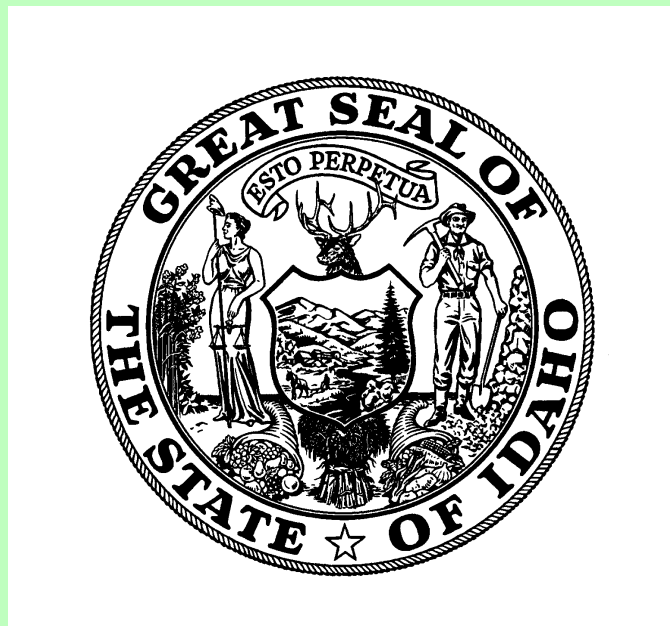


PENDING FEE RULES

COMMITTEE RULES

REVIEW BOOK

Submitted for Review Before
Senate Agricultural Affairs Committee
67th Idaho Legislature
First Regular Session – 2023



Prepared by:

*Office of the Administrative Rules Coordinator
Division of Financial Management*

January 2023

SENATE AGRICULTURAL AFFAIRS COMMITTEE

ADMINISTRATIVE RULES REVIEW

Table of Contents

2023 Legislative Session

IDAPA 02 – DEPARTMENT OF AGRICULTURE

02.01.04 – Rules Governing the Voluntary Idaho Preferred[®] Promotion Program
Docket No. 02-0104-2201 (ZBR Chapter Rewrite).....3

02.06.02 – Rules Governing Registrations and Licenses
Docket No. 02-0602-2201 (ZBR Chapter Rewrite).....11

02.06.33 – Organic Food Products Rules
Docket No. 02-0633-220120

IDAPA 02.08 – IDAHO SHEEP AND GOAT HEALTH BOARD

02.08.01 – Sheep and Goat Rules of the Idaho Sheep and Goat Health Board
Docket No. 02-0801-2201 (New Chapter)26

IDAPA 24.38 – DIVISION OF OCCUPATIONAL AND PROFESSIONAL LICENSES

24.38.01 – Rules of the State of Idaho Board of Veterinary Medicine
Docket No. 24-3801-2200F38

IDAPA 02 – DEPARTMENT OF AGRICULTURE

02.01.04 – RULES GOVERNING THE VOLUNTARY IDAHO PREFERRED® PROMOTION PROGRAM

DOCKET NO. 02-0104-2201 (ZBR CHAPTER REWRITE)

NOTICE OF RULEMAKING – ADOPTION OF PENDING FEE RULE

[LINK: LSO Rules Analysis Memo and Cost/Benefit Analysis \(CBA\)](#)

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2023 Idaho State Legislature for final approval. Pursuant to Section 67-5224(5)(c), Idaho Code, this pending rule will not become final and effective until it has been approved by concurrent resolution of the legislature because of the fee being imposed or increased through this rulemaking. The pending fee rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution unless the rule is rejected.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending fee rule. The action is authorized pursuant to Section 22-112, Idaho Code.

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

The rule was open for Zero Based Regulation rulemaking review, and two negotiated rulemaking meetings were held on March 16 and April 6. Proposed changes to the rule include the reduction of redundant, unnecessary, or out of date language. The most substantial change in the rule is to change the membership term from a fiscal year (July-June) term to a calendar year (Jan-Dec) term. Additionally, the rule was adopted as temporary and is currently in effect for the benefit of program customers, who will now have an extra six months of membership prior to renewal in January.

There are no changes to the pending rule, and it is being adopted as originally proposed. The original text of the proposed rule was published in the July 6, 2022, Idaho Administrative Bulletin, [Vol. 22-7, pages 13-18](#).

FEE SUMMARY: Pursuant to Section 67-5226(2), the Governor has found that the fee or charge being imposed or increased is justified and necessary to avoid immediate danger and the fee is described herein:

Fees will be offered on a one-year or three-year basis. Fees will be listed in the participation application and will not exceed one thousand dollars (\$1,000) per year. The total amount to not exceed is unchanged from the prior 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:

No changes to the fiscal impact of this rule are anticipated. The fee schedule is unchanged from the previous rule, with the only change being the timing of membership renewals.

IDAHO CODE SECTION 22-101A STATEMENT: Pursuant to 22-101A(1), for any rule promulgated or adopted by the director which is broader in scope or more stringent than federal law or regulations, or which regulates an activity not regulated by the federal government, the director shall identify the portions of the adopted rule that are broader in scope or more stringent than federal law or rules, or which regulate an activity not regulated by the federal government. The following sections of the rule are broader in scope, more stringent than federal law or regulations, or regulate an activity not regulated by the federal government:

IDAPA 02.01.04 is neither broader in scope, nor more stringent than federal laws or regulations and do not regulate areas not already regulated by the federal government.

The detailed 22-101A analysis can be found on the agency's website at www.agri.idaho.gov.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending fee rule, contact Laura Johnson, Bureau Chief, (208)332-8533 or laura.johnson@isda.idaho.gov.

DATED this October 5, 2022.

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**THE FOLLOWING NOTICE PUBLISHED WITH
THE TEMPORARY AND PROPOSED RULE**

EFFECTIVE DATE: The effective date of the temporary rule is July 6, 2022.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Section 22-112, 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 27, 2022.

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 the required finding and concise statement of its supporting reasons for adopting a temporary rule and a nontechnical explanation of the substance and purpose of the proposed rulemaking:

The rule was open for Zero Based Rulemaking review, and two negotiated rulemaking meetings were held on March 16 and April 6. Proposed changes to the rule include the reduction of redundant, unnecessary, or out of date language. The most substantial change in the rule is to change the membership term from a fiscal year (July-June) term to a calendar year (Jan-Dec) term. The rule is proposed as temporary so that this change takes affect immediately for the benefit of program customers, who will now have an extra six months of membership prior to renewal in January.

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

Publishing this rule as a temporary rule will reduce confusion and immediately simplify renewals for the customer as well as the agency. The rule is changing the membership term from a fiscal year to calendar year-based term. This will ensure more consistency with agricultural production practices. Renewing membership in January will be more advantageous to producers who are extremely busy during the growing season in July. As a temporary rule, current memberships will be extended six months at no additional cost to customers, as the renewal period will change from an expiration date of July 2022 to January 2023 and will continue as a calendar year renewal going forward.

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

Fees will be offered on a one-year or three-year basis. Fees will be listed in the participation application and will not exceed one thousand dollars (\$1,000) per year. The total amount to not exceed is unchanged from the prior 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:

No changes to the fiscal impact of this rule are anticipated. The fee schedule is unchanged from the previous rule, with the only change being the timing of membership renewals.

IDAHO CODE SECTION 22-101A STATEMENT: Pursuant to 22-101A(1), for any rule promulgated or adopted by the director which is broader in scope or more stringent than federal law or regulations, or which regulates an activity not regulated by the federal government, the director shall identify the portions of the adopted rule that are broader in scope or more stringent than federal law or rules, or which regulate an activity not regulated by the federal government. The following sections of the rule are broader in scope, more stringent than federal law or regulations, or regulate an activity not regulated by the federal government:

IDAPA 02.01.04 is neither broader in scope, nor more stringent than federal laws or regulations and do not regulate areas not already regulated by the federal government. The detailed 22-101A analysis can be found on the agency's website at www.agri.idaho.gov.

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 January 5, 2022 Idaho Administrative Bulletin, Vol. 22-1, page 11.

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: There are no documents Incorporated by Reference.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Laura Johnson, Bureau Chief, (208)332-8533.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before July 27, 2022.

DATED this July 6, 2022.

THE FOLLOWING IS THE TEXT OF ZBR FEE DOCKET NO. 02-0104-2201

02.01.04 – RULES GOVERNING THE VOLUNTARY IDAHO PREFERRED® PROMOTION PROGRAM

000. LEGAL AUTHORITY.

This chapter is adopted under the legal authority of Section 22-112, Idaho Code.

()

001. SCOPE.

These rules govern the participation in, and product selection criteria for the voluntary Idaho Preferred® program.

()

002. -- 009. (RESERVED)

010. DEFINITIONS.

The following definitions apply in the interpretation and enforcement of this chapter. ()

01. Agricultural Product. Any fresh or processed apicultural, aquacultural, avicultural, beverage, cervidae, dairy, horticultural, livestock, forestry, viticultural, or other farm or garden product. ()

02. Apicultural Product. Products produced from or related to honey bees or honey. ()

03. Aquacultural Product. Products produced from or related to fish, reptiles, or other aquatic animals. ()

04. Avicultural Product. Products produced from or related to birds, including but not limited to, ratites or poultry. ()

05. Beverage. Drinks including but not limited to wine, beer, distilled spirits, bottled water, or flavored drinks. ()

06. Cervidae Product. Products produced from or related to fallow deer, elk, or reindeer owned by a person. ()

07. Co-Packer. A co-packer is a food processor that processes and packages products for clients for a fee. ()

08. Dairy Product. Products produced from or related to milk from cattle, goats, or sheep. ()

09. Forest Products. All products made of wood fiber such as timber, wood chips, sawdust or shavings, including but not limited to lumber, paper, particleboard, fence or corral posts or rails, shingles, shakes, firewood or pellets, logs used in the construction of log homes or any other product sold commercially. ()

10. Fresh Produce, Commodities, and Fresh Meat. Bulk or packaged agricultural products that have been cleaned, sorted, or otherwise prepared and are sold or distributed in an unprocessed or minimally processed condition. ()

11. Horticultural Products. Plants, including but not limited to, fruits, vegetables, flowers, seeds, or ornamental plants. ()

12. Livestock. Domestic animals including but not limited to cattle, sheep, pigs, goats, domestic cervidae, domestic bison, camelids, or horses. ()

13. Livestock Product. Products produced from or related to livestock. ()

14. Non-Food Agricultural Products. Products not intended for human consumption, including but not limited to, animal feed, compost, hides, or skins. ()

15. Supporting Organization. Any commission, association, or incorporated group supporting the efforts of the Idaho Preferred® program. ()

16. Nursery Stock. All botanically classified plants or any part thereof, such as aquatic or herbaceous plants, bulbs, sod, buds, corms, culms, roots, scions, grafts, cuttings, fruit pits, seeds of fruits, forest and ornamental trees, and shrubs, berry plants, and all trees, shrubs, vines, and plants collected in the wild that are grown or kept for propagation or sale. Nursery stock does not include field and forage crops, seeds of grasses, cereal grains, vegetable crops and flowers, bulbs and tubers of vegetable crops, vegetables or fruit used for food or feed, cut trees or cut flowers unless stems or other portions thereof are intended for propagation. ()

17. Participant. A person who has applied to the Department and been approved for participation in the Idaho Preferred® program. ()

18. Processed Food. Any food product which has been transformed from its natural state by methods including but not limited to freezing, cutting, heating, drying, treating, or adding ingredients. ()

19. Processor. A person engaged in the manufacturing of processed food. ()

20. Producer. A person engaged in the business of growing or raising food, fiber, feed, or other agricultural products. ()

21. Viticultural Products. Products produced from or related to grapes and wine. ()

011. -- 099. (RESERVED)

100. APPLICATION FOR PARTICIPATION.

01. Application Requirement. Applications will be made on a form prescribed by the Department, must be complete and may be submitted any time of the year. ()

101. PARTICIPATION DURATION AND RENEWAL.

01. Duration. Participation is on an annual basis, coinciding with the calendar year beginning January 1 and ending December 31. ()

102. -- 109. (RESERVED)

110. PARTICIPATION FEES.

01. Fee. Participation is offered on a one-year basis. Fees will be listed in the participation application and will not exceed one thousand dollars (\$1,000) per year. ()

111. -- 199. (RESERVED)

200. PRODUCT QUALIFICATION.

01. Authority of Determination. The Director has sole authority in determining the eligibility of a product for participation in the program. ()

02. Fresh Produce and Commodities. Fresh produce and commodities are one hundred percent (100%) Idaho grown or raised. ()

03. Processed Foods and Beverages. Processed foods and beverages: ()

a. Contain a minimum of twenty percent (20%) agricultural content by weight that has been grown or raised in Idaho; and ()

b. Be processed in the state of Idaho. ()

c. If a company registered in Idaho uses a co-packing facility and an acceptable co-packing facility is not available in Idaho, the company may request an exception from the Director under section 200.15 ()

04. Non-Food Agricultural Products. Non-food agricultural products must be at least twenty percent (20%) agricultural content by weight that has been grown or raised in Idaho and processing must occur in Idaho. ()

05. Potatoes. Only certification marks owned or administered by the Idaho Potato Commission may be branded on potatoes grown in Idaho unless prior Idaho Potato Commission approval in writing is secured and granted for the use of additional words or designs. Any person or participant applying to the Idaho Preferred® program, with the intention to promote Idaho-grown potatoes or products made from Idaho-grown potatoes, and provide proof of such permission prior to making application with the Department. ()

06. Wine. Wines contain a minimum of ninety-five percent (95%) Idaho grapes. ()

07. Beer. Beer will brewed in Idaho and at least one (1) Idaho agricultural product such as malt, wheat or hops, or soluble remnant thereof, but excluding water. ()

08. Distilled Spirits. Distilled spirits will be distilled in Idaho; and contain at least one (1) Idaho agricultural product such as grains, potatoes or fruit, but excluding water. ()

09. Water. Water must be extracted from an Idaho water source. ()

10. Nursery Stock. Nursery stock will have been grown in Idaho a minimum of one (1) growing season or growing cycle. ()

11. Livestock Products. Livestock products come from livestock that: ()

a. Were born, raised and harvested in the United States. No livestock that originate from outside the United States may qualify. ()

b. Are raised, grazed, fed, or processed in Idaho. ()

12. Poultry and Poultry Products. Poultry and poultry products will come from fowl that: ()

a. Are hatched, raised and harvested in the United States. No fowl that originate from, or reside for any portion of their life outside the United States may qualify. ()

b. Are raised and processed in Idaho. Fertile eggs, also known as hatching eggs, or chicks less than three (3) days of age that originate outside of Idaho, but are raised or processed in Idaho, may qualify for Idaho Preferred®. ()

13. Apicultural Products. Products produced by honey bees including honey, wax, pollen, and propolis will be one hundred percent (100%) Idaho origin. Processed honey will be eighty percent (80%) Idaho origin. ()

14. Forest Products. Forest products will: ()

a. Contain a minimum of eighty percent (80%) of their wood fiber content from trees grown in Idaho; and ()

b. Be manufactured in Idaho. ()

15. Exceptions. The Director has the authority to establish product qualification requirements specific to individual products and commodities by written order. ()

201. -- 299. (RESERVED)

300. LOGO.

The Idaho Preferred® logo has been registered by the Department with the United States Library of Congress (Copyright registration), the United States Patent and Trademark Office (Certification Mark registration), the Idaho Secretary of State (Certificate of Trademark) and is afforded all protections provided for by law. The logo shall be used only by those participants in compliance with this chapter. The Department will provide a logo style manual specifying approved colors, treatments, and fonts for the Idaho Preferred® logo. ()

01. Approval for Use of Logo. Participants who wish to use the Idaho Preferred® logo on packaging, labels, flyers, promotional materials, or any other materials that will be viewed by the public must submit a proof of text and design to the Department for approval. Requests for approval must be submitted to the Idaho State Department of Agriculture, Marketing Division not less than five (5) working days prior to the proposed date of use. Written approval from the Department for logo use must be issued prior to use of the logo. ()

