

Dear Senators RICE, Den Hartog, Jordan, and  
Representatives BOYLE, Dayley, Erpelding:

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

IDAPA 02.02.14 - Rules for Weights and Measures - Proposed Rule (Docket No. 02-0214-1701);

IDAPA 02.02.14 - Rules for Weights and Measures - Proposed Rule (Docket No. 02-0214-1702);

IDAPA 02.06.02 - Rules Pertaining to the Idaho Commercial Feed Law - Proposed Rule (Docket  
No. 02-0602-1701);

IDAPA 02.06.12 - Rules Pertaining to the Idaho Fertilizer Law - Proposed Rule (Docket No.  
02-0612-1701);

IDAPA 02.06.21 - Rules for Voluntary Public Services of the Idaho Department of Agriculture  
Laboratories - Proposed Rule (Docket No. 02-0621-1701);

IDAPA 02.06.41 - Rules Pertaining to the Idaho Soil and Plant Amendment Act of 2001 - Proposed  
Rule (Docket No. 02-0641-1701).

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 10/06/2017. 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 11/06/2017.

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

To notify Research and Legislation, call 334-4834, or send a written request to the address on the  
memorandum attached below.



Eric Milstead  
Director

# Legislative Services Office

## Idaho State Legislature

*Serving Idaho's Citizen Legislature*

### MEMORANDUM

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

**FROM:** Deputy Division Manager - Katharine Gerrity

**DATE:** September 19, 2017

**SUBJECT:** Department of Agriculture

IDAPA 02.02.14 - Rules for Weights and Measures - Proposed Rule (Docket No. 02-0214-1701)

IDAPA 02.02.14 - Rules for Weights and Measures - Proposed Rule (Docket No. 02-0214-1702)

IDAPA 02.06.02 - Rules Pertaining to the Idaho Commercial Feed Law - Proposed Rule (Docket No. 02-0602-1701)

IDAPA 02.06.12 - Rules Pertaining to the Idaho Fertilizer Law - Proposed Rule (Docket No. 02-0612-1701)

IDAPA 02.06.21 - Rules for Voluntary Public Services of the Idaho Department of Agriculture Laboratories - Proposed Rule (Docket No. 02-0621-1701)

IDAPA 02.06.41 - Rules Pertaining to the Idaho Soil and Plant Amendment Act of 2001 - Proposed Rule (Docket No. 02-0641-1701)

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

The Idaho State Department of Agriculture submits notice of proposed rule at IDAPA 02.02.14 - Rules for Weights and Measures. According to the department, the purpose of the rulemaking is to update the incorporation by reference for automotive spark engine fuel, diesel fuel and biodiesel fuel blends. The department states that the rule change updates the primary reference document for gasoline, diesel fuel and biodiesel fuels to the 2016 American Society of Testing Materials (ASTM) specifications. Negotiated rulemaking was conducted. The rulemaking appears to be authorized pursuant to Section 71-111, Idaho Code.

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

The Idaho State Department of Agriculture submits notice of proposed rule at IDAPA 02.02.14 - Rules for Weights and Measures. According to the department, the purpose of the rulemaking is to add definitions for Liquefied and Compressed Natural Gas, Diesel Gallon Equivalent (DGE), Gasoline Gallon Equivalent (GGE) and their metric equivalents. The department notes that a provision is also added allowing the GGE and DGE units as acceptable methods of sale for compressed and liquefied natural gas motor fuel. Negotiated rulemaking was conducted. The rulemaking appears to be authorized pursuant to Section 71-111, Idaho Code.

Mike Nugent, Manager  
Research & Legislation

Paul Headlee, Manager  
Budget & Policy Analysis

April Renfro, Manager  
Legislative Audits

Glenn Harris, Manager  
Information Technology

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

The Idaho State Department of Agriculture submits notice of proposed rule at IDAPA 02.06.02 - Rules Pertaining to the Idaho Commercial Feed Law. According to the department, the purpose of the rulemaking is to incorporate by reference information and updates contained in the 2018 Official Publication of the Association of American Feed Control Officials (AAFCO) as they pertain to the methodology and practice of conducting regulatory commercial feed registration and label review. The department states that negotiated rulemaking was not conducted due to the simple nature of the proposed change. The rulemaking appears to be authorized pursuant to Section 25-2710, Idaho Code.

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

The Idaho State Department of Agriculture submits notice of proposed rule at IDAPA 02.06.12 - Rules Pertaining to the Idaho Fertilizer Law. According to the department, the purpose of the rulemaking is to incorporate by reference information and updates contained in the 2018 Official Publication of the Association of American Plant Food Control Officials (AAPFCO) as they pertain to the methodology and practice of conducting regulatory fertilizer registration and label review. The department states that negotiated rulemaking was not conducted due to the simple nature of the proposed change. The rulemaking appears to be authorized pursuant to Section 22-604, Idaho Code.

### **5. IDAPA 02.06.21 - Rules for Voluntary Public Services of the Idaho Department of Agriculture Laboratories**

The Idaho State Department of Agriculture submits notice of proposed rule at IDAPA 02.06.21 - Rules for Voluntary Public Services of the Idaho Department of Agriculture Laboratories. This is a proposed chapter repeal. According to the department, it is proposing to repeal the chapter because the primary mission of the Feed and Fertilizer Lab is to provide enforcement testing services in an accurate and timely manner. The department states that public service samples that are covered by this chapter do not benefit Idaho residents and tie up valuable lab space and time. The department indicates that since January 2014, the lab only had 28 such customers totaling \$18,114 of business. The department also adds that 84% of this work came from state agencies in Oregon and Michigan. The department also states that it halted voluntary service sample testing as of January, 2017. Negotiated rulemaking was conducted. The rulemaking appears to be authorized pursuant to Sections 22-604, 22-2006, 22-2204 and 25-2710, Idaho Code.

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

The Idaho State Department of Agriculture submits notice of proposed rule at IDAPA 02.06.41 - Rules Pertaining to the Idaho Soil and Plant Amendment Act of 2001. According to the department, the purpose of the rulemaking is to incorporate by reference information and updates contained in the 2018 Official Publication of the Association of American Plant Food Control Officials (AAPFCO) as they pertain to the methodology and practice of conducting regulatory soil and plant amendment registration and label review. The department states that negotiated rulemaking was not conducted due to the simple nature of the proposed change. The rulemaking appears to be authorized pursuant to Section 22-2204, Idaho Code.

cc: Department of Agriculture  
Brian J. Oakey

## **IDAPA 02 – DEPARTMENT OF AGRICULTURE**

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

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

#### **NOTICE OF RULEMAKING – PROPOSED RULE**

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 71-111, Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 20, 2017.

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

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

Update the incorporation by reference for automotive spark engine fuel, diesel fuel and biodiesel fuel blends.

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

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking: ISDA does not anticipate any fiscal impact from the changes to be made to the Rule during this rulemaking.

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the July 5, 2017 Idaho Administrative Bulletin, [Vol. 17-7 page 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:

This rule change updates the primary reference document for gasoline, diesel fuel, and bio-diesel fuels to the 2016 ASTM specifications.

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

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 27, 2017.

DATED this 1st day of August, 2017.

