

IDAHO ADMINISTRATIVE BULLETIN

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June 3, 1998

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Preface

The Idaho Administrative Bulletin is published once each month by the Department of Administration, Office of the Administrative Rules Coordinator, pursuant to Section 67-5203, Idaho Code. The Bulletin is a compilation of all administrative rule-making documents in Idaho. The Bulletin publishes the official text notice and full text of such actions.

The state of Idaho administrative rule-making process comprises five distinct activities; Proposed, Negotiated, Temporary, Pending, and Final rule-making. In the majority of cases, the process begins with proposed rule-making and ends with final rule-making.

State agencies are required to provide public notice of rule-making activity and invite public input. The public receives notice of a rule-making activity through the Idaho Administrative Bulletin and the Legal Notice published monthly in local newspapers. The Legal Notice provides reasonable opportunity for public input, either oral or written, which may be presented to the agency within the time and manner specified in the Legal Notice. After the comment period closes, the agency considers fully all information submitted in regard to the rule. Comment periods are not provided in temporary or final rule-making activities.

CITATION TO THE IDAHO ADMINISTRATIVE BULLETIN

The Bulletin is cited by year and issue number. For example, Bulletin 97-1 refers to the first Bulletin issued in calendar year 1997, Bulletin 96-1 refers to the first Bulletin issued in calendar year 1996, etc. Volume numbers, which proceed from 1 to 12 in a given year, correspond to the months of publication, i.e.; Volume No. 1 refers to January; Volume No. 2 refers to February; and so forth. Example: The Bulletin published in January of 1998 is cited as Volume 98-1. The December 1997 Bulletin is cited as Volume 97-12.

RELATIONSHIP TO THE IDAHO ADMINISTRATIVE CODE

*The Idaho Administrative Code is published once a year and is a compilation or supplemental compilation of all final and enforceable administrative rules in effect in Idaho. In an effort to provide the reader with current, enforceable rules, temporary rules are also published in the Administrative Code. Temporary rules and final rules that have been approved by the legislature during the legislative session, and published in the monthly Idaho Administrative Bulletin, supplement the Administrative Code. Negotiated, proposed, and pending rules are **not** printed in the Administrative Code and are published only in the Bulletin.*

*To determine if a particular rule remains in effect, or to determine if a change has occurred, the reader should refer to the **Cumulative Index of Administrative Rule-Making**, printed in each Bulletin.*

AVAILABILITY OF THE ADMINISTRATIVE CODE AND BULLETIN

The Idaho Administrative Code and all monthly Bulletins are available for viewing and use by the public in all 44 county law libraries, state university and college and community college libraries, the state law library, the state library, the Public Libraries in Boise, Pocatello, Idaho Falls and Twin Falls, the Lewiston City Library, East Bonner County Library, Eastern Idaho Technical College Library, Ricks College Library, and Northwest Nazarene College Library.

SUBSCRIPTIONS AND DISTRIBUTION

For subscription information and costs of publications, please contact the Department of Administration, Office of the Administrative Rules Coordinator, 650 W. State Street, Room 100, Boise, Idaho 83720-0004, telephone (208) 334-3577.

The *Administrative Bulletin* is an official monthly publication of the State of Idaho. Yearly subscriptions or individual copies are available for purchase.

The Administrative Code, is an annual compilation or supplemental compilation of all final and enforceable temporary administrative rules and includes tables of contents, reference guides, and a subject index.

Individual Rule Chapters and **Individual Rule-Making Dockets**, are specific portions of the Bulletin and Administrative Code produced on demand.

Internet Access - The Administrative Code and Administrative Bulletin are available on the Internet at the following address:

<http://www.state.id.us> - from Idaho Home Page select State Agencies, then the Department of Administration link, then Administrative Rules.

EDITOR'S NOTE: All rules are subject to frequent change. Users should reference all current issues of the Administrative Bulletin for negotiated, temporary, proposed, pending, and final changes to all rules, or call the Office of the Administrative Rules at (208) 334-3577.

HOW TO USE THE IDAHO ADMINISTRATIVE BULLETIN

Rule-making documents produced by state agencies and published in the **Idaho Administrative Bulletin** are organized by a numbering system. Each state agency has a two-digit identification code number known as the "**IDAPA**" number. (The "**IDAPA**" Codes are listed in the alphabetical/numerical index at the end of this Preface.) Within each agency there are divisions or departments to which a two-digit "**TITLE**" number is assigned. There are "**CHAPTER**" numbers assigned within the Title and the rule text is divided among major sections with a number of subsections. An example IDAPA number is as follows:

IDAPA 16.07.01.010.01.a.ii.

"**IDAPA**" refers to Administrative Rules in general that are subject to the Administrative Procedures Act and are required by this act to be published in the Idaho Administrative Code and the Idaho Administrative Bulletin.

"**IDAPA 16**" refers to the Idaho Department of Health and Welfare.

"**07.**" refers to Title 07, Division of Veterans Services within the Department.

"**01.**" refers to Chapter 01 of Title 07, "Rules Governing Eligibility For Admission into the Veterans Home for Domiciliary Care."

"**010.**" refers to Major Section 010, "Definitions."

"**01.**" refers to Subsection 010.01.

"**a.**" refers to Subsection 010.01.a.

"**ii.**" refers to Subsection 010.01.a.ii.

DOCKET NUMBERING SYSTEM

Internally, the Bulletin is organized sequentially using a rule docketing system. All rule-making actions (documents) are assigned a "DOCKET NUMBER." The "Docket Number" is a series of numbers separated by a hyphen "-", (16-0701-9601). The docket numbers are published sequentially by IDAPA designation (e.g. the two-digit agency code). The following example is a breakdown of a typical rule docket:

"DOCKET NO. 16-0701-9601"

"16-" denotes the agency's IDAPA number; in this case the Department of Health and Welfare.

"0701-" refers to the TITLE AND CHAPTER numbers of the agency rule being changed; in this case the Division of Veteran's Services (TITLE 07), Rules Governing Eligibility For Admission into the Veterans Home for Domiciliary Care (Chapter 01).

"9601" denotes the year and sequential order of the docket received during the year; in this case the first rule-making action in calendar year 1996.

Within each Docket, only the affected sections of chapters are printed. (see **Sections Affected Index** in each Bulletin for a listing of these.) The individual sections affected are printed in the Bulletin sequentially (e.g. Section "200" appears before Section "345" and so on). Whenever the sequence of the numbering is broken the following statement will appear:

"(BREAK IN CONTINUITY OF SECTIONS)"

A typical citation to a rule or a Section or Subsection of a rule that are found with the text of a rule appear as follows:

"IDAPA 16.07.01.200"

"16." denotes the IDAPA number of the agency.

"07.01." denotes the TITLE and Chapter number of the agency rule.

"200" reference the main section number of the rule that is being amended or added.

Citations made within a rule to another rule should also include the name of the Department and the Title of the rule being referenced, as well as the IDAPA number.

BULLETIN PUBLICATION SCHEDULE FOR 1998

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98-2	February, 1998	December 24, 1997	February 4, 1998
98-3	March, 1998	January 21, 1998	March 4, 1998
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99-3	March, 1999	January 20, 1999	March 3, 1999
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NOTICE OF PROPOSED RULES

AUTHORITY: In compliance with Section 67-5220(1), Idaho Code, notice is hereby given that this agency has proposed rule-making. The action is authorized pursuant to Sections 25-207 and 25-601, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rule-making will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than June 17, 1998. 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 non-technical explanation of the substance and purpose of the proposed rule-making:

USDA has identified six counties in western Wyoming as a Brucellosis surveillance area. The state of Wyoming has concurred with this designation and is promulgating rules to require testing of cattle and domestic bison that change ownership or are removed from the surveillance area. The purpose of this rule is to support Wyoming's efforts to achieve the necessary surveillance and to assure that cattle and domestic bison imported into Idaho from the surveillance area are tested for Brucellosis. The rule will also clarify which cattle and domestic bison are test eligible.

The proposed rule was initially promulgated as a temporary rule effective January 12, 1998, and published in the Idaho Administrative Bulletin, Volume 98-3, pages 1 through 12. The temporary rule will remain in effect in conjunction with the proposed rule.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Dr. Bob Hillman at (208) 332-8540.

Anyone may submit written comments regarding this proposed rule-making. All written comments must be directed to the undersigned and must be delivered on or before June 24, 1998.

Dated this 7th day of April, 1998.

Patrick A. Takasugi, Director
Idaho State Department of Agriculture
P.O. Box 790
Boise, Idaho 83701-0790
(208) 332-8500
(208) 334-4623 FAX

IDAPA 02
TITLE 04
Chapter 03

RULES OF THE DEPARTMENT OF AGRICULTURE GOVERNING ANIMAL INDUSTRY

Pursuant to Section 67-5221(1) this docket is being published as a Proposed Rule.

This docket has been previously published as a Temporary Rule.
The temporary effective date is January 12, 1998.

The original text was published in the Idaho
Administrative Bulletin, Volume 98-3, March 4, 1998,
pages 1 through 12.

