

IDAPA 02 – IDAHO STATE DEPARTMENT OF AGRICULTURE

02.02.12 – BONDED WAREHOUSE RULES

DOCKET NO. 02-0212-2401 (ZBR CHAPTER REWRITE)

NOTICE OF RULEMAKING – PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 69-231, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 16, 2024.

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

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

This rule is being presented for authorization as part of the ISDA’s plan to review each rule every 5 years. Redundant language that is verbatim in statute has been removed, consistent with the Governor’s [Zero-Based Regulation Executive Order](#).

The rule was reviewed over the course of two negotiated rulemaking meetings, and that review benefited from the participation of program stakeholders. No negative comments were submitted as part of this rulemaking process.

This rule clarifies the procedure for licensing and monitoring warehouses in the state of Idaho, maintaining electronic records, and remedies of the Department for non-compliance.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: There is no change in fee or charge.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state General Fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking:

There is no fiscal impact on the state General Fund greater than ten thousand dollars (\$10,000).

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the July 3, 2024 Idaho Administrative Bulletin, [Volume 24-7, Pages 18 and 19](#).

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule:

There are no documents incorporated by reference.

IDAHO CODE SECTION 22-101A STATEMENT: Pursuant to 22-101A(1), for any rule promulgated or adopted by the director which is broader in scope or more stringent than federal law or regulations, or which regulates an activity not regulated by the federal government, the director shall identify the portions of the adopted rule that are broader in scope or more stringent than federal law or rules, or which regulate an activity not regulated by the federal government. The following sections of the rule are broader in scope, more stringent than federal law or regulations, or regulate an activity not regulated by the federal government:

The federal government does not regulate state licensed warehouses. This activity is defined in Idaho Code.

The detailed 22-101A analysis can be found on the agency’s website at www.agri.idaho.gov.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Lloyd Knight at lloyd.knight@isda.idaho.gov.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 23, 2024.

DATED this 2nd day of October, 2024.

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THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 02-0212-2401
(ZBR Chapter Rewrite)

02.02.12 – BONDED WAREHOUSE RULES

000. LEGAL AUTHORITY.

~~This chapter is adopted under the legal authority of~~ Section 69-231, Idaho Code. (3-15-22)()

001. ~~TITLE AND SCOPE.~~

01. ~~Title.~~ The title of this chapter is IDAPA 02.02.12, “Bonded Warehouse Rules.” (3-15-22)

02. ~~Scope.~~ These rules clarify the procedure for licensing, collection and remittance of assessment, determining claim value, maintaining electronic records use of electronic scales and remedies of the Department for non-compliance. (3-15-22)()

002. -- 009. (RESERVED)

010. DEFINITIONS.

The definitions set forth in Section 69-202, Idaho Code, and the following apply: (3-15-22)

01. Cash Sale. Payment to the producer by the warehouse or dealer contemporaneously with the transfer of commodity to the warehouse or dealer. (3-15-22)

02. Commodity Indemnity Fund (CIF). Commodity Indemnity Fund is a trust fund. (3-15-22)

03. Credit-Sale Contract. An agreement in writing containing the provisions of Section 69-249, Idaho Code, and where the producer transfers a specific quantity of commodity to a warehouse or dealer with a price or payment to the producer by the warehouse or dealer to be made at a later date or on the occurrence of a specific event expressed in the agreement. (3-15-22)

04. Dealer. Is limited to dealers licensed by the state of Idaho. (3-15-22)

05. Deposit for Service. Deposit of a commodity by a person for cleaning, processing, reconditioning or the rendering of other similar services by a warehouse, but does not include either a cash sale, credit-sale, or open

storage. (3-15-22)

06. NPE. (No price established contract) A contract containing no readily calculable sale value of the commodity for the producer. (3-15-22)

07. Open Storage. The deposit of commodity by the producer for a period of time with the subsequent disposition of the same commodity or a fungible commodity as agreed to by the parties. (3-15-22)

08. Warehouse. Is limited to warehouses licensed by the state of Idaho. (3-15-22)

011. (RESERVED)

012. LICENSING.

01. Posting of License. Immediately upon receipt of the license or any renewal, extension or modification thereof under Title 69, Chapter 2, Idaho Code, the licensed warehouseman shall post the license in a conspicuous place in each place of business or in any other place as the Director may determine. The Department will issue a duplicate license for each additional facility as needed. (3-15-22)

02. Return of Suspended or Terminated License. If a license issued to a warehouseman has lapsed or is suspended, revoked or canceled by the Director, the license shall be returned to the Department. (3-15-22)

03. Suspension Due to Neglect. If, through inspection or other information, it is revealed or indicated that the commodities in storage are deteriorating due to the warehouseman's or operator's neglect, the license may be suspended until the matter has been corrected to the satisfaction of the Director. (3-15-22)

04. Loss of License. Upon satisfactory proof of the loss or destruction of a license issued to a warehouseman, a duplicate may be issued under the same number or a new number at the discretion of the Director. (3-15-22)

05. Sign to Be Posted. Each licensed warehouseman shall maintain suitable signs on the licensed property in such manner as will give ample public notice of his tenancy. These signs shall be painted on the warehouse or elevator in letters not less than six (6) inches in height and contain the following words: "State No. ____." The number of each warehouse will be assigned by the Director. (3-15-22)

06. Bins Labeled. All storage areas licensed for the storage of agricultural commodities shall be numbered and have a diagram of the storage areas kept in the office showing the exact dimensions and the maximum capacity of the storage area. (3-15-22)

07. Insurance Calculations. The director may approve a request to reduce the insurance calculation for a facility provided the request is in writing and evidence is supplied that all agricultural commodities that are stored at any given point in time are insured pursuant to Title 69, Chapter 2, Idaho Code. (3-15-22)

013. -- 049. (RESERVED)

050. RECEIPTING.

01. Every Warehouseman. Every warehouseman shall issue a negotiable warehouse receipt when requested to do so by the depositor. All storage and handling charges are due and payable on or before July 1 following the date of the issuance of the receipt, or as agreed upon by the parties. (3-15-22)

02. Form of Nonnegotiable Warehouse Receipts. Nonnegotiable warehouse receipts that contain the essential terms for warehouse receipts as set forth in Section 28-7-202, Idaho Code, and Section 69-223, Idaho Code, are deemed sufficient for all purposes. Copies of all nonnegotiable warehouse receipts shall be kept as permanent records by the warehouseman issuing them. (3-15-22)

~~**03. Lost Negotiable Warehouse Receipt.** To cancel an outstanding warehouse receipt or issue a new~~

~~warehouse receipt supplementing one that has been lost or destroyed, the licensed warehouseman shall require the depositor or other applicant to submit to the warehouseman:~~ (3-15-22)

~~a. An affidavit showing that he is lawfully entitled to the possession of the original receipt, that he has not negotiated or assigned it and how the original receipt was lost or destroyed; and~~ (3-15-22)

~~b. A bond in the amount double the market value of the agricultural commodity represented by the lost or destroyed receipt. The market value shall be determined at the time this bond is submitted for the lost receipt. A duplicate warehouse receipt shall clearly state that it is a duplicate receipt, the number of the receipt the duplicate is replacing, and the license number under which the original receipt was issued.~~ (3-15-22)

043. Electronic Warehouse Receipts. ~~An electronic version of a warehouse receipt generated by a provider licensed and approved by the United States Department of Agriculture (USDA) that contains the same information as the paper version of a warehouse receipt may be issued instead of a paper document. The electronic version of a warehouse receipt carries the same rights and obligations as the paper version. At no time may a paper receipt and an electronic receipt represent the same lot of commodity. Electronic warehouse receipts shall be numbered and issued consecutively starting with the number specified to the provider by the department.~~ (3-15-22)()

054. Agreements. Prior to entering into an agreement with an electronic warehouse receipt provider to issue such receipts, a warehouse licensee must provide a copy of the proposed agreement to the department for review and approval. A warehouse operator shall not issue electronic negotiable warehouse receipts until and unless the department approves its agreement with an electronic warehouse receipt provider and notifies the licensee of such approval. A provider shall be independent of any outside influence or bias in action or appearance. In order to be approved by the department, an electronic warehouse receipt provider agreement shall: (3-15-22)

a. Only be with a provider that is first approved as an electronic warehouse receipt provider by the USDA pursuant to the provisions of 7 CFR Part 735. Upon department request, a provider shall provide a copy of the provider's executed USDA Form WA-460 and any addenda, and any other documentation requested by the department to confirm that the provider is a USDA-approved provider in good standing. (3-15-22)

b. Provide for the department to become a joint holder on all open electronic negotiable warehouse receipts if the issuing warehouse operator's license is relinquished or revoked. (3-15-22)

c. ~~Require the p~~Provider to provide security as required by its provider agreement with the USDA regarding on-site security, data authorization, security plans, and facility vulnerability. (3-15-22)()

d. ~~Prohibit the provider~~Refrain from deleting or altering any electronic negotiable warehouse receipts in the centralized filing system unless such actions are authorized by the department. (3-15-22)()

e. Allow the department unrestricted access to the central filing system for electronic warehouse receipts issued on behalf of warehouse operators licensed by the department. The electronic warehouse receipt data shall be maintained for six (6) years after cancellation of the receipts. Access shall be free of charge and made available in a manner that allows interaction with department warehouse examinations. (3-15-22)

f. ~~Require the provider, w~~When a warehouse operator changes provider, to supply the new provider and the warehouse operator with a complete list of all the current holders of open electronic negotiable commodity warehouse receipts prior to the intended transfer date. (3-15-22)()

065. Change in Provider. A warehouse operator shall issue electronic warehouse receipts through only one (1) approved provider at a time. (3-15-22)

a. A warehouse operator may change providers only once a year unless otherwise approved by the department. (3-15-22)

b. A warehouse operator shall notify the department of the exact date of the proposed transfer thirty (30) calendar days prior to the intended date of any transfer to a new provider. The operator must also, thirty (30)

days prior to the intended transfer date, send notices of the change to the holders of all open electronic negotiable warehouse receipts specifying the date and time period during which access to receipts will not be available. (3-15-22)

051. -- 079. (RESERVED)

080. FORWARDING AGRICULTURAL COMMODITIES.

Warehouses licensed under Title 69, Chapter 2, Idaho Code, receiving agricultural commodities for shipment to terminals or to other warehouses for storage or processing within the state or outside the state shall have in their possession a statement authorizing the shipment of agricultural commodities to another location for storage or processing that is signed by the owner or producer of the agricultural commodity. The receiving warehouse shall be a state or federally licensed and bonded warehouse or have a Commodity Credit Corporation storage agreement. When requested to do so by an Idaho Warehouse Examiner, the shipping warehouse shall promptly procure from the terminal or storage warehouse a statement or negotiable warehouse receipt on a form approved by the director describing the quantity, class and grade of all agricultural commodities so shipped and in storage. The shipping warehouse shall have such forms promptly forwarded and returned to the Idaho Department of Agriculture, Bureau of Warehouse Control, within fifteen (15) days of issuance. (3-15-22)

081. -- 099. (RESERVED)

100. OFFICE RECORDS.

A warehouseman shall maintain complete and sufficient records to show all deposits, purchases, sales contracts, storage obligations and loadouts of the warehouse in this state that are subject to Department inspection during normal business hours. Office records as set forth in Title 69, Chapter 2, Idaho Code, include, but not limited to, the following: (3-15-22)

01. Daily Position Record. This shows the total quantity of each kind and class of agricultural commodity received and loaded out, the amount remaining in storage at the close of each business day, and the warehouseman's total storage obligation for each kind and class of agricultural commodity at the close of each business day. (3-15-22)

02. Storage Ledger. This shows the name and address of the depositor, the date purchased, the terms of the sale, and the quality and quantity of the agricultural commodity purchased by the warehouseman. When applicable, the storage ledger shall also show the tare, grade, size, net weight, and unsold amount of agricultural commodities. (3-15-22)

03. Scale Weight Tickets. Scale weight tickets, except tickets for electronic scales that are recorded and maintained electronically, shall be pre-numbered with one (1) copy of each ticket maintained in numerical order. All scale weight tickets shall show the time when the commodities were delivered, the quantities delivered, who delivered the commodities, the ownership of the commodities, and the condition of the commodities upon delivery. (3-15-22)

04. Receipts and Tickets. Receipts and tickets in the warehouseman's possession that have not been issued. (3-15-22)

05. Receipts and Tickets Issued by the Warehouseman. Receipts and tickets issued by the warehouseman. (3-15-22)

06. Receipts and Tickets Returned and Cancelled. Receipts and tickets returned to and cancelled by the warehouseman. (3-15-22)

07. Insurance Documentation. (3-15-22)

08. Electronic Records. If any electronic records are maintained outside of the state of Idaho, the Department is entitled to examine them at any reasonable time and place as determined by the Department. (3-15-22)

101. -- 129. (RESERVED)

130. LICENSE APPLICATION AND CONDITIONS OF ISSUANCE.

01. License Application. Application for a license to operate a warehouse under the provisions of Title 69, Chapter 2, Idaho Code, shall be on a form prescribed by the Department and include: (3-15-22)

a. The full name of the person applying for the license and whether the applicant is an individual, partnership, association, corporation or other entity. (3-15-22)

b. The full name of each member of the firm or partnership, or the names of the officers and directors of the company or limited liability company, association, or corporation. (3-15-22)

c. The address of the principal place of business. (3-15-22)

d. Information relating to any judgments against the applicants. (3-15-22)

e. The location of each warehouse the applicant intends to operate and the commodities expected to be stored. (3-15-22)

f. A current financial statement as specified by Section 69-206, Idaho Code. (3-15-22)

g. A sketch or drawing as specified in Section 69-206, Idaho Code. (3-15-22)

h. A bond as required by Section 69-208, Idaho Code. (3-15-22)

i. Proof of insurance as required by Section 69-206, Idaho Code. (3-15-22)

j. The license fee as prescribed by Section 69-211, Idaho Code. (3-15-22)

k. Any other reasonable information the Department finds necessary to carry out the purpose and provisions of Title 69, Chapter 2, Idaho Code. (3-15-22)

02. Modification. If a licensee wishes to add additional capacity to an existing license, the Director may modify the license if all requirements of Section 69-206, Idaho Code, are met. (3-15-22)

131. AMOUNT OF BOND, IRREVOCABLE LETTER OF CREDIT, CERTIFICATE OF DEPOSIT, OR SINGLE BOND.

~~**01. Bonding Requirement.** The amount of bond to be furnished shall be fixed at a rate pursuant to Section 69-208A, Idaho Code. (3-15-22)~~

02. Single Bond, Irrevocable Letter of Credit or Certificate of Deposit. For the purposes of licensing as a warehouseman pursuant to Title 69, Chapter 2, Idaho Code and a seed buyer pursuant to Title 22, Chapter 51, Idaho Code a single bond, irrevocable letter of credit or certificate of deposit shall be fixed at whichever of the following amounts is greater: (3-15-22)

a. Combined total indebtedness paid and owed to producers for agricultural commodity and seed crop, without any deductions, for the previous license year; or (3-15-22)

b. The indebtedness owed and estimated to be owed to producers for agricultural commodity and seed crop, without any deductions, for the current license year. (3-15-22)

132. -- 149. (RESERVED)

150. WAREHOUSES TO BE KEPT CLEAN.

Each warehouseman is required to use such precautions and surveillance as is necessary to provide for the safe and adequate storage of all commodities stored in his warehouse and to prevent these commodities from being

contaminated in any way from chemicals, pesticides, fertilizers, adulterated seeds, animals, birds or any such thing as may contaminate or reduce the quality of stored goods. (3-15-22)

151. -- 179. (RESERVED)

180. WAREHOUSEMAN RESPONSIBILITIES.

01. Warehouse Receipts -- Quality. A warehouseman licensed under Title 69, Chapter 2, Idaho Code, shall maintain in the facility of issuance of any negotiable warehouse receipt, for as long as the receipt is outstanding and has not been canceled, like variety, quantity, and quality of the agricultural commodity stated on the receipt. No warehouseman shall remove, deliver, direct or permit any person to remove or deliver any agricultural commodity from any warehouse for which warehouse receipts have been issued and are outstanding, without receiving and canceling the warehouse receipt that was issued for the commodity, except if the Director determines an emergency storage situation exists. A warehouseman may then forward agricultural commodities to other licensed warehouses for storage without canceling the outstanding warehouse receipt, provided the following conditions are met: (3-15-22)

a. The warehouseman obtains written approval from the Department prior to forwarding agricultural commodities. (3-15-22)

b. The warehouseman provides written guidelines to the Department establishing how he will be back in position within the time limits set and granted by the Department. (3-15-22)

c. The warehouseman maintains and makes available to the Department records of positions concerning the forwarding of agricultural commodities. (3-15-22)

d. The receiving warehouse is a state or federally licensed and bonded warehouse or have a Commodity Credit Corporation storage agreement. (3-15-22)

e. The shipping warehouse has in its possession a statement signed by the bearer of the warehouse receipt authorizing the shipment of agricultural commodities represented by such receipt to another location for storage. (3-15-22)

f. When requested to do so by the Department, the shipping warehouseman shall promptly procure from the receiving warehouseman a statement describing the quantity, class and grade of all agricultural commodities so shipped and in storage on a form approved by the Director. The shipping warehouseman shall have such forms promptly forwarded to the receiving warehouseman for verification of quantity, class and grade of agricultural commodities forwarded and return the verification to the Department within fifteen (15) days of issuance. Failure to provide this statement to the Department in the above specified time, will result in a short position for the warehouseman with penalties as prescribed by law. (3-15-22)

02. Rights and Duties of Licensees -- Unlawful Practices. It is unlawful for a warehouseman to: (3-15-22)

a. Issue a warehouse receipt in excess of the amount of the agricultural commodity held in the licensee's warehouse to cover such receipt. (3-15-22)

b. Sell, encumber, ship, transfer, remove or permit to be sold encumbered, shipped, transferred or removed from a warehouse any agricultural commodity received by him for deposit, shipment or handling for which scale weight tickets have been issued without the written approval of the holder of the scale weight ticket and such transfer shall be shown on the individual depositor's account and the inventory records of the warehouseman. (3-15-22)

e. ~~Remove or permit any person to remove any agricultural commodity from a warehouse when the amount of any fairly representative grade or class of an agricultural commodity in the warehouses of such licensee is reduced below the amount for which a warehouse receipt or scale weight ticket for the particular agricultural commodity is outstanding, except as provided for in Section 69-223(2), Idaho Code, and Rule 180.01.~~ (3-15-22)

dc. Issue a warehouse receipt or scale weight ticket that exceeds the amount of agricultural commodities delivered for storage. (3-15-22)

ed. Issue a warehouse receipt showing a grade or description different from the grade or description of the agricultural commodities delivered and for which such warehouse receipt is issued. (3-15-22)

fe. Fail to deliver agricultural commodities as required by Section 28-7-402, Idaho Code. (3-15-22)

gf. Knowingly accept for storage any agricultural commodity destined for human consumption that has been contaminated, if such agricultural commodities are commingled with any uncontaminated agricultural commodity. (3-15-22)

hg. Terminate storage of an agricultural commodity in the warehouse without giving reasonable notice to the depositor as provided in Section 28-7-206, Idaho Code. (3-15-22)

ih. Alter, falsify, or withhold records from the warehouse examiner. (3-15-22)

181. -- 199. (RESERVED)

200. INSURANCE SETTLEMENT.

When the commodities within a licensed warehouse have been damaged or destroyed, the warehouseman shall make complete settlement to all depositors having agricultural commodities stored in the warehouse within ten (10) days after a settlement with the insurance company. Failure of the warehouseman to make such settlement is grounds for revocation of the license. However, such settlement need not be made within the ten (10) days period if the warehouseman and the depositor agree to other terms. In the case of commingled agricultural commodities where only a portion is damaged, settlement may be made on a pro rata basis to the owners of all agricultural commodities stored within the warehouse. (3-15-22)

201. -- 229. (RESERVED)

230. AGRICULTURAL COMMODITIES -- WAREHOUSE OBLIGATIONS.

Any agricultural commodity deposited for storage that is not sold by contract or otherwise, as shown by documentation, is open storage and shall be considered a warehouse obligation. (3-15-22)

231. -- 299. (RESERVED)

300. FINANCIAL STATEMENTS.

In order to obtain a bonded warehouse license, the applicant shall submit a current financial statement that has been prepared not more than ninety (90) days prior to the date of application and conform to the applicable requirements of Title 69, Chapter 2, Idaho Code, as to annual financial statements. (3-15-22)

01. Statement Compliance. Each licensed warehouseman shall submit to the Department an annual financial statement that has been audited or reviewed by an independent certified public accountant or independent licensed public accountant and be submitted to the Department no later than ninety (90) days after the end of the warehouseman's fiscal year. ~~The warehouse license may be suspended or revoked for failure to comply with licensing requirements stated in Bonded Warehouse Rule Section 300 and Section(s) 69-206(6) and (7), Idaho Code.~~ (3-15-22)()

a. The Department may grant an extension of no more than sixty (60) days, provided sufficient cause of an exceptional nature is provided, in writing, to the Department by a certified public accountant or a licensed public accountant and made prior to the date the financial statement is due. (3-15-22)

b. The director may make exceptions to the financial statement requirements provided sufficient cause is provided and to do so would be in the best interest of the State. (3-15-22)

02. Statement Content. The acceptable statement includes: (3-15-22)

- a. A balance sheet. (3-15-22)
- b. An income statement that includes annual gross sales of commodities purchased from producers covered under the act. (3-15-22)
- c. A statement of cash flows. (3-15-22)
- d. All accompanying notes to the financial statement. (3-15-22)

301. -- 329. (RESERVED)

330. AMENDING TARIFF.

Tariffs may be amended by the licensed warehouseman by filing a new tariff with the Department. The previous tariff continues to apply on all commodities received prior to the effective date of the amended tariff until the anniversary date of deposit. The amended tariff applies to any commodities received after the effective date of the amendment and on any commodities stored under the previous tariff commencing on the anniversary date of the storage period. (3-15-22)

331. -- 379. (RESERVED)

380. LICENSE -- DURATION.

Licenses issued under the provisions of Title 69, Chapter 2, Idaho Code, expire annually on April 30th. (3-15-22)

381. -- 399. (RESERVED)

400. INSURANCE DEDUCTIBLE.

The maximum deductible allowed for insurance required by Section 69-206(1), Idaho Code, shall be five thousand dollars (\$5,000). However, a larger deductible may be allowed at the discretion of the Director. (3-15-22)

