

***Idaho State Department of Agriculture  
02.04.04 Rules Governing Artificial Dairy Products  
March 14, 2022, 9:00 a.m.  
Lloyd Knight, Dr. Scott Leibsle, Chanel Tewalt, Hosts/Facilitators***

Present: Christie Hammons ISDA, Mitch Vermeer ISDA, Dallas Burkhalter, Office of Attorney General – ISDA, Katy Devries, Office of Attorney General – ISDA, Pamm Juker ISDA, Bob Naerebout: Idaho Dairymen’s Association and Marv Patten: Milk Producers of Idaho.

**AGENDA ITEMS**

**WELCOME:**

Lloyd Knight started the meeting at 9:02 a.m. via video meeting and teleconference. Mr. Knight introduced the meeting as negotiated rulemaking for IDAPA 02.04.04 Rules Governing Artificial Dairy Products.

Bob Naerebout asked to have everyone else on the call be introduced. Everyone went around and did introductions.

Mr. Knight turned the meeting over to Dr. Scott Leibsle to present the artificial dairy products rule.

Dr. Leibsle stated the authority for the rule is found under Title 37, chapter 3, section 3 in Idaho Code. Dr. Leibsle began discussing the rule language by indicating the red strike marks are elimination of unnecessary or redundant language as red tape reduction pursuant to the Governor’s executive order. The changes do not affect the scope or authority of this rule. He continued to ask if anyone had any questions, comments, or proposals regarding the rule.

Mr. Naerebout stated he had a question about the verbiage “will.” He noted the possibility of his board members asking about the lack of enforcement when the rules states “will.” Dr. Leibsle stated it would be pertinent to review Title 37-315, Idaho Code.

Mr. Naerebout stated this is a big issue nationwide, especially when products are being called milk when they are made from other products. He suggested ISDA should be prepared, when we are asked, why we are not enforcing this in the state of Idaho.

Ms. Tewalt stated that one of the questions they got from the Division of Financial Management (DFM) related to putting this language in Code rather than rule. Ms. Tewalt stated that type of a proposal would have to come from stakeholders.

Mr. Naerebout stated it’s such a hot button issue when products started surfacing on our shelves. He asked why ISDA didn’t act then.

Ms. Tewalt asked Bob if he knew of any states that were managing a similar rule and were handling it well?

Mr. Naerebout stated he didn't think that any states are enforcing artificial dairy labeling.

Ms. Tewalt stated the question came from DFM about the rule chapter. ISDA typically does not run legislation outside of red tape reduction bills in recent years. Executive branch legislative ideas must be in by June. The agency won't propose any legislation unless asked by industry.

Bob Naerebout stated it should be the industry's responsibility to make that type of a change in statute. He said industry is equipped, but he is not interested in removing the "will" requirement. It may drum up a lawsuit and that may not be in the best interest of Idaho.

Ms. Tewalt said stakeholders moving forward with any potential legislation is more appropriate. She also noted that comments so far did not ask for changes to the rule at this point.

Bob Naerebout stated that he thinks it's more important for the industry to do it and not the regulatory entity to do it.

Dr. Leibsle asked where the FDA is on dairy identity. Mr. Naerebout stated they just need to enforce it and not label as a dairy product. It would be easier to do this on a national basis and not a state basis.

Dr. Leibsle asked if there were any other comments. Marv Patten stated I don't have any problem with it.

Dr. Leibsle asked for a final call for comments. No one had any. He stated the next rulemaking meeting is Tuesday, April 5, 2022, at 9 a.m. He asked if there were any further comments for the rule governing artificial dairy products.

Lloyd Knight thanked everyone for joining the meeting and stated he stopped recording.

The meeting ended at 9:23 a.m.