

IDAPA 02 – DEPARTMENT OF AGRICULTURE

02.02.02 THROUGH 02.06.41

CONSOLIDATION AND REORGANIZATION OF CHAPTERS UNDER THE DIRECTION OF ISDA

DOCKET NO. 02-0100-19010M

NOTICE OF INTENT TO PROMULGATE RULES – OMNIBUS NEGOTIATED RULEMAKING

AUTHORITY: In compliance with Sections 67-5220(1) and 67-5220(2), Idaho Code, notice is hereby given that this agency intends to promulgate rules and desires public comment prior to initiating formal rulemaking procedures. This negotiated rulemaking action is authorized pursuant to Sections 22-101(3), 22-103(20), 22-108, 22-110, 22-112, 22-418(4), 22-418(11), 22-505, 22-604, 22-702, 22-802, 22-803, 22-901, 22-911, 22-1907, 22-2006, 22-2013, 22-2204, 22-2303(5), 22-2403, 22-2412, 22-2503, 22-2511, 25-2710, 22-4903, 25-203, 25-207A(1), 25-212, 25-305, 25-601, 25-1723(b), 25-3206, 25-3802, 25-4012(2), 37-303, 37-401(1), 37-405, 37-603(1), 37-516, and 67-6529F, Idaho Code.

MEETING SCHEDULE: Public meetings on the negotiated rulemaking will be held as follows:

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

METHOD OF PARTICIPATION: Persons wishing to participate in the negotiated rulemaking must do the following: Participation in-person is available or by written comment consistent with instructions at the end of this notice.

PUBLIC MEETINGS

**Monday September 16, 2019 –
9:00 a.m. to 10:30 a.m. & 1:00 p.m. to 3:00 p.m.**

Wednesday, September 18, 2019 – 9:00 a.m. to Noon (MDT)

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

Teleconferencing available upon request

Upon conclusion of the negotiated rulemaking, any unresolved issues, all key issues considered, and conclusions reached during the negotiated rulemaking will be addressed in a written summary. The summary will be made available to interested persons who contact the agency or, if the agency chooses, the summary may be posted on the agency website.

DESCRIPTIVE SUMMARY AND STATEMENT OF PURPOSE: The following is a statement in nontechnical language of the substance and purpose of the intended negotiated rulemaking and the principal issues involved:

The Idaho State Department of Agriculture (ISDA) previously proposed particular rules be promulgated as separate chapters in the Idaho administrative code. In an effort from ISDA and also in alignment with the Governor's [Red Tape Reduction Act](#), ISDA has decided to consolidate and combine like-minded rule chapters to simplify and streamline the rulemaking process and assist the regulated community. The following is a list of statements in nontechnical language of the substance and purpose of the intended negotiated meeting, as well as the date and time of the discussion on this combination rule:

Monday, September 16, 2019 – 9:00 a.m.

02.02.02 – Department of Agriculture Controlled Atmosphere Storage Rules

02.02.04 – Idaho Standards for Grades of Apples

Two rules administered by the ISDA are related to the grading standards and storage of apples in Idaho. These rules are IDAPA 02.02.02, "Department of Agriculture Controlled Atmosphere Storage Rules" and IDAPA 02.02.04, "Idaho Standards for Grades of Apples." These rules were promulgated to carry out requirements described in Title 22, Chapters 7 and 8, Idaho Code. In order to streamline and simplify rules related to apples, the ISDA has decided to combine the two rules into a single rule. The new rule will be titled "**02.02.02, Rules Governing Grading and Controlled Atmosphere Storage of Apples.**" No substantive changes are being made to the two rules cited above.

Monday, September 16, 2019 – 9:30 a.m.

02.02.05 – Prune Standards

02.02.06 – Idaho Standards for Grades of Sweet Cherries

02.02.10 – Idaho Standards for Apricots

Three rules administered by the ISDA are related to the state inspection and grading standards for prunes, sweet cherries and apricots, commonly known as stone fruits. These rules are IDAPA 02.02.05, “Prune Standards,” IDAPA 02.02.06, “Idaho Standards for Grades of Sweet Cherries,” and IDAPA 02.02.10, “Idaho Standards for Apricots.” These rules were promulgated to carry out requirements described in Title 22, Chapters 7 and 8, Idaho Code. Inspection and grading standards for stone fruits are similar in defect descriptions and grading tolerances and ISDA has decided to combine all three rules into a single rule to streamline and simplify them. The rule will be titled “**02.02.05, Rules Governing Grading of Stone Fruit.**” No substantive changes are being made to the three rules cited above.