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

**THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 02-0214-1701**  
**(Only Those Sections With Amendments Are Shown.)**

**004. INCORPORATION BY REFERENCE.**

**01. Required Reference Materials.** The 2017 edition of Handbook No. 44 of the National Institute of Standards and Technology, United States Department of Commerce, “Specifications, Tolerances, and Other Technical Requirements for Weighing and Measuring Devices,” hereby incorporated by reference, shall be the specifications, tolerances and other technical requirements for commercial weighing and measuring devices, unless otherwise stated in these rules. (3-29-17)

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

**03. Specifications for Diesel Fuel and Biodiesel Fuel.** American Society of Testing and Materials (ASTM) D975-~~07~~**16a**, “Standard Specification for Diesel Fuel Oils,” and ASTM D6751-~~07a~~**15ce**, “Standard Specification for Biodiesel Fuel (B100) Blend Stock for Distillate Fuels,” intended for blending with diesel fuel are hereby incorporated by reference and are the specifications for diesel fuel and biodiesel fuel blend stock (B100 biodiesel). (~~4-2-08~~)(    )

**04. Specifications for Gasoline.** American Society of Testing and Materials (ASTM) D4814-~~07a~~**16ce**, “Standard Specification for Automotive Spark-Ignition Engine Fuel”, dated ~~October 17, 2007~~ **November 15, 2016**, is hereby incorporated by reference and is the specification for gasoline. (~~5-8-09~~)(    )

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

## **INCORPORATION BY REFERENCE SYNOPSIS**

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

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

***Idaho State Department of Agriculture  
IDAPA 02.02.14 - Rules for Weights and Measures.  
Proposed Rulemaking - Docket No. 02-0214-1701***

Incorporating by reference fuel specifications from the American Society of Testing Materials (ASTM) is more practical and cost effective than reproducing similar specifications in Rule. Incorporating by reference the ASTM specifications ensures that Idaho's fuel specifications are consistent with neighboring states that refine and supply fuel for Idaho consumers.

Fuel in Idaho is sold under the true name and grade set forth in Idaho Code §37-2504 and must meet the quality standards set forth in Idaho Code §37-2506. Most of Idaho's fuel comes from refineries located in Utah, Montana, and Washington. These fuels already meet the most current ASTM fuel standards. Having current ASTM fuel standards will reduce the potential dumping of substandard fuel into the Idaho market and provide quality motor fuels for Idaho consumers.

**Listed below is an overview of changes to ASTM Specifications Incorporation by Reference by ISDA Weights and Measures. A brief summary follows each change, or group of related changes.**

- ASTM D4814 – Standard Specification for Automotive Spark Engine Fuel
- ASTM D975 – Standard Specifications for Diesel Fuel Oils
- ASTM D6751 – Standard Specifications for Blend Stock (B100) for Distillate Fuels

**Summary of Changes to ASTM D4814 – Standard Specification for Automotive Spark Engine Fuel**

<b>ASTM</b>	<b>Title</b>	<b>Changes</b>	<b>Impact on Idaho</b>
D4814	Table 1	Revised footnote D	Minimal
D4814	Table 1	Revised footnote F	Minimal
D4814	Subsection 5.2.3	Added DI equation	Minimal
D4814	Subsection 1.12.4	Discussion on DI Development	Minimal
D4814	Drivability Index	Changes equation	Minimal
D4814	Subsection 5.2.4	Revised from 10% to 15%	Minimal

- The 6 changes listed above occur in Table 1 “Vapor Pressure and Distillation Class Requirements”. These changes allow for ethanol blends up to 15% blended gasoline. Additional references have been added to the 2017 version that reference “Drivability Index”. The Drivability Index is a calculation used by ASTM to measure performance using different blends of ethanol in gasoline. These changes will have little impact in Idaho because all fuel currently transported into Idaho meet these requirements.

<b>ASTM</b>	<b>Title</b>	<b>Changes</b>	<b>Impact on Idaho</b>
D4814	Table 4	Maine vapor pressure	None
D4814	Table 8	Maine vapor pressure	None

- The 2 changes listed above only effect the State of Maine. These changes will not affect Idaho.

<b>ASTM</b>	<b>Title</b>	<b>Changes</b>	<b>Impact on Idaho</b>
D4814	Test Method D3831	Added Test Method D3831	Minimal

- This change adds a test to measure Manganese in gasoline. This change will have minimal impact in Idaho because the manganese volume is mostly determined at the refinery.



<b>ASTM</b>	<b>Title</b>	<b>Changes</b>	<b>Impact on Idaho</b>
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D4814	Table 2	Revised Table 2	Minimal
D4814	Subsection 6.3	Added subsection	Minimal

- The 2 changes listed above in Table 2 “Detailed Requirements for all Volatility Classes” were revised to limit the amounts of Manganese content in gasoline. The 2017 edition lowers the acceptable levels of Methylcyclopentadienyl Manganese Tricarbonyl (MMT). This change will effect one retail establishment in Idaho that is currently adding additional MMT to their retail fuel supply. The overall impact is minimal.

<b>ASTM</b>	<b>Title</b>	<b>Changes</b>	<b>Impact on Idaho</b>
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D4814	Denatured Fuel	Denatured fuel	Minimal
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- The change listed above requires ethanol to meet an additional standard when being used to blend with gasoline. This change will have minimal impact in Idaho because the current ethanol base stock produced in Idaho meets both specifications.

<b>ASTM</b>	<b>Title</b>	<b>Changes</b>	<b>Impact on Idaho</b>
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D4814	Vapor Liquid Ratio	Changed from 10% to 15%	Minimal
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- The change listed above allows for additional techniques and additional ethanol. This will have minimal impact in Idaho because refiners are currently meeting this specification.

<b>ASTM</b>	<b>Title</b>	<b>Changes</b>	<b>Impact on Idaho</b>
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D4814	Section 1.12.5	15% Ethanol	Minimal
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- The change listed above adds an equation to the 2017 edition explaining the distillation curve for gasolines containing 5% to 10% ethanol. This is an informational change and will have no impact in Idaho.

<b>ASTM</b>	<b>Title</b>	<b>Changes</b>	<b>Impact on Idaho</b>
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D4814	Section 3.1.4	EPA Waivers	Minimal
D4814	Section 3.3.2	EPA Oxygenate Blend update	Minimal
D4814	Section 3.4.2	EPA Reformulated Gasoline	Minimal
D4814	Section 3.3.2	EPA Waivers	Minimal

- The 4 changes listed above update Environmental Protection Agency (EPA) waivers. These changes will have minimal impact in Idaho. Idaho currently adopts the EPA seasonal waiver for Reid Vapor Pressure (RVP).

<b>ASTM</b>	<b>Title</b>	<b>Changes</b>	<b>Impact on Idaho</b>
D4814	Section 3.5.3	EPA Certification Standards	Minimal

- The change listed above revises the EPA’s certification Standards for Deposit Control Gasoline Additives. It also increases the amount of ethanol within the certification from 10% in the 2007 edition to 15% in the 2017 edition. This will have minimal impact in Idaho. Fuels entering the state already meet this requirement.

<b>ASTM</b>	<b>Title</b>	<b>Changes</b>	<b>Impact on Idaho</b>
D4814	Section 3.2.3	Definition for finished fuel	Minimal
D4814	Section 3.2.11	Definition for water tolerance	Minimal

- The 2 changes listed above are additional definitions. The first change defines “finished fuel” and adds Test Method D4176 to the Referenced Documents. The second change adds a definition for “water tolerance”. These changes will have no impact in Idaho because the current standard (ASTM -07) meets this standard. Adding these definitions add clarity to the 2017 standard.

<b>ASTM</b>	<b>Title</b>	<b>Changes</b>	<b>Impact on Idaho</b>
D4814	Table 3, 4, 5, 6	Revised Table	None

- The change listed above specifically relates to the states of North Carolina, Georgia, and Alabama. This change will not affect Idaho.

