

02.06.41 - Rules Pertaining to the Idaho Soil and Plant Amendment Act of 2001

Docket No. 02-0641-1301	88
LSO Rules Analysis Memo	

IDAPA 46 - BOARD OF VETERINARY MEDICINE***46.01.01 - Rules of the State of Idaho Board of Veterinary Medicine***

Docket No. 46-0101-1301	91
LSO Rules Analysis Memo	

Docket No. 46-0101-1302	105
LSO Rules Analysis Memo	

IDAPA 53 - IDAHO BARLEY COMMISSION***53.01.01 - Rules of the Idaho Barley Commission***

Docket No. 53-0101-1301	110
LSO Rules Analysis Memo	

IDAPA 02 - DEPARTMENT OF AGRICULTURE

02.02.14 - RULES FOR WEIGHTS AND MEASURES

DOCKET NO. 02-0214-1302

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2014 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, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified 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 Section 71-111, 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:

To adopt by reference the 2014 edition of the National Institute of Standards and Technology Handbook 44, Specifications, Tolerances, and Other Technical Requirements for Weighing and Measuring Devices. NIST documents are available online at <http://www.nist.gov/pml/wmd/index.cfm>.

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the July 3, 2013 Idaho Administrative Bulletin, **Vol. 13-7, pages 16 and 17**.

IDAHO CODE SECTION 22-101A STATEMENT: This rule does regulate an activity not already regulated by the federal government, because the federal government does not regulate specifications, tolerances and other technical requirements for weighing and measuring devices. The rule is, however consistent with national standards by the National Institute of Standards and Technology.

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: ISDA does not anticipate any fiscal impact from the changes to be made to the Rule during this rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Kevin Merritt, Section Manager at (208) 332-8692.

DATED this 2nd day of August, 2013.

Brian J. Oakey, Deputy Director
Idaho State Dept. of Agriculture
Phone: (208) 332-8500
Fax: (208) 334-2170

2270 Old Penitentiary Rd.
P.O. Box 790
Boise, Idaho 83701

THE FOLLOWING NOTICE WAS PUBLISHED WITH THE 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 71-111, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than July 17, 2013.

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:

To incorporate by reference the 2014 edition of the National Institute of Standard and Technology Handbook 44, Specifications, Tolerances, and Other Technical Requirements for Weighing and Measuring Devices. NIST documents are available online at <http://www.nist.gov/pml/wmd/index.cfm>.

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

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 from the changes to be made to the Rule during this rulemaking.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because of the simple nature of the proposed amendment.

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:

This document is recognized nationally as the primary reference document, incorporating the

most current version promotes uniformity throughout the United States.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Kevin Merritt, Section Manager at (208) 332-8692.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be delivered on or before July 24, 2013.

LSO Rules Analysis Memo

DATED this 29th day of May, 2013.

THE FOLLOWING IS THE TEXT OF DOCKET NO. 02-0214-1302

004. INCORPORATION BY REFERENCE.

01. Required Reference Materials. The 201~~3~~⁴ edition of Handbook No. 44 of the National Institute of Standards and Technology, United States Department of Commerce, "Specifications, Tolerances, and Other Technical Requirements for Weighing and Measuring Devices," hereby incorporated by reference, shall be the specifications, tolerances and other technical requirements for commercial weighing and measuring devices, unless otherwise stated in these rules. ~~(4-4-13)~~()

02. Required Reference Materials for Checking Prepackaged Commodities. The 4th Edition of Handbook No. 133 of the National Institute of Standards and Technology, United States Department of Commerce, "Checking the Net Contents of Packaged Goods," hereby incorporated by reference, shall be the authority in checking packaged commodities, unless otherwise stated in these rules. (2-13-04)

03. Specifications for Diesel Fuel and Biodiesel Fuel. American Society of Testing and Materials (ASTM) D975-07a, "Standard Specification for Diesel Fuel Oils," and ASTM D6751-07a, "Standard Specification for Biodiesel Fuel (B100) Blend Stock for Distillate Fuels," intended for blending with diesel fuel are hereby incorporated by reference and are the specifications for diesel fuel and biodiesel fuel blend stock (B100 biodiesel). (4-2-08)

04. Specifications for Gasoline. American Society of Testing and Materials (ASTM) D 4814-07a, "Standard Specification for Automotive Spark-Ignition Engine Fuel", dated October 17, 2007, is hereby incorporated by reference and is the specification for gasoline. (5-8-09)

05. Local Availability. Copies of the incorporated documents are on file with the Idaho State Department of Agriculture, 2216 Kellogg Lane, Boise, Idaho 83712. Copies of NIST

documents may be purchased from the Superintendent of Documents, Government Printing Office, Washington, D.C. 20402. Copies are available for downloading at <http://www.nist.gov/pml/wmd/index.cfm>. Copies of ASTM specifications are on file with the Idaho State Department of Agriculture or may be purchased from <http://www.astm.org>, 100 Barr Harbor Drive, PO Box C700, West Conshohocken, PA, 19428. (4-7-11)

IDAPA 02 - DEPARTMENT OF AGRICULTURE
02.03.03 - RULES GOVERNING PESTICIDE AND CHEMIGATION
USE AND APPLICATION

DOCKET NO. 02-0303-1301

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2014 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, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified 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 67-5220(1) and 67-5220(2), Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 22-3421, 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:

It has been ISDA's policy that pesticide licensing exam scores and recertification credits are valid for one (1) year. This policy has never been included in rule and the Pesticide Advisory Committee has recommended that it be added. Changes to Sections 02.03.03.100.02 and 02.03.03.100.03 will allow for a one (1) year time period for new or renewing licensees to obtain an applicator license without penalty. The rule revisions will also provide a cut-off time for inactive licensees to renew their licenses before they will be required to retest.

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule published in the September 4, 2013 Idaho Administrative Bulletin, [Vol. 13-9, pages 20 through 27](#).

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 the 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: None.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Ben Miller, Bureau Chief at (208) 332-8593.

DATED this 4th day of October, 2013.

Brian J. Oakey
Deputy Director
Idaho State Dept. of Agriculture
2270 Old Penitentiary Road
P.O. Box 790
Boise, Idaho 83701
Phone: (208) 332-8500
Fax: (208) 334-2170

THE FOLLOWING NOTICE WAS PUBLISHED WITH THE 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 22-3421, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 18, 2013.

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:

It has been ISDA's policy that pesticide licensing exam scores and recertification credits are valid for one (1) year. This policy has never been included in rule and the Pesticide Advisory Committee has recommended that it be added. Changes to Subsections 100.02 and 100.03 of this rule will allow for a one (1) year time period for new or renewing licensees to obtain an applicator license without penalty. The rule revisions will also provide a cut-off time for inactive licensees to renew their licenses before they will be required to retest.

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

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 as a result of this rulemaking: ISDA does not anticipate any fiscal impact from the changes to be made to the Rule during the 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 June 5, 2013 Idaho Administrative Bulletin, **Volume 13-6, page 16**. A negotiated rulemaking meeting was held at the Idaho State Department of Agriculture on July 10.

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 Ben Miller, Bureau Chief at (208) 332-8593.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to Ben Miller and must be delivered on or before September 25, 2013. Comments can be delivered via email to ben.miller@agri.idaho.gov or via regular mail to Ben Miller's attention at the address listed below.

DATED this 2nd day of August, 2013.

LSO Rules Analysis Memo

THE FOLLOWING IS THE TEXT OF DOCKET NO. 02-0303-1301

050. PRIVATE APPLICATOR LICENSING.

01. Applying for a Private Applicator's License. Applicants who wish to obtain a private applicator's license shall: (4-4-13)

a. Fill out an application prescribed by the Department; and (4-4-13)

b. Take an examination based on the Environmental Protection Agency (EPA) core manual and score a minimum of seventy percent (70%). For the purpose of becoming licensed, examination scores shall be valid for twelve (12) months from the date of the examination. The examination procedure shall be the same as for professional applicators (Subsection 100.03), except private applicators shall not be assessed an examination fee. (~~3-20-97~~)()

02. License Categories. (4-4-13)

a. Private applicators shall be certified and licensed in one or more of the following categories: (4-4-13)

i. Restricted Use Pesticide (RU). For persons who use or supervise the use of restricted use pesticides to produce agricultural commodities or forest crops on land they or their

employer(s) own(s) or operate(s). (3-20-97)

ii. Chemigation (CH). For persons who apply chemicals through irrigation systems on land they or their employer(s) own(s) or operate(s). (3-20-97)

iii. Soil Fumigation (SF). For persons who apply soil fumigants on land they or their employer(s) own(s) or operate(s). In order to be certified and licensed in this category, private applicators must pass both the RU examination and the SF examination. (4-4-13)

b. Non-reading applicators may be certified to purchase and apply a single restricted use pesticide when they have demonstrated their competence in the safe and proper use of such pesticide to the Director or other designated agent. (3-20-97)

03. License Recertification. In order for a private applicator's license to be renewed, the license holder must complete the recertification provisions of this section. Beginning July 1, 1996, licenses belonging to private applicators with last names beginning with A through L, inclusive, shall expire on the last day of the month listed on the chart in Subsection 050.03.a. in every odd-numbered year, and licenses belonging to private applicators with last names beginning with M through Z, inclusive, shall expire on the last day of the month listed on the chart in Subsection 050.03.a., in every even-numbered year. The recertification period shall be concurrent with the licensing period. Those persons who are currently licensed as a private applicator or chemigator on June 30, 1996, shall be reissued a private applicator license with the appropriate categories. Those persons who are currently licensed as a private applicator or chemigator on June 30, 1996, shall be grandfathered into the licensing schedule at Subsection 050.03.a. Any person with less than thirteen (13) months in the initial licensing period shall not be required to obtain recertification credits for the initial period. Upon issuance of the replacement license, the previous license shall be null and void. Any private applicator license without an expiration date shall be null and void on December 31, 1996. Recertification and relicensing may be accomplished by complying with either Subsection 050.03.b. or 050.03.c. (4-4-13)

a. Licensing schedule.

Last Name		Month to License
Odd Year	Even Year	
A-D	M-P	March
E-H	Q-T	July
I-L	U-Z	October

(3-20-97)

b. A person shall accumulate recertification credits by attending Department-accredited pesticide instruction seminars. (3-20-97)

i. A minimum of six (6) credits shall be earned during each recertification period. (3-23-98)

ii. Guidelines for obtaining recertification credits shall be the same as for professional applicators, as described in Subsections 100.04.a.ii. through 100.04.a.v. Any credits accumulated beyond the required six (6) in a recertification period may not be carried over to the next recertification period. (3-23-98)

iii. Upon earning the recertification credits as described above, a person shall be considered by the Department to be recertified and eligible for license renewal for the next licensing period, provided that the license renewal application is submitted within twelve (12) months from the expiration date of the license. (~~3-20-97~~)()

c. A person shall pass the Department's private applicator recertification examination(s) for all categories in which the person intends to license with a minimum score of seventy percent (70%). (3-20-97)

i. Recertification examinations may be taken by a person beginning the thirteenth (13th) month of the license period. (3-20-97)

ii. The examination procedures as outlined in Subsection 100.03 shall be followed, except that an examination fee shall not be assessed. (3-20-97)

iii. Upon passing the recertification examinations, a person shall be considered by the Department to be recertified and eligible for license renewal for the next licensing period. For the purpose of becoming licensed, recertification examination scores shall be valid for twelve (12) months from the date of the examination. (~~3-20-97~~)()

051. -- 099. (RESERVED)

100. LICENSING PROFESSIONAL APPLICATORS AND PESTICIDE DEALERS.

01. Demonstration of Competence. (3-20-97)

a. Professional applicators shall not recommend the application or make an application of any pesticide for any purpose, unless they have demonstrated competence for that purpose, which competence must be demonstrated by passing Department examinations and becoming licensed in the appropriate categories listed in Subsection 100.02. (3-20-97)

b. An applicant shall demonstrate competency in the following areas: (3-20-97)

i. Labels and labeling, including terminology, instructions, format, warnings and symbols. (3-20-97)

ii. Safety factors and procedures, including protective clothing and equipment, first aid, toxicity, symptoms of poisoning, storage, handling, transportation and disposal. (3-20-97)

iii. Laws, rules, and regulations governing pesticides. (3-20-97)

iv. Environmental considerations, including the effect of climate and physical or geographical factors on pesticides, and the effects of pesticides on the environment, and the

animals and plants living in it. (3-20-97)

v. Mixing and loading, including interpretation of labels, safety precautions, compatibility of mixtures, and protection of the environment. (3-20-97)

vi. Methods of use or application, including types of equipment, calibration, application techniques, and prevention of drift and other types of pesticide migration. (3-20-97)

vii. Pests to be controlled, including identification, damage characteristics, biology and habitat. (3-20-97)

viii. Types of pesticides, including formulations, mode of action, toxicity, persistence, and hazards of use. (3-20-97)

ix. Chemigation practices involving the application of chemicals through irrigation systems, calibration, management, and equipment requirements. (4-5-00)

x. For use of the Livestock Protection Collar (LPC), in addition to the requirements of Subsection 100.01.b.i. through 100.01.b.viii., professional applicators shall have training in and knowledge of the following: (3-19-99)

(1) Characteristics and habits of predatory animals, and particularly, coyotes. (3-19-99)

(2) Properties of the collars and of Sodium Fluoroacetate (Compound 1080). (3-19-99)

(3) Recordkeeping requirements set forth in Subsection 150.01 that will additionally include a record of each animal found poisoned or suspected of having been poisoned as a result of the use of Compound 1080, including target and non-target species. (3-19-99)

(4) The requirement for immediate reporting of suspected poisonings of non-target species and suspected poisonings of humans or domestic animals by the use of Compound 1080 to the United States Environmental Protection Agency (US EPA) and the Idaho State Department of Agriculture (ISDA). (3-19-99)

(5) How to properly dispose of animal remains, vegetation, or soil contaminated by a punctured LPC. (3-19-99)

(6) Practical treatment of Compound 1080 poisonings in humans and domestic animals. (3-19-99)

(7) Safe handling, attachment, and storage of LPC collars. (3-19-99)

(8) The requirement to post and maintain bilingual (English/Spanish or other second language appropriate for the region) signs at logical points of access to areas where LPCs are in use. (3-19-99)

(9) The requirement to perform inspections once every week to ensure that collars in use are accounted for, properly positioned, and intact. (3-19-99)

(10) Knowledge of alternative controls of predation. (4-5-00)

xi. For use of the LPC, in addition to the requirements of Subsections 100.01.b.i. through 100.01.b.x., professional applicators shall have training in and the ability to: (3-19-99)

(1) Recognize potential hazards to humans, domestic animals, and non-target wildlife from the use of the LPC. (3-19-99)

(2) Read and understand the labeling specific to the LPC. (3-19-99)

(3) Recognize general symptoms of poisoning by Compound 1080 in humans and domestic animals and take appropriate action. (3-19-99)

(4) Recognize where the LPC can be used safely and effectively and, conversely, where alternative methods of control would be more appropriate. (3-19-99)

(5) Assess damaged LPCs to determine which can be repaired and which must be disposed of properly. (3-19-99)

(6) Properly dispose of the LPCs. (3-19-99)

02. Certification. A person shall be certified by passing Department examinations with a minimum of seventy percent (70%) in the applicable pesticide categories. For the purpose of becoming licensed, examination scores shall be valid for twelve (12) months from the date of the examination. ~~(5-8-09)~~()

a. Professional applicators shall be certified and licensed in one (1) or more of the following categories: (3-20-97)

i. Law and Safety (LS). This shall include general knowledge of pesticides including proper use and disposal, product characteristics, first aid, labeling, and laws. Certification in this category is required when certifying in Subsections 100.02.a.ii. through 100.02.a.ix. (3-20-97)

ii. Agriculture. For persons conducting field crop applications. Agriculture Herbicide (AH). Certification in this category shall also certify a person to make herbicide applications in rights-of-way, forests, and rangelands. Agriculture Insecticide/Fungicide (AI). Certification in this category shall also certify a person to make insecticide/fungicide applications in rights-of-way, forests, and rangelands. Soil Fumigation (SF). (4-5-00)

iii. Forest Environment (FE). For U.S. Forest Service and Bureau of Land Management personnel, contractors, and private industry personnel who control pests in forests and on rangelands. (3-20-97)

iv. Right-of-Way Herbicide (RW). For railroads, highway departments and others, for roadside weed control, soil sterilant herbicides, and weed control on public lands (non-crop).

Certification in the Agricultural Herbicide category shall exempt the applicant from the need to certify in this category. (3-20-97)

v. Public Health Pest (PH). For abatement districts and others controlling mosquitoes and other public health pests. (3-20-97)

vi. Livestock Pest Control (LP). For persons treating livestock pests. (3-20-97)

vii. Ornamental Herbicide (OH). For persons conducting outside urban or residential herbicide applications, with the exception of soil sterilant applications (see Subsection 100.02.a.iv.). Ornamental Insecticide/Fungicide (OI). For persons doing outside urban or residential insecticide and fungicide applications, including exterior applications to residential, urban or commercial buildings, excluding structural destroying pests (see Subsection 100.02.a.ix.). (4-5-00)

viii. General Pest Control Operations (GP). For persons controlling pests in and around residential, commercial, or other buildings, excluding structural destroying pests. (3-20-97)

ix. Structural Destroying Pest (SP). For persons involved in the control of pests which destroy wooden structures, such as bridges, houses, offices, and warehouses. (3-20-97)

x. General Vertebrate Control (GV). For Wildlife Services (WS) personnel of the United States Department of Agriculture-Animal and Plant Health Inspection Service, for controlling vertebrates such as rodents, predators, and birds. (4-5-00)

xi. Rodent Control (RC). For rodent districts and others, for the control of field rodents. Certification in the General Pest Control category shall exempt the applicant from the need to certify in this category. (3-20-97)

xii. Aquatic Weed and Pest Control (AW). For irrigation districts, canal companies and others, for weed and pest control on aquatic sites. (4-5-00)

xiii. Seed Treatment (ST). For persons doing treatments to protect seeds used for plant reproduction. (3-20-97)

xiv. Commodity Pest Control (CP). For persons controlling pests in stored commodities. (3-20-97)

xv. Potato Cellar Pest Control (PC). For persons who apply sprout inhibitors in potato cellars. (3-20-97)

xvi. Wood Preservative (WP). For persons who apply wood preservatives. (3-20-97)

xvii. Pest Control Consultant-Statewide (SW). For persons who make recommendations or supply technical advice concerning the use of any pesticide for agricultural purposes. (3-20-97)

xviii. Demonstration and Research (DR). For persons who apply or supervise the use of restricted use pesticides at no charge to demonstrate the action of the pesticide or conduct research

with restricted use pesticides. A person shall be eligible to license in this category by passing the Pest Control Consultant examination. (3-20-97)

xix. Chemigation (CH). For persons who apply chemicals through an irrigation system, excluding Aquatic Weed and Pest Control applicators (see Subsection 100.02.xii.). (4-5-00)

xx. Livestock Protection Collars (LPC). For use of Livestock Protection Collars (LPC) containing the restricted use pesticide Compound 1080 to control predatory coyotes. (3-19-99)

b. Pesticide Dealers shall be certified and licensed in any category listed in Subsection 100.02 that pertains to the types of restricted use pesticides sold or distributed. (3-23-98)

c. Persons with an active license category on June 30, 1996, shall retain said category under the rules which became effective on July 1, 1996, until the expiration of the certification period or suspension of the license by the Department. (3-23-98)

d. Mixer-Loaders. Effective December 31, 1998, mixer-loader licenses issued by the Department shall expire. No person shall act as a mixer-loader for a professional applicator without first obtaining annual training. (3-23-98)

i. Training shall be conducted and certified by the professional applicator who employs the mixer-loader. Certification of training shall be on a form prescribed by the Department and must include the signatures of both the mixer-loader and the professional applicator providing the training. (3-23-98)

ii. Training shall include areas relevant to the pesticide mixing and loading operation and instruction on the interpretation of pesticide labels, safety precautions, first aid, compatibility of mixtures, and protection of the environment. (3-23-98)

iii. Employers of mixer-loaders shall comply with federal and state laws related to hazardous occupations and shall provide and ensure the use of personal protective equipment required in the label directions. (3-23-98)

