confirmatory test are available. ( )

253. DISPOSITION OF EIA REACTORS.
Equidae found to be infected with EIA shall: ( )

01. Quarantined. Be quarantined to the premises where the animal was found to be infected, the owner's premises, or another premises that is approved by the Administrator. ( )

02. Duration of Quarantine. Remain under quarantine until it is: ( )

a. Consigned to slaughter at a USDA approved equine slaughter establishment; or ( )

b. Euthanized and buried or incinerated; or ( )

c. Donated to a university or other research facility for use in EIA research projects. ( )

254. ISOLATION OF EIA REACTORS.
The quarantine premises or area for EIA reactors shall provide no less than two-hundred (200) yards separation from all other equidae. The quarantine area and quarantined animals therein may be monitored periodically by state or federal animal health officials to ensure that provisions of the quarantine are being met. ( )

255. IDENTIFICATION OF EIA REACTORS.
All equidae found to be infected with EIA shall be identified with an "82 A", at least two (2) inches high, hot iron or freeze brand on the left neck or left shoulder of the animal. Identification as an EIA reactor shall be accomplished within fifteen (15) days of notification that the animal is infected with EIA. ( )

256. EXPOSED EQUIDAE.
EIA exposed equidae may include all equidae that are held within two-hundred (200) yards of the location where an EIA reactor is or was maintained. ( )

01. Hold Order. Exposed equidae shall be placed under a Hold Order until the animals have been tested negative to EIA at least sixty (60) days after the last reactor animal has been removed from the premises. ( )

02. Movement of Exposed Equids. Individual exposed equids, which have not had a negative sixty (60) day test, may be allowed to move under Hold Order for specific purposes if they have a negative EIA test prior to movement. Such movement shall not be for longer than fifteen (15) days. ( )

257. EXTENDED VALIDITY EQUINE CERTIFICATES.
Provided there is a written agreement between the Administrator and the chief livestock sanitary official of the state of destination, Idaho origin equidae may be moved from Idaho for shows, rides or other equine events and return to Idaho on an extended validity equine certificate under a state system of equine certification acceptable to the Administrator and the state of destination. The Administrator may authorize the movement of equidae into or out of Idaho on extended validity equine certificates. ( )

258. -- 299. (RESERVED)

300. FOREIGN ANIMAL AND REPORTABLE DISEASES.
It is the duty of all persons in Idaho to report to the Administrator immediately, by telephone, facsimile, or electronic mail, any lesions or symptoms resembling any of the foreign animal and reportable diseases listed in Subchapter A, that they may find existing among the animals in Idaho. The Administrator may add a foreign animal and reportable disease by issuing an administrative order explaining in writing the reasons for requiring the disease to be reported. ( )

301. FOREIGN ANIMAL AND REPORTABLE DISEASES: MULTIPLE SPECIES.

01. Anthrax. ( )

02. Brucellosis. ( )

03. Foot and Mouth Disease. ( )

04. Heartwater. ( )

05. Leishmaniasis. ( )

06. Plague *(Yersinia pestis)*. ( )

07. Pseudorabies. ( )

08. Q Fever *(Coxiella burnetti)*. ( )

09. Rabies. ( )

10. Rift Valley Fever. ( )

11. Scabies. ( )

12. Screw Worms. ( )

13. Theileriosis. ( )

14. Trypanosomiasis. ( )

15. Tuberculosis. ( )

16. Tularemia. ( )

17. Vesicular Stomatitis. ( )

302. FOREIGN ANIMAL AND REPORTABLE DISEASES - AVIAN DISEASES.

01. Avian Influenza. ( )

02. Avian Chlamydiosis *(Psittacosis)*. ( )

03. Exotic Newcastle Disease. ( )

303. FOREIGN ANIMAL AND REPORTABLE DISEASES - BOVINE DISEASES.

01. Babesiosis. ( )

02. Bovine Brucellosis *(B. abortus)*. ( )

03. Bovine Spongiform Encephalopathy. ( )

04. Bovine Tuberculosis. ( )

05. Contagious Bovine Pleuropneumonia. ( )

06. Crimean Congo Hemorrhagic Fever. ( )

07. Lumpy Skin Disease. ( )

08. Malignant Catarrhal Fever (Foreign Type). ( )

09. Rinderpest. ( )

10. Trichomoniasis. ( )

304. FOREIGN ANIMAL AND REPORTABLE DISEASES - CERVIDAE DISEASES.
Chronic Wasting Disease is a reportable disease. ( )

305. FOREIGN ANIMAL AND REPORTABLE DISEASES - EQUINE DISEASES.

01. African Horse Sickness. ( )

02. Contagious Equine Metritis. ( )

03. Dourine. ( )

04. Equine Encephalomyelitis (Eastern, Western, Venezuelan). ( )

05. Equine Infectious Anemia. ( )

06. Equine Piroplasmosis *(Babesiosis)*. ( )

07. Equine Viral Arteritis. ( )

08. Glanders. ( )

09. Hendra Virus. ( )

10. Japanese Encephalitis. ( )

11. Surra *(Trypanosoma evansi)*. ( )

306. FOREIGN ANIMAL AND REPORTABLE DISEASES - FISH DISEASES.

01. Asian Tapeworm of Carp. ( )

02. Oncorhynchus Masou Virus Disease. ( )

03. Spring Viremia of Carp. ( )

04. Viral Hemorrhagic Septicemia. ( )

307. FOREIGN ANIMAL AND REPORTABLE DISEASES - LAGOMORPH DISEASES.
Rabbit Hemorrhagic Disease is a reportable disease. ( )

308. FOREIGN ANIMAL AND REPORTABLE DISEASES - SHEEP AND GOAT DISEASES.

01. Contagious Caprine Pleuropneumonia. ( )

02. Nairobi Sheep Disease. ( )

03. Ovine Brucellosis *(B. melitensis)*. ( )

04. Peste des Petits Ruminants. ( )

05. Scrapie. ( )

06. Sheep and Goat Pox. ( )

309. FOREIGN ANIMAL AND REPORTABLE DISEASES - SWINE DISEASES.

01. African Swine Fever. ( )

02. Classical Swine Fever (Hog Cholera). ( )

03. Enterovirus Encephalitis (Teschen Disease). ( )

04. Nipah Virus Encephalitis. ( )

05. Porcine Brucellosis *(B. suis)*. ( )

06. Swine Vesicular Disease. ( )

310. -- 329. (RESERVED)

330. NOTIFIABLE DISEASES.
All veterinarians licensed to practice in Idaho shall report any notifiable diseases listed in Subchapter A to the Administrator. The Administrator may add a notifiable disease by issuing an administrative order explaining in writing the reasons for requiring the disease to be reported. ( )

331. NOTIFIABLE DISEASES: MIXED SPECIES DISEASES.
West Nile Virus is a notifiable disease. ( )

332. NOTIFIABLE DISEASES: AVIAN DISEASES.

01. Avian Mycoplasmosis *(M. gallisepticum and M. synoviae)*. ( )

02. Fowl Typhoid *(Salmonella gallinarum)*. ( )

03. Pullorum Disease *(Salmonella pullorum)*. ( )

333. NOTIFIABLE DISEASES: BOVINE DISEASES.

01. Hemorrhagic Septicemia *(Pasteurella multocida)*. ( )

02. Malignant Catarrhal Fever (Sheep Associated). ( )

334. NOTIFIABLE DISEASES: EQUINE DISEASES.

01. Equine Herpesvirus Myeloencephalopathy. ( )

02. Equine Rhinopneumonitis. ( )

335. NOTIFIABLE DISEASES: FISH DISEASES.

01. Epizootic Hematopoietic Necrosis. ( )

02. Infectious Hematopoietic Necrosis. ( )

03. Whirling Disease. ( )

336. NOTIFIABLE DISEASES: LAGOMORPH DISEASES.
Myxomatosis is a notifiable disease. ( )

337. NOTIFIABLE DISEASES: SHEEP AND GOAT DISEASES.

01. Bluetongue. ( )

02. Caprine Arthritis/Encephalitis (CAE). ( )

03. Caseous Lymphadenitis. ( )

04. Contagious Agalactia *(Mycoplasma spp.)*. ( )

05. Enzootic Abortion *(Chlamydia psittici)*. ( )

06. Footrot. ( )

07. Haemonchus Contortus (drug-resistant). ( )

08. Johne's Disease. ( )

09. Maedi-Visna/Ovine Progressive Pneumonia (OPP). ( )

10. Ovine Epididymitis *(Brucella ovis)*. ( )

11. Toxoplasma Gondii Abortion. ( )

12. Vibrionic Abortion *(Campylobacter fetus)*. ( )

338. NOTIFIABLE DISEASES: SWINE DISEASES.

01. Porcine Reproductive and Respiratory Syndrome (PRRS). ( )

02. Transmissible Gastroenteritis. ( )

339. -- 359. (RESERVED)

360. ACTINOMYCOSIS (LUMP JAW).

01. Selling Diseased Animal. It is unlawful for any person to knowingly sell, offer for sale, or in any manner transfer ownership to another person any animal infected or affected with the disease known as actinomycosis or lump jaw if the disease shows well-marked clinical symptoms, or is in the advanced stage, except for immediate slaughter, and then only in accordance with the meat inspection rules and regulations of the USDA. ( )

02. Public Livestock Markets. Animals showing well marked clinical symptoms or in the advanced stage of actinomycosis or lump jaw passing through public livestock markets shall be placed and sold only from quarantine pens. ( )

361. -- 399. (RESERVED)

400. GARBAGE FEEDING.
No person shall feed garbage to swine. ( )

01. Household Wastes. Private household wastes not removed from the premises where produced is not considered garbage. ( )

02. Inspection and Investigation. The Administrator is authorized to enter upon any private or public property for the purpose of inspecting and investigating conditions relating to the feeding of garbage to swine. ( )

401. PSEUDORABIES -- PROCEDURES FOR CONTROL AND ERADICATION.

01. Laboratories. Blood, serum, tissues, or other samples are to be tested only by state/federal-approved laboratories. ( )