TEXT OF DOCKET NO. 02-0403-9801

210. LAWS AND REGULATIONS GOVERNING THE ANIMALS ENTERING THE STATE OF IDAHO.
Definitions of terms used herein. For the purpose of this chapter the following words and phrases shall have the following meaning: (12-10-84)

- 01. Definitions. (6-1-94)
 - a. Cattle. Shall mean any bovine of dairy or beef breeding. This definition shall include bison. (12-10-84)
 - b. Feeder Animals. Animals to be fed for slaughter only. (12-10-84)
 - c. Slaughter Animals. Animals of any kind for immediate slaughter, or those consigned for slaughter within fourteen (14) days of date of shipment. (12-10-84)
 - d. Animals. The term includes horses, mules and asses, cattle, sheep, goats, swine, dogs, cats, poultry, rodents, game animals, bison, domestic fur bearing animals, and birds. (12-10-84)
 - e. Livestock. Shall mean cattle, swine, horses, mules and/or asses. (12-10-84)
 - f. Poultry. The term shall mean chickens, turkeys, ducks, geese, guinea fowl, pigeons and pheasants (domestic fowls). (12-10-84)
 - g. Official Calfhood Vaccinate: (12-10-84)
 - i. Female cattle of any breed or female bison vaccinated while from four (4) months to twelve (12) months of age one-hundred twenty (120) through three-hundred sixty-five (365) days with a reduced dose of Strain 19 vaccine, or female cattle of any breed or female bison vaccinated with an approved dose of Brucella Abortus Strain RB-51 or other approved Brucellosis vaccine, by an approved official of the state of origin. (3-20-97)
 - ii. Female cattle which were officially calfhood vaccinated in accordance with previous provisions set forth by the UM&R shall be declared official calfhood vaccinates. (12-10-84)
 - iii. Evidence of vaccination shall be an official tattoo in the right ear of the animal. Tattoo symbols must be clearly legible to the naked eye in ordinary daylight without use of artificial light or other aids. Retattooing or reidentification of official vaccinates is acceptable for entry into Idaho, provided a permit is obtained from the Bureau of Animal Health for importation of the retattooed animals. (3-20-97)
 - h. Brucellosis Test Eligible Cattle. (12-10-84)
 - i. Officially Strain 19 and RB-51 vaccinated female cattle of dairy breeds which are over twenty (20) months of age. (~~3-20-97~~)()
 - ii. Officially Strain 19 and RB-51 vaccinated female cattle of beef breeds which are over twenty-four (24) months of age and officially Strain 19 vaccinated female bison which are over twenty-four (24) months of age. (~~3-20-97~~)()

iii. Officially Strain 19 and RB-51 vaccinated females of dairy breeds which are under twenty (20) months of age if parturient or post parturient. (3-20-97)()

iv. Officially Strain 19 and RB-51 vaccinated females of beef breeds or bison which are under twenty-four (24) months of age if parturient or post parturient. (3-20-97)()

v. Intact males of beef or dairy breed or bison which are over eighteen (18) months of age. (3-20-97)

i. Non-Vaccinated Animals. Non-vaccinated female cattle or bison shall not be imported into Idaho except as provided for in the following rules: (12-10-84)

ij. Findings and Effective Date. The amendments to Section 210 will confer a benefit to the cattle industry by making a markedly improved vaccine, RB-51, available to protect cattle and bison from brucellosis. The amendments bring Idaho into compliance with USDA recommendations for use of the new vaccine. The amendments will clarify which cattle are test eligible and provide a mechanism to assure cattle imported into the state from brucellosis surveillance areas are tested negative to brucellosis prior to entry into the state or upon arrival at specifically approved livestock markets in the state. (3-20-97)()

k. Brucellosis Surveillance Area or High Risk Areas. Any area of a state that has been identified by USDA/APHIS/VS or other 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. ()

02. Official Health Certificate (Certificate of Veterinary Inspection), Other Official Certificate or Permit Required. For the purposes of Subsection 210, a Health Certificate and a Certificate of Veterinary Inspection are equivalent. (3-20-97)

a. Certificate of Veterinary Inspection, Other Approved Certificate or Permit. Unless otherwise specifically provided in the rules of this chapter, all animals transported or moved into the state of Idaho shall be accompanied by an official certificate of veterinary inspection, other approved certificate, a permit, or both a certificate and a permit, which shall be attached to the waybill or be in the possession of the driver of the vehicle or person in charge of the animals. (3-20-97)

b. When Permits Are Needed, Etc. (7-1-93)

i. Permits are required on all cattle of dairy breeds from Class Free, A, B, and C states. (7-1-93)

ii. Permits are required on cattle from Class B and C states and scabies-infested states. (7-1-93)

iii. Permits are required on all cattle and bison which are to be moved from a brucellosis surveillance area or a brucellosis high risk area into the state of Idaho. ()

iv. Permits are required on all beef breeding bulls from Class Free, A, B and C states. (7-1-93)

v. Permits are required on any livestock not meeting Idaho requirements. (7-1-93)

vi. Permits are required for all sheep entering the state of Idaho. (7-1-93)

vii. Permits are required on all swine entering the state of Idaho except swine consigned directly to a recognized slaughter establishment and swine from stage IV or V states/areas consigned to specifically approved livestock markets. (1-10-94)

c. Where Permits May Be Obtained. (12-10-84)

i. Livestock other than sheep. Requests for permits shall be directed to the Idaho Bureau of Animal Health, P.O. Box 7249, Boise, Idaho 83707; telephone (208) 332-8540, and shall set forth the following information: name and address of consignor, number and description of animals, origin of shipment, destination of shipment,

proposed date of shipment, mode of transportation, and name and address of Idaho consignee. (3-20-97)

ii. Sheep permits: Requests for permits shall be directed to the Idaho Sheep Commission, 802 West Bannock, Room 205, P.O. Box 2596, Boise, Idaho, 83701; telephone (208) 334-3115. (12-10-84)

03. Animals Exposed to Disease or Originating in a Quarantined Area. No animals affected with or which have been recently exposed to any infectious, contagious, or communicable disease, or which originate in a quarantined area shall be transported or moved into the state of Idaho unless a permit for such entry is first obtained from the Idaho Bureau of Animal Health, except such animals in classifications allowed interstate shipment under specified requirements of the United States Department of Agriculture may move without permit if in compliance with CFR requirements. (3-20-97)

04. Quarantine Imposed When No Certificate or Permit Issued. Animals entering the state of Idaho without a valid certificate of veterinary inspection or other approved certificate, and a permit, if required, shall be held in quarantine at the risk and expense of the owner until released by an authorized representative of the Idaho Bureau of Animal Health. Such animals when found to be not in compliance with health certificate requirements may be ordered slaughtered, removed from the state or confined to a quarantined feedlot. (3-20-97)

05. Official Certificate of Veterinary Inspection and Other Approved Certificates -- Form -- Contents -- Period of Validity. An official certificate of veterinary inspection and other approved certificates are legible records attesting the animal covered thereby meets the requirements of the state of Idaho. The certificate shall be accomplished on an official form of the state of origin, be approved by its livestock sanitary official and be issued by an approved accredited veterinarian. An equivalent form of the U.S. Department of Agriculture issued by a federal inspector of the Veterinary Services is acceptable in lieu of a certificate of veterinary inspection or other approved certificate. (3-20-97)

a. Official Certificate of Veterinary Inspection. Such certificate shall contain: (3-20-97)

i. Name and address of the consignor and consignee; (12-10-84)

ii. Origin of shipment; (12-10-84)

iii. Final destination; (12-10-84)

iv. Accurate description and identification of each animal if required; (12-10-84)

v. Purposes for which they are shipped; and (12-10-84)

vi. Method of transportation. (12-10-84)

b. Other Approved Certificates. (3-20-97)

i. Extended Validity Equine Certificates. Provided there is a written agreement between the Bureau of Animal Health and the chief livestock sanitary official of the state of origin, equidae from other states may enter the state of Idaho for shows, rides or other equine events and return on an extended validity equine certificate under a state system of equine certification acceptable to the Bureau of Animal Health and the state of origin. (3-20-97)

(1) An extended validity equine certificate shall be valid for only one animal. Each animal shall have a separate certificate. (3-20-97)

(2) Extended validity equine certificates shall contain the following information: (3-20-97)

(a) Name and address of the owner. (3-20-97)

(b) Location at which the animal is stabled, housed, pastured or kept, if different from that of the owner. (3-20-97)

- (c) An accurate description and identification of the animal. (3-20-97)
 - (d) Date of veterinary inspection. (3-20-97)
 - (e) Dates and results of EIA or other required tests or vaccinations. (3-20-97)
 - (f) Signature of inspecting veterinarian. (3-20-97)
- (3) Extended validity equine certificates shall be valid for no longer than six (6) months from date the blood sample is collected for the EIA test by the animal health official or accredited veterinarian. If EIA testing is not required the certificate shall be valid no longer than six (6) months from the date of inspection for the certificate. (3-20-97)
- (4) Recipients of extended validity equine certificates shall submit a completed travel itinerary to the Bureau of Animal Health within ten (10) working days of the end of the six (6) month period of validity of the certificate. The travel itinerary shall provide a listing of all travel into the state of Idaho, including travel dates, purpose for travel and destinations, during the period of validity of the certificate. (3-20-97)
- (5) Extended validity equine certificates may be canceled at any time by the Bureau of Animal Health in the event of serious or emergency disease situations or for non-compliance with the provisions of these rules. (3-20-97)
- c. Health Status. The certificate shall indicate the health status of the animals involved including dates and results of inspection and of tests and vaccinations, if any, required by the state of Idaho. (3-20-97)
 - d. Mailing Certificate. A copy of the certificate shall be mailed immediately to the Idaho Bureau of Animal Health, P.O. Box 7249, Boise, Idaho 83707. (3-20-97)
 - e. Certificate For Sheep and Goats. Health certificates and permits covering sheep and goats: See separate section on sheep. (12-10-84)
 - f. Period of Certificate Validity. Certificates of veterinary inspection shall be valid for no longer than thirty (30) days after the date of inspection. Extended validity equine certificates shall be valid for no longer than six (6) months from the date the blood sample was collected for the EIA test, if an EIA test is required. If an EIA test is not required, the certificate is valid for no longer than six (6) months from the date of inspection. (3-20-97)
 - g. Restrictions. No certificate of veterinary inspection or extended validity equine certificate shall be issued unless it is compliant in all respects with the requirements of the state of Idaho. (3-20-97)
06. Who May Inspect. Accredited veterinarians who are approved by the chief livestock sanitary official of the state of origin and federal veterinarians in the employ of the U.S. Department of Agriculture. (12-10-84)
07. Permits -- Contents -- Period of Validity. (12-10-84)
- a. Request For Permits. Request for permits to admit animals other than sheep and goats into the state of Idaho shall be directed to the Idaho Bureau of Animal Health, P.O. Box 7249, Boise, Idaho, and shall be requested pursuant to the following requirements, and when the official health rules cannot be met at the point of origin. (12-10-84)
 - b. Permit Request Requirements. The request for such a permit shall set forth the following information: (12-10-84)
 - i. Name and address of the consignor and consignee; (12-10-84)
 - ii. Number and kind of animals; (12-10-84)

- iii. Origin of shipments; (12-10-84)
- iv. Final destination; (12-10-84)
- v. Purpose of shipment; and (12-10-84)
- vi. Method of shipment. (12-10-84)
- c. Period of Validity. Permits shall be valid for no longer than fifteen (15) days from the date of issuance unless otherwise specified. (12-10-84)