03. Department Examination Procedures. (3-20-97)

a. Examinations shall be administered by a designated agent. (3-20-97)

b. To pass a Department examination, professional applicators and pesticide dealers shall obtain a score of seventy percent (70%) or higher. (3-23-98)

c. Payment of examination fees shall be received by the Idaho Department of Agriculture before examination results may be released. (3-20-97)

d. A minimum waiting period of one (1) week shall be required before an applicant may retake an examination. (4-6-05)

04. Licensing Periods and Recertification. Beginning August 31, 2000, Pesticide

Dealer licenses shall expire on August 31, of even numbered years and have a twenty-four (24) month duration. A Pesticide Dealer License application form shall accompany each new license or license renewal request. Professional applicator licenses shall be renewed by satisfying the recertification provisions of this section. Licenses belonging to professional applicators with last names beginning with A through L, inclusive, shall expire on the last day of the year in every odd-numbered year, and licenses belonging to professional applicators with last names beginning with M through Z, inclusive, shall expire on the last day of the year in every even-numbered year. Any professional applicator with less than thirteen (13) months in the licensing period shall not be required to obtain recertification credits during the initial licensing period. The recertification period for professional applicators shall be concurrent with their two (2) year licensing period. Recertification requirements may be accomplished by complying with either Subsection 100.04.a. or 100.04.b. (4-5-00)

a. A person shall accumulate recertification credits by attending Department-accredited pesticide instruction seminars. (3-20-97)

i. A minimum of fifteen (15) credits shall be earned by a professional applicator during each recertification period. (3-23-98)

ii. A completed request for accreditation of a seminar shall be received by the Department not less than thirty (30) days prior to the scheduled seminar. Such a request shall be submitted on a form prescribed by the Department. Under exceptional circumstances, as described in writing by the person requesting accreditation, the thirty (30) day requirement may be waived. (3-20-97)

iii. Credit will be given only for those parts of seminars that deal with pesticide subjects as listed in Subsection 100.01.b. No credit will be given for training given to persons to prepare them for initial certification. (3-20-97)

iv. The number of credits assigned in advance for a seminar, or a part of a seminar, shall be tentative, and may be revised by the Department if it is later found that the training does not comply with Subsection 100.04.a.iii. (3-20-97)

v. Effective July 1, 1998, a recertification credit shall be based upon one (1) credit for each one (1) hour of instruction, as described in Subsection 100.04.a.iii. Should an applicator's recertification period include credits earned prior to July 1, 1998, those credits based on one hundred fifty (150) minutes of instruction shall be converted to three (3) credits for recertification purposes. (3-23-98)

vi. Verification of attendance at a seminar shall be accomplished by validating the attendee's pesticide license, using a stamp, sticker, or other method approved by the Department. A designated agent shall ensure that such attendance records are properly completed. Verification of attendance must be submitted with the license renewal application. (3-20-97)

vii. If a person has accumulated more than fifteen (15) credits during the recertification period, the excess credits may not be carried over to the next recertification period. (3-23-98)

viii. Upon earning the recertification credits as described above, a person shall be considered by the Department to be recertified for the next recertification period corresponding with the next issuance of a license, provided that the license renewal application is submitted within twelve (12) months from the expiration date of the license. (~~3-20-97~~)()

b. A person shall pass the Department's recertification examinations for all categories in which a person intends to license. (3-20-97)

i. Recertification examinations may be taken by a professional applicator beginning the thirteenth month of the recertification period. (3-23-98)

ii. The examination procedures as outlined in Subsection 100.03 shall be followed. (3-23-98)

iii. In addition to examinations for categories listed under Subsections 100.02.a.ii. through 100.02.a.ix., a person must also pass a Law and Safety recertification examination. (3-23-98)

iv. Recertification shall not be achieved by passing an entry-level examination. (3-20-97)

v. Upon passing the recertification examination(s), a person shall be considered by the Department to be recertified for the next recertification period. (3-20-97)

c. Any person who fails to accumulate the required recertification credits prior to the expiration date of their license shall be required to pass the appropriate recertification examination(s) before being licensed. (3-20-97)

05. Licensed Professional Applicator. Only a licensed professional applicator shall operate or supervise the operation of commercial application equipment by being present during the time of operation. Licensed professional applicators that start the application of chemicals through chemigation equipment do not have to be present during the entire application, but must return to monitor the proper application at least once every four (4) hours for the duration of the application. (3-29-12)

06. Interim Exemption from Pesticide Dealer Licensing and Recordkeeping. Until such time as the director promulgates specific rules pertaining to distribution of general use pesticides (GUPs), persons selling only GUPs shall not be required to obtain a pesticide dealer license or maintain distribution records of these products. (3-30-01)

IDAPA 02 - DEPARTMENT OF AGRICULTURE
02.03.03 - RULES GOVERNING PESTICIDE AND CHEMIGATION
USE AND APPLICATION

DOCKET NO. 02-0303-1302

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2014 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, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified 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 67-5220(1) and 67-5220(2), Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 22-3421, 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:

Section 02.03.03.800 will be amended to allow pesticide use on certain new seed crops, including: endive, parsnip, sugar and garden beets, Swiss chard, collards, lettuce, dill, kohlrabi, and mustard, without the need of an established residue tolerance. This will allow the State of Idaho's seed crop list to be essentially the same as the State of Washington's list.

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 September 4, 2013 Idaho Administrative Bulletin, [Vol. 13-9, page 28 through 30](#).

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 the 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: None.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Ben Miller, Bureau Chief at (208) 332-8593.

DATED this 4th day of October, 2013.

Brian J. Oakey
Deputy Director
Idaho State Dept. of Agriculture
2270 Old Penitentiary Road
P.O. Box 790
Boise, Idaho 83701
Phone: (208) 332-8500
Fax: (208) 334-2170

THE FOLLOWING NOTICE WAS PUBLISHED WITH THE 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 22-3421, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 18, 2013.

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:

Section 02.03.03.800 will be amended to allow pesticide use on certain new seed crops, including: endive, parsnip, sugar and garden beets, Swiss chard, collards, lettuce, dill, kohlrabi, and mustard, without the need for an established residue tolerance. This will allow the State of Idaho's seed crop list to be essentially the same as the State of Washington's list.

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

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 as a result of this rulemaking: ISDA does not anticipate any fiscal impact from the changes to be made to the Rule during the 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 June 5, 2013 Idaho Administrative Bulletin, [Volume 13-6, page 17](#). A negotiated rulemaking meeting was held at the Idaho State Department of Agriculture on July 10.

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 Ben Miller, Bureau Chief at (208) 332-8593.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to Ben Miller and must be delivered on or before September 25, 2013. Comments can be delivered via email to ben.miller@agri.idaho.gov or via regular mail to Ben Miller's attention at the address listed below.

DATED this 2nd day of August, 2013.

LSO Rules Analysis Memo

THE FOLLOWING IS THE TEXT OF DOCKET NO. 02-0303-1302

800. PESTICIDE USE ON SEED CROP FIELDS.

01. Nonfood and Nonfeed Site Conditions. For purposes of pesticide registration, all alfalfa seed, carrot seed, chicory seed, clover seed, collard seed, coriander/cilantro seed, dill seed, endive seed, garden beet seed, kale seed, kohlrabi seed, leek seed, lettuce seed, mustard seed, onion seed, parsnip seed, pollinator rows of hybrid canola seed, radish seed, rutabaga seed, sugar beet seed, Swiss chard seed, and turnip seed crop fields are considered nonfood and nonfeed sites for pesticide use and the following conditions shall be met: (3-29-10)()

a. No portion of the seed alfalfa, carrot seed, chicory seed, clover seed, collard seed, coriander/cilantro seed, dill seed, endive seed, garden beet seed, kale seed, kohlrabi seed, leek seed, lettuce seed, mustard seed, onion seed, parsnip seed, pollinator rows of hybrid canola seed, radish seed, rutabaga seed, sugar beet seed, Swiss chard seed, or turnip seed plant, including but not limited to seed screenings, green chop, hay, chaff, combine tailings, pellets, meal, whole seed and cracked seed, may be grazed, used, or distributed for food or feed purposes. (3-29-10)()

b. The seed conditioner shall keep records of individual growers' alfalfa seed, carrot seed, chicory seed, clover seed, collard seed, coriander/cilantro seed, dill seed, endive seed, garden beet seed, kale seed, kohlrabi seed, leek seed, lettuce seed, mustard seed, onion seed, parsnip seed, pollinator rows of hybrid canola seed, radish seed, rutabaga seed, sugar beet seed, Swiss chard seed, and turnip seed dirt weight and clean weight for three (3) years and shall furnish the records to the Director forthwith upon request. (3-29-10)()

c. All seed screenings shall be disposed of at a sanitary landfill, incinerator, or other equivalent disposal site or by a procedure approved by the Director. (3-23-98)

d. The seed conditioner shall keep seed screening disposal records for three (3) years from the date of disposal and shall furnish the records to the Director forthwith, upon request. Disposal records shall consist of documentation from the disposal site and shall show the total weight of disposed screenings and the date of disposal. (3-20-97)

e. All alfalfa seed, carrot seed, chicory seed, clover seed, collard seed, coriander/cilantro seed, dill seed, endive seed, garden beet seed, kale seed, kohlrabi seed, leek seed, lettuce seed, mustard seed, onion seed, parsnip seed, pollinator rows of hybrid canola seed, radish seed, rutabaga seed, sugar beet seed, Swiss chard seed, or turnip seed grown or conditioned in this state shall bear a tag or container label which forbids the use of the seed for human consumption or animal feed. (~~3-29-10~~)()

f. No alfalfa seed, carrot seed, chicory seed, clover seed, collard seed, coriander/cilantro seed, dill seed, endive seed, garden beet seed, kale seed, kohlrabi seed, leek seed, lettuce seed, mustard seed, onion seed, parsnip seed, pollinator rows of hybrid canola seed, radish seed, rutabaga seed, sugar beet seed, Swiss chard seed, or turnip seed grown or conditioned in this state shall be distributed for human consumption or animal feed. (~~3-29-10~~)()

g. All portions of the seed alfalfa, seed carrot, seed chicory, seed clover, seed collard, seed coriander/cilantro, seed dill, seed endive, seed of garden beet, seed onion, seed parsnip, pollinator rows of hybrid canola seed, seed radish, seed rutabaga, seed of sugar beets, seed of Swiss chard, or seed turnip plant, including but not limited to seed screenings, pellets, meal, whole seed and cracked seed may be composted. All composted material may be applied to agricultural crop land as approved by the Director. (~~3-29-10~~)()

02. Exemption. Alfalfa seed, kale seed and radish seed crops grown for human consumption shall be exempt from the requirements of Subsection 800.01 provided: (3-29-10)

a. All pesticides used are labeled for use on alfalfa seed, kale seed, and radish seed crops and have established residue tolerances which allow food or feed use; and (3-29-10)

b. All producers maintain for three (3) years complete records of all pesticides applied as specified in Pesticide Use and Application Rules Subsection 150.02. These records shall be ready to be inspected, duplicated, or submitted when requested by the Director. (3-20-97)

IDAPA 02 - DEPARTMENT OF AGRICULTURE
02.04.19 - RULES GOVERNING DOMESTIC CERVIDAE

DOCKET NO. 02-0419-1301

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2014 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, rejected, amended or modified by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified 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 Section 25-3704, Idaho Code.

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

Amend Section 022 - The rule change specifies which forms of unique identification will be acceptable for producers exporting out of the state to utilize within their herd and to maintain compliance with the Animal and Plant Health Inspection Service (APHIS) National Chronic Wasting Disease (CWD) Herd Certification Program (HCP).

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 July 3, 2013 Idaho Administrative Bulletin, [Vol. 13-7, pages 18 through 22](#).

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 the 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 as a result of this rulemaking: ISDA does not anticipate any fiscal impact from the changes to be made to the Rule during the rulemaking.

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

DATED this 2nd day of August, 2013.

Brian J. Oakey, Deputy Director
Idaho State Dept. of Agriculture
Phone: (208) 332-8500
Fax: (208) 334-2170

2270 Old Penitentiary Rd.
P.O. Box 790
Boise, Idaho 83701

THE FOLLOWING NOTICE WAS PUBLISHED WITH THE 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 25-3704, 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 July 17th, 2013.

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:

Amends Subsection 02.04.19.022 to specify which forms of unique identification will be acceptable for producers exporting out of the state to utilize within their herds and to maintain compliance with Animal and Plant Health Inspection Service (APHIS) National Chronic Wasting Disease (CWD) Herd Certification Program (HCP).

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

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 from the changes to be made to the Rule during this rulemaking.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because the federal government has already implemented the changes and is mandating state participation in the new HCP. The changes to IDAPA 02.04.19 are being made to maintain consistency with the federal 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 delivered on or before July 24th, 2013.

LSO Rules Analysis Memo

DATED this 29th day of May, 2013.

THE FOLLOWING IS THE TEXT OF DOCKET NO. 02-0419-1301

010. DEFINITIONS.

01. Accredited Veterinarian. A veterinarian approved by the Administrator and USDA/APHIS/VS, in accordance with Title 9, Part 161, CFR, January 1, 2004, to perform functions required by cooperative state-federal animal disease control and eradication programs. (4-6-05)

02. Administrator. Administrator of the Division of Animal Industries or his designee. (4-2-03)

03. Approved Laboratory. NVSL, an AAVLD accredited laboratory that is qualified to perform CWD diagnostic procedures, or a laboratory designated by the Administrator to perform CWD diagnostic procedures. (4-2-03)

04. Approved Slaughter Establishment. A USDA inspected slaughter establishment at which ante-mortem and post-mortem inspection is conducted by USDA inspectors. (4-2-03)

05. Area Veterinarian in Charge. The USDA/APHIS/VS veterinary official who is assigned to supervise and perform official animal health activities in Idaho. (4-2-03)

06. Breed Associations and Registries. Organizations maintaining permanent records of ancestry or pedigrees of animals, individual animal identification records and records of ownership. (4-2-03)

07. Certificate. An official document issued by a state or federal animal health official or an accredited veterinarian at the point of origin of a shipment of cervidae, which contains

information documenting the age, sex, species, individual identification of the animals, the number of animals, the purpose of the movement, the points of origin and destination, the consignor, the consignee, the status of the animals relative to official diseases, test results and any other information required by the state animal health official for importation or translocation.

(4-2-03)

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

(4-2-03)

09. Cervidae. Deer, elk, moose, caribou, reindeer, and related species and hybrids including all members of the cervidae family and hybrids.

(4-2-03)

10. Chronic Wasting Disease. A transmissible spongiform encephalopathy of cervids, which is a nonfebrile, transmissible, insidious, and degenerative disease affecting the central nervous system of cervidae.

(4-2-03)

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

(4-2-03)

12. Custom Exempt Slaughter Establishment. A slaughter establishment that is subject to facility inspection by USDA, but which does not have ante-mortem and post-mortem inspection of animals by USDA inspectors.

(4-2-03)

13. CWD-Adjacent Herd. A herd of domestic cervidae occupying premises that border a premises occupied by a CWD positive herd, including herds separated by roads or streams.

(4-6-05)

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

(4-2-03)

15. CWD-Exposed Herd. A herd of cervidae in which no animals are exhibiting signs of CWD, but:

(4-2-03)

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

(4-2-03)

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

(4-2-03)

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

(4-6-05)

- 16. CWD-Positive Cervid.** A domestic cervid on which a diagnosis of CWD has been confirmed through positive test results on any official cervid CWD test by an approved laboratory. (4-2-03)
- 17. CWD-Positive Herd.** A domestic cervidae herd in which any animal(s) has been diagnosed with CWD, based on positive laboratory results, from an approved laboratory. (4-2-03)
- 18. CWD-Suspect Cervid.** A domestic cervid for which laboratory evidence or clinical signs suggests a diagnosis of CWD. (4-2-03)
- 19. CWD-Suspect Herd.** A domestic cervidae herd in which any animal(s) has been determined to be a CWD-suspect. (4-2-03)
- 20. Department.** The Idaho State Department of Agriculture. (4-2-03)
- 21. Death Certificate.** A form, approved by the administrator, provided by the Division for the reporting of cervidae deaths and for reporting sample submission for CWD testing. (4-6-05)
- 22. Designated Epidemiologist.** A state or federal veterinarian who has demonstrated the knowledge and ability to perform the functions required under these rules and who has been selected by the Administrator to fulfill the epidemiology duties relative to the state domestic cervidae disease control program. (4-2-03)
- 23. Director.** The Director of the Idaho State Department of Agriculture, or his designee. (4-2-03)
- 24. Disposal.** Final disposition of dead cervidae. (4-2-03)
- 25. Division.** Idaho State Department of Agriculture, Division of Animal Industries. (4-2-03)
- 26. Domestic Cervidae.** Fallow deer (*Dama dama*), elk (*Cervus elaphus*) or reindeer (*Rangifer tarandus*) owned by a person. (4-2-03)
- 27. Domestic Cervidae Ranch.** A premises where domestic cervidae are held or kept, including multiple premises under common ownership. (4-6-05)
- 28. Electronic Identification.** A form of unique, permanent individual animal identification such as radio frequency identification tag, radio frequency identification implant, or other forms approved by the Administrator. (4-6-05)
- 29. Escape.** Any domestic cervidae located outside the perimeter fence of a domestic cervidae ranch and not under the immediate control of the owner or operator of the domestic cervidae ranch. (4-2-03)
- 30. Federal Animal Health Official.** An employee of USDA/APHIS/VS who is

authorized to perform animal health activities. (4-6-05)

31. Herd of Origin. A cervid herd, on any domestic cervidae ranch or other premise, where the animals were born, or where they were kept for at least one (1) year prior to date of shipment. (4-2-03)

32. Herd Status. Classification of a cervidae herd with regard to CWD. (4-2-03)

33. Intrastate Movement Certificate. A form approved by the Administrator, and available from the Division, to document the movement of domestic cervidae between premises within Idaho. (4-2-03)

34. Individual CWD Herd Plan. A written herd management agreement and testing plan developed by the herd owner and approved by the Administrator to identify and eradicate CWD from a positive, source, suspect, exposed, or adjacent herd. (4-7-11)

35. Limited Contact. Incidental contact between animals of different herds in separate pens off of the herd's premises at fairs, shows, exhibitions and sales. (4-2-03)

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

367. Official CWD Test. A test approved by the Administrator and conducted at an approved laboratory to diagnose CWD. (4-2-03)

378. Official Identification. Identification, approved by the Administrator, that individually, uniquely, and permanently identifies each cervid. (4-2-03)

389. Operator. A person who has authority to manage or direct a domestic cervidae ranch. (4-2-03)

~~390~~ 40. Owner. The person that has legal title to, or has financial control of, any domestic cervidae or domestic cervidae ranch (4-2-03)

401. Person. Any individual, association, partnership, firm, joint stock company, joint venture, trust, estate, political subdivision, public or private corporation, or any legal entity, which is recognized by law as the subject of rights and duties. (4-2-03)

412. Premises. The ground, area, buildings, and equipment utilized to raise, propagate, control, or harvest domestic cervidae. (4-2-03)