401. -- 429. (RESERVED)

430. ADDITIONAL BONDING REQUIREMENTS.

~~If it appears the licensee does not have the ability to pay producers for commodities purchased, or when it appears the licensee does not have a sufficient net worth to outstanding financial obligations ratio, the Department may require the licensee to post a bond or other additional acceptable security in the amount of~~ The amount of bond or additional security pursuant to 69-260 is two thousand dollars (\$2,000) for each one thousand dollars (\$1,000) or fraction thereof of deficiency. (3-15-22)()

431. -- 479. (RESERVED)

480. COMMODITY INDEMNITY FUND.

The Commodity Indemnity Fund applies to entities governed by Chapter 2, Title 69, Idaho Code, and Chapter 5, Title 69, Idaho Code, warehouses and dealers, respectively, unless otherwise specified. (3-15-22)

01. Rate of Assessment. The rate of assessment is two-tenths of one percent (.2%) of the total value at the time of sale of the commodities pursuant to Section 69-257(2), Idaho Code. The maximum rate of assessment shall not exceed two-tenths of one percent (.2%) of the total gross dollar amount, without deductions, due the producer. The Director may establish a lower rate of assessment whenever he deems it advisable or as recommended by the advisory committee established by Section 69-261, Idaho Code. (3-15-22)

a. The rate of assessment on commodity withdrawn by its producer from open storage is one cent (\$.01) per hundredweight (CWT) of commodity at the time of withdrawal. (3-15-22)

b. If the amount of the assessment for a producer on all deposits made in a calendar year is calculated to be less than fifty cents (\$.50), no assessment will be collected. If deposits exceed the fifty cent (\$.50) limit, all assessments will be collected. (3-15-22)

02. Exemptions to Assessments. Producers are not eligible to participate in CIF and no assessments can be collected in the following cases. (3-15-22)

a. If a producer has a financial or management interest in a licensed warehouse or licensed commodity dealer, except members of a cooperative marketing association qualified under Title 22, Chapter 26, Idaho Code. (3-15-22)

b. If a producer sells to another producer, none of which are a licensed warehouseman or a licensed commodity dealer. (3-15-22)

c. If a producer deposits or delivers commodity to an unlicensed entity pursuant to Title 69, Chapters 2 or 5, Idaho Code. (3-15-22)

d. Non-producers or producers delivering commodity that was grown on land not situated within the borders of the state of Idaho are exempt from paying assessments. (3-15-22)

481. HOW ASSESSMENTS ARE TO BE CALCULATED.

~~Assessments shall be collected by all warehouses from all producers who deposit commodities for storage or sale.~~ Assessments are calculated as follows: (3-15-22)()

01. Cash Sale or Credit Sale Contract. In a cash sale or credit sale contract on the contract price of the commodity at the time of sale. (3-15-22)

02. Open Storage or Deposit for Service. When commodity is withdrawn from storage by the producer, the assessment will be one cent (\$.01) per hundred weight (CWT) at the time of withdrawal. (3-15-22)

03. Unpaid Assessments. If any assessment is unpaid and a failure occurs, the amount of the unpaid assessment will be deducted from any CIF recovery paid to the producer. (3-15-22)

04. Incidental Costs and Expenses. All incidental costs and expenses including, but not limited to transportation, cleaning, in and out charges, insurance, taxes or additional services or charges are not included in the calculation to determine the assessment. (3-15-22)

482. RECORDKEEPING AND PAYMENT SCHEDULE.

01. Permanent Record. Each warehouse and dealer shall maintain a permanent record showing producer's name and address, lot or identification number, date assessment collected, amount of assessment, commodity assessed, quantity of commodity, gross dollars of settlement and check number issued to producer. (3-15-22)

02. Payment ~~Due Dates~~ of Assessment by Mail. ~~On or before the twentieth day of the month following the close of the quarter, on a form prescribed by the Department, the assessments imposed by Chapters 2 and 5 of Title 69, Idaho Code, collected by warehouses and dealers, are due and payable to the Department. A quarter (1/4) will consist of three (3) months beginning on the first day of January, April, July, and October. If assessment is paid by mail, the payment must be postmarked not later than the twentieth day of the month following the close of the quarter to avoid interest and penalty charges.~~ (3-15-22)()

03. Notice. The notice and rate of assessment or a copy of the official notice of suspension of assessment are to be posted in a conspicuous place in the warehouse or dealer facility. (3-15-22)

483. TRUST FUNDS.

All assessments collected by warehouses and dealers in compliance with Chapters 2 and 5, Title 69, Idaho Code, shall, immediately upon payment to and collection by the warehouse or dealer, be trust fund money and held for payment to the Department for the CIF. Such money shall not, for any purpose, be considered to be a part of the proceeds of any transaction between a depositor and warehouse or dealer for which the collection and payment of the assessment was related and shall not be subject to an encumbrance, security interest, execution or seizure on account

of any debt owed by the warehouse or dealer to any of their creditors. (3-15-22)

484. PENALTIES FOR FAILURE TO COLLECT, ACCOUNT FOR, OR REMIT ASSESSMENTS.

Failure to collect, account for, or remit assessments, or violations of the statutory requirements of Chapters 2 and 5, Title 69, Idaho Code, as it relates to the CIF are grounds for the immediate demand on the warehouse, dealer bond, letter of credit, or certificate of deposit, and the undertaking by the Director of any other remedy provided by law.

(3-15-22)

485. RETURN OF COMMODITY DUE TO FAILURE.

In the event of failure, the Department may:

(3-15-22)()

01. Identifiable Commodity. Return specifically identifiable commodity or as much as is available to its producer in full or partial satisfaction of indebtedness; or (3-15-22)

02. Fungible Commodity. If the commodity is fungible, an amount equal to the producer's original deposit or if insufficient fungible commodity is available, a pro-rata share to all producers of the commodity; and (3-15-22)

03. Shortfall in Commodity Distribution. Any shortfall in commodity distribution may be submitted as a claim against the CIF. (3-15-22)

486. -- 500. (RESERVED)

501. NO PRICE ESTABLISHED (NPE) CONTRACT CLAIMS ON THE FUND.

NPE contracts shall be executed in writing, dated, and signed by all parties to the contract.

(3-15-22)()

01. NPE Clause. An NPE contract shall have the following statement: "No claim shall be paid from the CIF pursuant to Section 69-263, Idaho Code, if a producer files his claim more than one hundred eighty (180) days from the date the contract is executed." (3-15-22)

02. NPE Contract List. A warehouseman shall maintain a list of all NPE contracts written in a calendar year that reflects the producers name, contract number, agricultural commodity, and date of the contract. (3-15-22)

03. NPE Contract Renewal Period. A producer may renew an NPE contract; ~~but no claim shall be paid from the CIF if a producer files his claim more than three hundred sixty five (365) days from the date the original NPE contract was executed.~~ (3-15-22)()

502. -- 999. (RESERVED)

IDAPA 02 – IDAHO STATE DEPARTMENT OF AGRICULTURE

02.02.14 – RULES FOR WEIGHTS AND MEASURES

DOCKET NO. 02-0214-2401

NOTICE OF RULEMAKING – PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 71-111, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 16, 2024.

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

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

The proposed rule updates the publication date for the document Incorporated by Reference at Section 004.01. The publication edition is updated to 2024 for the National Institute of Standards and Technology, Handbook No. 44. This handbook contains the specifications, tolerances, and other technical requirements for commercial weighing and measuring devices.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased:
There is no change in fee or charge

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state General Fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking:
There is no fiscal impact on the state General Fund greater than ten thousand dollars (\$10,000).

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because these changes are to the publication dates of documents that were already incorporated into these rules.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule:

The referenced NIST Handbook 44 has been updated to the 2024 edition.

IDAHO CODE SECTION 22-101A STATEMENT: Pursuant to 22-101A(1), for any rule promulgated or adopted by the director which is broader in scope or more stringent than federal law or regulations, or which regulates an activity not regulated by the federal government, the director shall identify the portions of the adopted rule that are broader in scope or more stringent than federal law or rules, or which regulate an activity not regulated by the federal government. The following sections of the rule are broader in scope, more stringent than federal law or regulations, or regulate an activity not regulated by the federal government:

This rule regulates an activity that is not regulated by the federal government; therefore the entire rule is broader in scope or more stringent than federal law.

The detailed 22-101A analysis can be found on the agency's website at www.agri.idaho.gov.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Lloyd Knight at lloyd.knight@isda.idaho.gov.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 23, 2024.

DATED this 2nd day of October, 2024.

Lloyd Knight
Deputy Director
Idaho Department of Agriculture
2270 Old Penitentiary Road
P.O. Box 7249
Boise, Idaho 83707
Phone: (208) 332-8615
Email: lloyd.knight@isda.idaho.gov

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 02-0214-2401
(Only Those Sections With Amendments Are Shown.)

02.02.14 – RULES FOR WEIGHTS AND MEASURES

004. INCORPORATION BY REFERENCE.

01. Required Reference Materials. The 2023~~4~~ edition of Handbook No. 44 of the National Institute of Standards and Technology, United States Department of Commerce, “Specifications, Tolerances, and Other Technical Requirements for Weighing and Measuring Devices,” hereby incorporated by reference, is the specifications, tolerances and other technical requirements for commercial weighing and measuring devices, unless otherwise stated in these rules. (7-1-24)()

02. Required Reference Materials for Checking Prepackaged Commodities. The 2020 edition of Handbook No. 133 of the National Institute of Standards and Technology, United States Department of Commerce, “Checking the Net Contents of Packaged Goods,” hereby incorporated by reference, is the authority in checking packaged commodities, unless otherwise stated in these rules. (3-15-22)

~~**03. Specifications for Diesel Fuel and Biodiesel Fuel.** American Society of Testing and Materials (ASTM) D975-20e, “Standard Specification for Diesel Fuel Oils,” and ASTM D6751-20a, “Standard Specification for Biodiesel Fuel (B100) Blend Stock for Distillate Fuels,” intended for blending with diesel fuel are hereby incorporated by reference and are the specifications for diesel fuel and biodiesel fuel blend stock (B100 biodiesel). (3-15-22)~~

~~**04. Specifications for Gasoline.** American Society of Testing and Materials (ASTM) D4814-21, “Standard Specification for Automotive Spark Ignition Engine Fuel”, dated November 15, 2016, is hereby incorporated by reference and is the specification for gasoline. (3-15-22)~~

05. Local Availability. Copies of the incorporated documents are on file with the Idaho State Department of Agriculture, 2216 Kellogg Lane, Boise, Idaho 83712. Copies of NIST documents may be purchased from the Superintendent of Documents, Government Printing Office, Washington, D.C. 20402. Copies are available for downloading at <https://www.nist.gov/pml/weights-and-measures/publications> <https://www.nist.gov/publications/specifications-tolerances-and-other-technical-requirements-weighing-and-measuring-15>. Copies of ASTM specifications are on file with the Idaho State Department of Agriculture or may be purchased from <http://www.astm.org>, 100 Barr Harbor Drive, P.O. Box C700, West Conshohocken, PA, 19428. (3-15-22)()

~~**06. Three Year Tier Fee Table.** Copy may be found online at <https://agri.idaho.gov/main/i-need-to-see-lawsrules/ag-inspections-law-and-rules>. (3-15-22)~~

005. DIESEL, BIODIESEL, AND GASOLINE STANDARDS.

Per Section 37-2506, Idaho Code, the latest specifications adopted by the American Society for Testing and Materials is the required standard for all diesel, biodiesel, and gasoline fuels. The standards can be accessed at <https://www.astm.org/products-services/standards-and-publications/standards/petroleum-standards.html>. ()

0056. -- 009. (RESERVED)

IDAPA 02 – IDAHO STATE DEPARTMENT OF AGRICULTURE

02.03.01 – RULES GOVERNING PESTICIDE MANAGEMENT PLANS FOR GROUND WATER PROTECTION

DOCKET NO. 02-0301-2401 (ZBR CHAPTER REWRITE)

NOTICE OF RULEMAKING – PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 22-3419, 22-3421, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 16, 2024.

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

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

This rule is being presented for authorization as part of the ISDA’s plan to review each rule every 5 years. Redundant language that is verbatim in statute has been removed, consistent with the Governor’s [Zero-Based Regulation Executive Order](#).

The rule was reviewed over the course of two negotiated rulemaking meetings, and that review benefited from the participation of program stakeholders. No negative comments were submitted as part of this rulemaking process.

This rule clarifies the procedure for testing and monitoring groundwater for pesticides and remedies of the Department for non-compliance.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: There is no change in fee or charge.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state General Fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking:

There is no fiscal impact on the state General Fund greater than ten thousand dollars (\$10,000).

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the July 3, 2024 Idaho Administrative Bulletin, [Volume 24-7, Pages 20 and 21](#).

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule:

There are no changes in documents already incorporated by reference.

IDAHO CODE SECTION 22-101A STATEMENT: Pursuant to 22-101A(1), for any rule promulgated or adopted by the director which is broader in scope or more stringent than federal law or regulations, or which regulates an activity not regulated by the federal government, the director shall identify the portions of the adopted rule that are broader in scope or more stringent than federal law or rules, or which regulate an activity not regulated by the federal government. The following sections of the rule are broader in scope, more stringent than federal law or regulations, or regulate an activity not regulated by the federal government:

The federal government does not regulate this state run program. This activity is defined in Idaho Code.

The detailed 22-101A analysis can be found on the agency’s website at www.agri.idaho.gov.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Lloyd Knight at lloyd.knight@isda.idaho.gov.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 23, 2024.

DATED this 2nd day of October, 2024.

Lloyd Knight
Deputy Director
Idaho Department of Agriculture
2270 Old Penitentiary Road
P.O. Box 7249
Boise, Idaho 83707
Phone: (208) 332-8615
Email: lloyd.knight@isda.idaho.gov

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 02-0301-2401
(ZBR Chapter Rewrite)

02.03.01 – RULES GOVERNING PESTICIDE MANAGEMENT PLANS
FOR GROUND WATER PROTECTION

000. LEGAL AUTHORITY.

~~This chapter is adopted under the legal authority of Sections 22-3418, 22-3419, and 22-3421, Idaho Code.~~

~~(3-31-22)()~~

001. ~~TITLE AND SCOPE.~~

~~01. Title. The title of this chapter is IDAPA 02.03.01, “Rules Governing Pesticide Management Plans for Ground Water Protection.”~~

~~(3-31-22)~~

~~02. Scope. This chapter establishes a process for responding to pesticide detections in ground water.~~

~~(3-31-22)()~~

002. ~~WRITTEN INTERPRETATIONS.~~

~~There are no written interpretations of these rules.~~

~~(3-31-22)~~

003. ~~ADMINISTRATIVE APPEALS.~~

~~There is no provision for administrative appeal before the Idaho Department of Agriculture under this chapter. Hearing and appeal rights are pursuant to Title 67, Chapter 52, Idaho Code.~~

~~(3-31-22)~~

~~002. -- 003. (RESERVED)~~

004. INCORPORATION BY REFERENCE.

The following documents are incorporated by reference into this chapter:

(3-31-22)

01. Dimethyl Tetrachloroterephthalate (DCPA) Pesticide Management Plan. The June 2007 edition published by the Idaho State Department of Agriculture. Copies of this document may be obtained from the

Idaho State Department of Agriculture. (3-31-22)

~~005. ADDRESS, OFFICE HOURS, TELEPHONE, FAX NUMBERS, WEB ADDRESS.~~

~~The Idaho State Department of Agriculture central office is located at 2270 Old Penitentiary Road, Boise, ID 83712-8298. The office is open from 8 a.m. to 5 p.m., except Saturday, Sunday, and legal holidays. The mailing address is PO Box 7249, Boise, Idaho 83707. The phone number is (208) 332-8500 and the fax number is (208) 334-2170. The Department web address is <https://agri.idaho.gov/>.~~ (3-31-22)

~~006. PUBLIC RECORDS ACT COMPLIANCE.~~

~~These rules are public records available for inspection and copying at the Department.~~ (3-31-22)

~~007~~. -- 009. (RESERVED)

010. DEFINITIONS.

The Idaho Department of Agriculture adopts the definitions set forth in Section 22-3401, Idaho Code, and the following definitions: (3-31-22)

01. Aquifer. A geological unit of permeable saturated material capable of yielding economically significant quantities of water to wells and springs. (3-31-22)

02. Beneficial Uses. Current or future uses of ground water supplies including, but not limited to domestic, industrial, agricultural, aquacultural, and mining. (3-31-22)

03. Best Management Practice. A practice or combination of practices determined to be the most effective and practical means of preventing or reducing pesticide contamination to ground water and interconnected surface water from nonpoint and point sources to achieve water quality goals and protect the beneficial uses of the water. (3-31-22)

04. Constituent. Any chemical, ion, radionuclide, synthetic organic compound, microorganism, waste or other substance occurring in ground water. (3-31-22)

05. Contaminant. Any chemical, ion, radionuclide, synthetic organic compound, microorganism, waste or other substance which does not occur naturally in ground water or which naturally occurs at a lower concentration. (3-31-22)

06. Contamination. The direct or indirect introduction into ground water of any contaminant caused in whole or in part by human activities. (3-31-22)

07. Ground Water. Any water of the state which occurs beneath the surface of the earth in a saturated geological formation of rock or soil. (3-31-22)

08. Health Advisory Level. Guidance for the maximum allowable or acceptable daily concentration of a pesticide in drinking water in the absence of or prior to a MCL being set. (3-31-22)

09. Maximum Contaminant Level. Maximum allowable or acceptable daily concentration of a pesticide in drinking water that may be consumed over a lifetime. (3-31-22)

10. Pesticide Management Standard. The United States Department of Agriculture Natural Resource Conservation Service Conservation Practice Standard, Idaho Pesticide Management Code 595, or the Idaho Agricultural Pollution Abatement Plan -- Pesticide Management Standard Component Practice. (3-31-22)

11. Pesticide Use. The mixing, application, handling, transport, storage, display, distribution, and disposal of pesticides and their containers. (3-31-22)

12. Projected Future Beneficial Uses. Various uses of ground water, such as drinking water, aquaculture, industrial, mining or agriculture, that are practical and achievable in the future based on hydrogeologic conditions, water quality, future land use activities and social/economic considerations. (3-31-22)

13. Reference Dose. Allowable or acceptable dose of a pesticide in terms of mg pesticide/kg body weight that can be ingested in one day (acute reference dose) or on a daily basis over a lifetime (chronic reference dose). (3-31-22)

14. Reference Point. Numerical indicators of the toxicity of a substance based on test data and other reliable health effects information. (3-31-22)

15. Susceptibility. A method of describing the flow of water to, and through, the ground water resource based on physical factors such as hydraulic conductivity, porosity, hydraulic gradients, recharge, interactions with surface water, and transport through the unsaturated zone without considering specific natural or anthropogenic sources of contamination. (3-31-22)

16. Vulnerability. Ground water characterized by a potential for contaminants to enter and be transported within the flow system. Determinations of ground water vulnerability will include consideration of land use practices and aquifer characteristics. (3-31-22)

011. ABBREVIATIONS:

- ~~01. APAP. Agricultural Pollution Abatement Plan. (3-31-22)~~
- ~~02. BMP. Best Management Practice. (3-31-22)~~
- ~~03. DCPA. Dimethyl Tetrachloroterephthalate. (3-31-22)~~
- ~~04. DEQ. Department of Environmental Quality. (3-31-22)~~
- ~~05. EPA. Environmental Protection Agency. (3-31-22)~~
- ~~06. HAL. Health Advisory Level. (3-31-22)~~
- ~~07. MCL. Maximum Contaminant Level. (3-31-22)~~
- ~~08. NRCS. Natural Resources Conservation Service. (3-31-22)~~
- ~~09. PMP. Pesticide Management Plan. (3-31-22)~~
- ~~10. QAPP. Quality Assurance Project Plan. (3-31-22)~~
- ~~11. QMP. Quality Management Plan. (3-31-22)~~
- ~~12. RfD. Reference Dose. (3-31-22)~~
- ~~13. SCC. Soil Conservation Commission. (3-31-22)~~
- ~~14. USDA. United States Department of Agriculture. (3-31-22)~~

~~012~~1. -- 049. (RESERVED)

050. CHEMICAL SPECIFIC PESTICIDE MANAGEMENT PLANS (PMPS).

01. Creating PMPs. The Director shall develop and implement chemical specific PMPs (Section 200) for certain pesticides in geographical areas ~~as determined in Section 400~~ when: (3-31-22)()

a. The level of a pesticide found in ground water is equal to or greater than fifty percent (50%) of the reference point and is scientifically validated; (3-31-22)

b. EPA restricts the sale or use of a pesticide in the state, or otherwise initiates action against a pesticide because of ground water concerns for a pesticide, unless such PMP is not deemed necessary by the Director; (3-31-22)

c. EPA's action, restriction, or prohibition will be implemented unless the state develops an adequate PMP; or (3-31-22)

d. A pesticide is conditionally registered by EPA because of ground water concerns. (3-31-22)

~~02. PMP Compliance. No person shall use a pesticide in a manner inconsistent with the chemical specific PMP within a designated geographical area. (3-31-22)~~

051. -- ~~099~~100. (RESERVED)

100. CONTENTS OF A CHEMICAL SPECIFIC PMP.

~~01. Required Elements of a PMP. (3-31-22)~~

~~a. Actions to prevent pesticide contamination that are based on beneficial uses and vulnerability that address applicable aspects of the pesticide use; and (3-31-22)~~

~~b. Actions to prevent or minimize further presence of the pesticide in ground water and to provide protection for the present and projected future beneficial use of the ground water. (3-31-22)~~

~~02. Elements That May Be Included in a PMP. A PMP may include but is not limited to the following elements: (3-31-22)~~

~~a. Identification of geographical areas where a pesticide may be used; (3-31-22)~~

~~b. Pesticide, soil, hydrogeological, and meteorological characteristics; (3-31-22)~~

~~c. BMPs; (3-31-22)~~

~~d. Identification of ground water areas with pesticide detection(s); (3-31-22)~~

~~e. Certification, licensing, training, and education requirements for persons using the pesticide; (3-31-22)~~

~~f. Identification and establishment of an area of pesticide restriction requiring preventative measures; (3-31-22)~~

~~g. Pesticide application rates and timing and related use criteria; (3-31-22)~~