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## Summary of Changes to ASTM D975 – Standard Specifications for Diesel Fuel Oils

<b>ASTM</b>	<b>Title</b>	<b>Changes</b>	<b>Impact on Idaho</b>
D975	Definitions	Added definitions	Minimal
		<ul style="list-style-type: none"> <li>Added definition for “additive” and “alternative blend-stock”. This will have no impact.</li> </ul>	

<b>ASTM</b>	<b>Title</b>	<b>Changes</b>	<b>Impact on Idaho</b>
D975	Appendix 3	Revised Appendix 3	Minimal
		<ul style="list-style-type: none"> <li>This change completely revises Appendix 3 to provide guidance for consumers of diesel fuels who may wish to store quantities of fuels for extended periods, or use diesel fuel in severe service areas, or high temperature applications. This change will have minimal impact on Idaho because it is for informational purposes only.</li> </ul>	

<b>ASTM</b>	<b>Title</b>	<b>Changes</b>	<b>Impact on Idaho</b>
D975	Subsection 6.2	Added subsection 6.2	Minimal
		<ul style="list-style-type: none"> <li>This new addition addresses the “workmanship” specification for diesel fuel. It requires diesel fuel to be free of any adulterant or contaminant that renders the fuel unacceptable for its commonly used applications. This will have minimal impact in Idaho.</li> </ul>	

<b>ASTM</b>	<b>Title</b>	<b>Changes</b>	<b>Impact on Idaho</b>
D975	Subsection 7.3 and 7.5	Revised Subsections	Minimal
		<ul style="list-style-type: none"> <li>This change revises subsections identifying “Alternative Fuels” and “Alternative Blend-stocks as alternative fuels. These changes will have minimal impact in Idaho.</li> </ul>	

<b>ASTM</b>	<b>Title</b>	<b>Changes</b>	<b>Impact on Idaho</b>
D975	Table 1	Revised footnotes	Minimal
		<ul style="list-style-type: none"> <li>These changes allow for alternative Test Methods when the primary Test method is not available. This change will have minimal impact in Idaho because it identifies alternatives to Test Methods that are unavailable. It also adds greater flexibility to fuel quality laboratories that may be limited in their scope.</li> </ul>	

<b>ASTM</b>	<b>Title</b>	<b>Changes</b>	<b>Impact on Idaho</b>
D975	Subsection 7.3.1.3	Added Test Method D7861	Minimal
		<ul style="list-style-type: none"> <li>This change allows for a specific Test Method in disputed cases, and identifies the specific Test Method used for final test result. This will have minimal impact in Idaho; however will add greater flexibility and clarity to fuel quality testing laboratories.</li> </ul>	

<b>ASTM</b>	<b>Title</b>	<b>Changes</b>	<b>Impact on Idaho</b>
D975	References	Removed ISO 16889	Minimal
		<ul style="list-style-type: none"> <li>This is a clerical change to remove “1999” from all ISO 16889 references. This change will have no impact on Idaho.</li> </ul>	

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**Summary of Changes to ASTM D6751 – Standard Specifications for Blend Stock (B100) for Distillate Fuels**

<b>ASTM</b>	<b>Title</b>	<b>Changes</b>	<b>Impact on Idaho</b>
D6751	Reference	Added Test Method D7344	Minimal
D6751	Reference	Added Test Method D7345	Minimal
D6751	Reference	Added Test Method D7689	Minimal
		<ul style="list-style-type: none"> <li>The 3 changes listed above add additional Test Methods. This will have minimal impact in Idaho because biofuels entering Idaho already meet similar standards.</li> </ul>	

<b>ASTM</b>	<b>Title</b>	<b>Changes</b>	<b>Impact on Idaho</b>
D6751	Subsection 5.1.9	Revised subsection	Minimal
		<ul style="list-style-type: none"> <li>This change identifies a reference material source. This change will have no impact in Idaho.</li> </ul>	

<b>ASTM</b>	<b>Title</b>	<b>Changes</b>	<b>Impact on Idaho</b>
D6751	Table 1	Revised footnote	Minimal

- This change adds language to a footnote to clarify variabilities associated with low temperature flow rates and contamination. This change adds clarification and will not impact Idaho.

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End of Document

## IDAPA 02 – DEPARTMENT OF AGRICULTURE

### 02.02.14 – RULES FOR WEIGHTS AND MEASURES

DOCKET NO. 02-0214-1702

#### NOTICE OF RULEMAKING – PROPOSED RULE

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 71-111, Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 20, 2017.

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

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

Add definitions for Liquefied and Compressed Natural Gas, Diesel Gallon Equivalent (DGE), Gasoline Gallon Equivalent (GGE), and their metric equivalents. Add a provision allowing the GGE and DGE units as an acceptable method of sale for compressed and liquefied natural gas motor fuel.

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

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

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

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the July 5, 2017 Idaho Administrative Bulletin, [Vol. 17-7 page 20](#).

**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: N/A

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

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 27, 2017.

DATED this 1st day of August, 2017.

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

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 02-0214-1702  
(Only Those Sections With Amendments Are Shown.)

**010. DEFINITIONS.**

The Idaho Department of Agriculture adopts the definitions set forth in Sections 71-108 and 71-401, Idaho Code. (10-26-94)

**01. Biodiesel.** A fuel comprised of mono-alkyl esters of long chain fatty acids derived from vegetable oils or animal fats, designated B100. (4-2-08)

**02. Biodiesel Blends.** A fuel comprised of a blend of biodiesel fuel with petroleum-based diesel fuel, designated BXX. In the abbreviation BXX, the XX represents the volume percentage of biodiesel fuel in the blend. (4-2-08)

**03. Person.** The word "person" shall be construed to import both the plural and singular, as the case demands, and shall include corporations, companies, societies and associations. When construing and enforcing the provisions of this rule, the act, omission, or failure of any officer, agent, or other person acting for or employed by any corporation, company, society, or association, within the scope of his employment or office, shall in every case be also deemed to be the act, omission, or failure of such corporation, company, society or association as well as that of the person. (4-2-08)

**04. Compressed Natural Gas (CNG).** Natural Gas which has been compressed and dispensed into fuel storage containers and is suitable for use as an engine fuel. ( )

**05. Liquefied Natural Gas (LNG).** Natural gas that has been liquefied at minus one hundred sixty-two degrees Celsius (-162 °C) (minus two hundred sixty degrees Fahrenheit (-260 °F)) and stored in insulated cryogenic tanks for use as an engine fuel. ( )

**06. Gasoline Gallon Equivalent (GGE).** Equivalent to five point six hundred sixty thousandths (5.660) pounds (two point five hundred sixty seven thousandths (2.567) kilograms) of compressed natural gas. ( )

**07. Gasoline Liter Equivalent (GLE).** Equivalent to one point four hundred ninety-five thousandths (1.495) pounds (zero point six hundred seventy-eight thousandths (0.678) kilograms) of compressed natural gas. ( )

**08. Diesel Gallon Equivalent (DGE).** Equivalent to six point three hundred eighty-four thousandths (6.384) pounds of compressed natural gas or six point fifty-nine thousandths (6.059) pounds of liquefied natural gas. ( )

**(BREAK IN CONTINUITY OF SECTIONS)**

**300. PETROLEUM PRODUCTS.**

**01. Liquefied Petroleum.** Liquefied petroleum gas shall be considered to be a petroleum product and shall be sold only by weight or liquid measure as provided in Sections 71-232 and 71-241, Idaho Code, of the Idaho Weights and Measures Law. (7-1-93)

**02. Metering System Installation.** A liquefied petroleum gas metering system installation shall be complete, that is, so installed to insure that liquefied petroleum gas is maintained in a liquid state while being metered. This includes an adequate means for vapor elimination upstream of meter and a properly installed and functioning differential valve downstream from meter. (7-1-93)

**03. Maintaining Scales.** Scales used for liquefied petroleum gas bottle filling shall be maintained in an adequate and accurate functioning condition. This means the periodic checking by a competent scale repairman, and checked regularly by your company's serviceman for any foreign material and clearances around lever system and working parts. Scales shall be installed so that they are protected against weather effects so that weight value indicating elements can be accurately read. (7-1-93)

**04. Gauge Stick Measurement.** Petroleum products shall not be sold by gauge stick measurement. (7-1-93)

**05. Single Meters.** Trucks with a single meter which are used to meter oils and gasolines shall be calibrated and adjusted on one of the following only: furnace or heating oils, diesel fuels, kerosene and/or high flash solvents. (7-1-93)