423. Quarantine. An order issued on authority of the Administrator, by a state or federal animal health official or accredited veterinarian, prohibiting movement of cervids from any location without a written restricted movement permit. (4-2-03)

434. Quarantine Facility. A confined area where selected domestic cervidae can be

secured and isolated from all other cervidae and livestock. (4-2-03)

445. Ranch Management Plan. A written plan for a domestic cervidae ranch that sets forth best management practices that mitigates the introduction or dissemination of disease among domestic cervidae. (4-7-11)

456. Reidentification. The identification of a domestic cervid which had been officially identified, as provided by this chapter, but which has lost the official identification device, or the tattoo or official identification device has become illegible. (4-2-03)

467. Restrain. The immobilization of domestic cervidae in a chute, other device, or by other means for the purpose of efficiently, effectively, and safely inspecting, treating, vaccinating, or testing. (4-2-03)

478. Restricted Movement Permit. An official document that is issued by the Administrator, AVIC, or an accredited veterinarian for movement of animals from positive, suspect, or exposed herds. (4-2-03)

489. Source Herd. A herd from which at least one (1) cervid has originated within the previous five (5) years and that cervid has been diagnosed CWD positive. (4-2-03)

4950. State Animal Health Official. The Administrator, or his designee. (4-2-03)

501. Status Date. The date on which the Administrator approves in writing a herd status change with regard to CWD. (4-2-03)

512. Trace Back Herd. An exposed herd in which at least one (1) CWD positive animal resided within any of the previous sixty (60) months prior to diagnosis with CWD. (4-2-03)

523. Trace Forward Herd. A herd that has received exposed animals from a positive herd within sixty (60) months prior to the diagnosis of CWD in the positive herd or from the identified point of entry of CWD into the positive herd. (4-2-03)

534. Traceback. The process of identifying the movements and the herd of origin of CWD positive, or exposed animals, including herds that were sold for slaughter. (4-2-03)

545. Wild Cervidae. Any cervid animal not owned by a person. (4-2-03)

556. Wild Ungulate. Any four (4) legged, hoofed herbivore, including cervids and other ruminants, not owned by a person. (4-6-05)

567. Wild Ungulate Cooperative Herd Plan. A plan, developed cooperatively by the owner of the domestic cervidae ranch, the ISDA, and the Idaho Department of Fish and Game to determine the disposition of any wild ungulates that are found to be located on a domestic cervidae ranch. (4-6-05)

(BREAK IN CONTINUITY OF SECTIONS)

014. IMPORTATION OF DOMESTIC CERVIDAE.

All domestic cervidae imported into the state of Idaho shall comply with the requirements of the APHIS National CWD Herd Certification Program and IDAPA 02.04.21 “Rules Governing the Importation of Animals,” which apply to domestic cervidae. ~~(4-2-03)~~()

(BREAK IN CONTINUITY OF SECTIONS)

023. NATIONAL CWD HERD CERTIFICATION PROGRAM OFFICIAL IDENTIFICATION.

All domestic cervidae enrolled in the National CWD Herd Certification Program are required to be identified with two (2) forms of identification for each animal. One (1) form of identification must be a nationally unique official animal identification that uses an APHIS-approved numbering system that is linked to the CWD National Database or equivalent ISDA database. The second form of identification must be unique to the individual animal within the herd and also be linked to the CWD National Database or equivalent ISDA database. ()

01. APHIS-Approved Identification Devices. ()

a. Electronic Identification; ()

b. Official USDA Tamper-Resistant Ear Tag; ()

c. Legible Ear or Flank Tattoo; and ()

d. Other forms of Identification as approved by APHIS Administrator. ()

0234. -- 029. (RESERVED)

IDAPA 02 - DEPARTMENT OF AGRICULTURE

02.04.20 - RULES GOVERNING BRUCELLOSIS

DOCKET NO. 02-0420-1301

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2014 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, rejected, amended or modified by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified 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 Section 25-203 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:

Tracking the movement of cattle out of the Designated Surveillance Area (DSA) is an additional tool that will allow ISDA to provide better surveillance of the cattle that are at the greatest risk of exposure to brucellosis-infected wildlife residing in the Greater Yellowstone Area. This permit will allow for more precise monitoring of livestock movement out of the DSA and will further minimize the possibility that those cattle are sold without proper disease testing prior to sale.

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 September 4, 2013 Idaho Administrative Bulletin, [Vol. 13-9, page 32 and 33](#).

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 the 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 as a result of this rulemaking: ISDA does not anticipate any fiscal impact from the changes to be made to the Rule during the rulemaking.

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

DATED this 4th day of October, 2013.

Brian J. Oakey
Deputy Director
Idaho State Dept. of Agriculture
2270 Old Penitentiary Road
P.O. Box 790
Boise, Idaho 83701
Phone: (208) 332-8500
Fax: (208) 334-2170

THE FOLLOWING NOTICE WAS PUBLISHED WITH THE PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. This action is authorized pursuant to Section 25-203, 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 September 18, 2013.

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 statement in nontechnical language of the substance and purpose of the proposed rulemaking:

Amends Section 02.04.20.123 establishing a process through which a producer obtains a required permit prior to movement of any cattle out of the Designated Surveillance Area (DSA).

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

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 as a result of this rulemaking: ISDA does not anticipate any fiscal impact from the changes to be made to the Rule during the 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 3, 2013 Idaho Administrative Bulletin, **Volume 13-7, page 23**. A negotiated rulemaking meeting was held at the Fremont County Annex in St. Anthony, Idaho on July 11; there were many visitors in attendance and multiple comments were accepted on the 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 this 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 Dr. Scott Leibsle and must be delivered on or before September 25, 2013. Comments can be delivered via email to scott.leibsle@agri.idaho.gov or via regular mail to Dr. Scott Leibsle's attention at the address listed below.

DATED this 2nd day of August, 2013.

LSO Rules Analysis Memo

THE FOLLOWING IS THE TEXT OF DOCKET NO. 02-0420-1301

123. DESIGNATED SURVEILLANCE AREA (DSA).

All intact cattle and domestic bison within a DSA are subject to additional rule requirements for the prevention or eradication of brucellosis. (3-29-12)

01. Individual Identification Requirements. All intact cattle and domestic bison, regardless of age, that leave the DSA must be identified with official individual identification. (3-29-12)

02. Testing Requirements Within The DSA. The following official brucellosis test requirements apply to all test eligible cattle and domestic bison that are or have been located within the DSA at any time between January 1 and June 15 of any calendar year. (3-29-12)

a. All test eligible cattle and domestic bison must have a negative brucellosis test within thirty (30) days prior to a change of ownership, interstate movement or prior to leaving the DSA, except cattle or domestic bison moving directly to an approved Idaho livestock market or a federally-inspected slaughter plant that will test the animals for brucellosis on arrival. (3-29-12)

b. Variances or exceptions to the brucellosis testing requirements may be considered on an individual basis by the administrator, based upon a brucellosis herd management plan. (3-29-12)

03. Permit Required for Movement Out of the DSA. In addition to the above testing

requirements and prior to movement, all persons transporting Test Eligible cattle or domestic bison from within the DSA to a location outside the DSA, shall be required to obtain a movement permit via telephone from the Division of Animal Industries at least twenty-four (24) hours in advance. ()

a. Telephone Requests. DSA movement permits may be requested by telephone at (208) 332-8540 or facsimile at (208) 334-4062. ()

b. Contents of a Permit Request. The request for a movement permit shall include the following information: ()

i. Name and address of the consignor and consignee; ()

ii. Number and kind of animals; ()

iii. Origin of shipment; ()

iv. Final destination; and ()

v. Date of required brucellosis test. ()

c. Period of Validity. Permits shall be valid for no longer than fifteen (15) days from the date of issuance unless otherwise specified. ()

d. Penalties. Any person that fails to obtain a permit prior to movement of cattle out of the DSA may be assessed penalties pursuant to Section 990 of this rule. ()

IDAPA 02 - DEPARTMENT OF AGRICULTURE
02.04.21 - RULES GOVERNING IMPORTATION OF ANIMALS
DOCKET NO. 02-0421-1301
NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2014 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, rejected, amended or modified by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified 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 Section 25-203 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:

Section 600 is being amended to establish consistency with the new National Chronic Wasting Disease (CWD) Herd Certification Program (HCP) that went into effect in December 2012. The requirements mandate full participation in the HCP to qualify a cervidae herd for importation.

Subsection 300 is being amended to more specifically define equine infectious anemia (EIA) import testing requirements for horses destined for slaughter. The existing rule allows slaughter horse imports without an EIA test, but does not specify when the animals must go to slaughter. The new rule requires that a horse imported into Idaho for slaughter purposes be sent to slaughter within sixty (60) days.

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule published in the September 4, 2013 Idaho Administrative Bulletin, [Vol. 13-9, pages 34 through 38](#).

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 the 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 as a result of this rulemaking: N/A

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

DATED this 4th day of October, 2013.

Brian J. Oakey
Deputy Director
Idaho State Dept. of Agriculture
2270 Old Penitentiary Road
P.O. Box 790
Boise, Idaho 83701
Phone: (208) 332-8500
Fax: (208) 334-2170

THE FOLLOWING NOTICE WAS PUBLISHED WITH THE PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. This proposed rulemaking action is authorized pursuant to Section 25-203 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 September 18, 2013.

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 statement in nontechnical language of the substance and purpose of the intended negotiated rulemaking and the principle issues involved:

Amends Domestic Cervidae import requirements to establish consistency with the new National Chronic Wasting Disease (CWD) Herd Certification Program (HCP). The changes to the import requirements will require compliance with the National CWD HCP prior to domestic cervidae importation into Idaho.

Amends Subsections 300.03 and 300.04 to more specifically define equine infectious anemia (EIA) import testing (Coggins test) requirements for horses destined for slaughter. The new rule will establish a time limit for imported horses to be destined to slaughter that have entered Idaho without a valid Coggins test. The current rule allows slaughter horse imports without a Coggins test, but does not specify when the animals must go to slaughter.

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

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 as a result of this rulemaking: ISDA does not anticipate any fiscal impact from the changes to be made to the Rule during the 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 June 5, 2013 Idaho Administrative Bulletin, **Vol. 13-6, pages 18**. A negotiated rulemaking meeting was held at the Idaho State Department of Agriculture on June 18, 2013; there were no visitors in attendance and no comments were received.

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 this 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 Dr. Scott Leibsle and must be delivered on or before September 25, 2013. Comments can be delivered via email to scott.leibsle@agri.idaho.gov or via regular mail to Dr. Scott Leibsle's attention at the address listed below.

DATED this 2nd day of August, 2013.

LSO Rules Analysis Memo

THE FOLLOWING IS THE TEXT OF DOCKET NO. 02-0421-1301

010. DEFINITIONS.

01. Accredited Veterinarian. A veterinarian approved by the Administrator and USDA/APHIS/VS in accordance with provisions of Title 9, Part 161, Code of Federal Regulations to perform functions of State-Federal animal disease control programs. (5-3-03)

02. Administrator. The administrator of the Division of Animal Industries, Idaho State Department of Agriculture, or his designee. (5-3-03)

03. Animals. All vertebrates, except humans. (5-3-03)

04. Approved Brucella Vaccine. A vaccine product that is approved by and produced

under license of the United States Department of Agriculture for administration to cattle, domestic bison, swine or domestic cervidae for the purpose of enhancing the resistance to brucellosis. (5-3-03)

05. Approved Equine Feedlot. A feedlot approved by the Administrator to feed equids intended to be shipped directly to slaughter within sixty (60) days of arrival to the feedlot and have not been officially tested for Equine Infectious Anemia (EIA) prior to importation into Idaho. ()

056. Approved Feedlot. A feedlot approved by the Administrator to feed female cattle and domestic bison which have not been officially vaccinated against brucellosis or other bovidae not in compliance with Idaho's rules. (5-3-03)

067. Approved Slaughter Establishment. A USDA inspected slaughter establishment at which ante-mortem and post-mortem inspection is conducted by USDA inspectors. (5-3-03)

078. Brucellosis. An infectious disease of animals and humans caused by bacteria of the genus Brucella. (5-3-03)

089. Brucellosis Surveillance Area or High Risk Areas. Any area of a state that has been identified by USDA/APHIS/VS or state animal health officials as an area that poses a greater risk for transmission of brucellosis than would be expected based upon the official classification of the state. (5-3-03)

0910. Camelids. Llamas, alpacas, vicunas, camels. (5-3-03)

101. Cattle. All bovidae including domestic bison. (5-3-03)

112. Certificate. An official certificate of veterinary inspection or other approved certificate issued by an accredited veterinarian, state or federal animal health official or other approved official at the point of origin of the shipment of animal(s) being imported. (5-3-03)

123. Department. The Idaho State Department of Agriculture. (5-3-03)

134. Director. The director of the Idaho State Department of Agriculture or his designee. (5-3-03)

145. Division of Animal Industries. Idaho State Department of Agriculture, Division of Animal Industries. (5-3-03)

156. Domesticated. Propagated and maintained under the control of a person. (5-3-03)

167. Domestic Bison. All animals in the family Bison that are owned by a person. (5-3-03)

178. Domestic Cervidae. Elk, fallow deer, and reindeer that are owned by a person. (5-3-03)

- 189. Equidae.** Horses, ponies, asses, mules, zebras. (5-8-09)
- 1920. Exposed.** Animals that have had direct contact with other animals, herds, or materials that have been determined to be infected with or affected by any infectious, contagious, or communicable disease. (5-3-03)
- 201. Federal Animal Health Official.** An employee of USDA/APHIS/VS who has been authorized to perform animal health activities. (5-3-03)
- 212. Feeder Animals.** Animals to be fed for slaughter only. (5-3-03)
- 223. Game Birds.** Domesticated gallinaceous fowl such as pheasants, partridge, quail, grouse and guineas. (5-3-03)
- 234. Hatching Eggs.** Fertilized eggs. (5-3-03)
- 245. Livestock.** Shall mean cattle, swine, horses, mules, asses, domestic cervidae, sheep, goats, camelids, and ratites. (5-3-03)
- 26. National CWD Herd Certification Program.** A federal-state-industry cooperative program, as provided for in the Code of Federal Regulations, Title 9, Part 55, January 1, 2013. The program, administered by APHIS and implemented by participating states, establishes CWD surveillance and testing standards cervidae owners must achieve before interstate transport will be permitted. ()
- 257. Negative.** Animals are classified as negative when they have been subjected to official tests for a disease, and the tests performed have failed to disclose evidence of the disease. (5-3-03)
- 268. Official Identification.** The unique individual identification of cattle, domestic bison, swine, or domestic cervidae in accordance with the rules governing each species. (5-3-03)
- 279. Official Vaccinate.** Cattle or domestic bison female that was inoculated, in accordance with IDAPA 02.04.20 “Rules Governing Brucellosis” or the Brucellosis Eradication UM&R, with an approved Brucella vaccine. (5-3-03)
- 2830. Person.** Any individual, association, partnership, firm, joint stock company, joint venture, trust, estate, political subdivision, public or private corporation, or any legal entity, which is recognized by law as the subject of rights and duties. (5-3-03)
- 2931. Poultry.** The term shall mean chickens, turkeys, ducks, geese, guinea fowl, pigeons, pheasants, domestic fowl, waterfowl and gamebirds. (5-3-03)
- 302. Quarantine.** A written order executed by the Administrator to confine or hold animals on a premise, or any other location where found, and prevent movement of animals from a premise or any other location when the administrator has determined that the animals are infected with or exposed to a disease, or are not in compliance with the provisions of this chapter. (5-3-03)

- 343. Ratites.** Ostrich, emu, rhea and cassowaries. (5-3-03)
- 324. Slaughter Animals.** Animals of any kind for immediate slaughter, or those consigned for slaughter within fourteen (14) days of date of shipment. (5-3-03)
- 335. State Animal Health Official.** The Administrator or his designee responsible for disease control and eradication programs. (5-3-03)
- 346. VHSV Positive Area.** Any area or region that has been identified by USDA as affected by VHSV. (4-2-08)
- 357. Waterfowl.** Domestic fowl that normally swim, such as ducks and geese. (5-3-03)
- 368. Wildlife.** Any animal generally living in a state of nature except, domestic bison, domestic cervidae, domestic fur bearing animals, and fish. (4-2-08)

(BREAK IN CONTINUITY OF SECTIONS)

300. EQUIDAE.

All horses, mules, asses and other equidae that are to be transported or moved into the state of Idaho shall be accompanied by an official certificate of veterinary inspection or extended validity equine certificate, from the state of origin, stating that the equidae are free from evidence of any communicable disease and have completed EIA test requirements, except as provided in this section. (4-4-13)

01. EIA Test Requirements. An official EIA test is a blood test conducted by a USDA approved laboratory, within twelve (12) months prior of entry of the equidae into Idaho. (3-30-07)

a. Entry of equidae into Idaho shall not be allowed until the EIA test has been completed and reported negative. Equidae which test positive to the EIA test shall not be permitted entry into Idaho, except by special written permission from the Administrator. (5-3-03)

b. A nursing foal less than six (6) months of age accompanied by its EIA negative dam is exempt from the test requirements. (5-3-03)

02. Working Horses Included on Grazing Permits. “Working horses” used for seasonal ranching purposes may be exempt from the requirements of this section if the horses have been included on a current grazing permit which has received prior approval from the Administrator and the chief livestock sanitary official in a western state which reciprocates with Idaho in honoring grazing permits. (5-3-03)

03. Slaughter Horses. Equids being moved to an approved equine slaughter establishment may be exempted from EIA test requirements. (5-3-03)

04. **Approved Equine Feedinglot Facilities.** Equids being fed for slaughter in an equine ~~feeding facility~~ **feedlot** approved by the Administrator may be exempt from EIA test requirements **provided that all horses qualified into the approved facility must be sent directly to slaughter within sixty (60) days.** ~~(5-3-03)~~()

05. **Reciprocal Agreements.** The Administrator may enter into cooperative reciprocal agreements with neighboring states which exempt EIA testing requirements for movement of equidae between the cooperating states. (5-3-03)

(BREAK IN CONTINUITY OF SECTIONS)

600. IMPORTATION OF DOMESTIC CERVIDAE.

Domestic cervidae may enter the state of Idaho, by permit, provided: (5-3-03)

01. **Certificate of Veterinary Inspection.** The cervidae are accompanied by a certificate of veterinary inspection certifying that they have been inspected within thirty (30) days prior to the date of shipment, that they are free from evidence of infectious, contagious, or communicable diseases, or known exposure thereto during the preceding sixty (60) days; and (5-3-03)

02. **Meet Testing Requirements.** The cervidae shall meet the testing requirements of Section 601. (5-3-03)

03. **National CWD Herd Certification Program Participation.** **All cervidae must originate from a herd that is in good standing and actively participating in the National CWD Herd Certification Program.** ()

(BREAK IN CONTINUITY OF SECTIONS)

602. INDIVIDUAL IDENTIFICATION.

Each cervid animal imported shall be individually identified ~~by an approved USDA identification device on a certificate of veterinary inspection issued by the accredited veterinarian who performed any required tests~~ **in accordance with the National CWD Herd Certification Program requirements, with two (2) forms of official identification for each animal according to IDAPA 02.04.19, "Rules Governing Domestic Cervidae."** ~~(5-3-03)~~()

IDAPA 02 - DEPARTMENT OF AGRICULTURE

02.06.02 - RULES PERTAINING TO THE IDAHO COMMERCIAL FEED LAW

DOCKET NO. 02-0602-1301

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2014 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, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified 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 Section 25-2710, Idaho Code.

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

To incorporate by reference information and updates contained in the 2014 Official Publication of the Association of American Feed Control Officials (AAFCO) as they pertain to the methodology and practice of conducting regulatory commercial feed registration and label review. The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the June 5, 2013 Idaho Administrative Bulletin, [Vol. 13-6, pages 19 and 20](#).