~~h. Integrated pest management information; (3-31-22)~~

~~i. Other requirements for pesticides, as set forth in the Idaho Pesticide and Chemigation Law (Title 22, Chapter 34, Idaho Code), and IDAPA 02.03.03, "Rules Governing Pesticide and Chemigation Use and Application"; or (3-31-22)~~

~~j. Other requirements as listed by the EPA in rule or guidance. (3-31-22)~~

101. MANAGEMENT PLANS ADOPTED BY RULEMAKING AND REVIEW.

~~01. Adoption Through Rulemaking. The Director shall adopt chemical specific PMPs through rulemaking. (3-31-22)~~

~~02. PMP Review. The Director shall review chemical specific PMPs every two (2) years to determine~~

if the requirements contained in the plans need to be modified based on new scientific data and information. (3-31-22)

102. -- 149. (RESERVED)

150. GROUND WATER QUALITY REFERENCE POINTS.

01. Reference Points. The Director will use reference points for pesticides in ground water, based on the following order of availability: (3-31-22)

a. Idaho rules of DEQ, IDAPA 58.01.11, "Ground Water Quality," Subsection 200.01.a. specific to pesticide primary constituent standards which were adopted from EPA MCLs; or (3-31-22)

b. EPA Health Advisory Levels (HALs) identified in the 2006 Edition of the EPA Drinking Water Standards and Health Advisories, EPA 822-R-06-013; or (3-31-22)

c. EPA Reference Dose (RfD) identified in the 2006 Edition of the EPA Drinking Water Standards and Health Advisories, EPA 822-R-06-013; or (3-31-22)

d. A reference point based on: (3-31-22)

i. Best scientific information currently available on adverse effects of the contaminant(s); and (3-31-22)

ii. Protection of a beneficial use(s); and (3-31-22)

iii. Practical quantitation levels for the pesticides, if they exceed the levels identified in IDAPA 58.01.11, "Ground Water Quality Rule," Subsection 200.01.a. (3-31-22)

02. HAL and RfD Guide. The Director shall use the EPA's HAL and RfD number associated with the effects on a person weighing seventy (70) kilograms and drinking two (2) liters of water per day over a lifetime. (3-31-22)

151. -- 199. (RESERVED)

200. RESPONSE TO A PESTICIDE DETECTION.

~~This section describes the four (4) response levels for responding to pesticide detections in ground water. (3-31-22)~~

01. Level One Response. When a pesticide or its metabolite(s) is detected at or above the detection limit yet below twenty percent (20%) of the reference point, the Director shall notify well users or well owners of pesticide(s) detection and continue ground water monitoring; (3-31-22)()

~~**a.** The Director shall: (3-31-22)~~

~~**i.** Notify well users or well owners of pesticide(s) detection; (3-31-22)~~

~~**ii.** Continue ground water monitoring; (3-31-22)~~

~~**ba.** The Director may: (3-31-22)~~

~~**i.** Provide additional information to pesticide applicators within vulnerable areas; (3-31-22)~~

~~**ii.** Review use practices, soils, hydrogeology, and vulnerability within the area of pesticide detection(s); (3-31-22)~~

~~**iii.** Review state records for previous point source or potential violations in accordance with the Idaho Pesticide and Chemigation Law (Title 22, Chapter 34, Idaho Code); (3-31-22)~~

- iv. Review existing monitoring data within area to check for previous detections; (3-31-22)
 - v. Conduct outreach in local area applicable to relevant data and information; and (3-31-22)
 - vi. Encourage voluntary BMPs consistent with the APAP. (3-31-22)
- 02. Level Two Response.** When a pesticide or its metabolite(s) is detected at twenty percent (20%) to less than fifty percent (50%) of the reference point; (3-31-22)
- ~~a. The Director shall;~~ (~~3-31-22~~)
 - ~~ia.~~ Implement actions in Subsection 200.01 in the area of pesticide detection; (3-31-22)
 - ~~ib.~~ Establish area of pesticide concern, in accordance with Section 400, within area of pesticide detection; (3-31-22)
 - ~~ic.~~ Develop a monitoring plan and monitor to determine trends and fluctuations in pesticide concentrations; (3-31-22)
 - ~~id.~~ Determine likely source(s) while notifying and working with the appropriate parties including but not limited to: pesticide registrant(s), dealer(s), applicator(s) and producer(s) to determine likely source(s); (3-31-22)
 - ~~ie.~~ Determine if pesticide detection(s) is from point or nonpoint source; (3-31-22)
 - ~~if.~~ Promote voluntary BMPs or other measures; evaluate BMP effectiveness, and change BMPs if needed; (3-31-22)
 - ~~ig.~~ Require the utilization of the Idaho NRCS Conservation Practice Standard, Pesticide Management Code 595. (3-31-22)
 - ~~ih.~~ The Director may: (3-31-22)
 - i. Develop a chemical specific PMP per pesticide, unless already mandated through EPA Rule to do so; (3-31-22)
 - ii. Monitor additional domestic wells in the hydrogeological up gradient and down gradient area; and (3-31-22)
 - iii. Conduct site specific pesticide use inspections within the area of detection(s). (3-31-22)
- 03. Level Three Response.** When a pesticide or its metabolite(s) is detected at fifty percent (50%) to less than one hundred percent (100%) of the reference point, the Director shall: (3-31-22)
- ~~a.~~ Implement actions in Subsections 200.02.a. through 200.02.e., and 200.02.g. through 200.02.j. in the area of pesticide detection through 200.02.g in the area of pesticide detection; (~~3-31-22~~)()
 - ~~b.~~ Establish an area of pesticide restriction, in accordance with Section 400 and Section 22-3419, Idaho Code, when the Director determines ground water contamination resulted from the application of a pesticide in accordance with the label; (~~3-31-22~~)()
 - ~~e.~~ Restrict the use of the pesticide according to Section 22-3418, Idaho Code; (3-31-22)
 - ~~ec.~~ Install monitoring wells as soon as possible, if the Director determines installation to be necessary based on severity of risk, to evaluate ground water quality, flow direction, and the effectiveness of preventative measures; (3-31-22)

~~ed.~~ Assist well users or well owners within the area of pesticide restriction with health information and alternative water source information; and (3-31-22)

~~fe.~~ Inspect the pesticide applicator records within the restricted area. (3-31-22)

04. Level Four Response. When a pesticide or its metabolite(s) is detected at or above one hundred percent (100%) of the reference point, the Director shall: (3-31-22)

a. Implement actions in Subsection 200.03 in the area of pesticide detection; (3-31-22)

b. Establish an area of pesticide prohibition, ~~in accordance with Section 400 of this rule and Section 22-3418, Idaho Code,~~ when the Director has determined ground water contamination resulted from the application of a pesticide in accordance with the label; ~~(3-31-22)()~~

c. Implement use prohibition area(s); (3-31-22)

d. Assist persons within the use prohibition area with health and alternative water source information; (3-31-22)

e. Determine effectiveness of regulatory actions. (3-31-22)

05. Mixing and Loading Prohibited. No person shall mix or load the prohibited pesticide product in an identified pesticide prohibition area unless the mixing and loading is conducted over a spill containment surface which complies with the Idaho NRCS Conservation Practice Standard, Agrichemical Mixing Facility Code 702. (3-31-22)

~~06. Prohibition Areas.~~ No person shall apply a prohibited pesticide within the corresponding pesticide area boundaries of the area of pesticide prohibition as identified in Section 400. ~~(3-31-22)~~

201. -- 299. (RESERVED)

300. GROUND WATER MONITORING PROGRAMS.

~~01. Monitoring Programs.~~ The Director shall conduct monitoring programs to: (3-31-22)

~~a.~~ Determine whether residues of pesticides are present in ground water; (3-31-22)

~~b.~~ Refine vulnerability mapping products or other assessment tools; (3-31-22)

~~c.~~ Determine the effectiveness of BMPs; and (3-31-22)

~~d.~~ Determine the effectiveness of regulatory approaches. (3-31-22)

~~02. Conduct Monitoring Programs.~~ The Director shall conduct monitoring programs in compliance with the Department's EPA approved QMP and applicable QAPPs. (3-31-22)

~~03. Evaluation.~~ The Director shall evaluate ground water pesticide(s) data from sources other than the Department for use in implementing this rule. (3-31-22)

301. -- 399. (RESERVED)

400. DETERMINING PESTICIDE AREA BOUNDARIES.

~~Section 400 describes the methods for determining the pesticide area boundaries for the response levels in Section 200.~~ (3-31-22)

01. Pesticide Area Boundary Factors. In determining the area of pesticide concern, restricted area, or prohibition area the Director ~~shall implement Section 200 and~~ may consider ~~but not be limited to~~ the following

factors:

~~(3-31-22)~~()

- a. Pesticide detections from reliable ground water test samples; (3-31-22)
- b. Number and frequency of detections; (3-31-22)
- c. Statistical trends of detections; (3-31-22)
- d. Location of detections; (3-31-22)
- e. Hydrogeology of the aquifer; (3-31-22)
- f. Well depth and construction; (3-31-22)
- g. Aquifer vulnerability and susceptibility; (3-31-22)
- h. Pesticide physical and chemical characteristics; (3-31-22)
- i. Pesticide use; or (3-31-22)
- j. Other scientifically defensible information. (3-31-22)

~~02. **Determining Boundaries.** An area of pesticide concern, restricted area, or a prohibition area may encompass land areas which, in the Director's judgment, are susceptible to pesticide contamination of ground water based on the factors identified in Subsection 400.01. The boundaries of an area of pesticide concern, restricted area, or a prohibition area shall be sufficient to meet Section 200 requirements. The boundaries may include any of the following:~~ (3-31-22)

- ~~a. Mapped boundaries between soil types or other hydrogeologic features; (3-31-22)~~
- ~~b. Ground water or surface water divides such as watershed boundaries; (3-31-22)~~
- ~~c. Legal land description boundaries; (3-31-22)~~
- ~~d. Public roads; or (3-31-22)~~
- ~~e. Other recognizable boundaries. (3-31-22)~~

401. -- 409. (RESERVED)

410. REPEALING SPECIFIC PESTICIDE AREAS.

01. Repealing an Area of Pesticide Concern. The Director may repeal or reduce the size of an area of pesticide concern in response to pesticide contamination in ground water if all the following conditions in Subsection ~~410.01~~ are met: (3-31-22)()

a. Tests on at least three (3) consecutive ground water samples, drawn from each well site in the area of pesticide concern at which the concentration of a pesticide and its metabolites previously were found at twenty percent (20%) to fifty percent (50%) of the reference point, show that the concentration at the well sites has fallen to and remains less than twenty percent (20%) of the reference point. The three (3) consecutive samples shall be collected at each well site at intervals of at least six (6) months, with the first sample being collected at least six (6) months after the effective date of the area of pesticide concern designation. A monitoring well approved by the Director may be substituted for any well site which is no longer available for testing. (3-31-22)

b. Tests conducted at other well sites in the area of pesticide concern during the same retesting period, if any, reveal no other concentrations of the pesticide or its metabolites that exceed twenty percent (20%) of the reference point; and (3-31-22)

c. The Director determines, based on credible scientific evidence, that use of a pesticide product in the area of pesticide concern is not likely to cause a renewed detection between twenty percent (20%) to fifty percent (50%) of the reference point. (3-31-22)

02. Repealing an Area of Pesticide Restriction. The Director may repeal or reduce the size of an area of pesticide restriction in response to ground water pesticide contamination if all the following conditions ~~in Subsection 410.02~~ are met: (3-31-22)()

a. Tests on at least three (3) consecutive ground water samples, drawn from each well site in the area of pesticide restriction at which the concentration of a pesticide and its metabolites previously were found at fifty percent (50%) to less than one hundred percent (100%) of the reference point, show that the concentration at the well sites has fallen to and remains less than fifty percent (50%) of the reference point. The three (3) consecutive samples shall be collected at each well site at intervals of at least six (6) months, with the first sample being collected at least six (6) months after the effective date of the area of the pesticide restriction designation. A monitoring well approved by the Director may be substituted for any well site which is no longer available for testing. As areas of pesticide restriction are repealed, the area automatically becomes an area of pesticide concern; (3-31-22)

b. Tests conducted at other well sites in the area of pesticide restriction during the same retesting period, if any, reveal no other concentrations of the pesticide or its metabolites that exceed fifty percent (50%) of the reference point; and (3-31-22)

c. The Director determines, based on credible scientific evidence, that use of a pesticide product in the area of pesticide restriction is not likely to cause a renewed exceedance of fifty percent (50%) of the reference point. (3-31-22)

03. Repealing an Area of Pesticide Use Prohibition. The Director may repeal or reduce the size of an area of pesticide use prohibition in response to ground water pesticide contamination if all the following conditions ~~in Subsection 410.03~~ are met: (3-31-22)()

a. Tests on at least three (3) consecutive ground water samples, drawn from each well site in the prohibition area at which the concentration of a pesticide and its metabolites previously attained or exceeded the reference point, show that the concentration at that well site has fallen to and remains less than fifty percent (50%) of the reference point. The three (3) consecutive samples shall be collected at each well site at intervals of at least six (6) months, with the first sample being collected at least six (6) months after the effective date of the pesticide use prohibition designation. A monitoring well approved by the Director may be substituted for any well site which is no longer available for testing. As areas of pesticide prohibition are repealed, the area automatically becomes an area of pesticide concern; (3-31-22)

b. Tests conducted at other well sites in the area of pesticide prohibition during the same retesting period, if any, reveal no other concentrations of the pesticide and its metabolites that exceed fifty percent (50%) of the reference point; and (3-31-22)

c. The Director determines, based on credible scientific evidence, that renewed use of a pesticide product in the area of pesticide prohibition is not likely to cause a renewed violation of the reference point. (3-31-22)

~~411.—419:~~ (RESERVED)

~~420. ADVISORY COMMITTEE.~~

~~When pesticide management practices are needed under Section 200, the Director's advisory committee, as established pursuant to Section 22-103, Idaho Code, shall provide appropriate guidance on this rule. This advisory committee shall include but is not limited to: applicators from the area of pesticide detection; pesticide, water user, and commodity groups; University of Idaho Extension staff and specialists; and staff from the USDA, NRCS, SCC, DEQ, and the Department. The duties of the advisory committee include but are not limited to the following:~~

~~(3-31-22)~~

~~01. Review Existing Information.~~ Review the existing information related to the area of pesticide

~~detection and develop pesticide management practices options; (3-31-22)~~

~~**02. Recommendations.** Make recommendations to the Director for approval of pesticide management practices prior to implementation at the voluntary and regulatory levels; (3-31-22)~~

~~**03. Research.** Evaluate the potential for gaining government or private research or cost share funding; and (3-31-22)~~

~~**04. Evaluate Effectiveness.** Review information related to pesticide management practices effectiveness and make recommendations for changing and improving pesticide management practices. (3-31-22)~~

~~**421. PESTICIDE USE AND RECORD KEEPING REQUIREMENTS.**~~

~~Pursuant to Title 22, Chapter 34, Idaho Code, and IDAPA 02.03.03, "Rules Governing Pesticide and Chemigation Use and Application," the Director shall inspect pesticide records to meet the need as described in Section 200. (3-31-22)~~

~~422~~11. -- 999. (RESERVED)

IDAPA 02 – IDAHO STATE DEPARTMENT OF AGRICULTURE

02.04.03 – RULES GOVERNING ANIMAL INDUSTRY

DOCKET NO. 02-0403-2401 (ZBR CHAPTER REWRITE)

NOTICE OF RULEMAKING – PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 69-231, 22-3418, 22-3419, 22-3421, 22-103 (20), 25-203, 25-207, 25-207B, 25-212, 25-804, 25-3704, 22-5404, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 16, 2024.

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

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

This rule is being presented for authorization as part of the ISDA’s plan to review each rule every 5 years. Redundant language that is verbatim in statute has been removed, consistent with the Governor’s [Zero-Based Regulation Executive Order](#).

The rule was reviewed over the course of two negotiated rulemaking meetings, and that review benefited from the participation of program stakeholders. No negative comments were submitted as part of this rulemaking process.

This rule clarifies the procedure for disease control of livestock and other animals into, within, and out of the state, procedures for prevention, control, and eradication of diseases among animals in the state of Idaho, and remedies of the Department for non-compliance.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased:

There is no change in fee or charge.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state General Fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking:

There is no fiscal impact on the state General Fund greater than ten thousand dollars (\$10,000).

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the July 3, 2024 Idaho Administrative Bulletin, [Volume 24-7, Pages 41 and 42](#).

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule:

The Incorporation by Reference Section has been updated to remove four documents that are unnecessary in the rule as they are already included in the Code of Federal Regulations as they are federal program diseases, included in Idaho Code, or include standards that are impractical.

The following documents are no longer referenced:

- A. The USDA Pseudorabies Eradication State Federal Industry Program Standards
- B. National Poultry Improvement Plant and Auxiliary Provisions
- D. The Compendium of Animal Rabies Prevention and Control
- E. Equine Viral Arteritis Uniform Methods and Rules

IDAHO CODE SECTION 22-101A STATEMENT: Pursuant to 22-101A(1), for any rule promulgated or adopted by the director which is broader in scope or more stringent than federal law or regulations, or which regulates an activity not regulated by the federal government, the director shall identify the portions of the adopted rule that are broader in scope or more stringent than federal law or rules, or which regulate an activity not regulated by the federal government. The following sections of the rule are broader in scope, more stringent than federal law or regulations, or regulate an activity not regulated by the federal government:

The federal government only provides standards and best practices for certain diseases and programs implemented under this rule. The federal government does not regulate animals within the state. This activity is defined in Idaho Code.

The detailed 22-101A analysis can be found on the agency’s website at www.agri.idaho.gov.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Lloyd Knight at lloyd.knight@isda.idaho.gov.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 23, 2024.

DATED this 2nd day of October, 2024.

Lloyd Knight
Deputy Director
Idaho Department of Agriculture
2270 Old Penitentiary Road
P.O. Box 7249
Boise, Idaho 83707
Phone: (208) 332-8615
Email: lloyd.knight@isda.idaho.gov

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 02-0403-2401
(ZBR Chapter Rewrite)

02.04.03 – RULES GOVERNING ANIMAL INDUSTRY

000. LEGAL AUTHORITY.

~~This chapter is adopted under the legal authority of~~ Sections 22-103(20), 25-203, 25-207, 25-207B, 25-212, and 25-804, 25-3704 Idaho Code. ~~(3-15-22)()~~

001. ~~TITLE AND SCOPE.~~

~~01. Title.~~ The title of this chapter is “Rules Governing Animal Industry.” ~~(3-15-22)~~

~~02. Scope.~~ These rules govern procedures for the prevention, control and eradication of diseases among the animals in the state of Idaho and the declaration of an animal health emergency. ~~(3-15-22)()~~

002. -- 010. (RESERVED)

011. ABBREVIATIONS.

- 01. APHIS. Animal and Plant Health Inspection Service. (3-15-22)
- 02. CFR. Code of Federal Regulations. (3-15-22)
- 03. CVI. Certificate of Veterinary Inspection. ()
- 04. NASAHO. National Assembly of State Animal Health Officials. ()
- 035. USDA. United States Department of Agriculture. (3-15-22)
- 046. VS. Veterinary Services. (3-15-22)
- 102. -- 103. (RESERVED)

SUBCHAPTER A – ANIMAL INDUSTRY

104. INCORPORATION BY REFERENCE.

The following documents are incorporated by reference and apply only to Subchapter A, Sections 110-460: (3-15-22)

- 01. **Incorporated Documents.** (3-15-22)
 - a. The USDA Pseudorabies Eradication State-Federal-Industry Program Standards, November 1, 2003, which can be viewed online at http://www.aphis.usda.gov/animal_health/animal_diseases/pseudorabies/downloads/program_std.pdf ~~https://www.aphis.usda.gov/sites/default/files/prv_program_standards.pdf~~. (3-15-22)()
 - b. ~~National Poultry Improvement Plan and Auxiliary Provisions, February 12, 2008, which can be viewed online at <http://edocket.access.gpo.gov/2009/E9-7240.htm>.~~ (3-15-22)
 - c. Title 9, Parts ~~145, 146, 147, and~~ 161, CFR, January 1, 2008~~24~~, which can be viewed online at <https://www.govinfo.gov/content/pkg/CFR-2008-title9-vol1/pdf/CFR-2008-title9-vol1-chap1.pdf> ~~<https://www.ecfr.gov/current/title-9/chapter-I/subchapter-J/part-161>~~. (3-15-22)()
 - d. ~~The Compendium of Animal Rabies Prevention and Control, 2008, which can be viewed online at <http://www.nasphv.org/Documents/NASPHVRabiesCompendium.pdf>.~~ (3-15-22)
 - e. ~~Equine Viral Arteritis Uniform Methods and Rules, April 19, 2004, which can be viewed online at <http://www.aphis.usda.gov/vs/nahss/equine/eva/eva-umr.pdf>.~~ (3-15-22)

105. -- 109. (RESERVED)

110. DEFINITIONS.

~~In addition to the definitions found in Idaho Code Sections 25-239 and 25-802,~~ The definitions in Section 110 apply in the interpretation and enforcement of Subchapter A only: (3-15-22)()

- 01. **Accredited Veterinarian.** A veterinarian approved by the Administrator and USDA/APHIS/VS, in accordance with the provisions of Title 9, Part 161, Code of Federal Regulations, ~~to perform functions of State-Federal animal disease control programs.~~ (3-15-22)()
- 02. **Animal.** Any vertebrate member of the animal kingdom, except man. (3-15-22)
- 03. **Approved Pseudorabies Vaccine.** Any pseudorabies vaccine produced under current USDA license and intended for immunizing swine against pseudorabies. (3-15-22)
- 04. **Cachexia.** Weakness and emaciation caused by a serious disease such as tuberculosis or cancer.