Monday, September 16, 2019 – 10:00 a.m.

02.02.07 – Bulk Permit Procedure

02.02.09 – Rules Requiring the Inspection of Potatoes Intended for Sale or Offered for Sale in Retail Outlets

Two rules administered by ISDA are related to the retail sale inspection and bulk permitting of potatoes in Idaho. These rules are IDAPA 02.02.07, “Bulk Permit Procedure,” and IDAPA 02.02.09, “Rules Requiring the Inspection of Potatoes Intended for Sale or Offered for Sale in Retail Outlets.” These rules were promulgated to carry out requirements described in Title 22, Chapters 9 and 20, Idaho Code. In order to streamline and simplify rules related to retail sale inspection and bulk permitting requirements for potatoes, the ISDA has decided to combine the two rules into a single rule to be titled “**02.02.07, Rules Governing Bulk Permits and Retail Sale of Potatoes.**” No substantive changes are being made to the two rules cited above.

Monday, September 16, 2019 – 1:00 p.m.

02.04.05 – Rules Governing Manufacture Grade Milk

02.04.06 – Rules Governing Licensed Dairy Plants

02.04.08 – Rules Governing Grade A Milk and Milk Products

02.04.09 – Rules Governing Milk and Cream Procurement and Testing

Four rules administered by the ISDA are related to the inspection, production, processing, analysis and transport of Grade A and Manufacture Grade Milk and Milk Products. These rules are IDAPA 02.04.05, “Rules Governing Manufacture Grade Milk,” IDAPA 02.04.06, “Rules Governing Licensed Dairy Plants,” IDAPA 02.04.08, “Rules Governing Grade A Milk and Milk Products,” and IDAPA 02.04.09, “Rules Governing Milk and Cream Procurement and Testing.” Each of these rules addresses regulations pertaining to different variations of milk production. In order to streamline and simplify all rules related to milk production, the ISDA is proposing to combine all four rules into a single rule to be titled “**02.04.05, Rules Governing Grade A and Manufacture Grade Milk.**” No substantive changes are being made to the four rules cited above.

Monday, September 16, 2019 – 1:30 p.m.

02.04.16 – Rules Governing Agriculture Odor Management

02.04.18 – Rules Governing CAFO Site Advisory Team

02.04.30 – Rules Governing Nutrient Management

02.04.31 – Rules Governing the Stockpiling of Agricultural Waste

Four rules administered by the ISDA are related to general environmental issues associated with agricultural and livestock facilities. These rules are IDAPA 02.04.16, “Rules Governing Agriculture Odor Management,” IDAPA 02.04.18, “Rules Governing CAFO Site Advisory Team,” IDAPA 02.04.30, “Rules Governing Nutrient Management,” and IDAPA 02.04.31, “Rules Governing Stockpiling of Agricultural Waste.” These rules address the inspection, regulation of odor, waste stockpiling, nutrient management, and CAFO site approval for regulated facilities and the various environmental factors associated with each. In order to streamline and simplify all rules related to general environmental regulations on agriculture and livestock facilities, the ISDA is proposing to combine all four rules into a single rule titled “**02.04.30, Rules Governing Environmental and Nutrient Management.**” No substantive changes are being made to the four rules cited above.

Monday, September 16, 2019 – 2:00 p.m.

02.04.26 – Rules Governing Livestock Marketing

02.04.28 – Rules Governing Livestock Dealers, Buying Stations, and Livestock Trader Lots

Two rules administered by the ISDA are related to the sale, trade, exchange, identification and movement of livestock

through public livestock markets, buying stations or trader lots. These rules are IDAPA 02.04.26, “Rules Governing Livestock Marketing,” and IDAPA 02.04.28, “Rules Governing Livestock Dealers, Buying Stations, and Livestock Trader Lots.” Each of these rules addresses regulations pertaining to how livestock must be properly identified, quarantined and have their movement documented when being bought, sold or exchanged. In order to streamline and simplify all rules related to disease prevention, disease surveillance and reporting, the ISDA is proposing to combine all three rules into a single rule to be titled “**02.04.26, Rules Governing the Public Exchange of Livestock.**” No substantive changes are being made to the two rules cited above.