08. To Whom May Animals Be Consigned. All animals transported or moved into the state shall be consigned to an individual residing in Idaho or to a legal entity authorized by law to do business in the state. (12-10-84)

09. Diversion of Animals After Shipment. No person consigning, transporting or receiving animals in the state of Idaho shall authorize, order or carry out diversion of such animals to a destination or consignee other than set forth on the health certificate or permit without notifying the Bureau of Animal Health of the Department of Agriculture within seventy-two (72) hours of the diversion. (12-10-84)

10. Where Brucellosis Agglutination Tests Shall Be Made. All brucellosis agglutination tests of animals which are intended for shipment into the state of Idaho shall be made in the following: (12-10-84)

- a. Laboratories. State-federal approved laboratories. (12-10-84)
- b. Commercial Laboratories. Commercial laboratories operated under the supervision of the United States Department of Agriculture and approved by the state of origin. (12-10-84)
- c. Veterinarians. By veterinarians approved by the livestock sanitary officials of the state of origin to make such tests. (12-10-84)

11. Duties of Carrier Regarding Health Certificates of Permits. All owners and operators of railroads, trucks, airplanes, or other conveyances used in the transportation of animals into or within the state of Idaho shall assure themselves each consignment or shipment is in conformity with the applicable statutes and rules of the state of Idaho, and that each consignment is accompanied by an official health certificate or by a permit, or by both, where so required and issued by the authorized livestock sanitary official. Such health certificate or permit, or both, shall be attached to the waybill accompanying the shipment or be in the possession of the attendant in charge of the animals. (12-10-84)

12. Sanitary Condition of Cars, Trucks and Airplanes. All railroad cars, trucks, airplanes, or other conveyances used in the transportation of animals shall be maintained in a clean and sanitary condition. (12-10-84)

13. Disinfection of Cars, Trucks and Airplanes. All owners and operators of railroad cars, trucks, airplanes, or other conveyances which have been used for movement of animals infected with or exposed to any infectious, contagious, or communicable disease shall have such cars, trucks, airplanes or other conveyances thoroughly cleaned and disinfected under official supervision by any accredited veterinarian or federal or state livestock inspector or Bureau of Animal Health designated employee, at the point of destination or by permit from the sanitary officials, may be moved to some other point for cleaning and disinfecting. (12-10-84)

14. General Duties of Carrier. All owners and operators of railroads, trucks, airplanes, or other conveyances shall conform to all rules and statutes of the state of Idaho in transporting or moving any animals into, within or through the state of Idaho. (12-10-84)

15. Importation of Cattle into Idaho. Cattle may enter the state of Idaho provided they are transported or moved in conformity with Section 010 through Subsection 020.09, as revised in 1984, and are accompanied by an official health certificate attesting they are free from evidence of any infectious, contagious, or communicable disease, or exposure thereto, or by a permit, or both. (3-20-97)

- a. General Requirements. (9-14-89)
 - i. An official health certificate is required by statute on all livestock imported into the state. (9-14-89)
 - ii. The following classes of cattle shall have a permit for entry prior to importation: (9-14-89)
 - (1) All intact male and female cattle of dairy breeds not consigned directly to slaughter or to a quarantined feedlot. (9-14-89)
 - (2) All beef breed bulls not consigned directly to slaughter or to a quarantined feedlot. (9-14-89)
 - (3) All cattle from Class B or Class C states. (9-14-89)
 - (4) All cattle from brucellosis surveillance areas or brucellosis high risk areas. ()
 - (45) Cattle of any classification that do not meet all other entry requirements. (9-14-89)
 - iii. All cattle entering Idaho shall be subject to a post-entry inspection by personnel authorized by the Bureau of Animal Health to perform such inspections. (9-14-89)
 - b. Brucellosis Entry Requirements. (9-14-89)
 - i. All female cattle entering Idaho shall have been officially brucellosis calfhood vaccinated, except: (12-10-84)
 - (1) Calves under four (4) months of age. (12-10-84)
 - (2) Cattle consigned directly to slaughter (or to a specifically approved stockyard for sale to slaughter). (12-10-84)
 - (3) Vaccination eligible heifers may, by permit, be consigned to a specifically approved stockyard or other specified destination where they shall be vaccinated. (12-10-84)
 - (4) Cattle consigned directly to Federal Quarantined or Idaho Registered Quarantined Feedlot (or consigned to specifically approved stockyard for sale to such feedlots). (12-10-84)
 - ii. Brucellosis test requirements. (12-10-84)
 - (1) All test eligible cattle from Class A state shall have been tested negative within thirty (30) days of importation. (12-10-84)
 - (2) All test eligible cattle from Class B or C states shall have been tested negative within thirty (30) days of importation and shall be quarantined on arrival and subjected to a retest forty-five (45) to one-hundred twenty (120) days post entry. (12-10-84)
 - (3) Test eligible cattle from Class A states which border Idaho may be consigned to a specifically approved Idaho stockyard and be tested before cattle lose identity as to origin. (12-10-84)
 - (4) Test eligible cattle from Class B or C states which border Idaho may be consigned to a specifically approved Idaho stockyard and be tested on arrival. Test must be completed before cattle lose identity as to origin, prior to sale. These cattle shall be quarantined to new owners' premises and undergo a second test forty-five (45) to one-hundred twenty (120) days post entry. (12-10-84)
 - (5) Test eligible cattle which are not official brucellosis calfhood vaccinates (bulls, etc.) which originate in Class C areas or states shall be tested as provided by UM&R and CFR prior to movement from Class C

area or state, and shall be quarantined to new owners premises and undergo a retest forty-five (45) to one-hundred twenty (120) days post entry. (The pre-entry testing shall consist of a herd test at least sixty (60) days prior to movement and a retest not more than thirty (30) days prior to movement). (12-10-84)

(6) Test eligible cattle from brucellosis surveillance areas or brucellosis high risk areas shall be tested negative to an official brucellosis test within thirty (30) days before importation into Idaho or shall be consigned to a specifically approved livestock market where they shall be tested prior to sale. ()

~~(6)~~ Exceptions to test requirement: (12-10-84)

(a) Cattle from Class Free states except as specified in Subsection 210.15.b.ii.(6). ~~(12-10-84)~~()

(b) Cattle from certified free herd in Class Free, A, B, C states except as specified in Subsection 210.15.b.ii.(6). ~~(12-10-84)~~()

(c) Cattle consigned directly to slaughter from Class A state. (12-10-84)

(d) Cattle consigned directly to slaughter from the farm or ranch of origin in a Class B or C state if shipped under movement permit. (12-10-84)

(e) Cattle from other than the farm or ranch of origin in a Class B or C state consigned directly to slaughter or a Federal Quarantined Feedlot if "S" branded prior to shipment and are accompanied by VS 1-27 or "S" brand permit except as specified in Subsection 210.15.b.ii.(6). ~~(12-10-84)~~()

(f) Cattle from Class A state if consigned directly to Federal Quarantined Feedlot or Idaho Registered Quarantined Feedlot or to a specifically approved stockyard for sale to Federal Quarantined Feedlot or Idaho registered Quarantined Feedlot, or directly to slaughter at a recognized slaughter establishment except as specified in Subsection 210.15.b.ii.(6). ~~(12-10-84)~~()

(g) Cattle from a farm or ranch of origin in a Class B or C state which are consigned directly to a specifically approved stockyard for sale to slaughter if such cattle are accompanied by a movement permit except as specified in Subsection 210.15.b.ii.(6). ~~(12-10-84)~~()

(h) Cattle other than from a farm or ranch of origin in a Class B or C state are consigned directly to a specifically approved stockyard for sale to slaughter or Federal Quarantined Feedlot if such cattle are "S" branded prior to shipment and are accompanied by a VS 1-27 or an "S" brand permit except as specified in Subsection 210.15.b.ii.(6). ~~(12-10-84)~~()

(i) Cattle from a farm or ranch of origin in a Class B or C state may be consigned to a Federal Quarantined Feedlot or to a specifically approved market for sale to a Federal Quarantined Feedlot without being "S" branded and without a VS 1-27 if such cattle are "S" branded upon arrival at the Federal Quarantined Feedlot. Such cattle must be accompanied by a movement permit except as specified in Subsection 210.15.b.ii.(6). ~~(12-10-84)~~()

iii. All test eligible cattle entering Idaho, in addition to above requirements shall be individually identified on the health certificate. (12-10-84)

iv. Cattle not meeting these requirements shall not enter Idaho except by special permission of the Bureau of Animal Health. (12-10-84)

v. Grazing cattle from contiguous states which have traditionally been moved by permit into Idaho for seasonal grazing periods shall be moved only under special grazing permits issued jointly by the Bureau of Animal Health and officials of the contiguous state. Grazing permits shall be for one specified season only. Herd owners in order to be eligible to receive a grazing permit must file with the Bureau of Animal Health an approved herd plan to phase out all non-vaccinates in the herd within a designated period of time. The phase out of non-vaccinates shall be accomplished by March 1, 1988. The Bureau of Animal Health, in cooperation with the appropriate agency of the contiguous state, shall have the authority to impose a brucellosis herd test or tests on cattle entering for grazing

purposes. This test requirement shall be evaluated on an annual basis by the Bureau of Animal Health and the animal health agency of the contiguous state. (12-10-84)

vi. Cattle may be imported into the state of Idaho in emergency situations under special permit from the Idaho Director of Agriculture, Idaho Administrator of the Division of Animal Industries or Idaho Chief of the Bureau of Animal Health. Cattle allowed entrance under this provision will be held separate and apart from Idaho cattle and will be quarantined for a specific time period to a specific area for grazing and/or feeding purposes. At the end of the quarantine time period the cattle will be returned to the state of origin, but must meet that state's import requirements prior to departure from Idaho; provided further, that should such cattle desire to remain in Idaho after the time period has expired, then such cattle must meet the same health and test requirements as would normally be required of any import cattle and this shall be done at the owner's expense. (12-10-84)

vii. Any animals imported in violation of these rules shall be placed under strict quarantine and consigned to immediate slaughter, removed from the state or to a Federal Quarantined Feedlot or Idaho Registered Quarantined Feedlot within fifteen (15) days, or such shipment shall be returned to the point of origin by the importer. (12-10-84)

viii. In addition to meeting the above requirements for entry, livestock imported into Idaho shall meet all requirements set forth in the CFR as revised in 1984 or as the 9 CFR is subsequently revised. Cattle exposed to or infected with brucellosis shall meet all requirements set forth in 9 CFR. (12-10-84)

c. With Regard to Tuberculosis. Dairy and breeding cattle may enter the state of Idaho provided: (12-10-84)

i. They originate in an Accredited Tuberculosis Free Herd, and an accredited herd number and date of last test are shown on the health certificate; or (12-10-84)

ii. They originate from a Bovine Tuberculosis Free Area and from a herd not under quarantine; or (12-10-84)

iii. They originate from a Modified Accredited area that has had no Tuberculosis positives within the past twelve (12) months; or (12-10-84)

iv. Cattle not meeting requirements in Subsections 280.03.a., 280.03.b., and 280.03.c. shall have been tested with negative results within thirty (30) days of shipment and originate in non-reactor herds; or (12-10-84)

v. Obtain a permit from Idaho Bureau of Animal Health and animals placed under quarantine for testing and compliance with entry requirements. (12-10-84)

d. Scabies. (12-10-84)

i. All cattle not known to be affected with Scabies consigned to Idaho from any state or area designated as a Scabies quarantined area are to be accompanied by a certificate of veterinary inspection from the state of origin indicating that such animals have been treated with an approved scabicide. Such cattle must be accompanied by an entry permit from the Idaho Division of Animal Industries. The only exceptions to the above requirements are as follows: (12-10-84)

