

IDAPA 02 – DEPARTMENT OF AGRICULTURE

02.04.06 – REQUIREMENTS FOR LICENSED DAIRY PLANTS

DOCKET NO. XX-XXXX-XXXX (OARC will assign)

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(s) 37-516, 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 June 18, 2014.

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: The rule is being proposed to reflect and be consistent with the statute change (Senate Bill No. 1338) which was passed during the 2014 Legislature and signed by Governor C. L. “Butch” Otter on April 3, 2014 effective July 1, 2014. Specifically the legal authority will change from Chapter 4 to Chapter 5, Title 37, Idaho Code, the title of the rule has changed, and the incorporation by reference is being updated from the 2002 version to 2011.

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 the proposed rule is merely incorporating the statute changes to ensure the rule coincides with these changes.

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 materials incorporated by reference will be updated to the current version of Subpart E Requirements for Licensed Dairy Plants of the Milk for Manufacturing Purposes and its Production and Processing, Recommended Requirements published on July 21, 2011 by United States Department of Agriculture, Agricultural Marketing Service, Dairy Programs. The current rule references the 2002 version. Since 2002, the document was revised in 2005 and 2011. The document is published nationally and receives industry comments prior to final publication. Comparing the 2002 and the 2011 versions the following have been changed:

1) If the last three (3) out of five (5) consecutive commingled milk bacterial estimates exceed 1 million per milliliter, the plant license shall be suspended, whereas in the 2002 version reads a penalty sanctioned by the state regulatory agency shall be imposed on the plant until an additional sample of commingled milk is tested and found satisfactory. Note: Since 2002, there has not been a dairy plant that has had a three (3) out of five (5) exceedances.

2) The definition of heat treated cream (section E 1.9) has been simplified in the 2011 version, and

3) Rooms and Compartments for Cottage Cheese (section E 5.1 and corresponding subsections) was removed because it was in conflict with the Pasteurized Milk Ordinance and cottage cheese is a Grade A product which is subject to the requirements of the Pasteurized Milk Ordinance.

These three changes will not affect how ISDA will license or inspect dairy plants.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact John Bilderback at 208-332-8541 or john.bilderback@agri.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 June 25, 2014.

DATED this ____ day of May, 2014.

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