02. Repeal of Approval of Use of Logo. The Department reserves the right to repeal the approval of the use of the logo. The Department will provide notice in writing and the participant must cease use immediately. ()

301. OTHER IDAHO PROMOTION PROGRAMS.

01. Commodity-Specific Promotion Programs. Commissions, boards, associations, or other organizations authorized by statute to promote or regulate agricultural products grown, packed, or processed in the state of Idaho shall be the primary and principal promotion and certification mark and trademark organizations for the particular commodity they are authorized to promote or regulate. ()

02. Ownership of Marks. Any trademarks, certification marks, brands, seals, logos or other identification marks, that are established, owned or used by such commissions, boards, associations or organizations shall remain their sole property. Any use or infringement of their ownership right is prohibited unless written permission is obtained from an authorized representative of the commission, board, association or organization. ()

302. DISTRIBUTION OF PROMOTIONAL MATERIAL.

01. Authorized Use. The Idaho Preferred® program has the authority to provide retail and food service outlets, farmers' markets, schools, media, fairs, and other such businesses, organizations, and venues the opportunity to promote Idaho food and agricultural products using the program logo and promotional materials. Open distribution of any and all point-of-sale materials, signage, advertising, identification placards, and other such promotional material, in accordance with this chapter and other applicable laws and precedent, is acceptable use and not considered an infringement on the ownership rights of any mark or seal of a supporting organization as defined in this chapter. ()

303. -- 309. (RESERVED)

310. SELF-CERTIFICATION.

All participants shall self-certify that all products marked with the Idaho Preferred® logo meet the qualification criteria as set forth in this chapter. Self-certification is subject to verification through the application and compliance process. ()

311. COMPLIANCE.

01. Authority of Director. The Director has the authority to enter upon the premises of any participant to examine and copy any of the following items: ()

- a. Books, papers, records, ledgers, journals, electronically or magnetically recorded data: ()
- b. Computers and computer records or memoranda bearing on the usage of the Idaho Preferred® logo; and ()
- c. To secure all other information concerned in the enforcement of these rules. ()

02. Random Compliance Inspection. The Director may perform random compliance inspections. ()

03. Samples. The participant shall, upon the request of the Director, provide samples of the

participant’s labels, packaging, merchandising, and promotional materials featuring the Idaho Preferred® logo. ()

312. -- 314. (RESERVED)

315. VIOLATION.
Any person found in violation of these rules is subject to termination of participation privileges. ()

316. -- 999. (RESERVED)

IDAPA 02 – DEPARTMENT OF AGRICULTURE
02.06.02 – RULES GOVERNING REGISTRATIONS AND LICENSES
DOCKET NO. 02-0602-2201 (ZBR CHAPTER REWRITE)
NOTICE OF RULEMAKING – ADOPTION OF PENDING FEE RULE

[LINK: LSO Rules Analysis Memo and Cost/Benefit Analysis \(CBA\)](#)

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2023 Idaho State Legislature for final approval. Pursuant to Section 67-5224(5)(c), Idaho Code, this pending rule will not become final and effective until it has been approved by concurrent resolution of the legislature because of the fee being imposed or increased through this rulemaking. The pending fee rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution unless the rule is rejected.

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 22-604, 22-2204, 22-2303(5), 22-2503, 22-2511, and 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.

This rule is being presented for authorization as part of the ISDA’s plan to review each rule every 5 years. Redundant language that is verbatim in statute has been removed, consistent with the Governor’s [Zero-Based Regulation Executive Order](#).

The rule was reviewed over the course of two negotiated rulemaking meetings, and that review benefited from the participation of program stakeholders, including regulated industry and other stakeholders.

This rule includes subchapters that allow for the enforcement of statutes related to commercial feed, fertilizer, soil and plant amendments, and bee registration. The rule as presented, significantly reduces language that is redundant to language found in statute and/or incorporated documents. The rule ensures consistency and a clear outline of requirements between the authorizing statutes, incorporated documents, and details left to the rule.

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, 2022 Idaho Administrative Bulletin, [Vol. 22-7, pages 48-54](#).

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased. This fee or charge is being imposed pursuant to Section 25-2704(2), Idaho Code.

Subchapter A – A product registration fee of \$40 per product, as authorized in statute.

Subchapter B – No fee included.

Subchapter C – No fee included in rule, fee is outlined in statute.

Subchapter D – No fee included in rule, fee is outlined in statute.

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 associated with this rulemaking.

IDAHO CODE SECTION 22-101A STATEMENT: Pursuant to 22-101A(1), for any rule promulgated or adopted by the director which is broader in scope or more stringent than federal law or regulations, or which regulates an activity not regulated by the federal government, the director shall identify the portions of the adopted rule that are broader in scope or more stringent than federal law or rules, or which regulate an activity not regulated by the federal government. The sections of the rule which are broader in scope, more stringent than federal law or regulations, or regulate an activity not regulated by the federal government:

The entire rule regulates an activity not regulated by the federal government. The detailed 22-101A analysis can be found on the agency’s website at www.agri.idaho.gov.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Andrea Thompson, Section Manager, Division of Plant Industries, at (208) 332-8500 or andrea.thompson@isda.idaho.gov.

DATED this October 5, 2022.

Lloyd B. Knight
Rules Review Officer
Idaho State Department of Agriculture
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Boise, Idaho 83707
Phone: (208) 332-8664
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THE FOLLOWING NOTICE 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 22-604, 22-2204, 22-2303(5), 22-2503, 22-2511, and 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, 2022.

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 is being presented for authorization as part of the ISDA's plan to review each rule every 5 years. Redundant language that is verbatim in statute has been removed, consistent with the Governor's [Zero-Based Regulation Executive Order](#).

The rule was reviewed over the course of two negotiated rulemaking meetings, and that review benefited from the participation of program stakeholders, including regulated industry and other stakeholders.

This rule includes subchapters that allow for the enforcement of statutes related to commercial feed, fertilizer, soil and plant amendments, and bee registration. The rule as presented, significantly reduces language that is redundant to language found in statute and/or incorporated documents. The rule ensures consistency and a clear outline of requirements between the authorizing statutes, incorporated documents, and details left to the rule.

The subchapters are consistent with similar programs in other states, and they regulate activities not otherwise regulated by the federal government.

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

- Subchapter A – A product registration fee of \$40 per product, as authorized in statute.
- Subchapter B – No fee included.
- Subchapter C – No fee included in rule, fee is outlined in statute.
- Subchapter D – No fee included in rule, fee is outlined in statute.

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 associated with this rulemaking.

IDAHO CODE SECTION 22-101A STATEMENT: Pursuant to 22-101A(1), for any rule promulgated or adopted by the director which is broader in scope or more stringent than federal law or regulations, or which regulates an activity not regulated by the federal government, the director shall identify the portions of the adopted rule that are broader in scope or more stringent than federal law or rules, or which regulate an activity not regulated by the federal government. The sections of the rule which are broader in scope, more stringent than federal law or regulations, or regulate an activity not regulated by the federal government:

The entire rule regulates an activity not regulated by the federal government. The detailed 22-101A analysis can be found on the agency’s website at www.agri.idaho.gov.

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 January 5, 2022 Idaho Administrative Bulletin, [Vol. 22-1, page 11](#) under Docket No. 02-ZBRR-2201.

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 documents incorporated by reference are necessary in order to ensure that the registration programs for commercial feed, fertilizer, and soil amendments are consistent with other states. As currently written, the rule now relies on the standards outlined in the incorporated documents rather than re-writing standards in the agency rule.

Subchapter A:

01. The Association of American Feed Control Officials (AAFCO) Official Publication. The Terms, Ingredient Definitions, Model Bill and Regulations, and Policies as published in the “2022 Official Publication” of AAFCO where those statements do not conflict with Title 25, Chapter 27, Idaho Code, and any rule promulgated thereunder.

02. The Merck Index. The “Merck Veterinary Manual,” 11th Edition”, as published by Merck Research Laboratories Division of Merck & Co., Incorporated.

Subchapter B:

No documents incorporated.

Subchapter C:

01. The Association of American Plant Food Control Officials (AAPFCO) Official Publication. The Officially Adopted Documents, Official Terms, and Policies, as published in the “2022 Official Publication” of AAPFCO where those statements do not conflict with Title 22, Chapter 6, Idaho Code, and any rule promulgated thereunder.

02. The Association of Official Agricultural Chemists (AOAC) International. The “2019 Official Methods of Analysis (OMA) of the AOAC,” 21st Edition, a copyrighted publication, is maintained and published by the AOAC International.

Subchapter D:

01. The Association of American Plant Food Control Officials (AAPFCO) Official Publication. The Terms, Ingredient Definitions, and Policies, as published in the “2022 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.

02. The Association of Official Agricultural Chemists (AOAC) International. The “2019 Official Methods of Analysis (OMA) of the AOAC,” 21st Edition, a copyrighted publication, is maintained and published by the AOAC International.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Andrea Thompson, Section Manager, Division of Plant Industries, at (208) 332-8500 or andrea.thompson@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 July 27, 2022.

DATED this July 6, 2022.

THE FOLLOWING IS THE TEXT OF ZBR FEE DOCKET NO. 02-0602-2201

02.06.02 – RULES GOVERNING REGISTRATIONS AND LICENSES

000. LEGAL AUTHORITY.

Sections 22-604, 22-2204, 22-2303(5), 22-2503, 22-2511, and 25-2710, Idaho Code. ()

001. SCOPE.

These rules specify general commercial feed, fertilizer, and soil and plant amendment product registration and label requirements. These rules are also to prevent the introduction or further dissemination of certain bee diseases and establish registration and collection of fees. ()

002. -- 103. (RESERVED)

SUBCHAPTER A – COMMERCIAL FEED

104. INCORPORATION BY REFERENCE.

The following documents are incorporated by reference into this Subchapter A: ()

01. The Association of American Feed Control Officials (AAFCO) Official Publication. The Terms, Ingredient Definitions, Model Bill and Regulations, and Policies as published in the “2022 Official Publication” of AAFCO where those statements do not conflict with Title 25, Chapter 27, Idaho Code, and any rule promulgated thereunder. A copy may be purchased online from the AAFCO website at: www.aafco.org. ()

02. The Merck Index. The “Merck Veterinary Manual,” 11th Edition, as published by Merck Research Laboratories Division of Merck & Co., Incorporated. The manual is publicly available online from Merck & Co., Inc at: <http://www.rsc.org/merckindex>. ()

105. -- 114. (RESERVED)

115. REGISTRATION AND FEES.

01. Product Registration Fee. Whenever a commercial feed is registered for distribution in the state of Idaho, a fee of forty dollars (\$40) per product will be collected. ()

02. Product Registration Fee Exemption. Sellers who are not regularly engaged in the business of manufacturing or selling commercial feed and whose total amount of gross annual sales does not exceed five hundred dollars (\$500) are exempt from payment of the registration fee. This registration fee exemption does not exempt anyone from other sections of Subchapter A and/or the Idaho Commercial Feed Law. ()

116. -- 119. (RESERVED)

120. LABEL FORMAT.

01. Label Format. Commercial feeds shall be labeled with the information prescribed in Section 25-2705 of the Commercial Feed Law and Subchapter A on the principal display panel of the product and in the following general format. ()

- a.** Net Weight. ()
- b.** Product name and brand name if any. ()
- c.** If a drug is used, the required directions for use and precautionary statements or reference to their location if the detailed feeding directions and precautionary statements appear elsewhere on the label. ()
- d.** The guaranteed analysis of the feed as required under the provisions of Section 25-2705(1)(c) of the Commercial Feed Law includes the following items, unless exempted, and in the order listed: ()
 - i.** Minimum percentage of crude protein. ()
 - ii.** Maximum or minimum percentage of equivalent protein from non-protein nitrogen. ()
 - iii.** Minimum percentage of crude fat. ()
 - iv.** Maximum percentage of crude fiber. ()
 - v.** Minerals, to include, in the following order: minimum and maximum percentages of calcium (Ca), minimum percentage of phosphorus (P), minimum and maximum percentages of salt (NaCl), and other minerals. ()
 - vi.** Vitamins. ()
 - vii.** Total sugars as invert on dried molasses products or products being sold primarily for their sugar content. ()
 - viii.** Exemptions. Guarantees for minerals are not required when there are no specific label claims and when the commercial feed contains less than six and one-half percent (6 1/2%) of Calcium, Phosphorus, Sodium, or Chloride. Guarantees for vitamins are not required when the commercial feed is neither formulated for nor represented in any manner as a vitamin supplement. Guarantees for crude protein, crude fat, and crude fiber are not required when the commercial feed is intended for purposes other than to furnish these substances or they are of minor significance relating to the primary purpose of the product, such as drug premixes, mineral or vitamin supplements, and molasses. ()
- e.** Feed ingredients, collective terms for the grouping of feed ingredients, or appropriate statements as provided under the provisions of Section 25-2705(1)(d) of the Commercial Feed Law shall be listed in decreasing order of predominance by weight: ()
 - i.** The name of each ingredient as defined in the AAFCO Official Publication, common or usual name, or one approved by the Director. ()
 - ii.** Collective terms for the grouping of feed ingredients as defined in the Official Definitions of Feed

Ingredients published in the AAFCO Official Publication in lieu of the individual ingredients; provided that when a collective term for a group of ingredients is used on the label, individual ingredients within that group shall not be listed on the label. The manufacturer shall provide the feed control official, upon request, with a list of individual ingredients within a defined group, that are or have been used at manufacturing facilities distributing in or into the state. ()

02. Guidelines for “Human Grade” Claims. In order to substantiate that a “human grade” claim is truthful and not misleading, a manufacturer making such claims must have documentation as required in the AAFCO Official Publication. Submitted documentation will not be reviewed as part of the label approval process, excepting any legal question or action requiring such.