(1) Cattle may be moved by permit from the Idaho Division of Animal Industries to an Idaho premise for treatment for Scabies within twenty-four (24) hours after arrival. Such cattle shall not be mixed or allowed to intermingle with resident cattle prior to official treatment. (12-10-84)

(2) Cattle may be shipped without permit directly to a federally inspected slaughter establishment. (12-10-84)

(3) Female cattle of dairy breeds over eighteen (18) months of age may be shipped into Idaho by permit, but without treatment for Scabies, but must have a hands-on inspection by an accredited veterinarian or state/federal livestock sanitary official to ascertain that the cattle are not infected. (12-10-84)

ii. Punishment for violation of rules. Any person, firm or corporation violating any of the provisions of these rules, shall be guilty of a misdemeanor, and upon conviction shall be subject to a fine of not less than one hundred dollars (\$100) nor more than five thousand dollars (\$5,000) for each offense, or by imprisonment in the county jail not exceeding six (6) months. (12-10-84)

e. Trichomoniasis. The Certificate of Veterinary Inspection for bulls imported into Idaho shall contain a statement certifying that Trichomoniasis is not known to exist in the herd of origin, and: (9-14-89)

i. The bull(s) are two (2) years of age or younger and have not serviced a cow; or (9-14-89)

ii. The bull(s) have been tested by culture for trichomoniasis within thirty (30) days of shipment and were negative to the test. (9-14-89)

iii. Exceptions to certification and testing: (9-14-89)

(1) Bulls consigned directly to slaughter at a recognized slaughter establishment. (9-14-89)

(2) Bulls consigned directly to a quarantined feedlot. (9-14-89)

16. Dogs and Cats. (12-10-84)

a. Dogs. All dogs imported into the state of Idaho shall be accompanied by an official health certificate attesting that such dogs are apparently free from any infectious, contagious or communicable disease, and have been officially vaccinated against rabies. Officially vaccinated shall mean vaccinated in accordance with the current recommendations of the NASPHV compendium of Animal Rabies Vaccines. Puppies under three (3) months of age originating from a rabies quarantined area must have a permit from the Idaho Bureau of Animal Health prior to importation. (12-10-84)

b. Cats. All cats imported into the state of Idaho shall be accompanied by an official health certificate attesting that such cats are apparently free from any infectious, contagious or communicable disease. Cats three (3) months of age or older shall have been vaccinated for rabies according to the recommendations of the current NASPHV Compendium on Rabies. (12-10-84)

17. Horses, Mules, Asses and Equidae. All horses, mules, asses and equidae which 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 Equine Infectious Anemia (EIA) test requirements, except as provided in this section. (3-20-97)

a. Equine Infectious Anemia (EIA) Test Requirements. (3-20-97)

i. An official EIA test is a blood test for EIA conducted by a USDA approved laboratory, within six (6) months of entry of the equidae into Idaho. (3-20-97)

(1) Entry of equidae into Idaho shall not be allowed until the EIA test has been completed and reported negative. Equidae with tests "pending" are not acceptable. Equidae which test positive to the EIA test shall not be permitted entry into Idaho, except by special written permission from the Bureau of Animal Health. (3-20-97)

(2) A nursing foal less than six (6) months of age accompanied by its EIA negative dam is exempt from the test requirements. (3-20-97)

b. "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 Bureau of Animal Health and the chief livestock sanitary official in a western state which reciprocates with Idaho in honoring grazing permits. (3-20-97)

c. Equids being moved directly to a USDA approved equine slaughter establishment may be exempted from EIA test requirements. (3-20-97)

d. The Bureau of Animal Health may develop cooperative reciprocal agreements with neighboring states which exempt EIA testing requirements for movement of equidae between the cooperating states. (3-20-97)

e. Findings and Effective Date. The amendments to Section 210 confer a benefit to the equine industry by protecting the equine industry against Equine Infectious Anemia and by providing a reasonable, effective mechanism for interstate movement of equidae among the states of the region. (3-20-97)

18. Poultry. (12-10-84)

a. Health Certificate. Poultry may enter the state of Idaho without a health certificate if apparently healthy. (12-10-84)

b. Psittacine Birds. Parakeets and other psittacine birds that will not be commercially exchanged in any manner may enter the state of Idaho without registration or health certificate if apparently healthy. All individuals commercially associated with all birds to be used as pets shall contact the Idaho State Department of Health & Welfare, Bureau of Preventive Medicine, Boise, Idaho, before transporting or moving birds into the state of Idaho. (12-10-84)

19. Imported Swine. (1-10-94)

a. Swine. Swine may enter the state of Idaho provided they meet the following brucellosis and pseudorabies requirements, and are accompanied by a certificate of veterinary inspection attesting that they have been inspected within thirty (30) days of date of shipment, that they are free from evidence of all infectious, contagious, or communicable diseases, or known exposure thereto during the preceding sixty (60) days, that they have not been vaccinated with any pseudorabies vaccine, and that they have not been fed raw garbage. Swine for immediate slaughter which are apparently healthy may enter the state of Idaho without a certificate of veterinary inspection, provided the applicable permit requirements are met and the swine are consigned directly to a recognized slaughter establishment, or to a specifically approved livestock market for sale to a recognized slaughter establishment. (1-10-94)

b. Brucellosis Rules - Breeding Swine. Negative tests for brucellosis at a dilution of one to twenty-five (1:25) within thirty (30) days of entry or negative to Official Card Test, within thirty (30) days of entry, or originate from a validated brucellosis free herd or validated brucellosis free state. (7-1-93)

c. Pseudorabies Import Rule. (1-10-94)

i. Breeding Swine. Must have a permit for entry from the Idaho Division of Animal Industries and be individually identified by official ear tags or other approved techniques, and be shipped directly from a farm of origin or a market in a Stage IV or V state/area, or may be shipped directly from a qualified pseudorabies-negative herd. Such swine must be quarantined in isolation at destination and retested thirty to sixty (30-60) days following importation, or must have a negative official pseudorabies test within thirty (30) days prior to entry. Such swine must be quarantined in isolation and retested at destination thirty to sixty (30-60) days following importation. (1-10-94)

ii. Feeder Pigs. Must have a permit for entry from the Idaho Division of Animal Industries and be identified by an official ear tag, approved legible ear tattoo or other approved techniques indicating the state and herd of origin, and be shipped directly from a farm of origin or a market in a Stage IV or V state/area, or be shipped directly from a qualified pseudorabies-negative herd, or Feeder pigs not meeting Subsection 300.03.b.ii. or 300.03.b.iii., must have a negative official pseudorabies test within thirty (30) days prior to entry. Such swine must be quarantined in isolation at destination and retested thirty to sixty (30-60) days following importation. (1-10-94)

iii. Slaughter Swine. Infected or exposed swine shall be accompanied by a permit and may be shipped directly to a recognized slaughter establishment. Slaughter swine, which are not known to be infected or exposed, may be imported from a state/area with a program status up to and including Stage III, for movement directly to a recognized slaughter establishment, without permit. Slaughter swine from Stage IV or V state/area, which are not

known to be infected or exposed, may be imported directly to recognized slaughter establishments or to specifically approved stockyards for sale to recognized slaughter establishments, without permit. (1-10-94)

20. Wild Animals. All wild animals and semi-wild animals not under domestication are under the supervision of the Idaho Department of Fish and Game and all matters pertaining to any restrictions governing their movement into the state of Idaho is under the supervision of the Fish and Game Department. (12-10-84)

21. Biologics. (12-10-84)

a. Distribution Permit. By rule, serum, vaccines, bacterins and biological remedies of all kinds used as diagnostic agents or used in the treatment of diseases of livestock or poultry shall not be sold, distributed or used within the state of Idaho or imported into the state for sale, distribution or use unless such serum, vaccines, bacterins and biological remedies have been produced under a permit granted by the United States Department of Agriculture, Veterinary Service. (12-10-84)

b. Shipping Virulent Blood or Living Virus. By rule, all manufacturers, dealers and distributors of biological products are hereby prohibited from shipping any virulent blood or living virus (brucella abortus vaccine) of any disease affecting livestock, dogs, or poultry into the state of Idaho, unless written permission shall first be obtained from the Idaho Division of Animal Industries and no living virus for use in animals or poultry shall be distributed or used within the state of Idaho unless permission in writing shall first be obtained from the Idaho Division of Animal Industries at Boise for the distribution and use of the same. (12-10-84)

c. Labels. By rule no permit under Subsections 310.01 and 310.02 will be issued unless the product shall be contained in vessels bearing labels approved by the Idaho Bureau of Animal Health, properly identifying the product by proper name and description, bearing adequate directions for the use of the product, and bearing no statement, design, or device that may deceive the purchaser, or that is false or misleading in any particular. (12-10-84)

22. Domestic Fur-Bearing Animals. All domestic fur bearing animals which are transported or moved into the state of Idaho shall be accompanied by an official health certificate from the state of origin. (12-10-84)

