



STATE OF IDAHO  
DEPARTMENT OF  
ENVIRONMENTAL QUALITY

1410 North Hillton • Boise, Idaho 83706 • (208) 373-0502  
www.deq.idaho.gov

C.L. "Butch" Otter, Governor  
John H. Tippetts, Director

August 18, 2016

Brian Oakey  
Idaho State Department of Agriculture  
PO Box 790 Statehouse Mail  
Boise, ID 83701  
Submitted via email: [Brian.Oakey@ISDA.idaho.gov](mailto:Brian.Oakey@ISDA.idaho.gov)

RE: 02.04.14 Rules Governing Beef Cattle Feeding Operations

Dear Mr. Oakey:

DEQ appreciates the opportunity to work with ISDA and provide comments on the draft text for 02.04.15 – Rules Governing Beef Cattle Feeding Operations. As you are aware, DEQ is pursuing delegated authority for the NPDES program in Idaho and as such is dedicated to coordinating efforts between our two agencies for the smooth implementation of both ISDA and DEQ rules regarding concentrated animal feeding operations.

DEQ respectfully submits the following comments for your consideration.

DEQ believes the addition of language from Idaho Code 22-4903 is necessary to ensure clarity regarding the facilities that these rules apply to.

**001 TITLE AND SCOPE**

**01. Title.** The title of this chapter is "Rules Governing Beef Cattle Animal Feeding Operations." (4-6-05)

**02. Scope.** These rules shall govern the design, function, and management practices of waste systems on beef cattle animal feeding operations. The official citation of this chapter is IDAPA 02.04.15.000 et seq. For example this section's citation is IDAPA 02.04.15.001. "Nothing in this rule affects the authority of the department of environmental quality to administer and enforce an IPDES permit for beef cattle animal feeding operations that discharge pollutants to waters of the U.S., 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."

DEQ requests that the reference to NPDES or IPDES permits be removed from this section. Idaho Code section 22-4907(1) was modified in the last legislative session to remove the references to CWA permits from the agency's inspection authority.

#### **050 AUTHORITY TO INSPECT**

The Director is authorized to inspect any animal feeding operation that confines slaughter or feeder cattle in accordance with Title 22, Chapter 49, Idaho Code, to ensure compliance with these rules. The Director shall comply with the operation's biosecurity protocol so long as the protocol does not inhibit reasonable access to: (4-6-05)

**01. Entry.** Enter and inspect at reasonable times the premises or land application site(s) of a beef cattle animal feeding operation. (4-6-05)

**02. Access to Records.** Review or copy any records that must be kept in accordance with these rules.

**03. Sample or Monitor.** Sample or monitor at reasonable times, substances or parameters directly related to compliance with these rules or an NPDES or IPDES permit.

DEQ proposes that new subsections be added to the beef cattle rules. This new section addresses compliance with IPDES rules will greatly help to reduce confusion regarding the overlap between the ISDA programs and the IPDES program. The language is taken from the dairy environmental control act.

#### **052. COMPLIANCE WITH IDAHO POLLUTANT DISCHARGE ELIMINATION SYSTEM RULES**

**01. Discharges to Waters of the U.S.** The department of environmental quality shall be solely responsible and authorized to determine whether the discharge of pollutants from a Beef Cattle Feeding Operation to waters of the US is required to be authorized by an IPDES permit. The provisions of this rule do not define when a Beef Cattle Feeding Operation 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.

**02. Upset Conditions.** An upset condition does not excuse a person from the obligation to obtain an IPDES permit for the discharge of pollutants from a Beef Cattle Feeding Operation to waters of the United States.

Brian Oakey  
Idaho State Department of Agriculture  
August 18, 2016  
Page 3

Thank you for the opportunity to provide comments on this important matter. Please feel free to contact Mary Anne Nelson at 208-373-0291 or [Mary.Anne.Nelson@deq.idaho.gov](mailto:Mary.Anne.Nelson@deq.idaho.gov) if you have any questions regarding these comments.

Sincerely,



Barry N. Burnell.  
Water Division Administrator

BNB:MN:dls



IDAHO  
CONSERVATION  
LEAGUE

208.345.6933 • PO Box 844, Boise, ID 83702 • [www.idahoconservation.org](http://www.idahoconservation.org)

8/8/16

Brian Oakey  
Idaho State Department of Agriculture  
PO 790  
Boise ID. 83701

Submitted via email: [Brian.Oakey@ISDA.IDAHO.GOV](mailto:Brian.Oakey@ISDA.IDAHO.GOV)

**RE: Idaho Conservation League comments on rulemaking for 02.04.15 – Rules Governing Beef Cattle Animal Feeding Operations**

Dear Mr. Oakey:

Thank you for the opportunity to comment on the text for the draft rulemaking for 02.04.15 – Rules Governing Beef Cattle Animal Feeding Operations. Since 1973, the Idaho Conservation League has been Idaho’s leading voice for clean water, clean air and wilderness—values that are the foundation for Idaho’s extraordinary quality of life. The Idaho Conservation League works to protect these values through public education, outreach, advocacy and policy development. As Idaho’s largest state-based conservation organization, we represent over 25,000 supporters, many of whom are interested in ensuring that Beef CAFO’s in Idaho are adequately regulated so as to ensure the protection of Idaho’s groundwater, surface water and air resources.

101.05 We note that the definition of "Best Management Practices" utilized in the draft rule text is not the same as the definition that was passed by the Idaho legislature in Senate Bill 1260. It is our understanding that statute language trumps rule language and that rule language should always be revised to mirror legislative language. To this end we ask that you true these up and that the S 1260 definition be used in these rules.

010.11 – Land Application. In the proposed definition, ISDA’s use of the word “byproducts” creates ambiguity. In the dairy portion of S 1260, the legislature used the term “dairy byproducts.” This definition in the Beef rules would be improved if ISDA mirrored the legislature’s dairy related language and said, “beef CAFO byproducts.”

010.12.a There is a typo in this subsection. “cows” is accidentally spelled “covws.”

*RE: Idaho Conservation League comments on rulemaking for 02.04.15 – Rules Governing Beef Cattle Animal Feeding Operations*

010.19 We note that the definition of "Nutrient management standard" utilized in the draft rule text is not the same as the definition that was passed by the Idaho legislature in Senate Bill 1260. We ask that you true these up and that the S 1260 definition be used in these rules.

010.22 There is a typo in this subsection. There should be comma between the words "individual" and "association."

010.29 There is a unintentional omission in this subsection. The word "state" needs to be added to the end of this definition so that it reads "or border upon the state."

012 – Prohibited Discharges. The language in this section provides that unauthorized discharges from sites "owned or controlled" by a beef CAFO are prohibited. We believe though that it the case that such discharges are also prohibited in the instances where the site is not owned or controlled by the beef CAFO. Thus, the draft rule language needs to be amended to insure that such discharges are prohibited, irrespective of who owns or controls the site.

Please do not hesitate to contact me at 208-345-6933 ext. 24 or [jhayes@idahoconservation.org](mailto:jhayes@idahoconservation.org) if you have any questions regarding our comments or if we can provide you with any additional information on this matter.

Sincerely,



Justin Hayes  
Program Director

***Idaho State Department of Agriculture***  
***02.04.15 Rules Governing Beef Cattle Animal Feeding Operations***  
***August 3, 2016***  
***Dr. Scott Leibsle, Facilitator***

Present: Mary Anne Nelson, Department of Environmental Quality; Ron Parks, Producer; Steve Maggard, Simplot; Britany Hurst, Idaho Cattle Association; Jim Little, Producer; Owen Moroney, OAG; James Stoll, OAG; Brian Oakey, ISDA; Riely Geritz, ISDA; Cole Lickley, ISDA; Bill Barton, ISDA; Scott Leibsle, ISDA; Janis Perry, ISDA

**AGENDA ITEMS**

**WELCOME**

Dr. Scott Leibsle convened the meeting at 1:03 pm. After introductions, he explained that this rule is being changed to incorporate changes from the statutory amendment.

Dr. Leibsle explained the changes to the rule. The first incorporation by reference has been deleted because to define CAFOs the definitions were extracted from the CFR and included in the rule. The second incorporation by reference is now titled differently so that was changed. It is a copyrighted publication so it cannot be published but is available for sale.