IDAHO CODE SECTION 22-101A STATEMENT: This rule does regulate an activity not already regulated by the federal government, because the federal government does not regulate commercial feeds. The rule is, however, consistent with national standards by the Association of American Feed Control Officials.

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: ISDA does not anticipate any fiscal impact from the changes to be made to the Rule as a result of this rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Kathryn Mink, Agriculture Section Manager at (208) 332-8564.

DATED this 2nd day of August, 2013.

Brian J. Oakey, Deputy Director
Idaho State Dept. of Agriculture
Phone: (208) 332-8500
Fax: (208) 334-2170

2270 Old Penitentiary Rd.
P.O. Box 790
Boise, Idaho 83701

THE FOLLOWING NOTICE WAS PUBLISHED WITH THE 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 25-2710, 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 June 19, 2013.

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:

To incorporate by reference information and updates contained in the 2014 Official Publication of the Association of American Feed Control Officials (AAFCO) as they pertain to the methodology and practice of conducting regulatory commercial feed registration and label review.

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

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:

ISDA does not anticipate any fiscal impact from the changes to be made to the Rule during this rulemaking.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because of the simple nature of the proposed amendments.

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:

ISDA has incorporated the Association of American Feed Control Officials (AAFCO) Official Publication into the Rules Pertaining to the Idaho Commercial Feed law for a number of years. The only change to the incorporation by reference section is to the date of the Official Publication.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Kathryn Mink, Agriculture Section Manager at (208) 332-8564.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be delivered on or before June 26, 2013.

LSO Rules Analysis Memo

DATED this 17th day of May, 2013.

THE FOLLOWING IS THE TEXT OF DOCKET NO. 02-0602-1301

004. INCORPORATION BY REFERENCE.

Copies of these documents may be viewed at the Idaho State Department of Agriculture, 2270 Old Penitentiary Road, PO Box 790, Boise, Idaho 83701. IDAPA 02.06.02 incorporates by reference: (3-30-07)

01. The Association of American Feed Control Officials (AAFCO) Official Publication. The Terms, Ingredient Definitions and Policies as published in the “2013~~4~~ Official Publication” of AAFCO where those terms and ingredient definitions, and policy statements do not conflict with terms and ingredient definitions, and policy statements adopted under Title 25, Chapter 27, Idaho Code, and any rule promulgated thereunder. The AAFCO Official Publication is a copyrighted publication and not available in electronic format. A copy may be purchased online from the AAFCO website at: www.aafco.org. (~~3-27-13~~)()

02. The Merck Index. The “2006 Merck Index,” 14th Edition, as published by Merck Research Laboratories Division of Merck & Co., Incorporated. The Merck Index is a copyrighted publication and not available in an electronic format. A copy may be purchased online from Merck & Co., Inc at: <http://www.merckbooks.com/mindex/index.html>. (4-7-11)

IDAPA 02 - DEPARTMENT OF AGRICULTURE

02.06.09 - RULES GOVERNING INVASIVE SPECIES

DOCKET NO. 02-0609-1301

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2014 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, rejected, amended or modified by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified 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 67-5221(1), Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 22-1907 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 amendments will add three definitions (“Energy Crop Invasive Species,” “Facility” and “Trap Crop Invasive Species.”); and create a method of application for Energy Crop Invasive Species, Possession/Production Permits, as well as for Trap Crop Invasive Species Permits. The proposed rule will also remove the transport permit requirement for bullfrogs and extend transport permit validity to five (5) years for Exempt Species. It will also update scientific and common names and add hybrids of certain listed invasive species.

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 August 7, 2013 Idaho Administrative Bulletin, [Vol. 13-8, pages 16 through 28](#).

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 the 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 as a result of this rulemaking:

ISDA does not anticipate any fiscal impact from the changes to be made to the Rule during the rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Matt Voile, Section Manger, (208) 332-8620.

DATED this 6th day of November, 2013.

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

THE FOLLOWING NOTICE WAS PUBLISHED WITH THE 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 22-1907, 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 August 21, 2013. 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 amendments will:

1. Add three definitions: “Energy Crop Invasive Species,” “Facility” and “Trap Crop Invasive Species.”
2. Amend Section 103, Possession Permits, to remove the transport permit requirement for bullfrogs.
3. Amend Section 104.03, Exempt Species - Transport Permits, to extend transport permit validity to five (5) years.
4. Add Section 105, Energy Crop Invasive Species Possession/Production Permits, creating a method of application for Energy Crop Invasive Species Possession/Production Permits.
5. Add Section 106, Trap Crop Invasive Species Permits, creating a method of application for Trap Crop Invasive Species Permits.
6. Amend Sections 806, Invasive Species-Insects, 807, Invasive Species-Plant Pathogens and Parasitic Nematodes, 809, Invasive Species-Invasive Plants and 810, Invasive Species - Invasive Plants - Trap Crops, to update scientific and common names and to add hybrids of certain listed invasive species.

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

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: N/A

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking published in the June 5, 2013, Idaho Administrative Bulletin, **Vol. 13-6, Page 21**. Negotiated rulemaking meetings were held on June 13 and June 27, 2013.

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 Matt Voile, Section Manager, (208) 332-8620.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to Matt Voile and must be delivered on or before August 28, 2013. Comments can be delivered via email to matt.voile@agri.idaho.gov or via regular mail to Matt Voile's attention at the address listed below.

DATED this 3rd day of July, 2013.

LSO Rules Analysis Memo

THE FOLLOWING IS THE TEXT OF DOCKET NO. 02-0609-1301

010. DEFINITIONS.

The following definitions shall apply in the interpretation and enforcement of this rule. (3-29-10)

01. Acts. Title 22, Chapter 19, Idaho Code, the "Idaho Invasive Species Act of 2008" and Title 22, Chapter 20, the "Idaho Plant Pest Act of 2002." (3-29-10)

02. Aquatic Invertebrate Invasive Species. Those species listed in Section 800. (3-29-10)

03. Control. The abatement, suppression, or containment of an invasive species or pest population. (3-29-10)

04. Conveyance. A terrestrial or aquatic vehicle or a vehicle part that may carry or contain an invasive species or plant pest. A conveyance includes a motor vehicle, a vessel, a

motorboat, a sailboat, a personal watercraft, a container, a trailer, or any other means or method of transportation. “Conveyance” also includes a live well or a bilge area. (3-29-10)

05. Department. The Idaho State Department of Agriculture. (3-29-10)

06. Director. The director of the Idaho State Department of Agriculture or his designee. (3-29-10)

07. Dreissenia Infested Waterbody. Body of water designated by the United States Geological Survey, <http://nas.er.usgs.gov/taxgroup/mollusks/zebramussel/>, or the Director as having a population of any life stage of Dreissenia mussels. (3-29-10)

08. Early Detection/Rapid Response. Finding invasive species during the initial stages of colonization and then responding within ten (10) days. (3-29-10)

09. Energy Crop Invasive Species. An Energy Crop Invasive Species is a non-native plant grown to harvest for use in making biofuels, such as bioethanol, or combusted for its energy content to generate electricity or heat. Energy Crop Invasive Species are non-native plants that are cultivated for the purpose of producing (non-food) energy. ()

~~09~~**10. Equipment.** An article, tool, implement, or device capable of carrying or containing: (3-29-10)

a. Water; or (3-29-10)

b. An invasive species. (3-29-10)

11. Facility. Any place, site or location or part thereof where a species listed as invasive pursuant to this rule are found, handled, housed, held, planted, or otherwise maintained for purposes governed by a possession, production, or transport permit issued pursuant to these rules and includes, but is not limited to all fields, plats, buildings, lots, structures, and other appurtenances and improvements on the land. ()

~~10~~**2. Invasive Species.** Species not native to Idaho, including their seeds, eggs, spores, larvae or other biological material capable of propagation, that cause economic or environmental harm and are capable of spreading in the state. “Invasive species” does not include crops, improved forage grasses, domestic livestock, or other beneficial nonnative organisms. (3-29-10)

~~11~~**3. Invasive Species Act.** The Idaho Invasive Species Act of 2008. (3-29-10)

~~12~~**4. Plant Pest Act.** The Idaho Plant Pest Act of 2002. (3-29-10)

~~13~~**5. Possession.** The act of cultivating, importing, exporting, shipping or transporting a listed invasive species in Idaho. Possession does not include the act of having, releasing or transporting a listed invasive species through circumstances beyond individual control, including but not limited to infestations in a water supply system, infestations resulting from natural spread of the species or some other acts of nature. (3-29-10)

146. State. The state of Idaho. (3-29-10)

157. Transportation. Any and all modes of personal and commercial Conveyance, including but not limited to automobiles, trucks, buses, boats, airplanes, helicopters, and trains. (3-29-10)

18. Trap Crop Invasive Species. A Trap Crop Invasive Species is a non-native plant species planted for purposes of controlling or eradicating a Plant Pest, as defined in the Idaho Plant Pest Act of 2002. ()

169. Water Body. Natural or impounded surface water, including a stream, river, spring, lake, reservoir, pond, wetland, tank and fountain. (3-29-10)

1720. Water Supply System. A system used to treat, store, convey, or distribute water for irrigation, industrial, waste water treatment, residential, or culinary use. A Water Supply System includes a pump, canal, ditch, regulating impoundment, in-canal forebay, pipeline, or associated wetland and water quality improvement project, but does not include a Water Body as defined in Subsection 010.19. (3-29-10)

(BREAK IN CONTINUITY OF SECTIONS)

101. PROHIBITION ON POSSESSION, IMPORTATION, SHIPPING OR TRANSPORTATION OF INVASIVE SPECIES.

No person may possess, cultivate, import, ship, or transport any invasive species, including but not limited to an Energy Crop Invasive Species or Trap Crop Invasive Species, into or through the state of Idaho following the effective date of this rule, unless the person possessing, importing, shipping or transporting has obtained a permit under Section 103, or unless otherwise exempt by this rule, as set forth in Section 104. Prohibited acts include but are not limited to:

~~(3-29-10)~~()

01. Possession or Transportation. Possessing, cultivating, importing, exporting, shipping, or transporting an invasive species into or through the state of Idaho. (3-29-10)

02. Releasing. Releasing, placing, planting, or causing to be released, an invasive species in a water body, facility, water supply system, field, garden, planted area, ecosystem, or otherwise into the environment within the state of Idaho. (3-29-10)

03. Transporting From an Infested Environment. Transporting a conveyance or equipment into or through the state of Idaho that has been in an infested environment without obtaining a Department-approved decontamination of the conveyance or equipment. (3-29-10)

04. Transporting an Infested Article. Transporting, importing or shipping any plant, animal, mode of transportation, conveyance, or article that is infested with an invasive species into or through the state of Idaho without obtaining a Department-approved decontamination of the object. (3-29-10)

(BREAK IN CONTINUITY OF SECTIONS)

103. POSSESSION PERMITS.

Possession of invasive species is authorized only if the person possessing the species obtains a possession permit. ~~Persons who legally possess and transport bullfrogs pursuant to IDAPA 13.01.06 "Classification and Protection of Wildlife" and IDAPA 13.01.11 "Rules Governing Fish" and Idaho Code, Title 36 are exempted from obtaining a possession permit.(3-29-10)()~~

01. Application for Possession Permits. Persons seeking a possession permit must make application on a form prescribed by the Director. A separate application must be submitted for each facility where invasive species will be possessed. The application must include:

(3-29-10)

a. The applicant's name, address (residence and mailing), and Employer or Tax Identification Number. (3-29-10)

b. Description of the proposed facility, including: (3-29-10)

i. A map identifying the location of the proposed facility; (3-29-10)

ii. The legal description of the real property for the proposed facility; (3-29-10)

iii. The approximate total area of the proposed facility; (3-29-10)

iv. A detailed diagram of proposed facility, (3-29-10)

v. A detailed confinement or HACCP Plan if applicable. (3-29-10)

c. Name and address of the owner(s) and/or operator(s) of the proposed facility, if different than the applicant. If the proposed facility will be leased, a written and notarized authorization by the property owner must be included. (3-29-10)

d. A copy of local zoning authority approval, if approval is required by the local zoning authority. (3-29-10)

e. Description of the invasive species to be possessed at the facility, including, to the extent possible, the genus, species, sex, life state, age, identification, and purpose for possessing each species. (3-29-10)

f. The date upon which the proposed facility will be available for inspection by the Department, which must be not less than seven (7) days prior to the time the invasive species are possessed at the proposed facility. (3-29-10)

02. Application Process. The Director will consider all information in the application and issue a written decision granting or denying the application. In reviewing the application, the

Director will consider factors including but not limited to: (3-29-10)

a. Proximity of the facility to agricultural operations, and environmentally sensitive lands and waters. (3-29-10)

b. Potential for access to the facility by unauthorized persons. (3-29-10)

c. Potential for vandalism, adverse weather, or other events that compromise the security of the facility. (3-29-10)

d. Potential for the invasive species to escape or be released from the facility. (3-29-10)

e. Whether, based on the applicant's certification and any other evidence received by the Director in connection with the application or proposed facility, all federal, state, county and city laws applicable to the facility have been met. (3-29-10)

f. Whether the applicant has adequate knowledge, experience and training to ensure that the invasive species will not harm agriculture, the natural resources and environment of the state of Idaho. Such experience may be documented by a log book, employment records, education records or other means by which experience may be authenticated. (3-29-10)

g. Whether the facility is or will be adequately designed, constructed, and managed to protect agriculture, the natural resources and environment of the state of Idaho from escape of the invasive species. (3-29-10)

h. Prior to issuing a possession permit, the Director or his designee may perform an inspection of the facility to determine if its design, construction and proposed operation is consistent with the applicable provisions of Idaho law. (3-29-10)

03. Grant or Denial of the Permit. Following review of the application and any other relevant information, the Director will either issue the possession permit or deny the application and notify the applicant. If the Director issues the permit, he may include any necessary conditions to prevent release or escape of the invasive species, and to prevent harm to Idaho's agriculture, natural resources, and the environment. (3-29-10)

04. Duration of Possession Permit. A possession permit is valid until the permitted person no longer possesses the invasive species, or until the invasive species leaves the state. (3-29-10)

05. Permit Revocation. Permits issued pursuant to this chapter may be revoked at any time if the director or his designee finds that the permit holder has violated any of the provisions of this chapter, the Invasive Species Act, the Plant Pest Act, or any of the conditions included in the permit. (3-29-10)

06. Disposition of Non-Permitted Invasive Species. The Director may order non-permitted or illegally imported invasive species to be removed from the state or destroyed. (3-29-10)

07. Annual Report. All permit holders shall submit a report no later than January 1 of each calendar year, on forms provided by the Department. (3-29-10)

104. EXEMPT SPECIES.

The following species were present in portions of the state of Idaho prior to adoption of these Rules. However, they are not present throughout the state, and in accordance with the policy of the state of Idaho, as expressed in Idaho Code, Section 22-1902, the spread of these species should be prevented to the greatest extent possible. Therefore, the species listed below are exempt from the permit requirements of Sections 102 and 103, above. However, those seeking to transport the species listed in Section 104.01 outside the known established distribution area must obtain a transport permit in accordance with Section 104.03. (3-29-10)

01. Exempt Species List: (3-29-10)

a. New Zealand Mud Snail, *Potamopyrgus antipodarum*; (3-29-10)

b. Bullfrog, *Lithobates catesbeianus*; ()

b.c. Asian Clam, *Corbicula fluminea*. (3-29-10)

02. Location of Known Established Populations. Known established distributions of the New Zealand Mud Snail, Bullfrog, and Asian Clam are identified and mapped online at <http://nas.er.usgs.gov/queries>. (3-29-10)()

03. Transport Permits. Any person seeking to transport one of the species listed in Subsection 104.01 above outside of the known established distribution boundaries delineated in Subsection 104.02, above, must obtain a transport permit that will be valid for one five (5) years. For the purposes of this rule, transport of these exempt species is assumed when biological organisms and associated water from aquaculture facilities and hatcheries is moved from known infested areas in the state. (3-29-10)()

04. Application for Transport Permits. Persons seeking a transport permit must make application on a form prescribed by the Director. A separate application must be submitted for each facility from which invasive species will be transported. The application must include: (3-29-10)

a. The applicant's name, address (residence and mailing), and Employer or Tax Identification Number. (3-29-10)

b. Description of the facility of origin, including: (3-29-10)

i. A map identifying the location of the facility; (3-29-10)

ii. The legal description of the real property for the facility; (3-29-10)

iii. The approximate total area of the facility; (3-29-10)

- iv. A detailed diagram of facility, (3-29-10)
- v. A detailed HACCP Plan if applicable. (3-29-10)
- c. Name and address of the owner(s) and/or operator(s) of the facility, if different than the applicant. If the proposed facility will be leased, a written and notarized authorization by the property owner must be included. (3-29-10)
- d. Description of the invasive species to be transported from the facility, including the genus, species, sex, life state, age, and purpose for transporting the species. (3-29-10)
- e. Description of self-contained areas needing draining or discharges of water during or after the transport of invasive species. (3-29-10)
- f. Description of procedures to drain self contained areas after transport is complete, including: (3-29-10)
 - i. Into a municipal water treatment facility; or (3-29-10)
 - ii. Into an on-site waste treatment facility incorporating sand filtration and chlorination; or (3-29-10)
 - iii. As approved by the Department. (3-29-10)

105. ENERGY CROP POSSESSION/PRODUCTION PERMITS.

Possession and/or production of Energy Crop Invasive Species is authorized only if the person possessing the species obtains an Energy Crop Invasive Species Possession/Production Permit (“Energy Crop Invasive Species Permit”). ()

01. Application for Energy Crop Invasive Species Permits. Persons seeking an Energy Crop Invasive Species Permit must make application on a form prescribed by the Director. A separate application must be submitted for each facility or field where the Energy Crop Invasive Species will be possessed and/or produced. The application must include: ()

- a.** The applicant’s name, address (residence and mailing), and Employer or Tax Identification Number. ()
- b.** Description of the proposed facility, including: ()
 - i.** A map identifying the location of the proposed facility or field; ()
 - ii.** The legal description of the real property for the proposed facility or field; ()
 - iii.** The approximate total area of the proposed facility or field; ()
 - iv.** A detailed diagram of proposed facility or field; ()
 - v.** A detailed confinement plan if applicable; and ()

vi. A detailed plan outlining survey and reconnaissance for escaped Energy Crop Invasive Species and a detailed plan for their control or elimination. ()

c. Name and address of the owner(s) and/or operator(s) of the proposed facility or field, if different than the applicant. If the proposed facility or field will be leased, a written and notarized authorization by the property owner must be included. ()

d. A copy of local zoning authority approval, if approval is required by the local zoning authority. ()

e. Description of the Energy Crop Invasive Species to be possessed at the facility or field, including, to the extent possible, the genus, species, sex, life state, age, identification, and purpose for possessing each species. ()

f. The date upon which the proposed facility or field will be available for inspection by the Department, which must be not less than seven (7) days prior to the time the Energy Crop Invasive Species are possessed at the proposed facility. ()