- (3-15-22)
- 05. Epithelioma.** Cancer or tumor. (3-15-22)
- 06. Equidae.** Horses, ponies, mules, asses, and zebras. (3-15-22)
- 07. Exposed Livestock.** Any livestock that have been in contact with an animal infected with, or affected by, any contagious, infectious or communicable disease, including all livestock in a known infected herd. (3-15-22)
- 08. Gamebirds.** Domesticated gallinaceous fowl such as pheasants, partridge, quail, grouse, and guineas. (3-15-22)
- 09. Garbage.** Putrescible animal and vegetable waste containing animal parts resulting from the handling, preparation, processing, cooking or consumption of foods. (3-15-22)
- 10. Hatching Eggs.** Fertilized eggs. (3-15-22)
- 11. Herd.** ~~A herd is a~~ Any group of livestock maintained on common ground for any purpose, or two (2) or more groups of livestock under common ownership or supervision, geographically separated, but which have an interchange or movement of animals without regard to whether the animals are infected with or exposed to contagious, infectious, or communicable animal diseases. (3-15-22)()
- 12. Infected Livestock.** Any herd of livestock or individual animal determined to be infected with a contagious, infectious, ~~of or~~ communicable disease by an official test or diagnostic procedure, or diagnosed by a veterinarian as infected. (3-15-22)()
- 13. Interstate Movement.** Movements of livestock and poultry from Idaho into any other state, territory or the District of Columbia or from any other state, territory or the District of Columbia into Idaho. (3-15-22)
- 14. Intrastate Movement.** Movement of any animal from one location to another location within Idaho. (3-15-22)
- ~~**15. Known Infected Herd.** Any herd in which any livestock has been determined to be infected with contagious, infectious, or communicable diseases by an official test or diagnostic procedure, or diagnosed by a veterinarian as being infected. (3-15-22)~~
- 165. Livestock.** Swine, cattle, sheep, goats, equidae, domestic bison, domestic cervidae, camelids, ratites, and other domestically raised animals. (3-15-22)
- ~~**176. Necrosis.** Death of tissue. (3-15-22)~~
- ~~**187. Negative.** An animal that has been tested with official test procedures and is found to be negative. (3-15-22)~~
- ~~**198. Neoplastic Tissue.** New growth or tissue associated with a tumor. (3-15-22)~~
- ~~**2019. Official Pseudorabies Test.** Any test for the diagnosis of pseudorabies that has been approved by USDA/APHIS and is conducted by a state/federal approved laboratory. (3-15-22)~~
- ~~**240. Orbital Region.** The cavity containing the eye and surrounding bones. (3-15-22)~~
- 221. Positive.** An animal that has been tested and ~~found~~ confirmed positive with official disease test procedures and is considered infected with any contagious, infectious, or communicable disease. (3-15-22)()
- ~~**232. Poultry.** Domesticated fowl, including chickens, turkeys, waterfowl, and gamebirds. (3-15-22)~~

243. Pseudorabies. The contagious, infectious, and communicable disease of livestock and other animals also known as Aujeszky's disease, mad itch or infectious paralysis. (3-15-22)

254. Quarantine. A written order, or a verbal order followed by a written order, executed by the Administrator, to confine or hold animals on a premise or any other location, and to prevent movement of animals from a premise or any other location when the Administrator has determined that the animals have been found or are suspected to be exposed to or infected with any contagious, infectious, or communicable disease, or the animals are not in compliance with the provisions of this chapter. (3-15-22)

265. Quarantined Area. The counties, areas, or districts, portions thereof, quarantined by the Division of Animal Industries for specific contagious, infectious, or communicable animal diseases. (3-15-22)

276. Quarantined. Isolation of all animals diseased or exposed thereto, from contact with healthy animals and exclusion of such healthy animals from enclosures or grounds where said diseased or exposed animals are, or have been kept. (3-15-22)

287. Ratites. Large, non-flying birds including, but not limited to ostriches, emus, cassowaries, and rheas. (3-15-22)

~~**29. Registered Veterinarians.** Veterinarians registered with, and approved by, the Division of Animal Industries to collect Trichomoniasis samples for official Trichomoniasis culture testing. (3-15-22)~~

~~**3028. Restrain.** The confinement of livestock, or other animals, in a chute, or other device, for the purpose of efficiently, effectively, and safely inspecting, treating, vaccinating, or testing, as approved by the Administrator. (3-15-22)~~

~~**3429. Stockyards.** A facility where trading in livestock is carried on, where yarding, feeding and watering places are provided by the stockyards or transportation companies, or where livestock associations or similar companies maintain corrals for feeding, shearing, dipping and separating animals. (3-15-22)~~

320. Suppuration. The formation of pus. (3-15-22)

~~**331. Suspect.** An animal that has a response to an official test, but the response is not sufficient to determine confirm the disease status of the animal tested. (3-15-22)()~~

342. Swine. All breeds of domestic porcine and all wild and exotic porcine. (3-15-22)

353. Swine Feedlot. Premises designed and used exclusively for the finish feeding of swine, from which the swine will be moved directly to slaughter. (3-15-22)

364. Waterfowl. Domesticated fowl that normally swim such as ducks and geese. (3-15-22)

~~**37. Wildfowl.** Wild gallinaceous fowl, turkeys, and waterfowl. (3-15-22)~~

111. ABBREVIATIONS.

01. AGID. Agar gel immunodiffusion. (3-15-22)

02. c-ELISA. Competitive Enzyme Linked Immunosorbent Assay. (3-15-22)

03. EIA. Equine Infectious Anemia. (3-15-22)

04. NPIP. National Poultry Improvement Plan. (3-15-22)

112. -- 113. (RESERVED)

114. SAMPLES FOR OFFICIAL REGULATORY TESTS.

No person shall collect samples, in Idaho, for official regulatory tests except: (3-15-22)

- 01. Accredited Veterinarians.** (3-15-22)
- 02. State or Federal Animal Health Officials.** (3-15-22)
- 03. Persons Approved by the Administrator.** (3-15-22)

~~115. QUARANTINE.~~

~~The Administrator and all state and federal animal health officials are authorized to quarantine any animals affected or infected with, or exposed to any contagious, infectious, or communicable disease where such animals are found, or quarantine to a place designated by the Administrator.~~ (3-15-22)

~~**01. Written Notice.** The owner or person in charge of the quarantined animals shall be given written notice of the quarantine.~~ (3-15-22)

~~**02. Acknowledgment of Quarantine.** A quarantine is valid whether or not it is acknowledged by the signature of the owner or person in charge of the quarantined animals.~~ (3-15-22)

~~**03. Disposition of Quarantined Animals.** No quarantined animals shall be moved, treated, or disposed of without the written approval of the Administrator.~~ (3-15-22)

~~**04. Hold Order.** A hold order is a form of quarantine that may be used to restrict the movement of animals while the disease status of the animals is being investigated.~~ (3-15-22)

~~116.5 -- 119. (RESERVED)~~

120. DISINFECTION OF PREMISES, BUILDINGS AND VEHICLES.

The Administrator is authorized to order the cleaning and disinfecting of any ~~barns, sheds, stockyards, railroad cars, ferryboats and other vehicles, feed yards, stable, pens, corrals, lanes and premises~~ facilities, equipment, or vehicles which have been used in confining, trailing handling, or transporting any animals exposed to, affected by, or infected with any contagious, infectious, or communicable diseases. (3-15-22)()

01. Supervision of Cleaning and Disinfection. State or federal animal health officials may supervise and/or verify the cleaning and disinfecting of such premises or conveyances. (3-15-22)()

02. Owner Responsibility. The owner of such premises or conveyances, is responsible for cleaning and disinfecting when directed to do so by the Administrator. (3-15-22)

~~**03. Moving Contaminated Vehicle.** Any conveyance that has contained cattle, swine or other livestock exposed to, or affected by, any contagious, infectious or communicable disease, may not be moved for any purpose unless the Administrator has approved the movement in writing, prior to the movement occurring.~~ (3-15-22)

~~**04. Yards and Other Premises.** Yards and other premises which have contained cattle, swine or other livestock exposed to, or affected by, any contagious, infectious or communicable disease shall not be used in connection with the movement of healthy animals until the said yards and premises have been cleaned and disinfected, under state or federal supervision, as directed by the Administrator.~~ (3-15-22)

~~**05.3. Disinfectants.** Only disinfectants approved by USDA or the Administrator may be used.~~ (3-15-22)

~~121. -- 124. (RESERVED)~~

~~125. TRANSIT INSPECTION.~~

~~When deemed necessary, movements of animals will be stopped in transit for inspection. If the animals are suspected of being infected with or exposed to any contagious, infectious or communicable disease, all persons having control of the transportation or movement of the animals shall cease the movement of the animals upon receipt of an order~~

~~from state or federal animal health officials.~~

~~(3-15-22)~~

~~126. — 129. (RESERVED)~~

130. SLAUGHTERING OF DISEASED ANIMALS.

01. Authorized by Law. When, in order to prevent the spread of contagious, infectious or communicable disease, it becomes necessary to slaughter any diseased or exposed livestock, the purchase of such livestock by the state is authorized by law, and an appropriation is available therefore, the value of the livestock is ascertained and compensation made therefore in accordance with the rules hereinafter provided. (3-15-22)

02. Not Authorized by Law. When, in order to prevent the spread of or to eradicate any contagious, infectious or communicable disease among any animals of this state, it becomes necessary to slaughter or destroy any diseased or exposed animals, and the purchase of such animals by the state is not authorized, and an appropriation not available therefore, the said animals shall be slaughtered under federal meat inspections rules and regulations, or destroyed and disposed of in accordance with IDAPA 02.04.17, "Rules Governing Dead Animal Movement and Disposal." (3-15-22)

~~131. -- 139. (RESERVED)~~

140. INSPECTION OF ANIMALS.

~~When animals are being inspected by a state or federal animal health official, proper facilities for restraining the animals, and assistance shall be provided by the owner in order that a careful inspection may be made, and state and federal animal health officials shall not be interfered with in any manner. The owner of any animal being inspected shall assist, in any manner required, state or federal health officials and shall not interfere with the inspection.~~

~~(3-15-22)()~~

~~141. -- 144. (RESERVED)~~

145. CERTIFICATES OF VETERINARY INSPECTION.

A physical or electronic copy of ~~certificates~~ CVIs issued by an accredited veterinarian, ~~or a state or federal animal health official covering the movement of livestock~~ shall accompany the livestock to its' destination, ~~and be provided to the receiver of the livestock by the person who delivers the livestock.~~

~~(3-15-22)()~~

01. Copies Approved Certificates. ~~Legible copies of All~~ certificates of veterinary inspection ~~shall be submitted to the Division of Animal Industries~~ must be an electronic CVI approved by the NASAHO and issued by an accredited veterinarian.

~~(3-15-22)()~~

02. Idaho Certificates. ~~Accredited veterinarians in Idaho shall submit legible copies of all certificates that they issue to the Division of Animal Industries within five (5) business days of issuance.~~

~~(3-15-22)~~

~~146. -- 149. (RESERVED)~~

150. STATE AND FEDERAL SEALS.

No person may break, or in any way tamper with, a seal or other device applied to premises or conveyances by state or federal animal health officials, except:

(3-15-22)

01. State or Federal Animal Health Officials; or (3-15-22)

02. Persons Designated by the Administrator. (3-15-22)

151. NOTIFICATION OF BROKEN SEALS.

Any person who discovers a state or federal seal that has been broken, tampered with, or is missing shall immediately notify the Administrator. (3-15-22)

152. LIVESTOCK IDENTIFICATION REMOVAL.

No person, except persons authorized by the Administrator, may remove or tamper with any state or federal livestock

identification, including but not limited to: (3-15-22)

01. Official Vaccination Tags. (3-15-22)

02. Official Identification Tags. (3-15-22)

03. Trichomoniasis Tags. (3-15-22)

04. Identification Tattoos. (3-15-22)

153. -- 199. (RESERVED)

200. ARTIFICIAL INSEMINATION.

01. **License Application.** Any person desiring to practice artificial insemination of domestic animals may file an application for a license on an application form furnished by the Administrator and accompanied by a license fee of twenty-five (\$25) dollars. (3-15-22)

~~02. **Training.** Each applicant is required to take a course of training in artificial insemination at the place and time designated by the Administrator. (3-15-22)~~

~~03. **Examination.** Examinations are in writing and focused on the skill of artificial insemination. (3-15-22)~~

~~04. **Passing Examination.** To be granted a license to practice artificial insemination applicants must answer correctly seventy-five percent (75%) of all questions asked. (3-15-22)~~

05. **Temporary License.** Temporary license to practice artificial insemination under the direct supervision of a licensed inseminator or veterinarian may be granted by the administrator, until such time as the next insemination course and examination is given. (3-15-22)

06. **License Expiration.** Licenses expire on the 30th day of June of each year, and all persons holding a license shall renew their license on or before the 1st day of July of each year. (3-15-22)

07. **License Renewal.** Each license renewal is to be addressed to the Administrator and accompanied by a renewal license fee of five dollars (\$5). (3-15-22)

08. **Renewal Delinquency.** Licenses not renewed by the 1st day of October following the date of delinquency are canceled. (3-15-22)

09. **Issuance Denial.** The Administrator may refuse to issue or renew a license pursuant to Section 25-810, Idaho Code. (3-15-22)

201. -- 209. (RESERVED)

210. CANCER EYE - EPITHELIOMA.

Any animal offered for sale and found to be affected with epithelioma of the eye or of the orbital region ~~in which the eye has been destroyed or obscured by neoplastic tissue and which shows extensive infection, suppuration and necrosis, usually accompanied with foul odor, or any animal affected with epithelioma of the eye or the orbital region which, regardless of extent, is accompanied with cachexia shall not be sold for slaughter for human consumption. All such animals~~ shall be humanely euthanized, or disposed of for immediate slaughter directly to: (3-15-22)()

01. Animal Rendering Plants; or (3-15-22)

02. Fur Farms. Fur or mink farm or other establishment as approved by the Administrator. (3-15-22)

211. EPITHELIOMA -- PUBLIC LIVESTOCK MARKETS.

Any animal entering a public livestock market that is affected, as described in Section 210 of this rule, shall be held only in the quarantine pen and sold only there from. (3-15-22)

~~212. -- 219. (RESERVED)~~

~~220. RABIES.~~

~~The Administrator is authorized to develop and implement a plan for rabies control in any portion of this state. (3-15-22)~~

~~01. Reporting. It is hereby made the duty of all persons practicing veterinary medicine in this state, or owners or persons in charge of animals, to report to the Administrator, by telephone, facsimile, or electronic mail, all cases of rabies within forty-eight (48) hours. (3-15-22)~~

~~02. Discharging Authority. State and federal animal health officials are authorized and empowered to: (3-15-22)~~

~~a. Inspect, quarantine, treat, condemn, slaughter and dispose of any animals affected or infected with or exposed to rabies. (3-15-22)~~

~~b. Quarantine, clean and disinfect all premises where such animals have been kept. (3-15-22)~~

~~c. Call upon sheriffs, constables and other peace officers to assist them in the discharge of their duties. (3-15-22)~~

~~221.—229. (RESERVED)~~

~~230. BIOLOGICALS.~~

~~Veterinary serums, vaccines, recombinant vaccines, bacterins, biologic remedies, diagnostic agents, immunoassay agents and diagnostic probes (“biologicals”) used in the treatment or diagnosis of disease of livestock, poultry, domestic animals, fish or fur bearing animals shall not be imported into or sold, distributed, or used within the state of Idaho unless such serum, vaccines, recombinant vaccines, bacterins, biologic remedies, diagnostic agents, immunoassay agents and diagnostic probes biologicals have been produced under a license by the United States Department of Agriculture and the manufacturers shall have a permit issued by the Idaho Department of Agriculture, Division of Animal Industries. (3-15-22)()~~

~~231. -- 239. (RESERVED)~~

~~240. POULTRY AND RATITES.~~

~~Any person producing poultry or ratites for any of the following uses, is required to be in compliance with the NPIP program: (3-15-22)~~

~~01. Sale of Live Birds or Hatching Eggs. The sale of live birds or hatching eggs; or (3-15-22)~~

~~02. Release of Live Birds. Release of live birds, such as hunting clubs, hunting preserves, or dog trials; or the release of live birds into the wild. (3-15-22)~~

~~241. RECORD REQUIREMENTS.~~

~~In addition to meeting the record keeping requirements of the NPIP program, all NPIP participants shall forward a copy of their annual flock qualification test results to the Division of Animal Industries within fifteen (15) days of the completion of testing. (3-15-22)~~

~~242. INSPECTIONS.~~

~~The premises where participants in the NPIP program raise poultry or ratites shall be inspected at least once each calendar year by state or federal animal health officials. (3-15-22)~~

~~01. Scheduling of Inspections. State or federal animal health officials will attempt to notify the NPIP participant prior to any inspection and schedule the annual inspections in advance with the NPIP participant.~~

(3-15-22)

~~02. **Inspecting Records.** During normal business hours, state or federal animal health officials are authorized to inspect, review, and copy any poultry or ratite records deemed necessary to ensure compliance with these rules. State or federal animal health officials will attempt to notify the owner or operator of the premises where records are kept prior to inspecting records.~~ (3-15-22)

~~243. **NPIP CERTIFICATES OF PARTICIPATION.**~~

~~The Division of Animal Industries will issue NPIP participation certificates annually to the owners of poultry and ratites that meet the following requirements:~~ (3-15-22)

~~01. **Records.** Each NPIP participant must have on file records of their flock qualification testing; and~~ (3-15-22)

~~02. **Inspection Forms.** Each NPIP participant shall have on file a copy of the annual inspection form from the previous year documenting compliance with the NPIP program.~~ (3-15-22)

~~244.—249. (RESERVED)~~

250. EQUIDAE -- EQUINE INFECTIOUS ANEMIA.

Official tests for EIA include the AGID test, the C-ELISA test, and other EIA tests approved by USDA or the Administrator. (3-15-22)

01. Blood Samples. Equine blood samples collected for official EIA tests shall be collected by a state or federal animal health official or an accredited veterinarian who is licensed in the state in which the animal being tested is located. (3-15-22)

02. Official Samples. Official EIA test samples shall be accompanied to the testing laboratory by an official EIA test report on submission form approved by USDA or the Administrator which ~~is recorded the name and address of the owner or person in charge of the animal, the breed, sex, age and~~ includes the physical description and identification of the animal being tested. ~~Identification includes identifying tattoos, brands, color and distinctive markings. The accredited veterinarian or animal health official collecting the EIA test samples shall record the date the samples were collected and affix his signature to the official EIA test report.~~ (3-15-22)()

03. Official Tests. Official EIA tests shall be conducted in a laboratory approved by USDA or the state of Idaho to conduct EIA tests. (3-15-22)

251. EIA IS A REPORTABLE DISEASE.

All laboratories conducting EIA tests on Idaho origin equidae ~~and all veterinarians who diagnose EIA in Idaho equidae~~ shall report positive results of all EIA tests ~~and diagnoses~~ to the Administrator of Animal Industries within twenty-four (24) hours of such test or diagnosis. ~~Negative test results shall be reported within forty eight (48) hours.~~ (3-15-22)()

252. EIA INFECTED ANIMALS.

Any equidae which are positive to an official EIA test are to be declared infected with EIA and designated as an EIA reactor. The Administrator may require or recommend a re-test of EIA reactors in order to confirm infection or identification of the animal. In cases where a confirmatory test is conducted, the final determination of infection will be delayed until the results of the confirmatory test are available. The animal on which a confirmatory test is to be conducted will be placed under an official Hold Order until the results of the confirmatory test are available. (3-15-22)

253. DISPOSITION OF EIA REACTORS.

Equidae found to be infected with EIA shall: (3-15-22)

01. Quarantined. Be quarantined to the premises where the animal was found to be infected, the owner's premises, or another premises that is approved by the Administrator. (3-15-22)

- 02. Duration of Quarantine.** Remain under quarantine until it is: (3-15-22)
- a. Consigned to slaughter at a USDA approved equine slaughter establishment; or (3-15-22)
 - b. Euthanized and buried or incinerated; or (3-15-22)
 - c. Donated to a university or other research facility for use in EIA research projects. (3-15-22)

254. ISOLATION OF EIA REACTORS.

The quarantine premises or area for EIA reactors shall provide no less than two-hundred (200) yards separation from all other equidae. The quarantine area and quarantined animals therein may be monitored periodically by state or federal animal health officials to ensure that provisions of the quarantine are being met. (3-15-22)

255. IDENTIFICATION OF EIA REACTORS.

All equidae found to be infected with EIA shall be identified with an “82 A”, at least two (2) inches high, hot iron or freeze brand on the left neck or left shoulder of the animal. Identification as an EIA reactor shall be accomplished within fifteen (15) days of notification that the animal is infected with EIA. (3-15-22)

256. EXPOSED EQUIDAE.

EIA exposed equidae may include all equidae that are held within two-hundred (200) yards of the location where an EIA reactor is or was maintained. (3-15-22)

01. Hold Order. Exposed equidae shall be placed under a Hold Order until the animals have been tested negative to EIA at least sixty (60) days after the last reactor animal has been removed from the premises. (3-15-22)

02. Movement of Exposed Equids. Individual exposed equids, which have not had a negative sixty (60) day test, may be allowed to move under Hold Order for specific purposes if they have a negative EIA test prior to movement. Such movement shall not be for longer than fifteen (15) days. (3-15-22)

257. EXTENDED VALIDITY EQUINE CERTIFICATES.

~~Provided there is a written agreement between the Administrator and the chief livestock sanitary official of the state of destination, Idaho origin equidae may be moved from Idaho for shows, rides, or other equine events and return to Idaho on an extended validity equine certificate under a state system of equine certification acceptable to the Administrator and the state of destination. The Administrator may authorize the movement of equidae into or out of Idaho on extended validity equine certificates~~ system approved by the Administrator. (3-15-22)()

258. -- 299. (RESERVED)

300. FOREIGN ANIMAL AND REPORTABLE DISEASES.

It is the duty of all persons in Idaho to immediately report to the Administrator ~~immediately, by telephone, facsimile, or electronic mail,~~ any lesions or symptoms resembling any of the foreign animal and reportable diseases listed in Subchapter A, ~~that they may find existing among the~~ if observed in any animals in Idaho. The Administrator may add a foreign animal and reportable disease by issuing an administrative order explaining in writing the reasons for requiring the disease to be reported. (3-15-22)()

301. FOREIGN ANIMAL AND REPORTABLE DISEASES: MULTIPLE SPECIES.

- 01. Anthrax.** (3-15-22)
- 02. Brucellosis.** (3-15-22)
- 03. Foot and Mouth Disease.** (3-15-22)
- 04. Heartwater.** (3-15-22)
- 05. Leishmaniasis.** (3-15-22)