23. Additional Provisions. In addition to the aforementioned provisions, the regulations as outlined in Title Nine (9), CFR, United States Department of Agriculture, Veterinary Services, governing the movement of livestock shall be adhered to. (12-10-84)

24. Violation of Rules. Pursuant to Titles 18, 25, 37, and 67, Idaho Code, a violation of the rules of the Idaho Department of Agriculture, Bureau of Animal Industry, shall constitute a misdemeanor. (9-6-61)

25. Actinomycosis - Lump Jaw - Public Livestock Markets. Any animal infected or affected with the disease known as actinomycosis and/or actinobacillosis, commonly referred to as "lump jaw", to the extent that the lesion is open and/or there is drainage therefrom, entering a Public Livestock Market shall be held only in the quarantine pen and sold only therefrom, and only in accordance with Subsection 190.01. (12-27-61)

26. Bison. (9-5-67)

a. Shipment. All shipments must be in compliance with Federal Interstate regulations. (9-5-67)

b. Permits. A permit is required from the Idaho Bureau of Animal Industry prior to importation of bison. (9-5-67)

IDAPA 02 - DEPARTMENT OF AGRICULTURE
02.06.05 - IDAHO STATE DEPARTMENT OF AGRICULTURE
RULES CONCERNING DISEASES OF HOPS (*Humulus lupulus*)

DOCKET NO. 02-0605-9801

NOTICE OF TEMPORARY AND PROPOSED RULES

EFFECTIVE DATE: These temporary rules are effective April 7, 1998.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted temporary rules, and proposed regular rule-making procedures have been initiated. The action is authorized pursuant to Title 22, Chapters 7, 19 and 20, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rule-making will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than June 17, 1998.

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

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

This rule establishes definitions, adds a regulated pest, establishes procedures for the powdery mildew certification of propagating materials to be shipped into Idaho and corrects the legal citation for charging fees.

TEMPORARY RULE JUSTIFICATION: Pursuant to Section 67-5226(1)(c), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons:

It is necessary to have the rules in place before the 1998 growing season to prevent the introduction of powdery mildew into Idaho. In addition, the revision of this rule will comply with the quarantine rules of Oregon and allow the shipment of hop propagating material from Idaho into Oregon.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Dr. Roger Vega at (208) 332-8620.

Anyone may submit written comments regarding this temporary and proposed rule-making. All written comments must be directed to the undersigned and must be delivered on or before June 24, 1998.

DATED this 7th day of April, 1998.

Patrick A. Takasugi, Director
Idaho State Department of Agriculture
2270 Old Penitentiary Road
P.O. Box 790
Boise, Idaho 83701-790
(208) 332-8500
(208) 334-4623 FAX

TEXT OF DOCKET NO. 02-0605-9801

IDAPA 02
TITLE 06
Chapter 05

02.06.05 - IDAHO STATE DEPARTMENT OF AGRICULTURE
RULES CONCERNING HOP DISEASES OF HOPS (*Humulus lupulus*) CONTROL ORDER

000. --009. (RESERVED): LEGAL AUTHORITY.

This chapter is adopted under legal authority of Title 22, Chapters 7, 19, and 20, Idaho Code. (4-7-98)T

001. TITLE AND SCOPE.

01. Title. The title of this chapter is the "Idaho State Department of Agriculture Rules Concerning Diseases of Hops (*Humulus lupulus*)". (4-7-98)T

02. Scope. This chapter has the following scope: Establishes definitions, regulated pests, regulated products, control areas, procedures for the certification of propagative material to be shipped into Idaho, and inspection procedures for propagative material produced in Idaho. Requires farm machinery to be clean of plant debris and soil, and fields to be posted. Sets forth consequences if a regulated pest is found and penalties for violations. Sets a fee schedule for inspections and makes allowances for exemptions from the rule. The official citation of this chapter is IDAPA 02.06.05 et seq. For example, the citation for this Section is IDAPA 02.06.05.001. (4-7-98)T

002. WRITTEN INTERPRETATIONS.

There are no written interpretations of these rules. (4-7-98)T

003. ADMINISTRATIVE APPEAL.

There is no provision for administrative appeal before the Idaho State Department of Agriculture under this chapter. Hearing and appeal rights are set forth in Title 67, Chapter 52, Idaho Code. (4-7-98)T

004. DEFINITIONS.

The Idaho State Department of Agriculture adopts the definitions set forth in Section 22-2003, Idaho Code. (4-7-98)T

005. FINDINGS.

The revision of IDAPA 02.06.05, "Idaho State Department of Agriculture Rules Concerning Diseases of Hops (*Humulus lupulus*)," will confer benefits to the Idaho hop industry. Powdery mildew of hops is not known to be in Idaho. The addition of powdery mildew to the list of regulated pests is necessary to prevent the introduction of powdery mildew contaminated hop propagating materials into Idaho. The revision of this rule will comply with the quarantine rules of Oregon for the shipment of hop propagating materials from Idaho to Oregon. In order to prevent the introduction of powdery mildew contaminated hop propagating materials into Idaho, the Department finds it necessary to make this revision effective immediately. (4-7-98)T

006. -- 009. (RESERVED).

010. REGULATED PESTS.

01. Verticillium Wilt. Verticillium wilt (*Verticillium albo-atrum* Reinke and Berth.) a persistent soil borne fungus disease of hops and any species or strains of the genus *Verticillium* virulently pathogenic to hops. (8-1-80)(4-7-98)T

02. Powdery Mildew. Powdery mildew caused by all developmental stages and biotypes of the fungus *Sphaerotheca macularis* (*S. humuli*). (4-7-98)T

(BREAK IN CONTINUITY OF SECTIONS)

100. CONTROL AREA.

Except as stated in Subsection 350.03 of this rule, the control area is Bonner, Boundary, and Kootenai Counties, State of Idaho. (8-1-80)(4-7-98)T

(BREAK IN CONTINUITY OF SECTIONS)

150. ELIGIBLE ROOTSTOCKS.

01. Eligibility. Only rootstocks eligible for phytosanitary certification may be imported into the control area or transported as planting stock within the area. Eligibility will be established by meeting the following requirements: (8-1-80)

a. Imported rootstocks. (8-1-80)

i. A desired clone must be grown under observation at a state or federal hop research facility in Idaho, Washington, Colorado, or Oregon for two (2) consecutive years or growing seasons with no evidence of Verticillium wilt or powdery mildew. (8-1-80)(4-7-98)T

ii. Only rooted aerial stem cuttings or apical meristems derived from clones having undergone the two (2) year observation period may be imported into the control area. (8-1-80)

iii. Colonies derived from eligible clones may serve as sources of eligible rootstocks but only after two (2) consecutive growing seasons in a commercial yard or nursery within the control area. (8-1-80)

iv. Eligible clonal stocks must be accompanied by a phytosanitary certificate when imported into the control area. A copy of the certificate must be filed with the Idaho State Department of Agriculture, Bureau of Plant Services Division of Plant Industries, at least ten (10) days prior to shipment. The certificate must affirm freedom from Verticillium wilt and powdery mildew and compliance with Subsections 150.01.a.i. through 150.01.a.iii. (8-1-80)(4-7-98)T

b. Eligible rootstocks from within the control area. (8-1-80)

i. ~~The owner of rootstocks may move~~ Existing eligible stocks from field to field within the control area ~~may be moved freely from field to field by the owner.~~ (8-1-80)(4-7-98)T

ii. Rootstocks sold, moved, or transferred within the control area to other than the owners land must be accompanied by a valid transfer permit issued by the Department. Rootstocks moved without a transfer permit will not be eligible for future sale or transfer. (8-1-80)

02. Inspection Procedures To Retain Eligibility. (8-1-80)

a. Existing plants within the control area will be inspected at least once every other year except those plantings intended for sale or transfer in which case they must have been inspected during the twelve (12) month period immediately prior to transfer. (8-1-80)

b. All new plantings of imported rootstocks will be inspected annually for the first two (2) consecutive years following initial planting and at least every twenty-four (24) months thereafter. (8-1-80)

c. It shall be the responsibility of the individual grower to notify the Department of movement of eligible stock into new fields, sales and/or purchase of rootstocks. ~~He~~ The grower shall also initiate annual requests on

or before July 1 for inspections to maintain eligibility.

(8-1-80)(4-7-98)T

(BREAK IN CONTINUITY OF SECTIONS)

300. DISEASE PEST DETECTION.

01. Inspection. If ~~visual inspection detects~~ there is evidence of a regulated ~~disease, pest which is detected by visual inspection, the Department, in cooperation with the University of Idaho, Department of Plant, Soil and Entomological Sciences, will perform~~ laboratory procedures sufficient to determine the causal organism, ~~will be performed by the Department of Agriculture in cooperation with the University of Idaho, Department of Plant and Soil Sciences.~~ (8-1-80)(4-7-98)T

02. Consequences. Positive identification of the presence of Verticillium wilt or powdery mildew virulently pathogenic to hops will result in loss of eligibility for sale or transfer for those rootstocks within the infected field and in addition a directive may be issued that the infested area be removed from hop production and the soil be disinfested. (8-1-80)(4-7-98)T

(BREAK IN CONTINUITY OF SECTIONS)

350. EXEMPTIONS.

01. Agencies. This order does not apply to any governmental agency growing hops in experimental plots approved by the Director, Idaho State Department of Agriculture and under the supervision of qualified plant scientists. (8-1-80)(4-7-98)T

02. Quarantine Area. Such experimental plots ~~may~~ shall serve as quarantine areas during the period that a clone is meeting the eligibility requirements for phytosanitary certification and be subject to Subsection 150.01.a. of this rule. (8-1-80)(4-7-98)T

03. Powdery Mildew Certification. All hop propagating materials to be shipped to all counties in Idaho shall be accompanied by a phytosanitary certificate issued by the state of origin's plant regulatory agency stating that the propagating material has been inspected and found apparently free from powdery mildew. The plant regulatory agency of the state of origin shall send a copy of the phytosanitary certificate to the Idaho State Department of Agriculture, Division of Plant Industries, 2270 Old Penitentiary Road, P.O. Box 790, Boise, Idaho 83701-0790, FAX (208) 334-2283. (4-7-98)T

(BREAK IN CONTINUITY OF SECTIONS)