In Section 010. Definitions, Beef Cattle Animal Feeding Operations had the CFR citation removed. The Best Management Practices definition is taken directly from the new statute. The Concentrated Animal Feeding Operation definition is from the CFR, but now included in the ISDA rule. Mary Anne Nelson recommended that we keep the phrase "Director will designate" in this definition.

In the definition for Land Application, the change should be rejected so that the original definition stays. Large and Medium AFOs are taken from the CFR definitions. Dr. Leibsle explained that since the CFR is no longer published annually, we are no longer citing it. Mr. Oakey suggested we need to outline the process for designating. It was pointed out that that process is in Section 040.

Do we need to have NPDES defined? Ms. Hurst suggested not. Nutrient Management Plan had the abbreviation (NMP) added. Process Wastewater has a hyphen added to the word process-generated. We have added Small AFO definition from the CFR. Unauthorized Discharge and Waters of the State definitions have been changed to coincide with the statute definition.

Under Section 011. Abbreviations, add IPDES. Idaho Pollutant Discharge Elimination System.

Mr. Oakey asked Ms. Nelson to explain the IPDES/NPDES process. She said that DEQ will submit their application to EPA in 22 days. The EPA will review it and do a statutory review. If accepted the first phase which will be municipal permits will start July, 2018. In July, 2019 individual permits will begin to be issued and in July, 2020 general CAFO permits will be issued. She explained that the EPA retains authority until then. Section 052 has been added at the request of the Idaho Cattle Association

and has been taken directly out of the statute.

Dr. Leibsle explained that Section 080. Compliance Orders. has been taken from statute. Mr. Oakey suggested that the whole change to that section be deleted, since who consults with whom is different. He recommended that we hold off making that change. Mr. Parks asked then why we would not wait for the other changes. Mr. Oakey explained that the others are so the rule complies with the statute change which went into effect in July, 2016. Ms. Hurst recommended holding off on changing Section 080.

Dr. Liebsle asked if there were any other comments or additional changes. Mr. Oakey commented that the changes to this rule are pretty straight forward. Ms. Nelson indicated that DEQ has been given permitting authority, but that they will rely on ISDA for inspections and reviewing NMPs. Mr. Oakey stated that if there is an enforcement issue on the Clean Water Act, it would be transferred to DEQ. He said inspection issues are still being worked out. He must go through the EPA manual in orders to figure that out. With NPDES, the EPA is solely responsible, but with the new agreement every facility that does not have an IPDES permit would have an inspection. Therefore, inspections would be anticipated annually. Mr. Parks asked if there was a rule requiring every CAFO to have a permit. Mr. Oakey said no.

Dr. Leibsle adjourned the meeting at 1:40 pm. Mr. Oakey thanked everyone for coming.

Respectfully submitted by Janis Perry

# 02.04.15 Rules Governing Beef Cattle Animal Feeding Operations

Meeting Sign In Sheet August 3, 2016, 1:00 p.m.

Please Sign In

Name: <u>Owen Moroney</u>	Organization: <u>OAG</u>	Email: <u>Owen Moroney - <sup>isda.idaho</sup> <del>owenmoroney@idaho.gov</del></u>
Name: <u>James Stall</u>	Organization: <u>OAG</u>	Email: <u>james.stall@isda.idaho.gov</u>
Name: <u>Brian Dugest</u>	Organization: <u>ISDA</u>	Email: _____
Name: <u>Riely Geritz</u>	Organization: <u>ISDA</u>	Email: _____
Name: <u>Abellicky</u>	Organization: <u>ISDA</u>	Email: _____
Name: <u>Mary Anne Nelson</u>	Organization: <u>DEQ</u>	Email: _____
Name: <u>Ron Parks</u>	Organization: <u>-</u>	Email: <u>RPParks46@msn.com</u>
Name: <u>Bill Bonkm</u>	Organization: <u>WDDP</u>	Email: _____
Name: <u>Steve Maggard</u>	Organization: <u>Simplet</u>	Email: <u>steve.maggard@simplet.com</u>
Name: <u>Britanny Hurst</u>	Organization: <u>Idaho Cattle Association</u>	Email: <u>britanny@idahocattle.org</u>
Name: <u>Tim Little</u>	Organization: _____	Email: <u>littlej963@gmail.com</u>
Name: <u>Janie Perry</u>	Organization: <u>ISDA</u>	Email: _____
Name: _____	Organization: _____	Email: _____



**IDAPA 02 – DEPARTMENT OF AGRICULTURE**

**02.04.15 - RULES GOVERNING BEEF CATTLE ANIMAL FEEDING OPERATIONS**

**DOCKET NO. 02-0415-1601**

**NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE**

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2017 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session unless the rule is approved or rejected in part by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Title 22, Chapter 1 and 49, Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

The proposed rule change will make the rule consistent with the statutory revisions implemented by the 2016 Idaho Legislature.

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the October 5, 2016 Idaho Administrative Bulletin, Vol. 16-10, pages 31-35.

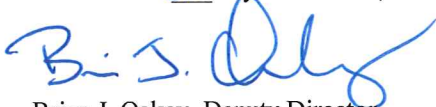
**IDAHO CODE SECTION 22-101A STATEMENT:** This rule does not regulate an activity not already regulated by the federal government, nor is it broader in scope or more stringent than federal regulations.

**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:

ISDA does not anticipate any fiscal impact as a result of this rulemaking.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the pending rule, contact Dr. Scott Leibsle, Deputy Administrator – Division of Animal Industries at (208) 332-8540.

DATED this 27 day of October, 2016



Brian J. Oakey, Deputy Director  
Idaho State Department of Agriculture  
2270 Old Penitentiary Rd  
P.O. Box 790  
Boise, Idaho 83701  
Phone: (208) 332-8503  
Fax: (208) 334-2170

**IDAPA 02  
TITLE 04  
CHAPTER 15**

**02.04.15 - RULES GOVERNING BEEF CATTLE ANIMAL FEEDING OPERATIONS**

**000. LEGAL AUTHORITY.**

This chapter is adopted under the legal authority of Title 22, Chapter 1 and 49, Idaho Code. (3-16-01)

**001. TITLE AND SCOPE.**

**01. Title.** The title of this chapter is "Rules Governing Beef Cattle Animal Feeding Operations." (4-6-05)

**02. Scope.** These rules shall govern the design, function, and management practices of waste systems on beef cattle animal feeding operations. The official citation of this chapter is IDAPA 02.04.15.000 et seq. For example this section's citation is IDAPA 02.04.15.001. 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. (3-16-01)(\_\_\_\_\_)

**(BREAK IN CONTINUITY OF SECTIONS)**

**004. INCORPORATION BY REFERENCE.**

Copies of these documents may be obtained from the Idaho State Department of Agriculture, 2270 Old Penitentiary Road, PO Box 790, Boise, Idaho 83701. IDAPA 02.04.15 incorporates by reference: (3-16-01)

~~**01. The 2004 Code of Federal Regulations (CFR) Title 40 Part 122 Section 122.23 (b)(1), (b)(2), (b)(4), (b)(6), or (b)(9).** This document can be viewed online at [http://www.access.gpo.gov/nara/cfr/waisidx\\_04/40cfrv20\\_04.html](http://www.access.gpo.gov/nara/cfr/waisidx_04/40cfrv20_04.html).~~ (4-6-05)

**012. 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>. ~~[http://www.agri.idaho.gov/Categories/Animals/Documents/nres\\_10d\\_1997.pdf](http://www.agri.idaho.gov/Categories/Animals/Documents/nres_10d_1997.pdf).~~ (3-16-01)(\_\_\_\_\_)

~~**023. The 2000 American Society of Agricultural and Biological Engineers Specification ASAE Standard-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/>.~~ can be viewed online at [http://www.agri.idaho.gov/Categories/Animals/Documents/ASAE\\_EP393point3\\_2000.pdf](http://www.agri.idaho.gov/Categories/Animals/Documents/ASAE_EP393point3_2000.pdf). (3-16-01)(\_\_\_\_\_)