02. Application Process. The Director will consider all information in the application and issue a written decision granting or denying the application. In reviewing the application, the Director will consider factors including but not limited to: ()

a. Proximity of the facility to other agricultural operations, and environmentally sensitive lands and waters. ()

b. Potential for access to the facility or field by unauthorized persons. ()

c. Potential for vandalism, adverse weather, or other events that compromise the security of the facility or field. ()

d. Potential for the Energy Crop Invasive Species to escape or be released from the facility or field. ()

e. Whether, based on the applicant's certification and any other evidence received by the Director in connection with the application or proposed facility, all federal, state, county and city laws applicable to the facility or field have been met. ()

f. Whether the applicant has adequate knowledge, experience and training to ensure that the Energy Crop Invasive Species will not harm agriculture, the natural resources and environment of the state of Idaho. Such experience may be documented by a log book, employment records, education records or other means by which experience may be authenticated. ()

g. Whether the facility or field is or will be adequately designed, constructed, and managed to protect agriculture, the natural resources and environment of the state of Idaho from release or escape of the Energy Crop Invasive Species. ()

h. Prior to issuing an Energy Crop Invasive Species Permit, the Director or his designee may perform an inspection of the facility or field to determine if its design, construction and proposed operation is consistent with the applicable provisions of Idaho law. ()

03. Grant or Denial of the Permit. Following review of the application and any other relevant information, the Director will either issue the permit or deny the application and notify the applicant. If the Director issues the permit, he may include any necessary conditions to prevent release or escape of the Energy Crop Invasive Species, and to prevent harm to Idaho's agriculture, natural resources, and the environment. ()

04. Duration of Possession Permit. An Energy Crop Invasive Species Permit is valid for one (1) year. ()

05. Permit Revocation. Permits issued pursuant to this section may be revoked at any time if the Director or his designee finds that the permit holder has violated any of the provisions of this chapter, the Invasive Species Act, the Plant Pest Act, or any of the conditions included in the permit. ()

06. Disposition of Non-Permitted Invasive Species. The Director may order non-permitted or illegally imported Energy Crop Invasive Species to be removed from the state or destroyed. ()

07. Annual Report. All permit holders shall submit a report no later than January 1 of each calendar year, on forms provided by the Department. ()

106. TRAP CROP INVASIVE SPECIES PERMITS.

Production/research of Trap Crop Invasive Species is authorized only if the person possessing the species obtains a Trap Crop Production/Research Permit ("Trap Crop Invasive Species Permit"). ()

01. Application for Trap Crop Invasive Species Permits. Persons seeking a Trap Crop Invasive Species Permit must make application on a form prescribed by the Director. A separate application must be submitted for each facility where Trap Crop Invasive Species will be researched or produced. The application must include: ()

a. The applicant's name, address (residence and mailing), and Employer or Tax Identification Number. ()

b. Description of the proposed facility, including: ()

i. A map identifying the location of the proposed facility; ()

ii. The legal description of the real property for the proposed facility; ()

iii. The approximate total area of the proposed facility; ()

iv. A detailed diagram of proposed facility; ()

- v. A detailed confinement plan if applicable; and ()
- vi. A detailed plan outlining survey and reconnaissance for escaped plants and a detailed plan for their control or elimination. ()
- c. Name and address of the owner(s) and/or operator(s) of the proposed facility, if different than the applicant. If the proposed facility will be leased, a written and notarized authorization by the property owner must be included. ()
- d. A copy of local zoning authority approval, if approval is required by the local zoning authority. ()
- e. Description of the Trap Crop Invasive Species to be possessed at the facility, including, to the extent possible, the genus, species, sex, life state, age, identification, and purpose for possessing each species. ()
- f. The date upon which the proposed facility will be available for inspection by the Department, which must be not less than seven (7) days prior to the time the Trap Crop Invasive Species is possessed at the proposed facility. ()
- 02. Application Process.** The Director will consider all information in the application and issue a written decision granting or denying the application. In reviewing the application, the Director will consider factors including but not limited to: ()
- a. Proximity of the facility to agricultural operations, and environmentally sensitive lands and waters. ()
- b. Potential for access to the facility by unauthorized persons. ()
- c. Potential for vandalism, adverse weather, or other events that compromise the security of the facility. ()
- d. Potential for the Trap Crop Invasive Species to escape or be released from the facility. ()
- e. Whether, based on the applicant's certification and any other evidence received by the Director in connection with the application or proposed facility, all federal, state, county and city laws applicable to the facility have been met. ()
- f. Whether the applicant has adequate knowledge, experience and training to ensure that the Trap Crop Invasive Species will not harm agriculture, the natural resources and environment of the state of Idaho. Such experience may be documented by a log book, employment records, education records or other means by which experience may be authenticated. ()
- g. Whether the facility is or will be adequately designed, constructed, and managed to protect agriculture, the natural resources and environment of the state of Idaho from escape of the Trap Crop Invasive Species. ()

h. Prior to issuing a Trap Crop Invasive Species Permit, the Director or his designee may perform an inspection of the facility to determine if its design, construction and proposed operation is consistent with the applicable provisions of Idaho law. ()

03. **Grant or Denial of the Trap Crop Invasive Species Permit.** Following review of the application and any other relevant information, the Director will either issue the Trap Crop Invasive Species Permit or deny the application and notify the applicant. If the Director issues the Trap Crop Invasive Species Permit, he may include any necessary conditions to prevent release or escape of the Trap Crop Invasive Species, and to prevent harm to Idaho's agriculture, natural resources, and the environment. ()

04. **Duration of Trap Crop Invasive Species Permit.** A Trap Crop Invasive Species Permit is valid for one (1) year. ()

05. **Permit Revocation.** Permits issued pursuant to this section may be revoked at any time if the Director or his designee finds that the permit holder has violated any of the provisions of this chapter, the Invasive Species Act, the Plant Pest Act, or any of the conditions included in the permit. ()

06. **Disposition of Non-Permitted Invasive Species.** The Director may order non-permitted or illegally imported Trap Crop Invasive Species to be removed from the state or destroyed. ()

07. **Annual Report.** All permit holders shall submit a report no later than January 1 of each calendar year, on forms provided by the Department. ()

~~1057.~~ -- 199. (RESERVED)

(BREAK IN CONTINUITY OF SECTIONS)

806. INVASIVE SPECIES - INSECTS.

- | | | |
|-----|--|-----------|
| 01. | Asian Longhorned Beetle, <i>Anoplophora glabripennis</i> . | (3-29-10) |
| 02. | Citrus Longhorned Beetle, <i>Anoplophora chinensis</i> . | (3-29-10) |
| 03. | Emerald Ash Borer, <i>Agilus planipennis</i> . | (3-29-10) |
| 04. | Marmorated Stink Bug, <i>Halyomorpha halys</i> . | (3-29-10) |
| 05. | European Woodwasp, <i>Sirex noctilio</i> . | (3-29-10) |
| 06. | European Gypsy Moth, <i>Lymantria dispar</i> . | (3-29-10) |

07. Asian Gypsy Moth, *Lymantria dispar*. (3-29-10)
08. Soybean Aphid, *Aphis glycines*. (3-29-10)
09. Potato Tuber Moth, *Tecia solanivora*. (3-29-10)
10. Japanese Beetle, *Popillia japonica*. (~~3-29-10~~)()
11. Mexican Bean Beetle, *Epilachna varivestis*. (3-29-10)
12. Kaphra beetle, *Trogoderma granarium*. (3-29-10)
13. Red Imported Fire Ant, *Solenopsis invicta*. (3-29-10)
14. Glassy-winged Sharpshooter, *Homalodisca ~~coagulata~~ vitripennis*. (~~3-29-10~~)()
15. Grape Phylloxera, *Daktulosphaira vitifoliae*. (3-29-10)
16. Vine Mealybug, *Planococcus ficus*. (3-29-10)
17. Summer Fruit Tortix, *Adoxophyes orana*. (3-29-10)
18. Silver Y Moth, *Auto~~grapha~~ gamma*. (~~3-29-10~~)()
19. False Codling Moth, *Cry~~ptophlebia~~ leucotreta*. (~~3-29-10~~)()
20. Light Brown Apple Moth, *Epiphyas postvittana*. (3-29-10)
21. Apple Tortrix, *Archips fuscocupreanus*. (3-29-10)
22. Pine Shoot Beetle, *Tomicus piniperda*. (3-29-10)
23. Cherry Bark Tortrix, *Enarmonia formosana*. (3-29-10)
24. Apple Ermine Moth, *Ypo~~mon~~~~meuta~~ malinellus*. (~~3-29-10~~)()
25. Cherry Ermine Moth, *Enarmonia formosana*. (3-29-10)
26. European Grape Vine Moth, *Lobesia botrana*. (3-29-10)
27. European Grape Berry Moth, *Eupoecilia ambiguella*. (3-29-10)
28. Plum Fruit Moth, *Cydia funebrana*. (3-29-10)
29. Plum Curculio, *Conotrachelus nenuphar*. (3-29-10)
30. Leek Moth, *Acrolepiopsis assectella*. (3-29-10)

31. Bee Mite, *Tropilaelaps clareae*. (~~3-29-10~~)()
32. Small Hive Beetle, *Aethina tumida*. (3-29-10)
33. Africanized Honey Bee, *Apis mellifera*. (3-29-10)
34. Black Currant Gall Mite, *Cecidophyopsis ribis*. (3-29-10)
35. Exotic Bark Beetles, (Scolytidae): (3-29-10)
- a. *Scolytus mali*. (3-29-10)
- b. *Xylosandrus crassiusculus*. (3-29-10)
- c. *Xylosandrus germanus*. (3-29-10)
- d. *Xyleborus californicus*. (3-29-10)
36. Sunni Bug, *Eurygaster integriceps*. (~~3-29-10~~)()
37. German Yellowjacket, *Vespula germanica*. (3-29-10)
38. European Paper Wasp, *Polistes dominulus*. (3-29-10)
39. European Elm Bark Beetle, *Scolytus multistriatus*. (3-29-10)
40. Banded Elm Bark Beetle, *Scolytus schevyrewi*. (3-29-10)
41. Wheat Blossom Midge, *Sitodiplosis mosellana*. (3-29-10)
42. Potato Tuberworm, *Phthorimeaea operculella*. (3-29-10)
43. Pink Hibiscus Mealybug, *Maconellicoccus hirsutus*. (~~3-29-10~~)()
- 44. Bean Plataspid (Kudzu Bug), *Megacopta cribraria*. ()**
807. INVASIVE SPECIES - PLANT PATHOGENS AND PARASITIC NEMATODES.
01. ~~Sudden Oak Death (Ramorum blight)~~ **Phytophthora blight (nursery stock),**
Phytophthora ramorum, *Phytophthora kernoviae*. (~~3-29-10~~)()
02. Karnal Bunt, *Tilletia indica*. (3-29-10)
- ~~03. Bean Common Mosaic Virus, (strain US-6). (~~3-29-10~~)~~
- 043. Bean Common Mosaic Necrosis Virus (strain NL-3 and NL-5). (3-29-10)**

- ~~054.~~ Potato Wart, *Synchytrium endobioticum*. (3-29-10)
- ~~065.~~ Golden Nematode, *Globodera rostochiensis*. (3-29-10)
- ~~076.~~ Soybean Cyst Nematode, *Heterodera glycines*. (3-29-10)
- ~~087.~~ Bacterial Wilt of Alfalfa, *Clavibacter michiganensis* spp. *insidiosus*. (3-29-10)
- ~~098.~~ Wheat Seed Gall Nematode, *Anguina tritici*. (3-29-10)
- ~~109.~~ Pine Wilt Nematode, *Bursaphelenchus xylophilus*. (3-29-10)
- ~~110.~~ Brown Rot of Potatoes, *Ralstonia solanacearum*, race 3, biovar 2 (alternate hosts include tomato, pepper, eggplant, and some greenhouse plants including geranium). (3-29-10)
- ~~121.~~ Java Downy Mildew of Corn, *Peronosclerospora maydis*. (3-29-10)
- ~~132.~~ Philippine Downy Mildew of Corn, *Peronosclerospora philipinensis*. (3-29-10)
- ~~143.~~ Asian Soybean Rust, *Phakospora pachyrhizi*. (3-29-10)
- ~~154.~~ Plum Pox Potyvirus. (3-29-10)
- ~~165.~~ Cherry Leaf Roll Virus. (3-29-10)
- ~~176.~~ Stewart's Wilt of Corn, *Pantoea stewartii*. (3-29-10)
- ~~187.~~ Brown Stripe Downy Mildew of Corn, *Sclerophthora rayssiae* var. *zeae*. (3-29-10)
- ~~198.~~ Potato Spindle Tuber Viroid. (3-29-10)
- ~~2019.~~ Pierce's Disease of Grapes, *Xylella fastidiosa*. (3-29-10)
- ~~210.~~ Black Currant Reversion Disease. (3-29-10)
- ~~221.~~ Powdery Mildew of Hops, *Sphaerotheca macularis* (s. *humuli*). (3-29-10)
- ~~23.~~ ~~Bacterial Brown Spot of Beans, *Pseudomonas syringae* pv *syringae*.~~ (3-29-10)
- ~~242.~~ Wheat Smut, *Tilletia tritici*. (3-29-10)
- ~~253.~~ Wheat Scab, *Fusarium graminearum*. (3-29-10)()
- ~~264.~~ Potato Ring Rot, ~~*Corynebacterium sepedonicum*~~ *Clavibacter michiganensis* subsp. *sepidonicus*. (3-29-10)()

- ~~275.~~ Potato Late Blight, *Phytophthora infestans*. (3-29-10)
- ~~286.~~ Onion White ~~F~~Rot, *Sclerotium cepivorum*. (~~3-29-10~~)()
- ~~29.~~ ~~Sugar Beet Rhizomania (beet necrotic yellow vein virus (BNYVV) and transmitted by the soil fungus Polymyxa betae).~~ (~~3-29-10~~)
- ~~30~~27. White Pine Blister Rust, *Cronartium ribicola*. (3-29-10)
- ~~31.~~ ~~Cereal Cyst Nematode, Heterodera avenae.~~ (~~3-29-10~~)
- ~~32.~~ ~~Columbia Root Knot Nematode, Meloidogyne chitwoodi.~~ (~~3-29-10~~)
- ~~33.~~ ~~Onion Stem and Bulb Nematode, Ditylenchus dipsaci (onion race).~~ (~~3-29-10~~)
- ~~34.~~ ~~Iris Yellow Spot Virus IYSV of onions.~~ (~~3-29-10~~)
- ~~35~~28. Potato Mop Top Virus, PMTV. (3-29-10)
- ~~36~~29. Black Stem Rust, *Puccinia graminis f.sp. tritici Race UG99*. (~~3-29-10~~)()
30. Apple proliferation phytoplasma, Candidatus Phytoplasma mali. ()

(BREAK IN CONTINUITY OF SECTIONS)

809. INVASIVE SPECIES: INVASIVE PLANTS: ENERGY CROPS.

01. Giant Reed, *Arundo donax* (and hybrids). ()
02. Switch Grass, *Panicum virgatum* (and hybrids). ()
03. Kudzu, *Pueraria montana* (and hybrids). ()
04. Chinese Silver Grass, *Miscanthus giganteus* (and hybrids). ()
05. Purging Nut, *Jatropha curcus* (and hybrids). ()
06. Cold tolerant Eucalyptis (and hybrids). ()

810. INVASIVE SPECIES: INVASIVE PLANTS: TRAP CROPS.

01. Litchi Tomato, *Solanum sisymbriifolium* (and hybrids) otherwise known as Sticky nightshade or Fire and Ice. ()
02. Black nightshade, *Solanum nigrus* (and hybrids). ()

~~800~~11. -- 999. (RESERVED)

IDAPA 02 - DEPARTMENT OF AGRICULTURE

02.06.12 - RULES PERTAINING TO THE IDAHO FERTILIZER LAW

DOCKET NO. 02-0612-1301

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2014 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, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified 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 Section 22-604, Idaho Code.

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

To incorporate by reference information and updates contained in the 2014 Official Publication of the Association of American Plant Food Control Officials (AAPFCO) as they pertain to the methodology and practice of conducting regulatory fertilizer registration and label review. The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the June 5, 2013 Idaho Administrative Bulletin, [Vol. 13-6, pages 22 and 23](#).

IDAHO CODE SECTION 22-101A STATEMENT: This rule does regulate an activity not already regulated by the federal government, because the federal government does not regulate commercial fertilizers. The rule is, however, consistent with national standards by the Association of American Plant Food Control Officials.

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: ISDA does not anticipate any fiscal impact from the changes to be made to the Rule as a result of this rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Kathryn Mink, Agriculture Section Manager at (208) 332-8564.

DATED this 2nd day of August, 2013.

Brian J. Oakey, Deputy Director
Idaho State Dept. of Agriculture
Phone: (208) 332-8500
Fax: (208) 334-2170

2270 Old Penitentiary Rd.
P.O. Box 790
Boise, Idaho 83701

THE FOLLOWING NOTICE WAS PUBLISHED WITH THE 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 22-604, 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 June 19, 2013.

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:

To incorporate by reference information and updates contained in the 2014 Official Publication of the Association of American Plant Food Control Officials (AAPFCO) as they pertain to the methodology and practice of conducting regulatory fertilizer registration and label review.

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

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 from the changes to be made to the Rule during this rulemaking.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because of the simple nature of the proposed amendments.

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

The Association of American Plant Food Control Officials (AAPFCO) Official Publication and the Official Methods of Analysis (OMA) published by the Association of Official Agricultural Chemists (AOAC) International are the recognized and primary reference books of approved fertilizer terms, ingredient definitions and policies used by the fertilizer industry and all

state and federal fertilizer control officials and regulators.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Kathryn Mink, Agriculture Section Manager at (208) 332-8564.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be delivered on or before June 26, 2013.

LSO Rules Analysis Memo

DATED this 17th day of May, 2013.

THE FOLLOWING IS THE TEXT OF DOCKET NO. 02-0612-1301

004. INCORPORATION BY REFERENCE.

Copies of these documents may be viewed at the Idaho State Department of Agriculture, 2270 Old Penitentiary Road, PO Box 790, Boise, Idaho 83701. IDAPA 02.06.12 incorporates by reference: (4-7-11)

01. The Association of American Plant Food Control Officials (AAPFCO) Official Publication. The Terms, Ingredient Definitions, and Policies, as published in the “2013~~34~~ Official Publication” of AAPFCO where those terms and ingredient definitions, and policy statements do not conflict with terms and ingredient definitions, and policy statements adopted under Title 22, Chapter 6, Idaho Code, and any rule promulgated thereunder. The AAPFCO Official Publication is a copyrighted publication and not available in electronic format. A copy may be purchased online from the AAPFCO website at: http://www.aapfco.org/pdf/publication_order_form.pdf. (~~4-4-13~~)()

02. The Merck Index. The “2006 Merck Index,” 14th Edition as published by Merck Research Laboratories Division of Merck & Co., Incorporated. The Merck Index is a copyrighted publication and not available in an electronic format. A copy may be purchased online from Merck & Co., Inc. at: <http://www.merckbooks.com/mindex/index.html>. (4-7-11)

03. The Association of Official Agricultural Chemists (AOAC) International. The “2005 Official Methods of Analysis (OMA) of the AOAC,” 18th Edition, a copyrighted publication, is maintained and published by the AOAC International. The AOAC OMA is available in electronic format at: www.EOMA.AOAC.org. A copy may be purchased online from AOAC International. (3-29-12)

IDAPA 02 - IDAHO STATE DEPARTMENT OF AGRICULTURE
02.06.13 - RULES RELATING TO RAPESEED PRODUCTION
AND ESTABLISHMENT OF RAPESEED DISTRICTS IN THE STATE OF IDAHO

DOCKET NO. 02-0613-1301

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2014 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, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified 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. This negotiated rulemaking action is authorized pursuant to Section 22-108, 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:

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule published in the September 4, 2013 Idaho Administrative Bulletin, [Vol. 13-9, pages 41 through 43](#).

IDAHO CODE SECTION 22-101A STATEMENT: This rule does regulate an activity not already regulated by the federal government, because the federal government does not regulate Idaho based rapeseed growing districts or the growing and production of edible and industrial rapeseed in Idaho.