- 06. Plague (*Yersinia pestis*). (3-15-22)
- 07. Pseudorabies. (3-15-22)
- 08. Q Fever (*Coxiella burnetti*). (3-15-22)
- 09. Rabies. (3-15-22)
- 10. Rift Valley Fever. (3-15-22)
- 11. Scabies. (3-15-22)
- 12. Screw Worms. (3-15-22)
- 13. Theileriosis. (3-15-22)
- 14. Trypanosomiasis. (3-15-22)
- 15. Tuberculosis. (3-15-22)
- 16. Tularemia. (3-15-22)
- 17. Vesicular Stomatitis. (3-15-22)
- 302. FOREIGN ANIMAL AND REPORTABLE DISEASES: AVIAN DISEASES.**
- 01. Avian Influenza. (3-15-22)
- 02. Avian Chlamydiosis (*Psittacosis*). (3-15-22)
- 03. Exotic Newcastle Disease. (3-15-22)
- 303. FOREIGN ANIMAL AND REPORTABLE DISEASES: BOVINE DISEASES.**
- 01. Babesiosis. (3-15-22)
- 02. Bovine Brucellosis (*B. abortus*). (3-15-22)
- 03. Bovine Spongiform Encephalopathy. (3-15-22)
- 04. Bovine Tuberculosis. (3-15-22)
- 05. Contagious Bovine Pleuropneumonia. (3-15-22)
- 06. Crimean Congo Hemorrhagic Fever. (3-15-22)
- 07. Lumpy Skin Disease. (3-15-22)
- 08. Malignant Catarrhal Fever (Foreign Type). (3-15-22)
- 09. Rinderpest. (3-15-22)
- 10. Trichomoniasis. (3-15-22)
- 304. FOREIGN ANIMAL AND REPORTABLE DISEASES: CERVIDAE DISEASES.**
- Chronic Wasting Disease is a reportable disease. (3-15-22)

305. FOREIGN ANIMAL AND REPORTABLE DISEASES: EQUINE DISEASES.

- 01. African Horse Sickness. (3-15-22)
- 02. Contagious Equine Metritis. (3-15-22)
- 03. Dourine. (3-15-22)
- 04. Equine Encephalomyelitis (Eastern, Western, Venezuelan). (3-15-22)
- 05. Equine Infectious Anemia. (3-15-22)
- 06. Equine Piroplasmosis (*Babesiosis*). (3-15-22)
- 07. Equine Viral Arteritis. (3-15-22)
- 08. Glanders. (3-15-22)
- 09. Hendra Virus. (3-15-22)
- 10. Japanese Encephalitis. (3-15-22)
- 11. Surra (*Trypanosoma evansi*). (3-15-22)

306. FOREIGN ANIMAL AND REPORTABLE DISEASES: FISH DISEASES.

- 01. Asian Tapeworm of Carp. (3-15-22)
- 02. Oncorhynchus Masou Virus Disease. (3-15-22)
- 03. Spring Viremia of Carp. (3-15-22)
- 04. Viral Hemorrhagic Septicemia. (3-15-22)

307. FOREIGN ANIMAL AND REPORTABLE DISEASES: LAGOMORPH DISEASES.

Rabbit Hemorrhagic Disease is a reportable disease. (3-15-22)

308. FOREIGN ANIMAL AND REPORTABLE DISEASES: SHEEP AND GOAT DISEASES.

- 01. Contagious Caprine Pleuropneumonia. (3-15-22)
- 02. Nairobi Sheep Disease. (3-15-22)
- 03. Ovine Brucellosis (*B. melitensis*). (3-15-22)
- 04. Peste des Petits Ruminants. (3-15-22)
- 05. Scrapie. (3-15-22)
- 06. Sheep and Goat Pox. (3-15-22)

309. FOREIGN ANIMAL AND REPORTABLE DISEASES: SWINE DISEASES.

- 01. African Swine Fever. (3-15-22)
- 02. Classical Swine Fever (Hog Cholera). (3-15-22)

- 03. Enterovirus Encephalitis (Teschen Disease). (3-15-22)
- 04. Nipah Virus Encephalitis. (3-15-22)
- 05. Porcine Brucellosis (*B. suis*). (3-15-22)
- 06. Swine Vesicular Disease. (3-15-22)
- 310. -- 329. (RESERVED)
- 330. NOTIFIABLE DISEASES.
All veterinarians licensed to practice in Idaho shall report any notifiable diseases listed in Subchapter A to the Administrator. The Administrator may add a notifiable disease by issuing an administrative order explaining in writing the reasons for requiring the disease to be reported. (3-15-22)
- 331. NOTIFIABLE DISEASES: MIXED SPECIES DISEASES.
West Nile Virus is a notifiable disease. (3-15-22)
- 332. NOTIFIABLE DISEASES: AVIAN DISEASES.
 - 01. Avian Mycoplasmosis (*M. gallisepticum* and *M. synoviae*). (3-15-22)
 - 02. Fowl Typhoid (*Salmonella gallinarum*). (3-15-22)
 - 03. Pullorum Disease (*Salmonella pullorum*). (3-15-22)
- 333. NOTIFIABLE DISEASES: BOVINE DISEASES.
 - 01. Hemorrhagic Septicemia (*Pasteurella multocida*). (3-15-22)
 - 02. Malignant Catarrhal Fever (Sheep Associated). (3-15-22)
- 334. NOTIFIABLE DISEASES: EQUINE DISEASES.
 - 01. Equine Herpesvirus Myeloencephalopathy. (3-15-22)
 - 02. Equine Rhinopneumonitis. (3-15-22)
- 335. NOTIFIABLE DISEASES: FISH DISEASES.
 - 01. Epizootic Hematopoietic Necrosis. (3-15-22)
 - 02. Infectious Hematopoietic Necrosis. (3-15-22)
 - 03. Whirling Disease. (3-15-22)
- 336. NOTIFIABLE DISEASES: LAGOMORPH DISEASES.
Myxomatosis is a notifiable disease. (3-15-22)
- 337. NOTIFIABLE DISEASES: SHEEP AND GOAT DISEASES.
 - 01. Bluetongue. (3-15-22)
 - 02. Caprine Arthritis/Encephalitis (CAE). (3-15-22)
 - 03. Caseous Lymphadenitis. (3-15-22)

04. Contagious Agalactia (*Mycoplasma spp.*). (3-15-22)
05. Enzootic Abortion (*Chlamydia psittici*). (3-15-22)
06. Footrot. (3-15-22)
07. Haemonchus Contortus (drug-resistant). (3-15-22)
08. Johne's Disease. (3-15-22)
09. Maedi-Visna/Ovine Progressive Pneumonia (OPP). (3-15-22)
10. Ovine Epididymitis (*Brucella ovis*). (3-15-22)
11. Toxoplasma Gondii Abortion. (3-15-22)
12. Vibrionic Abortion (*Campylobacter fetus*). (3-15-22)
338. NOTIFIABLE DISEASES: SWINE DISEASES.
01. Porcine Reproductive and Respiratory Syndrome (PRRS). (3-15-22)
02. Transmissible Gastroenteritis. (3-15-22)
339. -- ~~359.~~ (RESERVED)
- ~~360. ACTINOMYCOSIS (LUMP JAW).~~
- ~~01. Selling Diseased Animal.~~ It is unlawful for any person to knowingly sell, offer for sale, or in any manner transfer ownership to another person any animal infected or affected with the disease known as actinomycosis or lump jaw if the disease shows well marked clinical symptoms, or is in the advanced stage, except for immediate slaughter, and then only in accordance with the meat inspection rules and regulations of the USDA. (3-15-22)
- ~~02. Public Livestock Markets.~~ Animals showing well marked clinical symptoms or in the advanced stage of actinomycosis or lump jaw passing through public livestock markets shall be placed and sold only from quarantine pens. (3-15-22)
- ~~361.—399. (RESERVED)~~
- ~~400. GARBAGE FEEDING.~~
No person shall feed garbage to swine. (3-15-22)
- ~~01. Household Wastes.~~ Private household wastes not removed from the premises where produced is not considered garbage. (3-15-22)
- ~~02. Inspection and Investigation.~~ The Administrator is authorized to enter upon any private or public property for the purpose of inspecting and investigating conditions relating to the feeding of garbage to swine. (3-15-22)
- ~~401.0.~~ PSEUDORABIES -- PROCEDURES FOR CONTROL AND ERADICATION.
- ~~01. Laboratories.~~ Blood, serum, tissues, or other samples are to be tested only by state/federal approved laboratories. (3-15-22)
- ~~02. Supervision.~~ State or federal veterinarians will supervise pseudorabies control and eradication

efforts. (3-15-22)

~~03. Quarantines. Any herd in which any livestock has been determined to be infected with pseudorabies by an official pseudorabies test or diagnosed by a veterinarian as having pseudorabies will be placed under official state quarantine for pseudorabies. (3-15-22)~~

~~01. Sale of Infected Animals. All swine on pseudorabies-infected premises shall be sold for slaughter under permit within fifteen (15) days of diagnosis. (3-15-22)()~~

~~b. Livestock, other than swine, on pseudorabies infected premises shall be confined to the premises for a period of ten (10) days after the swine herd is sold for slaughter. Livestock, other than swine can, under permit, be moved to a separate holding area and be released from quarantine after a period of ten (10) days, if no signs of pseudorabies occur in the animals. (3-15-22)~~

~~402. Pseudorabies Vaccine. No person shall import into Idaho, possess, use, keep, buy, sell, offer for sale, barter, exchange, give away, or otherwise dispose of any pseudorabies vaccine without written permission from the Administrator. (3-15-22)()~~

~~403. VACCINATED SWINE. No person shall import into Idaho any swine that have been vaccinated for Pseudorabies. (3-15-22)~~

~~404.—419. (RESERVED)~~

~~420. ERADICATION METHODS. USDA Program Standards apply to elimination of pseudorabies from a herd. (3-15-22)~~

~~421.—429. (RESERVED)~~

~~403. Identification of Infected and Exposed Swine. All seropositive and infected swine are to be individually identified by placing a reactor ear tag in the left ear of the animal and recording the tag number on all movement documents. Identification shall be accomplished within five (5) days of the date the animals were being reported as positive or infected. All exposed swine removed from the premises of origin are to be administered official identification in the right ear of the animal prior to removal. Individual identification may be waived for swine moving directly to slaughter, on a permit, in a sealed vehicle. (3-15-22)()~~

~~431. IDENTIFICATION OF EXPOSED SWINE. All exposed swine that are removed from the premises of origin shall be individually identified by placing a swine identification tag in the right ear of the animal. The identification number shall be recorded on movement documents. Individual identification may be waived for swine moving directly to slaughter, on a permit, in a sealed vehicle. (3-15-22)~~

~~432.—449. (RESERVED)~~

~~450. QUALIFIED PSEUDORABIES NEGATIVE HERDS. The qualifying method and development of a pseudorabies negative herd shall be accomplished in accordance with the USDA Program Standards for pseudorabies. (3-15-22)~~

~~451.—459. (RESERVED)~~

~~460. CLEANING AND DISINFECTION. All pens, wherein swine are held prior to or after their sale, shall be thoroughly cleaned and disinfected within seventy-two (72) hours following completion of the sale or before the next sale, whichever occurs first. (3-15-22)~~

~~4601. -- 503. (RESERVED)~~

SUBCHAPTER B – ANIMAL HEALTH EMERGENCIES

~~504. INCORPORATION BY REFERENCE.~~

~~The following documents are incorporated by reference and apply only to Subchapter B, Sections 510-591: 9 C.F.R. § 53.2, January 1, 2002, which can be viewed online at <https://www.govinfo.gov/content/pkg/CFR-2002-title9-vol1/pdf/CFR-2002-title9-vol1-sec53-2.pdf>. (3-15-22)~~

~~505~~4. – 509. (RESERVED)

510. DEFINITIONS.

The definitions in Section 510 following apply in the interpretation and enforcement of Subchapter: B only: (3-15-22)()

01. **Animals.** All vertebrates, except humans. (3-15-22)
02. **Animal Health Emergency.** The discovery of any disease that could have a devastating impact on livestock, other animals, or people of this state, that requires immediately implementation of prevention, management, control, or eradication measures. ()
023. **Conveyance.** Any type of vehicle, carrier, kennel, or trailer of any kind used to move or hold animals. (3-15-22)
034. **Domestic Cervidae.** Elk, fallow deer, and reindeer owned by a person. (3-15-22)
045. **Emergency Disease.** A disease, agent or parasite that could have a devastating impact on people, animals, or the economy as determined by the Director. (3-15-22)
056. **Epidemiology.** The study of the distribution and determinants of health-related states or events in specified populations, and the application of this study to control of health problems. (3-15-22)
067. **Exposed.** Animals that have had contact with other animals, herds, or materials that have been determined to be infected with or affected by any infectious, contagious, or communicable disease. (3-15-22)
078. **Federal Animal Health Official.** An employee of USDA/APHIS/VS who is authorized to perform animal health activities. (3-15-22)
089. **Foreign Animal Disease.** A transmissible disease of animals, believed to not exist in the United States and its territories, as determined by USDA that has a potential significant health or economic impact. (3-15-22)
109. **Infected Zone.** The geographic portion of a quarantine area, which contains all animals known to be infected with or exposed to an emergency disease as designated by the Administrator. (3-15-22)
101. **Livestock.** Cattle, swine, horses, mules, asses, sheep, goats, domestic cervidae, camelids, and ratites. (3-15-22)
142. **Operator.** The person who has authority to manage or direct an animal premises or conveyance and the animals thereon. (3-15-22)
123. **Premises.** The ground area, buildings, corrals, and equipment utilized to keep, hold or maintain animals. (3-15-22)
134. **Quarantine.** A written order, executed by the Administrator, to confine or hold animals on a premises or any other location, where found, and prevent movement of animals from a premises or any other location when the Administrator has determined that the animals are infected with or exposed to a disease, or are not in compliance with the provisions of this chapter. (3-15-22)
145. **Quarantine Area.** A geographic designation encompassing one (1) or more premises in one (1) or more counties, and consisting of an infected zone and a surveillance zone as determined by the Administrator.

(3-15-22)

156. State Animal Health Official. The Administrator, or his designee, who is responsible for disease control and eradication programs. (3-15-22)

167. Surveillance Zone. The geographic portion of the quarantine area surrounding the infected zone as designated by the Administrator. (3-15-22)

511. -- 5201. (RESERVED)

~~521. CIRCUMSTANCES OF AN ANIMAL HEALTH EMERGENCY.~~

~~The discovery of any emergency disease, which could have a devastating impact on the livestock, other animals, or people of this state, may constitute an animal health emergency requiring the implementation of prevention, management, control or eradication measures by state animal health officials. (3-15-22)~~

522. DECLARATION OF AN ANIMAL HEALTH EMERGENCY.

The Director is authorized to declare an animal health emergency upon the discovery of: (3-15-22)()

01. Foreign Animal Disease. ~~The discovery of any disease, parasite or agent which has been identified by the USDA/APHIS/VS as a “communicable foreign disease not known to exist in the United States”;~~ ~~or;~~ (3-15-22)()

02. Eradicated Diseases. ~~The discovery of any disease, parasite or agent which is not naturally occurring in or has been eradicated from Idaho, as determined by the Administrator, and which, if introduced into Idaho, would have a devastating impact on the livestock or other animals of the state; or~~ (3-15-22)()

03. Specific Diseases. ~~The exposure to or infection of foot and mouth disease, bovine spongiform encephalopathy, chronic wasting disease, other transmissible spongiform encephalopathies, brucellosis, tuberculosis, or any foreign, exotic or emerging disease, as determined by the Administrator. (3-15-22)~~

04. Disease Presence. ~~The presence of any foreign, eradicated, or specific diseases in any state in the United States, any country contiguous to the United States, or any country from which the state of Idaho receives animals or animal products may constitute an emergency. (3-15-22)~~

~~523. QUARANTINE AUTHORITY.~~

~~State or federal animal health officials are authorized to quarantine any animal infected with or exposed to an emergency disease, or any premises, county or area of the state to prevent ingress or egress of animals, people, or vehicles in the event of an emergency disease. (3-15-22)~~

~~5243. UTILIZATION OF VACCINATION IN ANIMAL HEALTH EMERGENCIES.~~

~~The Administrator is authorized to order the strategic use of vaccinations, treatments or other remedies to reduce the risk or spread of emergency diseases. (3-15-22)~~

~~5254. -- 52931. (RESERVED)~~

~~530. QUARANTINE PROCEDURES FOR AN ANIMAL HEALTH EMERGENCY.~~

~~State or federal animal health officials are authorized to place under quarantine any infected animals, exposed animals, and those animals exhibiting signs of an emergency disease. The quarantine may also include susceptible animals not yet exposed. (3-15-22)~~

~~01. Written Notice.~~ ~~Written notice of quarantine will be given to the owner of the animals, or the owner or operator of the premises or conveyance where the animals are found. (3-15-22)~~

~~02. Validity of Quarantine.~~ ~~The quarantine is valid whether or not it is acknowledged by signature of the owner or operator. (3-15-22)~~

~~03. Quarantine Release.~~ ~~The quarantine remains in place until a state or federal animal health official~~

~~releases the quarantine in writing.~~ (3-15-22)

~~**531. QUARANTINE AREA.**~~

~~The Administrator may establish a quarantine area, which includes an infected zone encompassing the infected and exposed animals and premises, and a surveillance zone, based on the locations of said premises and the characteristics and epidemiology of the disease. The quarantine area may include one or more premises, all or part of a county, or all or part of the state.~~ (3-15-22)

532. QUARANTINE AREA SECURITY.

The Administrator may limit access of people and vehicles to the quarantine area. (3-15-22)

533. QUARANTINE AREA BIO-SECURITY.

Bio-security of the quarantine area will be instituted and maintained. (3-15-22)

01. Personnel. People entering or leaving the quarantine area will follow disinfection or decontamination guidelines and procedures established by state or federal animal health officials. (3-15-22)

02. Vehicles and Equipment. Vehicles and equipment moving into or out of the quarantine area will be cleaned and disinfected or decontaminated according to guidelines and procedures established by state or federal animal health officials. (3-15-22)

~~**534. ANIMAL MOVEMENT IN QUARANTINE AREA.**~~

~~Animals shall not be moved into, out of, through, or within the quarantine area except by permit issued by the Administrator.~~ (3-15-22)

~~**535. SALE OF DISEASED OR EXPOSED ANIMALS NOT ALLOWED.**~~

~~Animals infected with, or susceptible animals exposed to, an emergency disease shall not be set free, sold, or in any way transferred to another person without written authorization from the Administrator.~~ (3-15-22)

~~**5364. EXPOSURE OF ANOTHER'S ANIMALS NOT ALLOWED.**~~

Animals infected with or exposed to an emergency disease or any disease not known to exist in Idaho shall not be: (3-15-22)

01. Housed. Housed with, or adjacent to, another person's animals that have not been previously exposed or land used for raising such animals; or (3-15-22)

02. Turned Out. Turned out with, or adjacent to, another person's animals that have not been previously exposed or land used for raising such animals. (3-15-22)

~~**5375. MOVEMENT OR SALE OF ANIMAL PRODUCTS.**~~

The Administrator may prohibit the movement or sale of products from animals infected with or exposed to an emergency disease. (3-15-22)

~~**5386. -- 53940. (RESERVED)**~~

~~**540. RESTRICTIONS ON ANIMALS FROM AREAS OR STATES AFFECTED BY EMERGENCY DISEASES.**~~

~~The Administrator may impose restrictions on animal movement into Idaho from areas or states affected by an emergency disease as provided in IDAPA 02.04.21, "Rules Governing the Importation of Animals."~~ (3-15-22)

541. ANIMALS IN TRANSIT AT TIME OF DECLARED EMERGENCY.

The Administrator will determine the disposition of animals in transit at the time of the declaration of an animal health emergency. (3-15-22)

~~**542. -- 549. (RESERVED)**~~

~~**550. CONDEMNATION OF INFECTED, EXPOSED, OR SUSCEPTIBLE ANIMALS.**~~

~~The Administrator is authorized to condemn, and order the slaughter, destruction, or other disposition of animals, infected with, exposed to, or susceptible to an emergency disease. (3-15-22)~~

~~551.—559. (RESERVED)~~

~~**560. DEPOPULATION OF ANIMALS.**~~

~~Animals infected with, exposed to, or susceptible to an emergency disease may be depopulated to control and eradicate the disease. (3-15-22)~~

~~**01. Preventive Slaughter or Destruction.** Animals, located within the quarantine area, that are susceptible to an emergency disease may be depopulated to control or eradicate the emergency disease. (3-15-22)~~

~~**02. Scope of Depopulation.** The Administrator will determine the scope of depopulation. (3-15-22)~~

~~**561. METHOD OF DEPOPULATION.**~~

~~The Administrator will determine the method for destruction of animals in quarantine areas. (3-15-22)~~

~~**562. TIME LIMIT FOR DEPOPULATION.**~~

~~The Administrator will determine the time limit for depopulation of condemned animals. (3-15-22)~~

~~563.—569. (RESERVED)~~

570. COMPENSATION FOR APPRAISED ANIMALS.

Owners of condemned animals will be compensated for animals ordered destroyed by the Administrator if the animals are appraised prior to depopulation, and the owner is in compliance with these rules. Compensation may be paid on animals that die or are depopulated before appraisal at the discretion of the Administrator. (3-15-22)

571. COMPENSATION FOR ANIMALS DESTROYED.

State compensation is limited to appraised value less any federal indemnity and salvage value for animals condemned, and slaughtered or otherwise destroyed. (3-15-22)

572. APPRAISAL PROCEDURE FOR ANIMALS DEPOPULATED.

01. Animal Appraisal. Animals to be depopulated shall be appraised by a team of three (3) persons including:

~~**a.** A representative of the Division of Animal Industries; (3-15-22)~~

ba. The owner; and (3-15-22)

eb. A person with experience marketing the species of animal as determined by the Administrator. (3-15-22)

02. Dispute of Appraisal. When the appraisal price is in dispute, the Director may grant a hearing to any person, under such rules as the Department may prescribe which are in compliance with Title 67, Chapter 52, Idaho Code. (3-15-22)

~~**573. TIME LIMIT FOR APPRAISAL.**~~

~~The Administrator will determine the time limit for completing the appraisal. (3-15-22)~~

~~574. -- 579. (RESERVED)~~

580. COMPENSATION FOR LABOR EMPLOYED.

01. Disposal of Animals. The Department may pay actual costs for labor employed for disposal of animals depopulated at the direction of the Administrator. (3-15-22)

02. Cleaning and Disinfection. The Department may pay actual costs for labor employed in the cleaning and disinfection of premises where infected or exposed animals were kept. (3-15-22)

581. COMPENSATION FOR PROPERTY DESTROYED.

The Department will compensate owners for property ordered destroyed by the Administrator. (3-15-22)

01. Property Destroyed Otherwise. The department may compensate owners for property otherwise destroyed as approved by the Administrator. (3-15-22)

02. Actual Value. The Department will pay actual value of property destroyed, as determined by the Administrator, if compensation is paid. (3-15-22)

582. -- 589. (RESERVED)

~~590. CLEANING AND DISINFECTION OF PREMISES.~~

~~Any premises or area where animals infected with or exposed to an emergency disease were held or kept shall be cleaned, disinfected, or decontaminated under the supervision and at the direction of state or federal animal health officials within the time limit established by the Administrator. (3-15-22)~~

~~591. CLEANING AND DISINFECTION OF ANIMAL CONVEYANCE.~~

~~Any conveyance used to hold or transport animals infected with or exposed to an emergency disease shall be cleaned, disinfected, or decontaminated under the supervision and at the direction of state or federal animal health officials within the time limit established by the Administrator. (3-15-22)~~

~~592.—999. (RESERVED)~~

IDAPA 02 – IDAHO STATE DEPARTMENT OF AGRICULTURE
02.04.05 – RULES GOVERNING GRADE A MILK AND MANUFACTURE GRADE MILK
DOCKET NO. 02-0405-2401
NOTICE OF RULEMAKING – PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 37-303, 37-402, 37-405, AND 37-516, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 16, 2024.