**034. 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 [http://www.agri.idaho.gov/AGRI/Categories/Animals/Documents/nutrient\\_Management\\_code\\_590.PDF](http://www.agri.idaho.gov/AGRI/Categories/Animals/Documents/nutrient_Management_code_590.PDF). (3-16-01)(\_\_\_\_\_)

**(BREAK IN CONTINUITY OF SECTIONS)**

**010. DEFINITIONS.**

The following definitions shall apply in the interpretation and enforcement of this chapter. (3-16-01)

**01. Administrator.** The administrator of the Idaho State Department of Agriculture, Division of Animal Industries or his designee. (4-6-05)

**02. Animal.** Bovidae, ovidae, suidae, equidae, captive cervidae, captive antilocapridae, camelidae, and ratitidae. (3-16-01)

**03. 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 (12) month 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. (4-6-05)

**04. Beef Cattle Animal Feeding Operation.** An animal feeding operation, ~~as defined in 40 CFR Sections 122.23 (b)(1), (b)(2), (b)(4), (b)(6) or (b)(9),~~ which confines slaughter and feeder cattle or dairy heifers. (4-6-05)(\_\_\_\_\_)

**05. Best Management Practices.** ~~Practices as defined in Title 22, Chapter 49, Idaho Code, or other practices, techniques, or measures that which are determined to be reasonable precautions, are a cost-effective and practicable means of preventing or reducing pollutants from point or non-point sources to a level compatible with state environmental goals, including water quality goals and standards for water of the state. Best management practices for water quality shall be adopted pursuant to the state water quality management plan, the Idaho ground water quality plan or Title 22, Chapter 49, Idaho Code.~~ (3-16-01)

**06. Compost.** A biologically stable material derived from the biological decomposition of organic matter. (3-16-01)

**07. 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 or more AFOs under common ownership 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. (\_\_\_\_\_)

**087. Director.** The Director of the Idaho State Department of Agriculture or his designee. (4-6-05)

**098. Discharge.** Release of process wastewater or manure from a beef cattle animal feeding operation to waters of the state. (3-16-01)

**10. Idaho Pollutant Discharge Elimination System (IPDES).** 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. (\_\_\_\_\_)

**1109. Land Application.** The spreading on, or incorporation of manure or process wastewater into the soil. (3-16-01\_\_\_\_\_)

**12. 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:(\_\_\_\_\_)

a. 700 mature dairy cows, whether milked or dry; (\_\_\_\_\_)

b. 1,000 veal calves; (\_\_\_\_\_)

c. 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; (\_\_\_\_\_)

**130. Manure.** Animal excrement generated on a beef cattle animal feeding operation that may also contain bedding, spilled feed, water, or soil. (3-15-02)

**14. 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: ( )

a. 200 to 699 mature dairy cows, whether milked or dry; ( )

b. 300 to 999 veal calves; ( )

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

**151. Modified.** Structural changes and alterations to the wastewater storage containment facility, which would require increased storage or containment capacity or such changes, which would alter the function of the wastewater storage or containment facility. (3-16-01)

**162. Non-Compliance.** A practice or condition that causes an unauthorized discharge, or a practice or condition, that if left uncorrected, will cause an unauthorized discharge. (3-16-01)

**17. Nutrient Management Plan (NMP).** A plan prepared in conformance with the nutrient management standard, provisions required by 40 CFR 122.42(e)(1), or other equally protective standard for managing the amount, source, placement, form, and timing of the land application of nutrients ~~or~~ and soil amendments. (4-6-05) ( )

**184. Nutrient Management Standard.** The 1999 publication by the United States Department of Agriculture Natural Resources Conservation Service, Conservation Practice Standard, Nutrient Management Code 590, or other equally protective standard approved by the Director. (3-16-01)

**195. Operate.** Confining and feeding slaughter and feeder cattle in the state of Idaho. (4-6-05)

**2016. Operator.** The person who has power or authority to manage, or direct, or has financial control of a beef cattle animal feeding operation. (3-16-01)

**2117. Person.** Any individual, association, partnership, firm, joint stock company, joint venture, trust, estate, political subdivision, public or private corporation, state, or federal governmental department, agency or instrumentality, or any legal entity, which is recognized by law as the subject of rights and duties. (3-16-01)

**2218. Process Wastewater.** Liquid containing beef cattle manure, ~~process~~ process-generated wastewater and any precipitation which comes into direct contact with livestock manure and facility products or by-products. (4-6-05) ( )

**23. Runoff.** Any precipitation that comes into contact with manure, compost, bedding, or feed on a beef cattle animal feeding operation. (3-15-02)

**2024. 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 of the Department of Agriculture Governing Dairy Waste." (4-6-05)

**25. Small Concentrated Animal Feeding Operation.** An AFO that is designated as a CAFO and is not a medium or large CAFO. ( )

**2621. Unauthorized Discharge.** A discharge of process wastewater or manure from a beef cattle animal feeding operation to state surface waters ~~of the state that is not authorized by a National Pollutant Discharge Elimination System permit issued by the United States Environmental Protection Agency, or the release of process wastewater or manure from a beef cattle animal feeding operation, to waters of the state,~~ that does not meet the

requirements of the these rules ~~set~~ or water quality standards. (3-16-01)(\_\_\_\_\_)

**272. Wastewater Storage and Containment Facility.** That portion of a beef cattle animal feeding operation where manure or process wastewater is stored or collected. This may include corrals, feeding areas, waste collection systems, waste conveyance systems, waste storage ponds, waste treatment lagoons and evaporative ponds.(3-16-01)

**283. Waters of the State.** All accumulations of water, surface and underground, water-natural and artificial, public and private, or parts thereof which are wholly or partially within, which flow through or border upon located within the boundaries of the state, or boundary streams, rivers and lakes except for private waters as defined in Title 42, Chapter 2, Idaho Code. (3-16-01)(\_\_\_\_\_)

**011. ABBREVIATIONS.**

**01. AFO.** Animal Feeding Operation (\_\_\_\_\_)

**02. CAFO.** Concentrated Animal Feeding Operation. (\_\_\_\_\_)

**03. IPDES.** Idaho Pollutant Discharge Elimination System. (\_\_\_\_\_)

~~**0404. NMP.** Nutrient Management Plan. (4-6-05)(\_\_\_\_\_)~~

~~**02. NPDES.** National Pollutant Discharge Elimination System. (4-6-05)~~

~~**0305. NRCS.** United States Department of Agriculture, Natural Resources Conservation Service.(4-6-05)(\_\_\_\_\_)~~

**(BREAK IN CONTINUITY OF SECTIONS)**

**050. AUTHORITY TO INSPECT.**

The Director is authorized to inspect any animal feeding operation that confines slaughter or feeder cattle in accordance with Title 22, Chapter 49, Idaho Code, to ensure compliance with these rules. The Director shall comply with the operation's biosecurity protocol so long as the protocol does not inhibit reasonable access to: (4-6-05)

**01. Entry.** Enter and inspect at reasonable times the premises or land application site(s) of a beef cattle animal feeding operation. (4-6-05)

**02. Access to Records.** Review or copy any records that must be kept in accordance with these rules. (4-6-05)

**03. Sample or Monitor.** Sample or monitor at reasonable times, substances or parameters directly related to compliance with these rules or an ~~NPDES~~ IPDES permit.

**(BREAK IN CONTINUITY OF SECTIONS)**

**052. 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. (\_\_\_\_\_)

**053. COMPLIANCE WITH IDAHO POLLUTANT DISCHARGE ELIMINATION SYSTEM RULES**

**01. Discharges to Waters of the U.S.** 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.

**054052 -- 079. (RESERVED)**

## **IDAPA 02 – DEPARTMENT OF AGRICULTURE**

### **02.04.15 - RULES GOVERNING BEEF CATTLE ANIMAL FEEDING OPERATIONS**

**DOCKET NO. 02-0415-1601**

#### **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 22-4901 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 19, 2016.

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 change will make the rule consistent with the statutory revisions implemented by the 2016 Idaho Legislature.

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

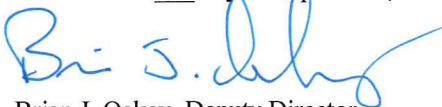
**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking: ISDA does not anticipate any fiscal impact as a result of this rulemaking.

