

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
Idaho State Department of Agriculture:

IDAPA 02.06.12 - Rules Pertaining to the Idaho Fertilizer Law - Proposed Rule (Docket No.
02-0612-1801).

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 09/24/2018. 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 10/23/2018.

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 06, 2018

SUBJECT: Idaho State Department of Agriculture

IDAPA 02.06.12 - Rules Pertaining to the Idaho Fertilizer Law - Proposed Rule (Docket No. 02-0612-1801)

Summary and Stated Reasons for the Rule

The Idaho State Department of Agriculture submits notice of proposed rule at IDAPA 02.06.12 - Rules Pertaining to the Idaho Fertilizer Law. According to the department, the purpose of the rule is to incorporate by reference the 2019 edition of the 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 includes a synopsis of the materials incorporated by reference and states that the Association of American Plant Food Control Officials Official Publication and the Official Methods of Analysis published by the Association of Official Agricultural Chemists 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.

Negotiated Rulemaking / Fiscal Impact

The department notes that negotiated rulemaking was not conducted due to the simple nature of the proposed change. The department states that no fiscal impact is anticipated.

Statutory Authority

The rulemaking appears to be authorized pursuant to Section 22-604, Idaho Code.

cc: Department of Agriculture
Brian J. Oakey

*** PLEASE NOTE ***

Kristin Ford, Manager
Research & Legislation

Paul Headlee, Manager
Budget & Policy Analysis

April Renfro, Manager
Legislative Audits

Glenn Harris, Manager
Information Technology

Per the Idaho Constitution, all administrative rules must 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
02.06.12 – RULES PERTAINING TO THE IDAHO FERTILIZER LAW
DOCKET NO. 02-0612-1801
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 19, 2018.

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 2019 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.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be delivered on or before September 26, 2018.

Dated this 2nd day of August, 2018.

Brian Oakey, Deputy Director
Idaho Department of Agriculture
2270 Old Penitentiary Road
P.O. Box 790
Boise, Idaho 83701
Phone: (208) 332-8550
Fax: (208) 334-2710

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 02-0612-1801
(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 “2018⁹ 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: www.aapfco.org. (3-28-18)()

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. 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

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. 02-0612-1801*

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 “2018 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. (3-28-18)

The following changes will be made to the 2019 AAPFCO official publication incorporated by reference.

Items moved to “Official” that will appear in the 2019 AAPFCO OP (Edition #72)

Move to Official

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

Motion from Committee to official (OP 70, pg 78,108; OP 71, pg 78, 109)

T-34 - Compost - is the product manufactured through the controlled aerobic, biological decomposition of biodegradable materials. The product has undergone mesophilic and thermophilic temperatures, which significantly reduces the viability of pathogens and weed seeds, and stabilizes the carbon, such that it is beneficial to plant growth. Compost is typically used as a soil amendment, but may also contribute plant nutrients.

Motion from Committee to official (OP 70, pg 77, 106; OP 71, pg 77, 107)

Ca-26 Calcium Glucoheptonate – is a complex of glucoheptonic acid and is commonly expressed as Ca Glucoheptonate

Motion from Committee to official (OP 70, pg 315; OP 71, pg 125, 178)

T-107 - DMPSA - Nitrification Inhibitor consisting of an Isomeric mixture of 2-(3,4-dimethyl-1H-pyrazol-1-yl) succinic acid and 2-(4,5-dimethyl-1H-pyrazol-1-yl) succinic acid.

Motion from Committee to official (OP 70, pg 316; OP 71, pg 78, 113)

Uniform Bills

Move to Official

Section 4. Definitions of Words and Terms (Official 2003) (pg38) When used in this Act:

(x) Derivation means the source from which the guaranteed nutrients are derived abbreviations, brand names, trademarks and trade names may not appear in the derivation statement. (OP 70, pg 38; OP 71, pg 38)

Section 6. Labels (Official 2003) (OP 70, pg 40, OP 71, pg 40)

(6) Derivation Statement

“Substitutions can be made in the “Caution” or “Warning” Statements for nutrient hazards, Acceptable substitutions would include “Attention”, “Notice” or any other term or phrase deemed appropriate by the department and not in conflict with any other Federal or State label laws. (OP 71, pg 46)

“The sub-guarantee for complex nutrients shall be guaranteed as percent water soluble guarantee.”

(OP 71, pg 51) “Use heading for Beneficial Substance: Guarantee Soluble Silicon” (OP 71, pg 47)

Items moved to “Official” and “Deleted” that will appear in the 2019 AAPFCO OP (Edition #72):

1 Move to Official

T-71 Slow Release Fertilizers - fertilizers in a form that release, or convert to a plant-

available form, plant nutrients at a slower rate relative to an appropriate reference soluble product. Motion Carried

T-103 Controlled Release Fertilizers - a Slow Release Fertilizer that is engineered to provide nutrients over time at a predictable rate under specified conditions.