Monday, September 16, 2019 – 2:30 p.m.

02.04.03 – Rules Governing Animal Industry

02.04.22 – Rules Governing Animal Health Emergencies

Two rules administered by the ISDA are related to general health, disease surveillance and disease prevention requirements for domestic animals and livestock. These rules are IDAPA 02.04.03, “Rules Governing Animal Industry,” and IDAPA 02.04.22, “Rules Governing Animal Health Emergencies.” Each of these rules addresses regulations pertaining to various disease prevention, mitigation, testing and reporting requirements for domestic animals. In order to streamline and simplify all rules related to disease prevention, disease surveillance and reporting, the ISDA is proposing to combine these two rules into a single rule to be titled “**02.04.03, Rules Governing Animal Industry.**” No substantive changes are being made to the two rules cited above.

Wednesday, September 18, 2019 – 9:00 a.m.

02.06.04 – Phytosanitary and Post-Entry Certification Rules

02.06.34 – Rules Concerning Virus-Free Certification of Nursery Stock

02.06.40 – Rules Governing Ginseng Export

Three rules administered by the ISDA are related to plant exports. These rules are IDAPA 02.06.34, “Rules Concerning Virus-Free Certification of Nursery Stock,” IDAPA 02.06.40, “Rules Governing Ginseng Export,” and IDAPA 02.06.04, “Phytosanitary and Post-Entry Seed Certification Rules.” These rules were promulgated to carry out requirements described in Title 22, Chapters 1, 7, and 23. In order to streamline and simplify rules related to plant exports, the ISDA has decided to combine all three rules into a single rule to be titled “**02.06.04, Rules Governing Plant Exports.**” No substantive changes are being made to the three rules cited above.

Wednesday, September 18, 2019 – 9:30 a.m.

02.06.09 – Rules Governing Invasive Species

02.06.22 – Noxious Weed Rules

02.06.31 – Noxious Weed Free Forage and Straw Certification Rules

Three rules administered by the ISDA are related to the regulation of noxious weeds and invasive species, so as to prevent the spread of such species and their impacts on natural resources and crops. These rules are IDAPA 02.06.09, “Rules Governing Invasive Species,” IDAPA 02.06.22, “Noxious Weeds Rules,” and IDAPA 02.06.31, “Noxious Weed Free Forage and Straw Certification Rules.” These rules were promulgated to carry out requirements described in Title 22, Chapters 19, 20, and 24, Idaho Code. In order to streamline and simplify rules related to noxious weeds and invasive species, the ISDA has decided to combine all three rules into a single rule to be titled “**02.06.09, Rules Governing Invasive Species and Noxious Weeds.**” No substantive changes are being made to the three rules cited above.

Wednesday, September 18, 2019 – 10:00 am

02.06.02 – Rules Pertaining to the Idaho Commercial Feed Law

02.06.03 – Rules Pertaining to the Idaho Nurseries and Florists Law

02.06.12 – Rules Pertaining to the Idaho Fertilizer Law

02.06.30 – Rules Under the Idaho Bee Inspection Law

02.06.41 – Rules Pertaining to the Soil and Plant Amendment Act

Five rules administered by the ISDA either require a license or registration of certain agricultural activities or agricultural products. These rules are IDAPA 02.06.03, “Rules Pertaining to the Idaho Nurseries and Florists Law,” IDAPA 02.06.30, “Rules Under the Idaho Bee Inspection Law,” IDAPA 02.06.02, “Rules Pertaining to the Idaho Commercial Feed Law,” IDAPA 02.06.12, “Rules Pertaining to the Idaho Fertilizer Law,” and IDAPA 02.06.41, “Rules Pertaining to the Soil and Plant Amendment Act.” The rules were promulgated to carry out the requirements described in Title 22, Chapters 6, 22, 23, and 25; and Title 25, Chapter 27, Idaho Code. In order to streamline and simplify rules related to licenses and registration, the ISDA has decided to combine all five rules into a single rule to be titled “**02.06.02, Rules Governing Registrations and Licenses.**” No substantive changes are being made to the five rules cited above.