**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 6, 2016 Idaho Administrative Bulletin, Vol. 16-7, page 21. A negotiated rulemaking meeting was held at the Idaho State Department of Agriculture on August 3, 2016. There were twelve (12) people in attendance and multiple comments were entered into the record and taken into consideration when drafting this proposed rule.

**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: N/A

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Dr. Scott Leibsle, Deputy Administrator – Division of Animal Industries at (208) 332-8540. 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 26, 2016. Comments can be delivered via email to [scott.leibsle@isda.idaho.gov](mailto:scott.leibsle@isda.idaho.gov) or via regular mail to Dr. Scott Leibsle's attention at the address listed below.

DATED this 6<sup>th</sup> day of September, 2016



Brian J. Oakey, Deputy Director  
Idaho State Department of Agriculture  
2270 Old Penitentiary Rd  
P.O. Box 790  
Boise, Idaho 83701  
Phone: (208) 332-8503  
Fax: (208) 334-2170

**IDAPA 02  
TITLE 04  
CHAPTER 15**

**02.04.15 - RULES GOVERNING BEEF CATTLE ANIMAL FEEDING OPERATIONS**

**000. LEGAL AUTHORITY.**

This chapter is adopted under the legal authority of Title 22, Chapter 1 and 49, Idaho Code. (3-16-01)

**001. TITLE AND SCOPE.**

**01. Title.** The title of this chapter is "Rules Governing Beef Cattle Animal Feeding Operations." (4-6-05)

**02. Scope.** These rules shall govern the design, function, and management practices of waste systems on beef cattle animal feeding operations. The official citation of this chapter is IDAPA 02.04.15.000 et seq. For example this section's citation is IDAPA 02.04.15.001. (3-16-01)

**002. WRITTEN INTERPRETATIONS.**

There are no written interpretations of these rules. (3-16-01)

**003. ADMINISTRATIVE APPEAL.**

Persons may be entitled to appeal agency actions authorized under these rules pursuant to Title 67, Chapter 52, Idaho Code. (3-15-02)

**004. INCORPORATION BY REFERENCE.**

Copies of these documents may be obtained from the Idaho State Department of Agriculture, 2270 Old Penitentiary Road, PO Box 790, Boise, Idaho 83701. IDAPA 02.04.15 incorporates by reference: (3-16-01)

~~01. The 2004 Code of Federal Regulations (CFR) Title 40 Part 122 Section 122.23 (b)(1), (b)(2), (b)(4), (b)(6), or (b)(9). This document can be viewed online at [http://www.access.gpo.gov/nara/cfr/waisidx\\_04/40cfrv20\\_04.html](http://www.access.gpo.gov/nara/cfr/waisidx_04/40cfrv20_04.html). (4-6-05)~~

~~012. 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>[http://www.agri.idaho.gov/Categories/Animals/Documents/nres\\_10d\\_1997.pdf](http://www.agri.idaho.gov/Categories/Animals/Documents/nres_10d_1997.pdf). (3-16-01)~~

~~023. The 2000 American Society of Agricultural and Biological Engineers Specification ASAE Standard 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/>, can be viewed online at [http://www.agri.idaho.gov/Categories/Animals/Documents/ASAE\\_EP393point3\\_2000.pdf](http://www.agri.idaho.gov/Categories/Animals/Documents/ASAE_EP393point3_2000.pdf). (3-16-01)~~

~~034. 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 [http://www.agri.idaho.gov/AGRI/Categories/Animals/Documents/nutrient\\_Management\\_code\\_590.PDF](http://www.agri.idaho.gov/AGRI/Categories/Animals/Documents/nutrient_Management_code_590.PDF). (3-16-01)~~

Field Code Changed

**005. IDAHO PUBLIC RECORDS ACT.**

These rules are public records and are available for inspection and copying at the Department. (3-16-01)



**006. ADDRESS, OFFICE HOURS, TELEPHONE AND FAX NUMBERS.**

**01. Physical Address.** The central office of the Idaho State Department of Agriculture is located at 2270 Old Penitentiary Road, Boise, Idaho 83712-0790. (3-16-01)

**02. Office Hours.** Office hours are 8 a.m. to 5 p.m., Mountain Time, Monday through Friday, except holidays designated by the state of Idaho. (3-16-01)

**03. Mailing Address.** The mailing address for the central office is Idaho State Department of Agriculture, P. O. Box 790, Boise, Idaho 83701. (3-16-01)

**04. Telephone Number.** The telephone number of the central office is (208) 332-8540. (3-16-01)

**05. Fax Number.** The fax number of the central office is (208) 334-4062. (3-16-01)

**007. -- 009. (RESERVED)**

**010. DEFINITIONS.**

The following definitions shall apply in the interpretation and enforcement of this chapter. (3-16-01)

**01. Administrator.** The administrator of the Idaho State Department of Agriculture, Division of Animal Industries or his designee. (4-6-05)

**02. Animal.** Bovidae, ovidae, suidae, equidae, captive cervidae, captive antilocapridae, camelidae, and ratitidae. (3-16-01)

**03. 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 (12) month 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. (4-6-05)

**04. Beef Cattle Animal Feeding Operation.** An animal feeding operation, ~~as defined in 40 CFR Sections 122.23 (b)(1), (b)(2), (b)(4), (b)(6) or (b)(9),~~ which confines slaughter and feeder cattle or dairy heifers. (4-6-05)

**05. Best Management Practices.** ~~Practices as~~ defined in Title 22, Chapter 49, Idaho Code, ~~or other~~ practices, techniques, or measures ~~that which~~ are determined to be reasonable precautions, are a cost-effective and practicable means of preventing or reducing pollutants from point or non-point sources to a level compatible with state environmental goals, including water quality goals and standards for water of the state. Best management practices for water quality shall be adopted pursuant to the state water quality management plan, the Idaho ground water quality plan or Chapter 22-49 of Idaho Code. (3-16-01)

**06. Compost.** A biologically stable material derived from the biological decomposition of organic matter. (3-16-01)

**07. 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 or more AFOs under common ownership 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. ( )

**087. Director.** The Director of the Idaho State Department of Agriculture or his designee. (4-6-05)

**098. Discharge.** Release of process wastewater or manure from a beef cattle animal feeding operation to waters of the state. (3-16-01)

**0109. Land Application.** The spreading on, or incorporation of manure or process wastewater into the

soil.

(3-16-01)

**11. 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:

a. 700 mature dairy cows, whether milked or dry;

b. 1,000 veal calves;

c. 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;

**120. Manure.** Animal excrement generated on a beef cattle animal feeding operation that may also contain bedding, spilled feed, water, or soil. (3-15-02)

**13. 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:

a. 200 to 699 mature dairy cows, whether milked or dry;

b. 300 to 999 veal calves;

c. 300 to 999 cattle other than mature dairy cows or veal calves. Cattle includes but is not limited to heifers, steers, bulls and cow/calf pairs;

**141. Modified.** Structural changes and alterations to the wastewater storage containment facility, which would require increased storage or containment capacity or such changes, which would alter the function of the wastewater storage or containment facility. (3-16-01)

**152. Non-Compliance.** A practice or condition that causes an unauthorized discharge, or a practice or condition, that if left uncorrected, will cause an unauthorized discharge. (3-16-01)

**1364. Nutrient Management Plan (NMP).** A plan prepared in conformance with the nutrient management standard, provisions required by 40 CFR 122.42(e)(1), or other equally protective standard for managing the amount, source, placement, form, and timing of the land application of nutrients or soil amendments. (4-6-05)

**174. Nutrient Management Standard.** The 1999 publication by the United States Department of Agriculture Natural Resources Conservation Service, Conservation Practice Standard, Nutrient Management Code 590, or other equally protective standard approved by the Director. (3-16-01)

**185. Operate.** Confining and feeding slaughter and feeder cattle in the state of Idaho. (4-6-05)

**1916. Operator.** The person who has power or authority to manage, or direct, or has financial control of a beef cattle animal feeding operation. (3-16-01)

**2017. Person.** Any individual association, partnership, firm, joint stock company, joint venture, trust, estate, political subdivision, public or private corporation, state, or federal governmental department, agency or instrumentality, or any legal entity, which is recognized by law as the subject of rights and duties. (3-16-01)

