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ISB # 5015

STATE OF IDAHO DEPARTMENT OF AGRICULTURE

In re:)
) IDAPA 02.06.02
RULES PERTAINING TO THE IDAHO)
COMMERCIAL FEED LAW)
) HEARING OFFICERS REPORT
)
)

COMES NOW the Hearing Officer in the above-entitled matter and pursuant to the rules of the Idaho Department of Agriculture and the Idaho Administrative Procedures Act submits the Hearing Officer's Report in this matter

On Tuesday, November 27, 2012, at 2:00 p.m., at the Idaho State Department of Agriculture, 2270 Old Penitentiary Road, Boise, Idaho a public hearing was conducted pursuant to notice and departmental and statutory rulemaking procedures. The purpose of the hearing related to temporary and proposed rules pertaining to the Idaho Commercial Feed Law.

HEARING TESTIMONY

At the hearing Lloyd Knight, Administrator, Idaho Department of Agriculture provided a summary of the proposed rule and outlined the Departments outreach and meetings with stakeholders over the proposed rule. Mr. Knight submitted the agency record as Exhibit "A" which was accepted and attached hereto.

Following the department summary all present and listening by conference call were invited to provide comments either in favor, in opposition to, or neutral, concerning the proposed rule. Eleven people provided oral comments to the proposed rule. Included in the agency record are also written comments to the proposed rule. All comments given at the hearing are memorialized in the Reporters Transcript of Proceedings attached hereto.

The comments provided at the hearing primarily focused on the following areas:

There were multiple comments stating that the rule should include an exception to registration for food processing by-products and food production waste used in commercial livestock operations. The rationale given was that the waste products and by-products had, because of the production process, some degree of variation in solids, fiber, fat, etc., not suitable to registration. Comments also included that the by-product was a valuable source of food for livestock production in the state and that the alternative of landfill disposal is an inefficient use of the product and would create additional costs. Comments also discussed that the federal government was in the process of writing rules, not yet published, that may include similar or potentially different requirements for this type of product.

There were comments both in favor of and opposed regarding the department use of one million dollars as a basis for a reserve account. Multiple comments favored use of a one year operating budget of approximately \$700,000.00 dollars for the reserve account. One comment favored the proposed amount stating that the Department had need of the additional amount to implement other aspects of the program. There were also comments regarding the existing reserve amount of approximately 2 million dollars.

There were further comments concerning the level of the registration fee with a comment to set the fee lower until the federal regulations are in place, reduce the fee to \$35.00, or reduce the fee until such time as the existing reserve account is at a one year operating level.

There were additional comments requesting that the Department consider going back to the tonnage reporting system and questioning the department authority to regulate internet based speech.

Based upon the information reviewed by this hearing officer, the Department has complied with the statutory and administrative rules pertaining to the preparation, publication, notification and the opportunity for public input and participation for the temporary and proposed rule.

RESPECTFULLY SUBMITTED this 29th day of November, 2012.



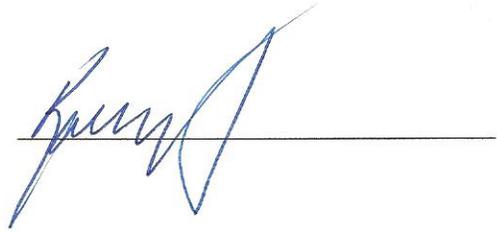
Karl D. Vogt
Hearing Officer

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 29th day of November, 2012, I caused to be served a true and correct copy of the foregoing document by electronic means and U.S. Mail indicated below and addressed to the following:

Mr. Brian Oakey
Deputy Director, Idaho State
Department of Agriculture
2270 Old Penitentiary Road
Boise, Idaho 83701

Angela Kaufmann
Deputy Attorney General
Idaho State Department of Agriculture
2270 Old Penitentiary Road
Boise, Idaho 83701

A handwritten signature in blue ink is written over a horizontal line. The signature is stylized and appears to be the name of the person who executed the certificate of service.