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:
N/A

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Michael E. Cooper, Bureau Chief at (208) 332-8620.

DATED this 4th day October, 2013.

Brian J. Oakey
Deputy Director
Idaho State Dept. of Agriculture
2270 Old Penitentiary Road
P.O. Box 790

Boise, Idaho 83701
Phone: (208) 334-8500
Fax: (208) 334-2170

THE FOLLOWING NOTICE WAS PUBLISHED WITH THE 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 22-108, 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 September 18, 2013.

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:

These rule changes result from an Oilseed Commission meeting on March 21, 2013. The proposed changes would consolidate the various growing districts in the current rule to reflect the current status and practice of growing edible and industrial rapeseed in Idaho.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: None.

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: N/A

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the July 3, 2013, Idaho Administrative Bulletin, [Vol. 13-7, page 25](#). Negotiated Rulemaking was held on July 22 and 25, 2013 in Boise and Lewiston, Idaho.

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 Michael E. Cooper, Bureau Chief Phone (208) 332-8620.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to Michael Cooper and must be delivered on or before September 25, 2013. Comments can be delivered via email to mike.cooper@agri.idaho.gov or via regular mail to Michael Cooper's attention at the address listed below.

DATED this 2nd day of August, 2013.

LSO Rules Analysis Memo

THE FOLLOWING IS THE TEXT OF DOCKET NO. 02-0613-1301

050. PRODUCTION DISTRICTS.

01. **District I.** All land ~~south of the Canadian border and north of U.S. Interstate 90 in Idaho not listed under District II in Subsection 050.02 of this rule.~~ (7-1-93)()

~~**02.** **District II.** All land south of U.S. Interstate 90 and north of the Clearwater River. (7-1-93)~~

~~**03.** **District III.** All land south of the Clearwater River and north of the Salmon River. (7-1-93)~~

042. **District IV~~I~~.** All land within the boundaries of Ada, Canyon, Gem, Owyhee (north of Murphy) and Payette counties. (9-1-94)()

~~**05.** **District V.** All land within the boundaries of Elmore, Owyhee (south of Murphy), and Washington counties. (9-1-94)~~

~~**06.** **District VI.** All land within the boundaries of Blaine, Camas, Cassia, Gooding, Jerome, Lincoln, Minidoka and Twin Falls counties. (9-1-94)~~

~~**07.** **District VII.** All land within the boundaries of Bannock, Bear Lake, Bingham, Bonneville, Caribou, Clark, Franklin, Fremont, Jefferson, Madison, Oneida, Power and Teton counties. (9-1-94)~~

051. -- 099. (RESERVED)

100. RESTRICTIONS.

01. **Districts I, ~~V, VI, and VII.~~** Except as otherwise provided in this rule, only industrial and edible types of rapeseed may be planted in Districts I, ~~V, VI, and VII.~~(9-1-94)()

02. ~~District II, III, and IV.~~ Except as otherwise provided in this rule, *only industrial types of rapeseed may be planted in District II and III, and* no rapeseed of either variety may be planted in District IV~~I~~. (7-1-93)()

03. ~~Exemptions~~ **Restrictions:** (7-1-93)()

a. Industrial types of rapeseed *may be* planted in Districts I, ~~V, VI, and VII~~ under **must adhere to** these **following** conditions: (9-1-94)()

i. It is the responsibility of the person planting industrial types of rapeseed in District I, ~~V, and VI~~ to consult with and obtain the written approval from all farmers bordering the fields to be planted with industrial types of rapeseed. (7-1-93)()

ii. Industrial types of rapeseed planted in District I, ~~V, VI, and VII~~ must be at least one (1) mile from a field planted to edible types of rapeseed. (9-1-94)()

~~b. Spring edible types of rapeseed may be planted in Districts II and III, and winter edible types of rapeseed may be planted in District III. Planting of spring and winter edible types of rapeseed are subject to the following conditions:~~ (3-20-97)

~~i. It is the responsibility of the person planting spring or winter edible types of rapeseed in Districts II and III to consult with and obtain the written approval from all farmers bordering the fields to be planted with the spring or winter edible type of rapeseed.~~ (3-20-97)

~~ii. Spring or winter edible types of rapeseed planted in Districts II and III must be at least one (1) mile from a field planted to industrial types of rapeseed.~~ (3-20-97)

~~e. This amendment to Subsections 100.03.b.i. and 100.03.b.ii. is reasonably necessary to confer benefits to the rapeseed/canola industry. The proposed rule change was requested by farmers in Idaho and Lewis counties. The proposed rule change will enable the farmers to plant the winter edible type of rapeseed.~~ (3-20-97)

IDAPA 02 - DEPARTMENT OF AGRICULTURE

02.06.22 - NOXIOUS WEED RULES

DOCKET NO. 02-0622-1301

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2014 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, rejected, amended or modified by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified 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 67-5221(1), Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 22-2403, 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:

This rulemaking amends Subsection 100.01, Statewide EDRR Noxious Weed List, adding one species: Water Hyacinth, *Eichhornia crassipes*. It also removes Subsection 100.04, Statewide Monitor List, from rule.

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the August 7, 2013 Idaho Administrative Bulletin, [Vol. 13-8, pages 29 through 33](#).

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 the 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 as a result of this rulemaking: ISDA does not anticipate any fiscal impact from the changes to be made to the Rule during the rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Matt Voile, Section Manger, (208) 332-8620.

DATED this 28th day of August, 2013.

Brian J. Oakey
Deputy Director
Idaho State Department of Agriculture

2270 Old Penitentiary Rd
P.O. Box 790
Boise, Idaho 83701
Phone: (208) 332-8500
Fax: (208) 334-2170

THE FOLLOWING NOTICE WAS PUBLISHED WITH THE PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 22-2403, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than August 21, 2013.

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:

Amend Section 100.01, Statewide EDRR Noxious Weed List, to add one species: Water Hyacinth, *Eichhornia crassipes*.

Remove Section 100.04, Statewide Monitor List, from the Rules Governing Noxious Weeds.

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

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: N/A

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 June 5, 2013, Idaho Administrative Bulletin, **Vol. 13-6, Page 24**. Negotiated rulemaking meetings were held at the Idaho State Department of Agriculture on June 12 and 26, 2013; there were no visitors in attendance at the meeting, nor were any comments received.

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 Matt Voile, Section Manager, (208) 332-8620.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to Matt Voile and must be delivered on or before August 28, 2013. Comments can be delivered via email to matt.voile@agri.idaho.gov or via regular mail to Matt Voile's attention at the address listed below.

DATED this 3rd day of July, 2013

LSO Rules Analysis Memo

THE FOLLOWING IS THE TEXT OF DOCKET NO. 02-0622-1301

100. NOXIOUS WEEDS - DESIGNATIONS.

The weeds listed on the Statewide EDRR, Containment, and Control lists- are hereby officially designated and published as noxious. (3-30-07)

01. Statewide EDRR Noxious Weed List.

Common Name	Scientific Name
1. Brazilian Elodea	1. <i>Egeria densa</i>
2. Common/European Frogbit	2. <i>Hydrcharis morsus-ranae</i>
3. Fanwort	3. <i>Cobomba caroliniana</i>
4. Feathered Mosquito Fern	4. <i>Azolla pinnata</i>
5. Giant Hogweed	5. <i>Heracleum mantegazzianum</i>
6. Giant Salvinia	6. <i>Salvinia molesta</i>
7. Hydrilla	7. <i>Hydrilla verticillata</i>
8. Policeman's Helmet	8. <i>Impatiens glandulifera</i>
9. Squarrose Knapweed	9. <i>Centaurea triumfetti</i>
10. Syrian Beancaper	10. <i>Zygophyllum fabago</i>
11. Tall Hawkweed	11. <i>Hieracium piloselloides</i>
12. Variable-Leaf-Milfoil	12. <i>Myriophyllum heterophyllum</i>
13. Water Chestnut	13. <i>Trapa natans</i>
14. <u>Water Hyacinth</u>	14. <u>Eichhornia crassipes</u>

Common Name		Scientific Name	
145.	Yellow Devil Hawkweed	145.	<i>Hieracium glomeratum</i>
156.	Yellow Floating Heart	156.	<i>Nymphoides pelata</i>

If any of the above listed plants (Subsection 100.01) are found to occur in Idaho, they shall be reported to the Department within ten (10) days following positive identification by the University of Idaho or other qualified authority as approved by the Director. These weeds shall be eradicated during the same growing season as identified. (3-29-10)()

02. Statewide Control Noxious Weed List.

Common Name		Scientific Name	
1.	Black Henbane	1.	<i>Hyoscyamus niger</i>
2.	Bohemian Knotweed	2.	<i>Polygonum X bohemicum</i>
3.	Buffalobur	3.	<i>Solanum rostratum</i>
4.	Common Crupina	4.	<i>Crupina vulgaris</i>
5.	Common Reed (Phragmites)	5.	<i>Phragmites australis</i>
6.	Dyer's Woad	6.	<i>Isatis tinctoria</i>
7.	Eurasian Watermilfoil	7.	<i>Myriophyllum spicatum</i>
8.	Giant Knotweed	8.	<i>Polygonum sachalinense</i>
9.	Japanese Knotweed	9.	<i>Polygonum cuspidatum</i>
10.	Johnsongrass	10.	<i>Sorghum halepense</i>
11.	Matgrass	11.	<i>Nardus stricta</i>
12.	Meadow Knapweed	12.	<i>Centaurea debeauxii</i>
13.	Mediterranean Sage	13.	<i>Salvia aethiopsis</i>
14.	Musk Thistle	14.	<i>Carduus nutans</i>
15.	Orange Hawkweed	15.	<i>Hieracium aurantiacum</i>
16.	Parrotfeather Milfoil	16.	<i>Myriophyllum aquaticum</i>
17.	Perennial Sowthistle	17.	<i>Sonchus arvensis</i>
18.	Russian Knapweed	18.	<i>Acroptilon repens</i>
19.	Scotch Broom	19.	<i>Cytisus scoparius</i>
20.	Small Bugloss	20.	<i>Anchusa arvensis</i>
21.	Vipers Bugloss	21.	<i>Echium vulgare</i>
22.	Yellow Hawkweed	22.	<i>Hieracium caespitosum</i>

Weeds listed in the control list are known to exist in varying populations throughout the state. The concentration of these weeds is at a level where control and/or eradication may be possible. A written plan for weeds on the Statewide Control Noxious Weed List shall be developed by the control authority that specifies active control methods to reduce known populations in not more

than five (5) years. The plan shall be available to the Department upon request. (3-29-10)

03. Statewide Containment Noxious Weed List.

Common Name		Scientific Name	
1.	Canada Thistle	1.	<i>Cirsium arvense</i>
2.	Curlyleaf Pondweed	2.	<i>Potamogeton crispus</i>
3.	Dalmatian Toadflax	3.	<i>Linaria dalmatica ssp. dalmatica</i>
4.	Diffuse Knapweed	4.	<i>Centaurea diffusa</i>
5.	Field Bindweed	5.	<i>Convolvulus arvensis</i>
6.	Flowering Rush	6.	<i>Butomus umbellatus</i>
7.	Hoary Alyssum	7.	<i>Berteroa incana</i>
8.	Houndstongue	8.	<i>Cynoglossum officinale</i>
9.	Jointed Goatgrass	9.	<i>Aegilops cylindrica</i>
10.	Leafy Spurge	10.	<i>Euphorbia esula</i>
11.	Milium	11.	<i>Milium vernale</i>
12.	Oxeye Daisy	12.	<i>Leucanthemum vulgare</i>
13.	Perennial Pepperweed	13.	<i>Lepidium latifolium</i>
14.	Plumeless Thistle	14.	<i>Carduus acanthoides</i>
15.	Poison Hemlock	15.	<i>Conium maculatum</i>
16.	Puncturevine	16.	<i>Tribulus terrestris</i>
17.	Purple Loosestrife	17.	<i>Lythrum salicaria</i>
18.	Rush Skeletonweed	18.	<i>Chondrilla juncea</i>
19.	Saltcedar	19.	<i>Tamarix sp.</i>
20.	Scotch Thistle	20.	<i>Onopordum acanthium</i>
21.	Spotted Knapweed	21.	<i>Centaurea stoebe</i>
22.	Tansy Ragwort	22.	<i>Senecio jacobaea</i>
23.	White Bryony	23.	<i>Bryonia alba</i>
24.	Whitetop (Hoary Cress)	24.	<i>Cardaria draba</i>
25.	Yellow Flag Iris	25.	<i>Iris pseudocorus</i>
26.	Yellow Starthistle	26.	<i>Centaurea solstitialis</i>
27.	Yellow Toadflax	27.	<i>Linaria vulgaris</i>

Weeds listed in the containment noxious weeds list are known to exist in various populations throughout the state. Weed control efforts may be directed at reducing or eliminating new or expanding weed populations while known and established weed populations, as determined by the weed control authority, may be managed by any approved weed control methodology, as determined by the weed control authority. (3-29-10)

~~04. Statewide Monitor List.~~

Common Name	Scientific Name
4. Water Hyacinth	4. Echorinia crassipes

~~(3-29-10)~~

~~a. Plants listed on the statewide monitor list are not designated as noxious weeds. The Department will investigate plants listed on the statewide monitor list to determine if the plant should be designated as a noxious weed. Plants may be placed on the statewide monitor list for any of the following criteria: (3-29-10)~~

~~i. There is reason to believe this species is invasive or poses a potential threat to Idaho due to damage caused by the species in other states or biological conditions which may allow the escape and survival of this species in Idaho. (3-29-10)~~

~~ii. The species exists in an adjacent state or province. (3-29-10)~~

~~iii. The species is on an adjacent state or province's noxious weed list. (3-29-10)~~

~~iv. Additional information about the species is needed on distribution, abundance or biology. (3-29-10)~~

~~v. There is a need to verify the presence of escaped species in Idaho, verify identification and/or obtain voucher specimen. (3-29-10)~~

~~vi. The species is currently available in the state through the nursery, pet, or ornamental seed/plant industry but may be closely related to current noxious/invasive species or suspected of being able to spread outside of intended sites and become escaped species. (3-29-10)~~

~~b. Native species of the state or region will not be included on the monitor list. (3-29-10)~~

054. Designation of Articles Capable of Disseminating Noxious Weeds. The following articles are designated by the Director as capable of disseminating noxious weeds: (7-1-93)

a. Construction equipment, road building and maintenance equipment, and implements of husbandry. (3-30-07)

b. Motorized vehicles such as, all-terrain vehicles, motorcycles, and other off-road vehicles and non-motorized vehicles such as bicycles and trailers. (3-30-07)

c. Grain and seed. (7-1-93)

d. Hay, straw and other material of similar nature. (7-1-93)

- e.** Nursery stock including plant material propagated for the support of aquarium, pet, or horticultural activities. (3-30-07)
- f.** Feed and seed screenings. (7-1-93)
- g.** Fence posts, fencing and railroad ties. (7-1-93)
- h.** Sod. (7-1-93)
- i.** Manure, fertilizers and material of similar nature. (7-1-93)
- j.** Soil, sand, mulch, and gravel. (3-30-07)
- k.** Boats, personal watercraft, watercraft trailers, and items of a similar nature. (3-30-07)

IDAPA 02 - DEPARTMENT OF AGRICULTURE

02.06.23 - RULES GOVERNING NOXIOUS WEED FREE GRAVEL AND ROCK PRODUCTS

DOCKET NO. 02-0623-1301 (NEW CHAPTER)

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2014 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, rejected, amended or modified by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified 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 67-5221(1), Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 22-2403 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 new rule will provide for inspection and certification of gravel and rock products as noxious weed free.

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the August 7, 2013 Idaho Administrative Bulletin, [Vol. 13-8, pages 34 through 41](#).

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 the 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 as a result of this rulemaking: ISDA does not anticipate any fiscal impact from the changes to be made to the Rule during the rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Matt Voile, Section Manger, (208) 332-8620.

DATED this 28th day of August, 2013.

Brian J. Oakey
Deputy Director
Idaho State Department of Agriculture

2270 Old Penitentiary Rd
P.O. Box 790
Boise, Idaho 83701
Phone: (208) 332-8500
Fax: (208) 334-2170

THE FOLLOWING NOTICE WAS PUBLISHED WITH THE PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 22-2403, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than August 21, 2013.

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 new rule will provide for inspection and certification of gravel as noxious weed free.

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

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: N/A

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 June 5, 2013 Idaho Administrative Bulletin, [Vol. 13-6, Page 25](#). Negotiated rulemaking meetings were held at the Idaho State Department of Agriculture on June 12 and June 26, 2013; there were no visitors in attendance at the meeting, nor were any comments received.

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 Matt Voile, Section Manager, (208) 332-8620.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to Matt Voile and must be delivered on or before August 28, 2013. Comments can be delivered via email to matt.voile@agri.idaho.gov or via regular mail to Matt Voile's attention at the address listed below.

DATED this 5th day of July, 2013.

LSO Rules Analysis Memo

THE FOLLOWING IS THE TEXT OF DOCKET NO. 02-0623-1301

IDAPA 02
TITLE 06
CHAPTER 23

**02.06.22 - RULES GOVERNING NOXIOUS WEED FREE GRAVEL
AND ROCK PRODUCTS**

000. LEGAL AUTHORITY.

This chapter is adopted under the legal authority of Sections 22-101(3), 22-2403, Idaho Code.

()

001. TITLE AND SCOPE.

01. Title. The title of this chapter is the "Rules Governing Noxious Weed Free Gravel and Rock Products."

()

02. Scope. These rules shall govern the inspection and certification of noxious weed free gravel and rock products to allow for the transportation and use of gravel and rock products in Idaho and states where regulations and restrictions are placed on such commodities. The official citation of this chapter is IDAPA 02.06.23.000 et seq. For example, the citation for this section is IDAPA 02.06.23.001.

()

002. WRITTEN INTERPRETATIONS.

There are no written interpretations of these rules.