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

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

The proposed rule updates changes in federal code regarding pasteurized milk ordinances, methods of making sanitation rating milk shippers, evaluation of milk laboratories, and procedures governing the cooperative state-public health service/Food and Drug Administration Program of the National Conference on Interstate Milk Shippers. This rule governs procedures for the design, construction, production, manufacture, distribution, handling, storage, quality, analysis and sale of Grade A Milk and Manufacture Grade Milk and Milk Products to ensure safe and wholesome dairy products.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased:

There is no change in fee or charge

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state General Fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking:

There is no fiscal impact on the state General Fund greater than ten thousand dollars (\$10,000).

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because these changes are to the publication dates of documents that were already incorporated into these rules.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule:

PMO- Pasteurized Milk Ordinances:

The standards for continuous water disinfection using Ultraviolet (UV) treatment have been relaxed, particularly for water used in dairy production.

New labeling requirements have been introduced for homeopathic drugs, which previously did not have any labeling guidelines.

The PMO has removed the requirements for lighting and ventilation in Automated Milking Installations (AMIs). Previously, AMIs were required to have positive air ventilation systems in operation during the cleaning or sanitizing of the milking system.

MMSR- Methods of Making Sanitation Rating Milk Shippers:

Ratings are now due by the last day of the month; prior ratings were due exactly on the anniversary date from the last rating.

A proposal eliminates the evaluation of the Milking Time Inspection program for dairy farms from the calculations of enforcement ratings under Part I. Prior version required an Inspection of a producer while milking and not milking.

A proposal included additional pertinent animal health information to be updated within the MMSR. This information included the specific testing requirements and current language within Section 8 of the PMO with regards to Tuberculosis and Brucellosis testing for animals intended for Grade “A” milk production.

EML-Evaluation of Milk Laboratories:

No Proposals were passed that addressed changes to the Evaluation of Milk Laboratories (EML). Procedures Governing the Cooperative State-Public Health Service/ Food and Drug Administration Program of the National Conference on Interstate Milk Shipments

A proposal formalizes the NCIMS Aseptic Program Committee (APC) as a standing committee in accordance with the NCIMS Constitution and Bylaws

IDAHO CODE SECTION 22-101A STATEMENT: Pursuant to 22-101A(1), for any rule promulgated or adopted by the director which is broader in scope or more stringent than federal law or regulations, or which regulates an activity not regulated by the federal government, the director shall identify the portions of the adopted rule that are broader in scope or more stringent than federal law or rules, or which regulate an activity not regulated by the federal government. The following sections of the rule are broader in scope, more stringent than federal law or regulations, or regulate an activity not regulated by the federal government:

The federal government does regulate Grade A Milk and Manufacture Grade Milk. Idaho Code mimics federal regulation to ensure compliance with federal law. This activity is defined in Idaho Code.

The detailed 22-101A analysis can be found on the agency’s website at www.agri.idaho.gov.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Lloyd Knight at lloyd.knight@isda.idaho.gov.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 23, 2024.

DATED this 2nd day of October, 2024.

Lloyd Knight
Deputy Director
Idaho Department of Agriculture
2270 Old Penitentiary Road
P.O. Box 7249
Boise, Idaho 83707
Phone: (208) 332-8615
Email: lloyd.knight@isda.idaho.gov

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 02-0405-2401
(Only Those Sections With Amendments Are Shown.)

02.04.05 – RULES GOVERNING GRADE A MILK AND MANUFACTURE GRADE MILK

104. INCORPORATION BY REFERENCE.

All Grade A Milk and Milk Products shall comply with the provisions set forth in the following documents incorporated by reference in this Subchapter A only: (3-15-22)

01. Grade “A” Pasteurized Milk Ordinance. The Grade “A” Pasteurized Milk Ordinance, 2019~~23~~ revision, published by the U. S. Department of Health and Human Services, Public Health Service, Food and Drug Administration, except the bacterial limit standard and the somatic cell count standard in Section 7 of the document. Available online at ~~https://www.fda.gov/media/140394/download~~ <https://www.fda.gov/media/180975/download?attachment>. (3-15-22)()

02. Evaluation of Milk Laboratories. The Evaluation of Milk Laboratories, 2019~~23~~ revision, published by the U. S. Department of Health and Human Services, Public Health Service, Food and Drug Administration. Available online at ~~https://www.fda.gov/media/137754/download~~ <https://www.fda.gov/media/180977/download?attachment>. (3-15-22)()

03. Methods of Making Sanitation Ratings of Milk Shippers, and the Certifications/Listings of Single-Service Containers and/or Closures for Milk and/or Milk Products Manufactures. The Methods of Making Sanitation Ratings of Milk Shippers, and the Certifications/Listings of Single-Service Containers and/or Closures for Milk and/or Milk Products Manufactures, 2019~~23~~ revision, published by the U. S. Department of Health and Human Services, Public Health Service, Food and Drug Administration. Available online at ~~https://www.fda.gov/media/138393/download~~ <https://www.fda.gov/media/180976/download?attachment>. (3-15-22)()

04. Interstate Milk Shipments. The Procedures Governing the Cooperative State-Public Health Service/Food and Drug Administration Program of the National Conference on Interstate Milk Shipments, 2019~~23~~ revision, published by the U. S. Department of Health and Human Services, Public Health Service, Food and Drug Administration, and the National Conference on Interstate Milk Shipments. Available online at ~~https://www.fda.gov/media/138115/download~~ <https://www.fda.gov/media/180974/download?attachment>. (3-15-22)()

IDAPA 02 – IDAHO STATE DEPARTMENT OF AGRICULTURE
02.04.15 – RULES GOVERNING BEEF CATTLE ANIMAL FEEDING OPERATIONS
DOCKET NO. 02-0415-2401
NOTICE OF RULEMAKING – PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 22-110 and 22-4903, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 16, 2024.

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

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

This rulemaking is being facilitated to remove now redundant language that is included in the Environmental & Nutrient Management Rule that underwent Zero Based Regulation (ZBR) review in 2023 and was approved by the Idaho Legislature in 2024. This rule was last open for ZBR review in 2022.

The rule was reviewed over the course of one negotiated rulemaking meeting, and that review benefited from the participation of program stakeholders. No negative comments were submitted as part of this rulemaking process.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased:

There is no change in fee or charge

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state General Fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking:

There is no fiscal impact on the state General Fund greater than ten thousand dollars (\$10,000).

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the July 3, 2024 Idaho Administrative Bulletin, [Volume 24-7, Pages 43 and 44](#).

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule:

The 1997 United States Department of Agriculture Natural Resources Conservation Service Agricultural Waste Management Field Handbook was added as an attachment to the ISDA website. The referenced web address change reflected this.

The 1999 Publication by the United States Department of Agriculture, Natural Resource Conservation Service, Conservation Practice Standard, Nutrient Management Code 590 was removed to be consistent with rule changes approved by the Idaho Legislature in the 2024 session.

IDAHO CODE SECTION 22-101A STATEMENT: Pursuant to 22-101A(1), for any rule promulgated or adopted by the director which is broader in scope or more stringent than federal law or regulations, or which regulates an activity not regulated by the federal government, the director shall identify the portions of the adopted rule that are broader in scope or more stringent than federal law or rules, or which regulate an activity not regulated by the federal government. The following sections of the rule are broader in scope, more stringent than federal law or regulations, or regulate an activity not regulated by the federal government:

This rule implements the requirements of the Beef Cattle Environmental Control Act, as defined in Title 22, Chapter 49, Idaho Code. The federal government does have regulatory authority over the permitting of discharges from beef cattle animal feeding operations, which is implemented by the Idaho Department of Environmental Quality Idaho Pollution Discharge Elimination System (IPDES) program.

The detailed 22-101A analysis can be found on the agency’s website at www.agri.idaho.gov.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Lloyd Knight at lloyd.knight@isda.idaho.gov.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 23, 2024.

DATED this 2nd day of October, 2024.

Lloyd Knight
Deputy Director
Idaho Department of Agriculture
2270 Old Penitentiary Road
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Boise, Idaho 83707
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Email: lloyd.knight@isda.idaho.gov

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 02-0415-2401
(Only Those Sections With Amendments Are Shown.)

02.04.15 – RULES GOVERNING BEEF CATTLE ANIMAL FEEDING OPERATIONS

001. SCOPE.

These rules govern the design, function, and management practices of waste systems on beef cattle animal feeding operations. ~~Nothing in this rule affects the authority of the Department of Environmental Quality to enforce an IPDES permit for dairy farms that discharge pollutants to waters of the United States, including without limitation, the authority to issue permits, access records, conduct inspections and take enforcement actions. The provisions of this rule do not alter the requirements, liabilities, and authorities with respect to or established by the IPDES program.~~ (4-6-23)()

002. INCORPORATION BY REFERENCE.

The following documents are incorporated by reference into this chapter: (4-6-23)

01. The 1997 United States Department of Agriculture Natural Resources Conservation Service Agricultural Waste Management Field Handbook, Appendix 10 D. This document can be viewed online at ~~http://directives.sc.egov.usda.gov/OpenNonWebContent.aspx?content=17767.wba~~ https://agri.idaho.gov/main/wp-content/uploads/2017/08/nrcs_10d_1997.pdf. (4-6-23)()

02. Society of Agricultural and Biological Engineers Specification ASAE EP393.3 Manure Storages February 2004. This document is part of a copyrighted publication and is available for viewing at the ISDA offices or a copy may be purchased online at <http://www.asabe.org/>. (4-6-23)

~~03. The 1999 Publication by the United States Department of Agriculture, Natural Resource Conservation Service, Conservation Practice Standard, Nutrient Management Code 590. This can be viewed online at https://agri.idaho.gov/main/wp-content/uploads/2017/08/nutrient_Management_code_590.pdf. (4-6-23)~~

043. The Phosphorus Site Index: A Systematic Approach to Assess the Risk of Nonpoint Source Pollution of Idaho Waters by Agricultural Phosphorus, 2022. This document is available online at <https://agri.idaho.gov/main/wp-content/uploads/2022/03/PSIBeef.pdf>. (4-6-23)

003. DEFINITIONS.

The following definitions apply in the interpretation and enforcement of this chapter. (4-6-23)

01. Animal. Bovidae, ovidae, suidae, equidae, captive cervidae, captive antilocapridae, camelidae, and ratitidae. (4-6-23)

02. Animal Feeding Operation. A lot or facility where slaughter and feeder cattle or dairy heifers are confined and fed for a total of forty-five (45) days or more during any twelve-month (12) period and crops, vegetation forage growth, or post-harvest residues are not sustained in the normal growing season over any portion of the lot or facility. (4-6-23)()

03. Compost. A biologically stable material derived from the biological decomposition of organic matter. (4-6-23)

04. Concentrated Animal Feeding Operation. An AFO that is defined as a large CAFO or as a medium CAFO by the terms of this section and designated by the Director. Two (2) or more AFOs under common ownership on contiguous property are considered to be a single AFO for the purposes of determining the number of animals at an operation, if they adjoin each other, or if they use a common area or system for the disposal of wastes. (4-6-23)

05. Discharge. Release of process wastewater or manure from a beef cattle animal feeding operation to waters of the state. (4-6-23)

~~06. Idaho Pollutant Discharge Elimination System (IPDES). Idaho's program for issuing, modifying, revoking and reissuing, terminating, monitoring and enforcing permits, and imposing and enforcing pretreatment requirements, under these rules and the Clean Water Act sections 307, 402, 318, and 405. (4-6-23)~~

~~076.~~ **Land Application.** The spreading on, or incorporation of manure or process wastewater into the soil. (4-6-23)

087. **Large Concentrated Animal Feeding Operation.** An AFO is defined as a large CAFO if it stables or confines as many as or more than the numbers of cattle specified in any of the following categories: (4-6-23)

a. Seven hundred (700) mature dairy cows, whether milked or dry; (4-6-23)

b. One thousand (1,000) veal calves; (4-6-23)

c. One thousand (1,000) cattle other than mature dairy cows or veal calves. Cattle includes but is not limited to heifers, steers, bulls and cow/calf pairs; (4-6-23)

~~098.~~ **Medium Concentrated Animal Feeding Operation.** A medium CAFO includes any AFO that has been defined or designated as CAFO and stables or confines the number of cattle that fall within any of the following ranges: (4-6-23)

a. Two hundred (200) to six hundred ninety-nine (699) mature dairy cows, whether milked or dry; (4-6-23)

b. Three hundred (300) to nine hundred ninety-nine (999) veal calves; (4-6-23)

c. Three hundred (300) to nine hundred ninety-nine (999) cattle other than mature dairy cows or veal calves. Cattle includes but is not limited to heifers, steers, bulls and cow/calf pairs; (4-6-23)

~~109.~~ **Operate.** Confining and feeding slaughter and feeder cattle in the state of Idaho. (4-6-23)

~~110.~~ **Operator.** The person who has power or authority to manage, or direct, or has financial control of a beef cattle animal feeding operation. (4-6-23)

~~121.~~ **Phosphorus Site Index.** A method to evaluate the relative potential for off-site movement of phosphorus from a field or pasture based upon risk factors relating to surface transport, phosphorus loss potential and nutrient management practices. (4-6-23)

~~132.~~ **Runoff.** Any precipitation that comes into contact with manure, compost, bedding, or feed on a beef cattle animal feeding operation. (4-6-23)

~~143.~~ **Slaughter and Feeder Cattle.** All cattle except those cattle located on a dairy farm permitted by the Idaho State Department of Agriculture pursuant to IDAPA 02.04.14, "Rules Governing Dairy Byproduct." (4-6-23)

~~154.~~ **Small Concentrated Animal Feeding Operation.** An AFO that is designated as a CAFO and is not a medium or large CAFO. (4-6-23)

004. ABBREVIATIONS.

~~01.~~ **AFO.** Animal Feeding Operation. (4-6-23)

~~02.~~ **CAFO.** Concentrated Animal Feeding Operation. (4-6-23)

~~03.~~ ~~**IPDES.** Idaho Pollutant Discharge Elimination System.~~ (4-6-23)

~~043.~~ **NMP.** Nutrient Management Plan. (4-6-23)

~~054.~~ **NRCS.** United States Department of Agriculture, Natural Resources Conservation Service. (4-6-23)

~~065.~~ **PSI.** Phosphorus Site Index (4-6-23)

(BREAK IN CONTINUITY OF SECTIONS)

020. WASTEWATER STORAGE AND CONTAINMENT FACILITIES.

~~01.~~ **Wastewater Storage and Containment Facilities.** All beef cattle AFOs where process wastewater leaves the confinement area and has the potential to impact surface water or be in violation of state water quality standards shall have wastewater storage and containment facilities designed, constructed, and operated, ~~and maintained sufficient to contain;~~ to meet a minimum of one hundred twenty (120) days of holding capacity and pursuant to IDAPA 02.04.30, Rules Governing Environmental and Nutrient Management. (4-6-23)()

~~a.~~ ~~All process wastewater generated on the facility during the non-land application season; and~~ (4-6-23)

~~b.~~ ~~The runoff from a twenty-five (25) year, twenty-four (24) hour rainfall event; and~~ (4-6-23)

~~c.~~ ~~Either three (3) inches of runoff from the accumulation of winter precipitation or the amount of runoff from the accumulation of precipitation from a one-in-five (1 in 5) year winter.~~ (4-6-23)

02. All Substances Entering Wastewater Storage and Containment Facilities. All substances entering wastewater storage and containment facilities shall be composed of manure and process wastewater from the operation of the beef cattle AFO. The disposal of any other materials into a wastewater storage and containment facility, including, but not limited to, human waste, is prohibited. (4-6-23)

(BREAK IN CONTINUITY OF SECTIONS)

~~032. NUTRIENT MANAGEMENT RECORDS.~~

~~The operators of beef cattle AFOs shall keep complete and accurate records of: (4-6-23)~~

~~**01. Land Application.** The dates and amounts of any manure or process wastewater applied on land owned or controlled by the operator. (4-6-23)~~

~~**02. Manure Transferred to Another Person.** The name and address of any third party that receives manure or process wastewater from the operation, including the dates of the transfer and the amount of manure or process wastewater transferred. (4-6-23)~~

~~033. -- 039. (RESERVED)~~

(BREAK IN CONTINUITY OF SECTIONS)

~~041. -- 049. (RESERVED)~~

~~050. ADMINISTRATION OF IPDES PROGRAM.~~

~~The Director of the Department of Agriculture and the Director of the Department of Environmental Quality shall, as appropriate, establish an agreement relating to the administration of an IPDES program that recognizes the expertise of the Department of Agriculture. (4-6-23)~~

~~051. COMPLIANCE WITH IDAHO POLLUTANT DISCHARGE ELIMINATION SYSTEM RULES.~~

~~The Department of Environmental Quality shall be solely responsible and authorized to determine whether the discharge of pollutants from a beef cattle feeding operation is required to be authorized by an IPDES permit. The provisions of this rule do not define when a beef cattle feeding operations is required to obtain a permit for a discharge, do not exempt a beef cattle feeding operation from permitting requirements for such discharges or alter the authority of DEQ with respect to such discharges. (4-6-23)~~

~~052. -- 999. (RESERVED)~~

IDAPA 02 – IDAHO STATE DEPARTMENT OF AGRICULTURE

02.04.19 – RULES GOVERNING DOMESTIC CERVIDAE

DOCKET NO. 02-0419-2401

NOTICE OF RULEMAKING – PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 25-3704, 25-303, 25-305, 25-401, 25-601, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 16, 2024.

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

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

H 591 was passed by the Idaho Legislature and approved by the Governor during the 2024 Legislative Session. The legislation made certain changes to the quarantine process, sampling protocols, and requirements for domestic cervidae operations while under quarantine. This rulemaking will make the rule consistent and compliant with the legislation.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased:

There is no change in fee or charge.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state General Fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking:

There is no fiscal impact on the state General Fund greater than ten thousand dollars (\$10,000).

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the July 3, 2024 Idaho Administrative Bulletin, [Volume 24-7, Pages 45 and 46](#).

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule:

There are no changes to documents already incorporated by reference.

IDAHO CODE SECTION 22-101A STATEMENT: Pursuant to 22-101A(1), for any rule promulgated or adopted by the director which is broader in scope or more stringent than federal law or regulations, or which regulates an activity not regulated by the federal government, the director shall identify the portions of the adopted rule that are broader in scope or more stringent than federal law or rules, or which regulate an activity not regulated by the federal government. The following sections of the rule are broader in scope, more stringent than federal law or regulations, or regulate an activity not regulated by the federal government:

The purpose of the rule is to implement the requirements of Title 25, Chapter 37, Idaho Code. The federal government does not regulate cervidae within the state, with the exception of certain requirements for import into the United States.

The detailed 22-101A analysis can be found on the agency's website at www.agri.idaho.gov.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Lloyd Knight at lloyd.knight@isda.idaho.gov.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 23, 2024.

DATED this 2nd day of October, 2024.

Lloyd Knight
Deputy Director
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2270 Old Penitentiary Road
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THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 02-0419-2401
(Only Those Sections With Amendments Are Shown.)