121. -- 129. (RESERVED)

130. EXPRESSION OF GUARANTEES.

01. Percentage by Weight. The guarantees for crude protein, equivalent protein from non-protein nitrogen, crude fat, crude fiber and mineral guarantees (when required) will be in terms of percentage by weight. ()

02. Commercial Feeds. Commercial feeds containing six and one-half percent (6 1/2%) or more Calcium, Phosphorus, Sodium or Chloride shall include in the guaranteed analysis the minimum and maximum percentages of calcium (Ca), the minimum percentage of phosphorus (P), and if salt is added, the minimum and maximum percentage of salt (NaCl). Minerals, except salt (NaCl) shall be guaranteed in terms of percentage of the element. When calcium and/or salt guarantees are given in the guaranteed analysis such shall be stated and conform to the following: ()

a. When the minimum is five percent (5%) or less, the maximum will not exceed the minimum by more than one (1) percentage point. ()

b. When the minimum is above five percent (5%), the maximum will not exceed the minimum by more than twenty percent (20%) and in no case shall the maximum exceed the minimum by more than five (5) percentage points. ()

131. -- 144. (RESERVED)

145. ADULTERANTS.

01. Screenings or By-Products. All screenings or by-products of grains and seeds containing weed seeds, when used in commercial feed or sold as such to the ultimate consumer, shall be ground fine enough or otherwise treated to destroy the viability of such weed seeds. ()

146. -- 309. (RESERVED)

SUBCHAPTER B – BEE INSPECTION

310. REGULATED BEE DISEASES.

American foulbrood, European foulbrood, sac brood and bee paralysis, Varroa mite, tracheal mite, or any other disease or abnormal condition of egg, larval, pupal, or adult stages of honey bees. ()

311. -- 329. (RESERVED)

330. REGULATED PRODUCTS AND RELATED EQUIPMENT.

Subchapter B concerns any stage of the common honey bee, *Apis mellifera* L., all equipment used in handling and manipulation of bees, wax, and hives, and includes any containers for honey and wax that may be used in any apiary or in transporting bees and their products and apiary supplies that are located within the state of Idaho. ()

331. -- 339. (RESERVED)

340. REGISTRATION AND COLLECTION OF FEES.

On or before July 1 of each year any person engaging in the activities of apicultural shall file with the Idaho Department of Agriculture a “Registration” form provided by the Idaho Department of Agriculture specifying the name, residence, place of apiaries, number of hives or colonies of bees owned or controlled, and such other information as may be required, accompanied by the applicable registration fee. ()

341. -- 403. (RESERVED)

SUBCHAPTER C – FERTILIZER

404. INCORPORATION BY REFERENCE.

The following documents are incorporated by reference into Subchapter C: ()

01. The Association of American Plant Food Control Officials (AAPFCO) Official Publication. The Officially adopted Documents, Official Terms, and Policies, as published in the “2022 Official Publication” of AAPFCO where those statements do not conflict with Title 22, Chapter 6, Idaho Code, and any rule promulgated thereunder. A copy may be purchased online from the AAPFCO website at: www.aapfco.org. ()

02. The Association of Official Agricultural Chemists (AOAC) International. The “2019 Official Methods of Analysis (OMA) of the AOAC,” 21st 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. ()

405. -- 419. (RESERVED)

420. SAMPLING AND ANALYSIS.

The methods of sampling are those of AAPFCO and analysis are those of the Association of Official Analytical Chemists (AOAC) or other methods as approved by the department. ()

421. -- 439. (RESERVED)

440. WARNING OR CAUTION STATEMENTS.

A warning or cautionary statement is required on any fertilizer product: ()

01. Containing Boron. If the fertilizer product contains one tenth of a percent (.10%) or more boron in a water soluble form, the statement shall include: ()

a. The word “Warning” or “Caution” conspicuously displayed; ()

b. The crops for which the fertilizer is recommended; and ()

c. That the use of the fertilizer on any crop(s) other than those recommended may result in serious injury to the crop(s). ()

02. Containing Molybdenum. If the fertilizer product contains one thousandths of a percent (.001%) or more molybdenum, the statement shall include: ()

a. The word “Warning” or “Caution” conspicuously displayed; and ()

b. That the application of fertilizers containing molybdenum may result in forage crops containing levels of molybdenum that are toxic to ruminant animals. ()

441. -- 469. (RESERVED)

470. INVESTIGATIONAL ALLOWANCES.

01. Deeming a Fertilizer Deficient. A fertilizer will be deemed deficient if the analysis of any nutrient is below the guarantee by an amount exceeding the values in the following schedules, or if the overall index value of the fertilizer is below ninety-seven percent (97%). Note: For these investigational allowances to be applicable, the recommended AOAC International procedures for obtaining samples, preparation and analysis must be used. These are described in Official Methods of Analysis of the Association of Official Analytical Chemists, 13th Edition, 1980, and in succeeding issues of the Journal of the Association of Official Analytical Chemists. In evaluating replicate data, Table 19, page 935, Journal of the Association of Official Analytical Chemists, Volume 49, No. 5, October, 1966, should be followed. ()

02. Investigational Allowances for Nitrogen, Phosphate and Potash. For guaranteed percentages not listed in the following table, calculate the appropriate investigational allowance by interpolation.

Guaranteed Percent	Nitrogen Percent	Available Phosphate Percent	Potash Percent
04 or less	0.49	0.67	0.41
05	0.51	0.67	0.43
06	0.52	0.67	0.47
07	0.54	0.68	0.53
08	0.55	0.68	0.60
09	0.57	0.68	0.65
10	0.58	0.69	0.70
12	0.61	0.69	0.79
14	0.63	0.70	0.87
16	0.67	0.70	0.94
18	0.70	0.71	1.01
20	0.73	0.72	1.08
22	0.75	0.72	1.15
24	0.78	0.73	1.21
26	0.81	0.73	1.27
28	0.83	0.74	1.33
30	0.86	0.75	1.39
32 or more (*)	0.88	0.76	1.44

(*For DAP and MAP, the Investigational Allowance for Available Phosphate is zero point seventy (0.70); for TSP, the Investigational Allowance shall be: one point fifty-two (1.52)). For dry custom mix fertilizers, an additional five percent (5%) of the guaranteed percentage shall be granted in addition to the allowances made in Subsection 470.02. ()

471. -- 503. (RESERVED)

SUBCHAPTER D – SOIL AND PLANT AMENDMENTS

504. INCORPORATION BY REFERENCE.

The following documents are incorporated by reference into Subchapter D: ()

01. The Association of American Plant Food Control Officials (AAPFCO) Official Publication. The Terms, Ingredient Definitions, and Policies, as published in the “2022 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. A copy may be purchased online from the AAPFCO website at: www.aapfco.org. ()

02. The Association of Official Agricultural Chemists (AOAC) International. The “2019 Official Methods of Analysis (OMA) of the AOAC,” 21st 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. ()

505. -- 999. (RESERVED)

IDAPA 02 – DEPARTMENT OF AGRICULTURE

02.06.33 – ORGANIC FOOD PRODUCTS RULES

DOCKET NO. 02-0633-2201

NOTICE OF RULEMAKING – ADOPTION OF PENDING FEE RULE

[LINK: LSO Rules Analysis Memo and Cost/Benefit Analysis \(CBA\)](#)

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2023 Idaho State Legislature for final approval. Pursuant to Section 67-5224(5)(c), Idaho Code, this pending rule will not become final and effective until it has been approved by concurrent resolution of the legislature because of the fee being imposed or increased through this rulemaking. The pending fee rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution unless the rule is rejected.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending fee rule. The action is authorized pursuant to Section 22-1103, Idaho Code.

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

These rules were open for negotiated rulemaking in 2021. The subject of fees was discussed at length with stakeholders during that rulemaking, and support was expressed to increase the fees for this voluntary program. In addition, the Organics Advisory Committee also expressed support for these new fees. All negotiated rules were published as Temporary Rules in 2022, but the agency did not want to publish the fee increase as a temporary rule without review by the Legislature. The rule and new fee structure was presented to the Idaho Legislature during the 2022 legislative session, and the rule was approved by joint resolution.

There are no changes to the pending fee rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the July 6, 2022, Idaho Administrative Bulletin, [Vol. 22-7, pages 67-70](#).

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

The fee is authorized under Section 22-1103, Idaho Code. It is necessary to maintain services to customers of this voluntary certification program.

301. GRADUATED GROSS SALES FEE SCHEDULE.

~~01. Graduated Gross Sales Fee Table~~—In addition to the fees prescribed above, all producers and handlers certified by the Department must remit with their certification application an amount based on their annual gross organic sales during the last calendar year, or in the case of a first-time applicant, a projected gross organic sale dollar amount for the upcoming calendar year, with a minimum fee of ~~ten~~ **thirty-five** dollars (~~\$1035~~). The graduated gross organic sales fee structure is as follows:

0-2,000	\$10
2,001-5,000	\$235
5,001-10,000	\$650
10,001-15,000	\$75100
15,001-20,000	\$1030
20,001-25,000	\$1265
25,001-30,000	\$1950
30,001-35,000	\$75230
35,001-50,000	\$3250

50,001 - 75,000	\$ 375 <u>490</u>
75,001 - 100,000	\$ 650
100,001 - 150,000	\$ 975
150,001 - 200,000	\$1, 030
200,001 - 280,000	\$1, 408 <u>20</u>
280,001 - 375,000	\$ 1,875 <u>2,440</u>
375,001 - 500,000	\$ 2,500 <u>3,250</u>
500,001 and up	0. 75 <u>75</u> % of gross organic sales up to \$ 5,000 <u>6,500</u>

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:

This rule change will not have a negative impact on the general fund due to the program being operated by a fee for service dedicated fund. These fee changes are needed to provide the services requested by organic certifiers in a growing voluntary program and align with recommendations from industry to increase the graduate gross fee schedule fees by 30%, hour rate by 42%, and nominal fee increases to three other categories. Total potential impact to dedicated funds is a \$168,000 increase with 93% coming from the fee schedule and hour rate increase.

IDAHO CODE SECTION 22-101A STATEMENT: Pursuant to 22-101A(1), for any rule promulgated or adopted by the director which is broader in scope or more stringent than federal law or regulations, or which regulates an activity not regulated by the federal government, the director shall identify the portions of the adopted rule that are broader in scope or more stringent than federal law or rules, or which regulate an activity not regulated by the federal government. The sections of the rule which are broader in scope, more stringent than federal law or regulations, or regulate an activity not regulated by the federal government:

This rule is neither broader in scope nor more stringent than federal laws or regulations and does not regulate an activity not already regulated by the federal government. The detailed 22-101A analysis can be found on the agency's website at www.agri.idaho.gov.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending fee rule, contact Lloyd Knight at lloyd.knight@isda.idaho.gov or (208)332-8664.

DATED this November 18, 2022.

Lloyd B. Knight
Rules Review Officer
Idaho State Department of Agriculture
2270 Old Penitentiary Road
P.O. Box 7249
Boise, ID 83707
(208)332-8500
rulesinfo@isda.idaho.gov

**THE FOLLOWING NOTICE PUBLISHED WITH
THE TEMPORARY AND PROPOSED RULE**

EFFECTIVE DATE: The effective date of the temporary rule is May 4, 2022.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Section 22-1103, 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, 2022.

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 the required finding and concise statement of its supporting reasons for adopting a temporary rule and a nontechnical explanation of the substance and purpose of the proposed rulemaking:

These rules were open for negotiated rulemaking in 2021. The subject of fees was discussed at length with stakeholders during that rulemaking, and support was expressed to increase the fees for this voluntary program. In addition, the Organics Advisory Committee also expressed support for these new fees. All negotiated rules were published as Temporary Rules in 2022, but the agency did not want to publish the fee increase as a temporary rule without review by the Legislature. The rule and new fee structure was presented to the Idaho Legislature during the 2022 legislative session, and the rule was approved by joint resolution.

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

This new temporary rule adds the new fee table that is supported by stakeholders and the Organic Advisory Committee and was presented to and approved by the Idaho Legislature. The fee increase is necessary to ensure the financial stability of this dedicated fund program.

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

The fee is authorized under 22-1103, Idaho Code. It is necessary to maintain services to customers of this voluntary certification program.

301. GRADUATED GROSS SALES FEE SCHEDULE.

~~01- Graduated Gross Sales Fee Table~~ In addition to the fees prescribed above, all producers and handlers certified by the Department must remit with their certification application an amount based on their annual gross organic sales during the last calendar year, or in the case of a first-time applicant, a projected gross organic sale dollar amount for the upcoming calendar year, with a minimum fee of ~~ten~~ **thirty-five** dollars (~~\$1035~~). The graduated gross organic sales fee structure is as follows:

0-2,000	\$10
2,001-5,000	\$235
5,001 - 10,000	\$650
10,001 - 15,000	\$75100

15,001 - 20,000	\$ 1 <u>0</u> 30
20,001 - 25,000	\$ 1 <u>2</u> 65
25,001 - 30,000	\$ 1 <u>9</u> 50
30,001 - 35,000	\$ 4 <u>7</u> 5 <u>2</u> 30
35,001 - 50,000	\$ 3 <u>2</u> 50
50,001 - 75,000	\$ 3 <u>7</u> 5 <u>4</u> 90
75,001 - 100,000	\$ 6 <u>5</u> 00
100,001 - 150,000	\$ 9 <u>7</u> 50
150,001 - 200,000	\$1, 0 <u>3</u> 00
200,001 - 280,000	\$1, 4 <u>0</u> 820
280,001 - 375,000	\$ 1,8 <u>7</u> 5 <u>2</u> ,440
375,001 - 500,000	\$ 2,5 <u>0</u> 0 <u>3</u> ,250
500,001 and up	0. <u>7</u> 5% of gross organic sales up to \$ 5,000 <u>6</u> ,500

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:

This rule change will not have a negative impact on the general fund due to the program being operated by a fee for service dedicated fund. These fee changes are needed to provide the services requested by organic certifiers in a growing voluntary program and align with recommendations from industry to increase the graduate gross fee schedule fees by 30%, hour rate by 42%, and nominal fee increases to three other categories. Total potential impact to dedicated funds is a \$168,000 increase with 93% coming from the fee schedule and hour rate increase.

IDAHO CODE SECTION 22-101A STATEMENT: Pursuant to 22-101A(1), for any rule promulgated or adopted by the director which is broader in scope or more stringent than federal law or regulations, or which regulates an activity not regulated by the federal government, the director shall identify the portions of the adopted rule that are broader in scope or more stringent than federal law or rules, or which regulate an activity not regulated by the federal government. The sections of the rule which are broader in scope, more stringent than federal law or regulations, or regulate an activity not regulated by the federal government:

This rule is neither broader in scope nor more stringent than federal laws or regulations and does not regulate an activity not already regulated by the federal government. The detailed 22-101A analysis can be found on the agency’s website at www.agri.idaho.gov.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted under docket 02-ZBRR-2101. The Notice of Intent to Promulgate Rules – Negotiated Rulemaking was published in the April 7, 2021 Idaho Administrative Bulletin, Vol. 21-4, page 13.

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 Code of Federal Regulations, Title 7, Part 205, National Organic Program Regulations (July 7, 2010), except sections 205.620 through 205.622, is incorporated by reference and can be viewed online at <http://www.ecfr.gov/cgi-bin/textidx?c=ecfr&SID=b885492294d6e01d334ae6076da2c3c2&rgn=div5&view=text&node=7:3.1.1.9.32&idno=7>. Copies of this document may be obtained from the Idaho State Department of Agriculture (ISDA), 2270 Old Penitentiary Road, Boise, Idaho 83712.

Incorporating this document is necessary as it ensures organic certifications facilitated by ISDA comply with and are consistent with the national regulations. Organic certification is voluntary, but for those that decide that certification is necessary, compliance with the federal regulation is essential.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Jared Stuart, Administrator of the Division of Agricultural Inspections, at (208)332-8500 or jared.stuart@isda.idaho.gov. Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before July 27, 2022.

DATED this July 6, 2022.