()

003. ADMINISTRATIVE APPEALS.

There is no provision for administrative appeals before the Department of Agriculture under this chapter. ()

004. INCORPORATION BY REFERENCE.

There are no documents incorporated by reference in this chapter. ()

005. OFFICE -- OFFICE HOURS -- MAILING ADDRESS AND STREET ADDRESS.

01. 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. ()

02. Mailing Address. The mailing address for the central office is Idaho State Department of Agriculture, P.O. Box 790, Boise, Idaho 83701. ()

03. Street Address. The central office is located at 2270 Old Penitentiary Road, Boise, Idaho 83712. ()

006. PUBLIC RECORDS.

The records associated with this chapter are subject to Title 9, Chapter 3, Idaho Code. ()

007. -- 009. (RESERVED)

010. DEFINITIONS.

The definitions found in Section 22-2402, Idaho Code, apply to this chapter. In addition, as used in this chapter: ()

01. Agent. Any instrumentality or entity authorized by the Director of the Department, and acting on behalf of the Department, to administer the provisions of this rule. Any designated agent shall act in an official capacity for the Department and under the supervision of the Director of the Department. The principal purpose of the agent is to establish, conduct, and maintain a uniform and reasonable system of inspection and certification of gravel and rock products to determine if such products are noxious weed free. ()

02. Approved Inspector. An individual who has been accredited by the Department or by the Department's agent in the noxious weed free gravel and rock products certification program. ()

03. Certificate of Inspection. A record of inspection issued by an approved inspector that states the results of a Pit/Pile/Lot inspection. ()

04. Certification. The process whereby an approved inspector conducts pit or pile inspections to determine that the pit or pile is noxious weed free. ()

05. Department. The Idaho State Department of Agriculture. ()

06. Gravel. Unconsolidated rock fragments that have a general [particle](#) size range and include size classes from granule to [boulder-sized](#) fragments. ()

- 07. Pile.** A stockpile of crushed or processed rock. ()
- 08. Pit.** A natural or artificial hole or cavity in the ground. An excavation for the removal of mineral deposits. ()
- 09. Pit/Pile/Lot Certification Inspection.** An on-site inspection of gravel or rock products in the Pits, Piles or Lots and adjacent areas for the presence of noxious weeds. ()
- 10. Idaho State Noxious Weed Free.** Gravel and rock products inspected for weeds designated by the Director as noxious as defined in Section 22-2402(15), Idaho Code, and determined to be free of such weeds. ()
- 11. Lot.** A pile of gravel or rock product having specific quantity and or boundaries. ()
- 12. North American Noxious Weed Free.** Gravel and rock products inspected for and determined to be free of weeds designated as noxious by the Director as defined in Section 22-2402(15), Idaho Code, and noxious weeds listed on the North American Weed List. ()
- 13. North American Weed Free Gravel Certification Program.** The North American Weed Management Association standard for gravel and rock products certification. ()
- 14. Noxious Weed Free.** No noxious weeds with viable seed, injurious portions, or propagating parts were found during inspection procedures. ()
- 15. Rock Products.** Byproducts of measured sizes of gravel crushed from blasted or dug rock, such as sand, chips, fines or other terms exclusive of topsoil or overburden. ()
- 16. Transit Certificate.** A document completed by an approved inspector to certify products proposed for movement as certified noxious weed free into states that require noxious weed free gravel and rock products certification. The transit certificate must be in the possession of the transporter. ()

011. ABBREVIATIONS.

- 01. ISDA.** The Idaho State Department of Agriculture. ()
- 02. NAWMA.** North American Weed Management Association. ()
- 03. NWFGRP.** Noxious Weed Free Gravel and Rock Products. ()

012. -- 099. (RESERVED)

100. VOLUNTARY NOXIOUS WEED FREE GRAVEL AND ROCK PRODUCTS CERTIFICATION PROGRAM.

01. Purpose. The noxious weed free gravel and rock products certification program is a voluntary program, the purpose of which is to provide a means for the inspection and certification of gravel and rock products as noxious weed free. The program will be managed by the Department and may be implemented through an agent of the Department. The program will allow for the preparation of a transit certificate for the purpose of interstate transport or shipping of gravel and rock products into and through states which place regulations and restrictions on such products. The program is intended to reduce the exportation, importation, growth, and spread of noxious weeds. ()

02. Certifying Authority. The Department or its agent is the certifying authority. The certifying authority shall appoint, as needed, approved inspectors throughout the state, who may issue certificates of inspection. ()

03. Certification Training. The Department shall determine minimum training and accreditation standards for approved inspectors. Training will be provided annually by the Department or its agent. Attendance at annual training will certify accreditation for the inspector for that calendar year. Approved inspectors will be issued a certificate of training for the calendar year. Annual training shall include: ()

a. Pit/Pile/Lot inspection techniques and procedures; ()

b. ISDA and North American Noxious Weed List plant identification; ()

c. ISDA and North American Weed Free Gravel Certification Program; ()

d. Knowledge of weed management, including: ()

i. Burning; ()

ii. Mechanical methods or roguing; ()

iii. Herbicides. ()

e. Inspection forms. ()

04. Certification Program. ()

a. The Department or its agent shall: ()

i. Train persons who serve as approved inspectors; ()

ii. Issue Certificates of Inspection and/or Transit Certificates to qualifying participants; ()

iii. Maintain a record of inspections performed and certificates issued. ()

b. Under the direction of the Department or its agent, an approved inspector may perform inspections and issue Certificates of Inspection and/or Transit Certificates within the

state. ()

05. Application for Certification. ()

a. Application for certification shall be made on forms available from the Department or its agent and submitted to the Department or its agent. ()

b. An applicant's signature on the application for certification is verification of the accuracy of the information submitted, and signifies the applicant's intent to comply with the post-certification and distribution requirements. ()

06. Pit/Pile/Lot Inspection Procedures. ()

a. Gravel or rock products shall be inspected no more than ten (10) days prior to shipping or loading in the Pit/Pile/Lot of origin for each Pit/Pile/Lot to be certified. ()

b. Each Pit/Pile/Lot inspected shall be identified by the name of the owner and a Pit/Pile/Lot name or number. The certification inspection may be performed on an entire Pit/Pile/Lot or a portion of a Pit/Pile/Lot, if the portion is plainly marked and identified prior to inspection. ()

c. Pit/Pile/Lot inspections must take place prior to any operation that will limit the approved inspector's ability to properly inspect and certify the Pit/Pile/Lot. A Pit/Pile/Lot that has been moved or loaded prior to inspection is ineligible for certification. ()

d. The entire Pit/Pile/Lot and border shall be physically inspected. ()

e. The Pit/Pile/Lot inspection will include all ditches, fence rows, roads, easements, rights-of-way, or buffer zones surrounding the Pit/Pile/Lot. ()

f. Gravel or rock products which contain any noxious weeds, as identified in Section 22-2402(15), Idaho Code, or noxious weeds listed on the North American Noxious Weed List, may be certified if the following requirements are met: ()

i. Pit/Pile/Lot in which the gravel or rock products were produced was treated to prevent seed formation or seed ripening to the degree that there is no danger of dissemination of the seed, or any injurious portion thereof from such noxious weeds, or undesirable plant species, or the propagating parts of the plant are not capable of producing a new plant; ()

ii. Noxious weed(s) were treated not later than rosette to bud stage, or boot stage for grass species classified as noxious weeds; and ()

iii. Treatment methods can include, but are not limited to burning, roguing, mechanical methods, or chemicals. ()

g. An inspection certificate shall document that the above requirements have been met. ()

h. Interstate shipment of gravel and rock products shall be accompanied by an original transit certificate issued by the approved inspector in the county of origin. The storage area shall also be inspected and shall be free of noxious weeds. ()

i. An approved inspector may not inspect any Pit/Pile/Lot of which said inspector has ownership or financial interest. ()

07. Certification Standards. After completing an inspection the approved inspector shall complete a Certificate of Inspection. ()

a. If the Pit/Pile/Lot is certified as North American Noxious Weed Free, the approved inspector shall issue a Certificate of Inspection for that Pit/Pile/Lot. If the Pit/Pile/Lot contains North American Noxious Weeds, but does not contain Idaho State noxious weeds, it may be certified as Idaho State Noxious Weed Free, and such certification shall be noted on the Certificate of Inspection. ()

b. If the Pit/Pile/Lot is certified as North American Noxious Weed Free, as defined in these rules, the approved inspector may also issue, upon request, a Transit Certificate. ()

c. Certificates of Inspection and Transit Certificates shall be on forms prescribed by the Department or its agent. ()

d. Certificates of Inspection are valid for a maximum of thirty (30) days. ()

08. Copy of Inspections and a List of Approved Inspectors. Upon request, the agent shall provide the Department with a copy of Certificates of Inspections issued and a current list of approved inspectors. ()

09. Reciprocity. Gravel or rock products certified under a reciprocal agreement between the Department and another state, and certified as North American Noxious Weed Free according to the other state's approved certification standards, may be shipped into the state of Idaho and shall be considered to meet the requirements of the Idaho program. ()

10. Exports. Certification under these rules does not qualify a product for export from the United States. Applications for certification for export may be made directly to the Division of Plant Industries within the Department. ()

11. Voluntary Posting. After certification, signs or other forms of notification may be posted on the certified product indicating that the product is certified as noxious weed free. ()

12. Post-Certification and Distribution Requirements. After a gravel or rock product has been inspected and certified: ()

a. Reasonable and prudent steps must be taken to protect the certified product from contamination; ()

b. The certified product must be separated from all uncertified product; ()

- c. Each shipper, trucker, or transporter must have the appropriate Transit Certificates. ()

13. Cancellation for Failure to Comply. Any person who provides false information on an application for inspection or who fails to comply with the post-certification and distribution requirements may, upon order of the Director, be suspended for a period of up to two (2) years from participating in the gravel and rock products program. ()

14. Enforcement and Cancellation. Gravel or rock products from certified Pits/Piles/Lots may be checked at any time by an approved inspector. Manufactured gravel or rock products may be checked at any time by an approved inspector. Gravel or rock products from a certified Pit/Pile/Lot which has not been protected from contamination shall be cause for cancellation of certification. ()

15. Misuse of Transit Certificate and Certification Markings. Using a Transit Certificate or certification marking for gravel or rock products from a Pit/Pile/Lot that has not been certified shall constitute a violation of these rules. ()

101. -- 149. (RESERVED)

150. NORTH AMERICAN NOXIOUS WEED LIST.

Common Name	Scientific Name
Absinth wormwood	<i>Artemisia absinthium</i>
Bermudagrass	<i>Cynodon dactylon</i>
Buffalobur	<i>Solanum rostratum</i>
Canada thistle	<i>Cirsium arvense</i>
Common burdock	<i>Arctium minus</i>
Common crupina	<i>Crupina vulgaris</i>
Common tansy	<i>Tanacetum vulgare</i>
Dalmatian toadflax	<i>Linaria dalmatica</i>
Diffuse knapweed	<i>Centaurea diffusa</i>
Dyers woad	<i>Isatis tinctoria</i>
Field bindweed	<i>Convolvulus arvensis</i>
Hemp (marijuana)	<i>Cannabis sativa</i>
Henbane, Black	<i>Hyoscyamus niger</i>
Hoary cress	<i>Cardaria spp.</i>
Horsenettle	<i>Solanum carolinense</i>
Houndstongue	<i>Cynoglossum officinale</i>
Johnsongrass	<i>Sorghum halepense</i>

Common Name	Scientific Name
Jointed goatgrass	<i>Aegilops cylindrica</i>
Leafy spurge	<i>Euphorbia esula</i>
Matgrass	<i>Nardus stricta</i>
Meadow knapweed	<i>Centaurea pratensis</i>
Medusahead	<i>Taeniatherum caput-medusae</i>
Milium	<i>Milium vernale</i>
Musk thistle	<i>Carduus nutans</i>
Orange hawkweed	<i>Hieracium aurantiacum</i>
Oxeye daisy	<i>Chrysanthemum leucanthemum</i>
Perennial pepperweed	<i>Lepidium latifolium</i>
Perennial sorghum	<i>Sorghum almum</i>
Perennial sowthistle	<i>Sonchus arvensis</i>
Plumeless thistle	<i>Carduus acanthoides</i>
Poison hemlock	<i>Conium maculatum</i>
Puncturevine	<i>Tribulus terrestris</i>
Purple loosestrife	<i>Lythrum salicaria</i>
Quackgrass	<i>Agropyron repens</i>
Rush skeletonweed	<i>Chondrilla juncea</i>
Russian knapweed	<i>Centaurea repens</i>
Scentless chamomile	<i>Matricaria perforata</i> or <i>M. milaceum</i>
Scotch broom	<i>Cytisus scoparius</i>
Scotch thistle	<i>Onopordum acanthium</i>
Sericea Lespedeza	<i>Lespedeza cuneata</i>
Silverleaf nightshade	<i>Solanum elaeagnifolium</i>
Skeletonleaf bursage	<i>Ambrosia tomentosa</i>
Spotted knapweed	<i>Centaurea maculosa</i>
Squarrose knapweed	<i>Centaurea virgata</i>
St. Johnswort	<i>Hypericum perforatum</i>
Sulfur cinquefoil	<i>Potentilla recta</i>
Syrian beancaper	<i>Zygophyllum fabago</i>
Tansy ragwort	<i>Senecio jacobaea</i>
Toothed spurge	<i>Euphorbia dentata</i>
Wild oats	<i>Avena fatua</i>
Wild proso millet	<i>Panicum miliaceum</i>

Common Name	Scientific Name
Yellow hawkweed	<i>Hieracium pratense</i>
Yellow starthistle	<i>Centaurea solstitialis</i>
Yellow toadflax	<i>Linaria vulgaris</i>

()

151. -- 999. (RESERVED)

IDAPA 02 - DEPARTMENT OF AGRICULTURE

02.06.41 - RULES PERTAINING TO THE IDAHO SOIL AND PLANT AMENDMENT ACT OF 2001

DOCKET NO. 02-0641-1301

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2014 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, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified 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 Section 22-2204, Idaho Code.

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

To incorporate by reference information and updates contained in the 2014 Official Publication of the Association of American Plant Food Control Officials (AAPFCO) as they pertain to the methodology and practice of conducting regulatory soil and plant amendment registration and label review. The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the June 5, 2013 Idaho Administrative Bulletin, [Vol. 13-6, pages 26 and 27](#).

IDAHO CODE SECTION 22-101A STATEMENT: This rule does regulate an activity not already regulated by the federal government, because the federal government does not regulate Soil and Plant Amendments. The rule is, however, consistent with national standards by the Association of American Plant Food Control Officials.

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: ISDA does not anticipate any fiscal impact from the changes to be made to the Rule as a result of this rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Kathryn Mink, Agriculture Section Manager at (208) 332-8564.

DATED this 2nd day of August, 2013.

Brian J. Oakey, Deputy Director
Idaho State Dept. of Agriculture
Phone: (208) 332-8500
Fax: (208) 334-2170

2270 Old Penitentiary Rd.
P.O. Box 790
Boise, Idaho 83701

THE FOLLOWING NOTICE WAS PUBLISHED WITH THE 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 22-2204, 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 June 19, 2013.

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:

To incorporate by reference information and updates contained in the 2014 Official Publication of the Association of American Plant Food Control Officials (AAPFCO) as they pertain to the methodology and practice of conducting regulatory soil and plant amendment registration and label review.

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

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 from the changes to be made to the Rule during this rulemaking.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because of the simple nature of the proposed amendments.

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

The Association of American Plant Food Control Officials (AAPFCO) Official Publication and the Official Methods of Analysis (OMA) published by the Association of Official Agricultural Chemists (AOAC) International are the recognized and primary reference books of approved terms, ingredient definitions and policies used by the industry and all state and federal soil and plant amendments control officials and regulators.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Kathryn Mink, Agriculture Section Manager at (208) 332-8564.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be delivered on or before June 26, 2013.

LSO Rules Analysis Memo

DATED this 17th day of May, 2013.

THE FOLLOWING IS THE TEXT OF DOCKET NO. 02-0641-1301

004. INCORPORATION BY REFERENCE.

Copies of these documents may be viewed at the Idaho State Department of Agriculture, 2270 Old Penitentiary Road, PO Box 790, Boise, Idaho 83701. IDAPA 02.06.41 incorporates by reference: (4-7-11)

01. The Association of American Plant Food Control Officials (AAPFCO) Official Publication. The terms, ingredient definitions and policies as published in the “2013~~4~~ Official Publication” of AAPFCO where those terms and ingredient definitions, and policy statements do not conflict with terms and ingredient definitions, and policy statements adopted under Title 22, Chapter 22, Idaho Code, and any rule promulgated thereunder. The AAPFCO Official Publication is a copyrighted publication and not available in electronic format. A copy may be purchased online from the AAPFCO website at: http://www.aapfco.org/pdf/publication_order_form.pdf. (~~4-4-13~~)()

02. The Merck Index. The “2006 Merck Index,” 14th Edition, as published by Merck Research Laboratories Division of Merck & Co., Incorporated. The Merck Index is a copyrighted publication and not available in an electronic format. A copy may be purchased online from Merck & Co., Inc. at: <http://www.merckbooks.com/mindex/index.html>. (4-7-11)

03. The Association of Official Agricultural Chemists (AOAC) International. The “2005 Official Methods of Analysis (OMA) of the AOAC,” 18th Edition, a copyrighted publication, is maintained and published by the AOAC International. The AOAC OMA is available in electronic format at: www.EOMA.AOAC.org. A copy may be purchased online from AOAC International. (3-29-12)

IDAPA 46 - BOARD OF VETERINARY MEDICINE

46.01.01 - RULES OF THE STATE OF IDAHO BOARD OF VETERINARY MEDICINE

DOCKET NO. 46-0101-1301

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2014 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, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is acted on 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 Section 54-2105, 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:

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule published in the September 4, 2013 Idaho Administrative Bulletin, [Vol. 13-9, pages 220 through 229](#).

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:

The rulemaking should have no fiscal impact on either the General Fund or the Board's dedicated fund.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Jodie Ellis, Executive Director, at (208) 332-8588.

DATED this 26th day of September, 2013.

Jodie Ellis
Executive Director
Board of Veterinary Medicine
2270 Old Penitentiary Rd.
P. O. Box 7249
Boise, ID 83707
Phone: (208) 332-8588
Fax: (208) 334-2170

THE FOLLOWING NOTICE WAS PUBLISHED WITH THE 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 54-2105, 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 September 18, 2013.

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 rulemaking is necessary to correct a misstatement in the body of a rule; to add verbiage regarding functions that can be delegated to a veterinary technician under appropriate supervision consistent with a recent statutory change; to be more responsive to requests for copies of patient records; and to update and clarify certification provisions for certified euthanasia technicians.

This rulemaking is intended to make revisions in four (4) areas of Board rules. First, Rule 102 is being amended to correct a misstatement regarding the time period for completing continuing education by certified veterinary technicians. Second, Rule 103 is being revised to insert language authorizing a certified veterinary technician to dispense and deliver certain previously prescribed antibiotics and medications, under the indirect supervision of a veterinarian. Third, Rule 154.05 is being amended to provide a more realistic and meaningful time period (three business days) for veterinarians to respond to a request for records from an animal owner or another treating veterinarian. Finally, at the recommendation of the Certified Euthanasia Task Force, certain provisions in Rule 205 concerning the training and examination of certified euthanasia technicians are being modified to specify procedures, passing grades and clarification on certification processes.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: None.

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:

The rulemaking should have no fiscal impact on either the General Fund or the Board's dedicated fund.

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 June 5, 2013 Idaho Administrative Bulletin, [Vol. 13-6, page 47](#).

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 Jodie Ellis, Executive Director, at (208) 332-8588.

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 September 25, 2013.

DATED this 24th day of July, 2013.