02. Supervision. State or federal veterinarians will supervise pseudorabies control and eradication efforts. ( )

03. Quarantines. Any herd in which any livestock has been determined to be infected with pseudorabies by an official pseudorabies test or diagnosed by a veterinarian as having pseudorabies will be placed under official state quarantine for pseudorabies. ( )

a. All swine on pseudorabies-infected premises shall be sold for slaughter under permit within fifteen (15) days of diagnosis. ( )

b. Livestock, other than swine, on pseudorabies infected premises shall be confined to the premises for a period of ten (10) days after the swine herd is sold for slaughter. Livestock, other than swine can, under permit, be moved to a separate holding area and be released from quarantine after a period of ten (10) days, if no signs of pseudorabies occur in the animals. ( )

402. PSEUDORABIES VACCINE.
No person shall import into Idaho, possess, use, keep, buy, sell, offer for sale, barter, exchange, give away, or otherwise dispose of any pseudorabies vaccine without written permission from the Administrator. ( )

403. VACCINATED SWINE.
No person shall import into Idaho any swine that have been vaccinated for Pseudorabies. ( )

404. -- 419. (RESERVED)

420. ERADICATION METHODS.
USDA Program Standards apply to elimination of pseudorabies from a herd. ( )

421. -- 429. (RESERVED)

430. IDENTIFICATION OF INFECTED SWINE.
All seropositive and infected swine are to be individually identified by placing a reactor ear tag in the left ear of the animal and recording the tag number on all movement documents. Identification shall be accomplished within five (5) days of the date the animals were reported as positive or infected. ( )

431. IDENTIFICATION OF EXPOSED SWINE.
All exposed swine that are removed from the premises of origin shall be individually identified by placing a swine identification tag in the right ear of the animal. The identification number shall be recorded on movement documents. Individual identification may be waived for swine moving directly to slaughter, on a permit, in a sealed vehicle. ( )

432. -- 449. (RESERVED)

450. QUALIFIED PSEUDORABIES-NEGATIVE HERDS.
The qualifying method and development of a pseudorabies-negative herd shall be accomplished in accordance with the USDA Program Standards for pseudorabies. ( )

451. -- 459. (RESERVED)

460. CLEANING AND DISINFECTION.
All pens, wherein swine are held prior to or after their sale, shall be thoroughly cleaned and disinfected within seventy-two (72) hours following completion of the sale or before the next sale, whichever occurs first. ( )

461. -- 503. (RESERVED)

SUBCHAPTER B - ANIMAL HEALTH EMERGENCIES

504. INCORPORATION BY REFERENCE.
The following documents are incorporated by reference and apply only to Subchapter B, Sections 510-591:

01. Incorporated Documents. IDAPA 02.04.22 incorporates by reference the 9 C.F.R. § 53.2, January 1, 2002, which can be viewed online at http://edocket.access.gpo.gov/cfr_2002/janqtr/pdf/9cfr53.2.pdf. ( )

510. DEFINITIONS.
The definitions in Section 510 apply in the interpretation and enforcement of Subchapter: B only:

01. Animals. All vertebrates, except humans. ( )

02. Conveyance. Any type of vehicle, carrier, kennel, or trailer of any kind used to move or hold animals. ( )

03. Domestic Cervidae. Elk, fallow deer, and reindeer owned by a person. ( )

04. Emergency Disease. A disease, agent or parasite that could have a devastating impact on people, animals, or the economy as determined by the Director. ( )

05. Epidemiology. The study of the distribution and determinants of health-related states or events in specified populations, and the application of this study to control of health problems. ( )

06. Exposed. Animals that have had contact with other animals, herds, or materials that have been determined to be infected with or affected by any infectious, contagious, or communicable disease. ( )

07. Federal Animal Health Official. An employee of USDA/APHIS/VS who is authorized to perform animal health activities. ( )

08. Foreign Animal Disease. A transmissible disease of animals, believed to not exist in the United States and its territories, as determined by USDA that has a potential significant health or economic impact. ( )

09. Infected Zone. The geographic portion of a quarantine area, which contains all animals known to be infected with or exposed to an emergency disease as designated by the Administrator. ( )

10. Livestock. Cattle, swine, horses, mules, asses, sheep, goats, domestic cervidae, camelids, and ratites. ( )

11. Operator. The person who has authority to manage or direct an animal premises or conveyance and the animals thereon. ( )

12. Premises. The ground area, buildings, corrals, and equipment utilized to keep, hold or maintain animals. ( )

13. Quarantine. A written order, executed by the Administrator, to confine or hold animals on a premises or any other location, where found, and prevent movement of animals from a premises or any other location

when the Administrator has determined that the animals are infected with or exposed to a disease, or are not in compliance with the provisions of this chapter. ( )

14. Quarantine Area. A geographic designation encompassing one (1) or more premises in one (1) or more counties, and consisting of an infected zone and a surveillance zone as determined by the Administrator. ( )

15. State Animal Health Official. The Administrator, or his designee, who is responsible for disease control and eradication programs. ( )

16. Surveillance Zone. The geographic portion of the quarantine area surrounding the infected zone as designated by the Administrator. ( )

511. -- 520. (RESERVED)

521. CIRCUMSTANCES OF AN ANIMAL HEALTH EMERGENCY.
The discovery of any emergency disease, which could have a devastating impact on the livestock, other animals, or people of this state, may constitute an animal health emergency requiring the implementation of prevention, management, control or eradication measures by state animal health officials. ( )

522. DECLARATION OF AN ANIMAL HEALTH EMERGENCY.
The Director is authorized to declare an animal health emergency upon: ( )

01. Foreign Disease. The discovery of any disease, parasite or agent which has been identified by the USDA/APHIS/VS as a "communicable foreign disease not known to exist in the United States"; or ( )

02. Eradicated Diseases. The discovery of any disease, parasite or agent which is not naturally occurring in or has been eradicated from Idaho, as determined by the Administrator, and which, if introduced into Idaho, would have a devastating impact on the livestock or other animals of the state; or ( )

03. Specific Diseases. The exposure to or infection of foot and mouth disease, bovine spongiform encephalopathy, chronic wasting disease, other transmissible spongiform encephalopathies, brucellosis, tuberculosis, or any foreign, exotic or emerging disease, as determined by the Administrator. ( )

04. Disease Presence. The presence of any foreign, eradicated, or specific diseases in any state in the United States, any country contiguous to the United States, or any country from which the state of Idaho receives animals or animal products may constitute an emergency. ( )

523. QUARANTINE AUTHORITY.
State or federal animal health officials are authorized to quarantine any animal infected with or exposed to an emergency disease, or any premises, county or area of the state to prevent ingress or egress of animals, people, or vehicles in the event of an emergency disease. ( )

524. UTILIZATION OF VACCINATION IN ANIMAL HEALTH EMERGENCIES.
The Administrator is authorized to order the strategic use of vaccinations, treatments or other remedies to reduce the risk or spread of emergency diseases. ( )

525. -- 529. (RESERVED)

530. QUARANTINE PROCEDURES FOR AN ANIMAL HEALTH EMERGENCY.
State or federal animal health officials are authorized to place under quarantine any infected animals, exposed animals, and those animals exhibiting signs of an emergency disease. The quarantine may also include susceptible animals not yet exposed. ( )

01. Written Notice. Written notice of quarantine will be given to the owner of the animals, or the owner or operator of the premises or conveyance where the animals are found. ( )

02. Validity of Quarantine. The quarantine is valid whether or not it is acknowledged by signature of the owner or operator. ( )

03. Quarantine Release. The quarantine remains in place until a state or federal animal health official releases the quarantine in writing. ( )

531. QUARANTINE AREA.
The Administrator may establish a quarantine area, which includes an infected zone encompassing the infected and exposed animals and premises, and a surveillance zone, based on the locations of said premises and the characteristics and epidemiology of the disease. The quarantine area may include one or more premises, all or part of a county, or all or part of the state. ( )

532. QUARANTINE AREA SECURITY.
The Administrator may limit access of people and vehicles to the quarantine area. ( )

533. QUARANTINE AREA BIO-SECURITY.
Bio-security of the quarantine area will be instituted and maintained. ( )

01. Personnel. People entering or leaving the quarantine area will follow disinfection or decontamination guidelines and procedures established by state or federal animal health officials. ( )

02. Vehicles and Equipment. Vehicles and equipment moving into or out of the quarantine area will be cleaned and disinfected or decontaminated according to guidelines and procedures established by state or federal animal health officials. ( )

534. ANIMAL MOVEMENT IN QUARANTINE AREA.
Animals shall not be moved into, out of, through, or within the quarantine area except by permit issued by the Administrator. ( )

535. SALE OF DISEASED OR EXPOSED ANIMALS NOT ALLOWED.
Animals infected with, or susceptible animals exposed to, an emergency disease shall not be set free, sold, or in any way transferred to another person without written authorization from the Administrator. ( )

536. EXPOSURE OF ANOTHER'S ANIMALS NOT ALLOWED.
Animals infected with or exposed to an emergency disease or any disease not known to exist in Idaho shall not be: ( )

01. Housed. Housed with, or adjacent to, another person's animals that have not been previously exposed or land used for raising such animals; or ( )

02. Turned Out. Turned out with, or adjacent to, another person's animals that have not been previously exposed or land used for raising such animals. ( )

537. MOVEMENT OR SALE OF ANIMAL PRODUCTS.
The Administrator may prohibit the movement or sale of products from animals infected with or exposed to an emergency disease. ( )

538. -- 539. (RESERVED)

540. RESTRICTIONS ON ANIMALS FROM AREAS OR STATES AFFECTED BY EMERGENCY DISEASES.
The Administrator may impose restrictions on animal movement into Idaho from areas or states affected by an emergency disease as provided in IDAPA 02.04.21, "Rules Governing the Importation of Animals." ( )

541. ANIMALS IN TRANSIT AT TIME OF DECLARED EMERGENCY.
The Administrator will determine the disposition of animals in transit at the time of the declaration of an animal health emergency. ( )

542. -- 549. (RESERVED)

550. CONDEMNATION OF INFECTED, EXPOSED, OR SUSCEPTIBLE ANIMALS.
The Administrator is authorized to condemn, and order the slaughter, destruction, or other disposition of animals, infected with, exposed to, or susceptible to an emergency disease. ( )

551. -- 559. (RESERVED)