THE FOLLOWING IS THE TEXT OF FEE DOCKET NO. 02-0633-2201

300. CERTIFICATION REQUIREMENTS AND FEES.

01. Certification Requirements. All applicants applying for certification with the Department, must submit the application to the Department on forms prescribed or approved by the Department. (3-15-22)

a. All organic food producers/handlers in Idaho with annual gross organic sales of more than five thousand dollars (\$5,000) must be certified with the Department, unless certified by agents other than the Department accredited under the National Organic Program. (3-15-22)

b. Producers/handlers with annual gross organic sales of five thousand dollars (\$5,000) or less may select certification. (3-15-22)

c. All organic food producers and organic handlers certifying with the Department are subject to an annual on-site inspection. (3-15-22)

02. Certification Fees. (3-15-22)

a. Organic producers/handlers ~~with annual gross organic sales of more than five thousand dollars (\$5,000) up to fifteen thousand dollars (\$15,000) or producers with annual gross income of five thousand dollars (\$5,000) or less~~ requesting certification – Certification Application Fee of ~~one~~ **two** hundred ~~twenty five~~ dollars (~~\$125~~**200**) that is non-refundable. (3-15-22)()

~~**b.** Organic producer/handler with annual gross organic sales of more than fifteen thousand dollars (\$15,000) – Certification Application Fee of two hundred dollars (\$200) that is non-refundable. (3-15-22)~~

eb. A person who produces and handles their own organic food products pays only one (1) annual certification fee based on gross annual organic sales. (3-15-22)

03. Certification Inspection Fees. (3-15-22)

a. The hourly rate is ~~thirty five~~ **fifty** dollars (~~\$350~~) including travel time. (3-15-22)()

b. Travel time from an inspector's normal duty station to the inspection site and return to normal duty station will be compensable time charged to the applicant. (3-15-22)

c. There will be a minimum charge of ~~thirty five~~ **fifty** dollars (~~\$350~~) plus mileage ~~as approved by the Board of Examiners~~ for any inspection. (3-15-22)()

~~d.~~ *A mileage rate as approved by the Board of Examiners will be included in the inspection fees.* (3-15-22)

~~e.~~ Inspections conducted on weekends, holidays, or after normal office hours will be charged at an hourly rate of ~~forty-seven~~ sixty-five dollars ~~and fifty cents~~ (~~\$47.50~~65) including travel time with a minimum charge of one (1) hour plus mileage. (3-15-22)()

~~f.~~ Upon approval by the Department, private inspectors may be utilized. The applicant bears the total cost of the private inspection. (3-15-22)

04. Additional Services/Charges. ()

~~a.~~ Private Label Arrangement – Annual fee of two hundred dollars (\$200) per arrangement assessed to ISDA certified co-packer or handler packaging and/or affixing a private label for a non-ISDA certified entity. ()

~~b.~~ Export and Transaction Certifications – Twenty-five dollars (\$25) will be assessed for each international export and transaction certificate requested. ()

301. GRADUATED GROSS SALES FEE SCHEDULE.

~~01.~~ ~~Graduated Gross Sales Fee Table~~—In addition to the fees prescribed above, all producers and handlers certified by the Department must remit with their certification application an amount based on their annual gross organic sales during the last calendar year, or in the case of a first-time applicant, a projected gross organic sale dollar amount for the upcoming calendar year, with a minimum fee of ~~ten~~ thirty-five dollars (~~\$10~~35). The graduated gross organic sales fee structure is as follows:

0 <u>0</u> - 2,000	\$10 <u>\$10</u>
2,001 <u>0</u> - 5,000	\$235 <u>\$235</u>
5,001 - 10,000	\$650 <u>\$650</u>
10,001 - 15,000	\$75100 <u>\$75100</u>
15,001 - 20,000	\$1030 <u>\$1030</u>
20,001 - 25,000	\$1265 <u>\$1265</u>
25,001 - 30,000	\$1950 <u>\$1950</u>
30,001 - 35,000	\$475230 <u>\$475230</u>
35,001 - 50,000	\$3250 <u>\$3250</u>
50,001 - 75,000	\$375490 <u>\$375490</u>
75,001 - 100,000	\$6500 <u>\$6500</u>
100,001 - 150,000	\$9750 <u>\$9750</u>
150,001 - 200,000	\$1,0300 <u>\$1,0300</u>
200,001 - 280,000	\$1,40820 <u>\$1,40820</u>
280,001 - 375,000	\$1,8752,440 <u>\$1,8752,440</u>
375,001 - 500,000	\$2,5003,250 <u>\$2,5003,250</u>
500,001 and up	0.75% of gross organic sales up to \$5,000 <u>\$6,500</u>

(3-15-22)()

IDAPA 02.08 – IDAHO SHEEP AND GOAT HEALTH BOARD

02.08.01 – SHEEP AND GOAT RULES OF THE IDAHO SHEEP AND GOAT HEALTH BOARD

DOCKET NO. 02-0801-2201 (NEW CHAPTER)

NOTICE OF RULEMAKING – ADOPTION OF PENDING FEE RULE

[LINK: LSO Rules Analysis Memo and Cost/Benefit Analysis \(CBA\)](#)

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2023 Idaho State Legislature for final approval. Pursuant to Section 67-5224(5)(c), Idaho Code, this pending rule will not become final and effective until it has been approved by concurrent resolution of the legislature because of the fee being imposed or increased through this rulemaking. The pending fee rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution unless the rule is rejected.

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 25-129(1) & 25-147, Idaho Code.

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

There are no changes to the pending fee rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the July 6, 2022, Idaho Administrative Bulletin, [Vol. 22-7, pages 71-81](#).

FEE SUMMARY: The following is a specific description of the fees or charges imposed or increased:

The fees or charges, authorized in Section 25-131, Idaho Code, remain unchanged and are part of the agency's 2023 budget that relies upon the existence of these fees or charges to meet the state's obligations and provide necessary state services.

The assessments from below are being imposed and collected at the same rate in the previous year:

- Section 700 – Sheep Assessments
- Section 701 – Goat Assessments
- Section 900 – Violations

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 are no fiscal impact changes requested. The fiscal impact shall remain the same as previous years.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending fee rule, contact Emily Merrigan at 208-803-5084.

DATED this October 28, 2022.

Emily Merrigan, Executive Secretary
Idaho Sheep and Goat Health Board
2118 W Airport Way
Boise, ID 83705
208-803-5084

**THE FOLLOWING NOTICE PUBLISHED WITH
THE TEMPORARY AND PROPOSED RULE**

EFFECTIVE DATE: The effective date of the temporary rule is April 27, 2022.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Section 25-1296(1), 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, 2022.

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 the required finding and concise statement of its supporting reasons for adopting a temporary rule and a nontechnical explanation of the substance and purpose of the proposed rulemaking:

This temporary and proposed rulemaking adopts and republishes the chapter previously submitted to and reviewed by the Idaho Legislature under IDAPA 02.08, rules of the Idaho Sheep and Goat Health Board (Board.) There are no changes to the temporary and proposed rule chapter and it is being promulgated as it was previously approved during legislative review.

The Board is not including any changes to the rules and is requesting that the rule is accepted as it is currently formatted and was approved in the previous years to maintain industry consistency and regulatory transparency.

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

These rules protect the public health, safety, and welfare by governing the prevention and control of transmissible diseases. They also comply with governing law for the Board to carry out its statutory obligations.

FEE SUMMARY: Pursuant to Section 67-5226(2), the Governor has found that the fee(s) or charge(s) being imposed or increased is justified and necessary to avoid immediate danger and the fee(s) is described herein:

The fees or charges, authorized in Section 25-131, Idaho Code, remain unchanged and are part of the agency's 2023 budget that relies upon the existence of these fees or charges to meet the state's obligations and provide necessary state services. Failing to reauthorize these temporary rules would create immediate danger to the state budget, immediate danger to necessary state functions and services, and immediate danger of a violation of Idaho's constitutional requirement that it balance its budget.

The following is a specific description of the fees or charges being imposed and collected at the same rate in the previous year:

- Section 700 – Sheep Assessments
- Section 701 – Goat Assessments
- Section 900 – Violations

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 are no fiscal impact changes requested. The fiscal impact shall remain the same as previous years.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because the Idaho Sheep and Goat Health Board has no rule changes. The Board is made up of small ruminant producers who together share information, knowledge and expertise that qualify them to make decisions on behalf of the sheep and goat industries.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, incorporated material may be obtained or electronically accessed as provided in the text of the temporary and proposed rule attached hereto.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Emily Merrigan at 208-803-5084.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before July 27, 2022.

DATED this 6th day of July, 2022.

THE FOLLOWING IS THE TEXT OF FEE DOCKET NO. 02-0801-2201

02.08.01 – SHEEP AND GOAT RULES OF THE IDAHO SHEEP AND GOAT HEALTH BOARD

000. LEGAL AUTHORITY.

This chapter is adopted under the legal authority of Sections 25-129(1) and 25-147, Idaho Code. ()

001. TITLE AND SCOPE.

01. Title. The title of this chapter is the “Sheep and Goat Rules of the Idaho Sheep and Goat Health Board.” ()

02. Scope. These rules govern procedures for the prevention, control and eradication of diseases among sheep and goats, the interstate and intrastate movement of sheep and goats and the assessment of fees on sheep and goats to provide resources to carry out these functions. ()

002. – 003. (RESERVED)

004. INCORPORATION BY REFERENCE.

Copies of the following documents may be obtained from the Idaho State Department of Agriculture Division of Animal Industries. IDAPA 02.08.01 incorporates by reference: ()

01. The Code of Federal Regulations Title 9, Parts 54.1, 54.2, 54.8, 54.9, 54.10, 54.11, 54.20, 54.21, 54.22 and 79, January 1, 2015. ()

02. The Voluntary Scrapie Flock Certification Program Standards, USDA, June 2013. ()

03. The Code of Federal Regulations, Title 9, Part 161, January 1, 2009. ()

005. -- 009. (RESERVED)

010. DEFINITIONS.

- 01. Accredited Veterinarian.** A veterinarian approved by the Administrator and USDA/APHIS/VS in accordance with provisions of Title 9, Part 161, Code of Federal Regulations to perform functions of State-Federal animal disease control programs. ()
- 02. Animals.** All vertebrates, except humans. ()
- 03. Authorized Federal Inspector.** An employee of USDA authorized by the Board to perform the functions of the Idaho Sheep and Goat Health Board. ()
- 04. Authorized State Inspector.** An employee of the state of Idaho authorized by the Board to perform the functions of the Idaho Sheep and Goat Health Board. ()
- 05. Board.** The Idaho Sheep and Goat Health Board or its designee. ()
- 06. Breeding Stock.** Intact male or female sheep or goats of any age. ()
- 07. Brucellosis.** An infectious disease of animals and humans caused by bacteria of the genus *Brucella*. ()
- 08. *Brucella Ovis* Test Positive.** An animal that tests in the positive range on an approved *Brucella Ovis* ELISA test. ()
- 09. *Brucella Ovis* Test Suspect.** An animal that tests in the suspect range on an approved *Brucella Ovis* ELISA test. ()
- 10. *Brucella Ovis* Test Negative.** An animal that tests in the negative range on an approved *Brucella Ovis* ELISA test. ()
- 11. Certificate.** An official certificate of veterinary inspection or other approved certificate issued by an accredited veterinarian, state or federal animal health official, or other approved official at the point of origin of the shipment of animal(s) being imported. ()
- 12. Commercial Low-Risk Goats.** Intact or castrated goats, raised for fiber or meat, that are not registered or exhibited, that are not scrapie positive, suspect, high risk, or exposed animals and that have not been exposed to sheep or are not from a state that has scrapie in goats. ()
- 13. Contemporary Lambing Group.** The time from the first birth to sixty (60) days post birthing of the entire group in a given lambing season. ()
- 14. Exposed.** Animals that have had direct contact with other animals, herds, or materials that have been determined to be infected with or affected by any infectious, contagious, or communicable disease. ()
- 15. Federal Animal Health Official.** An employee of USDA/APHIS/VS who has been authorized to perform animal health activities. ()
- 16. Flock.** Flock or flocks are interchangeable with the terms herd or herds and denote a group of one (1) or more animals that are fed, housed and birthed together on the same premises, or animals maintained in separate geographic areas that have interchange at or around the time of birth. Changes in ownership of a flock do not change the identity of the flock or the regulatory requirements applicable to the flock. ()
- 17. Flock Plan.** A written flock management agreement signed by the owner, his accredited veterinarian if there is one, a representative of the Division of Animal Industries, and an APHIS representative in which each signatory agrees to undertake action specified in the Flock Plan to eradicate or control scrapie as defined in 9 CFR Part 54.8 a-f. Goats exposed to scrapie will be subjected to the same rules as sheep. ()
- 18. Goats Requiring Premises/Flock Identification Number.** Sexually intact goats or goats that have

resided on the same premises as sheep or any other goats not defined in Subsection 010.13. ()

19. Idaho Premises/Flock Identification Number. A unique identification number or alphanumeric designation approved by APHIS, and assigned by the Board to each premises/flock of breeding sheep or goats, as defined in Subsection 010.21, in the state of Idaho. ()

20. Low Risk Commercial Sheep. Commercial whiteface, white-faced cross, or commercial hair sheep from a flock with no known risk factors for scrapie, including any exposure to female black-faced sheep, that are identified with a permanent brand or ear notch pattern registered with an official brand registry and that are not scrapie-positive, suspect, high-risk, or exposed animals and are not animals from an infected, source, or exposed flock. ()

21. Negative. Animals are classified as negative when they have been subjected to official tests for a disease, and the tests performed have failed to disclose evidence of the disease. ()

22. Official Individual Identification. The unique identification of individual animals with an alpha numeric number applied as a tag, a legible tattoo, electronic device, or any other device approved by APHIS. The Idaho Premises/Flock Identification number can serve as the official individual identification number if it contains a unique individual animal number in addition to the Idaho premises/flock identification number. ()

23. Post Exposure Monitoring and Management Plan. A monitoring plan which includes a written agreement signed by the owner of the flock and a representative of the Division of Animal Industries and an APHIS representative in which each participant agrees to undertake actions specified in the agreement to monitor for the occurrence of scrapie in the flock for at least five (5) years after an approved Flock Plan has been completed. The PEMMP requires at least once a year flock inspections and prompt reporting of any animal over fourteen (14) months of age which dies in the flock so that some of these animals can be selected and submitted for scrapie testing. The Plan also includes the requirements outlined in 9 CFR Part 54.8. Owners may request to join the Scrapie Flock Certification Program after two (2) years of participation in the PEMMP. ()

24. Premises. The ground, area, buildings and equipment utilized to raise, propagate or control sheep and goats. ()

25. Quarantine. A written order, executed by the Board or the Administrator of Animal Industries, to confine or hold animals on a premises or any other location, where found, and prevent movement of animals from a premises or any other location. ()

26. Scrapie. A transmissible spongiform encephalopathy that is a nonfebrile, transmissible, insidious, degenerative disease affecting the central nervous system of sheep and goats. ()

27. Scrapie Exposed Animal. Any animal which has been in the same flock at the same time within the previous seventy-two (72) months as a scrapie positive female animal excluding limited contacts. Limited contacts are contacts between animals that occur off the premises of the flock and do not occur during or within sixty (60) days after parturition for any of the animals involved. ()

28. Scrapie Flock Certification Program. A cooperative Federal-State-Industry voluntary program for reducing the incidence and controlling the spread of scrapie through flock certification. ()

29. Scrapie High Risk Animal. An animal determined by epidemiologic investigation to face a high risk of developing clinical scrapie because the animal was: ()

- a. Progeny of a scrapie-positive dam; ()
- b. Born in the same contemporary lambing group as a scrapie-positive animal, or ()
- c. During any subsequent lambing season if born before the flock completes the requirements of a flock plan; or ()

d. Born in the same contemporary lambing group as progeny of a scrapie-positive dam or any QQ, at codon 171, sheep present in the lambing facility/area where a scrapie-positive animal was born during the contemporary birth of a scrapie-positive animal. ()

e. Animals that fit the criteria for high risk animals which are determined by genetic testing to be QR or RR at the 171 codon, or are determined by other recognized testing procedures to pose no risk, may be exempted as high risk animals by the Board, upon the recommendation of the State Scrapie Certification Board, based upon evidence from the latest research information available. ()

30. Scrapie Infected Flock. Any flock in which a scrapie-positive animal has been born, birthed or aborted. A flock will no longer be considered infected after an approved Flock Plan has been completed. ()

31. Scrapie-Positive Animal. An animal for which a diagnosis of scrapie has been made by the National Veterinary Services Laboratories, or another laboratory authorized by state or federal officials to conduct scrapie tests approved for scrapie diagnosis by APHIS or the Administrator. ()

32. Scrapie Source Flock. A flock in which an animal was born and subsequently diagnosed as scrapie-positive at less than seventy-two (72) months of age. The flock will no longer be considered a source flock after the requirements of an approved Flock Plan have been completed. A trace to a flock must meet the following criteria to designate the flock as a source flock: The scrapie-positive animal must: ()

a. Be identified with a Premises/Flock Identification Number, or on an official ear tag, electronic device, ear tattoo, or flank tattoo which is correlated to the Premises/Flock Identification number on flock records; or ()

b. Be identified with a genetic heredity test or nose print; or ()

c. Possess the original registry ear tag or individual identification ear tag along with the movement, production, or registry records indicating birth in the source flock; or ()

d. Be traced to the flock by a veterinary epidemiologist through a thorough epidemiological investigation of records and all other available evidence. ()

33. State Animal Health Official. The Administrator, or his designee, responsible for disease control and eradication programs. ()

34. State Scrapie Certification Board. The State Scrapie Certification Board will consist of APHIS-AVIC, the State animal health official, animal producers and accredited veterinarians. Animal producers and accredited veterinarians will be appointed by the AVIC and the State animal health official. ()

35. Terminal Feedlot. As defined in Title 9 CFR, Parts 54 and 79. ()

36. Trace. All actions required to identify the flock of origin or destination of an animal. ()

011. ABBREVIATIONS.

01. APHIS. Animal Plant Health Inspection Service. ()

02. AVIC. Area Veterinarian in Charge. ()

03. CFR. Code of Federal Regulations. ()

04. PEMMP. Post Exposure Monitoring and Management Plan. ()

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

06. VS. Veterinary Services. ()

012. APPLICABILITY.

These rules apply to all domestic sheep and goats located in, imported into, exported from, or transported through the state of Idaho. ()