**2118. Process Wastewater.** Liquid containing beef cattle manure, process-generated wastewater and any precipitation which comes into direct contact with livestock manure and facility products or by-products. (4-6-05)

Formatted: Font color: Auto

Formatted: Font color: Auto

Formatted: Font color: Auto

Formatted: Font: 10 pt

Formatted: Indent: Left: 0.5", First line: 0.5"

Formatted: Normal (Web), Indent: Left: 1"

Formatted: Font: 10 pt, Font color: Auto

Formatted: Font color: Auto

Formatted: Font: 10 pt

Formatted: Indent: Left: 0.5", First line: 0.5"

Formatted: Font color: Auto

Formatted: Font: 10 pt

Formatted: Normal (Web), Indent: Left: 1"

Formatted: Font: 10 pt, Font color: Auto

**1922. Runoff.** Any precipitation that comes into contact with manure, compost, bedding, or feed on a beef cattle animal feeding operation. (3-15-02)

**2023. 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 of the Department of Agriculture Governing Dairy Waste." (4-6-05)

**24. Small Concentrated Animal Feeding Operation.** An AFO that is designated as a CAFO and is not a medium or large CAFO. ( )

**2524. Unauthorized Discharge.** A discharge of process wastewater or manure from a beef cattle animal feeding operation to ~~state surface waters of the state that is not authorized by a National Pollutant Discharge Elimination System permit issued by the United States Environmental Protection Agency, or the release of process wastewater or manure from a beef cattle animal feeding operation, to waters of the state,~~ that does not meet the requirements of the ~~these rules~~ or water quality standards. (3-16-01, )

**262. Wastewater Storage and Containment Facility.** That portion of a beef cattle animal feeding operation where manure or process wastewater is stored or collected. This may include corrals, feeding areas, waste collection systems, waste conveyance systems, waste storage ponds, waste treatment lagoons and evaporative ponds. (3-16-01)

**273. Waters of the State.** All ~~accumulations of water, surface and underground, water natural and artificial, public and private, or parts thereof which are wholly or partially within, which flow through or border upon located within the boundaries of the state, or boundary streams, rivers and lakes except for private waters as defined in Title 42, Chapter 2, Idaho Code.~~ (3-16-01, )

**011. ABBREVIATIONS.**

**01. AFO.** Animal Feeding Operation ( )

**02. CAFO.** Concentrated Animal Feeding Operation. ( )

**03. IPDES.** Idaho Pollutant Discharge Elimination System, ( )

**04. NMP.** Nutrient Management Plan. (4-6-05, )

**0205. NPDES.** National Pollutant Discharge Elimination System. (4-6-05)

**0306. NRCS.** United States Department of Agriculture, Natural Resources Conservation Service. (4-6-05)

**012. PROHIBITED DISCHARGES.**

Unauthorized discharges of manure or process wastewater from beef cattle animal feeding operations or land application sites owned or controlled by a beef cattle animal feeding operation are prohibited. (4-6-05)

**013. NOTIFICATION OF DISCHARGE.**

**01. Notification Within Twenty-Four Hours of Discharge.** Within twenty-four (24) hours of learning of a discharge, the operator of a beef cattle animal feeding operation shall verbally notify the Director of such a discharge. (3-16-01)

**02. Written Notification Within Five Days.** If the Idaho Department of Agriculture has not begun a discharge investigation within five (5) days of the verbal notification to the Director, the operator shall submit a written report to the Director which includes: (3-16-01)

**a.** A description of the discharge, a description of the flow path to the receiving water body;(3-16-01)

Formatted: Font: Not Bold

- b. An estimation of the flow rate and volume discharged; (3-16-01)
- c. The period of discharge, including dates and times, and if not already corrected, the anticipated time the discharge is expected to continue; and (3-16-01)
- d. Steps taken to reduce, eliminate and prevent recurrence of the discharge. (3-16-01)

**014. -- 019. (RESERVED)**

**020. WASTEWATER STORAGE AND CONTAINMENT FACILITIES.**

**01. Wastewater Storage and Containment Facilities.** All beef cattle animal feeding operations 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, operated, and maintained sufficient to contain: (3-16-01)

- a. All process wastewater generated on the facility during the non-land application season; and (3-16-01)
- b. The runoff from a twenty-five (25) year, twenty-four (24) hour rainfall event; and (3-16-01)
- 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. (3-16-01)

**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 animal feeding operation. The disposal of any other materials into a wastewater storage and containment facility, including, but not limited to, human waste, is prohibited. (3-16-01)

**021. NEW OR MODIFIED BEEF CATTLE ANIMAL FEEDING OPERATIONS.**

Each new or modified beef cattle animal feeding operation shall design and construct wastewater storage and containment facilities completed after July 1, 2000, in accordance with the engineering standards and specifications contained in the Natural Resources Conservation Service Agricultural Waste Management Field Handbook, Appendix 10D or the American Society of Agricultural Engineers Standard EP393.3, or other equally protective standards approved by the Director. (3-16-01)

**022. -- 029. (RESERVED)**

**030. NUTRIENT MANAGEMENT.**

Each beef cattle animal feeding operation shall submit a nutrient management plan for land owned or controlled by the operator, which conforms to the nutrient management standard and addresses odors generated in excess of odors normally associated with raising beef cattle in Idaho, to the Director for approval. Following department review and approval, the plan, and all copies of the plan, shall be returned to the operation and maintained on site. (4-6-05)

**01. Existing Beef Cattle Animal Feeding Operations.** Beef cattle animal feeding operations that are operating on or before July 1, 2000 shall submit a NMP to the director for approval no later than January 1, 2005. The Director shall respond to or approve such plan in writing within forty-five (45) days of submission. (4-6-05)

**02. New Beef Cattle Animal Feeding Operations.** Any new beef cattle animal feeding operation commencing operations after July 1, 2000 shall not operate prior to the Director's approval of a NMP. The Director shall respond to or approve such plan within forty-five (45) days of submission. (4-6-05)

**03. Implementation of a Nutrient Management Plan.** Failure to implement an approved NMP is a violation of these rules. (4-6-05)

**031. NUTRIENT MANAGEMENT PLAN RETENTION.**

All approved NMPs shall be maintained on site at the beef cattle animal feeding operation and available to the Administrator upon request. (4-6-05)

**032. NUTRIENT MANAGEMENT RECORDS.**

The operators of beef cattle animal feeding operations shall keep complete and accurate records of: (4-6-05)

**01. Land Application.** The dates and amounts of any manure or process wastewater applied on land owned or controlled by the operator. (4-6-05)

**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. (4-6-05)

**03. Records Retention.** All records shall be maintained for a period of five (5) years and presented to the Administrator upon request. (4-6-05)

**033. -- 039. (RESERVED)**

**040. DESIGNATION OF BEEF CATTLE ANIMAL FEEDING OPERATIONS.**

**01. Designation of Animal Feeding Operations.** The Director, on a case by case basis, may designate any animal feeding operation that confines slaughter and feeder cattle as a beef cattle animal feeding operation if, after an inspection, the Director determines that the animal feeding operation is a significant contributor of pollution to waters of the state. The designation shall be provided to the operator of the animal feeding operation in writing setting forth the basis for the Director's decision. When designated, these operations shall be considered existing beef cattle animal feeding operations. The Director shall consider the following factors when making such designation: (4-6-05)

**a.** Size of the animal feeding operation and the amount of manure, process wastewater, and runoff reaching waters of the state; (3-15-02)

**b.** Location of the animal feeding operation relative to waters of the state; (3-15-02)

**c.** Means of conveyance of manure, process wastewater, and runoff into waters of the state; and (3-15-02)

**d.** Slope, vegetation, precipitation, and other factors affecting the likelihood or frequency of discharge of manure, process wastewater, or runoff into waters of the state. (3-15-02)

**02. Redesignation of a Beef Cattle Animal Feeding Operation.** Upon request by the operator, the Director shall redesignate a facility previously designated under Section 040, if the facility is no longer a significant contributor of pollution to waters of the state. Such redesignation shall be provided to the operator in writing. (3-15-02)