560. DEPOPULATION OF ANIMALS.
Animals infected with, exposed to, or susceptible to an emergency disease may be depopulated to control and eradicate the disease. ( )

01. Preventive Slaughter or Destruction. Animals, located within the quarantine area, that are susceptible to an emergency disease may be depopulated to control or eradicate the emergency disease. ( )

02. Scope of Depopulation. The Administrator will determine the scope of depopulation. ( )

561. METHOD OF DEPOPULATION.
The Administrator will determine the method for destruction of animals in quarantine areas. ( )

562. TIME LIMIT FOR DEPOPULATION.
The Administrator will determine the time limit for depopulation of condemned animals. ( )

563. -- 569. (RESERVED)

570. COMPENSATION FOR APPRAISED ANIMALS.
Owners of condemned animals will be compensated for animals ordered destroyed by the Administrator if the animals are appraised prior to depopulation, and the owner is in compliance with these rules. Compensation may be paid on animals that die or are depopulated before appraisal at the discretion of the Administrator. ( )

571. COMPENSATION FOR ANIMALS DESTROYED.
State compensation is limited to appraised value less any federal indemnity and salvage value for animals condemned, and slaughtered or otherwise destroyed. ( )

572. APPRAISAL PROCEDURE FOR ANIMALS DEPOPULATED.

01. Animal Appraisal. Animals to be depopulated shall be appraised by a team of three (3) persons including: ( )

a. A representative of the Division of Animal Industries; ( )

b. The owner; and ( )

c. A person with experience marketing the species of animal as determined by the Administrator. ( )

02. Dispute of Appraisal. When the appraisal price is in dispute, the Director may grant a hearing to any person, under such rules as the Department may prescribe which are in compliance with Title 67, Chapter 52, Idaho Code. ( )

573. TIME LIMIT FOR APPRAISAL.
The Administrator will determine the time limit for completing the appraisal. ( )

574. -- 579. (RESERVED)

580. COMPENSATION FOR LABOR EMPLOYED.

01. Disposal of Animals. The Department may pay actual costs for labor employed for disposal of animals depopulated at the direction of the Administrator. ( )

02. Cleaning and Disinfection. The Department may pay actual costs for labor employed in the cleaning and disinfection of premises where infected or exposed animals were kept. ( )

581. COMPENSATION FOR PROPERTY DESTROYED.
The Department will compensate owners for property ordered destroyed by the Administrator. ( )

01. Property Destroyed Otherwise. The department may compensate owners for property otherwise destroyed as approved by the Administrator. ( )

02. Actual Value. The Department will pay actual value of property destroyed, as determined by the Administrator, if compensation is paid. ( )

582. -- 589. (RESERVED)

590. CLEANING AND DISINFECTION OF PREMISES.
Any premises or area where animals infected with or exposed to an emergency disease were held or kept shall be cleaned, disinfected, or decontaminated under the supervision and at the direction of state or federal animal health officials within the time limit established by the Administrator. ( )

591. CLEANING AND DISINFECTION OF ANIMAL CONVEYANCE.
Any conveyance used to hold or transport animals infected with or exposed to an emergency disease shall be cleaned, disinfected, or decontaminated under the supervision and at the direction of state or federal animal health officials within the time limit established by the Administrator. ( )

572. -- 999. (RESERVED)

IDAPA 02 – DEPARTMENT OF AGRICULTURE

02.04.05 – RULES GOVERNING GRADE A MILK AND MANUFACTURE GRADE MILK

DOCKET NO. 02-0405-1901 (NEW CHAPTER, FEE RULE)

NOTICE OF RULEMAKING – PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 37-303, 37-402, 37-405, and 37-516 Idaho Code.

PUBLIC HEARING SCHEDULE: A public hearing concerning this rulemaking will be held as follows:

PUBLIC HEARING

Thursday, November 14, 2019 @ 9:00 a.m.

Idaho State Department of Agriculture
2270 Old Penitentiary Road
Boise, ID 83712

The hearing site 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:

Four rules administered by the ISDA are related to the inspection, production, processing, analysis and transport of Grade A and Manufacture Grade Milk and Milk Products. These rules are IDAPA 02.04.05, "Rules Governing Manufacture Grade Milk," IDAPA 02.04.06, "Rules Governing Licensed Dairy Plants," IDAPA 02.04.08, "Rules Governing Grade A Milk and Milk Products," and IDAPA 02.04.09, "Rules Governing Milk and Cream Procurement and Testing." Each of these rules addresses regulations pertaining to different variations of milk production. In order to streamline and simplify all rules related to milk production, the ISDA is proposing to combine all four rules into a single rule to be titled ***"02.04.05, Rules Governing Grade A and Manufacture Grade Milk."*** No substantive changes are being made to the four rules cited above. All rules were reviewed for amendment or repeal of select sections in order to comply with the Red Tape Reduction Act

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

No changes were made to the fee already included in the original Rule Governing Milk and Cream Procurement in the new combined rule, 02.04.05- Rules Governing Grade A Milk and Manufacture Grade Milk. Fees under this rule are authorized pursuant to Sections 37-407 and 37-503, Idaho Code.

IDAHO CODE SECTION 22-101A STATEMENT: Section 22-101A, Idaho Code, requires that in this notice of proposed rulemaking, the Director must specify whether this rule is broader in scope or more stringent than federal law or regulations, or regulates an activity not regulated by the federal government. This rule contains a provision that is more stringent than federal regulations. That specific provision is as follows:

02.04.05.120	More stringent

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

The agency does not anticipate any fiscal impact as a result of this rulemaking.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted on September 16, 2019. The Notice of Intent to Promulgate Rules – Omnibus Negotiated Rulemaking was published in the September 4, 2019 Idaho Administrative Bulletin, **Vol. 19-9, pages. 15-19**.

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 following materials are incorporated into the 02.04.05–Rules Governing Grade A Milk and Manufacture Grade Milk:

1. The 2004 Standard Methods for the Examination of Dairy Products (17th Edition) published by the American Public Health Association. Outlines laboratory procedures for microbiological, chemical, and physical methods for analyzing milk and dairy products.

2. The 2012 Official Methods of Analysis of AOAC International (OMA), 19th Edition. Outlines a comprehensive and reliable collection of chemical and microbiological methods available in the world and are contained many of the Codex food standards.

3. The 1977 United States Sediment Standards for Milk and Milk Products (USDA AMS Dairy Division). Outlines the standards for the examination and the various testing methods to determine the amount of sediment in raw milk.

4. The 1989 United States Standards for Grades of Butter (USDA AMS Dairy Division). Outlines the definitions, standards for butter and the inspection criteria for the grading of USDA Grade Label Butter.

5. The 2013 Appendix D "Standards for Water Sources" of the Grade "A" Pasteurized Milk Ordinance published by the U. S. Department of Health and Human Services, Public Health Service, Food and Drug Administration. Outlines the standards to be utilized in the guidance, inspection, and protection of Manufacture Grade milk producers water sources.

6. The 2011 "Subpart E -- Requirements for Licensed Dairy Plants," of the 'Milk for Manufacturing Purposes and Its Production and Processing, Recommended Requirements' published by USDA, AMS, Dairy Programs. Establishes and promulgates rules and regulations for milk for manufacturing purposes, its production, transportation, grading, use, processing, and the packaging, labeling and storage of dairy products made therefrom.

7. The 2017 Grade "A" Pasteurized Milk Ordinance 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. Outlines program standards to be utilized in the guidance, inspection, and processing requirements of all Grade "A" milk products in Idaho.

8. The 2017 Evaluation of Milk Laboratories, published by the U. S. Department of Health and Human Services, Public Health Service, Food and Drug Administration. Outlines procedures for the evaluation of milk laboratories required to meet the sanitation standards of the current in use edition of the Grade "A" Pasteurized Milk Ordinance (PMO).

9. The 2017 Methods of Making Sanitation Ratings of Milk Shippers, and the Certifications/Listings of Single-Service Containers and/or Closures for Milk and/or Milk Products Manufactures published by the U. S. Department of Health and Human Services, Public Health Service, Food and Drug Administration. Outlines rating methods for evaluating the sanitary quality of milk and/or milk products measures the extent to which a shipper complies with the standards contained in the Grade "A" Pasteurized Milk Ordinance (PMO).

10. The 2017 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, 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 (NCIMS). Contains the bylaws to maintain a national dairy program that is uniform and acceptable to all States, the U.S. Public Health Service and Drug Administration and the dairy industry.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, 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 November 27, 2019.

Dated this 3rd day of October, 2019.

Brian Oakey
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THE FOLLOWING IS THE PROPOSED TEXT OF FEE DOCKET NO. 02-0405-1901
(New Chapter)

02.04.05 – RULES GOVERNING GRADE A MILK AND MANUFACTURE GRADE MILK

000. LEGAL AUTHORITY.
This chapter is adopted under the legal authority of Sections 37-303, 37-402, 37-405, and 37-516, Idaho Code. ( )

001. TITLE AND SCOPE.

01. Title. The title of this chapter is "Rules Governing Grade A Milk and Manufacture Grade Milk." ( )

02. Scope. These rules govern procedures for the design, construction, production, manufacture, distribution, handling, storage, quality, analysis and sale of Grade A Milk and Manufacture Grade Milk and Milk Products. ( )

002. -- 103. (RESERVED)

SUBCHAPTER A – GRADE A MILK AND MILK PRODUCTS

104. INCORPORATION BY REFERENCE.
The following documents are incorporated by reference in Subchapter A only: ( )

01. Grade "A" Pasteurized Milk Ordinance. The Grade "A" Pasteurized Milk Ordinance, 2017 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 https://www.fda.gov/downloads/Food/GuidanceRegulation/GuidanceDocumentsRegulatoryInformation/Milk/UCM612027.pdf. ( )

02. Evaluation of Milk Laboratories. The Evaluation of Milk Laboratories, 2017 revision, published

by the U. S. Department of Health and Human Services, Public Health Service, Food and Drug Administration. Available online at https://www.fda.gov/downloads/Food/GuidanceRegulation/GuidanceDocumentsRegulatoryInformation/Milk/UCM615021.pdf. ( )