013. ADDITIONAL IMPORT REQUIREMENTS.

The Board may impose additional or more restrictive import requirements than the requirements in this chapter by issuing a written order stating the additional requirements and the reasons for the requirements. ()

014. -- 099. (RESERVED)

100. SHEEP AND GOAT STATE ENTRANCE REQUIREMENTS.

01. Entrance Requirements. All breeding sheep and goat stock entering the state of Idaho except as provided in Sections 103, 105, and 107 of these rules will be accompanied by a permit issued by the Board together with a certificate of veterinary inspection certifying that such sheep or goats are free from scrapie, scabies, foot rot, brucella or symptoms of any communicable disease and are not known to have been exposed to scrapie for at least seventy-two (72) months prior to the date of inspection, scabies for a period of at least six (6) months immediately prior to date of inspection and are not known to have been exposed to any communicable disease for at least thirty (30) days immediately prior to date of inspection. All breeding sheep and goats with the exception of low-risk commercial goats imported into the state of Idaho must be individually identified with an official premises/flock identification number, or legible tattoo or other form of individual identification approved by the Board. The premises/flock identification number must be listed on the certificate of veterinary inspection. The original or true copy of the permit and certificate of veterinary inspection required by this rule will be attached to the waybill covering such shipments. No sheep will be shipped, trailed, or in any manner moved into the state of Idaho for any purpose if they originate in a state or area where sheep scabies is known to exist until the Board has been notified by the APHIS that such state or area where sheep scabies is known to exist has been classified by the APHIS as a sheep scabies eradication area. ()

02. Brucella Ovis. Intact male sheep six (6) months of age or older must test negative for *Brucella Ovis* within thirty (30) days prior to entry. Rams entering for exhibition only and returning to the state of origin are exempt from testing. Rams imported from a state certified *Brucella Ovis* free flock are also exempt. ()

101. PERMITS.

01. Request for Permits. Request for the permits required under Section 100 are to be in writing, by telephone or facsimile and set forth the name and address of the owner of the animals offered for movement into the state of Idaho, the number and class of sheep and goats to be brought in, the destination, the name and address of the consignee, and the approximate date and place of entry. A copy of the permit, or permit number written on the face of the waybill or certificate of veterinary inspection accompanying movement, will be shown to a representative of the Board or any law enforcement officer of the state, county, or municipality of the state of Idaho upon request. ()

02. Certificates of Veterinary Inspection to Be Furnished. Copies of the certificates of veterinary inspection from the point of origin must accompany the shipment and include a copy of the permit or the permit number written on the face of the certificate of veterinary inspection and will be shown to a representative of the Board or any law enforcement officer of the state, county, or municipality of the state of Idaho upon request, and a copy forwarded to the Idaho Department of Agriculture, Division of Animal Industries, c/o Idaho Sheep and Goat Health Board, P.O. Box 7249, Boise, Idaho 83707, immediately after issuance for sheep and goats entering the state of Idaho. ()

03. Inspection Fees. An inspection fee of one hundred dollars (\$100) per incidence, plus mileage, will be paid on all sheep and goats exported from or imported into Idaho in violation of these rules. Such incidences require an inspection of animals, certificates of veterinary inspection and permit. ()

04. Examination and Treatment Fees. The Board may assess a fee on sheep and goat producers who receive services from the Board or its representatives, such as examination and treatment of animals for diseases or

parasites. The fees assessed are not to exceed the actual costs for the services rendered. ()

102. SCABIES.

All sheep and goats, including rams and bucks, entering Idaho and which have originated in an area or areas in which scabies is known to exist within the past six (6) months must be treated with a product approved by the APHIS under the supervision of an authorized state or federal inspector or accredited veterinarian. At the time of shipment, such sheep or goats must be accompanied by a permit from the Board and a certificate of veterinary inspection from the state of origin and also a treatment certificate showing that such sheep or goats have been treated at point of origin as herein required. Any and all shipments of sheep and goats entering Idaho, and which have originated in states where scabies is known to exist, are subject to a thirty (30) to sixty (60) day quarantine and inspection at the time of arrival at destination, and a second inspection at the time of quarantine release, or as often as it may be deemed necessary by the Board. ()

103. ANIMALS IN TRANSIT.

Sheep and goats in course of transit through the state of Idaho, in trucks, or other vehicles from a point outside the state of Idaho to another state or country, are not to be unloaded in Idaho except in pens designated by APHIS for purpose of feed, water and rest for a period of time not to exceed ten (10) days, need not comply with Section 100, provided waybills or other documents accompanying the sheep or goats show origin and destination of such sheep and goats. Failure to have such waybills or other documents with the sheep or goats constitutes a violation of these rules. The Board, however, may prohibit the transportation of any sheep or goats through the state it feels represents a threat to the general health and welfare of the Idaho sheep industry. ()

104. DAIRY GOATS.

All dairy type goats, including bucks, entering the state of Idaho must be accompanied by a permit issued by the Board, together with a certificate of veterinary inspection issued at point of origin by an authorized veterinarian. All dairy type goats, including bucks, aged six (6) months or older must have been tested negative for *Brucella Melitensis* within thirty (30) days of the date of entry into the state of Idaho accompanied by the negative test chart signed by the person in charge of the laboratory where the test was made and approved by the state animal health official of the state of origin and attached to the certificate of veterinary inspection. Goats entering Idaho on a short-term temporary basis for show or other temporary purposes may be exempted from having a negative test for *Brucella Melitensis* completed, with permission from the Board. ()

105. IMPORTATION OF SCRAPIE EXPOSED, SUSPECT AND HIGH RISK ANIMALS.

Sheep and goats that are scrapie suspect, exposed, or high risk animals or from scrapie infected, source, or exposed flocks, as defined Title 9, Parts 54.1 and 79.1, Code of Federal Regulations, are not allowed entry into Idaho except as follows: ()

01. Valid Permit. Scrapie suspect, exposed or high-risk animals and animals from infected, source or exposed flocks may be imported directly to scrapie research facilities, or to approved slaughter establishments for immediate slaughter, or other destinations approved by the Administrator, if accompanied by a permit issued by the Board or its representative; and ()

02. Officially Identified. The animals are individually identified by official identification tattoos, tags, or devices on a VS 1-27 or other approved movement document. ()

106. IDAHO ORIGIN SHEEP INTERSTATE GRAZING PERMIT.

Idaho origin, low-risk commercial sheep breeding stock with no history of scrapie exposure returning to Idaho from seasonal grazing in other states may return to Idaho without a certificate of veterinary inspection if they are accompanied by an Idaho Origin Sheep Interstate Grazing Permit and a waybill. The Idaho Origin Sheep Interstate Grazing Permit is to be obtained from the Board. ()

107. INTERSTATE SHIPMENTS.

01. Waybill Requirement. All sheep and goats leaving the state of Idaho by any common carrier, by private conveyance, or any kind of transportation must be accompanied by a waybill, stating the owner's name and indicating destination of sheep or goats, or be accompanied by a certificate of veterinary inspection issued by an inspector appointed by the Board or a representative of the APHIS or accredited veterinarian; said certificates of

veterinary inspection to be dated not more than thirty (30) days prior to date of movement, and comply with the rules for the state of destination. ()

02. Waybill Violation. Failure to have such waybills or other documents accompanying the sheep or goats constitutes a violation of these rules and is punishable as provided in Section 900. ()

03. Carriers. No common or contract carrier or owner or caretaker will unload any breeding sheep, breeding goats, or dairy goats within the state of Idaho from other states or country, other than as provided in Sections 103, 105, 106, and 107, of these rules, unless such shipments be accompanied by an Idaho Origin Sheep Interstate Grazing Permit issued by the Board or other permit issued by the Board, and the official certificate as provided herein. The original or true copy of each certificate with permit must be attached to the waybill covering such shipments or be in possession of the owner or caretaker of shipment. ()

04. Who May Inspect? Authorized state or federal inspectors and accredited veterinarians may inspect sheep and goats. ()

108. -- 199. (RESERVED)

200. SCRAPIE PROGRAM STANDARDS, SCRAPIE FLOCK CERTIFICATION, SCRAPIE CONTROL AND ERADICATION.

The Board adopts the provisions of the Voluntary Scrapie Flock Certification Program Standards, which were effective June 2013, and 9 CFR, Parts 54.1, 54.2, 54.8, 54.9, 54.10, 54.11, 54.20, 54.21, 54.22 and 79, January 1, 2015, as the minimum standards for the scrapie certification program in Idaho. ()

201. IDENTIFICATION OF BREEDING SHEEP.

01. Assignment of APHIS Approved Idaho Premises/Flock Identification Numbers. The Board or its designee will assign APHIS-approved Idaho premises/flock identification numbers with unique individual animal identification numbers to Idaho sheep and goat flocks/herds. ()

02. Responsibility for Identification. Owners and possessors of breeding sheep and goats bear the cost and responsibility of obtaining the identification devices and placing the device in or on the animal. ()

03. Time of Identification. All owners or possessors of breeding sheep and goats in Idaho will identify all breeding stock in the flock of any age with a premises/flock identification number before transfer of ownership or possession, show, sale, or other movement unless the animals are under eighteen (18) months of age and are in slaughter channels. ()

04. Importation Identification. Breeding sheep or goats imported into the state must be identified with a premises/flock identification number before entry into the state. ()

05. Loss of Identification. Breeding sheep or goats sold within the state retain the original premises/flock identification number. In the event an animal loses a premises/flock identification device, the owner of the animal will re-identify the animal with his or her flock identification number and maintain records to document the original and new flock identification numbers. ()

06. Acceptable Identification. Acceptable devices for application of the premises/flock identification number to breeding sheep and goats include: APHIS-approved ear tags bearing the premises/flock identification number, legible tattoos bearing the premises/flock identification number, approved Scrapie Flock Certification Program identification devices, except electronic identification, and other identification devices approved by APHIS except electronic identification. ()

07. Identification Exemption. Animals exempt from the requirement for identification with a premises/flock identification number include: ()

a. Neutered animals under eighteen (18) months of age. ()

b. Sexually intact market lambs under eighteen (18) months of age shipped directly to an approved slaughter establishment or shipped directly to a feedlot for finish feeding for slaughter only. ()

c. Animals which have not been removed from their premises of origin and/or transferred ownership with the exception of white-face low-risk range sheep as defined in the 9 CFR Part 79 which are moved for grazing or other management purposes and do not change ownership. ()

d. Castrated or low-risk commercial goats. ()

e. Registered sheep and goats accompanied by registration papers or a certificate of veterinary inspection with legible unique registration tattoos. ()

f. Goats registered with a National Goat Registry that allows for electronic implant identification, as recorded on a registration certificate, may be identified with an electronic implant. ()

202. QUARANTINE.

Infected and source flocks or flocks that have received high-risk animals will be placed and held under quarantine until the infected or high-risk animals have been slaughtered or depopulated, an approved Flock Plan has been completed and the flock is participating in a Post Exposure Monitoring Program. Flocks that do not participate in a Post Exposure Monitoring Program remain under quarantine until the entire flock has been depopulated. Flocks which are removed from the Post Exposure Monitoring Program before the agreed time will be re-quarantined. ()

203. RESTRICTION OF HIGH-RISK ANIMALS.

High-risk animals will be placed under a quarantine when the flock or animals are determined to be exposed. An epidemiological investigation will be conducted on the flock or animals to determine the risk of infection with scrapie. The flock or animals will be maintained under quarantine until the flock is in compliance with the Scrapie Uniform Methods and Rules in effect or until the scrapie epidemiologist has determined that the flock or animals do not pose a substantial risk to other flocks. ()

204. MOVEMENT OF RESTRICTED ANIMALS.

Animals from infected and source flocks and high-risk animals may be moved from quarantined premises only under the following conditions: ()

01. Individually Identified on Approved Document. The animals are individually identified on a VS 1-27 form or other approved document, by official ear tags, tattoos or devices; or ()

02. Indelibly Marked. The animals are indelibly marked with an "S" at least one (1) inch high on the left jaw; and ()

03. Consigned Directly to Approved Destination. The animals are consigned directly to an approved slaughter facility for immediate slaughter or to a terminal feedlot for finish feeding for slaughter only; or ()

a. The animals are consigned directly to an approved livestock market for sale directly to an approved slaughter facility for immediate slaughter or to a feedlot for finish feeding for slaughter only. The animals must be individually identified on a VS 1-27 form or other approved document for movement from the approved livestock market to final destination; or ()

b. The Board or its representative may, by written permission, allow the animals to be moved, under quarantine, to other pre-approved locations. The animals may be moved in sealed vehicles or be accompanied in transit by representatives of the Board in lieu of individual identification. Animals so moved will be retained under quarantine at the new location. ()

205. -- 399. (RESERVED)

400. CONDEMNATION AND DESTRUCTION OF DISEASED ANIMALS OR FLOCKS.

01. Animals or Flocks Infected. Animals or flocks determined by representatives of the Board or APHIS to be infected with scrapie or other contagious, infectious, or communicable diseases which have been identified by the Board to be diseases of concern to human health or the livestock industry of the state may be condemned by order of the Board. ()

02. Animals or Flocks Condemned. Animals or flocks condemned by order of the Board will be destroyed or otherwise disposed of as directed by order of the Board and under the conditions set by the Board. ()

401. -- 499. (RESERVED)

500. INDEMNIFICATION.

01. Owners, Individuals, Partnerships, Corporations or Other Legal Entities. Owners, individuals, partnerships, corporations or other legal entities whose animals or flocks have been destroyed or otherwise disposed of by order of the Board may be eligible for indemnification in the form of cash payment from the Sheep and Goat Disease Indemnity Fund for all or part of the value of the animals destroyed or otherwise disposed of and for the actual cost for burial or disposal of animal carcasses. ()

02. Indemnity Payments Paid. Indemnity payments are paid only to an owner of sheep or goats that were born in the state of Idaho or were imported into the state in compliance with existing Idaho statutes and rules promulgated thereunder. ()

03. Amount of Indemnity to Be Paid for Each Animal. The amount of indemnity to be paid for each animal is determined by the Board and does not exceed the difference between the appraised price, less federal indemnity, and the salvage value of the animal. In the event federal indemnity is not available the amount of indemnity will not exceed the difference between the appraised price and salvage value. ()

04. Appraisals. Appraisals are to be performed by a team comprised of an Animal Health representative, the owner, and a person with experience in sheep or goat marketing. ()

05. Maximum Amount of Indemnity. The maximum amount of indemnity for each animal will not exceed: ()

a. Ewes or does one (1) year of age or older - two hundred dollars (\$200) per head. ()

b. Rams or bucks one (1) year of age or older - four hundred dollars (\$400) per head. ()

c. Lambs or kids under one (1) year of age - current market price per pound with a maximum of one hundred dollars (\$100) per head. ()

06. Indemnity Payment upon Approval of Appraisal. Upon approval of the appraisal by the Board, one-half (1/2) of the indemnity payment will be paid at that time. The other one-half (1/2) of the indemnity payment, or the prorated portion thereof, will be paid at the end of the fiscal year. Indemnity payments are paid in their entirety in a single fiscal year and do not exceed the amount in the fund. ()

501. -- 599. (RESERVED)

600. CLEANING AND DISINFECTION.

Barns, sheds, stockyards, trucks, aircraft, ferryboats and other vehicles, feed yards, stables, pens, corrals, lanes and premises that have been used in confining, trailing, or transporting any sheep or goats affected or infected with any contagious, infectious or communicable diseases, will be cleaned and disinfected under state or federal supervision as directed by the Board, or an authorized representative of the Board, and the owner of such premises, conveyances, or carrier are responsible for such cleaning and disinfecting. ()

601. -- 699. (RESERVED)

700. SHEEP ASSESSMENTS.

The following rules apply to all sheep. ()

01. Payment of Assessment. The owner of sheep on July 1st of the assessment year is responsible for the payment of the assessment levied by the Boards as provided for in Section 25-130 and 25-131, Idaho Code. The rate of assessment is eight cents (\$.08) per pound on all wool, in the grease basis, except tags, crutchings, and dead wool. ()

