

PENDING RULES

COMMITTEE RULES

REVIEW BOOK

Submitted for Review Before
Senate Agricultural Affairs Committee
64th Idaho Legislature
First Regular Session -- 2017



Prepared by:

*Office of the Administrative Rules Coordinator
Department of Administration*

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SENATE AGRICULTURAL AFFAIRS COMMITTEE

ADMINISTRATIVE RULES REVIEW

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2017 Legislative Session

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IDAPA 02 – DEPARTMENT OF AGRICULTURE

02.02.14 – RULES FOR WEIGHTS AND MEASURES

DOCKET NO. 02-0214-1601

NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

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

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 71-111, Idaho Code.

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

To incorporate by reference the 2017 edition of the National Institute of Standards and Technology Handbook 44, specifications, tolerances, and other technical requirements for weighing and measuring devices. NIST documents are available online at: <http://www.nist.gov/pml/wmd/index.cfm>.

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the July 6, 2016 Idaho Administrative Bulletin, **Vol. 16-7, pages 16-17**.

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

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

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

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

DATED this 4th Day of August, 2016.

Brian J. Oakey, Deputy Director
Idaho State Department of Agriculture
2270 Old Penitentiary Rd
PO Box 790
Boise, ID 83701
Phone: (208) 332-8500
Fax: (208) 334-2170

THE FOLLOWING NOTICE WAS PUBLISHED WITH THE PROPOSED RULE

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

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than July 20, 2016.

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

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

To incorporate by reference the 2017 edition of the National Institute of Standard and Technology Handbook 44, Specifications, Tolerances, and Other Technical Requirements for Weighing and Measuring Devices. NIST documents are available online at <http://www.nist.gov/pml/wmd/index.cfm>.

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

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

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

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

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

This document is recognized nationally as the primary reference document, incorporating the most current version promotes uniformity throughout the United States.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Kevin Merritt, Section Manager at (208) 332-8690.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before July 27, 2016.

DATED this 2nd Day of June, 2016.

LSO Rules Analysis Memo

THE FOLLOWING IS THE TEXT OF DOCKET NO. 02-0214-1601

004. INCORPORATION BY REFERENCE.

01. Required Reference Materials. The 201~~6~~⁷ edition of Handbook No. 44 of the National Institute of Standards and Technology, United States Department of Commerce, "Specifications, Tolerances, and Other Technical Requirements for Weighing and Measuring Devices," hereby incorporated by reference, shall be the specifications, tolerances and other technical requirements for commercial weighing and measuring devices, unless otherwise stated in these rules. ~~(3-25-16)~~()

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

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

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

05. Local Availability. Copies of the incorporated documents are on file with the Idaho State Department of Agriculture, 2216 Kellogg Lane, Boise, Idaho 83712. Copies of NIST documents may be purchased from the Superintendent of Documents, Government Printing Office, Washington, D.C. 20402. Copies are available for downloading at <http://www.nist.gov/pml/wmd/index.cfm>. Copies of ASTM specifications are on file with the Idaho State Department of Agriculture or may be purchased from <http://www.astm.org>, 100 Barr Harbor Drive, PO Box C700, West Conshohocken, PA, 19428. (4-7-11)

IDAPA 02 – DEPARTMENT OF AGRICULTURE
02.04.08 – RULES GOVERNING GRADE A MILK AND MILK PRODUCTS
DOCKET NO. 02-0408-1601
NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

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

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 37-303, Idaho Code.

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

To incorporate by reference the 2015 edition of the Grade A Pasteurized Milk Ordinance; 2015 edition of the Evaluation of Milk Laboratories reference document; 2015 Methods of Making Sanitation Ratings of Milk Shippers reference document and 2015 edition of Procedures Governing the Cooperative State-Public Health Service/Food and Drug Administration reference document.

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the July 6, 2016 Idaho Administrative Bulletin, [Vol. 16-7, pages 18-19](#).

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

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

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

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

DATED this 29th day of August, 2016.

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

THE FOLLOWING NOTICE WAS PUBLISHED WITH THE PROPOSED RULE

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

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than July 20, 2016.

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

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

To incorporate by reference the 2015 edition of the Grade A Pasteurized Milk Ordinance; 2015 edition of the Evaluation of Milk Laboratories reference document; 2015 Methods of Making Sanitation Ratings of Milk Shippers reference document and 2015 edition of Procedures Governing the Cooperative State-Public Health Service/Food and Drug Administration reference document.

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

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

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

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

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

These documents are recognized nationally as the primary reference and regulatory documents related to Grade A milk and milk products. Incorporating the most current version of the documents promotes uniformity throughout the United States dairy industry and the U.S. Food and Drug Administration.

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

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before July 27, 2016.

DATED this 2nd Day of June, 2016.

LSO Rules Analysis Memo

THE FOLLOWING IS THE TEXT OF DOCKET NO. 02-0408-1601

004. INCORPORATION BY REFERENCE.

The Idaho State Department of Agriculture incorporates by reference the following documents in this chapter. Copies of these documents may be obtained at the Idaho State Department of Agriculture central office. (4-7-11)

01. Grade "A" Pasteurized Milk Ordinance. The Grade "A" Pasteurized Milk Ordinance, 20~~11~~¹⁵ revision, published by the U. S. Department of Health and Human Services, Public Health Service, Food and Drug Administration, except the bacterial limit standard and the somatic cell count standard in Section 7 of the document. Available online at <http://www.fda.gov/downloads/Food/FoodSafety/Product-SpecificInformation/MilkSafety/NationalConferenceonInterstateMilkShipmentsNCIMSMModelDocuments/UCM291757.pdf>. (~~4-4-13~~)()

02. Evaluation of Milk Laboratories. The Evaluation of Milk Laboratories, 20~~11~~¹⁵ revision, published by the U. S. Department of Health and Human Services, Public Health Service, Food and Drug Administration. Available online at <http://www.fda.gov/downloads/Food/FoodSafety/Product-SpecificInformation/MilkSafety/NationalConferenceonInterstateMilkShipmentsNCIMSMModelDocuments/UCM293265.pdf>. (~~4-4-13~~)()

03. Methods of Making Sanitation Ratings of Milk Shippers. The Methods of Making Sanitation Ratings of Milk Shippers, 20~~11~~¹⁵ revision, published by the U. S. Department of Health and Human Services, Public Health Service, Food and Drug Administration. Available online at <http://www.fda.gov/downloads/Food/FoodSafety/Product-SpecificInformation/MilkSafety/NationalConferenceonInterstateMilkShipmentsNCIMSMModelDocuments/UCM290758.pdf>. (~~4-4-13~~)()

04. Interstate Milk Shipments. The Procedures Governing the Cooperative State-Public Health Service/Food and Drug Administration Program of the National Conference on Interstate Milk Shipments, 20~~11~~¹⁵ revision, published by the U. S. Department of Health and Human Services, Public Health Service, Food and Drug Administration, and the National Conference on Interstate Milk Shipments. Available online at <http://www.fda.gov/downloads/Food/FoodSafety/Product-SpecificInformation/MilkSafety/NationalConferenceonInterstateMilkShipmentsNCIMSMModelDocuments/UCM283586.pdf>. (~~4-4-13~~)()

IDAPA 02 – DEPARTMENT OF AGRICULTURE

02.04.14 – RULES GOVERNING DAIRY WASTE

DOCKET NO. 02-0414-1601

NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

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

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Title 37, Chapters 3, 4, and 6, Idaho Code.

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

This rule change is a result of a petition received from the Idaho Dairyman's Association to change the requirements related to pasture access for dairy cattle. The change will also make the rule consistent with the statutory revisions implemented by the 2016 Idaho Legislature.

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the October 5, 2016 Idaho Administrative Bulletin, [Vol. 16-10, pages 23-30](#).

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

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

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

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

DATED this 27th day of October, 2016.

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

THE FOLLOWING NOTICE WAS PUBLISHED WITH THE PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Title 37, Chapters 3, 4, and 6, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 19, 2016.

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

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

This rule change is a result of a petition received from the Idaho Dairyman's Association to change the requirements related to pasture access for dairy cattle. The change will also make the rule consistent with the statutory revisions implemented by the 2016 Idaho Legislature.

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

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

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

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the July 6, 2016 Idaho Administrative Bulletin, [Vol. 16-7, page 20](#). Negotiated rulemaking meetings were held at the Idaho State Department of Agriculture on August 2, 2016 and August 16, 2016. There were extensive comments received from the meeting attendees, as well as multiple written comments submitted and entered into the record that were taken into consideration when drafting this proposed rule.

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

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

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 26, 2016. Comments can be delivered via email to scott.leibsle@isda.idaho.gov or via regular mail to Dr. Scott Leibsle's attention at the address listed below.

DATED this 29th day of August, 2016.

LSO Rules Analysis Memo

<p>THE FOLLOWING IS THE TEXT OF DOCKET NO. 02-0414-1601</p>
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IDAPA 02
TITLE 04
CHAPTER 14

02.04.14 - RULES GOVERNING DAIRY ~~WASTE~~ BYPRODUCT

000. LEGAL AUTHORITY.

This chapter is adopted under the legal authority of Title 37, Chapters 3, 4, and 6, Idaho Code. (~~4-11-15~~)()

001. TITLE AND SCOPE.

01. Title. The title of this chapter of the Idaho State Department of Agriculture is IDAPA 02.04.14, "Rules Governing Dairy ~~Waste~~ Byproduct." (~~3-29-10~~)()

02. Scope. This chapter has the following scope: These rules shall govern ~~the design, function and management practices of dairy waste systems. The official citation of this chapter is IDAPA 02.04.14.000 et seq. For example, this section's citation is IDAPA 02.04.14.001~~ the Department's review, approval, and enforcement of dairy environmental management plans to ensure that dairy environmental management systems are constructed, operated and maintained in a manner that protects the natural resources of the state. This section's citation is 37-602(2), Idaho Code. Nothing in this rule affects the authority of the department of environmental quality to enforce an IPDES permit for dairy farms that discharge pollutants to waters of the United States, including without limitation, the authority to issue permits, access records, conduct inspections and take enforcement actions. The provisions of this rule do not alter the requirements, liabilities, and authorities with respect to or established by the IPDES program. (~~3-20-97~~)()

(BREAK IN CONTINUITY OF SECTIONS)

~~007. FINDINGS.~~

~~The Department finds that pursuant to Section 67-5226(1), Idaho Code, these rules are necessary to protect the public health, safety, and welfare of Idaho, enhance Idaho water quality and preserve the integrity of the Idaho dairy industry. These rules establish design, construction, operation, location, and inspection criteria for dairy farms and dairy waste systems on Idaho dairy farms and enable the Department to implement the 1999 NRCS Nutrient Management Standard (NMS) on dairy farms to appropriately manage dairy waste. These rules also provide penalty provisions.~~ (~~4-11-15~~)

~~008~~. -- 009. (RESERVED)

010. DEFINITIONS.

The following definitions shall apply in the interpretation and enforcement of this chapter: (3-20-97)

01. Agricultural Stormwater Discharge. A precipitation-related discharge of dairy byproducts from land areas under the control of a dairy farm where the dairy byproducts have been mechanically land applied in accordance with an approved nutrient management plan. ()

~~042~~. Best Management Practice. A practice, technique, or measure that is determined to be a reasonable precaution, a cost-effective and practicable means of preventing or reducing the discharge of pollutants from a point source or a nonpoint source to a level compatible with environmental goals, including water quality goals and standards. (4-11-15)

~~023~~. Certified Planner. A person who has completed nutrient management certification in accordance with the Nutrient Management Standard (NMS) and is approved by the Department. (3-29-10)

~~034.~~ **Certified Soil Sampler.** An individual qualified and approved by the Department to collect soil samples according to the 1997 University of Idaho Soil Sampling protocols or other method as approved by the Department. (3-29-10)

~~05.~~ **Dairy Animal.** Milking cows, sheep or goats. ()

~~06.~~ **Dairy Byproduct.** Solids and liquids associated with dairy animal rearing and milk production including, but not limited to; manure, manure compost, process water, bedding, spilled feed, and feed leachate. ()

~~07.~~ **Dairy Environmental Management Plan.** A plan for managing a dairy environmental management system. The dairy environmental management plan shall consist of dairy storage and containment facilities criteria and a dairy nutrient management plan that are approved by the director. ()

~~08.~~ **Dairy Environmental Management System.** The areas and structures within a dairy farm where dairy byproducts are collected, stored, treated, or applied to land. These areas and structures may include corrals, feeding areas, collection systems, conveyance systems, storage ponds, treatment lagoons, and evaporative ponds and land application areas, but do not include pastures as defined in these rules. ()

~~049.~~ **Dairy Farm.** ~~The land owned or operated by a dairy farm and is a place or premises~~ person as an integral component of a Department-permitted grade A or manufacture grade facility where one (1) or more milking cows, sheep, or goats are kept, and from which all or a portion of the milk produced thereon is delivered, sold or offered for sale for human consumption. A dairy farm does not include those lands that contain non-dairy animals provided a physical separation exists from lands owned or operated by the dairy, byproducts remain separate, and dairy animals are not comingled with non-dairy animals. (4-11-15)()

~~05.~~ **Dairy Waste.** ~~Manure and process wastewater that may also contain bedding, spilled feed, compost, water, or soil. It also includes wastes not particularly associated with manure, such as milking center or washing wastes, milk, feed leachate, or livestock carcasses or parts thereof.~~ (4-11-15)

~~06.~~ **Dairy Waste System or Waste System.** ~~The portion of a dairy farm where dairy waste is stored, collected, or treated. This may include corrals, feeding areas, waste collection systems, waste conveyance systems, waste storage ponds, waste treatment lagoons, and evaporative ponds.~~ (4-11-15)

~~10.~~ **Dairy Nutrient Management Plan (DNMP).** A plan prepared in conformance with the NMS for managing the land application of dairy byproducts that is prepared by a certified planner and approved by the Department. ()

~~11.~~ **Dairy Storage and Containment Facilities.** The areas and structures within a dairy farm where dairy byproducts are collected, stored, or treated in conformance with engineering standards and specifications published by the USDA Natural Resources Conservation Service or by the ASABE, or other equally protective criteria approved by the Director. These areas may include corrals, feeding areas, collection systems, conveyance systems, storage ponds, treatment lagoons, evaporative ponds, and compost areas, but do not include pastures as defined in these Rules. ()

~~0712.~~ **Department.** The Idaho State Department of Agriculture. (3-29-10)

~~0813.~~ **Director.** The Director of the Idaho State Department of Agriculture or his designee. (3-29-10)

~~09.~~ **Farm Certification.** ~~A permit issued by the Department allowing the sale of manufacture grade milk.~~ (3-20-97)

~~14.~~ **Export.** The delivery of dairy byproducts from a dairy farm to a third party for the third party's use. ()

~~105.~~ **Fieldman.** An individual qualified and approved by the Department to perform dairy farm inspections. (3-20-97)

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

~~17.~~ **Inspector.** A qualified, trained person employed by the Department to perform dairy farm inspections. (3-20-97)

~~12. Livestock.~~ For the purposes of these rules the term livestock shall include bovidae, suidae, equidae and other animals that are kept on or contiguous to a dairy farm and are owned or controlled by a dairy farm. (3-19-99)

~~13. Manufacture Grade Milk.~~ Milk produced for processing into dairy products for human consumption but not subject to Grade A requirements. (3-20-97)

18. Land Application. Mechanical spreading on, or incorporating into the soil mantle, dairy byproduct as a soil amendment for agricultural use of nutrients and for other beneficial purposes. Land application does not include pasturing animals as defined in these rules. ()

~~149.~~ **Modification or Modified.** Structural changes and alterations to the dairy ~~waste system~~ storage and containment facility that would require increased storage or containment capacity or ~~such changes that would alter~~ the function of the ~~waste system~~ facility. (4-11-15)()

~~15. National Pollutant Discharge Elimination System (NPDES).~~ The point source permitting program established pursuant to section 402 of the federal clean water act. (4-11-15)

~~1620.~~ **Non-Compliance.** A practice or condition that ~~causes an unauthorized discharge; or, if left uncorrected, will cause an unauthorized discharge, or~~ does not meet ~~nutrient management standards and comply with a NMP~~ the requirements of a dairy environmental management plan. Noncompliance does not include an upset condition. (4-11-15)()

~~17. Nutrient Management Plan (NMP).~~ A plan prepared in conformance with the Nutrient Management Standard (NMS) or other equally protective standard for managing the amount, placement, form, and timing of the land application of nutrients and soil amendments. (4-11-15)

21. Nutrient Management Standard (NMS). Criteria for managing the land application of nutrients and soil amendments published in the USDA NRCS conservation practice standard nutrient management code 590 or other equally protective criteria approved by the Director. ()

22. Pasture, Pasturing, and Pastured. For purposes of these rules, a pasture is an irrigated or dryland field with forage plant growth covering a minimum of fifty percent (50%) of the field. Pasturing and pastured is dairy animals and other animals owned, leased, or otherwise under the control of the producer, grazing in the same dairy farm pasture. ()

~~1823.~~ **Permit.** A permit issued by the Department allowing the sale of Grade A milk or manufacture grade milk. (3-20-97)()

~~1924.~~ **Person.** Any individual, partnership, association, firm, joint stock company, joint venture, trust, estate, political subdivision, public or private corporation, state or federal governmental department, agency, or instrumentality; or any legal entity that is recognized by law as the subject of rights and duties. (4-11-15)

~~205.~~ **Process Wastewater.** ~~Liquid containing dairy manure.~~ Water directly or indirectly used or produced in dairy animal rearing, milk production and environmental management processes including, but not limited to: excess milk; spillage or overflow from watering, washing, spraying or cooling dairy animals; water containing dairy manure; water used in washing, cleaning, or flushing barns, manure pits and other areas involved in the milk production and environmental management processes; water used for dust control; and water that comes into contact with any raw materials, products, or byproducts of the dairy production and environmental management processes. (4-11-15)()

~~246.~~ **Producer.** The person who ~~exercises control over the production of milk delivered to a plant, and who receives payment for this product~~ owns or operates a permitted dairy farm. (3-20-97)()

~~227.~~ **Unauthorized Discharge.** A discharge of ~~dairy waste to state surface waters or ground waters, or beyond a dairy farm's property boundaries, that does not meet the requirements of these rules or ground water or surface water quality standards~~ pollutants from a dairy farm to waters of the United States as defined in the federal clean water act that is required to be but is not authorized by an IPDES permit. Unauthorized discharge does not include an upset condition or agricultural stormwater discharge. (4-11-15)()