03. Methods of Making Sanitation Ratings of Milk Shippers, and the Certifications/Listings of Single-Service Containers and/or Closures for Milk and/or Milk Products Manufactures. The Methods of Making Sanitation Ratings of Milk Shippers, and the Certifications/Listings of Single-Service Containers and/or Closures for Milk and/or Milk Products Manufactures, 2017 revision, published by the U. S. Department of Health and Human Services, Public Health Service, Food and Drug Administration. Available online at https://www.fda.gov/downloads/Food/GuidanceRegulation/GuidanceDocumentsRegulatoryInformation/Milk/UCM600123.pdf. ( )

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, 2017 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 https://www.fda.gov/downloads/Food/GuidanceRegulation/GuidanceDocumentsRegulatoryInformation/Milk/UCM594813.pdf. ( )

105. REGULATORY FRAMEWORK.
All Grade A and Manufacture Grade A Milk and Milk Products shall comply with the provisions set forth in the documents incorporated by reference in this Subchapter A. ( )

106. -- 119. (RESERVED)

120 GRADE A MILK AND MILK PRODUCTS QUALITY STANDARDS.
The following standards are substituted for the bacterial limit standard and the somatic cell count standard for Grade A raw milk and milk products for pasteurized, ultra-pasteurization or aseptic processing in Section 7 of the Grade "A" Pasteurized Milk Ordinance. ( )

01. Bacterial Limit Standard. The bacterial limit standard is eighty thousand (80,000) per mL. ( )

02. Somatic Cell Count Standard. The somatic cell count standard is four hundred thousand (400,000) per mL. ( )

03. Out of State Milk. Milk from other states, if processed in Idaho, shall comply with the Idaho somatic cell count standard. ( )

121. -- 209. (RESERVED)

SUBCHAPTER B – MILK AND CREAM PROCUREMENT AND TESTING

210. DEFINITIONS.
In addition to the definitions found in Chapters 3 and 5, Title 37, Idaho Code, the following definitions apply to the interpretation and enforcement of Subchapter B only: ( )

01. Abnormal Test. A test result from a producer sample that is dissimilar from recent producer milk component or quality parameter testing results; an anomaly. ( )

02. Accuracy Check. A test made at the beginning of each testing session and once per hour thereafter to determine the continued accuracy of the testing device. ( )

03. Approved Testing Methods. Methods approved by the director for testing milk or cream components and quality parameters when those components and parameters are used as a basis of payment. ( )

04. Calibration. The settings established on a testing device that will result in an average number of results that are within tolerance. ( )

05. Clearance Test. A sample set issued to an official laboratory, by the Department, to maintain a probationary testing license or reinstate a suspended testing license. ( )

06. Control Samples. Milk samples used to determine or set the calibration of the testing device. ( )

07. Component Testing. An analysis of milk or cream constituents including milkfat, protein, lactose or solids-nonfat, which is used as a basis of payment. ( )

08. Detailed Pricing Description. The method used by the purchaser of milk or cream as the criteria for determining the price paid. ( )

09. Milk Component or Component. A unique compound within milk whose relative mass within the milk may be used to determine the payment to producers. Component parts of milk include milkfat, protein, lactose, solids-nonfat, other solids, and total solids. ( )

10. Official Laboratory. A facility, licensed by the department, that tests milk or cream components or quality parameters for the purpose of determining the value of the product when sold or purchased by producers or processors. ( )

11. Outlier. A regulatory sample result that appears to deviate markedly from other members of the sample set in which it occurs. ( )

12. Pay Records. Signed written or printed records, which itemize milk volume, milk component and quality parameters used as payment to a producer or other processor. ( )

13. Performance Error. The difference between the known percentage content of each milk component in the control sample, as determined by the sample provider, and the percentage content as measured by the testing device. ( )

14. Producer. A dairy farm permitted by the department to sell milk for human consumption. ( )

15. Processor. A creamery, milk plant, shipping or cream buying station, milk condensing plant, cheese factory, mix making plant, ice cream factory, reprocessing plant, casein plant, powdered milk plant, or factory of milk products, or other person receiving or purchasing milk or cream in bulk other than a retail vendor of milk on the basis of volume, milk components, or milk quality. ( )

16. Quality Parameter. The quality of milk or cream as determined by the bacteria/plate count method, somatic cell count, temperature, drug residues or other parameters as approved by the department. ( )

17. Rolling Group of Thirteen (13). A series of thirteen (13) consecutive sample testing dates where the lab performance error of each biweekly component test is averaged together to represent the long-term accuracy of the lab. To be considered a valid testing date, a lab must evaluate and provide results on no less than nine (9) component samples from each round of testing. ( )

18. Testing Device. The equipment used to determine the percentage of milk or cream components. ( )

19. Sample Set. A group of not less than nine (9) milk samples issued by the Department to each official laboratory to evaluate component testing accuracy. ( )

20. Tolerance. The acceptable performance error from the control values of each sample set as determined by the sample provider. ( )

211 - 219. (RESERVED)

220. MILK AND CREAM PROCUREMENT AND TESTING REQUIREMENTS.
All milk and cream produced, purchased or sold in the state of Idaho at a price based upon or determined by the milkfat, protein, lactose, solids-nonfat, somatic cell counts, or other quality parameters, shall comply with the requirements of Subchapter B. ( )

221. LABORATORY LICENSING REQUIREMENTS.

01. License Required. All laboratories that test milk or cream components and quality parameters for a basis of payment must be licensed by the department as an official laboratory. ( )

02. License Application. A laboratory must apply for a license on a form prescribed by the department. The laboratory must identify (on the application form) the names of all persons who will test milk or cream components and quality parameters. ( )

03. License Fee. The license fee is twenty-five dollars ($25). ( )

04. License Term. The official laboratory license is valid for three (3) calendar years after issuance by the department, unless otherwise suspended or revoked in accordance with these rules. The license expires on December 31 of the third year. ( )

222 - 229. (RESERVED)

230. OFFICIAL LABORATORIES - RESPONSIBILITIES AND OPERATING PROCEDURES.

01. Competency in Testing. Official laboratories are responsible for ensuring that employees who operate testing devices are competent to operate the devices, and for conducting testing according to Subchapter B. ( )

02. Facility Requirements. The areas in official laboratories where component or quality parameter testing is conducted shall be well lighted, kept clean, appropriately ventilated and sufficient in size to provide for accurate testing. Laboratories that are certified under the Grade A program set forth in Subchapter B are deemed to satisfy the facility requirements for an official laboratory. ( )

03. Operating Procedures. An official laboratory shall establish and follow written standard operating procedures consistent with the recommended procedures for operation and maintenance set forth by the manufacturer of the testing device. ( )

231. THIRD PARTY LABORATORIES.
Procurers of milk who use official laboratories other than one owned or operated by the procurer are not responsible for that laboratory's failure to comply with Subchapter B. ( )

232. - 239. (RESERVED)

240. MILK COMPONENT TESTING DEVICES.
If an automated testing device is used to perform a milk component test for any milk component, that device must be calibrated and regularly checked to ensure that it accurately tests for that milk component. ( )

01. Calibration and Checks. Calibration and checks must include the utilization of calibration samples, performance checks and accuracy checks. ( )

02. Calibration Standards. Calibration may be done either in accordance with the standards set forth by the manufacturer of the testing device, or as set forth in Sections 240, 241 and 243 of Subchapter B. ( )

03. Calibration Record Keeping. In either case, the official laboratory must be able to demonstrate, through records kept in accordance with Section 290, that calibration and checks have been performed in accordance with Subchapter B, and that the testing device produces test results within the tolerances established in Subchapter B. ( )

241. CALIBRATION OF MILK COMPONENT TESTING DEVICES.
All testing devices shall be calibrated according to the protocols set by the testing device manufacturer, or as set forth in Subchapter B. ( )

01. Calibration Frequency. A milk component testing device shall be calibrated whenever the mean difference on a daily performance check under Section 242 herein exceeds plus or minus forty-four thousandths percent (.044%) for milkfat or protein, or eighty-four thousandths percent (.084%) for total solids or solids-nonfat. ( )

02. Calibration Samples. A set of calibration samples may consist of commercially available samples or samples made by the official laboratory. A set of calibration samples must consist of at least nine (9) individual samples, each of which: ( )

a. Cannot be more than twenty-one (21) days old; ( )

b. Must be a fresh milk sample preserved with bronopol (2-bromo-2-nitro-1, 3-propanediol) or another approved preservative. Preservative methods, formulations and concentrations must be approved by the department. ( )

c. Must have a known percentage content of each relevant milk component, determined by the sample provider. ( )

d. Must meet the requirements of Section 250 of this rule. ( )

03. Calibration Procedure. To calibrate a testing device, the official laboratory must use the device to test a set of calibration samples. The testing device shall be adjusted, as necessary, to satisfy each of the following requirements: ( )

a. The performance error on each calibration sample shall be as near as practicable to zero (0). ( )

b. The mean difference for the entire set of calibration samples shall be as near as practicable to zero (0), and not exceed plus or minus forty-four thousandths percent (.044%) for milkfat or protein, or eighty-four thousandths percent (.084%) for total solids or solids-nonfat. The mean difference is the sum of the performance errors for the individual calibration samples, divided by the number of samples in the set. ( )

c. The standard deviation of test results, calculated for the set of calibration samples shall not exceed forty-four thousandths percent (.044%) for milkfat or protein, or eighty-four thousandths percent (.084%) for total solids or solids-nonfat. ( )

242. DAILY PERFORMANCE CHECKS.
All testing devices must be subjected to a daily performance check before each day's testing, in accordance with the standards set by the testing device manufacturer, or as set forth in this Subchapter B. ( )

01. Daily Performance Check Samples. ( )

a. Source. A set of daily performance check samples must be obtained from a sample provider approved by the department, or may be made by the official laboratory. ( )

b. Number. Unless otherwise specified by the manufacturer of the testing device, a minimum of two (2) control milk samples must be analyzed before daily component testing begins. ( )

c. Requirements. The control samples must comply with the requirements set forth in Section 241 of Subchapter B and fall within the component ranges typically found in the samples to be tested. ( )

02. Procedure. To conduct a daily performance check, the official laboratory must test a set of daily performance check samples. Based on the daily performance check, the official laboratory must do the following: ( )

a. Determine the performance error of the testing device with respect to each daily performance check sample. The performance error is the difference between the known percentage content of each milk component in that sample, as determined by the sample provider, and the percentage content as measured by the testing device; and ( )

b. Calculate the mean difference for the set of daily performance check samples. The mean difference is the sum of the performance errors for the individual samples, divided by the number of samples in the set. ( )

