

IDAPA 02 – IDAHO DEPARTMENT OF AGRICULTURE

Animals Division

02.04.32 – Rules Governing Poultry Operations

Who does this rule apply to?

All poultry animal feeding operations.

What is the purpose of this rule?

In order to ensure that manure and process wastewater associated with poultry operations are handled in a manner that protects the natural resources and waters of the state, this rule governs the design, function and management practices of waste systems on poultry concentrated animal feeding operations. This rule also establishes the procedures and requirements for issuance of a permit to construct, operate, or expand poultry concentrated animal feeding operations.

What is the legal authority for the agency to promulgate this rule?

This rule implements the following statute passed by the Idaho Legislature:

- [25-4012, Idaho Code](#) – Authority to Promulgate Rules for the Poultry Environmental Act

Who do I contact for more information on this rule?

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02.04.32 – RULES GOVERNING POULTRY OPERATIONS

000. LEGAL AUTHORITY.

This chapter is adopted under the legal authority of Section 25-4012, Idaho Code. (3-15-22)

001. TITLE AND SCOPE.

01. **Title.** The title of this chapter is IDAPA 02.04.32, “Rules Governing Poultry Operations.” (3-15-22)

02. **Scope.** These rules govern the design, function and management practices of waste systems on poultry concentrated animal feeding operations. These rules also establish the procedures and requirements for issuance of a permit to construct, operate, or expand poultry concentrated animal feeding operations. (3-15-22)

002. -- 003. (RESERVED)

004. INCORPORATION BY REFERENCE.

The following documents are incorporated by reference and copies of these documents may be obtained from the Idaho State Department of Agriculture central office. (3-15-22)

01. **The 2004 Code of Federal Regulations (CFR) Title 40 Part 122 Section 122.23 (b).** This document can be viewed online at <https://www.govinfo.gov/content/pkg/CFR-2004-title40-vol20/pdf/CFR-2004-title40-vol20-part122.pdf>. (3-15-22)

02. **Natural Resources Conservation Service Agricultural Waste Management Field Handbook Appendix 10D (Appendix 10D) (March 2008 Edition) (USDA, NRCS).** This document can be viewed online at <https://directives.sc.egov.usda.gov/OpenNonWebContent.aspx?content=17767.wba>. (3-15-22)

03. **Nutrient Management Standard (NMS).** The June 2007 publication by the United States Department of Agriculture (USDA) Idaho Natural Resources Conservation Service (NRCS) Idaho Conservation Practice Standard, Nutrient Management Code 590. This document can be viewed online at https://agri.idaho.gov/main/wp-content/uploads/2017/10/june_2007_NRCS_590.pdf. (3-15-22)

04. **Natural Resources Conservation Service (NRCS) Idaho Conservation Practice Standard Waste Storage Facility Code 313 December 2004.** This document can be viewed online at https://agri.idaho.gov/main/wp-content/uploads/2017/10/nrcs_313_Dec_2004.pdf. (3-15-22)

05. **American Society of Agricultural and Biological Engineers Specification ASAE EP393.3 Manure Storages February 2004.** This document can be viewed online at <https://www.asabe.org/Publications-Standards/Standards-Development/National-Standards/Published-Standards>. (3-15-22)

005. -- 009. (RESERVED)

010. DEFINITIONS.

In addition to the definitions set forth in Section 25-4002, Idaho Code, the following definitions apply in the interpretation and the enforcement of this chapter. (3-15-22)

01. **Discharge.** Release of process wastewater or manure from a poultry animal feeding operation, including its land application area, to waters of the state or beyond the poultry facility’s property boundaries or beyond the property boundary of any facility. Contract manure haulers, producers and other persons who haul manure beyond the operator’s property boundaries are responsible for releases of manure between the property boundaries of the operator and the property boundaries at the point of application. A discharge does not include aerosolized matter, or manure that has been reasonably incorporated on the land application area. (3-15-22)

02. **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. (3-15-22)

03. **Runoff.** Any precipitation that comes into contact with manure, compost, bedding, or feed on a poultry feeding operation and flows off the production area or flows off land application areas where the manure, compost, bedding, or feed has not been reasonably incorporated into the soil. (3-15-22)

