



Proposed/Temporary Administrative Rules Form

Section 1 (To be Completed by Agency)

Agency Name: Idaho State Department of Agriculture		STARS Agency Code: 210	Fax Number: 208-334-4062	Date: April 25, 2014
Contact Person: John Bilderback	Title: Bureau Chief, Dairy, Beef, & Poultry Sanitation and Environmental Programs	Phone: 208-332-8541	Email: john.bilderback@agri.idaho.gov	
Person Authorizing Rule: Brian Oakey	Title: Deputy Director	Phone: 208-332-8500	Email: brian.oakey@agri.idaho.gov	

Statutory Authority for the rule making (Idaho Code, Federal Statute or Regulation):

Idaho Code § 37-516

Title, Chapter, and Possible Docket (IDAPA) Number:

IDAPA 02.04.06 Requirements for Licensed Dairy Plants

This rule is: Proposed Temporary

Effective Date:

If this is a temporary rule:

- Necessary to protect the public health, safety, or welfare; or
- Compliance with deadlines in amendments to governing law or federal programs; or
- Conferring a benefit.

Please explain:

If this is a temporary rule which imposes a fee or charge, provide justification as described in Idaho Code 67-5226(2):

Agency has determined according to Idaho Code 67-5220(1):

- This rule is to be negotiated
- Negotiation of this rule is not feasible

If rule is negotiated:

Agency certifies that the rule has been or will be negotiated with interested persons as outlined in Idaho Code 67-5220(3). *(indicate which)*

If rule negotiation is not feasible, the agency has determined:

- Rule is temporary; or
- Rule is simple in nature; or
- Lack of identifiable representatives of affected interests; or
- Affected interests are not likely to reach consensus; or
- Other.

Please explain:

The proposed rule is being revised to reflect and be consistent with the statute change (Senate Bill No. 1338).

Provide a fiscal impact statement for all programs affected. Be sure to reflect both positive and negative impacts and to include all fund sources including both the General Fund and dedicated funds: ISDA does not anticipate any fiscal impact from the changes to be made to the rule during this rulemaking.

Provide a short explanation of the need for this rule:

The rule needs to be revised 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.

Provide a short summary of the changes this rule makes:

The name of the rule will also be changed to Rules Governing Licensed Dairy Plants from Requirements for Licensed Dairy Plants to be consistent with OAR's policy.

IDAPA 02.04.06.000 – The rule will be updated to change the legal authority from Title 37, Chapter 4 to Title 37, Chapter 5. Also, the Requirements for Licensed Dairy Plants dated June 17, 2002 will be updated to the July 21, 2011 version.

The materials incorporated by reference will be updated to the current version of Subpart E Requirements for Licensed Dairy Plants in the Milk for Manufacturing Purposes and its Production and Processing, Recommended Requirements (July 21, 2011) published by USDA AMS Dairy Program. 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 two 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: ISDA already suspends the plant license when a plant has three (3) out of the last (5) samples exceeding 200,000 per milliliter bacterial counts.

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.

Provide a list of those persons or interest group(s) affected by this rule:

Dairy processors and dairy processing plants in the state of Idaho.

Section 2 (To be Completed by DFM)

DFM Analyst Comments:

Rule change is necessary to bring code in compliance with law which was updated during the 2014 session. The code regarding the Dairy Environmental Control Act was completely rewritten.

DFM Analyst Fiscal Impact Review:

There should be no fiscal impact with this update.

DFM Analyst Signature & Date:

Anita Hamann, May 12, 2014

Recommend:

Yes No

Gov Special Assistant Signature & Date:

Cally Younger, May 15, 2014

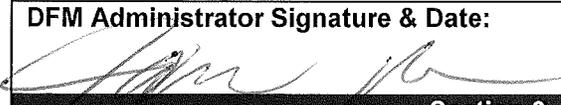
Recommend:

Yes No

DFM Administrator Action:

- Approved
- Authorized to Advance Rulemaking Process, DFM to review draft rule prior to publication (See Section 3)
- Not Approved

DFM Administrator Signature & Date:

 5/15/2014

Section 3 (To Be Completed By DFM if Required)

DFM Analyst Signature & Date:

Recommend:

Yes No

DFM Administrator Signature & Date:

Approved:

Yes No