~~28.~~ **Unauthorized Release.** A release of dairy byproducts to ground water or surface waters of the state that are not waters of the United States or beyond land owned or operated by the dairy farm that results from a dairy farm's failure to comply with its environmental management plan. Unauthorized release shall not include an upset condition, an agricultural stormwater discharge or infiltration from storage and containment facilities that is within engineering standards and specifications published by the USDA, NRCS or by the ASABE, or other equally protective criteria approved by the Director. ()

~~29.~~ **Upset Condition.** Precipitation, earthquake, vandalism, or other occurrence beyond the control of the dairy farm owner or operator that exceeds criteria for storage and containments facilities and nutrient management in an approved environmental management plan. ()

011. ABBREVIATIONS.

~~There are no abbreviations in this chapter.~~

(3-29-10)

~~01.~~ **ASABE.** American Society of Agricultural and Biological Engineers. ()

~~02.~~ **IPDES.** Idaho Pollutant Distribution Elimination System. ()

~~03.~~ **NMS.** Nutrient Management Standard ()

~~04.~~ **NRCS.** Natural Resources Conservation Service. ()

~~05.~~ **USDA.** United States Department of Agriculture. ()

~~012. -- 019.~~ **(RESERVED)**

~~020.~~ **PERMITS AND CERTIFICATION.**

~~No Producer shall offer for sale or sell milk unless the producing dairy farm has been issued a Grade A permit or a farm certification from the Department.~~

(3-20-97)

~~01.~~ **Grade A Permit.** A permit issued by the Department if the dairy farm complies with the requirements of the "Grade A Pasteurized Milk Ordinance", as incorporated by reference in IDAPA 02-04-08, "Rules Governing Grade A Milk and Milk Products", and has in place and operates a dairy waste system consistent with the NMP, NMS, and Appendix 10D. (3-29-10)

~~02.~~ **Farm Certification.** A certification issued by the Department if the dairy farm complies with the requirements of IDAPA 02-04-05, "Rules Governing Manufacture Grade Milk," and has in place and operates a dairy waste system consistent with the NMP, NMS, and Appendix 10D. (3-29-10)

~~021. -- 029.~~ **(RESERVED)**

030. WASTE SYSTEM DAIRY ENVIRONMENTAL MANAGEMENT PLAN APPROVAL.

The Department is authorized to approve ~~the design, construction, operation, and location of dairy waste systems. These systems must conform to the NMP, NMS, and Appendix 10D~~ environmental management plans, as provided in Section 37-606A, Idaho Code. (3-29-10)()

~~01.~~ **Waste Containment and Dairy Storage and Containment Facility Criteria.** (3-29-10)()

a. ~~Waste~~ Dairy storage and containment ~~structures~~ facilities shall be constructed to meet a minimum of one hundred eighty (180) days of holding capacity. ~~Wastewater~~ Process water containment structures that are utilized as the secondary or final storage for effluent shall have a minimum two (2) vertical feet of freeboard.

(3-29-10)()

b. Earthen ~~waste~~ dairy storage and containment ~~structures~~ facilities less than ten (10) vertical feet high with a maximum high water line of eight (8) vertical feet shall be required to have a top embankment width of at least eight (8) feet and a minimum of one (1) vertical foot of freeboard shall be maintained. The combined inside and outside embankment slopes must be at least five (5) horizontal to one (1) vertical, and neither slope shall be steeper than two (2) horizontal to one (1) vertical. Earthen ~~waste~~ dairy storage and containment ~~structures~~ facilities with outside embankments higher than ten (10) vertical feet from the naturally occurring ground level shall meet the NRCS Idaho Conservation Practice Standard Waste Storage Facility Code 313 December 2004 embankment requirements as incorporated by reference in Subsection 004.03 of these rules.

(3-29-10)()

c. The inside bottom of the ~~waste~~ dairy storage and containment ~~structure~~ facility shall be a minimum of two (2) feet above the high water table, bed rock, gravel, or permeable soils. For an earthen ~~waste~~ dairy storage and containment ~~structures~~ facility, a soil liner shall be installed such that the specific discharge rate of the containment structure meet $1 \times 10^{-6} \text{ cm}^3/\text{cm}^2/\text{sec}$ or less as described in Appendix 10D. Concrete or synthetic liners must be constructed to the American Society of Agricultural and Biological Engineers Specification ASABE EP393.3 Manure Storages February 2004 and Appendix 10D as incorporated by reference in Section 004 of these rules.

(3-29-10)()

d. Storage areas for dairy ~~waste~~ byproduct, including compost and solid manure storage areas, shall be located on approved soils and appropriately protected to prevent run on and run off.

(4-11-15)()

e. ~~Waste storage~~ Dairy environmental management systems shall be maintained in a condition that allows the Producer to regularly inspect the integrity of the systems.

(3-29-10)()

02. Dairy Nutrient Management Plan (DNMP). ~~All dairy farms shall implement a Nutrient Management Plan (NMP) approved by the Department that accurately reflects the operation of the facility. The NMP shall include an accurate description of the one hundred eighty (180) days of holding capacity of the waste containment system. It shall be the dairy farm's responsibility to update the NMP. Except as provided below, each dairy farm shall have a dairy nutrient management plan that is approved by the Department and included in the dairy farm's environmental management plan. The DNMP shall cover the dairy farm site and other land owned and operated by the dairy farm owner or operator to which dairy byproducts are land applied. A new dairy farm governed by the IPDES program is not required to submit a DNMP to the Department. An existing dairy farm with an approved DNMP that has a discharge to waters of the U.S. that requires an IPDES permit must comply with the nutrient management plan requirements under the IPDES rules and IPDES permit, notwithstanding the Department approved DNMP. Requirements to comply with the provisions of a DNMP include the following:~~

(4-11-15)()

a. Producer annual soil tests shall be conducted as set forth in ~~the NMS~~ IDAPA 02.04.30, "Rules Governing Nutrient Management."

(3-29-10)()

b. Regulatory soil tests will be conducted at frequencies sufficient to provide assurance of compliance with ~~the NMS~~ IDAPA 02.04.30, "Rules Governing Nutrient Management."

(3-29-10)()

i. If the regulatory or Producer soil tests reveal that phosphorus thresholds have exceeded the levels established in the NMS, the Producer shall only apply nutrients at the appropriate phosphorus crop uptake rate.

(3-29-10)

ii. Subsequent regulatory soil test(s) on fields and pastures that were identified as exceeding the phosphorus threshold will be conducted. If two (2) out of three (3) tests reveal the phosphorus index continues to trend upward, the Producer will be penalized as provided in these rules. These tests shall be taken in the top one (1) foot of soil.

(3-29-10)()

c. Accurate DNMP records shall be maintained. These records shall include at a minimum:

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

i. Regulatory soil samples shall be taken by a Certified Soil Sampler and tested by a laboratory that meets the requirements and performance standards of the North American Proficiency Testing Program under the auspices of the Soil Science Society of America outlined in the NMS, as incorporated by reference in Subsection 004.02, as part of NMS 590 or other methods as approved by the Department; (3-29-10)

ii. Annual soil analysis; (3-29-10)

iii. Date and amount of dairy ~~waste~~ byproduct and commercial fertilizer applied to individual dairy owned or operated fields; ~~(4-11-15)~~()

iv. Date(s) of exported dairy ~~waste~~ byproduct, number of acres applied, amount of dairy ~~waste~~ byproduct exported, and to whom dairy ~~waste~~ byproduct was exported; and ~~(4-11-15)~~()

v. Actual crop yields on dairy owned or operated fields. (3-29-10)

d. Pasturing. Pastures utilized for grazing of dairy animals, and other animals owned, leased or otherwise under the control of a producer within the same pasture, shall be incorporated in and subject to the DNMP. These pastures are also subject to the following requirements: ()

i. Soil Testing. Soil tests shall be conducted pursuant to the NMS on all lands utilized as pasture. If pasture soil tests exceed the phosphorus threshold, the Producer must take action to demonstrate a downward trend in the phosphorus index in subsequent soil tests. If two (2) out of three (3) subsequent soil tests reveal the phosphorus index continues to trend upward, the Producer will be penalized as provided in these rules. ()

ii. Surface Water Access. If pastured animals have access to surface water within a pasture, the producer may be required to implement one or more NRCS conservation practice standards to minimize adverse impact on surface water quality. ()

iii. Land Application. If land application occurs within a pasture, soil tests shall be conducted annually on that pasture. ()

iv. Confinement Areas. Confinement areas shall not be considered part of a pasture. ()

031. -- 039. (RESERVED)

040. INSPECTIONS.

Each dairy farm shall be inspected by an Inspector or Fieldman at least annually or at intervals sufficient to determine that dairy ~~waste~~ ~~has~~ byproducts and process water have been managed to prevent an unauthorized discharge, unauthorized release, or contamination of surface and ground water. An official inspection report form as described in Section 041 will be completed at the time of inspection. ~~(4-11-15)~~()

041. INSPECTION REPORT FORMS.

An inspection report form shall be established by the Department based on parameters established in the NMP, NMS, and Appendix 10D. Each inspection item on the form shall indicate compliance and non-compliance. (3-29-10)

042. -- 049. (RESERVED)

050. COMPLIANCE SCHEDULES.

01. **Non-Compliance or Unauthorized ~~Discharge~~ Release Violations Identified.** When the Director identifies items of non-compliance or unauthorized ~~discharge~~ release violations, the deficiencies will be noted and discussed with the Producer. Appropriate corrective actions will be identified and scheduled informally. The Director may develop a formal compliance schedule in the following cases: ~~(4-11-15)~~()

a. When corrective actions cannot be completed within thirty (30) days; (4-5-00)

b. When corrective actions require significant capital investment; (4-5-00)

c. When informal schedules have not been ~~complied with~~ followed. ~~(4-5-00)~~()

02. **Re-Inspection.** Re-inspection of the dairy farm will be conducted as appropriate, to ensure compliance. An unauthorized ~~discharge~~ release violation shall be corrected immediately, when at all possible. ~~(4-11-15)~~()

051. -- 059. (RESERVED)

060. **UNAUTHORIZED DISCHARGES AND UNAUTHORIZED RELEASES -- PENALTIES.**

01. **Unauthorized Discharge.** No dairy farm shall cause an unauthorized discharge. (4-11-15)

~~02.~~ **Unauthorized Release.** No dairy farm shall cause an unauthorized release. ()

~~023.~~ **Non-Compliance.** Non-compliance with requirements for dairy ~~waste~~ environmental systems, the NMS, and ~~D~~NMP shall be addressed through corrective actions and compliance schedules pursuant to these rules. ~~(4-11-15)~~()

~~034.~~ **Penalties.** For unauthorized ~~discharges~~ releases and non-compliance conditions, the Director shall have the authority to assess a fine of up to ten thousand dollars (\$10,000) per occurrence. Civil penalties collected under this subsection shall be remitted to the county where the violation occurred for deposit in the county current expense fund. ~~(4-11-15)~~()

~~045.~~ **Suspend Planners or Soil Samplers Certification.** The Director may suspend certification of Certified Planners or Certified Soil Samplers in the event such Certified Planners or Soil Samplers fail to develop ~~D~~NMPs or collect soil samples as required by these rules. ~~(3-29-10)~~()

~~061.~~ **COMPLIANCE WITH IDAHO POLLUTANT DISCHARGE ELIMINATION SYSTEM RULES.**
The department of environmental quality shall be solely responsible and authorized to determine whether the discharge of pollutants from a Dairy Farm to waters of the United States is required to be authorized by an IPDES permit. The provisions of this rule do not define when a Dairy Farm is required to obtain a permit for a discharge, do not exempt a Dairy Farm from permitting requirements for such discharges or alter the authority of DEQ with respect to such discharges. ()

~~0642.~~ -- 999. (RESERVED)

IDAPA 02 – DEPARTMENT OF AGRICULTURE

02.04.15 – RULES GOVERNING BEEF CATTLE ANIMAL FEEDING OPERATIONS

DOCKET NO. 02-0415-1601

NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

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

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

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

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

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

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

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

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

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

DATED this 27th day of October, 2016.

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

THE FOLLOWING NOTICE WAS PUBLISHED WITH THE PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Title 22, Chapters 1 and 49, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 19, 2016.

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

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

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

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

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

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

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the July 6, 2016 Idaho Administrative Bulletin, [Vol. 16-7, page 21](#). A negotiated rulemaking meeting was held at the Idaho State Department of Agriculture on August 3, 2016. There were twelve (12) people in attendance and multiple comments were entered into the record and taken into consideration when drafting this proposed rule.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: A more recent version of the American Society of Agricultural and Biological Engineers Specification Manual has been published. However there are no changes to the standards referenced in this rule.

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

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 26, 2016. Comments can be delivered via email to scott.leibsle@isda.idaho.gov or via regular mail to Dr. Scott Leibsle's attention at the address listed below.

DATED this 6th day of September, 2016.

LSO Rules Analysis Memo

THE FOLLOWING IS THE TEXT OF DOCKET NO. 02-0415-1601

001. TITLE AND SCOPE.

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

02. Scope. These rules shall govern the design, function, and management practices of waste systems on beef cattle animal feeding operations. The official citation of this chapter is IDAPA 02.04.15.000 et seq. For example this section's citation is IDAPA 02.04.15.001. Nothing in this rule affects the authority of the department of environmental quality to enforce an IPDES permit for dairy farms that discharge pollutants to waters of the United States, including without limitation, the authority to issue permits, access records, conduct inspections and take enforcement actions. The provisions of this rule do not alter the requirements, liabilities, and authorities with respect to or established by the IPDES program. (3-16-01)()

(BREAK IN CONTINUITY OF SECTIONS)

004. INCORPORATION BY REFERENCE.

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

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

021. The 1997 United States Department of Agriculture Natural Resources Conservation Service Agricultural Waste Management Field Handbook, Appendix 10 D. This document can be viewed online at <http://directives.sc.egov.usda.gov/OpenNonWebContent.aspx?content=17767.wba>. (3-16-01)

~~**032.** The 2000 American Society of Agricultural and Biological Engineers Standard Specification ASAE EP393.3 Manure Storages February 2004. This document can be viewed online at http://www.agri.idaho.gov/Categories/Animals/Documents/ASAE_EP393point3-2000.pdf is part of a copyrighted publication and is available for viewing at the ISDA offices or a copy may be purchased online at <http://www.asabe.org/>.~~ (3-16-01)()

043. The 1999 Publication by the United States Department of Agriculture, Natural Resource Conservation Service, Conservation Practice Standard, Nutrient Management Code 590. This can be viewed online at http://www.agri.idaho.gov/AGRI/Categories/Animals/Documents/nutrient_Management_code_590.PDF. (3-16-01)

(BREAK IN CONTINUITY OF SECTIONS)

010. DEFINITIONS.

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

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

02. Animal. Bovidae, ovidae, suidae, equidae, captive cervidae, captive antilocapridae, camelidae, and

ratitidae. (3-16-01)

03. Animal Feeding Operation. A lot or facility where slaughter and feeder cattle or dairy heifers are confined and fed for a total of forty-five (45) days or more during any twelve (12) month period and crops, vegetation forage growth, or post harvest residues are not sustained in the normal growing season over any portion of the lot or facility. (4-6-05)

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

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

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

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

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

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

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

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

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

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

b. One thousand (1,000) veal calves; ()

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

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

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

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

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

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

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

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

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

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

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

4620. Operator. The person who has power or authority to manage, or direct, or has financial control of a beef cattle animal feeding operation. (3-16-01)

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

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

4923. Runoff. Any precipitation that comes into contact with manure, compost, bedding, or feed on a beef cattle animal feeding operation. (3-15-02)

204. Slaughter and Feeder Cattle. All cattle except those cattle located on a dairy farm permitted by the Idaho State Department of Agriculture pursuant to IDAPA 02.04.14, "Rules of the Department of Agriculture Governing Dairy Waste." (4-6-05)

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

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

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

238. Waters of the State. All accumulations of water surface and underground, ~~water located within the boundaries of~~ natural and artificial, public and private, or parts thereof which are wholly or partially within,

which flow through or border upon the state ~~or boundary streams, rivers and lakes except for private waters as defined in Title 42, Chapter 2, Idaho Code.~~ (3-16-01)()

011. ABBREVIATIONS.

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

(BREAK IN CONTINUITY OF SECTIONS)

050. AUTHORITY TO INSPECT.

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

01. **Entry.** Enter and inspect at reasonable times the premises or land application site(s) of a beef cattle animal feeding operation. (4-6-05)
02. **Access to Records.** Review or copy any records that must be kept in accordance with these rules. (4-6-05)
03. **Sample or Monitor.** Sample or monitor at reasonable times, substances or parameters directly related to compliance with these rules or an IPDES permit. (4-6-05)()

(BREAK IN CONTINUITY OF SECTIONS)

052. ADMINISTRATION OF IPDES PROGRAM.

The Director of the department of agriculture and the director of the department of environmental quality shall, as appropriate, establish an agreement relating to the administration of an IPDES program that recognizes the expertise of the department of agriculture. ()

053. COMPLIANCE WITH IDAHO POLLUTANT DISCHARGE ELIMINATION SYSTEM RULES.

The department of environmental quality shall be solely responsible and authorized to determine whether the discharge of pollutants from a Beef Cattle Feeding Operation is required to be authorized by an IPDES permit. The provisions of this rule do not define when a Beef Cattle Feeding Operations is required to obtain a permit for a discharge, do not exempt a Beef Cattle Feeding Operation from permitting requirements for such discharges or alter the authority of DEQ with respect to such discharges. ()

0524. -- 079. (RESERVED)

IDAPA 02 – DEPARTMENT OF AGRICULTURE
02.04.16 – RULES GOVERNING AGRICULTURE ODOR MANAGEMENT
DOCKET NO. 02-0416-1601

NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

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

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 25-3802, Idaho Code.

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

This rule change is a result of a petition received from the Idaho Dairyman's Association. The changes will make the rule consistent with the statutory revisions implemented by the 2016 Idaho Legislature.

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the October 5, 2016 Idaho Administrative Bulletin, [Vol. 16-10, pages 36-39](#).