**041. -- 049. (RESERVED)**

**050. AUTHORITY TO INSPECT.**

The Director is authorized to inspect any animal feeding operation that confines slaughter or feeder cattle in accordance with Title 22, Chapter 49, Idaho Code, to ensure compliance with these rules. The Director shall comply with the operation's biosecurity protocol so long as the protocol does not inhibit reasonable access to: (4-6-05)

**01. Entry.** Enter and inspect at reasonable times the premises or land application site(s) of a beef cattle animal feeding operation. (4-6-05)

**02. Access to Records.** Review or copy any records that must be kept in accordance with these rules. (4-6-05)

**03. Sample or Monitor.** Sample or monitor at reasonable times, substances or parameters directly related to compliance with these rules or an NPDES or IPDES permit. (~~4-6-05~~)

**051. INSPECTIONS.**

Each beef cattle animal feeding operation shall be inspected annually or at intervals sufficient to determine that the facility is being operated and managed to prevent an unauthorized discharge. Inspections may include evaluating effectiveness of best management practices, collecting samples, taking photographs, videotaping facilities or collecting other information as necessary. An official inspection report form shall be completed at the time of the inspection and a copy provided to the operator. (3-16-01)

**052. ADMINISTRATION OF IDAHO NPDES 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 Idaho NPDES program that recognizes the expertise of the department of agriculture. ( )

**053 -- 079. (RESERVED)**

**080. COMPLIANCE ORDERS.**

When the Director identifies items of non-compliance or unauthorized discharges, the deficiencies will be noted and discussed with the operator. Unauthorized discharges shall be corrected immediately, or as soon as possible as determined by the Director. Appropriate corrective actions will be identified and scheduled informally. Formal compliance orders shall be developed, as the Director deems necessary as provided by Section 22-4909, Idaho Code. (~~3-16-01~~)

**081. -- 089. (RESERVED)**

**090. PENALTIES.**

Failure to comply with any provision of these rules or any formal compliance order of the Director shall be a violation of these rules. Such violation may subject the operator to an administrative enforcement action or a civil enforcement action in district court and a civil penalty not to exceed ten thousand dollars (\$10,000) per violation or one thousand dollars (\$1,000) for each day of a continuing violation as provided in Title 22, Chapter 49, Idaho Code. Civil penalties collected shall be deposited in the state treasury and credited to the State School Building Fund.

**091. -- 999. (RESERVED)**

**IDAPA 02  
TITLE 04  
CHAPTER 15**

**02.04.15 - RULES GOVERNING BEEF CATTLE ANIMAL FEEDING OPERATIONS**

**000. LEGAL AUTHORITY.**

This chapter is adopted under the legal authority of Title 22, Chapter 1 and 49, Idaho Code. (3-16-01)

**001. TITLE AND SCOPE.**

**01. Title.** The title of this chapter is "Rules Governing Beef Cattle Animal Feeding Operations." (4-6-05)

**02. Scope.** These rules shall govern the design, function, and management practices of waste systems on beef cattle animal feeding operations. The official citation of this chapter is IDAPA 02.04.15.000 et seq. For example this section's citation is IDAPA 02.04.15.001. (3-16-01)

**002. WRITTEN INTERPRETATIONS.**

There are no written interpretations of these rules. (3-16-01)

**003. ADMINISTRATIVE APPEAL.**

Persons may be entitled to appeal agency actions authorized under these rules pursuant to Title 67, Chapter 52, Idaho Code. (3-15-02)

**004. INCORPORATION BY REFERENCE.**

Copies of these documents may be obtained from the Idaho State Department of Agriculture, 2270 Old Penitentiary Road, PO Box 790, Boise, Idaho 83701. IDAPA 02.04.15 incorporates by reference: (3-16-01)

~~01. The 2004 Code of Federal Regulations (CFR) Title 40 Part 122 Section 122.23 (b)(1), (b)(2), (b)(4), (b)(6), or (b)(9). This document can be viewed online at [http://www.access.gpo.gov/nara/cfr/waisidx\\_04/40cfrv20\\_04.html](http://www.access.gpo.gov/nara/cfr/waisidx_04/40cfrv20_04.html).~~ (4-6-05)

~~021. 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://www.agri.idaho.gov/Categories/Animals/Documents/nrcs\\_10d\\_1997.pdf](http://www.agri.idaho.gov/Categories/Animals/Documents/nrcs_10d_1997.pdf) <http://directives.sc.egov.usda.gov?OpenNonWebContent.aspx?content=17767.wba>.~~ (3-16-01)( )

~~032. The 2000 American Society of Agricultural and Biological Engineers Specification ASAE Standard 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/> can be viewed online at [http://www.agri.idaho.gov/Categories/Animals/Documents/ASAE\\_EP393point3\\_2000.pdf](http://www.agri.idaho.gov/Categories/Animals/Documents/ASAE_EP393point3_2000.pdf).~~ (3-16-01)( )

~~043. 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 [http://www.agri.idaho.gov/AGRI/Categories/Animals/Documents/nutrient\\_Management\\_code\\_590.PDF](http://www.agri.idaho.gov/AGRI/Categories/Animals/Documents/nutrient_Management_code_590.PDF).~~ (3-16-01)( )

**005. IDAHO PUBLIC RECORDS ACT.**

These rules are public records and are available for inspection and copying at the Department. (3-16-01)

**006. ADDRESS, OFFICE HOURS, TELEPHONE AND FAX NUMBERS.**

**01. Physical Address.** The central office of the Idaho State Department of Agriculture is located at 2270 Old Penitentiary Road, Boise, Idaho 83712-0790. (3-16-01)

**02. Office Hours.** Office hours are 8 a.m. to 5 p.m., Mountain Time, Monday through Friday, except holidays designated by the state of Idaho. (3-16-01)

**03. Mailing Address.** The mailing address for the central office is Idaho State Department of Agriculture, P. O. Box 790, Boise, Idaho 83701. (3-16-01)

**04. Telephone Number.** The telephone number of the central office is (208) 332-8540. (3-16-01)

**05. Fax Number.** The fax number of the central office is (208) 334-4062. (3-16-01)

**007. -- 009. (RESERVED)**

**010. DEFINITIONS.**

The following definitions shall apply in the interpretation and enforcement of this chapter. (3-16-01)

**01. Administrator.** The administrator of the Idaho State Department of Agriculture, Division of Animal Industries or his designee. (4-6-05)

**02. Animal.** Bovidae, ovidae, suidae, equidae, captive cervidae, captive antilocapridae, camelidae, and ratitidae. (3-16-01)

**03. 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 (12) month 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. (4-6-05)

**04. Beef Cattle Animal Feeding Operation.** An animal feeding operation, ~~as defined in 40 CFR Sections 122.23 (b)(1), (b)(2), (b)(4), (b)(6) or (b)(9),~~ which confines slaughter and feeder cattle or dairy heifers. (4-6-05)( )

**05. Best Management Practices.** ~~Practices as defined in Title 22, Chapter 49, Idaho Code or other~~ practices, techniques, or measures ~~that~~ which are determined to be reasonable precautions, are a cost-effective and practicable means of preventing or reducing pollutants from point or non-point sources to a level compatible with state environmental goals, including water quality goals and standards for water of the state. Best management practices for water quality shall be adopted pursuant to the state water quality management plan, the Idaho ground water quality plan or Idaho Code Title 22 Chapter 49. (3-16-01)( )

**06. Compost.** A biologically stable material derived from the biological decomposition of organic matter. (3-16-01)

**07. Concentrated Animal Feeding Operation.** An AFO that is defined as a Large CAFO or as a Medium CAFO by the terms of the section. Two or more AFOs under common ownership 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. ( )

**078. Director.** The Director of the Idaho State Department of Agriculture or his designee. (4-6-05)

**089. Discharge.** Release of process wastewater or manure from a beef cattle animal feeding operation to waters of the state. (3-16-01)



**0910. 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 IDAPA 58.01.25 and the Clean Water Act sections 307, 402, 318, and 405. ( )

**11. Land Application.** The spreading on, or incorporation into the soil mantle, byproducts as a soil amendment for agricultural use of nutrients and for their beneficial purposes. of manure or process wastewater into the soil. (3-16-01)( )