02. Assessment as Resident Sheep. The assessment is levied and assessed to the producer at the time of the first sale of wool and is deducted by the first purchaser from the price paid to the producer at the time of such sale. ()

03. Migratory Sheep. In the event that a sheep, which produces wool subject to this assessment, is located outside the state of Idaho during a part of the assessment year, the amount of the assessment is reduced on a prorated basis. A grower will be required to request a prorated adjustment in writing to the Board. ()

04. Costs of Collection. All costs of collection of delinquent assessments are borne as an additional charge against the delinquent assessee first purchaser. ()

701. GOAT ASSESSMENTS.

The following rules apply to all goats. ()

01. Payment of Assessment. The owner of goat(s) is responsible for the payment of the assessment levied by the Board as provided for in Sections 25-130 and 25-131, Idaho Code. The rate of assessment is eighty cents (\$.80) per head. ()

02. Assessment as Resident Goats. The assessment is levied and assessed to the producer at the time of the sale of said goat(s). ()

a. Auction Yards: Auction yards will deduct the assessment from the price paid to the producer at the time of sale. All goat assessments will be sent to the Idaho Sheep and Goat Health Board (ISGHB) from the auction yards after each sale, but no later than thirty (30) days after the sale. Assessments will be accompanied by a board approved form that includes a list of the producers (sellers) name, address, and number of head sold. ()

b. Private Sales: The producer will handle assessment on private sales. The producer will send at minimum an annual assessment to the ISGHB on all private sales no later than the end of December of the current year. ()

03. Costs of Collection. All costs of collection of delinquent assessments are borne as an additional charge against the delinquent assessee. ()

702. -- 899. (RESERVED)

900. VIOLATIONS.

Any person, company, corporation or association, or any agent, servant or employee of such, who violates or disregard any of these sheep and goat rules or any other sanitary or quarantine rule, order of the Board or inspector thereof, is deemed guilty of a misdemeanor and upon conviction be fined not less than one hundred dollars (\$100) nor more than five thousand dollars (\$5,000) for each offense. ()

901. -- 999. (RESERVED)

IDAPA 24.38 – DIVISION OF OCCUPATIONAL AND PROFESSIONAL LICENSES

24.38.01 – RULES OF THE STATE OF IDAHO BOARD OF VETERINARY MEDICINE

DOCKET NO. 24-3801-2200F

NOTICE OF OMNIBUS RULEMAKING – ADOPTION OF PENDING FEE RULE

[LINK: LSO Rules Analysis Memo and Cost/Benefit Analysis \(CBA\)](#)

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2023 Idaho State Legislature for final approval. Pursuant to Section 67-5224(5)(c), Idaho Code, this pending rule will not become final and effective until it has been approved by concurrent resolution of the legislature because of the fee being imposed or increased through this rulemaking. The pending fee rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution unless the rule is rejected.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending fee rule. The action is authorized pursuant to Section 67-2604, Idaho Code, and Chapter 21, Title 54, Idaho Code.

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

This pending fee rule adopts the following rule chapters previously submitted to and reviewed by the Idaho Legislature under IDAPA 24, rules of the Division of Occupational and Professional Licenses / Board of Veterinary Medicine:

IDAPA 24.38

- 24.38.01, *Rules of the State of Idaho Board of Veterinary Medicine.*

There are no changes to the pending rule and it has been adopted as originally proposed. The complete text of the proposed rule is published in the October 5, 2022, Idaho Administrative Bulletin, [Vol. 22-10, pages 720-738](#).

FEE SUMMARY: This rulemaking does not impose a fee or charge, or increase a fee or charge, beyond what was previously submitted to and reviewed by the Idaho Legislature in the prior rules.

The following is a specific description of the fees or charges:

24.38.01, Rules of the State of Idaho Board of Veterinary Medicine – Fees are established in accordance with Sections 54-2105, 54-2107, and 54-2112, Idaho Code, as follows:

	New	Active Renewal	Inactive Renewal	Late/ Reinstatement	Inactive to Active Fee
Veterinary License	\$275	\$175	\$50	\$200	\$150
Certified Veterinary Technician	\$125	\$75	\$25	\$50	\$50
Certified Euthanasia Agency	\$100	\$200	-	\$50	-
Certified Euthanasia Technician	\$100	\$100	-	\$50	-

Duplicate Wall License/Certificate	\$25
Veterinary License Verification	\$20

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: This rulemaking is not anticipated to have any fiscal impact on the state general fund because the FY2023 budget has already been set by the Legislature, and approved by the Governor, anticipating the existence of the rules and fees being reauthorized by this rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending fee rule, contact Tim Frost at (208) 577-2491 or tim.frost@dopl.idaho.gov.

DATED this December 7, 2022.

Tim Frost, Deputy Administrator
Division of Occupational & Professional Licenses
Phone: (208) 577-2491
11341 W. Chinden Boulevard, Building #4
Boise, ID 83714
P.O. Box 83720
Boise, ID 83720-0063
tim.frost@dopl.idaho.gov

THE FOLLOWING NOTICE PUBLISHED WITH THE OMNIBUS PROPOSED RULE

AUTHORITY: In compliance with Sections 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 67-2604 and Section 54-2105, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearings concerning this rulemaking will be held as follows:

Thursday, October 20, 2022 – 1:00-4:00 p.m. (MT)

**Division of Occupational and Professional Licenses
Chinden Campus Building 4 – Coolwater Room
11341 W. Chinden Blvd., Bldg. #4
Boise, ID 83714**

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 proposed rulemaking publishes the following rule chapters previously submitted to and reviewed by the Idaho Legislature under IDAPA 24, rules of the Division of Occupational and Professional Licenses / Board of Veterinary Medicine:

IDAPA 24.38

- 24.38.01, *Rules of the State of Idaho Board of Veterinary Medicine.*

FEE SUMMARY: This rulemaking does not impose a fee or charge, or increase a fee or charge, beyond what was previously submitted to and reviewed by the Idaho Legislature in the prior rules.

The following is a specific description of the fees or charges:

24.38.01, Rules of the State of Idaho Board of Veterinary Medicine – Fees are established in accordance with Sections 54-2105, 54-2107, and 54-2112, Idaho Code, as follows:

	New	Active Renewal	Inactive Renewal	Late/ Reinstatement	Inactive to Active Fee
Veterinary License	\$275	\$175	\$50	\$200	\$150
Certified Veterinary Technician	\$125	\$75	\$25	\$50	\$50
Certified Euthanasia Agency	\$100	\$200	-	\$50	-
Certified Euthanasia Technician	\$100	\$100	-	\$50	-

Duplicate Wall License/Certificate	\$25
Veterinary License Verification	\$20

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:

This rulemaking is not anticipated to have any fiscal impact on the state general fund because the FY2023 budget has already been set by the Legislature, and approved by the Governor, anticipating the existence of the rules and fees being reauthorized by this rulemaking.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not feasible because engaging in negotiated rulemaking for all previously existing rules will inhibit the agency from carrying out its ability to serve the citizens of Idaho and to protect their health, safety, and welfare.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, incorporated material may be obtained or electronically accessed as provided in the text of the proposed rules attached hereto.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule(s), contact Tim Frost at (208) 577-2491 or tim.frost@dopl.idaho.gov.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered within twenty-one (21) days after publication of this Notice in the Idaho Administrative Bulletin. Oral presentation of comments may be requested pursuant to Section 67-5222(2), Idaho Code, and must be delivered to the undersigned within fourteen (14) days of the date of publication of this Notice in the Idaho Administrative Bulletin.

DATED this October 5, 2022.

THE FOLLOWING IS THE TEXT OF OMNIBUS PENDING FEE DOCKET NO. 24-3801-2200F

24.38.01 – RULES OF THE STATE OF IDAHO BOARD OF VETERINARY MEDICINE

000. LEGAL AUTHORITY.

This chapter is adopted under the legal authority of Title 54, Chapter 21, Idaho Code. ()

001. SCOPE.

The rules govern the licensing procedures, supervision requirements, standards of practice, inspections, and grounds for discipline of veterinarians, veterinary technicians, Committee on Humane Euthanasia members, and certified euthanasia technicians and agencies. ()

002. -- 004. (RESERVED)

005. INCORPORATION BY REFERENCE.

The Principles of Veterinary Medical Ethics of the American Veterinary Medical Association (AVMA), as adopted and revised April 2016, is incorporated herein by reference in accordance with the provisions of Section 67-5229, Idaho Code. ()

006. -- 008. (RESERVED)

009. FOREIGN VETERINARY GRADUATE.

Any graduate of a veterinary school, college or university outside that fulfills the current requirements for foreign veterinary graduates as set forth by the Educational Commission for Foreign Veterinary Graduates or the American Association of Veterinary State Boards. A graduate enrolled in the foreign graduate program would be considered a student as defined by Section 54-2104(2)(b), Idaho Code. ()

01. Any graduate of an unaccredited veterinary school who has completed a curriculum of not less than four (4) academic years in a veterinary medical program approved by the Board and satisfactorily completed clinical education equivalent in purpose, content, experience and length to the clinical training received by students in an accredited veterinary medical program. Such clinical education needs to have been obtained pursuant to a formal affiliation agreement between the unaccredited veterinary school and an accredited veterinary medical program. Qualified graduates applying for Licensure under Subparagraph 010.01.b.i. of these rules may be issued a probationary license to practice veterinary medicine under the professional supervision of an actively licensed Idaho veterinarian. The probationary license may be renewed for up to three (3) years by paying the current active license renewal fee established by Section 011 of these rules, provided that during this three (3)-year period, the applicant has applied to complete the evaluated clinical experience requirements of the ECFVG program. The evaluated clinical experience requirements of the ECFVG program require that the applicant, following graduation from an unaccredited veterinary medical program, has successfully passed the Clinical Proficiency Examination (CPE) approved by the ECFVG. ()

02. At the end of the three (3)-year period, the Board will review the probationary license and determine has the whether to issue or deny a full license based on the candidates status in the foreign graduate program. ()

010. CHANGE OF ADDRESS.

It is the responsibility of each licensed veterinarian and certified veterinary technician to notify the Board office of any change of address. ()

011. FEE SCHEDULE.

The Board may pro-rate application fees to accommodate a shortened licensure or certification period before the applicant’s first June renewal. ()

01. Fee Schedule.

	New	Active Renewal	Inactive Renewal	Late/ Reinstatement	Inactive to Active Fee
Veterinary License	\$275	\$175	\$50	\$200	\$150
Certified Veterinary Technician	\$125	\$75	\$25	\$50	\$50
Certified Euthanasia Agency	\$100	\$200	-	\$50	-
Certified Euthanasia Technician	\$100	\$100	-	\$50	-

()

02. Administrative Services.

Duplicate Wall License/Certificate	\$25
Veterinary License Verification	\$20

()

012. CONTINUING EDUCATION.

A veterinarian and certified veterinary technician renewing a license shall report fifteen (15) hours of completed continuing education to the Board. ()

013. -- 099. (RESERVED)

100. CERTIFICATION OF VETERINARY TECHNICIANS.

01. Certificate Required. Any person representing themselves as a veterinary technician, licensed veterinary technician, registered veterinary technician, or certified veterinary technician, shall hold a valid, unexpired certificate to practice veterinary technology in Idaho. ()

02. Application for Certification -- Contents -- Examinations. An individual desiring to be certified as a veterinary technician shall make written application to the Board upon a form furnished by the Board. A complete application is valid for a period of one (1) year, contain the applicant's notarized signature, and include: ()

a. A copy of a birth certificate or current passport proving that the applicant is eighteen (18) years of age or older. ()

b. Documentation of education/training/experience as follows: ()

i. A certified copy of a diploma or transcript, or a letter verifying graduation from a veterinary technology program, accredited by the American Veterinary Medical Association; ()

ii. A certified copy of a diploma or transcript, or a letter verifying the award of a D.V.M. or V.M.D. degree or equivalent, from an accredited school of veterinary medicine; or ()

iii. If a foreign veterinary graduate, a letter from the Educational Commission for Foreign Veterinary ()

Graduates (ECFVG) certifying completion of the ECFVG program or a copy of the ECFVG certificate. ()

c. Verification of a criterion-referenced passing score reported by the Professional Examination Service or its designee, or by other designated test vendors or their designees approved by the American Association of Veterinary State Boards on the Veterinary Technician National Examination (VTNE) or other national examination approved by the American Association of Veterinary State Boards or its designated test vendor or by the Board. If such a score is not available, the passing score shall be as reported by the Professional Examination Service or its designee, or by other designated test vendors or their designees approved by the American Association of Veterinary State Boards or by the Board and shall be considered equal to or greater than one and five-tenths (1.5) standard deviation below the mean score of the examination. ()

i. The VTNE or other national examination approved by the American Association of Veterinary State Boards or its designated test vendor or by the Board may have been taken at any time. ()

ii. Scores for the VTNE or other national examination approved by the American Association of Veterinary State Boards or its designated test vendor or by the Board are to be provided to the Board by the Professional Examination Service or its designee or by other designated test vendors or their designees approved by the American Association of Veterinary State Boards. ()

d. A passing score for the jurisprudence examination, which should be ninety percent (90%) or such score as deemed appropriate by the Board. The jurisprudence examination, as prepared by the Board or its designee, may be taken more than once. ()

e. A completed application, other required documents, and first year's certification fee in the amount established by the Board shall be received at the Board office by the first day of January or June. All application and certification fees are nonrefundable. ()

101. -- 102. (RESERVED)

103. SUPERVISING VETERINARIANS.

01. Statement of Purpose. Veterinarians licensed under the provisions of Title 54, Chapter 21, Idaho Code, are responsible for all certified euthanasia technicians, certified veterinary technicians, veterinary assistants, or any others to whom they delegate the performance of acts pertaining to the practice of veterinary medicine. ()

02. A Supervising Veterinarian Shall: ()

a. Provide direct supervision for all procedures pertaining to the practice of veterinary medicine that are delegated to a certified veterinary technician, an assistant, or any others with the exception of: ()

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

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

iii. Emergency situations. In these situations, in order to stabilize the animal, the veterinarian, while en route to the location of the distressed animal, may prescribe treatment and delegate appropriate procedures pertaining to the practice of veterinary medicine under indirect supervision. ()

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

- c. Bear legal responsibility for the health, safety and welfare of the animal patient that the certified veterinary technician, assistant, or any others serves. ()
- d. Not delegate an animal health care task to an unqualified individual. ()
- e. Make all decisions relating to the diagnosis, treatment, management, and future disposition of an animal patient. ()
- f. Have examined the animal patient prior to the delegation of any animal health care task to a certified veterinary technician, or assistant. The examination of the animal patient shall be conducted at such times as acceptable veterinary medical practice dictates, consistent with the particular delegated animal health care task. ()
- g. Diagnose and perform operative dentistry, oral surgery, and teeth extraction procedures. Operative dentistry and oral surgery are considered to be any dental procedure which invades the hard or soft oral tissue including, but not limited to, a procedure that alters the structure of one (1) or more teeth or repairs damaged and diseased teeth, or the deliberate extraction of one (1) or more teeth. Operative dentistry and oral surgery do not include, removal of calculus, soft deposits, plaque, stains, floating to shape the teeth, or smoothing, filing or polishing of tooth surfaces above the gum line. ()

03. Limitations on Supervising Veterinarians. A supervising veterinarian shall not authorize a certified veterinary technician, an assistant, or anyone else, other than a licensed veterinarian to perform surgery, diagnosis, prognosis, prescribing, or operative dentistry/oral surgery. ()

104. GROUNDS FOR DISCIPLINE OF VETERINARY TECHNICIANS.

In addition to the provisions of Section 54-2118, Idaho Code, the Board may refuse to issue, renew, or reinstate the certification of a veterinary technician, or may deny, revoke, suspend, sanction, place on probation, or require voluntary surrender of the certification of a veterinary technician, or may impose other forms of discipline, and enter into consent agreements and negotiated settlements with certified veterinary technicians pursuant to the procedures set forth in Title 67, Chapter 52, Idaho Code, for provisions of Section 54-2115, Idaho Code, any of the following reasons: ()