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

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

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

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

DATED this 27th day of October, 2016.

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

THE FOLLOWING NOTICE WAS PUBLISHED WITH THE PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 25-3802, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 19, 2016.

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

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

This rule change is a result of a petition received from the Idaho Dairyman's Association. The changes will make the rule consistent with the statutory revisions implemented by the 2016 Idaho Legislature.

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

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

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

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the July 6, 2016 Idaho Administrative Bulletin, [Vol. 16-7, page 22](#). A negotiated rulemaking meeting was held at the Idaho State Department of Agriculture on August 2, 2016. There were seventeen (17) people in attendance at the meeting. No written comments were received.

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

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

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 26, 2016. Comments can be delivered via email to scott.leibsle@isda.idaho.gov or via regular mail to Dr. Scott Leibsle's attention at the address listed below.

DATED this 29th day of August, 2016.

LSO Rules Analysis Memo

THE FOLLOWING IS THE TEXT OF DOCKET NO. 02-0416-1601

010. DEFINITIONS.

The following definitions shall apply in the interpretation and enforcement of this chapter. (3-15-02)

01. Accepted Agricultural Practices. Those management practices normally associated with agriculture in Idaho, including but not limited to those practices identified in Section 100 of these rules, and which include management practices intended to control odor generated by an agricultural operation. (5-3-03)

02. Agricultural Animals. Those animals, including but not limited to mink, domestic cervidae, horses, and ratites raised for agricultural purposes. (3-15-02)

03. Agricultural Operation. Those operations where livestock or other agricultural animals are raised, or crops are grown, for commercial purposes, not to include those operations set forth within Section 25-3801(2), Idaho Code. (5-3-03)

04. Animal. Livestock and agricultural animals. (5-3-03)

05. BAT. The best application of science that is accessible and obtainable to achieve a desired objective. (5-3-03)

06. Best Management Practices. Practices, techniques, or measures that are determined by the Department to be a cost-effective and practicable means of managing odor generated on an agriculture operation to a level associated with accepted agriculture practices. (3-15-02)

07. Compost. A biologically stable material derived from the biological decomposition of organic matter. (3-15-02)

08. Composting. The aerobic degradation of manure and other organic material to a biologically stable form. (3-15-02)

09. Beef Cattle. All cattle except those located on a dairy farm that ~~has~~ have been permitted by the Idaho State Department of Agriculture pursuant to IDAPA 02.04.14, "Rules ~~of the Department of Agriculture~~ Governing Dairy ~~Waste~~ Byproduct." (3-15-02)()

10. Beef Cattle Animal Feeding Operation. Those operations regulated pursuant to IDAPA 02.04.15, "Rules ~~of the Department of Agriculture~~ Governing Beef Cattle Animal Feeding Operations." (3-15-02)()

11. Department. The Idaho State Department of Agriculture. (3-15-02)

12. Director. The Director of the Idaho State Department of Agriculture. (3-15-02)

13. Land Application. The spreading on, or incorporation into the soil of agricultural by-products including, but not limited to, manure, wastewater, compost, cull potatoes, cull onions, or crop residues. (3-15-02)

14. Large Swine And Poultry Operations. Those swine ~~and poultry~~ operations regulated pursuant to IDAPA 58.01.09, "Rules Regulating Swine ~~and Poultry~~ Facilities;" and those poultry operations regulated pursuant to IDAPA 02.04.32, "Rules Governing Poultry Operations." (3-15-02)()

15. Livestock. Cattle, sheep, swine and poultry. (3-15-02)

16. Liquid-Solid Separation. The removal of solid manure from water through mechanical or settling

means. (3-15-02)

17. Liquid Waste System. Wastewater storage and containment facilities and associated waste collection and conveyance systems where water is used as the primary carrier of manure and manure is added to the wastewater storage and containment facilities on a regular basis including the final distribution system. (5-3-03)

18. Manure. Animal excrement that may also contain bedding, spilled feed, or soil. (5-3-03)

19. Modified. Structural changes and alterations to agricultural operations which would require increased wastewater storage or containment capacity or such changes which would increase the amount of manure entering wastewater storage and containment facilities. (5-3-03)

20. Nutrient Management Plan. A plan prepared in conformance with the nutrient management standard. (3-15-02)

21. Nutrient Management Standard. The 1999 publication by the United States Department of Agriculture Natural Resources Conservation Service, Conservation Practice Standard, Nutrient Management Code 590, or other equally protective standard approved by the Director. (3-15-02)

22. Odor. The property or quality of a substance that stimulates or is perceived by the sense of smell, the standards for which shall be judged on criteria that shall include intensity, duration, frequency, offensiveness, and health risks. (5-3-03)

23. Odor Management Plan. A site-specific plan approved by the Director to manage odor generated on an agricultural operation to a level associated with accepted agricultural practices by utilizing best management practices. (3-15-02)

24. Person. Any individual, association, partnership, firm, joint stock company, joint venture, trust, estate, private corporation, or any legal entity, which is recognized by law as the subject of rights and duties. (3-15-02)

25. Waste Collection and Conveyance Systems. The areas and systems used in the collection and transfer of manure from the point of generation to the wastewater storage and containment facilities, prior to land application. (3-15-02)

26. Wastewater. Water containing manure, which is generated on a livestock operation. (3-15-02)

27. Wastewater Storage and Containment Facilities. Wastewater storage ponds, wastewater treatment lagoons, and evaporative ponds. (3-15-02)

28. Wastewater Treatment. A process by which wastewater is treated through aerobic or anaerobic degradation or other means. (3-15-02)

(BREAK IN CONTINUITY OF SECTIONS)

100. ACCEPTED AGRICULTURAL PRACTICES.

Management practices conducted in accordance with applicable laws, rules and best management practices, as referenced in Subsections 100.01 and 100.02, or in the absence of referenced best management practices, management practices conducted in a manner that demonstrates reasonable efforts to minimize odors, shall be considered accepted agricultural practices for purposes of this rule. (3-15-02)

01. Applicable Rules. The following are applicable rules for the purpose of Section 100: (3-15-02)

a. IDAPA 02.04.14, "Rules Governing Dairy ~~Waste~~ Byproduct." (3-15-02)()

- b. IDAPA 02.03.03, "Rules Governing Pesticide and Chemigation Use and Application." (3-15-02)
- c. IDAPA 02.06.17, "Rules Concerning Disposal of Cull Onion and Potatoes." (3-15-02)
- d. IDAPA 02.04.17, "Rules Governing Dead Animal Movement and Disposal." (3-15-02)

02. Applicable Best Management Practices. The following practices, or other management practices approved by the Director that are conducted in a manner that demonstrates reasonable efforts to minimize odors shall be considered accepted agricultural practices for purposes of this rule. (3-15-02)

- a. Idaho NRCS Nutrient Management Standard 590, June 1999. (3-15-02)
- b. Best Management Practices listed in the "Idaho Agricultural Pollution Abatement Plan," August 2001. (3-15-02)
- c. "Control of Manure Odors," ASAE Standard EP379.2 Sections 5 and 6 in their entirety, November 1997. (3-15-02)
- d. "Composting Facility," NRCS Conservation Practice Standard 317, March 2001. (3-15-02)

03. Excess Odors. An agricultural operation using an accepted agricultural practice that generates odors in excess of levels normally associated with such practice, as determined by the Department on a site specific basis, shall develop and submit an odor management plan to the Director in accordance with Section 500. (3-15-02)

101. -- 199. (RESERVED)

200. APPLICABILITY.

These rules apply to all agricultural operations, except: (3-15-02)

01. Beef Cattle. Beef cattle animal feeding operations regulated pursuant to IDAPA 02.04.15, "Rules ~~of the Department of Agriculture~~ Governing Beef Cattle Animal Feeding Operations." ~~(3-15-02)~~()

02. Swine and Poultry. Large swine ~~and poultry~~ operations regulated pursuant to IDAPA 58.01.09, "Rules Regulating Swine ~~and Poultry~~ Facilities;" and large poultry operations regulated pursuant to IDAPA 02.04.32, "Rules Governing Poultry Operations." ~~(3-15-02)~~()

IDAPA 02 – DEPARTMENT OF AGRICULTURE

02.04.19 – RULES GOVERNING DOMESTIC CERVIDAE

DOCKET NO. 02-0419-1601

NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

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

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 25-3704, Idaho Code.

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

The rule change will require Idaho domestic cervidae producers to report the cause of death of each cervid to the Department on the official death certificate form. The rule change will also clarify the minimum surveillance requirements for Chronic Wasting Disease on domestic cervidae facilities.

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the October 5, 2016 Idaho Administrative Bulletin, [Vol. 16-10, pages 40-45](#).

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

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

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

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

DATED this 27th day of October, 2016.

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

THE FOLLOWING NOTICE WAS PUBLISHED WITH THE PROPOSED RULE

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

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 19, 2016.

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

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

The rule change will require Idaho domestic cervidae producers to report the cause of death of each cervid to the Department on the official death certificate form. The rule change will also clarify the minimum surveillance requirements for Chronic Wasting Disease on domestic cervidae facilities.

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

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

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

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the July 6, 2016 Idaho Administrative Bulletin, [Vol. 16-7, page 24](#). A negotiated rulemaking meeting was held at the Idaho State Department of Agriculture on July 27, 2016. There were eleven (11) people in attendance at the meeting and multiple comments were entered into the record at the meeting and were taken into consideration when drafting this proposed rule. One written comment was also received and entered into the rulemaking record.

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

#1 – Bovine TB UMR. A more recent version of the document has been published to include updated classifications for states affected by Tuberculosis and protocols for conducting Tuberculosis herd testing.

#2 – CFR Title 9, Part 161. This federal document has been updated to further define accreditation standards for veterinarians practicing either large or small animal medicine.

#3 – CFR Title 9, Part 55. This federal document has been updated to establish a Federal Herd Certification Program for Chronic Wasting Disease in Domestic Cervids and define official testing methods.

#4 – CFR Title 9, Subchapter A, Part 1 & 2. This federal document has been updated to clarify animal welfare definition and licensing requirements for individuals that deal in the commercial trade, handling and sale of certain animals.

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

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 26, 2016. Comments can be delivered via email to scott.leibsle@isda.idaho.gov or via regular mail to Dr. Scott Leibsle's attention at the address listed below.

DATED this 2nd day of September, 2016.

LSO Rules Analysis Memo

THE FOLLOWING IS THE TEXT OF DOCKET NO. 02-0419-1601

004. INCORPORATION BY REFERENCE.

The following documents are incorporated by reference and copies of these documents may be obtained from the Idaho State Department of Agriculture central office. (4-7-11)

01. Bovine Tuberculosis Eradication, Uniform Methods and Rules, Effective January ~~221~~, ~~1999~~ 2005. This document can be viewed online at https://www.aphis.usda.gov/animal_health/animal_diseases/tuberculosis/downloads/tb-umr.pdf. (~~4-2-03~~)()

02. Code of Federal Regulations, Title 9, Part 161, January 1, 20~~04~~16. This document can be viewed online at <http://www.ecfr.gov/cgi-bin/text-idx?SID=aded48cc1dcc4e565ec54ad6aefd2f27&mc=true&node=pt9.1.161&rgn=div5>. (~~4-6-05~~)()

03. Code of Federal Regulations, Title 9, Part 55, January 1, 20~~04~~16. This document can be viewed online at <http://www.ecfr.gov/cgi-bin/text-idx?SID=aded48cc1dcc4e565ec54ad6aefd2f27&mc=true&node=pt9.1.55&rgn=div5>. (~~4-6-05~~)()

04. Code of Federal Regulations, Title 9, Subchapter A, Part 1 and 2, January 1, 20~~04~~16. This document can be viewed online at <http://www.ecfr.gov/cgi-bin/text-idx?SID=aded48cc1dcc4e565ec54ad6aefd2f27&mc=true&tpl=/ecfrbrowse/Title09/9C1subchapA.tpl>. (~~4-6-05~~)()

(BREAK IN CONTINUITY OF SECTIONS)

201. ANNUAL INVENTORY REPORT.

01. Inventory Report. All owners of domestic cervidae ranches shall annually submit, to the Administrator, a complete and accurate inventory of all animals held no later than December 31st of each year, ~~on a form approved by the Administrator~~. The annual inventory report shall contain the following minimum information: (~~4-2-03~~)()

- a. Name and address of the domestic cervidae ranch. (4-2-03)
- b. Name and address of the owner of the domestic cervidae ranch. (4-2-03)
- c. Date the inventory was completed. (4-2-03)

02. Individual Domestic Cervidae. For each individual domestic cervidae that was located on the domestic cervidae ranch during the year for which the report is being made, the following information shall be provided: (4-2-03)

- a. All types of official and unofficial identification; (4-2-03)
- b. Species; (4-2-03)

- c. Sex; and (4-2-03)()
- d. Age or year born; . (4-2-03)()
- ~~e. Disposition, including the date of sale, death, or purchase; and (4-2-03)~~
- ~~f. Name and address of the owner of the domestic cervidae. (4-2-03)~~

(BREAK IN CONTINUITY OF SECTIONS)

205. NOTICE OF DEATH OF DOMESTIC CERVIDAE.

~~The Notice of death of all domestic cervidae over one (1) year of age and all domestic cervidae that have been officially identified and inventoried twelve (12) months or older and all domestic cervidae officially identified and inventoried that died on a ranch or at an Approved Slaughter or Custom Exempt Slaughter Establishment must be reported submitted by the owner or operator to the division on a report approved by the Administrator:~~

~~(4-2-08)()~~

~~01. Reports. The initial report of a cervidae death may be made by telephone, facsimile, or electronic mail, and then followed by the submission of the death certificate. (4-2-08)~~

~~021. Submission of Death Certificates. A complete and accurate copy of all CWD sample submission forms/death certificates shall be submitted to the division by regular mail, facsimile, electronic mail, or by other means as approved by the Administrator: within ten (10) business days of when the owner or operator knew or reasonably should have known of the death. The CWD sample submission form/death certificate shall contain the following minimum information:~~

~~(4-6-05)()~~

- ~~a. Name and address of the domestic cervidae ranch; and ()~~
- ~~b. Name and address of the owner of the domestic cervidae ranch. ()~~

~~02. Individual Domestic Cervidae. For each individual domestic cervidae death, the following minimum information shall be provided: ()~~

- ~~a. All individual identification numbers; ()~~
- ~~b. Sex; ()~~
- ~~c. Age or year born; ()~~
- ~~d. Date and Time of Death; ()~~
- ~~e. Cause of death; ()~~
- ~~f. Specify animals submitted for CWD testing; and ()~~
- ~~g. Dated Signature. ()~~

~~03. Reporting Deaths at Domestic Cervidae Ranches. The owner or operator of a domestic cervidae ranch shall notify the division within five (5) business days of when the owner or operator knew or reasonably should have known of the death. (4-2-08)~~

~~04. Reporting Deaths at Approved and Custom Exempt Slaughter Establishments. The owners of cervidae that are slaughtered shall report the death within five (5) business days of the date that the cervidae was slaughtered. (4-2-08)~~

206. ~~CWD SAMPLE SUBMISSION FORM/DEATH CERTIFICATE.~~ (RESERVED)

~~The owner or operator of a domestic cervidae ranch shall submit, to the Administrator, a complete and accurate copy of all CWD sample submission forms/death certificates at the same time that CWD samples are submitted to an approved laboratory.~~ (4-2-03)

(BREAK IN CONTINUITY OF SECTIONS)

208. INTRASTATE MOVEMENT CERTIFICATE.

All owners of domestic cervidae ranches who move cervidae, from one premises to another, including movement from one (1) premises to another premises owned, operated, leased, or controlled by the owner, within the state of Idaho shall submit, to the Administrator, a complete and accurate intrastate movement certificate signed by the owner, within ~~five~~ ten (~~\$10~~) business days of the movement. The Administrator shall provide blank intrastate movement certificates to the owners of domestic cervidae ranches upon request. (4-6-05)()

(BREAK IN CONTINUITY OF SECTIONS)

250. INTRASTATE MOVEMENT OF DOMESTIC CERVIDAE.

All live domestic cervidae moving from one premises to another premises within the state of Idaho shall be officially identified, except calves during the year of birth accompanying their dam, and accompanied by: (4-6-05)

01. **TB Test.** An official negative test for tuberculosis of all cervidae over twelve (12) months of age, conducted within the last ninety (90) days, or written permission from the Administrator, except: (4-2-03)

a. Animals originating from an accredited, qualified or monitored herd, as described in "Bovine Tuberculosis Eradication, Uniform Methods and Rules," effective January ~~22~~1, ~~1999~~2005, if they are accompanied by a certificate signed by an accredited veterinarian or the Administrator stating such domestic cervidae have originated directly from such herd; or (4-2-03)()

b. Those domestic cervidae consigned directly to an approved slaughter establishment or domestic cervidae approved feedlot; or (4-2-03)

c. Those domestic cervidae moving from one premises to another premises owned, operated, leased, or controlled by the same person. (4-6-05)

02. **Intrastate Movement Certificate.** All intrastate movements of live domestic cervidae, including movement from one premises to another premises owned, operated, leased, or controlled by the same person, shall be accompanied by a complete and accurate intrastate movement certificate, which has been signed by the owner or operator of the domestic cervidae ranch where the movement originates and includes a statement of the CWD and TB status of the cervidae. (4-6-05)

03. **Movement of Cervidae Between Accredited AZA or USDA Licensed Facilities.** Movement of cervidae between accredited AZA and USDA licensed facilities is exempt from the requirements of this chapter. All other movement from AZA accredited or USDA licensed facilities shall comply fully with all of the provisions of this chapter. (4-2-03)

(BREAK IN CONTINUITY OF SECTIONS)

450. TUBERCULOSIS.

01. **Change of Ownership.** All domestic cervidae that are sold, or are in any way transferred from one person to another person in Idaho are required to be tested negative for TB within ninety (90) days prior to the change

of ownership or transfer, except:

(4-2-03)

a. Animals originating from an accredited, qualified or monitored herd, as described in "Bovine Tuberculosis Eradication, Uniform Methods and Rules," effective January ~~221~~, ~~1999~~2005, if they are accompanied by a certificate signed by an accredited veterinarian or the Administrator stating such domestic cervidae have originated directly from such herd; or ~~(4-2-03)~~()

b. Those domestic cervidae consigned directly to an approved slaughter establishment or domestic cervidae approved feedlot. (4-2-03)

c. The Administrator, following an evaluation, may grant exceptions to the provisions of this Section on a case-by-case basis. (4-4-13)