**102. 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:

a. 700 mature dairy cows, whether milked or dry; ( )

b. 1,000 veal calves; ( )

c. 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. ( )

**113. Manure.** Animal excrement generated on a beef cattle animal feeding operation that may also contain bedding, spilled feed, water, or soil. (3-15-02)

**14. Medium concentrated Animal Feeding Operation.** A medium CAFO includes any AFO that has been defined or designated as CAFO and stable or confines the number of cattle that fall within any of the following ranges:

a. 200 to 699 mature dairy cows, whether milked or dry; ( )

b. 300 to 999 veal calves; ( )

c. 300 to 999 cattle other than mature dairy cows or veal calves. Cattle includes but is not limited to heifers, steers, bulls and cow/calf pairs. ( )

**115. Modified.** Structural changes and alterations to the wastewater storage containment facility, which would require increased storage or containment capacity or such changes, which would alter the function of the wastewater storage or containment facility. (3-16-01)

**126. Non-Compliance.** A practice or condition that causes an unauthorized discharge or a practice or condition that if left uncorrected will cause an unauthorized discharge. (3-16-01)

**137. National Pollutant Discharge Elimination System (NPDES).** The point source permitting program established pursuant to section 402 of the federal clean water act. ( )

**138. Nutrient Management Plan. (NMP)** A plan prepared in conformance with the nutrient management standard, provisions required by 40 CFR 122.42(e)(1), or other equally protective standard for managing the amount, source, placement, form, and timing of the land application of nutrients or and soil amendments. (4-6-05)( )

**149. Nutrient Management Standard.** The 1999 publication by the United States Department of Agriculture Natural Resources Conservation Service, Conservation Practice Standard, Nutrient Management Code 590, or other equally protective standard approved by the Director. (3-16-01)

**1520. Operate.** Confining and feeding slaughter and feeder cattle in the state of Idaho. (4-6-05)

**1621. Operator.** The person who has power or authority to manage, or direct, or has financial control of

a beef cattle animal feeding operation. (3-16-01)

**1722. Person.** Any individual association, partnership, firm, joint stock company, joint venture, trust, estate, political subdivision, public or private corporation, state, or federal governmental department, agency or instrumentality, or any legal entity, which is recognized by law as the subject of rights and duties. (3-16-01)

**1823. Process Wastewater.** Liquid containing beef cattle manure, process-generated wastewater and any precipitation which comes into direct contact with livestock manure and facility products or by-products. (4-6-05)( )

**1924. Runoff.** Any precipitation that comes into contact with manure, compost, bedding, or feed on a beef cattle animal feeding operation. (3-15-02)

**205. 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 of the Department of Agriculture Governing Dairy Waste." (4-6-05)

**26. Small concentrated Animal Feeding Operation.** An AFO that is designated as a CAFO and is not a medium or large CAFO. ( )

**217. Unauthorized Discharge.** A discharge of process wastewater or manure from a beef cattle animal feeding operation to ~~state surface waters of the state that is not authorized by a National Pollutant Discharge Elimination System permit issued by the United States Environmental Protection Agency, or the release of process wastewater or manure from a beef cattle animal feeding operation, to waters of the state,~~ that does not meet the requirements of these rules ~~act~~ or water quality standards. (3-16-01)( )

**228. Wastewater Storage and Containment Facility.** That portion of a beef cattle animal feeding operation where manure or process wastewater is stored or collected. This may include corrals, feeding areas, waste collection systems, waste conveyance systems, waste storage ponds, waste treatment lagoons and evaporative ponds. (3-16-01)

**239. Waters of the State.** All accumulations of water, surface and underground, natural and artificial, public and private, or parts thereof which are wholly or partially within, which flow through or border upon water located within the boundaries of the state or boundary streams, rivers and lakes except for private waters as defined in Title 42, Chapter 2, Idaho Code. (3-16-01)( )

**011. ABBREVIATIONS.**

- 01. AFO.** Animal Feeding Operation ( )
- 02. CAFO.** Concentrated Animal Feeding Operation ( )
- 013. NMP.** Nutrient Management Plan. (4-6-05)
- 024. NPDES.** National Pollutant Discharge Elimination System. (4-6-05)
- 035. NRCS.** United States Department of Agriculture, Natural Resources Conservation Service. (4-6-05)

**012. PROHIBITED DISCHARGES.**

Unauthorized discharges of manure or process wastewater from beef cattle animal feeding operations or land application sites owned or controlled by a beef cattle animal feeding operation are prohibited. (4-6-05)

**013. NOTIFICATION OF DISCHARGE.**

- 01. Notification Within Twenty-Four Hours of Discharge.** Within twenty-four (24) hours of

learning of a discharge, the operator of a beef cattle animal feeding operation shall verbally notify the Director of such a discharge. (3-16-01)

**02. Written Notification Within Five Days.** If the Idaho Department of Agriculture has not begun a discharge investigation within five (5) days of the verbal notification to the Director, the operator shall submit a written report to the Director which includes: (3-16-01)

- a. A description of the discharge, a description of the flow path to the receiving water body;(3-16-01)
- b. An estimation of the flow rate and volume discharged; (3-16-01)
- c. The period of discharge, including dates and times, and if not already corrected, the anticipated time the discharge is expected to continue; and (3-16-01)
- d. Steps taken to reduce, eliminate and prevent recurrence of the discharge. (3-16-01)

**014. -- 019. (RESERVED)**

**020. WASTEWATER STORAGE AND CONTAINMENT FACILITIES.**

**01. Wastewater Storage and Containment Facilities.** All beef cattle animal feeding operations 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, operated, and maintained sufficient to contain: (3-16-01)

- a. All process wastewater generated on the facility during the non-land application season; and (3-16-01)
- b. The runoff from a twenty-five (25) year, twenty-four (24) hour rainfall event; and (3-16-01)
- 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. (3-16-01)

**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 animal feeding operation. The disposal of any other materials into a wastewater storage and containment facility, including, but not limited to, human waste, is prohibited. (3-16-01)

**021. NEW OR MODIFIED BEEF CATTLE ANIMAL FEEDING OPERATIONS.**

Each new or modified beef cattle animal feeding operation shall design and construct wastewater storage and containment facilities completed after July 1, 2000, in accordance with the engineering standards and specifications contained in the Natural Resources Conservation Service Agricultural Waste Management Field Handbook, Appendix 10D or the American Society of Agricultural Engineers Standard EP393.3, or other equally protective standards approved by the Director. (3-16-01)

**022. -- 029. (RESERVED)**

**030. NUTRIENT MANAGEMENT.**

Each beef cattle animal feeding operation shall submit a nutrient management plan for land owned or controlled by the operator, which conforms to the nutrient management standard and addresses odors generated in excess of odors normally associated with raising beef cattle in Idaho, to the Director for approval. Following department review and approval, the plan, and all copies of the plan, shall be returned to the operation and maintained on site. (4-6-05)

**01. Existing Beef Cattle Animal Feeding Operations.** Beef cattle animal feeding operations that are operating on or before July 1, 2000 shall submit a NMP to the director for approval no later than January 1, 2005. The Director shall respond to or approve such plan in writing within forty-five (45) days of submission. (4-6-05)

**02. New Beef Cattle Animal Feeding Operations.** Any new beef cattle animal feeding operation commencing operations after July 1, 2000 shall not operate prior to the Director's approval of a NMP. The Director shall respond to or approve such plan within forty-five (45) days of submission. (4-6-05)

**03. Implementation of a Nutrient Management Plan.** Failure to implement an approved NMP is a violation of these rules. (4-6-05)

**031. NUTRIENT MANAGEMENT PLAN RETENTION.**

All approved NMPs shall be maintained on site at the beef cattle animal feeding operation and available to the Administrator upon request. (4-6-05)

**032. NUTRIENT MANAGEMENT RECORDS.**

The operators of beef cattle animal feeding operations shall keep complete and accurate records of: (4-6-05)

**01. Land Application.** The dates and amounts of any manure or process wastewater applied on land owned or controlled by the operator. (4-6-05)

**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. (4-6-05)

**03. Records Retention.** All records shall be maintained for a period of five (5) years and presented to the Administrator upon request. (4-6-05)