**06. Modified Procedure.** In addition to standard gallon pricing, the following modified procedures for retail motor fuel dispenser (gas pumps) with limited variator capability of ninety-nine cents (\$0.999) shall be permitted until January 1, 1983, for all establishments charging more than ninety-nine (\$0.999) per gallon: (7-1-93)

**a.** When using "half-gallon" pricing, the price per gallon of gasoline computed in fractional cents per gallon shall end in even tenths of a cent. (Examples: \$1.012, \$1.014, \$1.016, etc.) (7-1-93)

**b.** Each establishment shall use only "gallon," "half-pricing," or "liter" pricing or any combination thereof. (7-1-93)

**c.** All establishments selling by the "liter" shall post in a conspicuous place on the premises a chart allowing comparisons between gallon and liter prices. (7-1-93)

**d.** Establishments using "half-pricing" shall set the unit price on the pump at one-half of the selling price and legible decals shall be affixed to the face of each pump using figures that are the approximate size and print as the pump figures in the following manner: (Illustrations of the following may be obtained from the Bureau of Weights and Measures, Idaho Department of Agriculture.) (7-1-93)

**i.** Immediately following the unit price indications add the term "per one-half (1/2) gallon." (7-1-93)

**ii.** Immediately beneath the unit price indication, add the correct unit price "per gallon." (7-1-93)

**iii.** Immediately following the total price, add the term "one-half total price." (7-1-93)

**e.** Establishments using half-pricing shall post a notice in the vicinity of each island or group of pumps stating that the money values on the pump are computed at the one-half (1/2) gallon price basis. (7-1-93)

**f.** All roadside price signs must be complete and accurate. Price advertising using "liter" pricing must also use comparison gallon pricing. (7-1-93)

**g.** All sales must be within one cent (\$.01) mathematical agreement, when total sales price is compared with volume actually dispensed. (7-1-93)

**h.** Half-gallon pricing with full total price retail motor fuel dispensers shall be considered to be in compliance with Handbook 44 requirements, but only at each dispenser's present installation site and only until such time as any one (1) of the following conditions has occurred: (7-1-93)

**i.** The selling unit price of the product being dispensed exceeds one dollar and ninety-nine cents (\$1.99) per gallon; or (7-1-93)

**ii.** The dispensing device or its computing head is retired from service or replaced; or (7-1-93)

**iii.** The date of January 1, 1983, has arrived. (7-1-93)



i. The correct price per gallon of the product being dispensed must be posted conspicuously next to, but not obscuring, the indicated price per half-gallon display on both sides of the dispenser face. (7-1-93)

j. The above sections relating to one half-gallon pricing shall not apply when the retail motor fuel dispenser is modified by a one hundred (100) cent wheel kit (see Subsection 300.06.k.i. below) prior to January 1, 1983. (7-1-93)

k. This section is an exemption to the National Bureau of Standards, or its successor organization, the National Institute of Standards and Technology, Handbook No. 44, Section GS-5.2.3., Size and Character of Indicating Elements. (7-1-93)

i. Retail motor fuel dispensers in service in the state of Idaho as of December 31, 1981, which are limited in computing capability to nine hundred ninety-nine one thousandths cents (\$.999) per gallon, but which are satisfactorily modified by zero to ninety-nine cents (\$.00 to \$.99) analog decal overlay strips or replacement wheels so as to change dispenser computations over to full cent per gallon increment basis from one dollar to nine dollars and ninety-nine cents (\$1.00 to \$9.99) per gallon, are hereby granted an exemption from Section GS-5.2.3. of Handbook No. 44 providing that the dispenser is presently installed. This exemption is temporary and lasts until (a) the dispensing device or its computing head is taken out of service, OR (b) the date of January 1, 1985, has arrived. (7-1-93)

ii. All dispensers modified pursuant to this provision must meet all other applicable provisions of the National Bureau of Standards, or its successor organization, the National Institute of Standards and Technology, Handbook No. 44, including but not limited to, general code Section GS-5.5., Money Values--Mathematical Agreement. (7-1-93)

**07. Compressed Natural Gas. All compressed natural gas kept, offered or exposed for sale and sold at retail as a vehicle fuel shall be measured in terms of mass, and indicated in gasoline gallon equivalent (GGE), diesel gallon equivalent (DGE) units, or mass. ( )**

**08. Liquefied Natural Gas. All liquefied natural gas kept, offered, or exposed for sale and sold at retail as a vehicle fuel shall be measured in terms of mass, and indicated in diesel gallon equivalent (DGE) units, or mass. ( )**

## IDAPA 02 – DEPARTMENT OF AGRICULTURE

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

DOCKET NO. 02-0602-1701

#### NOTICE OF RULEMAKING – PROPOSED RULE

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 25-2710, Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 20, 2017.

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

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

To incorporate by reference information and updates contained in the 2018 Official Publication of the Association of American Feed Control Officials (AAFCO) as they pertain to the methodology and practice of conducting regulatory commercial feed registration and label review.

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

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

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

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

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

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

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

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be delivered on or before September 27, 2017.

DATED this 1st day of August 2017.

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

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 02-0602-1701  
(Only Those Sections With Amendments Are Shown.)

**004. INCORPORATION BY REFERENCE.**

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

**01. The Association of American Feed Control Officials (AAFCO) Official Publication.** The Terms, Ingredient Definitions and Policies as published in the “2017~~8~~ Official Publication” of AAFCO where those terms and ingredient definitions, and policy statements do not conflict with terms and ingredient definitions, and policy statements adopted under Title 25, Chapter 27, Idaho Code, and any rule promulgated thereunder. ~~The AAFCO Official Publication is a copyrighted publication and not available in electronic format.~~ A copy may be purchased online from the AAFCO website at: [www.aafco.org](http://www.aafco.org). (3-29-17)( )

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

# Overview of Incorporations by Reference for IDAPA

## 02.06.02–Rules Pertaining to the Commercial Feed Law

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Submitted to LSO 01/05/2018

### INCORPORATION BY REFERENCE SYNOPSIS

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

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

*Idaho State Department of Agriculture  
IDAPA 02.06.02 - Rules Pertaining to the Commercial Feed Law  
Proposed Rulemaking - Docket No. 02-0602-1701*

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

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

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

*01. The Association of American Feed Control Officials (AAFCO) Official Publication. The Terms, Ingredient Definitions and Policies as published in the “2017 Official Publication” of AAFCO where those terms and ingredient definitions, and policy statements do not conflict with terms and ingredient definitions, and policy statements adopted under Title 25, Chapter 27, Idaho Code, and any rule promulgated thereunder. The AAFCO Official Publication is a copyrighted publication and not available in electronic format. A copy may be purchased online from the AAFCO website at: [www.aafco.org](http://www.aafco.org).*

The following changes will be made to the 2018 AAFCO official publication incorporated by reference.

1.) The AAFCO Board of Directors accepted the recommendation from the IDC to publish the new Section 101 header including the introductory paragraphs and the table header row of the new GRAS notice table in the Official Publication.

### 101. GRAS NOTIFIED SUBSTANCES INTENDED FOR ANIMAL FOOD

The following is a list of GRAS Notices filed voluntarily by the notifiers pursuant to 21 CFR 570.205 which the FDA has evaluated (21 CFR 570.265) and determined that it had no questions regarding the conclusion that the notified animal food substance is generally recognized as safe (GRAS) under the intended conditions of use. The filed notice and the FDA response letter provide information (identity, manufacture, specifications, intended effect, and safety) on the substance under the intended use conditions, and the most up to date version is posted at the following website: [<http://www.fda.gov/AnimalVeterinary/Products/AnimalFoodFeeds/GenerallyRecognizedasSafeGRASNotifications/ucm243845.htm>]. This section is provided as a convenience for the State Feed Control Officials.