02.04.19 – RULES GOVERNING DOMESTIC CERVIDAE

010. DEFINITIONS.

01. Approved Laboratory. NVSL, an AAFLD accredited laboratory that is qualified to perform CWD diagnostic procedures, or a laboratory designated by the Administrator to perform CWD diagnostic procedures. (3-15-22)

02. Approved Slaughter Establishment. A USDA inspected slaughter establishment at which ante-mortem and post-mortem inspection is conducted by USDA inspectors. (3-15-22)

03. Area Veterinarian in Charge. The USDA/APHIS/VS veterinary official who is assigned to supervise and perform official animal health activities in Idaho. (3-15-22)

04. Breed Associations and Registries. Organizations maintaining permanent records of ancestry or pedigrees of animals, individual animal identification records and records of ownership. (3-15-22)

05. Cervid Herd. One (1) or more domestic cervidae or groups of domestic cervidae maintained on common ground or under common ownership or supervision that may be geographically separated but can have interchange or movement. (3-15-22)

06. Cervidae. Deer, elk, moose, caribou, reindeer, and related species and hybrids including all members of the cervidae family and hybrids. (3-15-22)

07. Chronic Wasting Disease (CWD). A transmissible spongiform encephalopathy of cervids that is a nonfebrile, transmissible, insidious, and degenerative disease affecting the central nervous system of cervidae. (3-15-22)()

~~**08. Commingling.** Within the last five (5) years, the animals have had direct contact with each other, had less than thirty (30) feet of physical separation, or shared management equipment, pasture, or surface water sources, except for periods of less than forty eight (48) hours at sales or auctions when a state or federal animal health official has determined such contact presents minimal risk of CWD transmission. (3-15-22)~~

~~098.~~ **Custom Exempt Slaughter Establishment.** A slaughter establishment that is subject to facility inspection by USDA, but that does not have ante-mortem and post-mortem inspection of animals by USDA inspectors. (3-15-22)

~~109.~~ **CWD-Adjacent Herd.** A herd of domestic cervidae occupying premises that border a premises occupied by a CWD positive herd, including herds separated by roads or streams. (3-15-22)

~~11.~~ **CWD-Exposed Animal.** A cervid animal that is not exhibiting any signs of CWD, but has had contact within the last five (5) years with cervids from a CWD positive herd or the animal is a member of a CWD-exposed herd. (3-15-22)

~~12.~~ **CWD-Exposed Herd.** A herd of cervidae in which no animals are exhibiting signs of CWD, but: (3-15-22)

~~a.~~ An epidemiological investigation indicates that contact with CWD positive animals or contact with animals from a CWD positive herd has occurred in the previous five (5) years; or (3-15-22)

~~b.~~ A herd of cervidae occupying premises that were previously occupied by a CWD positive herd within the past five (5) years as determined by the designated epidemiologist; or (3-15-22)

~~c.~~ Two (2) herds that are maintained on a single premises even if they are managed separately, have no commingling, and have separate herd records. (3-15-22)

~~13.~~ **CWD-Positive Cervid.** A domestic cervid on which a diagnosis of CWD has been confirmed through positive test results on any official cervid CWD test by an approved laboratory. (3-15-22)

~~14.~~ **CWD-Positive Herd.** A domestic cervidae herd in which any animal(s) has been diagnosed with CWD, based on positive laboratory results, from an approved laboratory. (3-15-22)

~~15.~~ **CWD-Suspect Cervid.** A domestic cervid for which laboratory evidence or clinical signs suggests a diagnosis of CWD. (3-15-22)

~~160.~~ **CWD-Suspect Herd.** A domestic cervidae herd in which any animal(s) has been determined to be a CWD-suspect. (3-15-22)

~~171.~~ **Death Certificate.** A form, approved by the administrator, provided by the Division for the reporting of cervidae deaths and for reporting sample submission for CWD testing. (3-15-22)

~~182.~~ **Designated Epidemiologist.** A state or federal veterinarian who has demonstrated the knowledge and ability to perform the functions required under these rules and who has been selected by the Administrator to fulfill the epidemiology duties relative to the state domestic cervidae disease control program. (3-15-22)

~~193.~~ **Disposal.** Final disposition of dead cervidae. (3-15-22)

~~2014.~~ **Domestic Cervidae.** Fallow deer (*Dama dama*), elk (*Cervus elaphus*) or reindeer (*Rangifer tarandus*) owned by a person. (3-15-22)

~~215.~~ **Domestic Cervidae Ranch.** A premises where domestic cervidae are held or kept, including multiple premises under common ownership. (3-15-22)

~~2216.~~ **Electronic Identification.** A form of unique, permanent individual animal identification such as radio frequency identification tag, radio frequency identification implant, or other forms approved by the Administrator. (3-15-22)

~~2317.~~ **Endemic Area.** A geographical area designated by a state animal health official in the state of origin where animals located within that area are subject to an increased risk of acquiring a contagious disease. Most

commonly in reference to Tuberculosis or Chronic Wasting Disease. (3-15-22)

2418. Escape. Any domestic cervidae located outside the perimeter fence of a domestic cervidae ranch and not under the immediate control of the owner or operator of the domestic cervidae ranch. (3-15-22)

2519. Federal Animal Health Official. An employee of USDA/APHIS/VS who is authorized to perform animal health activities. (3-15-22)

260. Harvest. Any healthy domestic cervid that is intentionally and lethally removed from a domestic cervidae facility, by an owner, designated employee or customer of the facility, strictly for the purposes of either shooting or meat production. Harvested includes cervids slaughtered at an approved or custom-exempt slaughter establishment. (3-15-22)

271. Herd of Origin. A cervid herd, on any domestic cervidae ranch or other premise, where the animals were born, or where they were kept for at least one (1) year prior to date of shipment. (3-15-22)

282. Herd Status. Classification of a cervidae herd with regard to CWD. (3-15-22)

293. Intrastate Movement Certificate. A form approved by the Administrator, and available from the Division, to document the movement of domestic cervidae between premises within Idaho. (3-15-22)

3024. Individual CWD Herd Plan. A written herd management agreement and testing plan developed by the herd owner and approved by the Administrator to identify and eradicate CWD from a positive, source, suspect, exposed, or adjacent herd. (3-15-22)

~~**31. Limited Contact.** Incidental contact between animals of different herds in separate pens off of the herd's premises at fairs, shows, exhibitions and sales. (3-15-22)~~

~~**3225. National CWD Herd Certification Program.** A federal-state-industry cooperative program administered by APHIS and implemented by participating states that establishes CWD surveillance and testing standards that owners must achieve before interstate transport of cervids will be permitted. (3-15-22)~~

~~**3326. Official CWD Test.** A test approved by the Administrator and conducted at an approved laboratory to diagnose CWD where both obex and medial retropharyngeal lymph node samples were submitted for testing. (3-15-22)()~~

~~**3427. Official Identification.** Identification, approved by the Administrator, that individually, uniquely, and permanently identifies each cervid. (3-15-22)~~

~~**3528. Operator.** A person who has authority to manage or direct a domestic cervidae ranch. (3-15-22)~~

~~**3629. Premises.** The ground, area, buildings, and equipment utilized to raise, propagate, control, or harvest domestic cervidae. (3-15-22)~~

~~**370. Quarantine.** An order issued on authority of the Administrator, by a state or federal animal health official or accredited veterinarian, prohibiting movement of cervids from any location without a written restricted movement permit. (3-15-22)~~

~~**381. Quarantine Facility.** A confined area where selected domestic cervidae can be secured and isolated from all other cervidae and livestock. (3-15-22)~~

~~**392. Ranch Management Plan.** A written plan for a domestic cervidae ranch that sets forth best management practices that mitigates the introduction or dissemination of disease among domestic cervidae. (3-15-22)~~

~~**4033. Reidentification.** The identification of a domestic cervid which had been officially identified, as provided by this chapter, but which has lost the official identification device, or the tattoo or official identification~~

device has become illegible. (3-15-22)

4134. Restrain. The immobilization of domestic cervidae in a chute, other device, or by other means for the purpose of efficiently, effectively, and safely inspecting, treating, vaccinating, or testing. (3-15-22)

4235. Restricted Movement Permit. An official document that is issued by the Administrator, AVIC, or an accredited veterinarian for movement of animals from positive, suspect, or exposed herds. (3-15-22)

4336. Source Herd. The herd or herds from where a producer acquired their existing livestock. (3-15-22)

4437. State Animal Health Official. The Administrator, or Administrator's designee. (3-15-22)

4538. Status Date. The date on which the Administrator approves in writing a herd status change with regard to CWD. (3-15-22)

39. Tissues. The obex and medial retropharyngeal lymph node (MRPLN) tissue required for screening elk and deer for Chronic Wasting Disease. ()

460. Trace Back Herd. An exposed herd in which at least one (1) CWD positive animal resided within any of the previous sixty (60) months prior to diagnosis with CWD. (3-15-22)

471. Trace Forward Herd. A herd that has received exposed animals from a positive herd within sixty (60) months prior to the diagnosis of CWD in the positive herd or from the identified point of entry of CWD into the positive herd. (3-15-22)

482. Traceback. The process of identifying the movements and the herd of origin of CWD positive, or exposed animals, including herds that were sold for slaughter. (3-15-22)

493. Wild Cervidae. Any cervid animal not owned by a person. (3-15-22)

5044. Wild Ungulate. Any four (4) legged, hoofed herbivore, including cervids and other ruminants, not owned by a person. (3-15-22)

5145. Wild Ungulate Cooperative Herd Plan. A plan, developed cooperatively by the owner of the domestic cervidae ranch, the ISDA, and the Idaho Department of Fish and Game to determine the disposition of any wild ungulates that are found to be located on a domestic cervidae ranch. (3-15-22)

(BREAK IN CONTINUITY OF SECTIONS)

500. SURVEILLANCE FOR CWD.

01. Routine Surveillance. ~~Brain tissue~~ Obex and medial retropharyngeal lymph node tissues from domestic elk and reindeer sixteen (16) months of age or older at the time of death must be submitted annually to official laboratories for CWD testing as provided for in these rules, under the following conditions: ~~(3-15-22)~~ ()

a. No less than ten percent (10%) of cervids harvested or slaughtered. (3-15-22)

b. No less than one hundred percent (100%) of cervids that die for any reason other than slaughter or harvest. (3-15-22)

c. Tissues samples submitted to an official laboratory that are untestable or are given an indeterminate test result do not count towards the tissue submission requirement. (3-15-22)

d. Fallow deer are exempt from CWD testing. (3-15-22)

02. Enhanced Surveillance. ~~Brain + Tissues~~ from one hundred percent (100%) of all domestic elk and reindeer sixteen (16) months of age or older that die for any reason on a facility will be required to be tested for CWD for a period of sixty (60) months under the following conditions: (3-15-22)()

a. A facility has imported cervids from a location within twenty-five (25) miles from a confirmed case of CWD in wild cervids. (3-15-22)

b. A facility has received cervids via intrastate movement from a facility under enhanced CWD surveillance requirements at the time of the transfer. (3-15-22)

c. The duration of the enhanced CWD surveillance requirements are based upon the most recent date of movement that meets the criteria listed in this section. (3-15-22)

501. COLLECTION OF SAMPLES FOR CWD TESTING.

Obex and medial retropharyngeal lymph node samples must be collected immediately upon discovery of the death of a domestic cervid. (3-15-22)()

01. Non-Testable or Samples That Do not Contain Appropriate Tissues. The Administrator may conduct an investigation to determine if a domestic cervidae ranch is complying with the provisions of Section 500 if the owner or operator of a domestic cervidae ranch submits samples for CWD testing which cannot be identified to the animal of origin. (3-15-22)

02. Failure to Meet Annual CWD Tissue Submission Requirement. An owner or operator of a domestic cervidae ranch who fails to submit samples for CWD testing or who fails to meet the annual tissue submission requirements of this chapter, or both, is in violation of these rules, except the Administrator may approve, in writing, a variance from sample submission requirements on a case specific basis. (3-15-22)

(BREAK IN CONTINUITY OF SECTIONS)

504. INVESTIGATION OF CWD.

An epidemiological investigation will be conducted on all CWD positive, suspect, and exposed animals and herds, herds of origin, source herds, all adjacent herds, and all trace herds as determined by the Administrator. (3-15-22)

01. Quarantine. ~~All positive, suspect, and exposed herds or animals, herds of origin, adjacent herds, and herds having contact with positive or exposed animals must be quarantined; and~~ A quarantine shall be applied to all CWD-exposed, CWD-suspect, and CWD-positive herds and animals following an epidemiological investigation that confirms such status as defined in this section. (3-15-22)()

02. Identification. CWD suspect and exposed animals must be identified and remain on the premises where they are found until they have met the provisions for release of quarantine established in this chapter, are destroyed and disposed of as directed by the Administrator, or are moved at the Administrator's direction on a restricted movement permit. (3-15-22)

03. Multi-Facility Ranches. Multi-facility ranches under quarantine may move animals from one facility to another facility owned by the same entity for the purpose of harvest with the approval of the Director of the Idaho State Department of Agriculture. ()

505. DURATION OF CWD QUARANTINE.

Quarantines imposed because of CWD in accordance with this chapter remain in effect until one (1) of the following criteria are met: (3-15-22)

01. CWD Positive Herds. The quarantine may be released after the herd is completely depopulated as provided in Subsection 505.07, or after five (5) years of compliance with an individual herd CWD plan and all provisions of these rules, during which there was no evidence of CWD. (3-15-22)

02. CWD Suspect Herds. The quarantine may be released after the herd is completely depopulated as provided in Subsection 505.07, or after a minimum of five (5) years of compliance with an individual CWD herd plan and all provisions of these rules and during which there was no evidence of CWD, or an epidemiologic investigation determines that there is no evidence CWD exists in the herd as determined by the Administrator. (3-15-22)

03. Source Herds and Herds of Origin. The quarantine may be released after a minimum of five (5) years of compliance with an individual CWD herd plan and all provisions of these rules and during which there was no evidence of CWD, or an epidemiologic investigation determines that there is no evidence CWD exists in the herd and that the herd is not the source of infection as determined by the Administrator. (3-15-22)

04. Exposed Herds. The quarantine may be released after the herd is completely depopulated as provided in Subsection 505.07, or after a minimum of five (5) years of compliance with an individual CWD herd plan and all provisions of these rules and during which there was no evidence of CWD, or an epidemiologic investigation determines that there is no evidence CWD exists in the herd as determined by the Administrator. (3-15-22)

05. Adjacent Herds. The quarantine may be released when directed by the Administrator based upon an epidemiological investigation and in consultation with the designated epidemiologist. (3-15-22)

06. Fencing Requirements. Any owner of a domestic cervidae ranch who chooses to remain under quarantine for five (5) years must ~~construct a second~~ maintain perimeter ~~fence that meets the requirements for perimeter fence, as provided in Section 102, such that no domestic cervidae on the domestic cervidae ranch can get within ten (10) feet of the original exterior perimeter fence or as approved by the Administrator~~ fencing pursuant to Idaho Code 25-3705C and Section 102 of this rule. (3-15-22)()

07. Complete Depopulation. The quarantine may be released after: (3-15-22)

a. Complete depopulation of all cervidae on the premises as directed by the Administrator; and (3-15-22)

b. The premises have been free of all livestock as specified in an individual CWD herd plan approved by the Administrator; and (3-15-22)

c. The soil and facilities have been cleaned, treated, decontaminated, or disinfected as directed by the Administrator. (3-15-22)

08. Disposal of Positive or Exposed Cervidae. All CWD positive or exposed domestic cervidae must be disposed of as directed by the Administrator. (3-15-22)

IDAPA 02 – IDAHO STATE DEPARTMENT OF AGRICULTURE

02.05.01 – RULES GOVERNING PRODUCE SAFETY

DOCKET NO. 02-0501-2401 (ZBR CHAPTER REWRITE)

NOTICE OF RULEMAKING – PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 22-5404, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 16, 2024.

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

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking.

This rule is being presented for authorization as part of the ISDA’s plan to review each rule every 5 years. Redundant language that is verbatim in statute has been removed, consistent with the Governor’s [Zero-Based Regulation Executive Order](#).

The rule was reviewed over the course of two negotiated rulemaking meetings, and that review benefited from the participation of program stakeholders. No negative comments were submitted as part of this rulemaking process.

This rule clarifies the procedure for administering the Food Safety Modernization Act and remedies of the Department for non-compliance.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased:

There is no change in fee or charge.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state General Fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking: There is no fiscal impact on the state General Fund greater than ten thousand dollars (\$10,000).

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the July 3, 2024 Idaho Administrative Bulletin, [Volume 24-7, Pages 47 and 48](#).

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule:

The federal Food and Drug Administration made several edits to the CFR. This included deleting redundant language and clarifying pre-harvest water requirements.

IDAHO CODE SECTION 22-101A STATEMENT: Pursuant to 22-101A(1), for any rule promulgated or adopted by the director which is broader in scope or more stringent than federal law or regulations, or which regulates an activity not regulated by the federal government, the director shall identify the portions of the adopted rule that are broader in scope or more stringent than federal law or rules, or which regulate an activity not regulated by the federal government. The following sections of the rule are broader in scope, more stringent than federal law or regulations, or regulate an activity not regulated by the federal government:

The federal government does regulate the Food Safety Modernization Act (FSMA). Per Title 22, Chapter 54, Idaho Code, the agency is authorized to administer and enforce FSMA through this rule, and are not to exceed the standards required by federal law.

The detailed 22-101A analysis can be found on the agency’s website at www.agri.idaho.gov.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Lloyd Knight at lloyd.knight@isda.idaho.gov.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 23, 2024.

DATED this 2nd day of October, 2024.

Lloyd Knight
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Idaho Department of Agriculture
2270 Old Penitentiary Road
P.O. Box 7249
Boise, Idaho 83707
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THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 02-0501-2401
(ZBR Chapter Rewrite)

02.05.01 – RULES GOVERNING PRODUCE SAFETY

000. LEGAL AUTHORITY.

~~This chapter is adopted under the legal authority of~~ Section 22-5404, Idaho Code. (3-31-22)()

001. ~~TITLE AND SCOPE.~~

~~01. Title.~~ The title of this chapter is “Rules Governing Produce Safety.” (3-31-22)

~~02. Scope.~~ The purpose of these rules is to establish standards for growing, harvesting, packing, and holding of safe and unadulterated produce for human consumption. (3-31-22)()

002. INCORPORATION BY REFERENCE.

~~The following document is incorporated by reference pursuant to Idaho Code Section 67-5229. Copies of this document may be obtained from the Idaho State Department of Agriculture central office.~~ (3-31-22)

~~01. Code of Federal Regulations, Title 21, Part 112, January 1, 2018~~ **July 5, 2024**. Standards for the Growing, Harvesting, Packing, and Holding of Produce for Human Consumption. This document can be viewed online at <https://www.ecfr.gov/cgi-bin/text-idx?SID=7f8ab876ff3e20e6edd06e9de9141296&mc=true&node=pt21.2.112&rgn=div5> <https://www.fda.gov/food/food-safety-modernization-act-fsma/fsma-final-rule-pre-harvest-agricultural-water>. (3-31-22)()

003. – ~~0011.~~ (RESERVED)

~~010. DEFINITIONS.~~

~~The Idaho State Department of Agriculture adopts the definitions set forth in Section 22-5403, Idaho Code. In addition as used in this chapter:~~ (3-31-22)

~~01. **Petition.** A petition for submission to the U.S. Food and Drug Administration requesting a variance from the requirements of 21 CFR Part 112. (3-31-22)~~

~~02. **Petitioner.** An individual, business, group, association, or entity who submits a petition to the Department for submission to the U.S. Food and Drug Administration requesting a variance from the requirements of 21 CFR Part 112. (3-31-22)~~

011. ABBREVIATIONS:

~~01. **FDA.** The U.S. Food and Drug Administration. (3-31-22)~~

012. VARIANCE.

~~01. **Procedure for Seeking a Variance.** Under the Produce Safety Rule, only a State, tribe, or a foreign country may request a variance from the Produce Safety Rule's requirements by submitting a petition to the FDA in accordance with Subpart P of the Produce Safety Rule and with 21 CFR 10.30. Pursuant to 22-5404, Idaho Code, the Idaho Legislature designated the Department to administer the Produce Safety Rule, which includes the authority to decide whether to submit petitions to the FDA. The Department will submit a petition to the FDA if the following procedures are followed: (3-31-22)~~

~~a01. **Submission of Variance.** The petitioner must prepare the petition in accordance with the requirements of Subpart P of the Produce Safety Rule and 21 CFR 10.30. Additionally, the petitioner must attach all required documentation and any other supporting documentation. The petitioner must submit the petition and all attached documents to the Department via the Department's food safety email at fsma@isda.idaho.gov or mailed to the Department at the mailing address above or hand delivered to the Department at the physical address above. The petitioner must submit the petition and all attached documents to the Department via the Department's food safety email at fsma@isda.idaho.gov or mailed or hand delivered to the Department. (3-31-22)()~~

~~ba. Within thirty (30) days of receiving a petition, the Department will complete a review of a petition to determine whether it meets the requirements of Subpart P of the Produce Safety Rule and 21 CFR 10.30. If the Department determines the petition meets all relevant requirements, the Department will submit the petition to the FDA within ten (10) days of that determination. (3-31-22)()~~

~~i. If, after reviewing the petition, the Department determines that the petition meets the requirements of Subpart P of the Produce Safety Rule and 21 CFR 10.30, the Department will submit the petition to the FDA within ten (10) days of that determination. (3-31-22)~~

~~ii. If, after reviewing the petition, the Department determines that the petition does not meet the requirements of Subpart P of the Produce Safety Rule and 21 CFR 10.30, the Department will notify the petitioner and return the petition for correction. After correcting the deficiencies, the petitioner must resubmit the petition to the Department. Within thirty (30) days, the Department will complete an additional review of the petition to determine if the petition meets the requirements of Subpart P of the Produce Safety Rule and 21 CFR 10.30. If the Department determines that the initial petition or any subsequent version is deficient, the Department will notify the petitioner and return the petition for correction. After correcting the deficiencies, the petitioner must resubmit the petition to the Department for evaluation pursuant to subsection 2 of this section. (3-31-22)()~~

~~iii. If, after reviewing the petition, the Department determines that the petition meets the requirements of Subpart P of the Produce Safety Rule and 21 CFR 10.30, the Department will submit the petition to the FDA within ten (10) days of that determination. If, after reviewing the petition, the Department determines that the petition still does not meet the requirements of Subpart P of the Produce Safety Rule and 21 CFR 10.30, the Department will follow the procedure in Subparagraph 012.01.b.ii. (3-31-22)~~

02. Support and Withdrawal of Petitions. (3-31-22)

a. When the Department submits a petition to the FDA, the petitioner who prepared the petition, or an individual, business, group, association, or entity that supports the petition, shall assist the Department in responding to inquiries or directions from the FDA regarding the petition. If neither the petitioner nor an individual, business,

group, association, or entity that supports the petition provides this assistance to the Department within thirty (30) days, the Department may withdraw the petition. (3-31-22)

b. If the FDA takes action to modify or revoke a variance previously granted to the Department, the Department may waive the opportunity for a hearing unless a petitioner or an interested person adequately supports the Department in defending the variance in whole or in part from modification or revocation by FDA. (3-31-22)

013. – 999. (RESERVED)

IDAPA 02 – IDAHO STATE DEPARTMENT OF AGRICULTURE

02.06.02 – RULES GOVERNING REGISTRATIONS AND LICENSES

DOCKET NO. 02-0602-2401

NOTICE OF RULEMAKING – PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 22-604, 22-2204, 22-2303 (5), 22-2503, 22-2511, and 25-2710.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 16, 2024.

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

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

The proposed rule updates the publication dates for the Official Publications of the American Association of Feed Control Officials and the American Association of Plant Food Control Officials. The two publications are incorporated into this rule as standardized regulations for three subchapters of this rule – Commercial Feed, Commercial Fertilizer, and Soil and Plant Amendments.

