

***Idaho State Department of Agriculture
Negotiated Rulemaking
Rules Pertaining to the Idaho Commercial Feed Law
August 1, 2012
Lloyd Knight, Facilitator***

Present: Jared Stuart, ISDA; KatieMink, ISDA; Pamm Juker, ISDA; Sean Costa, PerforMix; Sean Costello, OAG/ISDA; Tina Eiman, ISDA; Lloyd Knight, ISDA; Dennis Tanikuni, Idaho Farm Bureau; Bryan Culbertson, Jr., Western Stockmen's; Brody Miller, Western Stockmen's; Julie Johnson, Western Stockmen's; Pamm Juker, ISDA; and Melinda Bouldin, ISDA, recording.

Via Telephone: Leah Wilkinson, AFIA; Linda Lemmon, Idaho Aquaculture Association, Bill Bookout, NASC; Rick Naerebout, Idaho Dairymen's Association; Doug Jones, Feed Coalition; Joy Kinyon, Rangen; Doug Ramsey, Rangen; Patt Klevmoen, Rangen; Paul Marsh, Scoular; Leon Martineau, Simplot; Sue Carlson, Cargill; Sherry Hackworth, Cargill; and Karen Suedmeyer, Cargill.

AGENDA ITEMS

WELCOME

Lloyd Knight convened the meeting at 10:03 a.m. Introductions were made of all present.

Referring to the email sent to stakeholders on July 30, 2012, Mr. Knight directed all to the draft language regarding exemptions. Comments/suggestions received were also added to the bottom of this page as they were used to establish the proposed language. Mr. Knight reminded the group that no new exemptions had been added to the list. He stated that he had received a question regarding custom formulas – that exemption exists and appears in another rule.

Hearing no further discussion, Mr. Knight moved to the Registration Fee portion of the document. He expressed appreciation for the level of participation on this topic. Much of the discussion at the last meeting as well as comments received after, was pertaining to the use of a set registration fee, using reserve funds to offset any additional program expense not covered by the set fee. Many comments expressed concern about a fee range. Mr. Knight explained that the range method is successfully used in the butterfat program. He went on to clarify that he envisions sending out notification to registrants before the October registration deadline, informing the registrant of their fee(s). Would set it as needed to cover ISDA costs. This method, he admits, is informal and would be more timely than establishing a set fee, then changing it in rule. Mr. Knight called for questions, there were none.

Leah Wilkinson, who submitted written comments/suggestions prior to the meeting, reiterated that she feels the program's fund balance should be near annual operating cost. This would be similar to other states' processes. The fund balance should never exceed one year's operating budget. Mr. Knight inquired as to whether or not that is specific to the feed program in other states? Ms. Wilkinson answered "yes". Katie Mink asked if that is based on the previous year's expenditures? Ms. Wilkinson that she was not certain. She further stated that she felt that even after the move of the ISDA lab to Twin

Falls there would still be a large reserve that could be used to offset a lower set fee.

Doug Jones reiterated his previous stance; would be more comfortable with setting a fee in the beginning, since so many things are in flux, and FSMA rules are coming. Set the fee, then come back in two years with data, then do a review, and then maybe set a range at that point.

Dennis Tanikuni asked if the reserve wasn't in reality closer to \$1M taking into consideration the lab move, etc.? Mr. Knight agreed that at the end of the fiscal year, the reserve will probably be closer to \$1M.

Mr. Knight then took a straw poll – Set fee, or range? Rick Naerebout stated that from his experience with the butterfat program the range method of determining registration fees works well. Ms. Wilkinson asked Mr. Naerebout how much fluctuation there was in the fee assessments? He answered that there was very little fluctuation. Mr. Knight agreed that there were up and down adjustments a couple of times, but they were small moves.

Mr. Jones voted for setting a fee, then re-evaluate in two years when there is a better idea of actual numbers. Use the legislative process in a couple of years to make any needed adjustments.

Ms. Wilkinson stated that she can understand why using a range might be intriguing, but from an industry standpoint she is not aware of other states using this method. A \$20 swing in registration fees could be alarming to some folks. She agrees with Doug Jones, that maybe since things are in flux, perhaps for the time being use a set fee.

Mr. Knight asked the group if anyone was in love with the range idea? Bill Bookout stated that although he understands the range idea, it doesn't strike him as a great idea. Sean Costa would prefer a fixed registration fee, as would Western Stockmen's.

Mr. Knight then directed everyone to the Registration Fee Worksheet which was also distributed at previous meetings. He stated that comments are welcome, and that the figures contained in the worksheet, coupled with comments received, will be considered when determining the fee amount.

Mr. Knight referred to the newly drafted language for exempting those people/entities not regularly engaged in the commercial feed business. This language would address non-profit organizations, school fundraisers, etc. who do not sell commercial feed on a regular basis, and who have annual sales of less than \$500.00. Ms. Wilkinson asked if these groups were objecting to increased fees? Mr. Knight answered that most don't have a problem with registration, it's the fee that is a problem. It can be a burden to these groups. Ms. Wilkinson asked if they still have to register? If so, would the cost of registration come from the reserve? Mr. Knight answered "yes".

Mr. Knight encouraged stakeholders to submit comments on this issue, as it will likely come up during the legislative session. Mr. Jones concurs with Ms. Wilkinson, should at least charge \$5.00. Pamm Juker cautioned the group that the ISDA expends \$8.00 or \$9.00 processing a \$5.00 check payment. Ms. Mink added that from a safety standpoint, we don't want to discourage registration of these products.

Mr. Knight informed the group that Friday, August 3rd is the deadline to submit our draft rule to the Office of Administrative Rules for publication in the September 5th Legislative Bulletin. The comment period will be from September 5 to September 26. The Rule will likely be presented for legislative review in January, 2013.

Julie Johnson asked whether package weight mattered anymore? Mr. Knight clarified that the weight is not an issue anymore, it is a per product registration fee.

Mr. Bookout offered compliments to Mr. Knight et al. on how the rulemaking process has been handled.

Mr. Knight thanked all for their dedication and input. He adjourned the meeting at 10:37 a.m.

Respectfully submitted by Melinda Bouldin

Please note: ISDA staff was informed today of an addition to the list of telephone attendees at the July 18, 2012 meeting. Michael Zumwinkle participated by phone, as well as Sherry Hackworth for Karen Suedmeyer, both representing Cargill.