While the information on the substance and the intended use is specific to that provided by the notifier, other firms may use information within the notice along with other data specific to their substance to support the GRAS conclusion (see 21 CFR 570.3-570.280). Such other firms who conclude that an animal food substance is GRAS under the conditions of its intended use by relying on a posted GRAS notice submitted by another person shall carefully evaluate whether their production process, product specifications, and intended conditions of use fall within the parameters addressed by the referenced GRAS notice. GRAS conclusions are not legally required to be submitted to the FDA but may be voluntarily submitted in accordance with the GRAS Notice regulation (21 CFR Part 570. 205). Nevertheless, firms that elect to make use of the GRAS provision must document their GRAS conclusions prior to marketing a substance for a particular intended use. State Feed Control Officials may request the GRAS Conclusion to support their registration or inspection duties.

The below table is adapted from the FDA Animal GRAS Notification website and includes ingredient definition information [substance, common and usual name (from the FDA response letter), and intended use (including use limitations, if any)]. For other information, see the FDA response letter for the GRAS Notice (available at link provided above).

Table 101.1 GRAS Notified Substances with no questions letters from the FDA.

AGRN	Notifier	Substance	Common and Usual Name	Intended Use	Intended Species	Date of Filing	FDA's Letter

At each AAFCO IDC meeting, the section editor will provide an updated list of animal food GRAS Notices that have been evaluated by the FDA and have received a no questions letter from the Agency. Firms making GRAS conclusions should be prepared to answer questions from the Ingredient Definitions Committee or Association if needed. The listed notices below have been voted on by the Ingredient Definitions Committee and accepted by the Association for publication in the AAFCO Official Publication.

2.) The AAFCO Board of Directors accepted the recommendation from the IDC to publish a new microorganism to the list in Definition T36.14 Direct-Fed Microorganisms: *Bacillus amyloliquefaciens*.

3.) 3rd recommendation from the IDC to Publish the following definitions as Official in the AAFCO Official Publication:

a. The AAFCO Board of Directors accepted the recommendation from the IDC to publish 3.5 Direct Dehydrated Alfalfa Meal or Pellet as Official in the AAFCO Official Publication.

i. 3.5 Direct Dehydrated Alfalfa Meal or Pellet: is the aerial portion of the alfalfa plant, reasonably free of other crop plants, weeds, and mold, that has not been stored in bales or in stacks as sun-cured alfalfa hay prior to being ground and dried by thermal means under controlled conditions. (Proposed 2016 rev. 1)

b The AAFCO Board of Directors accepted the recommendation from the IDC to publish 87.20 Guanidinoacetic acid as Official in the AAFCO Official Publication.

i. 87.20 Guanidinoacetic acid: The food additive guanidinoacetic acid may be safely used in broiler chicken and turkey feeds in accordance with the following prescribed conditions:

(a) The additive is manufactured by reacting glycine with cyanamide in an aqueous solution.

(b) The additive is used or intended for use to spare arginine and as a precursor of creatine in broiler chicken and turkey feeds at levels not to exceed 0.12% of the complete feed.

(c) The additive consists of not less than 97% guanidinoacetic acid [N-(aminoiminomethyl)-glycine] (CAS 352-97-6) by weight.

(d) The additive meets the following specifications:

(1) Dicyandiamide not to exceed 0.5%;

(2) Cyanamide not to exceed 0.01%;

(3) Melamine not to exceed 15 parts per million (ppm);

(4) Sum of ammeline, ammelide, and cyanuric acid not to exceed 35 ppm; and

(5) Water not to exceed 1%.

(e) To assure safe use of the additive in addition to the other information required by the Federal Food, Drug, and Cosmetic Act:

(1) The label and labeling of the additive, any feed premix, and complete feed shall contain the name of the additive.

(2) The label and labeling of the additive and any feed premix shall also contain:

(i) A statement to indicate that the maximum use level of guanidinoacetic acid must not exceed 0.12% of the complete feed for broiler chickens and turkeys; and

(ii) Adequate directions for use.

21 CFR 573.496 (Adopted 2017 rev. 1)

c. The AAFCO Board of Directors accepted the recommendation from the IDC to publish 87.115 Canthaxanthin as Official in the AAFCO Official Publication.

i. 87.115 Canthaxanthin: The color additive canthaxanthin may be safely used in the manufacture of animal foods in accordance with the following prescribed conditions:

(a) Identity.

(1) The color additive canthaxanthin is  $\beta$ -carotene-4,4'-dione.

(2) Color additive mixtures for food use made with canthaxanthin may contain only those diluents that are suitable and that are listed in part 73.1 of Title 21 of the Code of Federal Regulations (21 CFR 73.1) as safe for use in color additive mixtures for coloring foods.

(b) Specifications.

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

Physical state, solid.

1% solution in chloroform, complete and clear.

Melting range (decomposition), 207 to 212°C (corrected).

Loss on drying, not more than 0.2%.

Residue on ignition, not more than 0.2%.

Total carotenoids other than trans-canthaxanthin, not more than 5%.

Lead, not more than 10 parts per million.

Arsenic, not more than 3 parts per million.

Mercury, not more than 1 part per million.

Assay, 96 to 101%.

(c) Use and restrictions.

(1) The color additive canthaxanthin may be safely used for coloring foods generally subject to the following restrictions:

(i) The quantity of canthaxanthin does not exceed 30 milligrams per pound of solid or semisolid food or per pint of liquid food; and

(ii) It may not be used to color foods for which standards of identity have been promulgated under section 401 of the Federal Food, Drug, and Cosmetic Act unless added color is authorized by such standards.

(2) Canthaxanthin may be safely used in broiler chicken feed to enhance the yellow color of broiler chicken skin in accordance with the following conditions: The quantity of canthaxanthin incorporated in the feed shall not exceed 4.41 milligrams per kilogram (4 grams per ton) of complete feed to supplement other known sources of xanthophyll and associated carotenoids to accomplish the intended effect.

(3) Canthaxanthin may be safely used in the feed of salmonid fish in accordance with the following prescribed conditions:

(i) Canthaxanthin may be added to the fish feed only in the form of a stabilized color additive mixture;

(ii) The color additive is used to enhance the pink to orange-red color of the flesh of salmonid fish; and

(iii) The quantity of color additive in feed shall not exceed 80 milligrams per kilogram (72 grams per ton) of finished feed.

(d) Labeling requirements.

(1) The labeling of the color additive and any mixture prepared therefrom intended solely or in part for coloring purposes shall conform to the requirements of 21 CFR 70.25.

(2) For purposes of coloring fish, the labeling of the color additive and any premixes prepared therefrom shall bear expiration dates (established through generally accepted stability testing methods) for the sealed and open container, other information required by 21 CFR 70.25, and adequate directions to prepare a final product complying with the limitations prescribed in paragraph (c)(3) of this definition.

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

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

(e) Exemption from certification.



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

21 CFR 73.75 (Adopted 2017 rev. 1)

The AAFCO Board of Directors accepted the recommendation from the IDC to publish T60.115 (B) Pulse protein as Official in the AAFCO Official Publication.

i. T60.115 (B) Pulse protein: is the protein fraction of pulse seeds. It is obtained from mechanically dehulled, dry milled pulse seeds that are further separated through air classification or the addition of water, acid, and alkali. The ingredient may be obtained from pulse seed separated by dry separation, wet separation, or both. Pulse crops include the edible seeds of legumes (excluding oil seeds). Acceptable pulse crops are listed below. The ingredient must contain not less than 53% crude protein on a dry matter basis, and a label shall include a guarantee for minimum crude protein. If a conditioning agent is used, the name of the conditioning agent must be shown as an added ingredient. If the ingredient bears a name descriptive of its kind or origin, it must correspond thereto.