02. Rules and UM&R. Owners of domestic cervidae ranches shall comply with IDAPA 02.04.03, "Rules ~~of the Department of Agriculture~~ Governing Animal Industry," that apply to domestic cervidae, and the Bovine Tuberculosis Eradication, UM&R, Effective January ~~221~~, ~~1999~~2005. ~~(4-2-03)~~()

451. -- 499. (RESERVED)

500. SURVEILLANCE FOR CWD.

01. Slaughter Surveillance. Brain tissue from no less than ten percent (10%) of all domestic cervidae sixteen (16) months of age or older that are slaughtered at approved slaughter establishments or custom exempt slaughter establishments shall be submitted annually by the owner of the slaughtered cervidae to official laboratories to be tested or examined for CWD as provided for in these rules. If ten (10) or less cervids on a domestic cervidae ranch are slaughtered in a calendar year, at least one (1) testable brain sample must be submitted to meet the annual CWD surveillance requirement. Tissues samples submitted to an official laboratory that are untestable or are given an indeterminate test result shall not count towards the tissue submission requirement. ~~(4-6-15)~~()

02. Domestic Cervidae Ranch Surveillance. ~~Unless a domestic cervidae ranch is operating with a ranch management plan approved by the Administrator, b~~Brain tissue from no less than ten percent (10%) of all domestic cervidae sixteen (16) months of age or older that are harvested on domestic cervidae ranches shall be submitted for CWD testing annually. If ten (10) or less cervids on a domestic cervidae ranch are harvested in a calendar year, at least one (1) testable brain sample must be submitted to meet the annual CWD surveillance requirement. In addition to the tissue samples from the harvested domestic cervidae, brain tissue from one hundred percent (100%) of all domestic cervidae sixteen (16) months of age or older that die for any reason other than being harvested shall also be submitted for CWD testing annually. Reindeer and fallow deer shall be exempt from CWD testing unless the reindeer and fallow deer are part of a CWD positive, exposed, trace, source, or suspect herd or part of an elk herd. The owner or operator of the domestic cervidae ranch shall submit all tissue samples to an official laboratory to be tested for CWD, as provided for in these rules. Tissues samples submitted to an official laboratory that are untestable or are given an indeterminate test result shall not count towards the tissue submission requirement. In the event a domestic cervidae ranch cannot submit a testable brain sample, the domestic cervidae ranch shall submit ~~on a form approved by the Administrator, a~~ CWD Sample Submission ~~*Waiver *Request within forty eight (48) hours~~ ten (10) business days of determining that a testable brain sample cannot be submitted. ~~(4-6-15)~~()

501. COLLECTION OF SAMPLES FOR CWD TESTING.

Only accredited veterinarians, state and federal animal health officials, and other persons, approved by the Administrator, shall collect brain or other tissue samples for CWD testing. Samples shall be collected immediately upon discovery of the death of a domestic cervid. (4-2-03)

01. Brain Samples. Only persons trained by state or federal animal health officials, and approved by the Administrator, may remove the ~~brain stem containing the~~ obex portion of the brainstem for submission as the sample for CWD testing. ~~(4-6-05)~~()

02. Submission of Head. Only persons trained by state or federal animal health officials, and approved by the Administrator, may submit a head with the official identification attached to the head as the sample for CWD testing. (4-6-05)

03. Handling of Samples. All CWD samples shall be handled in a manner that prevents degradation of the sample. (4-2-03)

04. Sample Submission Time. Fresh samples for CWD testing shall be submitted, to an approved laboratory, within seventy-two (72) hours of the date of collection. Formalin preserved samples shall be submitted, to an approved laboratory, within ~~five~~ ten (~~5~~10) business days of the date of collection. ~~(4-2-03)~~()

05. Non-Testable or Samples That Do not Contain Appropriate Tissues. The Administrator may conduct an investigation to determine if a domestic cervidae ranch is complying with the provisions of Section 500 if: (4-2-03)

a. The owner or operator of a domestic cervidae ranch submits samples for CWD testing which are non-testable; or (4-2-03)

b. The owner or operator of a domestic cervidae ranch submits samples for CWD testing that do not contain the obex portion of the brainstem or other appropriate tissues, if available, for CWD testing. ~~(4-2-03)~~()

c. The owner or operator of a domestic cervidae ranch submits samples for CWD testing which cannot be identified to the animal of origin. (4-6-05)

06. Failure to ~~Submit Samples for CWD Testing~~ Meet Annual CWD Tissue Submission Requirement. An owner or operator of a domestic cervidae ranch ~~that~~ who fails to submit samples for CWD testing ~~as required in~~ or fails meet the annual tissue submission requirements of this chapter, or both, is in violation of these rules, except the Administrator may approve, in writing, a variance from sample submission requirements on a case specific basis. ~~(4-2-03)~~()

IDAPA 02 – DEPARTMENT OF AGRICULTURE
02.04.21 – RULES GOVERNING THE IMPORTATION OF ANIMALS
DOCKET NO. 02-0421-1601
NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

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

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Title 25, Chapters 2, 3, 4, 6 and 37, Idaho Code.

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

This rule change will make Idaho rules consistent with federal regulations pertaining to the official identification of imported dairy cattle. The rule change will also clarify requirements to participate in the equine approved feedlot program as well as specify tuberculosis testing requirements for imported domestic cervidae.

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the October 5, 2016 Idaho Administrative Bulletin, [Vol. 16-10, pages 46-53](#).

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

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

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

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

DATED this 27th day of October, 2016.

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

THE FOLLOWING NOTICE WAS PUBLISHED WITH THE PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Title 25, Chapters 2, 3, 4, 6 and 37, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 19, 2016.

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

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

This rule change will make Idaho rules consistent with federal regulations pertaining to the official identification of imported dairy cattle. The rule change will also clarify requirements to participate in the equine approved feedlot program as well as specify tuberculosis testing requirements for imported domestic cervidae.

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

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

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

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the July 6, 2016 Idaho Administrative Bulletin, **Vol. 16-7, page 25**. A negotiated rulemaking meeting was held at the Idaho State Department of Agriculture on July 27, 2016. There were eleven (11) people in attendance at the meeting and multiple comments were entered into the record at the meeting and were taken into consideration when drafting this proposed rule. One written comment was also received and entered into the rulemaking record.

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

Code of Federal Regulations Title 9, Parts 71, 75, 77, 78, 85, 145, 147, and 161 have updated regulations pertaining to interstate transport of animals and animal products, including the prevention and testing of communicable disease in livestock, management of the national poultry improvement plan and further defining accreditation standards for veterinarians practicing either large or small animal medicine.

Equine Infectious Anemia Uniform Rules & Methods, 2007. This document is being incorporated by reference to govern the disease surveillance aspect of the rules changes that are being made regarding Approved Equine Feedlots. This document establishes quarantine and setback requirements for horses that have not been tested or are positive for Equine Infectious Anemia.

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

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 26, 2016. Comments can be delivered via email to scott.leibsle@isda.idaho.gov or via regular mail to Dr. Scott Leibsle's attention at the address listed below.

DATED this 2nd day of September, 2016.

LSO Rules Analysis Memo

THE FOLLOWING IS THE TEXT OF DOCKET NO. 02-0421-1601

004. INCORPORATION BY REFERENCE.

Copies of these documents may be obtained from the Idaho State Department of Agriculture Central Office. IDAPA 02.04.21 incorporates by reference: (4-11-06)

01. The October 1, 2003 Edition of the Brucellosis Eradication Uniform Methods and Rules. This document can be viewed online at https://www.aphis.usda.gov/animal_health/animal_diseases/brucellosis/downloads/umr_bovine_bruc.pdf. (~~4-11-06~~)()

02. The September 30, 2003 Edition of the Brucellosis in Cervidae: Uniform Methods and Rules. This document can be viewed online at https://www.aphis.usda.gov/animal_health/animal_diseases/brucellosis/downloads/bcervumr.pdf. (~~4-11-06~~)()

03. The April 1998 Edition of the Swine Brucellosis Control/Eradication: State-Federal-Industry Uniform Methods and Rules. This document can be viewed online at https://www.aphis.usda.gov/animal_health/animal_dis_spec/swine/downloads/sbruumr.pdf. (~~5-3-03~~)()

04. The Code of Federal Regulations Title 9, Parts 71, 75, 77, 78, 85, 145, 147, and 161, January 1, 2006. This document can be viewed online at http://www.ecfr.gov/cgi-bin/text-idx?SID=9e3e2eff1a42367841dc92eee8d5324d&mc=true&tpl=/ecfrbrowse/Title09/9cfrv1_02.tpl#0_3-30-07. (~~3-30-07~~)()

05. The January 1, 2005 Edition of the Bovine Tuberculosis Eradication Uniform Methods and Rules. This document can be viewed online at https://www.aphis.usda.gov/animal_health/animal_diseases/tuberculosis/downloads/tb-umr.pdf. (~~4-11-06~~)()

06. The November 1, 2003 Edition of the Pseudorabies Eradication, State-Federal-Industry Program Standards. This document can be viewed online at http://www.aphis.usda.gov/animal_health/animal_diseases/pseudorabies/downloads/program_stds.pdf. (4-11-06)

07. The April 19, 2004 Edition of the Equine Viral Arteritis Uniform Methods and Rules. This document can be viewed online at <http://www.aphis.usda.gov/vs/nahss/equine/eva/eva-umr.pdf>. (5-8-09)

08. The January 10, 2007 Edition of the Equine Infectious Anemia: Uniform Methods and Rules. This document can be viewed online at https://www.aphis.usda.gov/vs/nahss/equine/eia/eia_umr_jan_10_2007.pdf. ()

(BREAK IN CONTINUITY OF SECTIONS)

011. ABBREVIATIONS.

01. APHIS. Animal and Plant Health Inspection Service. (4-2-08)

02. AVIC. Area Veterinarian in Charge. (5-3-03)

03.	AZA. Association of Zoos and Aquariums.	(4-4-13)
04.	BAPA. Buffered Acidified Plate Assay.	()
05.	BPAT. Buffered Antigen Plate-Aggutination Test.	()
046.	CF. Complement Fixation Test.	(3-30-07)
057.	CFR. Code of Federal Regulations.	(5-3-03)
068.	CWD. Chronic Wasting Disease.	(5-3-03)
079.	EIA. Equine Infectious Anemia.	(5-3-03)
0810.	EVA. Equine Viral Arteritis.	(5-8-09)
11.	FPA. Fluorescence Polarization Assay.	()
0912.	NAEBA. North American Elk Breeders Association.	(5-3-03)
103.	NPIP. National Poultry Improvement Plan.	(5-3-03)
144.	<i>P. tenuis.</i> <i>Paralephastromylyus tenuis</i> (meningeal worm of deer).	(4-11-15)
125.	PCR. Polymerase Chain Reaction.	(4-2-08)
136.	RDGF. Red Deer Genetic Factor.	(4-4-13)
147.	TB. Tuberculosis.	(5-3-03)
158.	UM&R. Uniform Methods and Rules.	(5-3-03)
169.	USDA. United States Department of Agriculture.	(5-3-03)
1720.	VHSV. Viral Hemorrhagic Septicemia Virus.	(4-2-08)
1821.	VS. Veterinary Services.	(5-3-03)

(BREAK IN CONTINUITY OF SECTIONS)

200. IMPORTATION OF CATTLE INTO IDAHO.

All cattle that enter the state of Idaho shall possess appropriate official individual identification, if required, and be accompanied by a certificate of veterinary inspection or other approved certificate attesting they are free from evidence of any infectious, contagious, or communicable disease, or exposure thereto, and by a permit if required, except: ~~(5-3-03)~~()

01. Approved Slaughter Establishments. Cattle consigned directly to approved slaughter establishments shall be accompanied by a statement of ownership such as a brand certificate or waybill, and a permit, if required; or (5-3-03)

02. Specifically Approved Livestock Market. Cattle consigned directly to specifically approved livestock markets shall be accompanied by a statement of ownership such as a brand certificate or waybill, and a permit, if required; or (5-3-03)

03. Feedlots Approved by the Administrator. Cattle consigned directly to feedlots approved by the

Administrator for conducting veterinary inspections upon the arrival of the cattle. (5-3-03)

04. Post-Entry Inspection. All cattle entering Idaho may be subject to a post-entry inspection by state or federal animal health officials. (5-3-03)

201. CATTLE AND BISON IMPORTED FROM CANADA.

All cattle and bison imported into Idaho from Canada, except those imported directly to slaughter, must: (5-8-09)

~~**01. CAN Brand.** Be permanently hot iron branded with the letters CAN, not less than two (2) inches high nor more than three (3) inches high, placed high on the right hip. (5-8-09)~~

02. Idaho Requirements. Meet all Idaho import requirements. (5-8-09)

03. USDA Requirements. Meet all USDA import requirements. (5-8-09)

04. Individually Identified. Be individually identified on a certificate of veterinary inspection. (5-8-09)

05. Import Permit. Be accompanied by an import permit issued by the Division. (5-8-09)

202. WHEN PERMITS ARE REQUIRED FOR CATTLE.

01. Dairy. For all intact male and female cattle of dairy breeds not consigned directly to an approved slaughter establishment, or to a specifically approved livestock market. ~~All Dairy cattle three hundred sixty five (365) days of age or older shall be officially identified as provided in IDAPA 02.04.20 Section 203 of this Chapter. The Administrator may require the identification of dairy cattle less than three hundred sixty five (365) days of age. (5-3-03)~~

02. Beef Bulls. All bulls of beef breeds not consigned directly to an approved slaughter establishment, or to a specifically approved livestock market, except intact male calves accompanying their dams. (5-3-03)

03. Female Beef Cattle. All intact female cattle of beef breeds not consigned directly to an approved slaughter establishment or to a specifically approved livestock market that are: (5-3-03)

a. From states or areas that are not Brucellosis Class Free; or (5-3-03)

b. Not officially vaccinated pursuant to IDAPA 02.04.20, "Rules Governing Brucellosis," except calves over one hundred twenty (120) days of age accompanying their dam; or (4-11-06)

c. Under one hundred twenty (120) days of age, except calves accompanying their dam. (5-3-03)

04. Restricted Areas. All cattle from areas or states on which Idaho or USDA has imposed restrictions. (5-3-03)

05. Domestic Bison. All domestic bison imported into Idaho shall require an entry permit from the Division of Animal Industries prior to importation and be in compliance with the same requirements as cattle contained in this chapter and Title 9, Parts 71, 77, and 78, CFR. (4-4-13)

06. Canadian Cattle and Canadian Domestic Bison. All cattle and Canadian domestic bison imported into Idaho from Canada, except those imported directly to slaughter, must have an import permit prior to importation. (4-4-13)

07. Other. Cattle of any classification that do not meet other entry requirements. (5-3-03)

203. OFFICIAL IDENTIFICATION OF IMPORTED CATTLE.

01. Beef Cattle. All sexually intact beef breed cattle, eighteen (18) months of age or older, shall

possess official individual identification. ()

02. Dairy Cattle. All dairy breed cattle, regardless of age, shall possess official individual identification. ()

2034. -- 209. (RESERVED)

(BREAK IN CONTINUITY OF SECTIONS)

240. TUBERCULOSIS TEST REQUIREMENTS.

Cattle and domestic bison may enter the state of Idaho provided: (5-3-03)

01. Tuberculosis Accredited Free State or Zone. Cattle and bison that originate from a bovine tuberculosis accredited free state or zone, as defined by USDA in Title 9, Part 77, CFR, in which there are no animals or herds infected with or exposed to tuberculosis may be imported upon meeting the following requirements:

(4-11-06)

a. Cattle of beef breeds may enter the state without a tuberculosis test. (4-11-06)

b. All sexually intact male and female cattle, six (6) months of age and older, of dairy breeds, shall be officially identified and tested negative for tuberculosis, within sixty (60) days prior to entry into the state of Idaho except intact male and female cattle of dairy breeds consigned directly to a feedlot approved for finish feeding of cattle for slaughter only relative to tuberculosis may enter by permit without a tuberculosis test provided the cattle have been individually identified on a certificate of veterinary inspection. (4-2-08)

c. All sexually intact male and female cattle, six (6) months of age and older, of dairy breeds, may enter Idaho for the purpose of participating in shows or exhibitions, by permit, without a tuberculosis test. (4-11-06)

02. Tuberculosis Accredited Free Herd. Cattle and bison that originate in an accredited tuberculosis free herd in either an accredited free state or zone, a modified accredited advanced state or zone, or a modified accredited state or zone, as defined by USDA in Title 9, Part 77, CFR, and for which both an accredited herd number and date of last tuberculosis test are shown on the certificate of veterinary inspection, may enter the state without a tuberculosis test. (5-3-03)

03. Tuberculosis Modified Accredited Advanced State or Zone. Cattle and bison that originate from a modified accredited advanced state or zone, as defined by USDA in Title 9, Part 77, CFR, and are not known to be infected with or exposed to tuberculosis, may be imported upon meeting the following requirements: (5-3-03)

a. Steers, spayed heifers, and intact heifers of beef and dairy breeds that are less than fifteen (15) months of age, which are consigned for grazing, or steers, spayed heifers, and intact heifers of beef and dairy breeds that are consigned directly to a feedlot approved for finish feeding of cattle or bison relative to tuberculosis, may enter without individual identification or testing for tuberculosis; and (4-11-15)

b. All other cattle and bison, except those moving on grazing permits issued by the Administrator under the provisions of Section 220 and those consigned for immediate directly to slaughter at an approved slaughter establishment, shall be tested for tuberculosis with negative results within sixty (60) days prior to entry into Idaho. (3-20-04) ()

c. Tuberculosis testing requirements in Subsection 240.03 may be waived, with administrator approval, for feeder animals of beef breeds and bison originating from a modified accredited advanced state or zone previously classified as accredited free if the state of origin has had no laboratory confirmed case or other epidemiological evidence of tuberculosis in the previous twelve (12) months and the herd of origin is not under hold order, quarantine, or epidemiological investigation for tuberculosis. (4-7-11)