03. Calibration Based On Daily Performance Check. If the mean difference calculated on a daily performance check exceeds plus or minus forty-four thousandths percent (.044%) for milkfat or protein, or eighty-four thousandths percent (.084%) for total solids or solids-nonfat, the testing device shall not be used until it is recalibrated in accordance with Section 241. ( )

243. ACCURACY CHECKS.
All testing devices shall be subjected to daily and hourly accuracy checks in accordance with the protocols set by the testing device manufacturer, or as set forth in this Section of Subchapter B. ( )

01. Daily Accuracy Check. A daily accuracy check must be conducted for each relevant milk component before each day's testing at the same time that the daily performance check is conducted. The official laboratory must perform ten (10) tests on a reference sample. The reference sample may be a homogenized milk sample prepared by the official laboratory, or it may be a daily performance check sample obtained from an approved sample provider. The ten (10) test results must be averaged, and the average result will be used as a comparison value for the hourly accuracy checks required in Subsection 243.02. ( )

02. Hourly Accuracy Check. An hourly accuracy check must be conducted for each milk component before each hour's testing for that component. ( )

a. To conduct an hourly accuracy check, the official laboratory must test the same reference sample used for the daily accuracy check. ( )

b. For each relevant milk component, the hourly accuracy check result must be compared to the average result obtained on the daily reference check under Subsection 243.01. If an hourly accuracy check result differs from the average result on the daily accuracy check by more than thirty-four thousandths percent (.034%) for milkfat or protein, or sixty-four thousandths percent (.064%) for total solids or solids-nonfat, the testing device shall not be used until the condition causing the difference is found and corrected. ( )

c. Test results obtained before the device is corrected, and subsequent to the last previous conforming accuracy check, must not be used in determining the amount paid to milk producers. ( )

244 - 249. (RESERVED)

250. SAMPLE INTEGRITY.
Milk or cream samples must be handled, stored, and shipped in a manner that maintains the integrity of the samples. Samples must be maintained in a temperature range of thirty-three degrees (33°) to forty-five degrees (45°) Fahrenheit (zero point fifty-five hundredths degrees (0.55°) to seven point twenty-two hundredths degrees (7.22°) Celsius). ( )

251. -- 259. (RESERVED)

260. ABNORMAL TESTS.
Whenever an abnormal test occurs on a producer's sample, that result may not be used as a basis of payment. ( )

01. Alternate Tests. In the case of an abnormal test, the official laboratory will use an average of the previous three (3) tests from that producer or another department approved method. ( )

02. Accidents and Sampling Errors. Laboratory accidents or sampling errors on milk or cream to be

tested will not be used as official results and the criteria in Subsection 260.01 will be instituted. ( )

03. Documentation. All abnormal tests must be documented by the person conducting the test. ( )

261. -- 269. (RESERVED)

270. DETAILED PRICING DESCRIPTION.
On each pay record to the seller, purchasers or procurers of milk or cream must provide the seller with all pricing detail needed to determine the net payment for the product sold. At a minimum, the detail must include the following: ( )

01. Pricing Method and Pounds Purchased. If more than one (1) pricing method is used, the detail must include the pounds purchased at each method. The pricing method may include: ( )

a. The value of each component per pound; ( )

b. The total value of total component pounds; ( )

c. The yield formula type and value of the end product(s); or ( )

d. Fixed pricing type. ( )

02. Total Weight or Volume. If weight is used, it must be expressed by pounds. If volume is used, it must be expressed in U.S. gallons. ( )

03. Component Information. All relevant component testing averages or pounds of solids for each component. ( )

04. Bonuses and Deductions. All quality bonuses or deductions and the applicable quality parameters used to calculate the bonuses or deductions. ( )

05. Hauling Charges. All hauling charges and any applicable surcharges. ( )

06. Other Deductions. All other payment deductions including check-offs, administrative fees, and laboratory fees. ( )

07. Other Factors. All other factors affecting net payment. ( )

08. Availability. Pay records must be made available to the department upon request, and be maintained by the procurer or processor for at least one (1) year. ( )

271. -- 279. (RESERVED)

280. REGULATORY COMPLIANCE - INSPECTIONS AND RECORDS REVIEW.
The department shall have access at any time to official laboratories to review testing procedures, records, or to conduct other inspections or tests to determine compliance with Subchapter B and Title 37, Chapter 5, Idaho Code. Any time a testing device is being operated to test for milk components or other quality parameters, the department may provide samples to an official laboratory, and require the official laboratory to immediately process those samples in order to ensure compliance with Subchapter B of this rule. ( )

281. REGULATORY SAMPLES.

01. Sample Set. ( )

a. The department will provide sample sets to official laboratories, on a bi-weekly basis or at a frequency determined by the department to be necessary to ensure accurate component testing results. ( )

b. The samples will be obtained from the company or entity that provides calibration samples to the official laboratory, if available. The department may provide regulatory samples from other sources if necessary. ( )

c. The official laboratory must immediately process the samples, while being observed by a department employee or agent, for those components used by the processor or procurer as a basis of payment. ( )

d. The official laboratory must evaluate the sample set using identical control standards and device settings which are used to routinely evaluate Idaho producer milk components for basis of payment. ( )

e. If the official laboratory is unable to process the samples due to maintenance or mechanical issues, the department employee or agent who is delivering the samples may wait for the testing device to become operable. If the integrity of the regulatory samples is compromised due to the delay, the department may obtain and deliver an additional set of regulatory samples. ( )

02. Regulatory Sample Results. The regulatory sample results will be compiled and evaluated by the department in rolling groups of thirteen (13). ( )

03. Outliers. Sample results that have been identified as outliers will not be used in the calculation of tolerance for regulatory test results. ( )

04. Regulatory Sample Tolerances. Each group of rolling thirteen (13) average shall be within the following tolerances for those components used as a basis of payment by the processor or procurer: ( )

a. Plus or minus two hundredths percent (.02%) for milkfat and protein. ( )

b. Plus or minus sixty-five thousandths percent (.065%) for solids, other than milkfat or protein. ( )

282. LICENSE SUSPENSION AND REVOCATION BASED ON REGULATORY SAMPLES.

01. Two (2) Out of Four (4) Violation. Whenever the average performance error of two (2) of the last four (4) rolling groups of thirteen (13) exceed the tolerance for milkfat, protein, or solids as set forth in Subsection 281.04 of this rule, the Department will issue a written notice to the official laboratory. This notice is in effect as long as two (2) of the last four (4) rolling groups of thirteen (13) exceed the allowable tolerance for component testing. ( )

02. License Suspension. If two (2) out of four (4) of an official laboratory's rolling groups of thirteen (13) average are out of tolerance pursuant to Subsection 281.04 of this rule, the Department will evaluate the following items prior to suspending the testing license. ( )

a. Records Review. The Department shall review records kept by the official laboratory pursuant to Section 290 of this rule. ( )

b. Clearance Test. The average performance error of the official laboratory must be within plus or minus thirty-one thousandths percent (.031%) protein, thirty-three thousandths percent (.033%) milkfat and sixty-five thousandths percent (.065%) other solids on all scheduled sample sets, until the official laboratory no longer exceeds the performance tolerance on two (2) out of four (4) rolling groups of thirteen (13) average. If an official laboratory does not meet these performance requirements on each component of the clearance test, the testing license will be suspended. ( )

c. Probation. The Department may place an official laboratory on probation for two (2) weeks if: ( )

i. The records demonstrate all calibration and performance checks of all testing devices were performed, as required under these rules, and are operating within the tolerances set forth in Sections 240, 241, and

243 of this rule; and ( )

ii. The average performance error in the clearance test sample set was within plus or minus thirty-one thousandths percent (.031%) protein, thirty-three thousandths percent (.033%) milkfat, and sixty-five thousandths percent (.065%) other solids. Clearance test results from laboratories on probationary status shall be included in the calculation of the rolling group of thirteen (13) average. ( )

03. License Reinstatement. An official laboratory may seek reinstatement of a suspended license by completing the following: ( )

a. Written Request. The official laboratory shall provide the Department a written request for reinstatement of their testing license. The request shall include documentation detailing the procedural corrections that have been made to the testing device(s), as well as a minimum of two (2) weeks of component testing results demonstrating that the testing device(s) have been and will remain in tolerance. ( )

b. Clearance Test. The average performance error of the official laboratory must be within plus or minus thirty-one thousandths percent (.031%) protein, thirty-three thousandths percent (.033%) milkfat, and sixty-five thousandths percent (.065%) other solids on a sample set issued by the Department. If the request for reinstatement does not coincide with the normal biweekly sample set issued by the Department, the official laboratory will be solely responsible for the cost of procuring and shipping the additional sample set. Clearance test results used for license reinstatement shall not be included in the calculation of the rolling group of thirteen (13) average. ( )

04. License Revocation for Repeated Out of Tolerance Test Results. If the regulatory sample results are repeatedly out of tolerance, the department may initiate steps to revoke the official laboratory's license to conduct component testing for three (3) months or more. ( )

283. – 289. (RESERVED)

290. RECORD KEEPING.
Records must be maintained by the official laboratory in accordance with this section, and must be made available for examination by the department, upon the department's request. ( )

01. General Provisions. ( )

a. No record may be altered except that errors may be corrected by striking through the original entry and inserting the correct entry immediately adjacent to the original. A corrected entry shall be initialed by the person who made the corrected entry. ( )

b. Records may be maintained in paper or electronic format. In either case, the records must: ( )

i. Be effectively secured against loss or tampering. ( )

ii. Be readily retrievable for inspection by the dairy plant operator and the department. ( )

iii. If corrected, have the correction identified so that the reader may easily compare the corrected version to the original. ( )

02. Calibration Check Equipment Records. All calibration check and equipment maintenance records must be documented and provided during an inspection by the department. The documentation must include the following: ( )

a. Instrument identification. ( )

b. Name of the laboratory technician or maintenance person who performed the calibration or maintenance. ( )

c. Time and date of the calibration check or maintenance. ( )

d. Type of analytical test or maintenance performed. ( )

e. Results of the analytical test or maintenance. ( )

f. Details of action taken to correct calibration tolerances or mechanical problems. ( )