011. ABBREVIATIONS.

- 01. AFO. Animal Feeding Operation. (3-15-22)
- 02. ASABE. American Society of Agricultural and Biological Engineers. (3-15-22)
- 03. CAFO. Concentrated Animal Feeding Operation. (3-15-22)
- 04. DEQ. Department of Environmental Quality. (3-15-22)
- 05. FEMA. Federal Emergency Management Agency. (3-15-22)
- 06. IPDES. Idaho Pollutant Discharge Elimination System. (3-15-22)
- 07. NMP. Nutrient Management Plan. (3-15-22)
- 08. NMS. Nutrient Management Standard. (3-15-22)
- 09. NRCS. United States Department of Agriculture, Natural Resources Conservation Service. (3-15-22)
- 10. USGS. United States Geological Survey. (3-15-22)
- 012. -- 109. (RESERVED)
- 110. PERMIT APPLICATION.
 - 01. **Permit Application.** Every person required by Section 25-4003, Idaho Code, to obtain a permit must submit a permit application to the department. The permit application will be used to determine if the construction and operation of the poultry CAFO will be in conformance with these rules. (3-15-22)
 - 02. **Contents of Application.** Each application must include, in the format set forth by the director in sufficient detail to allow the director to make necessary application review decisions concerning design and environmental protection by providing the following: (3-15-22)
 - a. Name, mailing address and phone number of the facility owner. (3-15-22)
 - b. Name, mailing address and phone number of the facility operator. (3-15-22)
 - c. Name and mailing address of the facility. (3-15-22)
 - d. Legal description of the facility location. (3-15-22)
 - e. The one-time animal capacity, by head, of the facility. (3-15-22)
 - f. The type of animals to be confined at the facility. (3-15-22)
 - g. The facility's biosecurity and sanitary standards. (3-15-22)
 - 03. **Construction Plans.** Plans and specifications for the facility's animal waste management system that include the following information: (3-15-22)
 - a. Vicinity map(s) prepared on one (1) or more seven and one-half minute (7.5') USGS topographic quadrangle maps or a high quality reproduction(s) that includes the following: (3-15-22)
 - i. Layout of the facility, including buildings and animal waste management system; (3-15-22)
 - ii. The one hundred (100) year FEMA flood zones or other appropriate flood data for the facility site

and land application sites owned or leased by the applicant; and (3-15-22)

iii. Private and community domestic water wells, irrigation wells, monitoring wells, and injection wells, irrigation conveyance and drainage structures, wetlands, streams, springs, and reservoirs that are within a one (1) mile radius of the facility. (3-15-22)

b. A site plan showing: (3-15-22)

i. Building locations; (3-15-22)

ii. Waste facilities; (3-15-22)

iii. All waste conveyance systems; and (3-15-22)

iv. All irrigation systems used for land application, including details of approved water supply protection devices. (3-15-22)

c. Building plans showing: (3-15-22)

i. All wastewater collection systems in housed units; (3-15-22)

ii. All freshwater supply systems, including details of approved water supply protection devices; (3-15-22)

iii. Detailed drawings of wastewater collection and conveyance systems and containment construction. (3-15-22)

d. If a CAFO Site Advisory Team suitability determination was not conducted for the facility, the following additional information must be provided: (3-15-22)

i. Idaho DEQ delineated source water assessment areas within a one (1) mile radius of the facility and land application area; (3-15-22)

ii. Idaho DEQ delineated nitrate priority areas that intersect the facility or land application area; (3-15-22)

iii. Soil characteristics from NRCS; and (3-15-22)

iv. Well logs associated with wells listed in Subsection 110.04.a.iii. (3-15-22)

e. All construction plans will specify how the facility will meet the engineering standards outlined in the Natural Resources Conservation Service Agricultural Waste Management Field Handbook Appendix 10D (Appendix 10D) (March 2008 Edition) (USDA, NRCS), Natural Resources Conservation Service (NRCS) Idaho Conservation Practice Standard Waste Storage Facility Code 313 December 2004, or American Society of Agricultural and Biological Engineers Specification ASAE EP393.3 Manure Storages February 2004. (3-15-22)

04. Nutrient Management Plan. NMPs must be prepared in conformance with the Nutrient Management Standard or other equally protective standard for managing the amount, source, placement, form and timing of the land application of nutrients or soil amendments. (3-15-22)

111. -- 129. (RESERVED)

130. PERMIT CONDITIONS.

The following conditions will apply to all permittees: (3-15-22)

01. Compliance Required. The permittee must comply with all conditions of the permit. The permit must not relieve the permittee of the responsibility of complying with all applicable local, state, and federal laws.