(Proposed 2016 rev. 1)

Accepted pulse crops:

Lentil (*Lens culinaris*)

IFN 05-17-726 Pea (*Pisum sativum* L.)

e. The AAFCO Board of Directors accepted the recommendation from the IDC to publish T60.116 (B) Pulse starch as Official in the AAFCO Official Publication.

i. T60.116 (B) Pulse starch: is the fraction remaining after removal of protein and fiber from pulse seeds. It is obtained from mechanically dehulled, dry milled pulse seeds that are further separated through air classification or through the addition of water. The ingredient may be obtained from pulse seed separated by dry separation, wet separation, or both. Pulse crops include the edible seeds of legumes (excluding oil seeds). Acceptable pulse crops are listed below. The product must contain not less than 65% dietary starch on a dry matter basis, and the label shall include a guarantee for minimum dietary starch. If a conditioning agent is used, the name of the conditioning agent must be shown on the product label as an added ingredient. If the ingredient bears a name descriptive of its kind or origin, it must correspond thereto. (Proposed 2016 rev. 1)

Accepted pulse crops:

Lentil (*Lens culinaris*)

IFN 05-17-726 Pea (*Pisum sativum* L.)

f. The AAFCO Board of Directors accepted the recommendation from the IDC to publish T33.21 Yellow Grease, Feed Grade as Official in the AAFCO Official Publication.

i. T33.21 Yellow Grease, Feed Grade, is the rendered product from the tissues of mammals and/or poultry blended with used cooking or frying oil from human food preparation, consisting of animal and/or vegetable fats or oils. It must contain, and be guaranteed for, not less than 90% total fatty acids, not more than 2.5% unsaponifiable matter, not more than 0.5% insoluble impurities, and not more than 1% moisture. Maximum free fatty acids must also be guaranteed. This product may not include recovered trap grease or material recovered from sanitary sewer sources. If an antioxidant(s) is used, the common name or names must be indicated, followed by the words “used as a preservative.” If the product contains tallow (from cattle) containing greater than 0.15% insoluble impurities, then it must be labeled with the BSE caution statement “do not feed to cattle or other ruminants.” (Proposed 2017)



g. The AAFCO Board of Directors accepted the recommendation from the IDC to publish T33.24 Used Cooking Oil, Feed Grade as Official in the AAFCO Official Publication.

i. T33.24 Used Cooking Oil, Feed Grade: is the product of used cooking or frying oil from human food preparation, consisting of animal and/or vegetable fats or oils, collected from commercial human food facilities and then heated to reduce moisture. It must contain, and be guaranteed for, not less than 90% total fatty acids, not more than 1% unsaponifiable matter, not more than 0.5% insoluble impurities, and not more than 1% moisture. Maximum free fatty acids must also be guaranteed. This product may not include recovered trap grease or material recovered from sanitary sewer sources. If an antioxidant(s) is used, the common name or names must be indicated, followed by the words “used as a preservative.” (Proposed 2017)

4.) 4th recommendation from IDC to publish the following new definitions as tentative in the Official Publication:

a. The AAFCO Board of Directors accepted the recommendation from the IDC to publish T96.14 Scheffersomyces stipitis Dried Yeast as a new definition in tentative status in the AAFCO Official Publication.

i. T96.14 Scheffersomyces stipitis Dried Yeast: is the dried, non-viable yeast of the botanical classification Scheffersomyces stipitis that has been grown on thin stillage from the ethanol production process from the fermentation of a grain or grain mixture, and is separated by centrifugation from the media on which it was propagated. The product is produced in accordance with good manufacturing practices to control the potential for mycotoxin and other contaminants. The product is intended as a source of protein in cattle, sheep, goat, and swine feeds at levels up to 15%. It must contain not less than 40% crude protein. The label shall include guarantees from minimum crude protein and crude fat and maximum sulfur contents. Non-protein nitrogen content must be guaranteed when added. (Proposed 2017 rev. 1)

b. The AAFCO Board of Directors accepted the recommendation from the IDC to publish T71.35 Brassica carinata, solvent extracted as a new definition in tentative status in the AAFCO Official Publication.

i. T71.35 Brassica carinata, solvent extracted, is the meal obtained after the removal of most of the oil by solvent extraction of Brassica carinata seeds. The meal shall contain less than 2.0% erucic acid and less than 30 micromoles of total glucosinolates per gram. It is a source of protein for beef cattle in an amount not to exceed 10% of the total diet. The maximum sulfur content must be guaranteed.

5.) 5th recommendation from the IDC to delete the following item from the Official Publication:

a. The AAFCO Board of Directors accepted the recommendation from the IDC to delete Canthaxanthin from Table 87.5 in the AAFCO Official Publication- if 87.115 is added.

6.) 6th recommendation from the IDC to publish the following in Table 101.1 in the new section 101 GRAS Notices in the AAFCO Official Publication:

a. The AAFCO Board of Directors accepted the recommendation from the IDC to add Hydrophobic silica AGRN 5 to Table 101.1 in the new section 101 GRAS Notices in the AAFCO Official Publication.

AGRN (select for detailed record)	Notifier	Substance	Common and Usual Name	Intended Use	Intended Species	Date of Filing	FDA's Letter (select to view letter)
<a href="#">5</a> (PDF, 67 pages)	Emerald Carolina Chemicals LLC	Hydrophobic silica	Hydrophobic silica	As a defoaming component of a defoamer used in the removal of oil from condensed distillers solubles, at levels up to 20 ppm	Beef cattle, dairy cattle, poultry (turkey, broiler chickens, and egg laying hens), sheep, goats, and swine	May 12, 2011	<a href="#">FDA has no questions.</a> (PDF, 3 pages)

a. The AAFCO Board of Directors accepted the recommendation from the IDC to add Polyethylene glycol (400) dioleate AGRN 6 to Table 101.1 in the new section 101 GRAS Notices in the AAFCO Official Publication.

AGRN (select for detailed record)	Notifier	Substance	Common and Usual Name	Intended Use	Intended Species	Date of Filing	FDA's Letter (select to view letter)
<a href="#">6</a> (PDF, 57 pages)	Emerald Carolina Chemicals LLC	Polyethylene glycol (400) dioleate	Polyethylene glycol (400) dioleate	As an emulsifier component of a defoamer used in the removal of oil from condensed distillers, at levels up to 64 ppm	Beef cattle, dairy cattle, poultry (turkey, broiler chickens, and egg laying hens), sheep, goats,	May 12, 2011	<a href="#">FDA has no questions.</a> (PDF, 3 pages)

					and swine		
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a. The AAFCO Board of Directors accepted the recommendation from the IDC to add Polysorbate 60 AGRN 7 to Table 101.1 in the new section 101GRAS Notices in the AAFCO Official Publication.

AGRN (select for detailed record)	Notifier	Substance	Common and Usual Name	Intended Use	Intended Species	Date of Filing	FDA's Letter (select to view letter)
<a href="#">7</a> (PDF, 101 pages)	Emerald Carolina Chemicals LLC	Polyoxyethylene (20) sorbitan monostearate (polysorbate 60)	Polysorbate 60	As an emulsifier component of a defoamer used in the removal of oil from condensed distillers solubles, at levels up to 20 ppm	Beef cattle, dairy cattle, poultry (turkey, broiler chickens, and egg laying hens), sheep, goats, and swine	May 12, 2011	<a href="#">FDA has no questions.</a> (PDF, 3 pages)

a. The AAFCO Board of Directors accepted the recommendation from the IDC to add Phytase AGRN 14 to Table 101.1 in the new section 101 GRAS Notices in the AAFCO Official Publication.

AGRN (select for detailed record)	Notifier	Substance	Common and Usual Name	Intended Use	Intended Species	Date of Filing	FDA's Letter (select to view letter)
<a href="#">14</a> (PDF, 576 pages)	DSM Nutritional Products	Phytase enzyme produced by an <i>Aspergillus oryzae</i> strain	Phytase	To increase the digestibility of phytin-bound phosphorous or to	Poultry (turkey, broiler chickens, and egg laying hens)	November 14, 2012	<a href="#">FDA has no questions.</a> (PDF, 3 pages)

		expressing a synthetic gene coding for a 6-phytase from <i>Citrobacter braakii</i>		increase phosphorous availability from phytate in poultry diets when fed at the rate of 250–4000 FYT/kg feed			
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a. The AAFCO Board of Directors accepted the recommendation from the IDC to add Phytase AGRN 15 to Table 101.1 in the new section 101 GRAS Notices in the AAFCO Official Publication.