N-62* Feather Meal – A product from poultry processing, consisting of ground and processed (hydrolyzation, pressure, heat and/or other methods that aid in nutrient availability and provides pathogen reduction) bird feathers.

Ca-22 Calcium EAHP – is the chelate of any soluble calcium salt and Ethanol, 2-amino-2-hydroxy-1,2,3-propanetricarboxylate.

Mg-3 Magnesium EAHP – is the chelate of any soluble magnesium salt and Ethanol, 2-amino-2-hydroxy-1,2,3-propanetricarboxylate.

Co-1 Cobalt EAHP – is the chelate of any soluble cobalt salt and Ethanol, 2-amino-2-hydroxy-1,2,3-propanetricarboxylate.

Cu-20 Copper EAHP – is the chelate of any soluble copper salt and Ethanol, 2-amino-2-hydroxy-1,2,3-propanetricarboxylate.

Fe-23 Iron EAHP – is the chelate of any soluble iron salt and Ethanol, 2-amino-2-hydroxy-1,2,3-propanetricarboxylate.

Mn-18 Manganese EAHP – is the chelate of any soluble manganese salt and Ethanol, 2-amino-2-hydroxy-1,2,3-propanetricarboxylate.

Zn-21 Zinc EAHP – is the chelate of any soluble zinc salt and Ethanol, 2-amino-2-hydroxy-1,2,3-propanetricarboxylate.

Mg-7 Magnesium Amino Acid Complex – is a complex of magnesium (II) with an amino acid product and is commonly expressed as the Mg amino acid salt, e.g., magnesium glycinate.

Ca-27 Calcium Amino Acid Complex – is a complex of calcium (II) with an amino acid product and is commonly expressed as the Ca amino acid salt, e.g., calcium glycinate.

Cu-13 Copper Amino Acid Complex – is a complex of copper (II) with an amino acid product and is commonly expressed as the Cu amino acid salt, e.g., copper glycinate.

Fe-15 Iron Amino Acid Complex – is a complex of iron (II) with an amino acid product and is commonly expressed as the Fe amino acid salt, e.g., iron glycinate.

Mn-12 Manganese Amino Acid Complex – is a complex of manganese (II) with an amino acid product and is commonly expressed as the Mn amino acid salt, e.g., manganese glycinate.

Zn-15 Zinc Amino Acid Complex – is a complex of zinc (II) with an amino acid product and is commonly expressed as the Zn amino acid salt, e.g., zinc glycinate.

2 Move to Tentative from Official

T-100 Humic Substances – the major organic constituents of soil organic matter and the aquatic environment, consisting of complex heterogeneous mixtures of carbon-based substances formed by biochemical reactions during the decay and transformation of plant and microbial remains. They are primarily composed of three main fractions, called humic acids, fulvic acids, and humin, which are operationally defined by their solubility in dilute alkali and acid solutions. Sources High concentrations of humic substances are

commercially harvested from terrestrial deposits ~~of which include, but are not limited to,~~ Leonardite, oxidized lignite, oxidized sub-bituminous coals, humalite, carbonaceous shales (including humic shale), peat, and sapropel.

Cu-15 – Copper Lignosulfonate Is a ~~n-organic~~ complex of the copper (II) salt of lignosulfonic acid. (Official 2000) Membership vote from official to tentative to make change above

Fe-17 – Iron Lignosulfonate Is a ~~n-organic~~ complex of the iron (II) salt of lignosulfonic acid. (Official 2000) Membership vote from official to tentative to make change above

Mn-14 – Manganese Lignosulfonate Is a ~~n-organic~~ complex of the manganese (II) salt of lignosulfonic acid. (Official 2000) Membership vote from official to tentative to make change above

Zn-17 – Zinc Lignosulfonate Is a ~~n-organic~~ complex of the zinc (II) salt of lignosulfonic acid. (Official 2000) Membership vote from official to tentative to make change above

3 Uniform Bills

4 Move to Official

3. Product Claims OP 71, page 55)

“g. Supplies beneficial microorganisms to soils and growing media:
(only for products providing minimum microbe content guarantees)”

Move to Delete

T-29 Slow or Controlled Release Fertilizer- A fertilizer containing a plant nutrient in a form which delays its availability for plant uptake and use after application, or which extends its availability to the plant significantly longer than a reference “rapidly available nutrient fertilizer” such as ammonium nitrate or urea, ammonium phosphate or potassium chloride. Such delay of initial availability or extended time of continued availability may occur by a variety of mechanisms. These include controlled water solubility of the material (by semi-permeable coatings, occlusion, or by inherent water insolubility of polymers, natural nitrogenous organics, protein materials, or other chemical forms), by slow hydrolysis of water soluble low molecular weight compounds, or by other unknown means.

T-33 Composting -The biological decomposition of organic matter. It is accomplished by mixing and piling in such a way to promote aerobic and/or anaerobic decay. The process inhibits pathogens, viable weed seeds, and odors. (Official 1997)