[LSO Rules Analysis Memo](#)

THE FOLLOWING IS THE TEXT OF DOCKET NO. 46-0101-1301

102. CERTIFIED VETERINARY TECHNICIAN MANDATORY CONTINUING EDUCATION.

In order to best serve the citizens of Idaho and their animals, each certified veterinary technician shall be required to complete a minimum of fourteen (14) hours of ongoing continuing education in the field of veterinary technology in each and every two (2) year *certification* period following the date of his certification. A maximum of four (4) credit hours of continuing education in management may be used toward the fulfillment of the CE requirement. Approved courses, attendance period, content of report, exemptions, and credit for attendance are the same as outlined in Section 015 of these rules, mandatory continuing veterinary education with the exception of Subparagraph 015.03.d.i.(5) of these rules, which shall be the veterinary technician's signature, under penalty of perjury, and Subparagraph 015.03.b.iii. of these rules, which shall be a maximum of ten (10) hours credit for on-line or correspondence courses. No credit for attending approved courses in the field of veterinary technology shall be applicable to any reporting period other than that during which the credit is actually earned. *(3-30-07)()*

103. SUPERVISING VETERINARIANS.

01. Statement of Purpose. Veterinarians licensed under the provisions of Title 54, Chapter 21, Idaho Code, shall be responsible for all temporary licensees and temporary certification holders, certified euthanasia technicians, certified veterinary technicians, veterinary

assistants, or any others to whom they delegate the performance of acts pertaining to the practice of veterinary medicine. (3-29-10)

02. A Supervising Veterinarian Shall: (3-30-01)

a. Provide direct supervision for all procedures pertaining to the practice of veterinary medicine that are delegated to a certified veterinary technician, a veterinary technician working under a temporary certification, an assistant or any others with the exception of: (3-29-10)

i. Routine procedures in the practice of veterinary technology that include, but are not limited to, taking radiographs, weight and temperature, or as determined by the standard of practice for the area. These routine procedures may be performed under the indirect supervision of the veterinarian. (3-30-01)

ii. Previously prescribed antibiotics and medications, which may be administered, **dispensed, and delivered** under the indirect supervision of the veterinarian. Previously prescribed antibiotics and medications shall not include injectable controlled substances, injectable tranquilizers, injectable sedatives, and injectable or inhalant anesthetics, which may only be administered under the direct supervision of the veterinarian. ~~(3-30-01)~~()

iii. Emergency situations where the animal has been placed in a life-threatening condition and immediate treatment is necessary to sustain life. In these situations, in order to stabilize the animal, the veterinarian, while en route to the location of the distressed animal, may prescribe treatment and delegate appropriate procedures pertaining to the practice of veterinary medicine under indirect supervision. Such emergency treatment and procedures may only be continued under indirect supervision until the veterinarian arrives at the animal's location. (3-30-01)

b. Be available to supervise and direct all procedures pertaining to the practice of veterinary medicine that are delegated to others. (3-29-10)

c. Bear legal responsibility for the health, safety and welfare of the animal patient that the temporary licensee, temporary certification holder, certified veterinary technician, assistant, or any others serves. (3-29-10)

d. Not delegate an animal health care task to an unqualified individual. (3-30-01)

e. Make all decisions relating to the diagnosis, treatment, management, and future disposition of an animal patient. (3-30-01)

f. Have examined the animal patient prior to the delegation of any animal health care task to a certified veterinary technician, temporary certification holder, or assistant. The examination of the animal patient shall be conducted at such times as acceptable veterinary medical practice dictates, consistent with the particular delegated animal health care task. (3-30-01)

g. Diagnose and perform operative dentistry, oral surgery, and teeth extraction

procedures. Operative dentistry and oral surgery are considered to be any dental procedure which invades the hard or soft oral tissue including, but not limited to, a procedure that alters the structure of one (1) or more teeth or repairs damaged and diseased teeth, or the deliberate extraction of one (1) or more teeth. Operative dentistry and oral surgery do not include, removal of calculus, soft deposits, plaque, stains, floating to shape the teeth, or smoothing, filing or polishing of tooth surfaces above the gum line. (3-30-01)

03. Limitations on Supervising Veterinarians. Unless otherwise provided by law or rule, a supervising veterinarian shall not authorize a certified veterinary technician, a veterinary technician working under a temporary certification, an assistant or anyone else, other than a licensed veterinarian or a veterinarian holding a valid temporary permit to perform the following functions: (3-29-10)

- a. Surgery; (7-1-93)
- b. Diagnosis and prognosis of animal disease; (7-1-93)
- c. Prescribing drugs, medicines and appliances; or (3-30-01)
- d. Diagnosis and performance of procedures that constitute operative dentistry/oral surgery as defined by Section 54-2103(13)(b), Idaho Code. (3-30-01)

(BREAK IN CONTINUITY OF SECTIONS)

154. RECORD KEEPING STANDARDS.

Every veterinarian shall maintain daily medical records of the animals treated. These records may be computerized and shall be readily retrievable to be inspected, duplicated, or submitted when requested by the Board. All records, including electronic records, shall be safeguarded against loss, defacement, tampering, and use by unauthorized personnel. If changes are made to any records (either hard-copy or electronic), the records must clearly reflect what the change is, who made the change, when the change was made, and why. In the case of electronic records, the veterinarian shall keep either a duplicate hard-copy record or a back-up electronic record. Records shall be maintained for a period of three (3) years following the last treatment or examination. Patient medical records shall be maintained for every animal accepted and treated as an individual patient by a veterinarian, or for every animal group (for example, herd, litter, and flock) treated by a veterinarian. (3-8-12)

- 01. Medical Records.** Medical records shall include, but not be limited to: (7-1-97)
- a. Name, address and phone number of the animal's owner or other caretaker. (7-1-97)
 - b. Name and description, sex (if readily determinable), breed and age of animal; or description of group. (7-1-97)

- c. Dates (beginning and ending) of custody of the animal. (7-1-97)
- d. A short history of the animal's condition as it pertains to the animal's medical status. (7-1-97)
- e. Results and notation of examination, condition, and diagnosis suspected. (4-2-08)
- f. All medications, treatments, prescriptions or prophylaxis given, including amount, frequency, and route of administration for both inpatient and outpatient care. (3-29-10)
- g. Diagnostic and laboratory tests or techniques utilized, and results of each. (7-1-97)
- h. Written anesthesia records. (3-30-07)
- 02. Consent Forms.** Consent forms, signed by the patient's owner or other legal caretaker for each surgical or anesthesia procedure requiring hospitalization or euthanasia, shall be obtained, except in emergency situations, for each animal and shall be maintained on file with the practitioner. (3-30-07)
- 03. Postoperative Instructions.** Postoperative home-care instructions shall be provided in writing and be noted in the medical record. (3-30-07)
- 04. Treatment Records.** Veterinarians who practice with other veterinarians shall indicate by recognizable means on each patient's or animal group's medical record any treatment the veterinarian personally performed and which treatments and procedures were delegated to a technician or assistant to perform. (3-30-01)
- 05. Ownership of Medical Records.** Medical records are the personal property of the hospital or the proprietor of the practice that prepares them. Other veterinarians, including those providing subsequent health needs for a patient, and the patient's owner may receive *within fourteen (14) calendar days*, a copy or summary of the patient's medical record, upon the request of the patient's owner or other caretaker. ~~Vaccination r~~Records shall be supplied within ~~twenty-four (24) hours, unless the business is closed, in which case the records shall be provided within twenty-four (24) hours of resumption of business~~ **three (3) business days, counting the day of the request if a business day.** ~~(3-8-12)()~~
- 06. Diagnostic Image Identification and Ownership.** All diagnostic images shall be labeled in the emulsion film or digitally imprinted to identify the veterinarian or premise, the patient, the owner, the date, and anatomical orientation. A diagnostic image is the physical property of the hospital or the proprietor of the practice that prepares it, and it shall be released upon the request of another veterinarian who has the authorization of the owner of the animal to whom it pertains or to the Board. Such diagnostic images shall be returned within a reasonable time to the veterinarian who originally ordered them to be prepared. (4-2-08)
- 07. Estimates.** A veterinarian shall make available to each client a written estimate on request. (3-30-07)
- 08. Controlled Substances and Prescription or Legend Drugs.** A controlled

substance is any substance classified by the federal Food and Drug Administration or the Idaho Board of Pharmacy in Schedules I through V of the state or federal Controlled Substances Act, Title 37, Chapter 27, Idaho Code, or 21 CFR 1308. A prescription or legend drug is any drug that under federal law is required, prior to being dispensed or delivered, to be labeled with one (1) of the following statements: “Caution federal law prohibits dispensing without a prescription”; or “RX Only”; or “Caution: Federal law restricts this drug to used by or on the order of a licensed veterinarian”; or a drug which is required by any applicable federal or state law or regulation or rule to be dispensed on prescription only, or is restricted to use by practitioners only. A veterinarian shall only dispense or distribute a controlled substance or prescription or legend drug within the context of a valid veterinarian/client/patient relationship as defined by Section 150 of these rules. (3-30-01)

a. Records shall be kept that account for all dispensed and distributed controlled substances and prescription or legend drugs. The records shall comply with all federal and state laws. All information required by statute shall be recorded in the patient record along with the initials of the veterinarian who authorized the dispensing or distribution of the controlled substances or prescription or legend drugs. (3-30-01)

b. A separate inventory record shall be kept for each controlled substance by name and strength. The record shall include: (7-1-97)

i. Records of the receipt, which include all information required by federal law, the date of the receipt, the amount received, the source of receipt, and the invoice number. (7-1-97)

ii. Records of dispensing, which include the date the controlled substance was dispensed, the amount dispensed, the animal’s name, identification of the patient record, identification of the person who dispensed the drug, identification of the veterinarian who supervised the dispensing and any other information required by federal law. (7-1-97)

c. Records for all dispensed or distributed prescription or legend drugs shall be maintained in the individual patient or herd record and shall include the date the drug was dispensed or distribution was authorized, the amount dispensed or distributed, identification of the person who dispensed or authorized distribution of the drug, identification of the veterinarian who supervised the dispensing and any other information required by federal or state law, regulation or rule. (3-30-01)

d. Prescription drug order means a lawful written or verbal order of a veterinarian for a drug. (3-30-01)

i. When prescription drug orders are issued by a licensed veterinarian to be distributed to the animal’s owner or legal caretaker by a retail veterinary drug outlet, all orders for prescription or legend drugs shall be written on an official numbered three (3) part order form available through the Idaho Department of Agriculture. The veterinarian shall retain the second copy in his medical record and the original and one (1) copy shall be sent to the retail veterinary drug outlet. The retail veterinary drug outlet shall retain the original and attach the copy of the original to the order for delivery to the animal’s owner or legal caretaker. (5-8-09)

ii. Under no circumstances shall a prescription or legend drug be distributed by a

retail veterinary drug outlet to an animal's owner or legal caretaker prior to the issuance of either a written or oral prescription drug order from the veterinarian: (3-30-01)

(1) When a written prescription drug order from the veterinarian has been issued to a retail veterinary drug outlet, a copy of the veterinarian's original numbered prescription drug order shall be attached to the prescription or legend drugs that are delivered to the animal's owner or legal caretaker. (5-8-09)

(2) When a retail veterinary drug outlet receives an oral prescription drug order from the veterinarian, the oral order shall be promptly reduced to writing on a Department of Agriculture unnumbered telephone drug order blank. A copy of this completed form shall be attached to the prescription or legend drugs that are delivered to the animal(s)'s owner or legal caretaker. (5-8-09)

(3) When a veterinarian issues an oral prescription drug order to a retail veterinary drug outlet, the oral order shall be followed by a written prescription drug order signed by the veterinarian using the official numbered three (3) part order form and procedures required under Subparagraph 154.08.d.i. of these rules. The written order shall be sent promptly by the veterinarian so that it is received by the retail veterinary drug outlet no later than seven (7) days after the retail veterinary drug outlet receives the oral order. The written confirmation order may be hand-delivered, mailed, faxed, attached to an e-mail, or otherwise properly delivered to the retail veterinary drug outlet. (3-29-10)

e. When prescription or legend drugs are dispensed, the labeling on all containers shall be in compliance with the requirements of Paragraph 153.01.d. of these rules. (3-30-01)

f. When controlled substances are dispensed, all containers shall be properly labeled with: (4-5-00)

i. The clinic's name, address, and phone number; (4-5-00)

ii. The name of the client and patient; (3-30-01)

iii. The drug name and quantity; and (3-30-01)

iv. The directions for use, including dosage and quantity. (3-30-01)

g. All controlled substances shall be stored, dispensed, and disposed of in accordance with the requirements of the Uniform Controlled Substances Law and Code of Federal Regulations. (3-29-10)

09. Return or Disposal of Expired Pharmaceuticals and Biologicals. Except for controlled substances, which shall be disposed of in accordance with Paragraph 154.08.g. of these rules, all pharmaceuticals and biologicals that have exceeded their expiration date shall be removed from inventory and disposed of appropriately. (3-29-10)

(BREAK IN CONTINUITY OF SECTIONS)

205. CERTIFIED EUTHANASIA TECHNICIAN.

01. Training and Examinations. The CETF or the Board shall develop training sessions and materials that shall include, but not be limited to, the following topics: (3-30-01)

- a. Euthanasia: (3-30-01)
 - i. The theory and history of euthanasia methods; (3-30-01)
 - ii. Animal anatomy; (3-30-01)
 - iii. Proper animal handling to ease trauma and stress; (3-30-01)
 - iv. Dosages of chemical agents, record keeping and documentation of usage, storage, handling, and disposal of out-dated drugs and their containers, instruments and equipment used in their administration in accordance with the Idaho Board of Pharmacy law and rules and the Code of Federal Regulations; (3-30-01)
 - v. Proper injection techniques; and (3-30-01)
 - vi. Proper use and handling of approved euthanasia drugs and equipment; (3-30-01)
 - vii. Examination. Following the euthanasia training, a written examination shall covering the training topics will be given. ~~Those passing the written examination will be eligible for the practical examination.~~ (3-30-01)()
- b. Remote Chemical Capture: (3-30-01)
 - i. An overview of remote chemical capture; (3-30-01)
 - ii. Description and basic mechanism of action of approved drugs; (3-30-01)
 - iii. Laws, regulations and rules governing remote chemical capture; (3-30-01)
 - iv. Post-injection care; (3-30-01)
 - v. Proper use and handling of approved restraint drugs and equipment; (3-30-01)
 - vi. Human safety; (3-30-01)
 - vii. Tactics and strategy; and (3-30-01)
 - viii. Delivery systems and equipment. (3-30-01)

02. Certification Standards. Applicants for certification as a CET shall be eighteen

(18) years of age or older and demonstrate proficiency in compliance with the following standards: (4-7-11)

a. Demonstrate competency in euthanasia techniques in the presence of a CETF or Board member, or a person approved by the Board: (4-4-13)

i. CETs are fully responsible for all actions that take place in the euthanasia area when an animal is brought to the area including, but not limited to, animal handling, use of the proper restraint technique, the proper drug dosage, and drug handling; (3-30-01)

ii. CETs shall be able to competently perform intravenous injections on dogs and intraperitoneal injections on both dogs and cats. Intravenous injections on cats shall not be required as part of the certification process, but when performed, shall meet the standards listed in Subparagraph 205.02.a.ii.(1) of these rules. Intracardiac injections on dogs and cats shall not be required as part of the certification process, but when performed, are restricted to the limitations listed in Subparagraph 205.02.a.ii.(3) of these rules. (4-4-13)

(1) Intravenous Injections: The CET shall be able to competently insert the needle into an animal's vein when an animal is injected by this method. A minimum of two (2) people shall be required for any IV injection. One (1) person shall be a CET and one (1) or more people shall be the handler. The handler does not need to be a CET, but the handler should be trained in human safety and animal handling techniques; (4-4-13)

(2) Intraperitoneal Injections: The CET shall be able to competently insert the needle into the proper area of the peritoneal cavity when an animal is injected by this method. It is recommended that animals injected by this method be placed into a cage or carrier with no other animals. The cage or carrier shall be covered with cloth or other material that can keep the injected animal isolated from the normal activities in the euthanasia area. Intraperitoneal injections may be administered by a CET without a handler. (4-4-13)

(3) Intracardiac Injections: Intracardiac injection shall be performed only on an anesthetized animal. CETs shall be able to competently insert the needle into the heart of an anesthetized animal, and intracardiac injections may be administered by a CET without a handler. (4-4-13)

iii. No other euthanasia injection procedures are permitted in any type of animal with the exception of intramuscular and subcutaneous injections for pre-euthanasia sedation; (4-4-13)

iv. Oral administration of approved euthanasia drugs is permitted for any animal that cannot be captured or restrained without serious danger to human safety; (4-4-13)

b. Demonstrate proper record keeping. A record of all approved drugs received and used by the agency shall be kept. The record shall contain the following information: (3-30-01)

i. A weekly verification of the drug stock on hand, minus the amounts withdrawn for administration, signed by the CET responsible for security; (4-4-13)

ii. An entry of the date that a new bottle of any approved drug is opened and the

- volume of the bottle, signed by the CET responsible for security; (4-4-13)
- iii. The species and approximate weight of each animal administered a drug; (3-30-01)
 - iv. The amount of the drug that was administered; (3-30-01)
 - v. The date the drug was administered; (4-4-13)
 - vi. The signature of the CET who administered the drug; (3-30-01)
 - vii. A record of the amount of the drug wasted, if any, signed by the CET administering the drug and the CET responsible for security; and (4-4-13)
 - viii. A record of any disposal of expired or unwanted approved drugs, other chemical agent or the containers, instruments and equipment used in their administration, signed by the CET and disposed of in accordance with the Idaho Board of Pharmacy law and rules and the Code of Federal Regulations. (3-30-01)
- c.** Demonstrate understanding and concern for the needs and humane treatment of individual animals: (4-7-11)
- i. All animals shall be handled in a manner that minimizes stress to the animal and maximizes the personal safety of the CET and the handler. Each animal shall be handled with the least amount of restraint necessary, but human safety shall always be the primary concern. Handling includes all aspects of moving an animal from one (1) area to another; (4-7-11)
 - ii. The use of control sticks and other similar devices shall be limited to fractious or potentially dangerous animals; and (3-30-01)
 - iii. Animals shall not be placed in cages or kennels with other breeds or species that are incompatible with the animal in question. Animals shall not be overcrowded in a cage or kennel. (7-1-93)
- d.** Demonstrate ability to verify death. The animal should become unconscious and show terminal signs within sixty (60) minutes of drug administration. If any animal does not show any of these signs within the designated time period, the CET shall re-administer the drug. An animal that has received an approved drug orally may be injected with the same or another approved drug after it has become unconscious. Verification is the responsibility of the CET and shall be made by physical examination of the individual animal. One (1) of the following two (2) standards for death shall be met: (4-7-11)
- i. Rigor mortis; or (7-1-93)
 - ii. Complete lack of heartbeat (as checked with a stethoscope), complete lack of respiration, and complete lack of corneal and palpebral reflexes. (4-2-08)
- e.** Demonstrate ability to communicate with handlers during the euthanasia process.

(3-18-99)

03. Certification. ()

a. An individual shall not be certified as a CET until such time as he has ~~demonstrated proficiency in the practical examination that shall be conducted following the successful passing~~ successfully passed all of the following: ()

i. A euthanasia written exam. Training courses and written and examination; ()

ii. A practical or clinical examinations will be given as needed. Certification and renewal training sessions and examinations will be conducted prior to July 1 of each year at a place selected by the CETF or the Board.; and (3-29-10)()

iii. An Idaho euthanasia jurisprudence examination. ()

b. The euthanasia written examination shall be the “written examination” referenced in Subparagraph 205.01.a.vii. of this rule. The practical examination shall test the individual’s knowledge and skills in the hands-on application of euthanasia procedures and practices in a clinical setting under the direction of a CETF member, a Board member, or a designee of either the CETF or Board. The Idaho euthanasia jurisprudence examination (which can either be a separate written test or combined with the euthanasia written examination) shall be an examination testing the individual’s understanding of Idaho laws and Board rules addressing the practice of euthanasia. Both the euthanasia written examination and the euthanasia jurisprudence examination shall be developed by the Board, the CETF, or a designee of either the Board or the CETF. ()

c. A passing score for the euthanasia written examination shall be eighty percent (80%), or such other score as deemed appropriate by the Board or the CETF. A passing score for the euthanasia jurisprudence examination shall be ninety percent (90%), or such other score as deemed appropriate by the Board or the CETF. A failed euthanasia jurisprudence examination may be retaken multiple times upon making arrangements acceptable to the Board. ()

d. Initial certification and certification renewal training sessions and examinations will be conducted at least once per year prior to July 1, and at such other times deemed necessary by the CETF, the Board, or a designee of either the CETF or the Board. Upon approval of the Board, a CETF member, or the designee of either the Board or the CETF, an individual may take the euthanasia written examination, the practical examination, and the euthanasia jurisprudence examination in any order. ()

ae. An individual who has passed the written examination, but has not attended a training session and has not passed the practical examination, may serve as a probationary euthanasia technician under the direct supervision of a currently certified CET until such time as the next training course, practical examination and certification are conducted by a CETF ~~or~~ member, a Board member, or the designee of either the CETF or the Board. (3-30-07)()

bf. An individual who has not passed the written examination may not serve as a euthanasia technician. (4-7-11)()