(3-15-22)

02. Construction, Operation, and Maintenance of the Facility. The permittee must ensure that construction, operation, and maintenance of the facility proceed according to the construction plans and specifications and the approved nutrient management plans, and comply with the following: (3-15-22)

- a.** Within thirty (30) days of construction completion, submit as-built construction plans. (3-15-22)
- b.** Apply best management practices as approved by the director. (3-15-22)
- c.** The facility or operations associated with the facility must not adversely affect waters of the state or create nuisance conditions including odor. (3-15-22)
- d.** The removal of animal waste from an impoundment or storage structure must be performed in a manner not to damage the integrity of the liner. (3-15-22)
- e.** Dead animals must be handled in accordance with IDAPA 02.04.17, “Rules Governing Dead Animal Movement and Disposal.” (3-15-22)
- f.** Nutrient management plans must be amended in accordance with IDAPA 02.04.30.000 et seq. “Rules Governing Environmental and Nutrient Management.” (3-15-22)
- g.** Soil tests must be conducted annually on all land application sites owned or leased by the permittee to determine compliance with the NMP and NMS. The director may require more frequent soil tests if he deems it necessary. (3-15-22)

03. Information to be Provided. The permittee must furnish to the director, within a reasonable time, any information which the director may reasonably require to determine whether causes exists to modify or revoke the permit, or to determine compliance with the permit or applicable rules. (3-15-22)

04. Entry and Access. The permittee must allow the director entry and access in accordance with Section 25-4008, Idaho Code. (3-15-22)

05. Reporting. Permittees must report discharges or noncompliance issues within the following time frames: (3-15-22)

- a.** Within twenty-four (24) hours of the time the permittee knows or should have known of a discharge or unauthorized discharge, the permittee must verbally report the discharge. (3-15-22)
- b.** Within five (5) working days from the time a permittee knows or reasonably should have known of any event which has resulted or which may result in noncompliance with these rules, the permittee must file a written report with the director containing: (3-15-22)
 - i.** A description of the event and its cause or if the cause is not known, steps taken to investigate and determine the cause; (3-15-22)
 - ii.** The period of the event including, to the extent possible, times and dates; (3-15-22)
 - iii.** Measures taken to mitigate or eliminate the event; and (3-15-22)
 - iv.** Steps taken to prevent recurrence of the event. (3-15-22)
- c.** Immediately, whenever the permittee knows or learns or should reasonably know of material relevant acts not submitted or incorrect information submitted in a permit application or any report or notice to the director. (3-15-22)

06. Construction Commencement. If a permittee fails to begin construction or expansion of a facility

within five (5) years of the effective date of the permit, the director may void the permit and require a new permit application. (3-15-22)

07. Permit Renewal. If a permittee intends to continue operation of the permitted facility after expiration of an existing permit, the permittee must apply for a new permit at least one hundred eighty (180) days prior to the expiration of the permit. (3-15-22)

08. Specific Permit Conditions. The director may establish specific permit conditions on a case by case basis. Specific conditions will be established in consideration of facility's specific characteristics and will be designed to protect the state's water resources. (3-15-22)

131. -- 139. (RESERVED)

140. FEES AND ASSESSMENTS.

01. Annual Fees or Assessments. The director may establish annual fees or assessments for each permittee of no more than three cents (\$0.03) per square foot of containment area. (3-15-22)

02. Payment of Annual Fees or Assessments. Annual fees or assessments are due annually by January 20th of the next calendar year. (3-15-22)

141. -- 149. (RESERVED)