Wednesday, September 18, 2019 – 10:30 a.m.

02.06.10 – Rules Governing the Pale Cyst Nematode

02.06.26 – Rules Concerning Seed Potato Crop Management Areas

02.06.27 – Rules Governing Bacterial Ring Rot

02.06.39 – Rules Governing Minimum Standards for Planting Seed Potatoes

Four rules administered by the ISDA are related to the regulation of the planting and growing of potatoes, so as to prevent the spread of pests and disease of potatoes and their impacts on potato production. These rules are IDAPA 02.06.10, “Rules Governing the Pale Cyst Nematode; IDAPA 02.06.26, “Rules Concerning Seed Potato Crop Management Areas,” IDAPA 02.06.27, “Rules Governing Bacterial Ring Rot,” and IDAPA 02.06.39, “Rules Governing Minimum Standards for Planting Uncertified Seed Potatoes in Idaho.” The rules were promulgated to carry out the requirements described in Title 22, Chapters 1, 5, and 20, Idaho Code. In order to streamline and simplify rules related to potato production, the ISDA has decided to combine all four rules into a single rule to be titled **“02.06.10, Rules Governing the Growing of Potatoes.”** No substantive changes are being made to the four rules cited above.

Wednesday, September 18, 2019 – 11:00 a.m.

02.06.05 – Rules Governing Diseases of Hops

02.06.07 – Rules Governing White Rot Disease of Onion

02.06.08 – Quarantine Rules Pertaining to Apples and Cherries

02.06.11 – Rules Governing European Corn Borer

02.06.15 – Rules Governing Peach Tree Diseases

02.06.17 – Rules Governing the Disposal of Cull Onions and Potatoes

02.06.18 – Rules Governing Mint Rootstock and Clone Production

02.06.20 – Rules Governing Grape Planting Stock

02.06.24 – Rules Governing the Japanese Beetle

02.06.32 – Rules Concerning the Anthracnose Disease of Lentil

02.06.38 – Rules Governing Plum Curculio

Eleven rules administered by the ISDA are related to the regulation and quarantine of certain crops to prevent the spread of plant disease and pests. These rules are IDAPA 02.06.05, “Rules Governing Diseases of Hops, IDAPA 02.06.11 (Rules Governing European Corn Borer), IDAPA 02.06.15 (Rules Governing Peach Tree Diseases),” IDAPA 02.06.18, “Rules Governing Mint Rootstock and Clone Production,” IDAPA 02.06.20, “Rules Governing Grape Planting Stock,” IDAPA 02.06.24, “Rules Governing the Japanese Beetle,” IDAPA 02.06.32, “Rules Concerning the Anthracnose Disease of Lentil,” IDAPA 02.06.38, “Rules Governing Plum Curculio,” IDAPA 02.06.08, “Quarantine Rules Pertaining to Apples and Cherries,” IDAPA 02.06.07, “Rules Governing White Rot Disease of Onion,” and IDAPA 02.06.17, “Rules Governing the Disposal of Cull Onion and Potatoes.” These rules put in place a number of restrictions, as requested by the regulated industry, to ensure that quarantine and disease free areas within and outside the state of Idaho are maintained and protected. These rules were promulgated to carry out requirements described in Title 22, Chapters 19, 20 and 38, Idaho Code. In order to streamline and simplify rules related to plant disease and quarantines, the ISDA is proposing to combine all eleven rules into a single rule to be titled **“02.06.05, Rules Governing Plant Disease and Quarantines.”** No substantive changes are being made to the eleven rules cited above.

Wednesday, September 18, 2019 – 11:30 a.m.

02.06.01 – Rules Governing the Pure Seed Law

02.06.13 – Rules Relating to Rapeseed Production and Rapeseed Districts

02.06.14 - Rules Governing Bluegrass

Three rules administered by the ISDA are related to the regulation of seed production. These rules are IDAPA 02.06.01, “Rules Governing the Pure Seed Law,” and IDAPA 02.06.13, “Rules Relating to Rapeseed Production and Establishment of Rapeseed Districts in the State of Idaho,” and IDAPA 02.06.14, “Rules Governing Bluegrass.” The rules were promulgated to carry out the requirements described in Title 22, Chapters 1, 4, and 20, Idaho Code. In order to streamline and simplify rules related to seed production, the ISDA has decided to combine all three rules into a single rule to be titled **“02.06.01, Rules Governing the Production and Distribution of Seed.”** No substantive change are being made to the two rules cited above.