400. AUTHORITY TO ENTER AND INSPECT.

The Director; of the Idaho State Department of Agriculture; or his designated agents are authorized to enter and inspect any and all hop plantings within the state of Idaho. (8-1-80)(4-7-98)T

(BREAK IN CONTINUITY OF SECTIONS)

450. PENALTIES AND ENFORCEMENT POWERS.

01. Enforcement. All designated agents of the Idaho State Department of Agriculture are empowered to carry out the provisions of ~~this order~~ these rules. (8-1-80)(4-7-98)T

02. Penalty. Any person violating any of the provisions of these ~~order~~ rules may be subject to the penalty provisions of Title 22, Chapter 7, 19, and 20, Idaho Code. (8-1-80)(4-7-98)T

(BREAK IN CONTINUITY OF SECTIONS)

500. FEES AND CHARGES.

~~Under provisions of Title 22, Chapter 7, Idaho Code, t~~The fees and charges for inspection, certificates, and permits ~~under this order~~ shall be as follows: (8-1-80)(4-7-98)T

- 01. Transfer Permits. For in-state sale of rootstocks: seven dollars and fifty cents (\$7.50) per certificate. (8-1-80)
- 02. Phytosanitary Certificates. For exporting purposes: ten dollars (\$10) per certificate. (8-1-80)
- 03. Field Inspection. (8-1-80)
 - a. Application for field inspection: three dollars (\$3) per field. (8-1-80)
 - b. Late Penalty Fees: twenty dollars (\$20) per application on all applications received after July 1 of each year and prior to July 15. (8-1-80)
 - c. Acreage Inspection Fee: three dollars (\$3) per acre or fraction thereof per field. (8-1-80)
- 04. Laboratory Fees. fifty dollars (\$50) per sample. (8-1-80)

~~501. -- 549.~~ (RESERVED).

~~550. EFFECTIVE DATE.~~

~~This control order shall be effective on and after August 1, 1980.~~ (8-1-80)

~~5501. -- 999.~~ (RESERVED).

IDAPA 02 - DEPARTMENT OF AGRICULTURE
02.06.29 - IDAHO STATE DEPARTMENT OF AGRICULTURE RULES
CONCERNING NON-NATIVE PHYTOPHAGOUS SNAILS

DOCKET NO. 02-0629-9801

NOTICE OF TEMPORARY AND PROPOSED RULES

EFFECTIVE DATE: These temporary rules are effective April 7, 1998.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted temporary rules, and proposed regular rule-making procedures have been initiated. The action is authorized pursuant to Title 22, Chapters 19 and 20, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rule-making will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than June 17, 1998.

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 non-technical explanation of the substance and purpose of the proposed rulemaking:

This rule identifies several types of plant-eating snails known to be plant pests that could potentially become established in Idaho. The establishment of these snails in Idaho could negatively impact the state's nursery export business through the imposition of quarantines by other states. Some agricultural commodities could also be attacked by these snails. Additionally, establishment of these types of snails could impact the home gardener who frequently grows the types of plants most favored by these snails.

TEMPORARY RULE JUSTIFICATION: Pursuant to Section 67-5226(1)(a), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons:

It is necessary to the protection of the public health, safety, or welfare to have the rules in place before the upcoming shipping and planting season, during which these pests would most likely be shipped into the state. In addition, several in-state and out-of-state individuals have expressed an interest in importing live snails into Idaho for the restaurant trade. Importation of live snails could lead to the establishment of an serious infestation which could cause serious damage to Idaho crops.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Mr. Michael E. Cooper at (208) 332-8620.

Anyone may submit written comments regarding this temporary and proposed rule-making. All written comments must be directed to the undersigned and must be delivered on or before June 24, 1998.

DATED this 7th day of April, 1998.

Patrick A. Takasugi, Director
Idaho State Department of Agriculture
2270 Old Penitentiary Road
P.O. Box 790
Boise, Idaho 83701-0790
(208) 332-8500
(208) 334-4623 FAX

TEXT OF DOCKET NO. 02-0629-9801

IDAPA 02
TITLE 06
Chapter 29

IDAHO STATE DEPARTMENT OF AGRICULTURE
RULES CONCERNING NON-NATIVE PHYTOPHAGOUS SNAILS

000. LEGAL AUTHORITY.

This chapter is adopted under the legal authority of Title 22, Chapters 19 and 20, Idaho Code. (4-7-98)T

001. TITLE AND SCOPE.

01. Title. The title of this chapter is the "Idaho State Department of Agriculture Rules Concerning Non-Native Phytophagous Snails". (4-7-98)T

02. Scope. This chapter has the following scope: This rule establishes definitions, restricts the shipment of regulated pests and products into the state of Idaho, establishes procedures for the importation of regulated products and regulated pests, and specifies provisions for the disposition of infested products and pests. The official citation of this chapter is IDAPA 02.06.29, et seq. For example, this citation for this section is IDAPA 02.06.29.001.02. (4-7-98)T

002. WRITTEN INTERPRETATIONS.

There are no written interpretations of these rules. (4-7-98)T

003. ADMINISTRATIVE APPEAL.

There is no provision for administrative appeal before the Idaho State Department of Agriculture under this chapter. Hearing and appeal rights are set forth in Title 67, Chapter 52, Idaho Code. (4-7-98)T

004. DEFINITIONS.

The Idaho State Department of Agriculture adopts the definitions set forth in Title 22, Chapter 20, Idaho Code. (4-7-98)T

005. FINDINGS.

The implementation of IDAPA 02.06.29, "Idaho State Department of Agriculture Rules Concerning Non-Native Phytophagous Snails," will place a quarantine on the introduction and/or distribution of live, non-native, plant-feeding snails and their host material into the state of Idaho. Non-native, plant-feeding snails pose a threat to the Idaho horticultural and agricultural crops. The Department finds it necessary to make this rule effective immediately. (4-7-98)T

006. -- 009. (RESERVED).

010. REGULATED PESTS.

01. Snails. Any snail that feeds on plants and does not occur naturally in Idaho, including, but not limited to the following: (4-7-98)T

a. The brown garden snail, *Cryptomphalus (Helix) aspersa*; (4-7-98)T

b. The green or burrowing snail, *Cantareus (Helix) apertus*; (4-7-98)T

c. The pulmonate snail, *Helix pomatia*; (4-7-98)T

- d. The white garden snail, *Theba pisana*; (4-7-98)T
 - e. The giant African snail, *Achatha fulica*; (4-7-98)T
 - f. The lactea snail, *Otala lactea*; and (4-7-98)T
 - g. Any other species which may be declared by the Director to be a threat to Idaho agricultural crops. (4-7-98)T
02. Native Idaho Species. Native Idaho species are not included. (4-7-98)T

011. -- 014. (RESERVED).

015. REGULATED AREAS.

The entire states of Arizona, California, Louisiana, New Mexico, Texas, Utah, and Washington, and any area in any state in which non-native plant-feeding snails are known to exist, including snail rearing facilities in otherwise uninfested areas. (4-7-98)T

016. -- 019. (RESERVED).

020. REGULATED PRODUCTS.

Grass sod and all plants, nursery stock or florist stock with roots in soil are hereby declared to be hosts or possible carriers of the regulated pest and are prohibited entry into the state of Idaho whether directly, indirectly, diverted, or reconsigned, unless there is compliance with Section 030 or exemption under Sections 030 and 035 of this rule. (4-7-98)T

021. -- 024. (RESERVED).

025. PROHIBITIONS.

All regulated pests and regulated products are prohibited entry into the state of Idaho. (4-7-98)T

026. -- 029. (RESERVED).

030. CONDITIONS.

01. Regulated Products. Regulated products from regulated areas may be permitted entry into Idaho only when such regulated products are accompanied by a certificate of quarantine compliance issued by an authorized official from the state of origin which certifies that the regulated product has been determined by official inspection immediately prior to shipment to be free of all life stages of regulated pests or that such regulated products originated from an area determined by official inspection to be free from regulated pests. The original certification document shall be forwarded to the Idaho State Department of Agriculture, Division of Plant Industries, P.O. Box 790, Boise, Idaho 83701-0790, immediately by first class mail or by facsimile transmission to (208) 334-2283. Each lot or shipment of the regulated product shall be accompanied by a copy of the above described certification document. The Idaho receiver to whom the regulated products are shipped shall notify the Department immediately upon receipt of such regulated products and shall hold the same until they are released by the Department. (4-7-98)T

02. Movement of Regulated Products. Certified and noncertified regulated products shall not be shipped together in the same transporting vehicle, and any such mixing of certified and noncertified regulated products shall nullify certification and result in the rejection of the entire shipment of regulated products. Upon inspection and determination by the Department that the transporting vehicle or any properly certified regulated products are infested with any life stage of a regulated pest, such shipment shall be found in violation of this rule. (4-7-98)T

031. -- 034. (RESERVED).

035. EXEMPTIONS.

01. Plant Material. Cut greens, cut flowers, and soil-free plants, including bare root plants, plant crowns, roots for propagation, bulbs, corms, tubers, and rhizomes of plants, found upon inspection not to obscure or be infested with any life stage of regulated pests are exempt from this rule. (4-7-98)T

02. Permits. Upon request, and upon investigation and finding that unusual circumstances exist justifying such action, the Department may issue a permit allowing entry into Idaho of covered regulated products without meeting the requirements of Section 030 of this rule. However, all conditions specified in the permit shall be met before such permit will be recognized. (4-7-98)T

036. -- 039. (RESERVED).

040. HELICULTURE PROHIBITED.

Raising, maintaining, selling, shipping, and holding live non-native phytophagous snails within the state of Idaho is prohibited. (4-7-98)T

041. -- 044. (RESERVED).

045. PENALTIES AND ENFORCEMENT POWERS.

01. Enforcement. All designated agents of the Department are empowered to carry out the provisions of this rule. (4-7-98)T

02. Penalty. Any person violating the provisions of the rule may be subject to the penalty provisions of Title 22, Chapters 19 and 20, Idaho Code. (4-7-98)T

03. Disposition of Regulated Products and Regulated Pests in Violation of This Rule. All regulated products and regulated pests found to be in violation of this rule shall be immediately returned to the point of origin by the Idaho receiver, or, at the receiver's option, be destroyed under the supervision of a representative of the Department, without expense to or indemnity paid by the Department. (4-7-98)T

046. -- 999. (RESERVED).