03. Records Retention - Time Limit. The dairy plant operator or the official laboratory must maintain the records required under this section of Subchapter B for at least one (1) year. ( )

291. ENFORCEMENT.

01. License Suspension. The director may suspend official laboratory component testing from any laboratory not meeting the requirements set forth in Subchapter B until the official laboratory has satisfactorily demonstrated compliance with Subchapter B. ( )

02. Effect of License Suspension. If an official laboratory's license is suspended, the official laboratory cannot conduct component testing for use as a basis of payment and must use a licensed third-party laboratory. Procurers of milk who must use a licensed third-party laboratory must pay any associated component testing fees. ( )

292. -- 303. (RESERVED)

SUBCHAPTER C – MANUFACTURE GRADE MILK

304. INCORPORATION BY REFERENCE.
The following documents are incorporated by reference into Subchapter C only. ( )

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

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

03. United States Sediment Standards for Milk and Milk Products (September 1, 1977) (USDA AMS Dairy Division). This document is available online at http://www.ams.usda.gov/AMSv1.0/getfile?dDocName=STELDEV3004474. ( )

04. United States Standards for Grades of Butter (August 31, 1989) (USDA AMS Dairy Division). This document is available online at http://www.ams.usda.gov/AMSv1.0/getfile?dDocName=STELDEV3004470. ( )

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

305. -- 309. (RESERVED)

310. DEFINITIONS.
In addition to the definitions found in Chapters 3, 4, and 5, Title 37, Idaho Code, the following definitions apply to the interpretation and enforcement of Subchapter C only: ( )

01. 3-A Sanitary Standards. The standards for dairy equipment formulated by the 3-A Sanitary Standards, Inc. (3-A SSI). 3-A SSI is comprised of equipment fabricators, Dairy Processors, and regulatory sanitarians, which include state milk regulatory officials, USDA Agricultural Marketing Service Dairy Programs, the US. Public Health Service, the Food and Drug Administration, academic representatives, and others. ( )

02. Acceptable Milk. Milk that qualifies as to appearance and odor and that is classified No. 1 or No. 2

for sediment content. ( )

03. Atmosphere Relatively Free From Mold. No more than ten (10) mold colonies per cubic foot of air as determined in Standard Methods. ( )

04. Bulk Milk Hauler or Bulk Milk Sampler. A person licensed by the Department who is qualified and trained for the grading or sampling of raw milk in accordance with the quality standards and procedures of these rules and the Universal Sample. ( )

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

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

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

08. Dairy Certification. Certification by an Inspector or Approved Fieldman that a Producer's herd, milking facility and housing, milking procedure, cooling, milkhouse or milkroom, utensils and equipment and water supply have been found to meet the applicable requirements of Section 360 for the production of milk to be used for manufacturing purposes. ( )

09. Dairy Plant or Dairy Processor. Any place, premise, or establishment licensed by the Department where milk or dairy products are transported, graded, received or handled for processing or manufacturing and/or prepared for distribution. ( )

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

11. Excluded Milk. All of a Producer's milk excluded from the market by the provisions of Section 341. ( )

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

13. Fieldman. A person qualified and trained in the sanitary methods of production and handling of milk as set forth herein, and generally employed by a Dairy Plant for the purpose of making Dairy Farm surveys and doing quality control work. ( )

14. Fieldman, Approved. A Fieldman qualified, trained, and approved by the Department to perform Dairy Farm inspections and raw milk grading or sampling. ( )

15. Inspector. A qualified, trained person employed by the Department to perform Dairy Farm or Dairy Plant inspections and raw milk grading or sampling. ( )

16. Milk. The lacteal secretion practically free from colostrum obtained by the complete milking of one (1) or more healthy cows, goats, sheep, or water buffalo for manufacturing purposes. ( )

17. Milk for Manufacturing Purposes. Milk produced from a Department certified Dairy Farm for processing and manufacturing into products for human consumption but not subject to Grade A or comparable requirements. ( )

18. Probational Milk. Milk classified No. 3 for sediment content. ( )

19. **Producer**. The person or persons who exercise control over the production of the milk delivered to a Dairy Plant. ( )

20. **Rejected Milk**. Milk rejected from the market according to the provisions of Section 340. ( )

21. **Sanitizing Treatment**. Application of any effective method or sanitizing agent to clean surface for the destruction of pathogens and other organisms as far as is practicable. The sanitizing agents used shall comply with the Standard Methods. ( )

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

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

311. -- 319. (RESERVED)

320. RAW MANUFACTURE GRADE MILK OR CREAM.
All raw milk or cream for manufacturing purposes from all sources shall be based on the following quality specifications. ( )

01. **Raw Milk**. The appearance and odor of acceptable raw milk is normal, fresh, and sweet and free from objectionable feed and other off odors that would adversely affect the finished dairy product. ( )

02. **Milk or Cream**. Milk or cream is unacceptable which: ( )

a. Is other than the lacteal secretion obtained by the complete milking of one (1) or more healthy cows, goats, sheep, or water buffalo properly kept and fed; ( )

b. Contains added water; ( )

c. Contains colostrum, is ropy, bloody or gives any indication of having come from diseased or injured udders; ( )

d. Contains filth, is contaminated with flies, earwigs or other insects, dirt, oil, economic poisons, pesticides or other foreign matter which renders it unfit for human consumption; ( )

e. Tests positive for antibiotics or inhibitors as tested by the accepted methods of the Standard Methods or by tests approved by the Department; ( )

f. Has more than seventeen one hundredths of one percent (.17%) acid calculated as lactic and does not meet the criteria in Subsection 320.01; ( )

g. In the case of cream, is rancid, putrid, or actively foaming; ( )

h. In the case of cream, contains more than eight tenths of one percent (.8%) acid calculated as lactic; ( )

i. Is more than three (3) days or seventy-two (72) hours old when picked up at the Dairy Farm; ( )

j. Does not meet the quality standards as set forth in Subchapter C. ( )

321. QUALITY REQUIREMENTS FOR MILK FOR MANUFACTURING PURPOSES.

01. **Basis**. The quality classification of raw milk for manufacturing purposes from each Producer shall be based on an organoleptic examination for appearance and odor, a drug residue test and quality control tests for

sediment content, bacterial estimate and somatic cell count. ( )

a. At least once each month the Bulk Milk Haulers shall bring in not less than a two (2) ounce sample of mixed milk from a Producer's Farm Tank. The sample shall be taken in accordance with recommended procedures outlined in the Standard Methods. ( )

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

03. Sediment Content Classification. Milk shall be classified for sediment content, regardless of the results of the appearance and odor examination described in Subsection 321.02. The USDA Sediment Standard is as follows. ( )

a. No. 1 (acceptable) - not to exceed five tenths (.5) milligram or equivalent. ( )

b. No. 2 (acceptable) - not to exceed one and five tenths (1.5) milligram or equivalent. ( )

c. No. 3 (probational, not over ten (10) days) - not to exceed two and five tenths (2.5) milligram or equivalent. ( )

d. No. 4 (reject) - over two and five tenths (2.5) milligram or equivalent. ( )

04. Method of Testing. Methods for determining the sediment content of the milk of individual Producers shall be those described in the Standard Methods. Sediment content shall be based on comparison with applicable charts of the United States Sediment Standards for Milk and Milk Products as incorporated by reference. ( )

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

a. Milk in Cans. One (1) or more cans of milk selected at random from each Producer. ( )

b. Milk in Farm Tanks. A sample taken from each Farm Tank. ( )

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

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

322. -- 329. (RESERVED)

330. BACTERIAL ESTIMATE CLASSIFICATION.

A laboratory examination to determine the bacterial estimate shall be made on each Producer's milk at least once each month at irregular intervals. Samples shall be analyzed at a laboratory approved by the Department. ( )

01. Methods of Testing. Milk shall be tested for bacterial estimate by using one (1) of the following methods or any other method approved by Standard Methods or a test approved by the Department: ( )

a. BactoScan FC. ( )

b. Direct microscopic clump count. ( )

c. Standard plate count. ( )

d. Plate loop count. ( )

e. Petrifilm aerobic count. ( )

f. Spiral plate count. ( )

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

a. The Producer will be notified with a warning of the excessive bacterial estimate. ( )

b. Whenever two (2) of the last four (4) consecutive bacterial estimates exceed two hundred thousand (200,000) per milliliter, the Department shall be notified and a written warning notice given to the Producer. The notice is in effect so long as two (2) of the last four (4) consecutive samples exceed two hundred thousand (200,000) per milliliter. ( )

c. An additional sample will be taken after a lapse of three (3) days but within twenty one (21) days of the notice required in Subsection 330.02.b. If this sample also exceeds two hundred thousand (200,000) per milliliter, subsequent milkings shall be excluded from the market until satisfactory compliance is obtained. Shipment may be resumed and a temporary status assigned to the Producer by the Department when an additional sample of herd milk is tested and found satisfactory. The Producer will be assigned a full reinstatement status when three (3) out of four (4) consecutive bacterial estimate test do not exceed two hundred thousand (200,000) per milliliter. ( )

331. -- 339. (RESERVED)

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

341. EXCLUDED MILK.
A Dairy Plant shall not accept milk from a Producer if: ( )

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

02. Exceeding Maximum Bacteria. Three (3) of the last five (5) milk samples have exceeded the maximum bacteria estimate of two hundred thousand (200,000) per milliliter. ( )

03. Insanitary Conditions. If the milk is produced in unclean conditions such as, but not limited to, unclean milk contact surfaces, unclean conditions in the parlor or milk room, poor milking procedures, or poor animal housing conditions. ( )

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

per milliliter for goat or sheep milk. ( )

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

342. -- 349. (RESERVED)

350. RECORDS OF TESTS.
Accurate records of the results of the milk quality and drug residue tests for each Producer shall be kept on file for a period of not less than twelve (12) months. The records shall be available for examination by the Department. ( )

351. SOMATIC CELL COUNT.

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

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

a. The producer will be notified with a warning of the excessive somatic cell count. ( )