04. Tuberculosis Modified Accredited State or Zone. Cattle and bison that originate in a modified

accredited state or zone, as defined by USDA in Title 9, Part 77, CFR, and which are not known to be infected with or exposed to tuberculosis, may enter Idaho under one (1) of the following conditions: (5-3-03)

a. The cattle and bison are steers, spayed heifers or intact heifers which are consigned directly to a feedlot approved for finish feeding of cattle and bison relative to tuberculosis and that have been individually identified and classified negative on an official tuberculosis test within sixty (60) days prior to entry into Idaho; or (5-3-03)

b. The cattle and bison are consigned ~~for immediate~~ directly to slaughter at an approved slaughter establishment; or ~~(5-3-03)~~ ()

c. The cattle and bison have been subjected to two (2) official tuberculosis tests, the results of which are negative, the first test shall be a whole herd test, the second test shall be at least sixty (60) days, and no more than six (6) months, after the whole herd test and shall be not more than sixty (60) days prior to entry into Idaho. (5-3-03)

05. Tuberculosis Accredited Preparatory State or Zone. Cattle and bison that originate in an accredited preparatory state or zone, as defined by USDA in Title 9, Part 77, CFR, and which are not known to be infected with or exposed to tuberculosis, may enter Idaho under one (1) of the following conditions: (5-3-03)

a. The cattle and bison are steers, spayed heifers or intact heifers which are consigned directly to a feedlot approved for finish feeding of cattle and bison relative to tuberculosis and that are individually identified and have been classified negative on two (2) official tuberculosis tests conducted at least sixty (60) days, but not more than six (6) months apart, with the second test being conducted not more than sixty (60) days prior to entry into Idaho; or (5-3-03)

b. The cattle and bison originate in a tuberculosis accredited free herd, are individually identified, and have been tested negative on an official tuberculosis test within sixty (60) days prior to entry into Idaho; or (5-3-03)

c. The cattle and bison are individually identified, are from a herd that has been subjected to a complete tuberculosis herd test with negative results within the past twelve (12) months and the animals being imported have been subjected to two (2) additional official tuberculosis tests with negative results, conducted not less than sixty (60) days apart with the second test being conducted not more than sixty (60) days prior to the date of importation. (5-3-03)

06. Tuberculosis Non-Accredited State or Zone. Cattle and bison that originate in a non-accredited state or zone, as defined by USDA in Title 9, Part 77, CFR, may not enter Idaho except by special permit issued by the administrator and under the conditions specified by the administrator at the time the permit is issued. (5-3-03)

07. Rodeo Stock. All cattle six (6) months of age or older imported into Idaho for rodeo or timed events must have been tested negative for bovine tuberculosis within twelve (12) months prior to importation into Idaho. (4-7-11)

(BREAK IN CONTINUITY OF SECTIONS)

300. EQUIDAE.

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

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

a. Entry of equidae into Idaho shall not be allowed until the EIA test has been completed and reported negative. Equidae which test positive to the EIA test shall not be permitted entry into Idaho, except by special written

permission from the Administrator. (5-3-03)

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

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

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

~~043. **Approved Equine Feedlot.** Equids being imported to be fed for slaughter in an equine feedlot approved by the Administrator may be exempt from EIA test requirements provided that all:~~ ()

~~a. **H**Horses qualified into the approved facility must be sent directly to slaughter within sixty (60) days.~~ (3-20-14)()

~~b. **A distance of no less than two hundred (200) yards is maintained at all times between designated slaughter horses and all other equids;**~~ ()

~~c. **Feedlot owners maintain complete and accurate records of the disposition of all equids qualified into the approved equine feedlot;**~~ ()

~~d. **Feedlot owners annually apply for renewal of approved feedlot status prior to expiration on December 31st of each calendar year.**~~ ()

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

(BREAK IN CONTINUITY OF SECTIONS)

400. IMPORTATION OF SWINE.

Swine may enter the state of Idaho provided, they are individually identified by official ear tags or other approved techniques indicating the state and herd of origin, a permit has been issued for their entry by the Division of Animal Industries, and they are accompanied by a certificate of veterinary inspection attesting to the following: (3-30-07)

01. **Animals Inspected.** All swine have been inspected within thirty (30) days prior to the date of shipment, and that they are free from evidence of all infectious, contagious, or communicable diseases, or known exposure thereto during the preceding sixty (60) days; and (5-3-03)

02. **Vaccination.** The swine have not been vaccinated with any pseudorabies vaccine; and (5-3-03)

03. **Garbage.** The swine have not been fed raw garbage. (5-3-03)

04. **Slaughter Swine Exceptions.** Swine for immediate directly to 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 an approved slaughter establishment, or to a specifically approved livestock market for sale to an approved slaughter establishment. (5-3-03)()

(BREAK IN CONTINUITY OF SECTIONS)

600. IMPORTATION OF DOMESTIC CERVIDAE.

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

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

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

03. National CWD Herd Certification Program Participation. All cervidae must originate from a herd that is in good standing and actively participating in the National CWD Herd Certification Program. (3-20-14)

04. Deworming Requirement. All cervidae, except those consigned directly to slaughter at an approved slaughter establishment, are required to receive anthelmintic, approved for treatment of *P. tenuis*, within thirty (30) days prior to import into Idaho. Treatment must be documented on the certificate of veterinary inspection. (4-11-15)()

05. *P. tenuis* Statement. The certificate of veterinary inspection accompanying the cervidae shipment must contain the following written statement from the accredited veterinarian on the certificate: "No cervids identified on this certificate of veterinary inspection have displayed symptoms consistent with *P. tenuis* infection. These cervids have neither been exposed to *P. tenuis* or originated from a premises where *P. tenuis* has been identified." (4-11-15)

601. TESTING REQUIREMENTS.

All cervidae imported into Idaho shall meet the following test requirements: ~~except cervidae that do not originate from a CWD or Tuberculosis endemic area, as determined by the administrator, may be imported directly to an approved slaughter establishment for immediate slaughter without meeting the test requirements.~~ (4-2-08)()

01. Brucellosis. Animals six (6) months of age and older shall be negative to at least two (2) different official brucellosis tests from a single blood sample, one (1) of which shall be ~~either the rivanol or the CF~~ the BAPA/BPAT and the other shall be the FPA, within thirty (30) days prior to entry, or the animals shall originate directly from a Brucellosis certified free herd or a brucellosis class free state for cervidae. (4-4-13)()

02. Red Deer Genetic Factor. Elk shall have either tested negative for red deer genetic factor (RDGF) by a laboratory approved by the Division of Animal Industries, or shall have been registered with NAEBA or the Canadian Food Inspection Agency, or a state with an ISDA approved RDGF prevention program. (4-4-13)

03. Tuberculosis. Cervid imports shall comply with all provisions of the "Uniform Methods and Rules – Bovine Tuberculosis Eradication" and Title 9, Part 77 CFR. ()

04. Exceptions. Domestic cervids consigned directly to slaughter at an approved slaughter establishment. ()

IDAPA 02 – DEPARTMENT OF AGRICULTURE

02.04.32 – RULES GOVERNING POULTRY OPERATIONS

DOCKET NO. 02-0432-1601

NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

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

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 25-4012, Idaho Code.

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

This rule change is a result of a petition received from the Idaho Dairyman's Association. The changes will make the rule consistent with the statutory revisions implemented by the 2016 Idaho Legislature.

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the October 5, 2016 Idaho Administrative Bulletin, [Vol. 16-10, pages 54-58](#).

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

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

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

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

DATED this 27th day of October, 2016.

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

THE FOLLOWING NOTICE WAS PUBLISHED WITH THE PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 25-4012, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 19, 2016.

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

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

This rule change is a result of a petition received from the Idaho Dairyman's Association. The changes will make the rule consistent with the statutory revisions implemented by the 2016 Idaho Legislature.

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

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

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

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the July 6, 2016 Idaho Administrative Bulletin, [Vol. 16-7, page 28](#). A negotiated rulemaking meeting was held at the Idaho State Department of Agriculture on August 2, 2016. There were seventeen (17) people in attendance at the meeting. No written comments were received.

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

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

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 26, 2016. Comments can be delivered via email to scott.leibsle@isda.idaho.gov or via regular mail to Dr. Scott Leibsle's attention at the address listed below.

DATED this 29th day of August, 2016.

[LSO Rules Analysis Memo](#)

THE FOLLOWING IS THE TEXT OF DOCKET NO. 02-0432-1601

010. DEFINITIONS.

The definitions set forth in Section 25-4002, Idaho Code, must apply in the interpretation and the enforcement of this chapter. (3-21-12)

01. Administrator. The administrator, or his designee, for the animal industries division of the Idaho Department of Agriculture. (3-21-12)

02. Animal Feeding Operation. A lot or facility where the following conditions are met: (3-21-12)

a. Poultry have been, are, or will be confined and fed or maintained for a total of forty-five (45) days or more in any twelve-month period; and (3-21-12)

b. Crops, vegetation, forage growth or post-harvest residues are not sustained in the normal growing season over any portion of the lot or facility. (3-21-12)

03. Best Management Practices. Practices, techniques or measures which are determined to be reasonable precautions, are a cost-effective and practicable means of preventing or reducing pollutants from point sources or nonpoint sources to a level compatible with environmental goals, including water quality goals and standards for waters of the state. (3-21-12)

04. Concentrated Animal Feeding Operation. An AFO that is defined as a large poultry CAFO under Subsection 010.10 or as a medium poultry CAFO under Subsection 010.12, or that is designated as a CAFO in accordance with Section 25-4011, Idaho Code. Two (2) or more AFOs under common ownership are considered to be a single AFO for the purposes of determining the number of animals at an operation, if they adjoin each other or if they use a common area or system for the disposal of wastes. (3-21-12)

05. Department. The Idaho State Department of Agriculture. (3-21-12)

06. Director. The Director of the Idaho State Department of Agriculture. (3-21-12)

07. Discharge. Release of process wastewater or manure from a poultry animal feeding operation, including its land application area, to waters of the state or beyond the poultry facility's property boundaries or beyond the property boundary of any facility. Contract manure haulers, producers and other persons who haul manure beyond the operator's property boundaries are responsible for releases of manure between the property boundaries of the operator and the property boundaries at the point of application. A discharge does not include aerosolized matter, or manure that has been reasonably incorporated on the land application area. (3-21-12)

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

089. Land Application. The spreading on, or incorporation of, animal waste into the soil mantle primarily for beneficial purposes. (3-21-12)

~~09~~10. Land Application Area. Land under the control of an AFO owner or operator, whether it is owned, rented or leased, to which manure, litter or process wastewater from the production area is or may be applied. (3-21-12)

~~10~~1. Large Poultry CAFO. A poultry AFO that confines as many or more than the number of poultry specified in the following categories: (3-21-12)

- a. Fifty-five thousand (55,000) turkeys; (3-21-12)
 - b. Thirty thousand (30,000) laying hens or broilers, if the AFO uses a liquid manure handling system; (3-21-12)
 - c. One hundred twenty-five thousand (125,000) chickens, other than laying hens, if the AFO uses other than a liquid manure handling system; (3-21-12)
 - d. Eighty-two thousand (82,000) laying hens, if the AFO uses other than a liquid manure handling system; (3-21-12)
 - e. Thirty thousand (30,000) ducks, if the AFO uses other than a liquid manure handling system; or (3-21-12)
 - f. Five thousand (5,000) ducks, if the AFO uses a liquid manure handling system. (3-21-12)
- 142. Manure.** Animal excrement generated on a poultry animal feeding operation that may also contain bedding, spilled feed, water, or soil. (3-21-12)
- 123. Medium Poultry CAFO.** A poultry AFO that confines as many or more than the number of poultry specified in the following categories: (3-21-12)
- a. Sixteen thousand five hundred (16,500) to fifty-four thousand nine hundred ninety-nine (54,999) turkeys; (3-21-12)
 - b. Nine thousand (9,000) to twenty-nine thousand nine hundred ninety-nine (29,999) laying hens or broilers, if the AFO uses a liquid manure handling system; (3-21-12)
 - c. Thirty-seven thousand five hundred (37,500) to one hundred twenty-four thousand nine hundred ninety-nine (124,999) chickens, other than laying hens, if the AFO uses other than a liquid manure handling system. (3-21-12)
 - d. Twenty-five thousand (25,000) to eighty-one thousand nine hundred ninety-nine (81,999) laying hens, if the AFO uses other than a liquid manure handling system; (3-21-12)
 - e. Ten thousand (10,000) to twenty-nine thousand nine hundred ninety-nine (29,999) ducks, if the AFO uses other than a liquid manure handling system; (3-21-12)
 - f. One thousand five hundred (1,500) to four thousand nine hundred ninety-nine (4,999) ducks, if the AFO uses a liquid manure handling system; (3-21-12)
- 134. Modification or Modified.** Structural changes and alterations to the wastewater storage containment facility, which would require increased storage or containment capacity or such changes which would alter the function of the wastewater storage containment facility. (3-21-12)
- 145. Noncompliance.** A practice or condition that causes an unauthorized discharge, or a practice or condition, that if left uncorrected will cause an unauthorized discharge, or a condition on the poultry CAFO that does not meet the requirements of the nutrient management standard, nutrient management plan, and 2004 American Society of Agricultural and Biological Engineers (ASABE) construction standard for waste containment systems. (3-21-12)
- 156. Nutrient Management Plan.** A plan prepared in conformance with the nutrient management standard, provisions required by 40 CFR 122.42(e)(1), or other equally protective standard for managing the amount, source, placement, form and timing of the land application of nutrients and soil amendments. (3-21-12)
- 167. Operator.** The person who has power or authority to manage, or direct, or has financial control of a poultry animal feeding operation. (3-21-12)

1-78. Person. Any individual, association, partnership, firm, joint stock company, joint venture, trust, estate, political subdivision, public or private corporation, state, or federal governmental department, agency or instrumentality, or any legal entity, which is recognized by law as the subject of rights and duties. (3-21-12)

1-89. Poultry. Chickens, turkeys, ducks, geese, and any other bird raised in captivity. (3-21-12)

1-920. Process Wastewater. (3-21-12)

a. Water directly or indirectly used in the operation of the AFO for any or all of the following: (3-21-12)

i. Spillage or overflow from animal or poultry watering systems; (3-21-12)

ii. Washing, cleaning or flushing pens, barns, manure pits or other AFO facilities; (3-21-12)

iii. Direct contact swimming, washing, or spray cooling of animals; or (3-21-12)

iv. Dust control. (3-21-12)

b. Process wastewater also includes any water which comes into contact with any raw materials, products or byproducts including manure, litter, feed, milk, eggs or bedding. (3-21-12)

2-1. Production Area. The part of an AFO that includes the animal confinement area, the manure storage area, the raw materials storage area, and the waste containment area. (3-21-12)

a. The animal confinement area includes, but is not limited to, open lots, housed lots, feedlots, confinement houses, barnyards and animal walkways. (3-21-12)

b. The manure storage area includes, but is not limited to, lagoons, runoff pond, storage sheds, stockpiles, under house or pit storages, liquid impoundments, static piles and composting piles. (3-21-12)

c. The raw materials storage area includes, but is not limited to, feed silos, silage bunkers and bedding materials. (3-21-12)

d. The waste containment area includes, but is not limited to, settling basins and areas within berms and diversions which separate uncontaminated storm water. (3-21-12)

e. Also included in the definition of production area is any egg washing or egg processing facility, and any area used in the storage, handling, treatment or disposal of mortalities. (3-21-12)

2-2. Runoff. Any precipitation that comes into contact with manure, compost, bedding, or feed on a poultry feeding operation and flows off the production area or flows off land application areas where the manure, compost, bedding, or feed has not been reasonably incorporated into the soil. (3-21-12)

2-3. Unauthorized Discharge. A discharge of process wastewater or manure to state surface waters that is not authorized by an APDES permit, or the release of process wastewater or manure to waters of the state that does not meet the requirements of the Title 25, Chapter 40, Idaho Code, or these rules. (3-21-12)

2-4. Wastewater Storage and Containment Facility. That portion of an AFO where manure or process wastewater is stored or collected. This may include corrals, feeding areas, waste collection systems, waste conveyance systems, waste storage ponds, waste treatment lagoons and evaporative ponds. (3-21-12)

2-5. Waters of the State. All accumulations of water, surface and underground, natural and artificial, public and private, or parts thereof which are wholly or partially within, which flow through or border upon the state. (3-21-12)

011. ABBREVIATIONS.

- | | | |
|-------------|---|----------------------|
| 01. | AFO. Animal Feeding Operation. | (3-21-12) |
| 02. | ASABE. American Society of Agricultural and Biological Engineers. | (3-21-12) |
| 03. | CAFO. Concentrated Animal Feeding Operation. | (3-21-12) |
| 04. | DEQ. Department of Environmental Quality. | (3-21-12) |
| 05. | FEMA. Federal Emergency Management Agency. | (3-21-12) |
| 06. | <u>IPDES.</u> <u>Idaho Pollutant Discharge Elimination System.</u> | <u>()</u> |
| 067. | NMP. Nutrient Management Plan. | (3-21-12) |
| 078. | NMS. Nutrient Management Standard. | (3-21-12) |
| 08. | NPDES. National Pollutant Discharge Elimination System. | (3-21-12) |
| 09. | NRCS. United States Department of Agriculture, Natural Resources Conservation Service. | (3-21-12) |
| 10. | USGS. United States Geological Survey. | (3-21-12) |

IDAPA 02 – DEPARTMENT OF AGRICULTURE

02.06.02 – RULES PERTAINING TO THE IDAHO COMMERCIAL FEED LAW

DOCKET NO. 02-0602-1601

NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

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

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 25-2710, Idaho Code.

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

To incorporate by reference information and updates contained in the 2017 Official Publication of the Association of American Feed Control Officials (AAFCO) as they pertain to the methodology and practice of conducting regulatory commercial feed registration and label review.

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the July 6, 2016 Idaho Administrative Bulletin, [Vol. 16-7, pages 29-30](#).

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

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

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

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Jared Stuart, Agriculture Section Manager at (208) 332-8620.

DATED this 4th Day of August, 2016.

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

THE FOLLOWING NOTICE WAS PUBLISHED WITH THE PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 25-2710, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than July 20, 2016.

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

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

To incorporate by reference information and updates contained in the 2017 Official Publication of the Association of American Feed Control Officials (AAFCO) as they pertain to the methodology and practice of conducting regulatory commercial feed registration and label review.