AGRN (select for detailed record)	Notifier	Substance	Common and Usual Name	Intended Use	Intended Species	Date of Filing	FDA’s Letter (select to view letter)
<a href="#">15</a> (PDF, 505 pages)	DSM Nutritional Products	Phytase enzyme produced by an <i>Aspergillus oryzae</i> strain expressing a synthetic gene coding for a 6-phytase from <i>Citrobacter braakii</i>	Phytase	To increase the digestibility of phytin-bound phosphorous or to increase phosphorous availability from phytate in swine diets when fed at the rate of 500–4000 FYT/kg feed	Swine	August 8, 2013	<a href="#">FDA has no questions.</a> (PDF, 3 pages)

a. The AAFCO Board of Directors accepted the recommendation from the IDC to add L-Methionine 85% AGRN 16 to Table 101.1 in the new section 101 GRAS Notices in the AAFCO Official Publication.

AGRN (select for detailed record)	Notifier	Substance	Common and Usual Name	Intended Use	Intended Species	Date of Filing	FDA's Letter (select to view letter)
<a href="#">16</a> (PDF, 87 pages)	Metabolic Explorer	L-methionine 85% produced by a bioengineered Escherichia coli K-12	L-methionine 85%	Nutrient at levels up to 0.3% in animal feed	All animals	January 3, 2014	<a href="#">FDA has no questions.</a> (PDF, 4 pages)

a. The AAFCO Board of Directors accepted the recommendation from the IDC to add Canthaxanthin AGRN 17 to Table 101.1 in the new section 101 GRAS Notices in the AAFCO Official Publication.

AGRN (select for detailed record)	Notifier	Substance	Common and Usual Name	Intended Use	Intended Species	Date of Filing	FDA's Letter (select to view letter)
<a href="#">17</a> (PDF, 87 pages)	DSM Nutritional Products	Canthaxanthin	Canthaxanthin	To be used in breeder hen diets at the rate of 6 mg/kg of feed as a nutritive antioxidant to support the development of chicks	Breeder hens used for hatching egg production	July 22, 2014	<a href="#">FDA has no questions.</a> (PDF, 4 pages)

Model Bills 1-2:

1.) The AAFCO Board of Directors accepted the recommendation from the Model Bill and Regulations Committee recommends that the following Veterinary Feed Directive language be included into the Model Regulations Under the Model Bill and that the AAFCO Board of Directors review the proposed language for future consideration by the Association membership pending review by Dragan Momcilovic, FDA (Attachment D).

Regulation 13. Veterinary Feed Directive

(a) For the purposes of enforcement of Section 10(a)(2) of the Act the \_\_\_\_\_ adopts the definitions of Title 21, Code of Federal Regulations, Section 558.3(b)

(b) For the purposes of enforcement of Section 10(a)(2) of the Act the \_\_\_\_\_ adopts the requirements of Title 21, Code of Federal Regulations, Section 558.6

2.) The AAFCO Board of Directors accepted the recommendation from the Model Bill and Regulations Committee recommends that the term “feed” be revised within the AAFCO Non-Commercial Feed Model Bill [Section 3. Definitions of Words and Terms. (e)] to conform with modifications adopted to the Official Feed Term by the AAFCO membership on January 16, 2017, and that the AAFCO Board of Directors review the proposed revision for future consideration by the Association membership. The modified language for the Official Feed Term adopted by the AAFCO membership is as follows:

Feed. Material consumed or intended to be consumed by animals other than humans that contributes nutrition, taste, aroma, or has a technical effect on the consumed material. This includes raw materials, ingredients, and finished product.

Pet Food Committee 1:

1.) The AAFCO Board of Directors accepted the recommendation from the Pet Food Committee recommends acceptance of the Guidelines for Dental Related Claims intended to replace the Guidelines for Tartar Control Claims found on page 147 of the 2017 Official Publication.

Guidelines for Dental Related Claims

The Pet Food Committee recommends for consideration to the Board of Directors that the guidelines displayed below replace the Guidelines for Tartar Control Claims found on page 147 in the 2017 OP. Guidelines for Dental Related Claims

The AAFCO Pet Food Committee supports and recommends the following guidelines for tartar and plaque control with respect to pet food products (including snacks and treats), rawhides, and other chews.

- 1) Foods bearing dental related claims (claims to cleanse or whiten teeth or freshen breath) by virtue of their abrasive or mechanical actions are not objectionable.
- 2) Foods bearing dental related claims for plaque or tartar reduction or prevention, or control of bad breath odor, may be misbranded. However, if these claims are made only with respect to the products’ abrasive action or masking flavor, enforcement would be a low priority.
- 3) Foods bearing expressed or implied drug claims to prevent or treat dental diseases (e.g., gingivitis, gum problems, tooth loss) are not permissible unless they are the subject of approved New Animal Drug Applications.
- 4) Food ingredients that are not GRAS (generally recognized as safe) for the intended purpose of affecting the teeth or gums may be unapproved food additives or unapproved drugs, depending on the nature of the claim.
- 5) Foods bearing claims for plaque or tartar reduction, prevention, or control of bad breath odor that achieve their effect, in part or in total, by means other than mechanical action or masking flavor must have an approved New Animal Drug Application or a letter of favorable review from the FDA prior to being marketed.
- 6) The labels of foods bearing dental related claims must state the method(s) or mechanism(s) by which the intended effects are achieved, such as, but not limited to: with ridges to help scrape teeth, coated with a unique ingredient to help prevent tartar buildup, with peppermint to help freshen breath.

**IDAPA 02 – DEPARTMENT OF AGRICULTURE**  
**02.06.12 – RULES PERTAINING TO THE IDAHO FERTILIZER LAW**  
**DOCKET NO. 02-0612-1701**  
**NOTICE OF RULEMAKING – PROPOSED RULE**

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

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 20, 2017.

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

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

To incorporate by reference information and updates contained in the 2018 Official Publication of the Association of American Plant Food Control Officials (AAPFCO) as they pertain to the methodology and practice of conducting regulatory fertilizer registration and label review.

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

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

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

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

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

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

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

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be delivered on or before September 27, 2017.

DATED this 1st day of August, 2017.

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

**THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 02-0612-1701**  
**(Only Those Sections With Amendments Are Shown.)**

**004. INCORPORATION BY REFERENCE.**

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

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

The Terms, Ingredient Definitions, and Policies, as published in the “2017~~8~~ Official Publication” of AAPFCO where those terms and ingredient definitions, and policy statements do not conflict with terms and ingredient definitions, and policy statements adopted under Title 22, Chapter 6, Idaho Code, and any rule promulgated thereunder. The AAPFCO Official Publication is a copyrighted publication and not available in electronic format. A copy may be purchased online from the AAPFCO website at: [http://www.aapfco.org/pdf/order\\_form\\_70.pdf](http://www.aapfco.org/pdf/order_form_70.pdf). (~~3-29-17~~)(    )

**02. The Merck Index.** The “2006 Merck Index,” 14th Edition as published by Merck Research

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

**03. The Association of Official Agricultural Chemists (AOAC) International.** The “2005 Official

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



# Overview of Incorporations by Reference for IDAPA

## 02.06.12–Rules Pertaining to the Idaho Fertilizer Law

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Submitted to LSO 01/05/2018

### INCORPORATION BY REFERENCE SYNOPSIS

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

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

*Idaho State Department of Agriculture  
IDAPA 02.06.12 - Rules Pertaining to the Idaho Fertilizer Law  
Proposed Rulemaking - Docket No. 02-0612-1701*

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

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

*01. The Association of American Plant Food Control Officials (AAPFCO) Official Publication. The Terms, Ingredient Definitions, and Policies, as published in the “2017 Official Publication” of AAPFCO where those terms and ingredient definitions, and policy statements do not conflict with terms and ingredient definitions, and policy statements adopted under Title 22, Chapter 6, Idaho Code, and any rule promulgated thereunder. The AAPFCO Official Publication is a copyrighted publication and not available in electronic format. A copy may be purchased online from the AAPFCO website at: [http://www.aapfco.org/pdf/order\\_form\\_69.pdf](http://www.aapfco.org/pdf/order_form_69.pdf). (3-25-16)*

The following changes will be made to the 2018 AAPFCO official publication incorporated by reference.