IDAPA 13 - DEPARTMENT OF FISH AND GAME

13.01.04 - RULES GOVERNING LICENSING

DOCKET NO. 13-0104-9804

NOTICE OF TEMPORARY AND PROPOSED RULES

EFFECTIVE DATE: These temporary and proposed rules are effective April 25, 1998.

AUTHORITY: In compliance with Sections 67-5226, Idaho Code, notice is hereby given this agency has adopted temporary rules. The action is authorized pursuant to Section(s) 36-104(b).

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rule-making:

Recent changes to big game seasons triggered the outfitter allocation rule and require consideration of possible allocation.

TEMPORARY RULE JUSTIFICATION: Pursuant to Sections 67-5226(1)(b) and 67-5226(1)(c), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons:

Confers a benefit.

ASSISTANCE ON TECHNICAL QUESTIONS AND SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary rule, contact Tom Hemker at 208-334-2920.

Anyone can submit written comments regarding this rule. All written comments and data concerning the rule must be directed to the undersigned and must be postmarked on or before June 24, 1998.

DATED this 22nd day of April 1998.

W. Dallas Burkhalter
Deputy Attorney General
Idaho Department of Fish and Game
600 South Walnut
PO Box 25
Boise, ID 83707
208-334-3715/FAX: 208-334-3148

TEXT OF DOCKET NO. 13-0104-9804

505. DEER AND ELK TAG ALLOCATION.

01. Allocation of Tags. Pursuant to Idaho Code Section 36-408(d), the Fish and Game Commission may allocate a number of deer and/or elk tags for use by hunters with signed agreements with licensed outfitters in zones with limited numbers of tags. The allocation will be calculated on a zone basis with reductions or increases in hunting opportunities to be proportionate among resident hunters, nonoutfitted nonresident hunters, and outfitted hunters. When the number of hunters in a general hunt unit or zone becomes restricted, the Department will calculate the initial number of allocated tags for each zone using the Idaho Outfitters and Guides Licensing Board's records of average historic use during the previous five (5) year period. Where it is biologically feasible, any reductions in the number of tags available within a zone which exceeds twenty percent (20%) will be spread over a three (3) year period with a maximum reduction of fifty percent (50%) taken in the first year and twenty-five percent (25%) in the second year. When an area becomes controlled, hunt application and eligibility rules will apply to allocated tags in

controlled hunts. Only those units or zones with licensed outfitted areas with historic use will be considered for tag allocation. (10-20-97)T

02. Controlled Hunt Areas. Only those controlled hunt areas existing prior to 1998 with historic licensed deer and/or elk outfitted area(s) may be considered for a tag/permit allocation using one (1) of the following options: (10-20-97)T

a. The number of allocated tags available within the controlled hunt area will be based on a variable scale depending on the number of tags established by the Fish and Game Commission: less than fifty-one (51) tags = zero percent (0%); fifty-one (51) or more tags = maximum of three percent (3%); or, (10-20-97)T

b. The number of tags available within the controlled hunt area will be based on the average historic use during the previous five (5) year period; or, (10-20-97)T

c. No tags will be allocated. (10-20-97)T

03. 1998 Controlled Deer Hunt Outfitter Allocation. (4-25-98)T

<u>Hunt Number</u>	<u>Open Season Dates, Inclusive</u>	<u>Legal Deer</u>	<u>Controlled Hunt Area</u>	<u>Total Permits</u>	<u>Outfitter Allocation</u>
<u>1005</u>	<u>Nov 10 - Nov 24</u>	<u>Antlered Only</u>	<u>14</u>	<u>150</u>	<u>4</u>
<u>1006</u>	<u>Nov 10 - Nov 24</u>	<u>Antlered Only</u>	<u>18</u>	<u>100</u>	<u>3</u>

(4-25-98)T

04. 1998 Elk B Tag Outfitter Allocation.

<u>Zone</u>	<u>Units</u>	<u>Dates, Inclusive</u>	<u>Total B Tags</u>	<u>Outfitter Allocation</u>
<u>Lolo</u>	<u>10, 12</u>	<u>Oct 10 - Nov 3</u>	<u>1600</u>	<u>236</u>

(4-25-98)T

IDAPA 13 - DEPARTMENT OF FISH AND GAME
13.01.10 - RULES GOVERNING THE IMPORTATION, POSSESSION, RELEASE,
SALE, OR SALVAGE OF WILDLIFE

DOCKET NO. 13-0110-9801

NOTICE OF TEMPORARY AND PROPOSED RULES

EFFECTIVE DATE: These temporary and proposed rules are effective April 25, 1998.

AUTHORITY: In compliance with Section 67-5226, Idaho Code, notice is hereby given this agency has adopted temporary rules. The action is authorized pursuant to Section(s) 36-104(b).

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rule-making:

Establishes antler pick-up seasons in the Southeast Region.

TEMPORARY RULE JUSTIFICATION: Pursuant to Sections 67-5226(1)(b) and 67-5226(1)(c), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons:

Confers a benefit.

ASSISTANCE ON TECHNICAL QUESTIONS AND SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary rule, contact Lonk Kuck at 208-334-2920.

Anyone can submit written comments regarding this rule. All written comments and data concerning the rule must be directed to the undersigned and must be postmarked on or before June 24, 1998.

DATED this 22nd day of April 1998.

W. Dallas Burkhalter
Deputy Attorney General
Idaho Department of Fish and Game
600 South Walnut
PO Box 25
Boise, ID 83707
208-334-3715/FAX: 208-334-3148

TEXT OF DOCKET NO. 13-0110-9801

300. RECOVERY, POSSESSION AND SALE OF WILDLIFE PARTS.

01. Wildlife Legally Killed. (3-23-94)

a. The possession, sale and purchase of wildlife or parts of wildlife that have been legally killed is lawful except as provided below and as provided in Chapter 5, Title 36, Idaho Code. (3-23-94)

i. The edible flesh of wildlife classified as big game animals, upland game animals, game birds or migratory birds taken from the wild may not be purchased, bartered or sold. (3-23-94)

ii. The edible flesh of wildlife classified as game fish or crustacea that are taken from the wild may not be purchased, bartered or sold except as provided in Idaho Code Sections 36-501 and 36-801 through 36-805 and

rules promulgated pursuant thereto. (3-23-94)

b. A written statement showing the taker's name, address, license and tag numbers, date and location of kill, signed by the taker, must be provided to the buyer of any black bear or mountain lion head, hide or parts (except tanned hides finished into rugs or mounts). A copy of the sales statement must be forwarded by the buyer to the Idaho Department of Fish and Game within ten (10) days after such sale. (3-23-94)

02. Animals Found Dead. Protected species of wildlife that have died naturally or accidentally remain in public trust to be disposed of by the Department of Fish and Game. However, a person may recover, possess, sell or purchase the wildlife parts as specified below, but ONLY under the conditions specified and ONLY if the wildlife has NOT been unlawfully killed. Natural causes shall not include any man-caused mortality. (3-21-97)T

a. Horns of Bighorn Sheep. (7-1-93)

i. Bighorn sheep horns of animals that have died of natural causes may be recovered and possessed but may not be sold, bartered or purchased and may not be transferred to another person without a permit issued by the Director. All such pickup horns must be presented to an Idaho Department of Fish and Game regional or subregional office for marking by placement of a permanent metal pin in the horn within thirty (30) days of recovery. The insertion of a pin does not in itself certify that the animal was legally taken or possessed. The pin only identifies the horn(s) and indicates that mandatory check and report requirements were complied with. (3-23-94)

ii. No person shall alter, deface or remove a pin placed in a bighorn sheep horn by the Idaho Department of Fish and Game. No person shall possess the horn(s) of a bighorn sheep that bears an altered, defaced or counterfeit Idaho pin or from which the Idaho pin has been removed. (3-23-94)

b. Antlers and horns of deer, elk, moose, pronghorn antelope and mountain goat, and parts of bear and mountain lion and elk teeth of animals that have died of natural causes may be recovered, possessed, purchased, bartered or sold. (3-23-94)

c. Antlers of deer, elk and moose that have been naturally shed in Idaho may be recovered, possessed, purchased or sold year around, EXCEPT in units 60, 60A, 66, ~~66A~~, 67, ~~68~~, ~~68A~~, 69, ~~70~~, 71, 72, ~~73~~, ~~73A~~, ~~74~~, ~~75~~, 76, ~~77~~ and 78 antlers may be picked up in the field only from May 1 through December 31. (~~3-21-97~~)~~T~~(4-25-98)T

03. Wildlife Taken in Other States. Wildlife or parts thereof that have been legally taken outside of Idaho, may be possessed or sold in Idaho if such sale is not prohibited in Idaho or the state, province or country where taken, or by federal law or regulation; (3-23-94)

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE
16.01.21 - RULES GOVERNING THE PROTECTION AND DISCLOSURE OF RECORDS
OF THE IDAHO DIVISION OF ENVIRONMENTAL QUALITY

DOCKET NO. 16-0121-9801

NOTICE OF NEGOTIATED RULEMAKING

AUTHORITY: In compliance with Idaho Code Section 67-5220 and IDAPA 04.11.01.810 to .815, notice is hereby given that this agency intends to promulgate a rule and desires public participation in an informal, negotiated rulemaking process prior to the initiation of formal rulemaking procedures by the agency. The negotiated rulemaking action is authorized by Idaho Code Sections 9-342A(8) and 39-105. The formal rulemaking action is authorized by Idaho Code Sections 9-342A(8), 39-105 and 39-107.