01. Unethical or Unprofessional Conduct. Unethical or unprofessional conduct is conduct that includes, but is not limited to, any of the following: ()

a. Providing any procedure to an animal that constitutes the practice of veterinary medicine or veterinary technology and which has not been delegated by the supervising veterinarian, except in the case of an emergency as defined by Section 54-2103(16), Idaho Code; ()

b. Practicing veterinary technology in a manner that endangers the health and welfare of the patient or the public. A certified veterinary technician shall not practice veterinary technology if their ability to practice with reasonable skill and safety is adversely affected by reason of illness, excessive use of alcohol, drugs, narcotics, chemicals, or any other substance, or as a result of any mental or physical disability; ()

c. Gross ignorance, incompetence or inefficiency in the practice of veterinary technology as determined by, but not limited to, the practices generally and currently followed and accepted by persons certified to practice veterinary technology in Idaho and the current teaching at accredited programs in veterinary technology; ()

d. Intentionally performing a duty, task, or procedure in the field of veterinary technology for which the individual is not qualified; or ()

e. Engaging in conduct of a character likely to deceive or defraud the public. ()

02. Conviction of a Charge or Crime. Being found guilty, convicted, placed on probation, having entered a guilty plea that is accepted by the court, forfeiture of bail, bond or collateral deposited to secure a defendant's appearance, or having received a withheld judgment or suspended sentence by a court of competent

jurisdiction in Idaho or any other state of one (1) or more of the following: ()

a. Any felony, as defined by Title 18, Chapter 1, Idaho Code; or ()

b. Any other criminal act that in any way is related to the practice of veterinary technology as defined by Section 54-2103(47), Idaho Code. ()

03. Medical Incompetence. Medical incompetence in the practice of veterinary technology, which means lacking in sufficient medical knowledge or skills or both to a degree likely to endanger the health of patients. ()

04. Physical or Mental Incompetence. Physical or mental incompetence, which means the individual’s ability to practice veterinary technology with reasonable skill and safety is impaired by reason of illness, excessive use of alcohol, drugs, narcotics, chemicals or any other substance, or as a result of any physical or mental disability. ()

05. Malpractice or Negligence. Malpractice or negligence, in the practice of veterinary technology, which includes, but is not limited to: ()

a. Treatment in a manner contrary to accepted practices in veterinary technology and with injurious results; ()

b. Any professional misconduct or unreasonable lack of professional skill or fidelity in the performance of an act that is part of the practice of veterinary technology; ()

c. Performance of an act that is part of the practice of veterinary technology without adequate supervision; except in the case of an emergency as defined by Section 54-2103(16), Idaho Code; or ()

d. The negligent practice of veterinary technology, as determined by the standard of practice for the area, that results in injury, unnecessary suffering or death. ()

06. Cruelty to Animals. Cruelty to animals, including, but not limited to, the intentional and malicious infliction of pain, physical suffering, injury or death, performance of experimental treatments without the owner’s consent, deprivation of necessary sustenance, withholding of appropriate pain medications or levels of pain medications, or the administration of unnecessary procedures and treatment. Infliction of pain on any animal in self-defense, or to prevent physical harm to others, or in accordance with local custom and culture in moving, handling, treating, dehorning, castrating or performing other procedures on livestock, shall not be considered cruel or physically abusive unless done in an unnecessary or intentionally malicious manner. This provision does not alter Section 25-3514, Idaho Code. ()

07. Revocation, Suspension, Limitation or Subjection. The revocation, suspension, limitation, or subjection of a license, certificate or registration or any other disciplinary action by another state or U.S. jurisdiction or voluntary surrender of a license, certificate or registration by virtue of which one is licensed, certified or registered to practice veterinary technology in that state or jurisdiction on grounds other than nonpayment of the renewal fee. ()

08. Continuing Education. Failure to comply with the continuing education requirements outlined by Board rules. ()

09. Failure to Cooperate. ()

a. Failure of any applicant or certificate holder to cooperate with the Board during any investigation, even if such investigation does not personally concern the applicant or certificate holder. ()

b. Failure to comply with the terms of any order, negotiated settlement or probationary agreement of the Board. ()

c. Failure to comply with the terms for certification renewal or to timely pay certification renewal fees as specified by Section 010 of these rules. ()

10. Violation of Law, Rules or Order. Violating or attempting to violate, directly or indirectly, or assisting or abetting the violation or conspiracy to violate any of the provisions of the veterinary law or rules or a written order of the Board issued pursuant to Title 54, Chapter 21, Idaho Code. ()

105. -- 149. (RESERVED)

150. VALID VETERINARIAN/CLIENT/PATIENT RELATIONSHIP.

An appropriate veterinarian/client/patient relationship will exist when: ()

01. Responsibility. The veterinarian has assumed the responsibility for making medical judgements regarding the health of the animal and the need for medical treatment, and the client (owner or other caretaker) has followed the instructions of the veterinarian. ()

02. Medical Knowledge. There is sufficient knowledge of the animal by the veterinarian to initiate at least a general or preliminary diagnosis of the medical condition of the animal. This means that the veterinarian has seen the animal within the last twelve (12) months or is personally acquainted with the keeping and care of the animal, either by virtue of an examination of the animal, or by medically appropriate visits to the premises where the animals are maintained within the last twelve (12) months. ()

03. Availability. The practicing veterinarian or designate is readily available for follow-up in case of adverse reactions or failure of the regimen of therapy. ()

151. UNPROFESSIONAL CONDUCT.

Any violation of the Principles of the Veterinary Medical Ethics of the American Veterinary Medical Association, these rules, Chapter 21, Title 54, Idaho Code, constitutes unprofessional conduct. Unprofessional conduct includes, but is not limited to: ()

01. Unsanitary Methods or Procedures. Failure to apply sanitary methods or procedures in the treatment of any animal, contrary to Board rules. ()

02. Association with Illegal Practitioners. Includes, but is not limited to: ()

a. Having a professional relationship or connection with, lending one's name to, or otherwise aiding and abetting any illegal or unlicensed practice or practitioner of veterinary medicine and the various branches thereof; ()

b. Rendering professional service in association with a person who is not licensed; or ()

c. Sharing fees with any person, except a licensed veterinarian, for services actually performed. ()

03. False Testimony. Swearing falsely in any testimony or affidavits relating to, or in the course of, the practice of veterinary medicine, surgery or dentistry. ()

04. Gross Ignorance, Incompetence or Inefficiency. In determining gross ignorance, incompetence or inefficiency in the profession, the Board may take into account all relevant factors and practices including, but not limited to, the practices generally and currently followed and accepted by the persons licensed to practice veterinary medicine in Idaho, the current teaching at accredited veterinary schools, relevant technical reports published in recognized veterinary medical journals, and the desirability of reasonable experimentation in the furtherance of the art of veterinary medicine. ()

05. Improper Supervision. Includes, but is not limited to: ()

a. Permitting, allowing, causing or directing any individual to perform a duty, task or procedure that

they are not qualified to perform. ()

b. Providing, permitting, allowing, causing or directing any individual to perform inadequate anesthetic monitoring. Evidence of this monitoring shall be documented in written form and contained within the medical record. ()

06. Association with Others. Accepting fees from the providers of animal services or products when referring clients to such providers. ()

152. CODE OF PROFESSIONAL CONDUCT.

The Board's code of professional conduct includes, but is not limited to, the following standards of conduct. A veterinarian shall: ()

01. Veterinarian/Client/Patient Relationship. Not dispense or prescribe controlled substances, prescription or legend drugs except in the course of their professional practice and after a bona fide veterinarian/client/patient relationship as defined by Section 150 of these rules has been established. ()

02. Health Certificate. Not issue a certificate of health unless they have personal knowledge by means of actual examination and appropriate testing of the animal that the animal meets the requirements for issuance of such a certificate. ()

03. DEA and Controlled Substance Registration. Notify the Board of the suspension, revocation, or voluntary surrender of their federal Drug Enforcement Administration (DEA) registration and their state controlled substance registration. ()

04. Ability to Practice. Not practice veterinary medicine as to endanger the health and welfare of their patients or the public. A veterinarian shall not practice veterinary medicine if their ability to practice with reasonable skill and safety is adversely affected by reason of illness, excessive use of alcohol, drugs, narcotics, chemicals, or any other substance or as a result of any mental or physical disability. ()

05. Conflicting Interests. Not represent conflicting interests except by the express consent of all the parties after full disclosure of all the facts. A conflict of interest includes, but not be limited to, accepting a fee from a buyer to inspect an animal for soundness and accepting a fee from the seller. ()

06. Confidentiality. Maintain a confidential relationship with their clients, except as otherwise provided by law or required by considerations related to public health and animal health. ()

a. The information contained in veterinary medical records is considered confidential. It is unethical for a veterinarian to release this information except by court order or consent of the patient's owner or other caretaker at the time treatment was rendered. ()

b. Without express permission of the practice owner, it is unethical for a veterinarian or certified veterinary technician to remove, copy, or use the medical records or any part of any record belonging to the practice or its owner for any purpose other than the business of the practice. ()

07. Physical Abuse-Patient. Not physically abuse a patient or fail to conform to the currently accepted standards of care in the veterinary profession for any animal under their care. ()

08. Preservation of Patient's Body. Where possible preserve for twenty-four (24) hours the body of any patient that dies while in the veterinarian's care until the owner can be contacted, except as otherwise provided by law. The time of contact or attempted contact with the owner shall be documented in the medical record. The veterinarian is allowed to use the usual manner of disposal if the owner has not made pick-up arrangements within twenty-four (24) hours of the documented contact time. ()

09. Consent for Transporting. Obtain written consent from a patient's owner or other caretaker before transporting a patient to another facility for veterinary medical care or any other reason, unless circumstances qualifying as an emergency do not permit obtaining such consent. ()

10. Refusal to Render Services. Have the right to refuse to render veterinary medical services for any reason, or refuse an owner’s request to euthanize a healthy or treatable animal. ()

153. STANDARDS OF PRACTICE.

Veterinarians shall adhere to the standards of practice including, but not limited to: ()

01. Practice Procedures. A licensed veterinarian shall exercise at least the same degree of care, skill, and diligence in treating patients that is ordinarily used in the same or similar circumstances by members of the veterinary medical profession of similar training and experience in the community in which he practices. ()

02. Immunization. When the primary objective is to protect the patient’s health and a professionally acceptable immunization procedure is being sought, an examination of the animal by the veterinarian is required prior to each and every immunization procedure, unless the animal has been examined in the last ninety (90) days, except in the practice of large animal medicine where mass immunizations of animal herds is involved or when immunization is performed by the patient’s owner. For the purpose of this subsection, the definition of “owner” in addition to ownership as defined by the laws of the ownership of property, non-profit organizations dedicated to the care and treatment of animals is considered the owners of animals in their custody if such organizations are the primary care giver for the animal or if the true owner of such animal cannot be immediately determined. ()

03. Relationship. A veterinarian shall establish a valid veterinarian/client/patient relationship prior to dispensing, using, prescribing, or selling any controlled substance or legend drug, or the prescribing of an extra-label use of any drug. ()

04. Dispense and Distribute in Good Faith. A veterinarian dispensing or distributing any drug or medicine will dispense or distribute such drug or medicine in good faith, within the context of a valid veterinarian/client/patient relationship and will, except in the case of any drugs and medicines that are in containers that bear a label of the manufacturer with information describing their contents and that are labeled indicating: ()

- a. The date on which such drug is dispensed; ()
- b. The name of the owner and patient; ()
- c. The name or initials of the person dispensing such drug; ()
- d. Directions for use, including dosage and quantity; and ()
- e. The proprietary or generic name of the drug. ()

05. Anesthesia Standards. All anesthetized animals shall be appropriately monitored and under supervision. ()

154. RECORD KEEPING STANDARDS.

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

01. Medical Records. Medical records shall include, but not be limited to: ()

- a. Name, address and phone number of the animal’s owner or other caretaker. ()
- b. Name and description, sex (if readily determinable), breed and age of animal; or description of group. ()

- c. Dates (beginning and ending) of custody of the animal. ()
- d. A short history of the animal’s condition as it pertains to the animal’s medical status. ()
- e. Results and notation of each examination, including the animal’s condition and diagnosis suspected. ()
- f. All medications, treatments, prescriptions or prophylaxis given, including amount, frequency, and route of administration for both inpatient and outpatient care. ()
- g. Diagnostic and laboratory tests or techniques utilized, and results of each. ()
- h. All anesthetized animals shall be appropriately monitored and under supervision at all times. Evidence of this monitoring shall be documented in writing in the medical record. ()

02. Consent Forms. Consent forms, signed by the patient’s owner or other legal caretaker for each surgical or anesthesia procedure requiring hospitalization or euthanasia, shall be obtained, except in emergency situations, for each animal and be maintained on file with the practitioner. ()

03. Postoperative Instructions. Postoperative home-care instructions shall be provided in writing and be noted in the medical record. ()

04. Treatment Records. Veterinarians who practice with other veterinarians shall indicate by recognizable means on each patient’s or animal group’s medical record any treatment the veterinarian personally performed and which treatments and procedures were delegated to a technician or assistant to perform. The patient’s record must also include a notation indicating when the animal was handed-off to another veterinarian or a treatment or procedure delegated to a technician or assistant along with a summary of the animal’s condition and diagnosis at the time of the hand-off. ()

05. Ownership of Medical Records. Medical records are the personal property of the hospital or the proprietor of the practice that prepares them. Other veterinarians, including those providing subsequent health needs for a patient, and the patient’s owner may receive a copy of the patient’s medical record, upon the request of the patient’s owner or other caretaker. Records shall be supplied within three (3) business days, counting the day of the request if a business day. ()

06. Diagnostic Image Identification and Ownership. All diagnostic images shall be labeled in the emulsion film or digitally imprinted to identify the veterinarian or premise, the patient, the owner, the date, and anatomical orientation. A diagnostic image is the physical property of the hospital or the proprietor of the practice that prepares it, and it shall be released upon the request of another veterinarian who has the authorization of the owner of the animal to whom it pertains or to the Board. Such diagnostic images shall be returned within a reasonable time to the veterinarian who originally ordered them to be prepared. ()

07. Estimates. A veterinarian shall make available to each client a written estimate on request. ()

155. -- 199. (RESERVED)

200. COMMITTEE ON HUMANE EUTHANASIA.

Pursuant to Section 54-2105(8), Idaho Code, a Committee on Humane Euthanasia (COHE) is established and consists of no fewer than five (5) members appointed by the Board. At its discretion, the Board may appoint itself as the COHE. New members will 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) and employed by a certified euthanasia agency or be a veterinarian ()

01. Term. Each member may 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

confirm a successor to fill the unexpired term. ()

02. Duties. The duties of COHE members include, but are not limited to, the following: ()

a. Coordinate and provide euthanasia training classes as needed. ()

b. Inspect and certify agencies. ()

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). ()

d. Conduct written and practical examinations for applicants applying for certification and authorize certification through the Board. ()

e. Recommend suspension or revocation of a certification when necessary. ()

201. METHODS OF EUTHANASIA AND PRE-EUTHANASIA SEDATION.

Methods approved by the COHE and used for the purpose of humanely euthanizing and sedating sick, homeless, or unwanted pets and animals: ()

01. Euthanasia Drugs. Any Schedule II non-narcotic or Schedule III non-narcotic euthanasia drug covered by the Controlled Substances Act that has first been approved in writing by the COHE and the Board. A list of approved euthanasia drugs is on file at the Board office. ()

02. Pre-Euthanasia Sedation Drugs. Any Schedule III or Schedule IV narcotic or non-narcotic controlled substance as defined by the Controlled Substances Act, or other legend drugs that have been approved for use by CEAs or CETs at a CEA facility. Such pre-euthanasia sedation drugs shall be limited to those approved in writing by the COHE and the Board. A list of approved pre-euthanasia sedation drugs is on file at the Board office. ()

202. PROCUREMENT AND ADMINISTRATION OF APPROVED DRUGS.

In order for a certified euthanasia agency to obtain approved drugs for euthanizing animals and a certified euthanasia technician to administer such drugs, the following procedure shall be followed: ()