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

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

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

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

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

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

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Jared Stuart, Agriculture Section Manager at (208) 332-8622 or email jared.stuart@isda.idaho.gov.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be delivered on or before July 27, 2016.

DATED this 2nd Day of June, 2016.

LSO Rules Analysis Memo

THE FOLLOWING IS THE TEXT OF DOCKET NO. 02-0602-1601

004. INCORPORATION BY REFERENCE.

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

01. The Association of American Feed Control Officials (AAFCO) Official Publication. The Terms, Ingredient Definitions and Policies as published in the “2016~~7~~ Official Publication” of AAFCO where those terms and ingredient definitions, and policy statements do not conflict with terms and ingredient definitions, and policy statements adopted under Title 25, Chapter 27, Idaho Code, and any rule promulgated thereunder. The AAFCO Official Publication is a copyrighted publication and not available in electronic format. A copy may be purchased online from the AAFCO website at: www.aafco.org. ~~(3-25-16)~~()

02. The Merck Index. The “2006 Merck Index,” 14th Edition, as published by Merck Research Laboratories Division of Merck & Co., Incorporated. The Merck Index is a copyrighted publication and not available in an electronic format. A copy may be purchased online from Merck & Co., Inc at: <http://www.rsc.org/merckindex>.

IDAPA 02 – DEPARTMENT OF AGRICULTURE
02.06.12 – RULES PERTAINING TO THE IDAHO FERTILIZER LAW
DOCKET NO. 02-0612-1601
NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

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

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 22-604, Idaho Code.

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

To incorporate by reference information and updates contained in the 2017 Official Publication of the Association of American Plant Food Control Officials (AAPFCO) as they pertain to the methodology and practice of conducting regulatory fertilizer registration and label review.

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the July 6, 2016 Idaho Administrative Bulletin, [Vol. 16-7, pages 31-32](#).

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

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

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

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Jared Stuart, Agriculture Section Manager at (208) 332-8620.

DATED this 4th Day of August, 2016.

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

THE FOLLOWING NOTICE WAS PUBLISHED WITH THE PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 22-604, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than July 20, 2016.

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

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

To incorporate by reference information and updates contained in the 2017 Official Publication of the Association of American Plant Food Control Officials (AAPFCO) as they pertain to the methodology and practice of conducting regulatory fertilizer registration and label review.

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

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

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

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

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

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

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Jared Stuart, Agriculture Section Manager at (208) 332-8622 or email jared.stuart@isda.idaho.gov.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be delivered on or before July 27, 2016.

DATED this 2nd Day of June, 2016.

LSO Rules Analysis Memo

THE FOLLOWING IS THE TEXT OF DOCKET NO. 02-0612-1601

004. INCORPORATION BY REFERENCE.

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

01. The Association of American Plant Food Control Officials (AAPFCO) Official Publication. The Terms, Ingredient Definitions, and Policies, as published in the “2016~~7~~ Official Publication” of AAPFCO where those terms and ingredient definitions, and policy statements do not conflict with terms and ingredient definitions, and policy statements adopted under Title 22, Chapter 6, Idaho Code, and any rule promulgated thereunder. The AAPFCO Official Publication is a copyrighted publication and not available in electronic format. A copy may be purchased online from the AAPFCO website at: http://www.aapfco.org/pdf/order_form_69.pdf. ~~(3-25-16)~~()

02. The Merck Index. The “2006 Merck Index,” 14th Edition as published by Merck Research Laboratories Division of Merck & Co., Incorporated. The Merck Index is a copyrighted publication and not available in an electronic format. A copy may be purchased online from Merck & Co., Inc. (now hosted by the Royal Society of Chemistry) at: <http://www.rsc.org/merckindex>. (4-7-11)

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

IDAPA 02 – DEPARTMENT OF AGRICULTURE

02.06.22 – NOXIOUS WEED RULES

DOCKET NO. 02-0622-1601

NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

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

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 22-2403, Idaho Code.

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

The purpose of this rulemaking is to add four (4) genus of plants to the Idaho noxious weed list including the entire genus *Cytisus*, *Chamaecytisus*, and *Spartium*, including hybrids and cultivars of these genera.

Specific changes including: (1) Adding all plants and plant parts in the Genera's of: *Cytisus*, *Genista*, *Spartium*, and *Chamaecytisus* to Idaho's Statewide Noxious Weed List under IDAPA 02.06.22.100; (2) Removing *Cytisus scoparius* from the "Control" noxious weed list; and (3) Defining "sub taxa" in IDAPA 02.06.22.010.

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the September 7, 2016, Idaho Administrative Bulletin, [Vol. 16-9, pages 22-26](#).

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

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

There is no fiscal impact anticipated as a result of this proposed rule.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Lloyd Knight, Administrator, Division of Plant Industries, (208) 332-8620 or Lloyd.knight@isda.idaho.gov.

DATED this 6th day of October, 2016.

Brian J. Oakey, Deputy Director
Idaho State Department of Agriculture
2280 Old Penitentiary Road
P.O. Box 790
Boise, ID 83701
Phone: (208) 332-8500
Fax: (208) 334-2170

THE FOLLOWING NOTICE WAS PUBLISHED WITH THE PROPOSED RULE

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

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 21, 2016.

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

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

The purpose of this rulemaking is to add four (4) genera of plants to the Idaho noxious weed list including the entirety of the genera *Cytisus*, *Chamaecytisus*, and *Spartium*, including hybrids and cultivars of these genera.

Specific changes include: (1) adding all plants and plant parts in the genera of: *Cytisus*, *Genista*, *Spartium*, and *Chamaecytisus* to Idaho's Statewide Noxious Weed List under IDAPA 02.06.22.100; (2) removing *Cytisus scoparius* from the "Control" noxious weed list; and (3) defining "subtaxa" in IDAPA 02.06.22.010.

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

There is no fee impact included in this proposed rule.

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

There is no fiscal impact anticipated as a result of this proposed rule.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the July 6, 2016 Idaho Administrative Bulletin, [Volume 16-7, Page 29](#).

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

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Lloyd Knight, Administrator, Division of Plant Industries, at (208) 332-8620, or at Lloyd.knight@isda.idaho.gov. Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 28, 2016.

DATED this 4th Day of August, 2016.

LSO Rules Analysis Memo

THE FOLLOWING IS THE TEXT OF DOCKET NO. 02-0622-1601

010. DEFINITIONS.

The Department adopts those definitions as set forth in Section 22-2402, Idaho Code, and in addition, adopts the following: (3-30-07)

01. Early Detection and Rapid Response (EDRR). Finding invasive plant species during the initial stages of colonization and then responding within the same season to initiate eradication of the invasive plant species. (3-30-07)

02. Implements of Husbandry. Every vehicle, including self-propelled units, designed or adapted and used exclusively in agricultural, horticultural, dairy and livestock growing and feeding operations when being incidentally operated as an implement of husbandry. Such implements include, but are not limited to, combines, discs, dry and liquid fertilizer spreaders, cargo tanks, harrows, hay balers, harvesting and stacking equipment, pesticide applicator equipment, plows, swathers, mint tubs and mint wagons, and farm wagons. A farm tractor when attached to or drawing any implement of husbandry shall be construed to be an implement of husbandry. Implements of husbandry do not include semi trailers, nor do they include motor vehicles or trailers, unless their design limits their use to agricultural, horticultural, dairy or livestock growing and feeding operations. (3-30-07)

03. Subtaxa(on). A supplementary piece of identifying information in a plant's or animal's scientific name. ()

(BREAK IN CONTINUITY OF SECTIONS)

100. NOXIOUS WEEDS - DESIGNATIONS.

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

01. Statewide PROHIBITED GENERA Noxious Weed List. All plants and plant parts in the genera of: Cytisus, Genista, Spartium, and Chamaecytisus additionally including "all" subtaxa of these plant genera are prohibited in Idaho. ()

a. Weeds listed in the Prohibited Genera list may exist in varying populations throughout the state. The concentration of these weeds is at a level where control and/or eradication may be possible. A written plan for weeds on the Statewide Prohibited Genera Noxious Weed List shall be developed by the control authority that specifies active control methods to reduce known populations in not more than five (5) years. The plan shall be available to the Department upon request. ()

012. Statewide EDRR Noxious Weed List.

Common Name	Scientific Name
1. Brazilian Elodea	1. <i>Egeria densa</i>
2. Common/European Frogbit	2. <i>Hydrcharis morsus-ranae</i>
3. Fanwort	3. <i>Cobomba caroliniana</i>
4. Feathered Mosquito Fern	4. <i>Azolla pinnata</i>
5. Giant Hogweed	5. <i>Heracleum mantegazzianum</i>
6. Giant Salvinia	6. <i>Salvinia molesta</i>
7. Hydrilla	7. <i>Hydrilla verticillata</i>
8. Iberian Starthistle	8. <i>Centaurea iberica</i>
9. Policeman's Helmet	9. <i>Impatiens glandulifera</i>

Common Name	Scientific Name
10. Purple Starthistle	10. <i>Centaurea calcitrapa</i>
11. Squarrose Knapweed	11. <i>Centaurea triumfetti</i>
12. Syrian Beancaper	12. <i>Zygophyllum fabago</i>
13. Tall Hawkweed	13. <i>Hieracium piloselloides</i>
14. Variable-Leaf-Milfoil	14. <i>Myriophyllum heterophyllum</i>
15. Water Chestnut	15. <i>Trapa natans</i>
16. Water Hyacinth	16. <i>Eichhornia crassipes</i>
17. Yellow Devil Hawkweed	17. <i>Hieracium glomeratum</i>
18. Yellow Floating Heart	18. <i>Nymphoides pelata</i>

If any of the above listed plants (Subsection 100.042) are found to occur in Idaho, they shall be reported to the Department within ten (10) days following positive identification by the University of Idaho or other qualified authority as approved by the Director. These weeds shall be eradicated during the same growing season as identified. (3-25-16)()

023. Statewide Control Noxious Weed List.

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

Common Name	Scientific Name
20. Small Bugloss	20. <i>Anchusa arvensis</i>
21. Vipers Bugloss	21. <i>Echium vulgare</i>
22. Yellow Hawkweed	22. <i>Hieracium caespitosum</i>

Weeds listed in the control list are known to exist in varying populations throughout the state. The concentration of these weeds is at a level where control and/or eradication may be possible. A written plan for weeds on the Statewide Control Noxious Weed List shall be developed by the control authority that specifies active control methods to reduce known populations in not more than five (5) years. The plan shall be available to the Department upon request.

(3-29-10)

034. Statewide Containment Noxious Weed List.

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

Common Name		Scientific Name	
26.	Yellow Starthistle	26.	<i>Centaurea solstitialis</i>
27.	Yellow Toadflax	27.	<i>Linaria vulgaris</i>

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

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

- a. Construction equipment, road building and maintenance equipment, and implements of husbandry. (3-30-07)
- b. Motorized vehicles such as, all-terrain vehicles, motorcycles, and other off-road vehicles and non-motorized vehicles such as bicycles and trailers. (3-30-07)
- c. Grain and seed. (7-1-93)
- d. Hay, straw and other material of similar nature. (7-1-93)
- e. Nursery stock including plant material propagated for the support of aquarium, pet, or horticultural activities. (3-30-07)
- f. Feed and seed screenings. (7-1-93)
- g. Fence posts, fencing and railroad ties. (7-1-93)
- h. Sod. (7-1-93)
- i. Manure, fertilizers and material of similar nature. (7-1-93)
- j. Soil, sand, mulch, and gravel. (3-30-07)
- k. Boats, personal watercraft, watercraft trailers, and items of a similar nature. (3-30-07)

IDAPA 02 – DEPARTMENT OF AGRICULTURE

02.06.31 – NOXIOUS WEED FREE FORAGE AND STRAW CERTIFICATION RULES

DOCKET NO. 02-0631-1602

NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

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

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 22-101(3), 22-2403, 22-2411, 22-2412, and 22-2413, Idaho Code.

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

The ISDA is a member of a national standards organization called the North American Invasive Species Management Association (NAISMA). NAISMA has standards for Noxious Weed Free Forage and Straw (NWFFS) products. NAISMA changed its NWFFS standards on February 1, 2016. ISDA will not be able to certify forage crops to the NAISMA standards until these rules are amended. Idaho has multiple manufacturers of NWFFS products (forage cubes & pellets). As currently written in the rules without the proposed changes, these products can only be certified to the previous NAISMA standards.

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the September 7, 2016 Idaho Administrative Bulletin, [Vol. 16-9, pages 27-36](#).

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

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

There is no fiscal impact anticipated as a result of this proposed rule.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Lloyd Knight, Administrator, Division of Plant Industries, (208) 332-8620 or Lloyd.knight@isda.idaho.gov.

DATED this 6th day of October, 2016.

Brian J. Oakey, Deputy Director
Idaho State Department of Agriculture
2280 Old Penitentiary Road
P.O. Box 790
Boise, ID 83701
Phone: (208) 332-8500
Fax: (208) 334-2170

THE FOLLOWING NOTICE WAS PUBLISHED WITH THE PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 22-101(3), 22-2403, 22-2411, 22-2412, and 22-2413.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 21, 2016.

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

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

The ISDA is a member of a national standards organization called the North American Invasive Species Management Association (NAISMA). NAISMA has standards for Noxious Weed Free Forage and Straw (NWFFS) products. NAISMA changed its NWFFS standards on February 1, 2016 and the ISDA will not be able to certify forage crops to the NAISMA standards until these rules are amended. Idaho has multiple manufacturers of NWFFS products (forage cubes & pellets) and these proposed changes are needed to ensure these products can only be certified using the most current standards rather than the NAISMA standards that as currently written in this rule.

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

There are no fees being imposed or changed in this rulemaking.

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

There is no negative impact to the state general fund as a result of this proposed rule.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the July 6, 2016 Idaho Administrative Bulletin, [Volume 16-7, Page 45](#).

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

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Dan Safford, Program Specialist, Invasive Species, at (208) 332-8592, or at dan.safford@isda.idaho.gov.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 28, 2016.

DATED this 4th Day of August, 2016.

LSO Rules Analysis Memo

THE FOLLOWING IS THE TEXT OF DOCKET NO. 02-0631-1602

010. DEFINITIONS.

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

(7-1-94)

01. Agent. Any instrumentality or entity authorized by the director of the department, and acting on behalf of the department, to administer the provisions of this rule. Any designated agent shall act in an official capacity for the department and under the supervision of the director of the department. The principal purpose of the agent is to establish, conduct, and maintain a uniform and reasonable system of inspection and certification of forage and straw crops to determine if such crops are noxious weed free. (3-19-07)

02. Approved Inspector. An individual who has been accredited by the department or by the department's agent in the noxious weed free forage and straw certification program. (3-19-07)

03. Bale. A mechanically compressed package of forage or straw bound by string or wire, or other binding material. (3-19-07)

04. Bale Tag. A tag or label which is attached to the string or wire, or other binding material of a bale of certified forage or straw, and identifies the bale as being certified noxious weed free. (3-19-07)

05. Certificate of Inspection. A record of inspection issued by an approved inspector that states the results of a field or commodity inspection. The certificate shall document that the inspected field or commodity is Idaho State Noxious Weed Free, North American Noxious Weed Free, or that the field or commodity contains noxious weeds. (5-8-09)

06. Certification. The process whereby an approved inspector conducts field or commodity inspections to determine that the field or commodity is noxious weed free. (3-19-07)

07. Certification Markings. Bale tags, purple and yellow colored twine, compressed forage bale binding material, and forage cubes/pellets container tags/labels. (4-4-13)

08. Certified Compressed Forage Bale Binding Material. An ISDA approved binding material which is attached to a compressed forage bale of certified noxious weed free forage and identifies the bale as being certified to the North American Standards. (5-8-09)

09. Compressed Forage Bale. A bale that has been twice compressed, once in the field by a forage baler and then recompressed a second time and bound by string, wire or other binding material. (3-19-07)

10. Department. The Idaho State Department of Agriculture. (3-19-07)

11. Field. The land on which a forage or straw crop is grown and is not divided by streams, public roads, other crops, or other barriers. (3-19-07)

12. Field Certification Inspection. An on-site inspection of forage or straw in the field, and areas adjacent to the field, for the presence of noxious weeds. The inspection shall be conducted prior to cutting or harvesting. (3-19-07)

13. Forage. Alfalfa, grain, and grass hay, and/or combinations of alfalfa, grain, or grass hay; the term "forage" includes forage cubes, compressed forage bales, and pellets. (3-19-07)

14. Forage Cubes. Forage that is harvested from a field certified to North American Standards and is mechanically compacted into wafers or cubes. (3-19-07)

15. Forage Cube/Pellet Tag. A tag, label, or statement which is attached or printed on a container of certified noxious weed free forage cubes or pellets, and identifies the container as being certified to the North American Standards. (5-8-09)

16. **Idaho State Noxious Weed Free.** Forage and straw inspected for weeds designated by the director as noxious as defined in Section 22-2402(15), Idaho Code, and determined to be free of such weeds. (3-19-07)

17. **Idaho State Noxious Weed Free Standards.** Forage and straw that meets the requirements Idaho State Noxious Weed Free. (3-19-07)

18. **North American Noxious Weed Free.** Forage and straw inspected for, and determined to be free of, weeds designated as noxious by the director as defined in Section 22-2402(15) Idaho Code and noxious weeds listed on the North American Designated Weed List. (3-19-07)()

19. **North American Weed Free Forage Certification Program.** The North American Weed Invasive Species Management Association standard for forage certification. (3-19-07)()

20. **North American Twine.** Special ~~P~~purple and yellow colored twine approved by NAISMA that is used to mark bales as certified to the North American Standards. (3-19-07)()

21. **North American Standards.** Requirements of the North American Weed Free Forage Certification Program. (3-19-07)

22. **Noxious Weed Free.** No noxious weeds with viable seed, injurious portions, or propagating parts were found during inspection procedures. (3-19-07)

23. **Pellets.** Forage that is harvested from a field certified to North American Standards and is manufactured into an agglomerated feed, formed by compacting and forcing through die openings by a mechanical process. (3-19-07)

24. **Straw.** The dried stalks or stems remaining after grain is harvested. (3-19-07)

25. **Transit Certificate.** A document completed by an approved inspector to certify products proposed for movement as certified noxious weed free into states that require noxious weed free forage and straw certification. The transit certificate must be in the possession of the transporter. ~~If individual bales are tagged with an approved bale tag, a transit certificate is not required.~~ (4-4-13)()