#### Moved to Official

**T-93 Soluble Silicon** – is that portion of the silicon contained in non-liquid fertilizer materials and/or beneficial compounds that is soluble in a mixture of 0.094 Molar Sodium Carbonate and

0.20 Molar Ammonium Nitrate and determined by a validated or approved method. It is expressed as percent Soluble Silicon (Si).

**Aquaculture By-product** - A solid material, primarily organic matter, produced by cultivating aquatic animals and plants. It can be beneficially recycled for its soil amending characteristics.

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

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

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

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

**Fe-26 Iron HBED** – is an iron (III) chelate of bis(2-hydroxybenzyl)ethylenediamine diacetic acid, and is commonly expressed as FeHBED. (OP 70, pg 315)

**T-106 Polyhalite** – The naturally occurring mineral from sedimentary marine evaporates, which is a hydrated sulfate of potassium (K), calcium (Ca) and magnesium (Mg) having the formula  $K_2Ca_2Mg(SO_4)_4 \cdot 2(H_2O)$ .

Containing not less than thirteen percent (13%) soluble potash ( $K_2O$ ), three percent (3%) Magnesium (Mg), eleven percent (11%) Calcium (Ca) and eighteen percent (18%) Sulfur (S). (OP 70, pg 315)

**N-11 Bat Guano** - is partially decomposed bat excrement. Bat guano has an organic matter content greater than 40%, is a source of nitrogen, and may contain up to 6% available phosphate ( $P_2O_5$ ). (OP 70, pg 84, 113, 315)

**IDAPA 02 – DEPARTMENT OF AGRICULTURE**  
**02.06.21 – RULES FOR VOLUNTARY PUBLIC SERVICES OF**  
**THE IDAHO DEPARTMENT OF AGRICULTURE LABORATORIES**  
**DOCKET NO. 02-0621-1701 (CHAPTER REPEAL)**  
**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 22-604, 22-2006, 22-2204, and 25-2710, Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 20, 2017.

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

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

Historically the Feed and Fertilizer (F&F) Laboratory's primary function (>90%) has been regulatory/enforcement testing. However, it occasionally accepts public service samples on a fee basis. Since January 2014, the lab had 28 customers totaling \$18,114.18 of business. Of that amount, 84% or \$15,223.35 came from two other State Agencies from Oregon and Michigan that use the ISDA F&F Lab because of its extremely low prices. The primary mission of the F&F Lab is to provide enforcement testing services in an accurate and timely manner. These public service samples, for the most part, do not even benefit Idaho residents and tie up valuable lab space and time. Therefore, the ISDA has halted voluntary service sample testing as of January 1st, 2017.

The ISDA is repealing the rule for voluntary public services.

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

**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: No fiscal impact is expected.

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the July 5, 2017 Idaho Administrative Bulletin, [Volume 17-7, page 27](#).

**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: N/A

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Dan Salmi at (208) 332-8526 or [Daniel.salmi@isda.idaho.gov](mailto:Daniel.salmi@isda.idaho.gov). Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 27, 2017.

DATED this 1st day of August, 2017.

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

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

**IDAPA 02.06.21 IS BEING REPEALED IN ITS ENTIRETY**

## IDAPA 02 – DEPARTMENT OF AGRICULTURE

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

DOCKET NO. 02-0641-1701

#### NOTICE OF RULEMAKING – PROPOSED RULE

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

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 20, 2017.

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

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

To incorporate by reference information and updates contained in the 2018 Official Publication of the Association of American Plant Food Control Officials (AAPFCO) as they pertain to the methodology and practice of conducting regulatory soil and plant amendment registration and label review.

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

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

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

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

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

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

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Jared Stuart Agriculture Section Manager at (208) 332-8622 or [jared.stuart@isda.idaho.gov](mailto:jared.stuart@isda.idaho.gov). Anyone may submit written comments regarding this proposed rulemaking. All written comments must be delivered on or before September 27, 2017.

DATED this 1st day of August, 2017.

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

**THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 02-0641-1701**  
**(Only Those Sections With Amendments Are Shown.)**

**004. INCORPORATION BY REFERENCE.**

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

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

The terms, ingredient definitions and policies as published in the “2017~~8~~ Official Publication” of AAPFCO where those terms and ingredient definitions, and policy statements do not conflict with terms and ingredient definitions, and policy statements adopted under Title 22, Chapter 22, Idaho Code, and any rule promulgated thereunder. The AAPFCO Official Publication is a copyrighted publication and not available in electronic format. A copy may be purchased online from the AAPFCO website at: [http://www.aapfco.org/pdf/order\\_form\\_70.pdf](http://www.aapfco.org/pdf/order_form_70.pdf). (~~3-29-17~~)(    )

**02. The Merck Index.**

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

**03. The Association of Official Agricultural Chemists (AOAC) International.**

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

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

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Submitted to LSO 01/05/2018

## INCORPORATION BY REFERENCE SYNOPSIS

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

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

*Idaho State Department of Agriculture  
IDAPA 02.06.41 - Rules Pertaining to the Idaho Soil and Plant Amendment Act of 2001  
Proposed Rulemaking - Docket No. 02-0641-1701*

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

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

*01. The Association of American Plant Food Control Officials (AAPFCO) Official Publication. The terms, ingredient definitions and policies as published in the “2017 Official Publication” of AAPFCO where those terms and ingredient definitions, and policy statements do not conflict with terms and ingredient definitions, and policy statements adopted under Title 22, Chapter 22, Idaho Code, and any rule promulgated thereunder. The AAPFCO Official Publication is a copyrighted publication and not available in electronic format. A copy may be purchased online from the AAPFCO website at: [http://www.aapfco.org/pdf/order\\_form\\_69.pdf](http://www.aapfco.org/pdf/order_form_69.pdf). (3-25-16)*

The following changes will be made to the 2018 AAPFCO official publication incorporated by reference.

Moved to Official

**T-93 Soluble Silicon** – is that portion of the silicon contained in non-liquid fertilizer materials and/or beneficial compounds that is soluble in a mixture of 0.094 Molar Sodium Carbonate and 0.20 Molar Ammonium Nitrate and determined by a validated or approved method. It is expressed as percent Soluble Silicon (Si).

**Aquaculture By-product** - A solid material, primarily organic matter, produced by cultivating aquatic animals and plants. It can be beneficially recycled for its soil amending characteristics.

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

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

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

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

**Fe-26 Iron HBED** – is an iron (III) chelate of bis(2-hydroxybenzyl)ethylenediamine diacetic acid, and is commonly expressed as FeHBED. (OP 70, pg 315)

**T-106 Polyhalite** – The naturally occurring mineral from sedimentary marine evaporates, which is a hydrated sulfate of potassium (K), calcium (Ca) and magnesium (Mg) having the formula  $K_2Ca_2Mg(SO_4)_4 \cdot 2(H_2O)$ .

Containing not less than thirteen percent (13%) soluble potash ( $K_2O$ ), three percent (3%) Magnesium (Mg), eleven percent (11%) Calcium (Ca) and eighteen percent (18%) Sulfur (S). (OP 70, pg 315)

**N-11 Bat Guano** - is partially decomposed bat excrement. Bat guano has an organic matter content greater than 40%, is a source of nitrogen, and may contain up to 6% available phosphate ( $P_2O_5$ ). (OP 70, pg 84, 113, 315)