The following rule chapters are germane to this negotiated rulemaking:

02.02.02 – Department of Agriculture Controlled Atmosphere Storage Rules

02.02.04 – Idaho Standards for Grades of Apples

02.02.05 – Prune Standards

- 02.02.06 – Idaho Standards for Grades of Sweet Cherries
- 02.02.07 – Bulk Permit Procedure
- 02.02.09 – Rules Requiring the Inspection of Potatoes Intended for Sale or Offered for Sale in Retail Outlets
- 02.02.10 – Idaho Standards for Apricots
- 02.04.03 – Rules Governing Animal Industry
- 02.04.05 – Rules Governing Manufacture Grade Milk
- 02.04.06 – Rules Governing Licensed Dairy Plants
- 02.04.08 – Rules Governing Grade A Milk and Milk Products
- 02.04.09 – Rules Governing Milk and Cream Procurement and Testing
- 02.04.16 – Rules Governing Agriculture Odor Management
- 02.04.18 – Rules Governing CAFO Site Advisory Team
- 02.04.22 – Rules Governing Animal Health Emergencies
- 02.04.26 – Rules Governing Livestock Marketing
- 02.04.28 – Rules Governing Livestock Dealers, Buying Stations, and Livestock Trader Lots
- 02.04.30 – Rules Governing Nutrient Management
- 02.04.31 – Rules Governing the Stockpiling of Agricultural Waste
- 02.06.01 – Rules Governing the Pure Seed Law
- 02.06.02 – Rules Pertaining to the Idaho Commercial Feed Law
- 02.06.03 – Rules Pertaining to the Idaho Nurseries and Florists Law
- 02.06.04 – Phytosanitary and Post-Entry Certification Rules
- 02.06.05 – Rules Governing Diseases of Hops
- 02.06.07 – Rules Governing White Rot Disease of Onion
- 02.06.08 – Quarantine Rules Pertaining to Apples and Cherries
- 02.06.09 – Rules Governing Invasive Species
- 02.06.10 – Rules Governing the Pale Cyst Nematode
- 02.06.11 – Rules Governing European Corn Borer
- 02.06.12 – Rules Pertaining to the Idaho Fertilizer Law
- 02.06.13 – Rules Relating to Rapeseed Production and Rapeseed Districts
- 02.06.15 – Rules Governing Peach Tree Diseases
- 02.06.17 – Rules Governing the Disposal of Cull Onions and Potatoes
- 02.06.18 – Rules Governing Mint Rootstock and Clone Production
- 02.06.20 – Rules Governing Grape Planting Stock
- 02.06.22 – Noxious Weed Rules
- 02.06.24 – Rules Governing the Japanese Beetle
- 02.06.26 – Rules Concerning Seed Potato Crop Management Areas
- 02.06.27 – Rules Governing Bacterial Ring Rot
- 02.06.30 – Rules Under the Idaho Bee Inspection Law
- 02.06.31 – Noxious Weed Free Forage and Straw Certification Rules
- 02.06.32 – Rules Concerning the Anthracnose Disease of Lentil
- 02.06.34 – Rules Concerning Virus-Free Certification of Nursery Stock
- 02.06.38 – Rules Governing Plum Curculio
- 02.06.39 – Rules Governing Minimum Standards for Planting Seed Potatoes
- 02.06.40 – Rules Governing Ginseng Export
- 02.06.41 – Rules Pertaining to the Soil and Plant Amendment Act

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS, OBTAINING DRAFT COPIES: For assistance on technical questions concerning this negotiated rulemaking or to obtain a preliminary draft copy of the rule text (if available), please contact Brian Oakey, at (208) 332-8500. Materials pertaining to the negotiated rulemaking, including any available preliminary rule drafts, can be found on the Idaho State Department of Agriculture’s website at the following web address: <https://agri.idaho.gov/rulemaking/>.

Anyone may submit written comments regarding this negotiated rulemaking. All written comments must be directed to the undersigned and must be delivered on or before Friday, September 20, 2019.

Dated this 26nd day of August, 2019.

Brian Oakey, Deputy Director
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