01. DEA Registration. A certified euthanasia agency (CEA) shall appoint a person who will be responsible for ordering the approved drugs and who shall submit an application for the agency's registration as a Euthanasia Agency Practitioner-A.S. to the Drug Enforcement Agency (DEA). The CEA shall also designate a certified euthanasia technician (CET) who will be responsible for the security of the agency's approved drugs. ()

02. Controlled Substance Registration. Each CET employed by the agency shall apply for a controlled substance registration from the Idaho Board of Pharmacy under their individual name and using the CEA's DEA registration number. ()

03. Purchase of Approved Drugs. After the certified euthanasia agency has received a DEA registration number and the CETs at that agency have received their Idaho Board of Pharmacy controlled substance registrations, the designated individual for the agency may on behalf of the agency purchase approved drugs for storage at the CEA location. Approved drugs shall only be obtained from a drug wholesaler. ()

04. Administration of Approved Drugs. Certified euthanasia technicians employed by certified euthanasia agencies and registered with the Idaho Board of Pharmacy may perform euthanasia by the administration of approved drugs. ()

203. (RESERVED)

204. CERTIFIED EUTHANASIA AGENCY.

A certified euthanasia agency is a law enforcement agency, an animal control agency, a humane society, or an animal shelter that has been inspected and certified by the COHE or the Board, Section 54-2103(8), Idaho Code. In order to be certified to purchase and store approved drugs, certified euthanasia agencies shall be inspected by the COHE or the Board and shall meet the following criteria: ()

01. Approved Drugs. ()

a. Each agency will maintain a current written list of CET(s). ()

b. Access to the approved drugs in a locked drug storage cabinet will be limited to licensed veterinary supervisors and assigned CET. Such persons will be responsible for the security of the approved drugs and allow withdrawal of the approved drugs only to a person certified by the Board and registered with the Idaho Board of Pharmacy to administer such drugs. ()

c. All approved drugs shall be prepared according to the manufacturer’s instructions. ()

d. Needles and syringes will be of medical quality and will not be reused. ()

02. Proper Labeling. Upon removal from the shipment carton, each individual container of an approved drug will be labeled with the drug name and strength, the date the drug was prepared, a drug hazard warning label and the name and address of the agency owning the drug. ()

03. Temporary Storage. When a CET is on duty and when animals are being euthanized throughout the workday, approved drugs may be kept in a temporary locked drug storage cabinet. The key to this cabinet shall be secured by a licensed veterinary supervisor or the lead CET designated on the DEA controlled substance registration, and made available to the CET(s) performing euthanasia that day. ()

04. Record Keeping. Proper record keeping of approved drugs shall include the following: ()

a. Shipment records showing receipt of the approved drugs shall be maintained and include all information required by federal law, the date the shipment was received, the amount, the source, and the invoice number. ()

b. Administration records showing the date an approved drug was: ()

i. Administered; ()

ii. Weight and species of animal; ()

iii. Dosage of each drug administered for pre-euthanasia sedation, euthanasia, and remote chemical capture restraint; ()

iv. Identification of the person who dispensed the approved drugs; and, if applicable; ()

v. Identification of the veterinarian or CET who supervised the dispensing shall be maintained. ()

c. Records of wastage shall be maintained and signed by the CET administering the approved drug and the CET responsible for security. ()

d. A weekly record of the approved drugs on hand, minus the amounts withdrawn for administration, signed by the CET responsible for security. ()

e. Disposal records of any expired or unwanted approved drugs shall be maintained. ()

f. All records shall be filed in chronological order in a binder that is labeled with the name of the agency and be kept for a period of three (3) years. ()

- 05. Proper Sanitation.** The euthanasia area shall be clean and regularly disinfected. ()
- 06. Other Site Conditions.** ()
- a.** Each agency shall have a specific area designated for euthanasia that is a separate room or area that is not used for any other purpose while animals are being euthanized: ()
- b.** The euthanasia area shall have a table or other work area where animals can be handled, and a cabinet, table or work bench where the drugs, needles, syringes and clippers can be placed. ()
- c.** The following items and materials shall either be kept in the euthanasia area or brought to the area each time an animal is euthanized: ()
- i.** A first aid kit that meets minimum first aid supply standards; ()
- ii.** One (1) or more tourniquets; ()
- iii.** Standard electric clippers with No. 40 blade; ()
- iv.** Animal control stick for dogs and animal net for cats (if the agency handles cats); ()
- v.** Stethoscope; ()
- vi.** Disinfectant. ()
- vii.** The current certification cards for the CEA and all CETs working at the CEA, which shall be kept together. The CEA is strongly encouraged to keep all DEA and Idaho Board of Pharmacy registration cards together with the certification cards. ()
- d.** All equipment shall be in good working order. ()
- 07. Equipment Stored.** All equipment shall be stored so that it does not create a safety hazard for the personnel. ()
- 08. Certification Renewal.** Certifications may be renewed upon successful completion of a facility inspection by a COHE member, a member of the Board or other individual appointed by the COHE and payment of the annual renewal fee. ()

205. CERTIFIED EUTHANASIA TECHNICIAN.

- 01. Training and Examinations.** The COHE or the Board will develop training sessions, materials, and a written examination. ()
- 02. Certification Standards.** Applicants for certification as a CET shall be eighteen (18) years of age or older and demonstrate proficiency in compliance with the following standards: ()
- a.** Demonstrate competency in euthanasia techniques in the presence of a COHE or Board member, or a person approved by the Board: ()
- i.** CETs are fully responsible for all actions that take place in the euthanasia area when an animal is brought to the area including, but not limited to, animal handling, use of the proper restraint technique, the proper drug dosage, and drug handling; ()
- ii.** CETs shall be able to competently perform intravenous injections on dogs and intraperitoneal injections on both dogs and cats. Intravenous injections on cats shall not be required as part of the certification process, but when performed, meet the standards listed in Subparagraph 205.02.a.ii.(1) of these rules. Intracardiac

injections on dogs and cats shall not be required as part of the certification process, but when performed, are restricted to the limitations listed in Subparagraph 205.02.a.ii.(3) of these rules. ()

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

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

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

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

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

b. Demonstrate proper record keeping. A record of all approved drugs received and used by the agency shall be kept containing the following information: ()

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

ii. An entry of the date that a new bottle of any approved drug is opened and the volume of the bottle, signed by the CET responsible for security; ()

iii. The species and approximate weight of each animal administered a drug; ()

iv. The amount of the drug that was administered; ()

v. The date the drug was administered; ()

vi. The signature of the CET who administered the drug; ()

vii. A record of the amount of the drug wasted, if any, signed by the CET administering the drug and the CET responsible for security; and ()

viii. A record of any disposal of expired or unwanted approved drugs, other chemical agent or the containers, instruments and equipment used in their administration, signed by the CET and disposed of in accordance with the Idaho Board of Pharmacy law and rules and the Code of Federal Regulations. ()

c. Demonstrate understanding and concern for the needs and humane treatment of individual animals: ()

i. All animals shall be handled in a manner that minimizes stress to the animal and maximizes the personal safety of the CET and the handler. Each animal shall be handled with the least amount of restraint necessary, but human safety is always the primary concern. Handling includes all aspects of moving an animal from one (1) area to another; ()

ii. The use of control sticks and other similar devices shall be limited to fractious or potentially

dangerous animals; and ()

iii. Animals shall not be placed in cages or kennels with other breeds or species that are incompatible with the animal in question or be overcrowded in a cage or kennel. ()

d. Demonstrate ability to verify death. The animal should become unconscious and show terminal signs within sixty (60) minutes of drug administration. If any animal does not show any of these signs within the designated time period, the CET shall re-administer the drug. An animal that has received an approved drug orally may be injected with the same or another approved drug after it has become unconscious. Verification is the responsibility of the CET and shall be made by physical examination of the individual animal. One (1) of the following two (2) standards for death shall be met: ()

i. Rigor mortis; or ()

ii. Complete lack of heartbeat (as checked with a stethoscope), complete lack of respiration, and complete lack of corneal and palpebral reflexes. ()

e. Demonstrate ability to communicate with handlers during the euthanasia process. ()

03. Certification. ()

a. An individual shall not be certified as a CET until such time as he has successfully passed a euthanasia written examination, a practical or clinical examination, and an Idaho euthanasia jurisprudence examination. ()

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

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

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

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

f. An individual who has not passed the written examination may not serve as a euthanasia technician. ()

g. An individual who attends a training session and passes the written examination but fails the practical examination may serve on probation until he has been re-examined. If the individual fails to pass the practical examination a second time and wishes to apply again, the individual shall attend the next regular training

session and written examination. ()

h. Upon termination from an agency as defined in Section 204 of these rules, a CET’s certification immediately becomes invalid and the CET shall not perform animal euthanasia until employed by another certified euthanasia agency, at which time the certification may be reinstated. ()

i. The agency shall notify the Board office in writing within thirty (30) days from the date the CET’s employment at that agency is terminated. ()

j. If a CET is employed again by a CEA prior to the expiration of their certification, the CEA employer may request reinstatement of the CET’s certification. If a CET has not attended a euthanasia training in the three (3)-year period preceding recertification, the CET may not be recertified and will need to reapply for certification, at COHE discretion. ()

k. All certifications expire on July 1 of each year. ()

04. Certification Renewal. Certifications may be renewed each year by payment of the annual renewal fee, provided that, every third year following the date of certification, the CET will need to attend a euthanasia training and pay the current training and certification fee prescribed by Section 014 of these rules. ()

05. Duties. The duties of a CET include, but are not limited to: ()

a. Preparing animals for euthanasia; ()

b. Accurately recording the dosages for drugs that are administered and amounts for drugs wasted; ()

c. Ordering supplies; ()

d. Maintaining the security of all controlled substances and other approved drugs; ()

e. Directly supervising probationary CET; ()

f. Reporting to the Board violations or suspicions of a violation of these rules or any abuse of drugs; ()

g. Humanely euthanizing animals; and ()

h. Proper and lawful disposal of euthanized animals and expired or unwanted drugs, other chemical agent or the containers, instruments and equipment used in the administration of approved drugs. ()

206. GROUNDS FOR DISCIPLINE -- CEAS AND CETs.

The Board may refuse to issue, renew, or reinstate the certification of a CEA or CET, or may deny, revoke, suspend, sanction, place on probation, or require voluntary surrender of the certification of a CEA or CET, impose other forms of discipline, and enter into consent agreements and negotiated settlements with CEAs and CETs pursuant to the procedures set forth in Title 67, Chapter 52, Idaho Code, for any of the following reasons: ()

01. Failure to Carry Out Duties. Failure to carry out the duties of a CEA or CET. ()

02. Abuse of Chemical Substances. Abuse of any chemical substance by: ()

a. Selling or giving chemical substances away; or ()

b. Stealing chemical substances; or ()

c. The diversion or use of any chemical substances for other than legitimate euthanasia purposes; or

- ()
- d. Abetting anyone in the foregoing activities. ()
- 03. Euthanizing of Animals Without Proper Supervision.** Allowing uncertified individuals or probationary CETs to euthanize animals or personally euthanizing animals without proper supervision. ()
- 04. Administration of Approved Drugs Without Proper Supervision.** Allowing uncertified individuals or probationary CETs to administer approved drugs or personally administering approved drugs without proper supervision. ()
- 05. Euthanizing of Animals Without Proper Certification.** Allowing individuals or probationary CETs to euthanize animals or personally euthanizing animals without being properly certified to do so. ()
- 06. Fraud, Misrepresentation, or Deception.** The employment of fraud, misrepresentation of a material fact, or deception by an applicant or certificate holder in securing or attempting to secure the issuance or renewal of a certificate. ()
- 07. Unethical or Unprofessional Conduct.** Unethical or unprofessional conduct means to knowingly engage in conduct of a character likely to deceive or defraud the public and includes, but is not limited to: ()
- a. Working in conjunction with any agency or person illegally practicing as a CEA or CET; ()
- b. Failing to provide sanitary facilities or apply sanitary procedures for the euthanizing of any animal; ()
- c. Euthanizing animals in a manner that endangers the health and welfare of the public. A CET shall not euthanize animals if their ability to practice with reasonable skill and safety is adversely affected by reason of illness, excessive use of alcohol, drugs, narcotics, chemicals, or any other substance or as a result of any mental or physical disability; ()
- d. Gross ignorance, incompetence or inefficiency in the euthanizing of animals as determined by, but not limited to, the practices generally and currently followed and accepted by persons certified to practice as CETs in Idaho; ()
- e. Intentionally performing a duty, task or procedure involved in the euthanizing of animals for which the individual is not qualified; and ()
- f. Swearing falsely in any testimony or affidavits relating to practicing as a CEA or CET. ()
- 08. Conviction of Violating Any Federal or State Statute, Rule or Regulation.** Conviction of a charge of violating any federal or state statute or rule or regulation regulating narcotics, dangerous drugs or controlled substances. ()
- 09. Conviction of a Charge or Crime.** Being found guilty, convicted, placed on probation, having entered a guilty plea that is accepted by the court, forfeiture of bail, bond or collateral deposited to secure a defendant's appearance, or having received a withheld judgment or suspended sentence by a court of competent jurisdiction in Idaho or any other state of one (1) or more of the following: ()
- a. Any felony, as defined by Title 18, Chapter 1, Idaho Code; or ()
- b. Any crime constituting or having as an element the abuse of any drug, including alcohol. ()
- c. Any other criminal act that in any way is related to practicing as a CEA or CET as defined by Section 54-2103(8) and (9), Idaho Code. ()

10. Improper Record Keeping. Failure to follow proper record keeping procedures as outlined in Board rules. ()

11. Improper Security for Approved Drugs. Failure to provide and maintain proper security for approved euthanasia and restraint drugs as outlined in Board rules. ()

12. Improper Storage of Equipment and Approved Drugs. Failure to properly store equipment or approved drugs as outlined in Board rules. ()

13. Improper Disposal of Approved Drugs and Equipment. Failure to properly dispose of approved drugs and the containers, instruments and equipment used in their administration as outlined in Board rules. ()

14. Improper Labeling of Approved Drugs. Failure to properly label approved euthanasia and restraint drugs as outlined by Board rules. ()

15. Revocation, Suspension, Limitation or Restriction. The revocation, suspension, limitation, or restriction of a license, certificate or registration or any other disciplinary action by another state or U.S. jurisdiction or voluntary surrender of a license, certificate or registration by virtue of which one is licensed, certified or registered to practice as a CEA or CET in that state or jurisdiction on grounds other than nonpayment of the renewal fee. ()

16. Failure to Cooperate. ()

a. Failure of any applicant or certificate holder to cooperate with the Board during any investigation, even if such investigation does not personally concern the applicant or certificate holder; or ()

b. Failure to comply with the terms of any order, negotiated settlement, or probationary agreement of the Board; or ()

c. Failure to comply with the terms for certification renewal or to timely pay certification renewal fees. ()

17. Aiding and Abetting. Knowingly aiding or abetting an uncertified agency or person to practice as a CEA or CET. ()

18. Current Certification. Practicing as a CEA or CET without a current certification. ()

19. Improper Drug Preparation. Preparing approved drugs, contrary to manufacturer’s instructions. ()

20. Violation of any Law, Rules or Orders. Violating or attempting to violate, directly or indirectly, or assisting or abetting the violation or conspiracy to violate any provisions of the veterinary law and rules or a written order of the Board issued pursuant to Title 54, Chapter 21, Idaho Code, the Idaho Board of Pharmacy law and rules, or the Code of Federal Regulations. ()

207. INSPECTION DEFICIENCIES.

If there are inspection deficiencies with either a CEA or CET, a COHE member or the Board will document in writing areas for correction. The CEA or CET, or both, shall make corrections within the time period specified in the notice of deficiency, and correction will be verified by a COHE or Board member as recorded on the deficiency documentation. If the deficiency has not been corrected, the certification may be revoked by the Board, and the Idaho Board of Pharmacy will be notified. ()

208. -- 999. (RESERVED)