011. ABBREVIATIONS.

01. **ISDA.** The Idaho State Department of Agriculture. (3-19-07)

02. **NA~~W~~ISMA.** North American Weed Invasive Species Management Association. (3-19-07)()

03. **NWFF&S.** Noxious Weed Free Forage and Straw. (3-19-07)

012. -- 099. (RESERVED)

100. VOLUNTARY NOXIOUS WEED FREE FORAGE AND STRAW CERTIFICATION PROGRAM.

01. **Purpose.** The noxious weed free forage and straw certification program is a voluntary program, the purpose of which is to provide a means for the inspection, certification, and marking of forage and straw as noxious weed free. The program will be managed by the department and may be implemented through an agent of the department. The program will allow for the preparation of a transit certificate for the purpose of interstate transport or shipping of forage and straw into and through states which place regulations and restrictions on such commodities. The program is intended to reduce the exportation, importation, growth, and spread of noxious weeds. (4-4-13)

02. **Certifying Authority.** The department or its agent is the certifying authority. The certifying authority shall appoint, as needed, approved inspectors throughout the state, who may issue certificates of inspection. (3-10-00)

03. Certification Training. The department shall determine minimum training and accreditation standards for approved inspectors. Training will be provided annually by the department or its agent. Attendance at annual training will certify accreditation for the inspector for that calendar year. Approved inspectors will be issued a certificate of training for the calendar year. Annual training shall include: (3-19-07)

- a. Field inspection techniques and procedures; (3-19-07)
- b. ISDA and North American Noxious weed list plant identification; (3-19-07)
- c. ISDA and North American certification standards and guidelines; (3-19-07)
- d. Knowledge of weed management, including: (3-19-07)
 - i. Burning; (3-19-07)
 - ii. Mowing, cutting or roguing; (3-19-07)
 - iii. Mechanical methods; and (3-19-07)
 - iv. Herbicides. (3-19-07)
- e. Inspection forms. (3-19-07)

04. Certification Program. (3-10-00)

- a. The department or its agent shall: (3-10-00)
 - i. Coordinate forage and straw inspections within the state; (3-10-00)
 - ii. Select, train, and supervise persons who serve as approved inspectors; (3-10-00)
 - iii. Issue certificates of inspection, transit certificates, North American Twine, forage cubes/pellets tags/labels, certified compressed forage bale binding material, and bale tags to qualifying participants; (3-19-07)
 - iv. Maintain a record of inspections performed and certificates and tags issued; (7-1-94)
- b. Under the direction of the department or its agent an approved inspector may perform inspections and issue certificates of inspection, transit certificates, North American Twine, forage cubes/pellets tags/labels, and bale tags within the state at cost. (3-19-07)

05. Application for Certification. (7-1-94)

- a. Application for certification inspection shall be made on forms available from the department or its agent and submitted to the department or its agent. (5-8-09)
- b. An applicant's signature on the application for certification is verification of the accuracy of the information submitted, and signifies the applicant's intent to comply with the post-certification and distribution requirements. (3-10-00)

06. Field Inspection Procedures. (7-1-94)

- a. Forage or straw shall be inspected within a maximum of ten (10) days prior to cutting/harvesting in the field of origin for each field and cutting to be certified. Fields must be inspected again if circumstances prevent harvest of the forage for a period greater than ten (10) days from the first inspection. ~~(3-19-07)~~ ()

- b. Each field inspected shall be identified by the name of the owner and a field name or number. The certification inspection may be performed on an entire field or a portion of a field, if the portion is plainly marked and

identified prior to inspection. (3-10-00)

c. Field inspections must take place prior to any operation that will limit the approved inspector's ability to properly inspect and certify the field. Fields that have been cut or harvested prior to inspection are ineligible for certification. (3-19-07)

d. There shall be a minimum of two (2) entry points per field. (3-19-07)

e. There shall be minimum of one (1) entry point per each ten (10) acres ~~(four (4) hectares).~~ ~~(3-19-07)~~ ()

f. Each point of entry shall be at least one-hundred fifty (150) feet ~~(forty-five (45) meters)~~ into the field, and each additional one-hundred fifty (150) feet ~~(forty-five (45) meters)~~ traveled shall constitute an entry point. Travel shall be uninterrupted, proceeding through the field being inspected. ~~(3-19-07)~~ ()

g. The entire field border shall be physically inspected. (3-19-07)

h. The field inspection will include all ditches, fence rows, roads, easements, rights-of-way, or buffer zones surrounding the field. (3-19-07)

i. Forage which contains any noxious weeds as identified in Section 22-2402(15) or noxious weeds listed on the North American Noxious Weed List, may be certified if the following requirements are met: (3-19-07)

i. ~~Field upon which the forage was produced was treated to prevent seed formation or seed ripening to the degree that there is no danger of dissemination of the seed, or any injurious portion thereof from such noxious weeds, or undesirable plant species, or the propagating parts of the plant are not capable of producing a new plant; Forage that contains any noxious weeds may still be certified if the field upon which the forage was produced is treated to prevent noxious weed seed or other propagule viability according to agricultural practices acceptable to, and to the satisfaction of, the approved inspector.~~ ~~(3-19-07)~~ ()

ii. Noxious weed(s) were treated not later than rosette to bud stage, or boot stage for grass species classified as noxious weeds, prior to cutting or harvesting; and (3-19-07)

iii. Treatment method can include, but is not limited to burning, mowing, cutting or roguing, mechanical methods, or chemicals. (3-19-07)

j. An inspection certificate shall document that the above requirements have been met. (3-19-07)

k. Baling equipment must be cleaned of any noxious weeds prior to harvesting certified forage. If the baling equipment is not cleaned, the first three (3) small square bales or the first large round or square bale produced shall be considered non-certified. (3-19-07)

l. Interstate shipment of baled forage and straw shall be accompanied by an original transit certificate issued by the approved inspector in the county of origin. ~~If individual bales are tagged with an approved bale tag, a transit certificate is not required.~~ The storage area shall also be inspected and shall be free of noxious weeds. ~~(4-4-13)~~ ()

m. An approved inspector may not inspect fields of which said inspector has ownership or financial interest. (3-19-07)

07. Certification Standards. After completing an inspection, the approved inspector shall complete a certificate of inspection. (3-10-00)

a. If the field or commodity inspected is certified as North American Noxious Weed Free, the approved inspector shall issue a certificate of inspection for that harvest or cutting. If the field or commodity contains North American Noxious Weeds, but does not contain Idaho State noxious weeds, it may be certified as Idaho State noxious weed free, and such certification shall be noted on the certificate of inspection. (3-19-07)

b. If the field or commodity inspected is certified as noxious weed free, as defined in these rules, the approved inspector may also issue, upon request, any of the following documents: (3-19-07)

- i. Transit certificates. (7-1-94)
- ii. Bale tags. The date on the bale tag must accurately reflect the year in which the bale was produced. (4-4-13)
- iii. North American Twine only if the field or commodity is certified as North American Noxious Weed Free. (3-19-07)
- iv. Forage cube/pellet tag/labels only if the field or commodity is certified as North American Noxious Weed Free. (3-19-07)
- v. Certified compressed forage bale binding material only if the field or commodity is certified as North American Noxious Weed Free. (3-19-07)

c. Certificates of inspection, transit certificates and bale tags shall be on forms prescribed by the department or its agent. (3-10-00)

d. North American Twine and bale tags must be purchased from the department or its agent. (5-8-09)

08. Copy of Inspections and a List of Approved Inspectors. Upon request, the agent shall provide the department with a copy of certificates of inspections issued and a current list of approved inspectors. (3-10-00)

09. Reciprocity. Forage or straw certified under a reciprocal agreement between the department and another state, and certified as North American Noxious Weed Free according to the other state's approved certification standards, may be shipped into the state of Idaho and shall be considered to meet the requirements of the Idaho program. (3-19-07)

10. Exports. Certification under these rules does not qualify a commodity for export from the United States. Applications for certification for export should be made directly to the Division of Plant Industries within the department. (3-10-00)

11. Voluntary Posting. After certification, a producer may post signs, or other forms of notification, on the certified commodity indicating that the commodity is certified as noxious weed free. (3-10-00)

12. Post-Certification and Distribution Requirements. After a producer's commodity has been inspected and certified, the producer shall: (3-19-07)

- a. Take reasonable and prudent steps to protect the certified commodity from contamination; (7-1-94)
- b. Keep the certified commodity separated from all uncertified commodity; (3-10-00)
- c. Attach bale tags, certified compressed forage bale binding material, or North American Twine to each bale of certified forage or straw intended for sale as noxious weed free forage or straw prior to the bales leaving the producers stack yard or storage area; and (3-19-07)
- d. Attach cube/pellet tag/label to each container of certified forage cubes/pellets intended for sale as noxious weed free forage prior to the containers leaving the producer's facility. (3-19-07)

e. Provide the shipper, trucker, or transporter with the appropriate number of transit certificates. ~~If individual bales are tagged with an appropriate bale tag, a transit certificate is not required.~~ (4-4-13) ()

13. Cancellation for Failure to Comply. Any person who provides false information on an application for inspection or who fails to comply with the post-certification and distribution requirements may, upon

order of the director, be suspended for a period of up to two (2) years from participating in the forage and straw certification program. (7-1-94)

14. Enforcement and Cancellation. Harvested lots of forage or straw from certified fields may be checked at any time by an approved inspector. Manufactured lots of forage cubes, pellets, and compressed forage bales may be checked at any time by an approved inspector. Evidence that forage, straw, forage cubes/pellets, or compressed forage bales are not from a certified field or that any lot has not been protected from contamination shall be cause for cancellation of certification. (3-19-07)

15. Misuse of Transit Certificate and Certification Markings. Using a transit certificate or certification marking for forage from a field that has not been certified shall constitute a violation of these rules. (3-19-07)

16. Certification Fees. A minimum of thirty dollars (\$30) per inspection shall be charged for up to ten (10) acres, and three dollars (\$3) per acre thereafter, for fields up to ninety-nine (99) acres. Fields that are one-hundred (100) acres or larger in size, the fee is three dollars (\$3) per acre for the first one-hundred (100) acres and two dollars (\$2) per acre thereafter. The agent is authorized to assess a general fee of thirty dollars (\$30) per year to recover overhead costs. *The agent may waive the general fee if the applicant has already been assessed a similar fee for other types of crop inspections.* (3-19-07) ()

101. -- 149. (RESERVED)

150. NORTH AMERICAN NOXIOUS WEED LIST.

Common Name	Scientific Name
Absinth wormwood	<i>Artemisia absinthium</i>
Bermudagrass <u>Austrian fieldcress</u>	<i>Cynodon dactylon</i> <u><i>Rorippa austriaca</i></u>
<u>Black henbane</u>	<u><i>Hyoscyamus niger</i></u>
Buffalobur	<i>Solanum rostratum</i>
Canada thistle	<i>Cirsium arvense</i>
Common burdock	<i>Arctium minus</i>
Common crupina	<i>Crupina vulgaris</i>
<u>Common mullein</u>	<u><i>Verbascum thapsus</i></u>
Common tansy	<i>Tanacetum vulgare</i>
<u>Common teasel</u>	<u><i>Dipsacus fullonum</i></u>
<u>Cutleaf teasel</u>	<u><i>Dipsacus laciniatus</i></u>
<u>Dame's rocket</u>	<u><i>Hesperis matronalis</i></u>
Dalmatian toadflax	<i>Linaria dalmatica</i>
Diffuse knapweed	<i>Centaurea diffusa</i>
Dyers woad	<i>Isatis tinctoria</i>
Field bindweed	<i>Convolvulus arvensis</i>
Hemp (marijuana)	<u><i>Cannabis sativa</i></u>
Henbane, Black	<u><i>Hyoscyamus niger</i></u>
<u>Field scabious</u>	<u><i>Knautia arvensis</i></u>

Common Name	Scientific Name
Hoary alyssum	Berteroa incana
Hoary cress	<i>Cardaria spp.</i>
Horsenettle	<i>Solanum carolinense</i>
Houndstongue	<i>Cynoglossum officinale</i>
Johnsongrass	<i>Sorghum halepense</i>
Jointed goatgrass	<i>Aegilops cylindrica</i>
Leafy spurge	<i>Euphorbia esula</i>
Matgrass	Nardus stricta
Meadow knapweed	<i>Centaurea pratensis</i>
Medusahead	<i>Taeniatherum caput-medusae</i>
Milium	Milium vernale
Musk thistle	<i>Carduus nutans</i>
Orange hawkweed	<i>Hieracium aurantiacum</i>
Oxeye daisy	<i>Chrysanthemum leucanthemum</i>
Perennial pepperweed	<i>Lepidium latifolium</i>
Perennial sorghum	Sorghum alnum
Perennial sowthistle	<i>Sonchus arvensis</i>
Plumeless thistle	<i>Carduus acanthoides</i>
Poison hemlock	<i>Conium maculatum</i>
Puncturevine	<i>Tribulus terrestris</i>
Purple loosestrife	<i>Lythrum salicaria</i>
Quackgrass	<i>Agropyron repens</i>
Rush skeleton weed	<i>Chondrilla juncea</i>
Russian knapweed	<i>Centaurea repens</i>
Scentless chamomile	<i>Matricaria perforata</i> or <i>M. milaceum</i>
Scotch broom	Cytisus scoparius
Scotch thistle	<i>Onopordum acanthium</i>
Sericea Lespedeza	<i>Lespedeza cuneata</i>
Silverleaf nightshade	Solanum elaeagnifolium
Skeletonleaf bursage	Ambrosia tomentosa
Spotted knapweed	<i>Centaurea maculosa</i>
Squarrose knapweed	<i>Centaurea virgata</i>
St. Johnswort	<i>Hypericum perforatum</i>
Sulfur cinquefoil	<i>Potentilla recta</i>

Common Name	Scientific Name
Syrian beancaper	Zygophyllum fabage
Tall buttercup	Ranunculus acris
Tansy ragwort	Senecio jacobaea
Toothed spurge	Euphorbia dentata
Vipers bugloss/blueweed	Echium vulgare
Wild oats	Avena fatua
Wild proso millet	Panicum miliaceum
Yellow hawkweed	Hieracium pratense
Yellow starthistle	Centaurea solstitialis
Yellow toadflax	Linaria vulgaris

(4-4-13)()

(BREAK IN CONTINUITY OF SECTIONS)

250. CERTIFICATION MARKING.

Each certified bale or container shall be marked by one (1) of the following: (3-19-07)

01. North American Twine. Only one (1) strand is required per bale. (3-19-07)

02. Forage Bale Tag. The following information shall be shown on baled forage and straw: (5-8-09)()

a. The words - “North American Weed Free Forage Certification Program” or “Idaho State Noxious Weed Free Forage & Straw Certification Program”; (3-19-07)

b. Bale tag serial number; (3-19-07)

c. County of origin identification; (3-19-07)

d. ISDA emblem; (3-19-07)

e. ISDA telephone number; and (3-19-07)

f. A statement that the product is “Certified to the North American Standards” or “Certified to the Idaho State Noxious Weed Free Standards.” (3-19-07)

g. Year the bale tag was issued. (4-4-13)

03. Forage Cube/Pellet Tag/Label. Certification tags/labels shall be attached to or a statement with the following information shall be printed on each container of noxious weed free product: (3-19-07)

a. The words - “North American Weed Free Forage Certification Program”; (3-19-07)

b. ISDA forage manufacturer identification number; (3-19-07)

c. ISDA emblem; (3-19-07)

d. ISDA telephone number; and (3-19-07)

e. A statement that the product is "Certified to the North American Standards." (3-19-07)

04. Certified Compressed Forage Bale Binding Material. The following information shall be printed in purple ink on yellow binding material. Two (2) consecutive vertical purple lines approximately one-eighth of an inch (1/8") wide, spaced approximately one and one-quarter inches (1 1/4") apart, placed before and after written text which includes the acronym "ISDA NWFFS" and can include the manufacturer's name. (5-8-09)

IDAPA 02 – DEPARTMENT OF AGRICULTURE

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

DOCKET NO. 02-0641-1601

NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

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

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 22-2204, Idaho Code.

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

To incorporate by reference information and updates contained in the 2017 Official Publication of the Association of American Plant Food Control Officials (AAPFCO) as they pertain to the methodology and practice of conducting regulatory soil and plant amendment registration and label review.

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the July 6, 2016 Idaho Administrative Bulletin, [Vol. 16-7, pages 46-47](#).

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

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

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

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Jared Stuart, Agriculture Section Manager at (208) 332-8620.

DATED this 4th Day of August, 2016.

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

THE FOLLOWING NOTICE WAS PUBLISHED WITH THE PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 22-2204, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than July 20, 2016.

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

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

To incorporate by reference information and updates contained in the 2017 Official Publication of the Association of American Plant Food Control Officials (AAPFCO) as they pertain to the methodology and practice of conducting regulatory soil and plant amendment registration and label review.

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

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

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

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

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

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

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Jared Stuart Agriculture Section Manager at (208) 332-8622 or jared.stuart@isda.idaho.gov. Anyone may submit written comments regarding this proposed rulemaking. All written comments must be delivered on or before July 27, 2015.

DATED this 2nd Day of June, 2016.

LSO Rules Analysis Memo

THE FOLLOWING IS THE TEXT OF DOCKET NO. 02-0641-1601

004. INCORPORATION BY REFERENCE.

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

01. The Association of American Plant Food Control Officials (AAPFCO) Official Publication. The terms, ingredient definitions and policies as published in the “2016~~7~~ Official Publication” of AAPFCO where those terms and ingredient definitions, and policy statements do not conflict with terms and ingredient definitions, and policy statements adopted under Title 22, Chapter 22, Idaho Code, and any rule promulgated thereunder. The AAPFCO Official Publication is a copyrighted publication and not available in electronic format. A copy may be purchased online from the AAPFCO website at: http://www.aapfco.org/pdf/order_form_69.pdf. ~~(3-25-16)~~()

02. The Merck Index. The “2006 Merck Index,” 14th Edition, as published by Merck Research Laboratories Division of Merck & Co., Incorporated. The Merck Index is a copyrighted publication and not available in an electronic format. A copy may be purchased online from Merck & Co., Inc. (now hosted by the Royal Society of Chemistry) at: <http://www.rsc.org/merckindex..> (4-7-11)

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

IDAPA 42 – IDAHO WHEAT COMMISSION
42.01.01 – RULES OF THE IDAHO WHEAT COMMISSION
DOCKET NO. 42-0101-1601
NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

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

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 22-3309, Idaho Code.