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

c. An additional sample shall be taken after a lapse of three (3) days but within twenty-one (21) days of the notice required in Subsection 351.02.b. If this sample also exceeds seven hundred fifty thousand (750,000) per milliliter, (one million (1,000,000) per milliliter for goat and sheep) subsequent milkings shall be excluded from the market until satisfactory compliance is obtained. Shipment may be resumed and a temporary status assigned to the producer by the Department when an additional sample of herd milk is tested and found satisfactory. The Producer will be assigned a full reinstatement status when three (3) out of four (4) consecutive somatic cell count tests do not exceed seven hundred fifty thousand (750,000) per milliliter, (one million (1,000,000) per milliliter for goat and sheep). ( )

352. DRUG RESIDUE LEVEL.

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

a. When so specified by the US. Food and Drug Administration (FDA), all milk shipped for processing, or intended to be processed on the Dairy Farm where it was produced, will be sampled and tested, prior to processing, for other drug residues under a random drug sampling program. A random drug sampling program may be conducted at a frequency determined by the Department. ( )

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

c. Dairy Plants shall analyze samples for beta lactams and other drug residues by methods evaluated by OMA and accepted by the FDA as effective in determining compliance with established "safe levels" or tolerances. "Safe levels" and tolerances for particular drugs are established and amended by the FDA. ( )

d. Individual Producer sampling. ( )

i. Bulk Milk. A milk sample for beta lactam drug residue testing shall be taken at each farm and will include milk from each Dairy Farm Tank. ( )

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

iii. Producer Dairy Plant. For those Producers who also have a licensed Dairy Plant, a milk sample for beta lactam drug residue testing shall be performed on each batch of milk to be processed. ( )

e. Load sampling and testing. ( )

i. Bulk milk. A load sample shall be taken from the Transport Tank after its arrival at the Dairy Plant and prior to further commingling. ( )

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

iii. Producer Dairy Plant. A load sample shall be tested at the Dairy Plant using a sampling procedure that includes all milk produced and received. ( )

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

g. Dairy Plant follow-up. ( )

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

ii. Each individual Producer sample represented in the positive-testing load sample shall be individually tested as directed by the Department to determine the Producer of the milk sample testing positive for drug residue. Identification of the Producer responsible for producing the milk testing positive for drug residue, and details of the final disposition of the shipment of milk containing the drug residue, shall be reported immediately to the Department. ( )

iii. Milk shipment from the Producer identified as the source of milk testing positive for drug residue shall cease immediately and may resume only after a sample from a subsequent milking does not test positive for drug residue. ( )

02. Department's Monitoring and Surveillance Responsibilities. The Department will monitor the Dairy Plant's drug residue program by conducting unannounced on-site inspections to observe testing and sampling procedures and to collect samples for comparison drug residue testing. In addition, the Department will review industry records for compliance with these rules. The review will seek to determine that: ( )

a. Each Producer is included in a routine, effective drug residue milk monitoring program utilizing AOAC-evaluated and FDA-approved methods to test samples for the presence of drug residue; ( )

b. The Department receives prompt notification from industry personnel of each occurrence of a sample testing positive for drug residue, and of the identity of each Producer identified as a source of milk testing positive for drug residue; ( )

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

d. Milk shipment from a Producer identified as a source of milk testing positive for drug residue completely and immediately ceases until a milk sample taken from the dairy herd does not test positive for drug residue. ( )

03. Enforcement. If a Producer ships milk testing positive for drug residue three (3) times within a twelve (12) month period, the Department may initiate procedures to suspend the Producer's milk shipping privileges. ( )

353. RADIONUCLIDES.
Composite milk samples from selected areas within in the state of Idaho should be tested for biologically significant radionuclides at a frequency which the FDA determines to be adequate to protect the consumer. ( )

354. PESTICIDES AND HERBICIDES.
Composite milk samples should be tested for pesticides and herbicides at a frequency the FDA determines is adequate to protect the consumer. The test results from the samples shall not exceed established FDA limits. ( )

355. ADDED WATER.
Milk samples from each Producer should be tested for added water at a frequency the Department determines is adequate to prevent the addition of water to the milk. ( )

356. -- 359. (RESERVED)

360. FARM REQUIREMENTS OF MILK FOR MANUFACTURING.

01. Health of Herd. ( )

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

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

c. Brucellosis Test. The cows shall be located in States meeting Class B status, or Certified-Free Herds, or shall be involved in a milk ring test program or state of Idaho blood testing program. All additions to the herd shall be from an area or from herds meeting these same requirements. ( )

d. Abnormal Milk. Milk from animals known to be infected with mastitis or milk containing residues of antibiotics or others drugs, or milk containing pesticides or other chemical residues in excess of the established limits shall not be sold or offered for sale for human consumption. The milk shall be disposed of in a method approved by the Department. ( )

02. Milking and Facility Housing. ( )

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

part of the milking area. ( )

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

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

03. Milking Procedure. ( )

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

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

c. Animals that secrete abnormal milk shall be milked last or with separate equipment. This milk shall be excluded from the supply as required in Subsection 360.01.d. ( )

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

04. Cooling. ( )

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

b. Milk in Dairy Farm Tanks shall be cooled to forty (40) degrees Fahrenheit or lower within two (2) hours after the first milking and maintained at forty-five (45) degrees Fahrenheit or lower until transferred to the Transport Tank. ( )

05. Milkhouse or Milkroom. ( )

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

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

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

d. A small platform or slab constructed of concrete or other impervious material shall be provided outside the milkhouse, properly centered under a suitable port opening in the wall for milkhouse connections. The

opening shall be fitted with a tight, self-closing door. The truck approach to the milkhouse or milkroom shall be properly graded and surfaced to prevent mud or pooling of water at point of loading. ( )

e. The milkhouse or milkroom shall be kept clean and free of trash. Animals and fowl are not allowed access to the milkhouse or milkroom at any time. ( )

06. Farm Chemicals and Animal Drugs. ( )

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

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

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

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

07. Utensils and Equipment. ( )

a. Utensils, milk cans, milking machines (including pipeline systems), and other equipment used in the handling of milk shall be maintained in good condition, shall be free from rust, open seams, milkstone, or any unsanitary condition, and shall be washed, rinsed, and drained after each milking, stored in suitable facilities, and sanitized immediately before use with at least fifty (50) parts per million chlorine solution or its equivalent. New or replacement can lids shall be umbrella type. All new utensils and equipment shall comply with applicable 3-A Sanitary Standards. ( )

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

c. Single service articles shall be properly stored and not reused. ( )

08. Water Supply. The Dairy Farm water supply shall meet the requirements in Appendix D of the Pasteurized Milk Ordinance as incorporated herein by reference. A source that does not conform with the construction requirements of Appendix D, but is tested annually by an approved laboratory and found to be safe and of sanitary quality, shall be satisfactory: provided any new sources of water supply or any farm water supply requiring repairs or reconstruction or any source from which tested samples have been found unsatisfactory shall meet the construction requirements of the Department. ( )

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

10. Qualifications for Dairy Farm Certification. Dairy Farm certification requires satisfactory compliance with the requirements in Section 360. ( )

361. -- 369. (RESERVED)

370. DAIRY FARM CERTIFICATION.
No milk for manufacturing purposes produced on an uncertified Dairy Farm shall be bought or sold for human consumption. ( )

01. Initial Inspection. Certified Dairy Farms shall be inspected at least annually after initial

certification to determine eligibility for recertification. The inspection criteria for recertification is the same as that for initial certification. ( )

02. Inspection. Each Dairy Farm shall be inspected by an Inspector or Approved Fieldman. When evidence indicates that it is advisable to do so, the Department may require an examination of the herd by a licensed veterinarian. If the Dairy Farm meets the applicable requirements for Dairy Farm certification described in Section 360, as indicated by the Farm Certification Report Form, the Dairy Farm shall be certified as described in Subsection 370.03. If the Dairy Farm does not meet the requirements for certification, the Dairy Farm shall be reinspected within thirty (30) days after the initial inspection. If the Dairy Farm then meets the requirements for certification, the Dairy Farm shall be certified. If the Dairy Farm does not meet the requirements for certification, the Dairy Farm shall not be certified, and the Producer's authorization to sell milk for human consumption from that Dairy Farm will be withheld by the Department until such time as the Dairy Farm qualifies for certification. Repeat violations on any item may cause a Dairy Farm to lose certification. Provided that, if the Inspector determines during any of these inspections that corrections on the Dairy Farm will require some capital investment, a reasonable extension of the prescribed time limits may be granted by the Department. ( )

03. Certification. An Inspector or Approved Fieldman will certify Dairy Farms that meet the requirements of Section 360, as applicable, based upon the inspection criteria described in Subsection 370.02. The scoring criteria approved by the Department will be utilized in determining compliance with the provisions of Section 360. Dairy Farm certification shall authorize the sale from that Dairy Farm of milk for manufacturing purposes that meets the quality standards. ( )

04. Probationary Period. If at any time an Inspector or Approved Fieldman determines that a certified Dairy Farm does not meet the requirements for certification, the Department may allow a reasonable probationary period for the Producer to bring the Dairy Farm within the requirements for certification. If at the end of this time the Dairy Farm does not meet the requirements for certification, the Department may revoke the Dairy Farm certification. ( )

05. Reinstatement. If, after a period of withholding, probation, or revocation of Dairy Farm certification, a Producer makes the necessary corrections at the Dairy Farm, the Producer may apply for reinspection. When conditions have been corrected, the Dairy Farm will be reinspected by an inspector or Approved Fieldman. When the Inspector or Approved Fieldman determines that requirements for certification have been met, the Dairy Farm will be certified. ( )

371. -- 379. (RESERVED)

380. STANDARDS FOR BULK MILK HAULERS.

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

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

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

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

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

e. A substitute Bulk Milk Hauler in case of emergency can haul milk for three (3) days without a permit provided the Department has been notified and the substitute Bulk Milk Hauler is provided instruction on

approved milk pickup and delivery requirements by the bulk milk hauling company. At the end of three (3) days the substitute Bulk Milk Hauler must apply for a permit. ( )

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

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

04. Permit Revocation. The permit may be revoked if: ( )

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

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

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

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

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

f. The Bulk Milk Hauler does not take a sample for component testing and/or milk quality analysis in an approved manner or sufficient size in an approved container properly labeled, and that the sample has been cooled and maintained between thirty-two (32) degrees Fahrenheit to forty (40) degrees Fahrenheit. ( )