The updates to these documents include refinements to definitions, technical terms, and other standards necessary for regulation that meets state statutes as well as the national cooperation in regulating these products.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased:

There is no change in fee or charge.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state General Fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking:

There is no fiscal impact on the state General Fund greater than ten thousand dollars (\$10,000).

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because these changes are to the publication dates of documents that were already incorporated into these rules.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule:

IDAPA 02.06.02 {...} 104. INCORPORATION BY REFERENCE:

01. The Association of American Feed Control Officials (AAFCO) Official Publication. The Terms, Ingredient Definitions, Model Bill and Regulations, and Policies as published in the “2025 Official Publication” of AAFCO where those statements do not conflict with Title 25, Chapter 27, Idaho Code, and any rule promulgated thereunder. A copy may be purchased online from the AAFCO website at: www.aafco.org.

IDAPA 02.06.02 {...} 404. INCORPORATION BY REFERENCE:

01. The Association of American Plant Food Control Officials (AAPFCO) Official Publication. The Officially adopted Documents, Official Terms, and Policies, as published in the “2025 Official Publication” of AAPFCO where those statements do not conflict with Title 22, Chapter 6, Idaho Code, and any rule promulgated thereunder. A copy may be purchased online from the AAPFCO website at: www.aapfco.org.

IDAPA 02.06.02 {...} 504. INCORPORATION BY REFERENCE:

01. The Association of American Plant Food Control Officials (AAPFCO) Official Publication. The Terms, Ingredient Definitions, and Policies as published in the “2025 Official Publication” of AAPFCO where those terms and ingredient definitions, and policy statements do not conflict with terms and ingredient definitions, and policy statements adopted under Title 22, Chapter 22, Idaho Code, and any rule promulgated thereunder. A copy may be purchased online from the AAPFCO website at: www.aapfco.org.

IDAHO CODE SECTION 22-101A STATEMENT: Pursuant to 22-101A(1), for any rule promulgated or adopted by the director which is broader in scope or more stringent than federal law or regulations, or which regulates an activity not regulated by the federal government, the director shall identify the portions of the adopted rule that are broader in scope or more stringent than federal law or rules, or which regulate an activity not regulated by the federal government. The following sections of the rule are broader in scope, more stringent than federal law or regulations, or regulate an activity not regulated by the federal government:

This rule implements regulatory activities and requirements directed and authorized in Idaho Code. As these are directed in statute, they are not directly regulated by the federal government.

The detailed 22-101A analysis can be found on the agency’s website at www.agri.idaho.gov.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Lloyd Knight at lloyd.knight@isda.idaho.gov.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 23, 2024.

DATED this 2nd day of October, 2024.

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THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 02-0602-2401
(Only Those Sections With Amendments Are Shown.)

02.06.02 – RULES GOVERNING REGISTRATIONS AND LICENSES

104. INCORPORATION BY REFERENCE.

The following documents are incorporated by reference into this Subchapter A: (3-23-23)

01. The Association of American Feed Control Officials (AAFCO) Official Publication. The Terms, Ingredient Definitions, Model Bill and Regulations, and Policies as published in the “2024⁵ Official Publication” of AAFCO where those statements do not conflict with Title 25, Chapter 27, Idaho Code, and any rule promulgated thereunder. A copy may be purchased online from the AAFCO website at: www.aafco.org.

(7-1-24)()

02. The Merck Index. The “Merck Veterinary Manual,” 11th Edition, as published by Merck Research Laboratories Division of Merck & Co., Incorporated. The manual is publicly available online from Merck & Co., Inc at: <http://www.rsc.org/merckindex>. (3-23-23)

(BREAK IN CONTINUITY OF SECTIONS)

404. INCORPORATION BY REFERENCE.

The following documents are incorporated by reference into Subchapter C: (3-23-23)

01. The Association of American Plant Food Control Officials (AAPFCO) Official Publication. The Officially adopted Documents, Official Terms, and Policies, as published in the “2024⁵ Official Publication” of AAPFCO where those statements do not conflict with Title 22, Chapter 6, Idaho Code, and any rule promulgated thereunder. A copy may be purchased online from the AAPFCO website at: www.aafco.org. (7-1-24)()

02. The Association of Official Agricultural Chemists (AOAC) International. The “2019 Official Methods of Analysis (OMA) of the AOAC,” 21st Edition, a copyrighted publication, is maintained and published by the AOAC International. The AOAC OMA is available in electronic format at: www.EOMA.AOAC.org. A copy may be purchased online from AOAC International. (3-23-23)

(BREAK IN CONTINUITY OF SECTIONS)

504. INCORPORATION BY REFERENCE.

The following documents are incorporated by reference into Subchapter D: (3-23-23)

01. The Association of American Plant Food Control Officials (AAPFCO) Official Publication. The Terms, Ingredient Definitions, and Policies, as published in the “2024⁵ Official Publication” of AAPFCO where those terms and ingredient definitions, and policy statements do not conflict with terms and ingredient definitions, and policy statements adopted under Title 22, Chapter 22, Idaho Code, and any rule promulgated thereunder. A copy may be purchased online from the AAPFCO website at: www.aapfco.org. (7-1-24)()

02. The Association of Official Agricultural Chemists (AOAC) International. The “2019 Official Methods of Analysis (OMA) of the AOAC,” 21st Edition, a copyrighted publication, is maintained and published by the AOAC International. The AOAC OMA is available in electronic format at: www.EOMA.AOAC.org. A copy may be purchased online from AOAC International. (3-23-23)

IDAPA 02 – IDAHO STATE DEPARTMENT OF AGRICULTURE
02.06.09 – RULES GOVERNING INVASIVE SPECIES AND NOXIOUS WEEDS
DOCKET NO. 02-0609-2402
NOTICE OF RULEMAKING – PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 22-2403, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 16, 2024.

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

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking.

The department received two separate petitions proposing new additions to the Noxious Weed List – one for Palmar amaranth and one for Myrtle spurge. Palmar amaranth is a weed species found in agricultural crop lands. Myrtle spurge is a landscaping species. Both species have either had an impact on agricultural production or present a threat to landscapes or native species. Both have degrees of prevalence in the state.

In addition, the agency is proposing to reduce categorization of Turkish thistle from EDRR to Control category and to add EDRR language that was missed during the last rulemaking session.

Two negotiated rulemaking meetings were held, and participation includes stakeholders from weed management agencies, cooperators, agricultural industry, and the general public. There was not consensus on the petitions for listing of the two species. Those species are not proposed to be listed in this Proposed Rule. No negative comments were submitted about the re-categorization of Turkish Thistle or adding the EDRR language.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased:

There is no change in fee or charge.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state General Fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking:

There is no fiscal impact on the state General Fund greater than ten thousand dollars (\$10,000).

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the July 3, 2024 Idaho Administrative Bulletin, [Volume 24-7, Pages 49 and 50](#).

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule:

There are no changes to documents already incorporated by reference.

IDAHO CODE SECTION 22-101A STATEMENT: Pursuant to 22-101A(1), for any rule promulgated or adopted by the director which is broader in scope or more stringent than federal law or regulations, or which regulates an activity not regulated by the federal government, the director shall identify the portions of the adopted rule that are broader in scope or more stringent than federal law or rules, or which regulate an activity not regulated by the federal government. The following sections of the rule are broader in scope, more stringent than federal law or regulations, or regulate an activity not regulated by the federal government:

The federal government does not regulate state invasive species or noxious weeds within the state. This activity is defined in Title 22, Chapter 24, Idaho Code.

The detailed 22-101A analysis can be found on the agency's website at www.agri.idaho.gov.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Lloyd Knight at lloyd.knight@isda.idaho.gov.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 23, 2024.

DATED this 2nd day of October, 2024.

Lloyd Knight
Deputy Director
Idaho Department of Agriculture
2270 Old Penitentiary Road
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THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 02-0609-2402
(Only Those Sections With Amendments Are Shown.)

02.06.09 – RULES GOVERNING INVASIVE SPECIES AND NOXIOUS WEEDS

220. NOXIOUS WEEDS - DESIGNATIONS.

The weeds listed on the Statewide Prohibited Genera, EDRR, Containment, and Control lists are hereby officially designated and published as noxious. (3-15-22)

01. Statewide Prohibited Genera Noxious Weed List. (3-15-22)

a. All plants and plant parts in the genera of: *Cytisus*, *Genista*, *Spartium*, and *Chamaecytisus* additionally including “all” subtaxa of these plant genera are prohibited in Idaho. (3-15-22)

b. Weeds listed in the Prohibited Genera list may exist in varying populations throughout the state. The concentration of these weeds is at a level where control and/or eradication may be possible. A written plan for weeds on the Statewide Prohibited Genera Noxious Weed List shall be developed by the control authority that specifies active control methods to reduce known populations in not more than five (5) years. The plan shall be available to the Department upon request. (3-15-22)

02. Statewide EDRR Noxious Weed List. Weeds listed in the EDRR list are not known to exist in Idaho, however, have the potential to become established, or are known to exist in Idaho in small enough infestations that eradication is possible. If any of the listed plants (Subsection 220.02) are found to occur in Idaho, they shall be reported to the Department within ten (10) days following positive identification by the University of Idaho or other

qualified authority as approved by the Director. These weeds shall be eradicated during the same growing season as identified.

	Common Name	Scientific Name
1.	Brazilian Elodea	<i>Egeria densa</i>
2.	Cogongrass	<i>Imperata cylindrica</i>
3.	Common/European Frogbit	<i>Hydrocharis morsus-ranae</i>
4.	Fanwort	<i>Cabomba caroliniana</i>
5.	Feathered Mosquito Fern	<i>Azolla pinnata</i>
6.	Giant Hogweed	<i>Heracleum mantegazzianum</i>
7.	Giant Salvinia	<i>Salvinia molesta</i>
8.	Goatsrue	<i>Galega officinalis</i>
9.	Hydrilla	<i>Hydrilla verticillata</i>
10.	Iberian Starthistle	<i>Centaurea iberica</i>
11.	Policeman’s Helmet	<i>Impatiens glandulifera</i>
12.	Purple Starthistle	<i>Centaurea calcitrapa</i>
13.	Squarrose Knapweed	<i>Centaurea triumfetti</i>
14.	Starry Stonewort	<i>Nitellopsis obtusa</i>
15.	Syrian Beancaper	<i>Zygophyllum fabago</i>
16.	Tall Hawkweed	<i>Hieracium piloselloides</i>
17.	Turkish Thistle	<i>Carduus cinereus</i>
18. 7.	Variable-Leaf-Milfoil	<i>Myriophyllum heterophyllum</i>
19. 8.	Water Chestnut	<i>Trapa natans</i>
20. 19.	Water Hyacinth	<i>Eichhornia crassipes</i>
24. 0.	Yellow Devil Hawkweed	<i>Hieracium glomeratum</i>
22. 1.	Yellow Floating Heart	<i>Nymphoides pelata</i>

(7-1-24)()

03. Statewide Control Noxious Weed List. Weeds listed in the control list are known to exist in varying populations throughout the state. The concentration of these weeds is at a level where control or eradication, or both, may be possible. A written plan for weeds on the Statewide Control Noxious Weed List shall be developed by the control authority that specifies active control methods to reduce known populations in not more than five (5) years. The plan shall be available to the Department upon request.

	Common Name	Scientific Name
1.	Black Henbane	<i>Hyoscyamus niger</i>
2.	Bohemian Knotweed	<i>Polygonum X bohemicum</i>

	Common Name	Scientific Name
3.	Common Crupina	<i>Crupina vulgaris</i>
4.	Common Reed (Phragmites)	<i>Phragmites australis</i>
5.	Dyer's Woad	<i>Isatis tinctoria</i>
6.	Eurasian Watermilfoil	<i>Myriophyllum spicatum</i> (and hybrids)
7.	Flowering Rush	<i>Butomus umbellatus</i>
8.	Giant Knotweed	<i>Polygonum sachalinense</i>
9.	Japanese Knotweed	<i>Polygonum cuspidatum</i>
10.	Johnsongrass	<i>Sorghum halepense</i>
11.	Matgrass	<i>Nardus stricta</i>
12.	Meadow Knapweed	<i>Centaurea debeauxii</i>
13.	Mediterranean Sage	<i>Salvia aethiopsis</i>
14.	Musk Thistle	<i>Carduus nutans</i>
15.	Orange Hawkweed	<i>Hieracium aurantiacum</i>
16.	Parrotfeather Milfoil	<i>Myriophyllum aquaticum</i>
17.	Perennial Sowthistle	<i>Sonchus arvensis</i>
18.	Russian Knapweed	<i>Acroptilon repens</i>
19.	Scotch Broom	<i>Cytisus scoparius</i>
20.	Small Bugloss	<i>Anchusa arvensis</i>
21.	Turkish Thistle	<i>Carduus cinereus</i>
24.	Vipers Bugloss	<i>Echium vulgare</i>
23.	Yellow Hawkweed	<i>Hieracium caespitosum</i>

(7-1-24)()

04. **Statewide Containment Noxious Weed List.** Weeds listed in the containment noxious weeds list are known to exist in various populations throughout the state. Weed control efforts may be directed at reducing or eliminating new or expanding weed populations while known and established weed populations, as determined by the weed control authority, may be managed by any approved weed control methodology, as determined by the weed control authority.

	Common Name	Scientific Name
1.	Canada Thistle	<i>Cirsium arvense</i>
2.	Curlyleaf Pondweed	<i>Potamogeton crispus</i>
3.	Dalmatian Toadflax	<i>Linaria dalmatica ssp. dalmatica</i>
4.	Diffuse Knapweed	<i>Centaurea diffusa</i>
5.	Field Bindweed	<i>Convolvulus arvensis</i>

	Common Name	Scientific Name
6.	Hoary Alyssum	<i>Berteroa incana</i>
7.	Houndstongue	<i>Cynoglossum officinale</i>
8.	Jointed Goatgrass	<i>Aegilops cylindrica</i>
9.	Leafy Spurge	<i>Euphorbia esula</i>
10.	Milium	<i>Milium vernale</i>
11.	Oxeye Daisy	<i>Leucanthemum vulgare</i>
12.	Perennial Pepperweed	<i>Lepidium latifolium</i>
13.	Plumeless Thistle	<i>Carduus acanthoides</i>
14.	Poison Hemlock	<i>Conium maculatum</i>
15.	Puncturevine	<i>Tribulus terrestris</i>
16.	Purple Loosestrife	<i>Lythrum salicaria</i>
17.	Rush Skeletonweed	<i>Chondrilla juncea</i>
18.	Saltcedar	<i>Tamarix</i> spp.
19.	Scotch Thistle	<i>Onopordum acanthium</i>
20.	Spotted Knapweed	<i>Centaurea stoebe</i>
21.	Tansy Ragwort	<i>Senecio jacobaea</i>
22.	White Bryony	<i>Bryonia alba</i>
23.	Whitetop (Hoary Cress)	<i>Cardaria draba</i>
24.	Yellow Flag Iris	<i>Iris pseudocorus</i>
25.	Yellow Starthistle	<i>Centaurea solstitialis</i>
26.	Yellow Toadflax	<i>Linaria vulgaris</i>

(3-15-22)

05. Designation of Articles Capable of Disseminating Noxious Weeds. The following articles are designated by the Director as capable of disseminating noxious weeds: (3-15-22)

- a.** Construction equipment, road building and maintenance equipment, and implements of husbandry. (3-15-22)
- b.** Motorized vehicles such as, all-terrain vehicles, motorcycles, and other off-road vehicles and non-motorized vehicles such as bicycles and trailers. (3-15-22)
- c.** Grain and seed. (3-15-22)
- d.** Hay, straw and other material of similar nature. (3-15-22)
- e.** Nursery stock including plant material propagated for the support of aquarium, pet, or horticultural activities. (3-15-22)
- f.** Feed and seed screenings. (3-15-22)
- g.** Fence posts, fencing and railroad ties. (3-15-22)

- h.** Sod. (3-15-22)
- i.** Manure, fertilizers and material of similar nature. (3-15-22)
- j.** Soil, sand, mulch, and gravel. (3-15-22)
- k.** Boats, personal watercraft, watercraft trailers, and items of a similar nature. (3-15-22)

IDAPA 02 – DEPARTMENT OF AGRICULTURE
02.06.09 – RULES GOVERNING INVASIVE SPECIES AND NOXIOUS WEEDS
DOCKET NO. 02-0609-2404
NOTICE OF RULEMAKING – ADOPTION OF TEMPORARY RULE

EFFECTIVE DATE: The effective date of the temporary rule is September 26, 2024.

AUTHORITY: In compliance with Sections 67-5226, Idaho Code, notice is hereby given this agency has adopted a temporary rule. The action is authorized pursuant to Sections 22-2004, 22-2006, 22-2012, and 22-2013, Idaho Code.

DESCRIPTIVE SUMMARY: The following is the required finding and concise statement of its supporting reasons for adopting a temporary rule:

Invasive quagga mussel samples were recently discovered in the Snake River. Left unchecked, quagga mussels pose a significant threat to the health and safety of Idaho's environment, and water use as well as threaten Idaho's economy. Accordingly, the Director has exercised the authority granted to them under Idaho law to quarantine certain areas of the Snake River until the Department is able to eradicate any existing quagga mussels. This new temporary rule replaces the June 27, 2024, update to the same rule by allowing for restricted access to the river at defined locations and per a defined requirement for watercraft and conveyances to be inspected and decontaminated and decontaminated as needed prior to launch and decontaminated upon exit.

The new amendment adds a restriction for access to the Snake River for watercraft or other conveyances up to Hansen Bridge.

TEMPORARY RULE JUSTIFICATION: Pursuant to Section 67-5226(1)(a), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons:

Protection for and maintaining the safety of property and aquatic plant life.

FEE SUMMARY: Pursuant to Section 67-5226(2), the Governor has found that the fee or charge being imposed or increased is justified and necessary to avoid immediate danger and the fee is described herein:

There is no fee being charged by this temporary rule.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the temporary rule, contact Lloyd Knight.

DATED this 26th day of September, 2024.

Lloyd B. Knight, Deputy Director
Idaho State Department of Agriculture
2270 Old Penitentiary Road
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THE FOLLOWING IS THE TEXT OF THE TEMPORARY RULE FOR DOCKET NO. 02-0609-2404
(Only Those Sections With Amendments Are Shown.)

135. SNAKE RIVER QUARANTINE.

ISDA has issued a quarantine of the Snake River from ~~Twin Falls Dam~~ Hansen Bridge to the partial bridge structure at the bottom of Yingst Grade (known as “the Broken Bridge”, “Yingst Grade Bridge”, the “Old Interstate Bridge”), which is approximately one-half (1/2) mile upstream of Auger Falls to contain and treat quagga mussels. All public access to the Snake River via watercraft or other conveyance between Pillar Falls and ~~Twin Falls hydroelectric facility~~ Hansen Bridge is prohibited. Access to the river by watercraft or other conveyance between the bottom of Yingst Grade (known as “the Broken Bridge”, “Yingst Grade Bridge”, the “Old Interstate Bridge”), which is approximately one-half (1/2) mile upstream of Auger Falls, and Pillar Falls is restricted. Launch of watercraft or other conveyances in this section is restricted to the hours when the watercraft inspection station at Centennial Park is in operation and requires inspection and decontamination of all conveyances and watercraft by ISDA or an assigned entity prior to launch into and upon exit from the water. This requirement applies to all motorized and non-motorized watercraft or other conveyances of any size, including paddle boards and kayaks. ~~(4-10-24)T~~ (9-26-24)T

01. State and County Watercraft. State and county watercraft, including watercraft operated by the vendor approved by the Twin Falls County to operate at Centennial Park, are permitted to access the area from Pillar Falls to the Shoshone Falls provided the watercraft do not leave the infested area or go through decontamination prior to leaving the quarantine area. All watercraft entering the area between Pillar Falls and Shoshone Falls must launch from Centennial Park, presenting for inspection and decontamination prior to launch into and upon exit from the water. (6-28-24)T

IDAPA 02 – IDAHO STATE DEPARTMENT OF AGRICULTURE

02.06.33 – ORGANIC FOOD PRODUCTS RULES

DOCKET NO. 02-0633-2401

NOTICE OF RULEMAKING – PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 22-1103, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 16, 2024.

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

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

The proposed rule updates the publication date for the Code of Federal Regulations, Title 7, Part 205, National Organic Program Regulations. This regulation contains the specifications, tolerances, and other technical requirements for maintaining organic accreditation.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased:

There is no change in fee or charge

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state General Fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking:

There is no fiscal impact on the state General Fund greater than ten thousand dollars (\$10,000).

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because these changes are to the publication dates of documents that were already incorporated into these rules.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule:

The Code of Federal Regulations, Title 7, Part 205, National Organic Program Regulations was updated to the January 2, 2024 version.

IDAHO CODE SECTION 22-101A STATEMENT: Pursuant to 22-101A(1), for any rule promulgated or adopted by the director which is broader in scope or more stringent than federal law or regulations, or which regulates an activity not regulated by the federal government, the director shall identify the portions of the adopted rule that are broader in scope or more stringent than federal law or rules, or which regulate an activity not regulated by the federal government. The following sections of the rule are broader in scope, more stringent than federal law or regulations, or regulate an activity not regulated by the federal government:

This rule allows the agency to implement the organic certification program specifically according to the National Organic Program Regulations. Incorporating these national regulations ensures that the state program is in compliance with the federal program, to the benefit of the voluntary certification customers served by the agency.

The detailed 22-101A analysis can be found on the agency's website at www.agri.idaho.gov.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Lloyd Knight at lloyd.knight@isda.idaho.gov.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 23, 2024.

DATED this 2nd day of October, 2024.

Lloyd Knight
Deputy Director
Idaho Department of Agriculture
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THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 02-0633-2401
(Only Those Sections With Amendments Are Shown.)

02.06.33 – ORGANIC FOOD PRODUCTS RULES

004. INCORPORATION BY REFERENCE.

The Code of Federal Regulations, Title 7, Part 205, National Organic Program Regulations (~~March 20, 2023~~ January 2, 2024), except sections 205.620 through 205.622, is incorporated by reference and can be viewed online at <https://www.ecfr.gov/current/title-7/subtitle-B/chapter-I/subchapter-M/part-205/subpart-G/subject-group-ECFR370552c56dd7aef>. Copies of this document may be obtained from the Idaho State Department of Agriculture (ISDA), 2270 Old Penitentiary Road, Boise, Idaho 83712. ~~(7-1-24)~~ ()