**033. -- 039. (RESERVED)**

**040. DESIGNATION OF BEEF CATTLE ANIMAL FEEDING OPERATIONS.**

**01. Designation of Animal Feeding Operations.** The Director, on a case by case basis, may designate any animal feeding operation that confines slaughter and feeder cattle as a beef cattle animal feeding operation if, after an inspection, the Director determines that the animal feeding operation is a significant contributor of pollution to waters of the state. The designation shall be provided to the operator of the animal feeding operation in writing setting forth the basis for the Director's decision. When designated, these operations shall be considered existing beef cattle animal feeding operations. The Director shall consider the following factors when making such designation: (4-6-05)

**a.** Size of the animal feeding operation and the amount of manure, process wastewater, and runoff reaching waters of the state; (3-15-02)

**b.** Location of the animal feeding operation relative to waters of the state; (3-15-02)

**c.** Means of conveyance of manure, process wastewater, and runoff into waters of the state; and (3-15-02)

**d.** Slope, vegetation, precipitation, and other factors affecting the likelihood or frequency of discharge of manure, process wastewater, or runoff into waters of the state. (3-15-02)

**02. Redesignation of a Beef Cattle Animal Feeding Operation.** Upon request by the operator, the Director shall redesignate a facility previously designated under Section 040, if the facility is no longer a significant contributor of pollution to waters of the state. Such redesignation shall be provided to the operator in writing. (3-15-02)

**041. -- 049. (RESERVED)**

**050. AUTHORITY TO INSPECT.**

The Director is authorized to inspect any animal feeding operation that confines slaughter or feeder cattle in accordance with Title 22, Chapter 49, Idaho Code, to ensure compliance with these rules. The Director shall comply with the operation's biosecurity protocol so long as the protocol does not inhibit reasonable access to: (4-6-05)

**01. Entry.** Enter and inspect at reasonable times the premises or land application site(s) of a beef cattle animal feeding operation. (4-6-05)

**02. Access to Records.** Review or copy any records that must be kept in accordance with these rules. (4-6-05)

**03. Sample or Monitor.** Sample or monitor at reasonable times, substances or parameters directly related to compliance with these rules, ~~or an NPDES permit.~~ (4-6-05)( )

**051. INSPECTIONS.**

Each beef cattle animal feeding operation shall be inspected annually or at intervals sufficient to determine that the facility is being operated and managed to prevent an unauthorized discharge. Inspections may include evaluating effectiveness of best management practices, collecting samples, taking photographs, video taping facilities or collecting other information as necessary. An official inspection report form shall be completed at the time of the inspection and a copy provided to the operator. (3-16-01)

**052. ADMINISTRATION OF THE 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. ( )

**0523. -- 079. (RESERVED)**

**080. COMPLIANCE ORDERS.**

When the Director identifies items of non-compliance or unauthorized discharges, the deficiencies will be noted and discussed with the operator. The Director shall consult with the director of the department of environmental quality before certifying discharges from beef cattle animal feeding operations. Unauthorized discharges shall be corrected immediately, or as soon as possible as determined by the Director. Appropriate corrective actions will be identified and scheduled informally. Formal compliance orders shall be developed, as the Director deems necessary as provided by Section 22-4909, Idaho Code.

(3-16-01)( )

**081. -- 089. (RESERVED)**

**090. PENALTIES.**

Failure to comply with any provision of these rules or any formal compliance order of the Director shall be a violation of these rules. Such violation may subject the operator to an administrative enforcement action or a civil enforcement action in district court and a civil penalty not to exceed ten thousand dollars (\$10,000) per violation or one thousand dollars (\$1,000) for each day of a continuing violation as provided in Title 22, Chapter 49, Idaho Code. Civil penalties collected shall be deposited in the state treasury and credited to the State School Building Fund. (3-16-01)

**091. -- 999. (RESERVED)**

## IDAPA 02 – DEPARTMENT OF AGRICULTURE

### 02.04.15 - RULES GOVERNING BEEF CATTLE ANIMAL FEEDING OPERATIONS DOCKET NO.

#### NOTICE OF INTENT TO PROMULGATE RULES - NEGOTIATED RULEMAKING

**AUTHORITY:** In compliance with Sections 67-5220(1) and 67-5220(2), Idaho Code, notice is hereby given that this agency intends to promulgate rules and desires public comment prior to initiating formal rulemaking procedures. This negotiated rulemaking action is authorized pursuant to Idaho Code Section 22-4901 *et seq.*

**MEETING SCHEDULE:** Public meetings on the negotiated rulemaking will be held as follows:

August 3, 2016 at 1:00 – 4:00 p.m. (MDT) – Idaho State Department of Agriculture, 2270 Old Penitentiary Road, Boise, ID 83712

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

**METHOD OF PARTICIPATION:** Persons wishing to participate in the negotiated rulemaking must do the following:

Interested members of the public who wish to participate must submit any written comments, questions, recommendations, or ideas to the Idaho State Department of Agriculture addressed to Dr. Scott Leibsle, Deputy Administrator, Division of Animal Industries. Individuals may also attend the public meeting to be conducted on the above date during which the Idaho State Department of Agriculture will allow oral comments or presentations to be made.

Upon conclusion of the negotiated rulemaking, any unresolved issues, all key issues considered, and conclusion reached during the negotiated rulemaking will be addressed in a written summary and made available on the agency website.

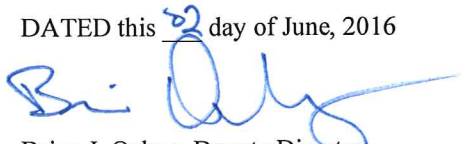
**DESCRIPTIVE SUMMARY AND STATEMENT OF PURPOSE:** The following is a statement in nontechnical language of the substance and purpose of the intended negotiated rulemaking and the principle issues involved:

This rule change is a result of a petition received from the Idaho Cattleman's Association to make the rule language consistent with the statutory revisions implemented by the 2016 Idaho Legislature in Senate Bill 1260.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS, OBTAINING DRAFT COPIES:** For assistance on technical questions concerning this negotiated rulemaking or to obtain a copy of the preliminary draft of the text of the proposed rule, contact Dr. Scott Leibsle, Deputy Administrator – Division of Animal Industries at (208) 332-8540. Materials pertaining to the negotiated rulemaking, including any available preliminary rule drafts, can be found on the ISDA web site ([www.agri.idaho.gov](http://www.agri.idaho.gov)).

Anyone may submit written comments regarding this negotiated rulemaking. All written comments must be directed to the undersigned and must be delivered on or before August 9, 2016.

DATED this 2 day of June, 2016



Brian J. Oakey, Deputy Director  
Idaho State Department of Agriculture  
2270 Old Penitentiary Rd  
P.O. Box 790  
Boise, Idaho 83701  
Phone: (208) 332-8503  
Fax: (208) 334-2170

**IDAHO STATE DEPARTMENT OF AGRICULTURE ("ISDA")  
PETITION TO INITIATE RULEMAKING**

All rulemaking petitions must substantially comply with IDAPA 04.11.01.820, which addresses petitions to initiate rulemaking as described by Section 67-5230, Idaho Code. The requirements have been laid out below. ISDA will consider all petitions and act to either initiate or deny rulemaking in accordance with I.C. § 67-5230(1) and IDAPA 04.11.01.821.

Please note that ISDA may only conduct rulemaking within the authority provided it by statute in order to govern the department's jurisdiction. *See* I.C. § 22-101(3). Prior to petitioning ISDA, please verify and understand the authority of ISDA as it relates to the petition's desired outcome. If a petition for rule change is outside of ISDA's legal authority, it will be denied.

Name of petitioner(s): \_\_\_\_\_

Address of petitioner: \_\_\_\_\_

Phone number of petitioner: \_\_\_\_\_

Email address of petitioner: \_\_\_\_\_

Petitioner's interest in matter:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Describe the nature of the rule or amendment to the rule and the petitioner's suggested rule or amendment: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Name of the statute, order, rule or other controlling law:

\_\_\_\_\_  
\_\_\_\_\_

Factual allegations upon which the petitioner relies to support the proposed rulemaking:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Citations of cases and/or statutory provisions that apply (optional):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_