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

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

381. -- 389. (RESERVED)

390. STANDARDS OF IDENTITY, LABELING, AND QUALITY STANDARDS FOR ICE CREAM AND FROZEN DAIRY PRODUCTS AND DESSERTS.

01. Definitions. The standards of identity for ice cream and frozen custards, frozen yogurt, frozen yogurt dessert mix, frozen yogurt dairy products, frozen dairy dessert, ice milk, sherbet and water ices are as defined by the Food and Drug Administration, United States Department of Health Education and Welfare, in Title 21, Part 135, of the Code of Federal Regulations. ( )

02. Labeling. Each of the products required to be labeled by Section 37-1202, Idaho Code shall also bear on each container an identifiable code identifying the lot and/or date in which the product was manufactured. ( )

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

a. Coliform Standard. Compliance with the coliform standard is deemed to have been met if the

coliform count does not exceed ten (10) colonies per gram in two (2) of the last four (4) consecutive samples. No enforcement action will be taken if the last sample is within the standard. ( )

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

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

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

05. Violations. The Director will issue and enforce a written stop sale order to the owner or custodian of any quantity of frozen desserts or frozen novelties which are in violation of Title 37 Chapters 3, 5, and 12, Idaho Code, or Subchapter C of these rules. Disposition of products not in compliance will be at the discretion of the Director. ( )

391. STANDARDS FOR BUTTER.

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

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

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

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

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

392. STANDARDS FOR WHEY BUTTER.

01. Basis for Determining the Acceptability of Whey Butter. The acceptability of whey butter is determined on the basis of classifying first the flavor characteristics and then the characteristics in body, color and salt. Flavor is the basic quality factor in grading whey butter and is determined organoleptically by taste and smell. The flavor characteristic is identified and together with it relative intensity, is rated according to the applicable classification. When more than one flavor characteristic is discernible in a sample of whey butter, the flavor classification of the sample is established on the basis of the flavor that carries the lowest rating. Body, color and salt characteristics are then noted and any defects are disrated in accordance with the established classification. Acceptability for the sample is then established in accordance with the flavor classification, subject to disratings for body, color and salt. When the disratings for body, color and salt exceed the permitted amount or if the flavor is not acceptable, the whey butter will not be allowed to be sold or distributed within the state of Idaho unless the packages are labeled as provided. ( )

02. Specifications for Acceptability of Whey Butter. Whey butter shall be free of foreign materials

and visible mold. It shall possess a fine and highly pleasing whey butter flavor. May possess any of the following flavors to a slight degree: flat, malty, musty, neutralized, scorched, utensil, stale, and woody. May possess the following flavors to a definite degree: cooked, aged, bitter, coarse-acid, smothered, storage and old cream. May possess feed flavor to a pronounced degree. The permitted total disratings in body, color and salt characteristics are limited to one and one-half (1 1/2). ( )

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

a. The name of the product is whey butter or whey cream butter or "Butter made from whey cream." ( )

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

c. The manufacturer identification number is conspicuously placed on each wrapper and container of whey butter. ( )

d. Labels of whey butter sold or distributed within Idaho shall be approved by the Department. ( )

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

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

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

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

05. Enforcement. Whey butter which fails to meet flavor or body, color and salt requirements as defined in Section 392.01 may be sold or distributed within the state of Idaho, provided the word, "undergrade" is placed on the principal display panel(s) immediately preceding or following the product name and is of uniform type size and prominence. ( )

06. Table I -- Classification of Flavor Characteristics.

Identified Flavors	Acceptable	Unacceptable
Flat	S	D
Malty	S	D
Musty	S	D
Neutralized	S	D
Scorched	S	D
Utensil	S	D
Cooked	D	P

Identified Flavors	Acceptable	Unacceptable
Aged	D	P
Bitter	D	P
Smothered	D	P
Storage	D	P
Old Cream	D	P
Feed	P	-
Acid	D	P
Weed	S	D

( )

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

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

S -- Slight; D -- Definite; P -- Pronounced ( )

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

a. Slight: Detected only upon critical examination. ( )

b. Definite: Detectable but not intense. ( )

c. Pronounced: Readily detectable and intense. ( )

d. Aged: Characterized by lack of freshness. ( )

e. Bitter: Astringent, similar to taste of quinine and produces a puckery sensation. ( )

f. Coarse-acid: Lacks a delicate flavor or aroma and is associated with an acid condition but there is no indication of sourness. ( )

g. Cooked (fine): Smooth, nutty-like character resembling a custard flavor. ( )

h. Feed: Aromatic flavor characteristic of feeds eaten by cows. ( )

i. Flat: Lacks natural butter flavor. ( )

j. Malty: A distinctive, harsh flavor suggestive of malt. ( )

k. Musty: Suggestive of the aroma of a damp vegetable cellar. ( )

l. Neutralizer: Suggestive of a bicarbonate of soda flavor or the flavor of similar compounds. ( )

m. Old Cream: Aged cream characterized by lack of freshness and imparts a rough aftertaste on the tongue. ( )

n. Scorched: A more intensified flavor than cooked (coarse) and imparts a harsh aftertaste. ( )

o. Sour: Characterized by an acid flavor and aroma. ( )

p. Smothered: Suggestive of improperly cooled cream. ( )

q. Storage: Characterized by a lack of freshness and more intensified than "aged" flavor. ( )

r. Utensil: A flavor suggestive of unclean cans, utensils and equipment. ( )

s. Weed: Aromatic flavor characteristic of the weeds eaten by cows. ( )

09. With Respect to Body: ( )

a. Crumbly: The particles lack cohesion. The intensity is described as "slight" when the trier plug tends to break and the butter lacks plasticity; and "definite" when the butter breaks roughly or crumbles. ( )

b. Gummy: Gummy-bodied-butter does not melt readily and is inclined to stick to the roof of the mouth. The intensity is described as "slight" when the butter tends to become chewy and "definite" when it imparts a gum-like impression in the mouth. ( )

c. Leaky: Present when on visual examination there are beads of moisture on the surface of the trier plug and on the back of the trier or when slight pressure is applied to the butter on the trier plug. The intensity is described as "slight" when the droplets or beads of moisture are barely visible and about the size of a pinhead; "definite" when the moisture drops are somewhat larger or the droplets are more numerous and tend to run together; and "pronounced" when the leaky condition is so evident that drops of water drip from the trier plug. ( )

d. Mealy or grainy: Condition that imparts a granular consistency when the butter is melted on the tongue. The intensity is described as "slight" when the mealiness or graininess is barely detectable on the tongue and "definite" when the mealiness or graininess is readily detectable. ( )

e. Ragged boring: In contrast to solid boring, ragged boring is when a sticky-crumbly condition is presented to such a degree that a full trier of butter cannot be drawn. The intensity is described as "slight" when there is a considerable adherence "definite" when it is practically impossible to draw a full plug of the butter. ( )

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

g. Sticky: The butter adheres to the trier as a smear and possesses excessive adhesion. The intensity is described as "slight" when the smear is present only on a portion of the back of the trier and "definite" when the trier becomes smeary throughout its length. ( )

h. Weak: Body lacks firmness and tends to be spongy. The intensity is described as "slight" when the plug of butter, under slight pressure, tends to depress and is not firm and compact; and "definite" when the plug of butter, under slight pressure, tends to depress easily and definitely lacks firmness and compactness. ( )

10. With Respect to Color: ( )

a. Mottled: Appears as a dappled condition with spots of lighter and deeper shades of yellow. The intensity is described as "slight" when the small spots of different shades of yellow, irregular in shape, are barely discernible on the plug of butter and "definite" when the mottles are readily discernible on the plug of butter. ( )

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

c. Streaked: Appears as light colored portions surrounded by more highly colored portions. The intensity is described as "slight" when only a few are present and "definite" when they are more numerous on the trier plug. ( )

d. Wavy: Uneven in the color in the butter that appears as waves of different shades of yellow. The intensity is described as "slight" when the waves are barely discernible and "definite" when they are readily noticeable on the trier plug. ( )

11. With Respect to Salt: ( )

a. Sharp: Characterized by taste sensations suggestive of salt. The intensity is described as "slight" when the salt taste predominates in flavor; and "definite" when the salt taste distinctly predominates in flavor. ( )

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

393. -- 394. (RESERVED)

395. NEW DAIRY PRODUCTS.

01. General. Upon request of any interested person, the Director may establish a temporary definition and standard for a new dairy product provided, all the following conditions exist: ( )

a. Research in the uses of milk and the products or by products of milk has developed a new dairy product for which no definition or standard is prescribed. ( )

b. The new dairy product cannot be produced or marketed because no definition in standard is prescribed for it. ( )

c. The public interest would be served by the dairy product. ( )

d. The quality, wholesomeness and manufacturing requirements of the dairy product are at least equal to established standards for similar dairy products. ( )

e. The dairy product is labeled in accordance to guidelines for a food product and approved by the Department. ( )

02. Permits. The Director may issue a special permit to the manufacturer/distributor for the production and sale of a new dairy product(s). The fee for this permit will be twenty five dollars ($25) per dairy product. Such manufacturer/distributor is subject to the provisions of Title 37 Idaho Code and regulations adopted pursuant thereto applicable to Dairy Plants and milk products. ( )

03. Expiration. After two (2) years from the date a temporary permit has been issued for a new dairy product(s), the Department will promulgate rules to establish definitions and standards for the new, nonstandardized

dairy product(s). ( )

396. -- 403. (RESERVED)

SUBCHAPTER D – LICENSED DAIRY PLANTS

404. INCORPORATION BY REFERENCE.
The following document is incorporated by reference in this subchapter D only:

01. "Subpart E -- Requirements for Licensed Dairy Plants," of the 'Milk for Manufacturing Purposes and Its Production and Processing, Recommended Requirements' published by USDA, AMS, Dairy Programs and made effective July 21, 2011. Copies of this document may be obtained from the Idaho State Department of Agriculture or accessed online at http://www.ams.usda.gov/AMSv1.0/getfile?dDocName=STELDEV3004791. ( )

405. -- 999. (RESERVED)