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

The changes clarify how the first purchaser of wheat reports compliance with the statute and the amount of wheat tax collected. The rulemaking clarifies that the first purchaser of wheat shall complete and return the Report of Tax on Wheat, or equivalent, to the Commission office at the end of each production year (July 1 – June 30). The report shall include the name and address of the grower and seller.

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the November 2, 2016 Idaho Administrative Bulletin, [Vol. 16-11, pages 37-38](#).

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: N/A

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Blaine Jacobson, Executive Director, at (208) 332-1612.

DATED this 1st day of December, 2016.

Blaine Jacobson, Executive Director
Idaho Wheat Commission
821 W. State St.
P. O. Box 82720
Boise, ID 83720-0099
Phone: (208) 334-2353
Fax: (208) 334-2505

THE FOLLOWING NOTICE WAS PUBLISHED WITH THE PROPOSED RULE
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AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 22-3309, Idaho Code.

PUBLIC HEARING SCHEDULE: A public hearing concerning this rulemaking will be held as follows:

Tuesday, November 8, 2016 - 3:00 PM

CHS Primeland
1200 Snake River Avenue
Lewiston, ID

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

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

The changes clarify how the first purchaser of wheat reports compliance with the statute and the amount of wheat tax collected. The rulemaking clarifies that the first purchaser of wheat shall complete and return the Report of Tax on Wheat, or equivalent, to the Commission office at the end of each production year (July 1 – June 30). The report shall include the name and address of the grower and seller.

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

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year as a result of this rulemaking: N/A

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the June 1, 2016 Idaho Administrative Bulletin, **Vol. 16-6, pages 53-54**, and in the October 5, 2016 Administrative Bulletin, **Vol. 16-10, pages 750-751**.

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

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Blaine Jacobson, Executive Director, at (208) 332-1612 or at blaine@idahowheat.org.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before November 23, 2016.

DATED 20th day of October, 2016.

LSO Rules Analysis Memo

THE FOLLOWING IS THE TEXT OF DOCKET NO. 42-0101-1601

300. WHEAT UNDER COMMODITY CREDIT CORPORATION LOANS.

01. Payee. The Commission will be named as payee to receive three and one half cents (\$.3½) per bushel when the producer's note and loan agreement is executed by the Farm Service Agency (FSA). In such cases,

the lending agency will send the tax directly to the Commission. When the producer's note and loan agreement shows that the tax has been deducted and sent to the Commission, it will not be necessary for the buyer to deduct the tax when the wheat is purchased. (3-14-16)

02. Tax. Since the legislature has made the tax a lien prior to all other liens and encumbrances of the wheat, it is necessary for the grain buyer to make sure the tax has been paid in order to obtain clear title to the wheat. The tax should be deducted in all cases where there is not evidence that the tax was previously paid by a lending agency. In case errors occur and the tax is deducted by a lending agency and again deducted by a grain buyer, refund will be made by the Commission. (3-14-16)

03. Delivery of Documents to Commission. The first purchaser of wheat shall complete and return the Report of Tax on Wheat, or equivalent, to the Commission office at the end of each production year (July 1 through June 30). The report shall be due on the same date as the final quarter wheat tax as specified in Section 22-3315(1), Idaho Code, and shall include the following: ()

- a.** Name or names of the grower and seller; and ()
- b.** Address or addresses of the grower and seller. ()

IDAPA 42 – IDAHO WHEAT COMMISSION
42.01.01 – RULES OF THE IDAHO WHEAT COMMISSION
DOCKET NO. 42-0101-1602
NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

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

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 22-3309, Idaho Code.

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

The changes clarify how the first purchaser of wheat reports compliance with the statute and the amount of wheat tax collected. The rulemaking clarifies that the first purchaser of wheat shall complete and return the Report of Tax on Wheat, or equivalent, to the Commission office at the end of each production year (July 1 – June 30). The report shall include the number of bushels of wheat purchased, and the total wheat tax withheld from each purchase.

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the November 2, 2016 Idaho Administrative Bulletin, [Vol. 16-11, pages 39-40](#).

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: N/A

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Blaine Jacobson, Executive Director, at (208) 332-1612.

DATED this 1st day of December, 2016.

Blaine Jacobson, Executive Director
Idaho Wheat Commission
821 W. State St.
P. O. Box 82720
Boise, ID 83720-0099
Phone: (208) 334-2353
Fax: (208) 334-2505

THE FOLLOWING NOTICE WAS PUBLISHED WITH THE PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 22-3309, Idaho Code.

PUBLIC HEARING SCHEDULE: A public hearing concerning this rulemaking will be held as follows:

Tuesday, November 8, 2016 - 3:00 PM

CHS Primeland
1200 Snake River Avenue
Lewiston, ID

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

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

The changes clarify how the first purchaser of wheat reports compliance with the statute and the amount of wheat tax collected. The rulemaking clarifies that the first purchaser of wheat shall complete and return the Report of Tax on Wheat, or equivalent, to the Commission office at the end of each production year (July 1 – June 30). The report shall include the number of bushels of wheat purchased, and the total wheat tax withheld from each purchase.

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

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year as a result of this rulemaking: N/A

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published under Docket No. 42-0101-1601 in the June 1, 2016 Idaho Administrative Bulletin, [Vol. 16-6, pages 53-54](#), and under Docket No. 42-0101-1601 in the October 5, 2016 Administrative Bulletin, [Vol. 16-10, pages 750-751](#).

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

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Blaine Jacobson, Executive Director, at (208) 332-1612 or at blaine@idahowheat.org.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before November 23, 2016.

DATED 20th day of October, 2016.

LSO Rules Analysis Memo

THE FOLLOWING IS THE TEXT OF DOCKET NO. 42-0101-1602

300. WHEAT UNDER COMMODITY CREDIT CORPORATION LOANS.

01. Payee. The Commission will be named as payee to receive three and one half cents (\$.3½) per bushel when the producer's note and loan agreement is executed by the Farm Service Agency (FSA). In such cases,

the lending agency will send the tax directly to the Commission. When the producer's note and loan agreement shows that the tax has been deducted and sent to the Commission, it will not be necessary for the buyer to deduct the tax when the wheat is purchased. (3-14-16)

02. Tax. Since the legislature has made the tax a lien prior to all other liens and encumbrances of the wheat, it is necessary for the grain buyer to make sure the tax has been paid in order to obtain clear title to the wheat. The tax should be deducted in all cases where there is not evidence that the tax was previously paid by a lending agency. In case errors occur and the tax is deducted by a lending agency and again deducted by a grain buyer, refund will be made by the Commission. (3-14-16)

03. Delivery of Documents to Commission. The first purchaser of wheat shall complete and return the Report of Tax on Wheat, or equivalent, to the Commission office at the end of each production year (July 1 through June 30). The report shall be due on the same date as the final quarter wheat tax as specified in Section 22-3315(1), Idaho Code, and shall include the following: ()

- a.** The number of bushels of wheat purchased; and ()
- b.** The total wheat tax withheld from each purchase. ()

IDAPA 46 – BOARD OF VETERINARY MEDICINE

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

DOCKET NO. 46-0101-1601

NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

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

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 54-2105, Idaho Code.

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

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the September 7, 2016 Idaho Administrative Bulletin, [Vol. 16-9, pages 276-280](#).

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: N/A

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

DATED this 12th day of October, 2016.

Jodie Ellis
Executive Director
Board of Veterinary Medicine
2270 Old Penitentiary Rd.
P. O. Box 7249
Boise, ID 83707
Phone: (208) 332-8588
Fax: (208) 332-8645

THE FOLLOWING NOTICE WAS PUBLISHED WITH THE PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 54-2105, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 21, 2016.

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

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

This rulemaking is needed to: (1) implement a provision of Idaho Code; (2) provide clarity to continuing education requirements for certified veterinary technicians; and (3) eliminate an unnecessary requirement in existing rule regarding membership on the Committee on Humane Euthanasia. Currently, Board rules do not comply with a statute that states that Board of Veterinary Medicine rules must address when and where Board meetings are held. This rulemaking corrects this deficiency. The rulemaking also seeks to update and clarify provisions regarding continuing education requirements for certified veterinary technicians to be more consistent with comparable provisions for veterinarians. Finally, an existing rule requires that a member of the Board sit on the Committee on Humane Euthanasia. It is widely recognized that this provision is unnecessary and the rulemaking will remove this requirement.

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

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

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the June 1, 2016 Idaho Administrative Bulletin, [Vol. 16-6, pages 55-56](#).

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

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Jodie Ellis, Executive Director, at (208) 332-8588 or at jodie.ellis@agri.idaho.gov.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 28, 2016.

DATED this 5th Day of August, 2016.

LSO Rules Analysis Memo

THE FOLLOWING IS THE TEXT OF DOCKET NO. 46-0101-1601

004. GENERAL PROVISIONS.

- 01. Office.** (7-1-97)
 - a.** The office of the Board is located at 2230 Old Penitentiary Road, Boise, Idaho 83712. (7-1-97)
 - b.** The office mailing address is P.O. Box 7249, Boise, Idaho 83707. (7-1-97)
 - c.** The office telephone number is (208) 332-8588. (7-1-97)
 - d.** The Board's facsimile (FAX) number is (208) 332-8645. (4-7-11)

- e. The Board's e-mail address is bovminfo@agri.idaho.gov. (4-4-13)
- f. The Board's website address is <http://www.bovm.idaho.gov>. (4-4-13)
- g. Office hours are 8 a.m. to 5 p.m., Mountain Time, Monday through Friday, except holidays designated by the state of Idaho. (7-1-97)

02. Communications. All written communications and documents concerning any matter covered by these rules should be addressed to the office of the Board, and not to individual members of the Board or the Board's staff. All communications and documents are deemed to be officially received only when delivered to the Board office during office hours. (7-1-97)

03. Filing of Documents. All written communications and documents that are intended to be part of an official record for decision in a rulemaking or contested case must be filed with the executive director of the Board. Filing can be accomplished by personal delivery, mail, facsimile transmission (FAX), or electronic mail (e-mail). FAX and e-mail filings submitted after Board office hours will be deemed filed as of the next business day the Board office is open. (4-4-13)

- a. In a rulemaking submission, the original and one (1) copy of all documents must be filed with the Board. (4-4-13)
- b. In a contested case proceeding, filing is sufficient if one (1) original is delivered to the executive director, one (1) copy for the Board, one (1) copy for the hearing officer, and one (1) copy submitted to the opposing party, as applicable. Whenever documents are filed by FAX or e-mail, originals and copies required under this rule shall be deposited in the mail the same day or hand delivered the following business day to the executive director, the Board, the hearing officer, and opposing parties, as applicable. (4-4-13)

04. Board Meetings. The Board will meet each year in the months of January and June, and at such other times as requested by the Board or Board president. Unless otherwise stated in the meeting notices, all meetings will be held in Boise, Idaho. ()

(BREAK IN CONTINUITY OF SECTIONS)

102. MANDATORY CONTINUING EDUCATION FOR CERTIFIED VETERINARY TECHNICIANS
~~**MANDATORY CONTINUING EDUCATION.**~~

01. Statement of Purpose. ~~In order to best serve the citizens of Idaho and their animals, each~~ It is of primary importance to the public that certified veterinary technicians ~~shall be required to complete a minimum of fourteen (14) hours of ongoing continuing education in the field of~~ continue their veterinary technology ~~in each and every two (2) year education throughout the period following the date of his certification. A maximum of four (4) credit hours of their active practice of veterinary technology. These rules establish the minimum continuing veterinary technology education in management may be used toward the fulfillment of the CE requirements necessary for certified veterinary technicians to maintain a license to engage in the practice of veterinary technology in the state of Idaho.~~ ()

02. Approved Courses. ~~attendance period, content of report, exemptions, and credit for attendance are the same as outlined in Section 015 of these rules, mandatory continuing veterinary education with the exception of Subparagraph 015.03.d.i.(5) of these rules, which shall be the veterinary technician's signature, under penalty of perjury, and Subparagraph 015.03.b.iii. of these rules, which shall be~~ ()

- a. Approved courses include: ()
 - i. Those courses and providers listed on the American Association of Veterinary State Board's Continuing Education Registry; and ()

ii. Those courses and providers approved by the Board. ()

b. Board approval for a continuing education course may be obtained by sending a written request to the Board office and enclosing copies of the course agenda, dates, times, locations, and requested number of credit hours in management and veterinary technology. Copies of the sign-in and sign-out sheets for each approved course are to be supplied to the Board office following completion of the course by the course provider. ()

03. Education Requirements. ()

a. Minimum Requirement. Each active certified veterinary technician in the state of Idaho shall complete a minimum of fourteen (14) credit hours of accredited continuing veterinary technology education activity in each and every two (2)-year period following the date of his admission to the practice of veterinary technology in this state. ()

b. Credit Requirements. The following are minimum and maximum credits that may be earned for each reporting period and the number of credits that may be obtained by participating in on-line or correspondence courses. ()

i. A minimum of ten (10) hours of continuing education in veterinary technology. ()

ii. A maximum of four (4) hours of continuing education in management. ()

iii. Certified veterinary technicians may obtain a maximum of ten (10) credit hours ~~credit for~~ through approved on-line or correspondence courses. ~~No credit for attending approved courses in the field of veterinary technology shall be applicable to any reporting period other than that during which the credit is actually earned.~~
(3-20-14)()

c. Attendance Period. The attendance period shall be based upon the fiscal year (July 1 through June 30). ()

d. Report. Each certified veterinary technician subject to these rules shall file a written report with the Board executive director on a form prescribed by the Board, as provided in this rule. ()

i. Contents of report. The report shall set forth the record of the certified veterinary technician's compliance with these rules during the two (2)-year attendance period and shall contain at least: ()

(1) A list of the approved courses attended or taken; ()

(2) The dates of attendance or completion of the courses; ()

(3) The sponsoring organization; ()

(4) The hours attended or completed for each course, rounded to the nearest one-half (1/2) of an hour; ()

(5) Any other information requested by the Board; and ()

(6) The technician's signature, under penalty of perjury. ()

ii. Time of filing. The report shall be submitted or postmarked no later than June 30 in the year the certified veterinary technician is required to complete the continuing education requirement. ()

iii. Retention of original documentation. The supporting documentation for compliance with continuing education requirements shall not be submitted with the report. Rather, the certified veterinary technician shall retain original documentation of attendance or completion of fourteen (14) credit hours or approved courses at least until December 31 following the two-year renewal period covered by the course. ()

- e.** Auditing. Each year the Board will conduct an audit of renewals. ()
- i.** The percentage of renewals audited in any given year will be determined by the Board in its sound discretion. ()
- ii.** Within thirty (30) days of notification of an audit, a certified veterinary technician shall provide to the Board all documentation supporting completion of the courses reported. ()
- 04. Exemptions.** Upon a showing of good cause by a certificant to the Board, the Board may exempt such person from any, all or part of the continuing education requirement or may grant an extension of the required period. Written requests for exemptions from continuing education credits shall be sent to the Board office. ()
- 05. Credit for Attendance.** Continuing veterinary technology education credits may be earned by attending or presenting approved continuing veterinary technology education. ()
- a.** Credits. One (1) credit hour shall be given for each fifty (50) minutes actually spent by the active member in attendance at an accredited, domestic or foreign, course. No credit shall be given for: ()
- i.** Time spent in introductory remarks, coffee and lunch breaks, business meetings or other activities not involving the educational aspects of the courses; ()
- ii.** Any course attended before admission to practice veterinary technology in Idaho; or ()
- iii.** Journal and magazine articles, videos or correspondence courses, unless specially approved by the Board. ()
- b.** In cases of solo presentation, the presenter of an approved course shall be entitled to claim one (1) credit hour for each fifty (50) minutes of actual course instruction. By way of limitation, in no case shall the presenter be allowed more than eight (8) credit hours for any particular course or substantially related topic during the applicable two (2)-year reporting period, regardless of how many times the course is offered or given. ()
- c.** In cases of panel presentations, the number of continuing credit hours each panel member is entitled to claim shall be calculated by multiplying the actual number of course hours by two (2) and dividing that number by the number of panel members involved. ()
- d.** Carryover Credit. No credit for attending approved courses in continuing veterinary technology education shall be applicable to any reporting period other than that during which the credit is actually earned. ()

(BREAK IN CONTINUITY OF SECTIONS)

200. COMMITTEE ON HUMANE EUTHANASIA.

Pursuant to Section 54-2105(8), Idaho Code, a Committee on Humane Euthanasia (COHE) is established for the purpose of training, examining, and certifying euthanasia agencies and euthanasia technicians. The COHE shall consist of no fewer than five (5) members appointed by the Board. At its discretion, the Board may appoint itself as the COHE. ~~The membership of the COHE shall always include at least one (1) member of the Board.~~ New members shall be nominated by either the Board or the COHE and be confirmed by the Board. Applicants for a COHE position shall be certified euthanasia technicians (CETs) as defined by Section 54-2103(9), Idaho Code, and employed by a certified euthanasia agency as defined by Section 54-2103(8), Idaho Code, or be an Idaho licensed veterinarian.

~~(4-2-08)~~ ()

01. Term. Each member shall serve for three (3) years, at the pleasure of the Board. A COHE member may be eligible for reappointment. If there is a vacancy for any cause, the COHE or the Board shall nominate and the Board shall confirm a successor to fill the unexpired term. (4-7-11)

- 02. Duties.** The duties of COHE members shall include, but not be limited to, the following: (7-1-93)
- a.** Coordinate and provide euthanasia training classes as needed. (7-1-97)
 - b.** Inspect and certify agencies. (3-30-01)
 - c.** Review the applications, records, performance, methods and procedures used by agencies and persons seeking to be certified or to renew their certification as a Certified Euthanasia Agency (CEA) or Certified Euthanasia Technician (CET). (3-30-01)
 - d.** Conduct written and practical examinations for applicants applying for certification and authorize certification through the Board. (3-30-01)
 - e.** Recommend suspension or revocation of a certification when necessary. (3-30-01)
- 03. Compensation.** Members of the COHE shall be compensated as provided by Section 59-509(n), Idaho Code. (7-1-97)