DESCRIPTIVE SUMMARY: The purpose of this negotiated rulemaking is to adopt a new rule chapter titled "Rules Governing the Protection and Disclosure of Records of the Idaho Division of Environmental Quality". The purpose of the rulemaking is to implement the provisions of HB 733, 1998 Session Law Chapter 125 (codified at Idaho Code Sections 9-342A, 39-111, 39-117, and 39-4411). Those provisions amend the Idaho public records statute, the Idaho Environmental Protection and Health Act, and the Hazardous Waste Management Act of 1983 to ensure that Idaho law complies with the public disclosure and confidentiality requirements established in the federal Clean Air Act and the Resource Conservation and Recovery Act. The new statutory provisions also add language to the Idaho public records statute creating a duty on the part of employees of the Idaho Division of Environmental Quality (IDEQ) to maintain the confidentiality of trade secrets submitted to IDEQ and establishing a statutory procedure for the handling of information claimed to be a trade secret. The trade secrets language applies to all records submitted to IDEQ under any program. The rules will be consistent with the legislative goal of meeting federal disclosure requirements and will, pursuant to the legislative direction codified at Idaho Code Section 9-342A(8), formally adopt appropriate measures to further safeguard and protect against improper disclosure of trade secrets by IDEQ, including procedures to train all IDEQ employees on the proper handling of trade secrets. As a consequence of the statutory changes and this rulemaking, IDEQ will conduct a review of the confidentiality provisions in the existing IDEQ rules, IDAPA 16, Title 01, and as a result of that review, subsequent rulemakings may be initiated, as necessary, to amend those IDEQ rules to accommodate this rulemaking and the provisions of HB 733.

The rulemaking will affect members of the public submitting documents to IDEQ as well as members of the public seeking access to relevant documents contained in IDEQ records.

Persons interested in participating in the negotiated rulemaking process are encouraged to attend meetings scheduled for:

June 10, 1998 and July 1, 1998 at 9 a.m.
Conference Room A of the Division of Environmental Quality Building
1410 N. Hilton, Boise, Idaho.

Interested persons may also participate in the negotiated rulemaking process by submitting written comments as provided below.

The goal of the negotiated rulemaking process will be to develop by consensus the text of a recommended rule. If a consensus is reached, a draft of the rule, incorporating the consensus and any other appropriate information, recommendations, or materials, will be transmitted to IDEQ for consideration and use in the formal rulemaking process. If a consensus is unable to be achieved on particular issues, the negotiated rulemaking process may result in a report specifying those areas on which consensus was and was not reached, together with arguments for and against positions advocated by various participants. At the conclusion of the negotiated rulemaking process, IDEQ intends to present a rule to the Board of Health and Welfare (Board) for temporary adoption and, at the same time, commence formal rulemaking with the publication of a proposed rule, using and taking into consideration the results of the negotiated rulemaking process. To meet the deadline set out in Idaho Code Section 9-342A(8), IDEQ intends to present the rule to the Board for temporary adoption in November 1998 and initiate formal rulemaking with the publication of the temporary and proposed rule in the January 1999 issue of the Idaho Administrative Bulletin.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on questions concerning the negotiated rulemaking, contact Paula Saul at (208)373-0418.

SUBMISSION OF WRITTEN COMMENTS: Anyone may submit written comments regarding this proposal to

initiate negotiated rulemaking. All written comments must be received by the undersigned on or before June 24, 1998.

Dated this 3rd day of June, 1998.

Paula Junae Saul
Environmental Quality Section
Attorney General's Office
1410 N. Hilton
Boise, Idaho 83706-1255
Fax No. (208)373-0481

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

**16.05.01 - RULES GOVERNING THE PROTECTION
AND DISCLOSURE OF DEPARTMENT RECORDS**

DOCKET NO. 16-0501-9801

NOTICE OF TEMPORARY AND PROPOSED RULES

EFFECTIVE DATE: These temporary rules are effective July 1, 1998.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted temporary rules, and proposed regular rulemaking procedures have been initiated. The action is authorized pursuant to Section(s) 39-105(l), 39-106(l)(a), 56-202, 56-203(b) and 56-204A, Idaho Code.

PUBLIC HEARING SCHEDULE: Pursuant to Section 67-5222(2), Idaho Code, 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 17, 1998.

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 rule-making:

Rule changes are the result of the 1996 amendments to the Child Abuse Prevention and Treatment Act (PL 104-235). Adds a section to the existing rules which provides for the public disclosure of child protection records in cases where child abuse or neglect has resulted in a child fatality or near fatality.

TEMPORARY RULE JUSTIFICATION: Temporary rules have been adopted in accordance with Section 67-5226, Idaho Code and are necessary in order to comply with deadlines in amendments to governing law or federal programs.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary or proposed rule, contact Anna Sever at (208) 334-5920.

Anyone can submit written comments regarding this rule. All written comments and data concerning the rule must be directed to the undersigned and must be postmarked on or before June 24, 1998.

DATED this 3rd day of June, 1998.

Sherri Kovach
Administrative Procedures Coordinator
DHW - Division of Legal Services
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TEXT OF DOCKET NO. 16-0105-9801

105. CHILD PROTECTION.

01. Department Records. Department written records of investigations, evaluations, prognosis and all orders concerning disposition or treatment of every person over whom it has legal custody, must not be disclosed

outside the Agency without a court order (Section 16-1623, Idaho Code). (Subsection 105.01 is more restrictive than present federal law, as restated in Subsections 105.02 and 105.03, and therefore supersedes.) (12-31-91)

02. Grants - Programs. All records concerning reports of child abuse and neglect, in order to protect the rights of the child or his parents or guardians, may be disclosed only to the following agencies and persons: (12-31-91)

a. A legally mandated child protection agency which is investigating a report of known or suspected child abuse or neglect or which is treating a child or family who is the subject of a report or record; or (11-24-77)

b. A police or other law enforcement agency investigating a report of known or suspected child abuse or neglect; or (11-24-77)

c. A physician who has before him/her a child whom he reasonably suspects may be abused or neglected; or (12-31-91)

d. A person legally authorized to place a child in protective custody if such person has before him a child whom he reasonably suspects may be abused or neglected and if the information is required in a report or record to determine whether to place the child in protective custody; or (12-31-91)

e. An agency legally responsible or authorized to care for, treat or supervise a child who is the subject of a report or record; or (11-24-77)

f. Any person named in the report or record who is alleged to be abused or neglected; if the person named is a minor or is otherwise incompetent, his guardian ad litem; or (12-31-91)

g. A parent, guardian, or other person responsible for the welfare of a child named in a report or record, with protection provided for the identity of persons supplying the information and other appropriate persons; or (11-24-77)

h. A court, upon its finding that access to such records may be necessary for determination of an issue--such access must be limited to inspection before the judge in his private room or in the courtroom when all spectators are excluded--unless the court determines that public disclosure is necessary for the resolution of an issue then pending before it; or (11-24-77)

i. A grand jury upon its determination that access to such records is necessary in the conduct of its official business; or (11-24-77)

j. Any appropriate state or local official responsible for the child protective service or legislation carrying out his official functions; or (12-31-91)

k. Any person engaged in a bona fide research purpose, provided, however, that no information identifying the subjects of the report will be made available to the researcher unless it is absolutely essential to the research purpose and unless the appropriate state official gives prior approval (45 CFR 1340.3-3(d)(5)). (Note controlling effect of Subsection 105.01). (12-31-91)

l. The Department may publicly disclose information or findings in cases of child abuse and neglect which result in a child fatality or near fatality. (7-1-98)T

03. Records of Programs Assisted Under Child Abuse Prevention and Treatment Act of 1974. Information obtained as to personal facts about individuals served by any demonstration, research, training or technical assistance project or program assisted under this Act must not be disclosed except as provided in Subsection 105.03.b. (45 CFR 1340.2-5(a)). (12-31-91)

a. Information to be protected includes lists of names, addresses, photographs and records of evaluation. (11-24-77)

b. The use of such information must be limited to purposes directly connected with the administration of these programs, including evaluations conducted under contract with the Department of Health, Education and Welfare. Such information must not be disclosed, directly or indirectly, other than for such a purpose and the purposes of Subsection 105.02, unless the written consent of the Department and the patient or client or his representative to whom the information applies has been obtained. No report or other documentation of these programs to be disclosed may contain individual identifying information without the written consent of the individual or his representative (45 CFR 1340.2-5(b)). (Note controlling effect of Subsection 105.01). (12-31-91)

04. Child Abuse Report to Law Enforcement. (11-24-77)

a. Any physician, resident on hospital staff, intern, nurse, coroner, school teacher, day care personnel, social worker or other person, having reasonable cause to believe that a person under the age of eighteen (18) has been abused, or who observes the child being subjected to conditions or circumstances which would reasonably result in abuse, must report or cause to be reported within twenty-four (24) hours such conditions or circumstances to the proper law enforcement agency (Section 16-1619, Idaho Code). (11-24-77)

b. When a physician, resident, intern, nurse or day care worker is attending the child in the performance of services as a member of the staff of a hospital or similar institution, he must notify the person in charge of the institution, or his designated delegate, who must make the necessary reports (Section 16-1619, Idaho Code). (12-31-91)

c. Any person acting upon reasonable cause in the making of such a report will have immunity from any civil or criminal liability that might otherwise be incurred or imposed. Any such person will have the same immunity with respect to participation in any judicial proceeding resulting from such report. Any person who reports in bad faith or from malice will not be protected from the provisions of this section (Section 16-1620, Idaho Code - For privileged communications in cases of child abuse and neglect, see Section 004). (12-31-91)

05. Court Proceedings. Records of a court proceeding may be made available to the Department: (12-31-91)

a. When the Department is providing protective supervision or has legal custody of the child; or (11-24-77)

b. When it is proven to the court that disclosure to the Department: (11-24-77)

i. Is in the best interest of the child; or (11-24-77)

ii. Is for the purpose of legitimate research in which case the Department may not disclose identifying information (Section 16-1621, Idaho Code). (11-24-77)

06. Actions for Termination of Parent-Child Relationships. (11-24-77)

a. In actions for termination of parent-child relationships, social records must not be disclosed to the public except as determined by the court and then only to persons or agencies having a legitimate interest in the protection, welfare and treatment of the child. Social records include social service records of the court, investigations made by this Department upon direction of the court pursuant to Section 16-2008, Idaho Code, and related papers and correspondence which include medical, psychological and psychiatric studies or reports. Such records may be either in the possession of the court or this Department (Section 16-2013, Idaho Code). (11-24-77)

b. It is a misdemeanor for Department personnel to disclose, or allow to be disclosed, the information in Subsection 105.03.a., or allow any copy thereof to be made, without a court order while an action for termination is pending (Section 16-2013, Idaho Code). (12-31-91)

07. Notwithstanding any other section of these rules regarding access to child protection assessment, evaluation, treatment and/or disposition records of the department, duly elected state officials may access such records in the course of carrying out their official duties. Such disclosure is subject to the same standard of confidentiality that exists for access granted to others by law or department rule. (7-1-96)L

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