150. PERMIT MODIFICATION.

01. Minor Modifications. Minor permit modifications are those which do not have a potential effect on the state's water resources. Such modifications will be made by the director, and are generally limited to: (3-15-22)

- a. The correction of typographical or clerical errors; (3-15-22)
- b. Transfer of ownership or operational control in accordance with Section 160; or (3-15-22)
- c. Certain minor changes in monitoring or operational conditions. (3-15-22)

02. Major Modifications. All permit modifications not considered minor will be deemed major. The procedure for making major modifications is the same as that used for a new permit under these rules. (3-15-22)

151. -- 159. (RESERVED)

160. TRANSFER OF PERMITS.

01. Transfer Application. A new owner or operator of a facility must submit a transfer application to the director that includes at least the following: (3-15-22)

- a. The relevant information required by Subsection 110.03; and (3-15-22)
- b. Any change of conditions at the facility resulting from the ownership or operation transfer. (3-15-22)

02. Transfer Application Review. The director will review the transfer application and either approve or deny the application within sixty (60) days of its receipt. (3-15-22)

a. An approved transfer will be considered a minor modification pursuant to Subsection 150.01 as long as there are no major changes of conditions at the facility. Major changes of conditions at the facility are subject to Subsection 150.02. (3-15-22)

b. If the director denies the transfer application, he will set forth the specific reasons for the denial, the steps necessary to meet the requirements for a permit transfer, and the opportunity to request a hearing. (3-15-22)

161. -- 199. (RESERVED)

200. WASTE STORAGE AND CONTAINMENT FACILITIES.

01. Wastewater Storage and Containment Facilities. All poultry AFOs where process wastewater leaves the confinement area and has the potential to impact water of the state or be in violation of state water quality standards or ground water quality standards must have wastewater storage and containment facilities designed, constructed, operated, and maintained sufficient to contain: (3-15-22)

a. All process wastewater generated on the facility during the non-land application season; (3-15-22)

b. The runoff from a twenty-five (25) year, twenty-four (24) hour rainfall event; and (3-15-22)

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. (3-15-22)

02. All Substances Entering Wastewater Storage and Containment Facilities. All substances entering wastewater storage and containment facilities must be composed of manure and process wastewater from the operation of the poultry AFO. The disposal of any other materials into a wastewater storage and containment facility, including, but not limited to, human waste, is prohibited. (3-15-22)

03. Waste Storage. Storage areas for poultry waste including compost and solid manure storage areas must be located on approved soils and appropriately protected to prevent run on and run off. (3-15-22)

04. Waste and Wastewater System Maintenance. Waste and wastewater storage and containment systems must be maintained in a condition that allows the producer to regularly inspect the integrity of the systems. (3-15-22)

05. Additional Ground Water Protection Requirements. The permittee must construct and maintain all waste containment structures within the parameters of this rule, including the Natural Resources Conservation Service Agricultural Waste Management Field Handbook Appendix 10D (Appendix 10D) (March 2008 Edition) (USDA, NRCS), Natural Resources Conservation Service (NRCS) Idaho Conservation Practice Standard Waste Storage Facility Code 313 December 2004, or American Society of Agricultural and Biological Engineers Specification ASAE EP393.3 Manure Storages February 2004 (see Section 004, Incorporation by Reference). After inspection, if the Department has information that the waste containment structure(s) has been compromised severely enough to no longer meet the requirements of this rule, the Department may require an evaluation to be conducted by a licensed professional engineer. The engineer will make recommendations on steps needed to bring the facility into compliance with this rule. The permittee is responsible for engineering and reconstruction costs. If the permittee has a repeat waste containment compromise, as determined by the department, the Director may require ground water monitoring by the permittee. (3-15-22)

201. -- 249. (RESERVED)

250. NUTRIENT MANAGEMENT.

Each poultry CAFO must submit an NMP for land owned or controlled by the operator to the director for approval. The NMP must conform to the NMS and address odors generated in excess of odors normally associated with raising poultry in Idaho. (3-15-22)

01. Designated Poultry CAFOs. Any poultry AFO which is designated as a CAFO by the department in accordance with Section 400 must submit an NMP within forty-five (45) days of designation. (3-15-22)

02. NMP Approval. The director will respond to or approve an NMP in writing within forty-five (45) days of submission. (3-15-22)

03. NMP Updates or Amendments. Nutrient management plans must be updated as needed to accurately reflect the facility and its nutrient management system. (3-15-22)

251. NUTRIENT MANAGEMENT PLAN RETENTION.

All NMPs which have been approved by the department and returned to the CAFO must be maintained on site at the CAFO and available to the department upon request. The department will retain a copy of the NMP. (3-15-22)

252. NUTRIENT MANAGEMENT RECORDS.

01. Required Nutrient Management Records. The CAFO operator must keep complete and accurate records of: (3-15-22)

a. Land application records, consisting of, at a minimum: (3-15-22)

i. The dates, methods and approximate amounts of any manure or process wastewater applied on land owned or controlled by the operator. (3-15-22)

ii. Weather conditions and soil moisture at the time of application. (3-15-22)

iii. The lapsed time to manure incorporation, rainfall or irrigation event. (3-15-22)

iv. Documentation of the actual rate at which nutrients were applied. When the actual rate used differs from the recommended and planned rates, nutrient management records must indicate the rationale for the difference. (3-15-22)

b. The name and address of any third party receiving manure or process wastewater from the facility, including the dates of the transfer and the amount of manure or process wastewater transferred. (3-15-22)

c. Nutrient Application. The quantities, analyses and sources of nutrients applied. (3-15-22)

d. Soil Analysis. Complete soil analysis to create nutrient budget. (3-15-22)

e. Crops. Crops planted, planting and harvest dates, yields and crop residues removed. (3-15-22)

f. Record Review. Dates of annual review, person performing the review, and recommendations determined from the review. (3-15-22)

02. Records Retention. All nutrient management records must be maintained for a period of five (5) years and provided to the department upon request. (3-15-22)

253. NMP VIOLATIONS.

The failure to implement an approved NMP, failure to retain and maintain an NMP at the CAFO, or failure to retain nutrient management records is a violation of these rules. (3-15-22)

254. -- 259. (RESERVED)

260. GROUND WATER QUALITY MONITORING.

At least annually, the department will sample and test the facility's production well water for nitrogen. (3-15-22)

261. -- 299. (RESERVED)

300. PROHIBITED DISCHARGES.

Discharges or unauthorized discharges of manure or process wastewater from poultry CAFO or land application sites owned or controlled by a poultry CAFO are prohibited. (3-15-22)

301. -- 309. (RESERVED)

310. NOTIFICATION OF DISCHARGE.

Within twenty-four (24) hours of learning of a discharge or unauthorized discharge, the operator of a poultry CAFO must verbally notify the department of the discharge or unauthorized discharge. (3-15-22)

311. -- 499. (RESERVED)

500. INSPECTIONS.

Pursuant to Title 25, Chapter 40, Idaho Code, the director or his designee is authorized to inspect any poultry AFO, and to have access to and copy any facility records deemed necessary to ensure compliance with Title 25, Chapter 40, Idaho Code, and these rules. (3-15-22)

01. Frequency. All poultry CAFOs will be inspected at least annually, or at intervals sufficient to determine that waste has been managed to prevent an unauthorized discharge or contamination of waters of the state. (3-15-22)

02. Inspection Methods. Inspections may include, but are not limited to, evaluating effectiveness of best management practices, collecting samples, taking photographs, video recording or collecting other information as necessary. (3-15-22)

501. -- 549. (RESERVED)

550. VIOLATIONS.

01. Failure to Comply. Failure by a permittee to comply with the provisions of these rules or with any permit condition is a violation of these rules. (3-15-22)

02. Falsification of Statements and Records. It is a violation of these rules for any person to knowingly make a false statement, representation, or certification in any application, report, document, or record developed, maintained, or submitted pursuant to these rules or the conditions of a permit. (3-15-22)

03. Discharge. Any discharge or unauthorized discharge from a facility is a violation of these rules. (3-15-22)

551. -- 999. (RESERVED)