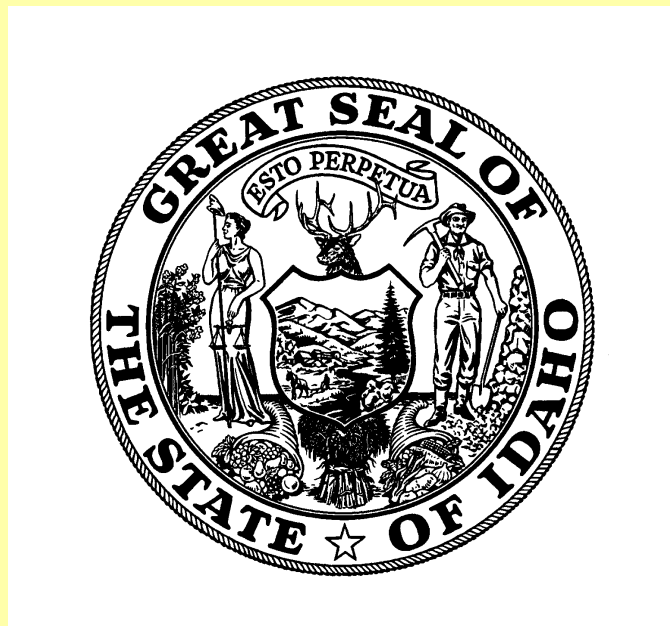


PENDING RULES COMMITTEE RULES REVIEW BOOK

**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

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IDAPA 02 – DEPARTMENT OF AGRICULTURE
02.02.02 – RULES GOVERNING APPLE GRADING AND STORAGE
DOCKET NO. 02-0202-2201 (ZBR CHAPTER REWRITE)
NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

[LINK: LSO Rules Analysis Memo](#)

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2023 Idaho State Legislature for final approval. The pending rule becomes final and effective upon the conclusion of the legislative session, unless the rule is approved or rejected in part by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 22-702, 22-802, and 22-803, 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. No negative comments were submitted as part of this rulemaking process.

ISDA is required under 22-802, Idaho Code, to publish apple grades in a publication of regulations. Apple growers are then required to follow these grading regulations in the marketing of their produce.

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 19-27](#).

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 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 02.02.02, Subchapter B – Controlled Atmosphere Storage, in its entirety, regulates 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 rule, contact Jared Stuart, Administrator, Division of Agricultural Inspection, at (208) 332-8500 or jared.stuart@isda.idaho.gov.

DATED this October 5, 2022.

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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 22-702, 22-802, and 22-803, 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. No negative comments were submitted as part of this rulemaking process.

ISDA is required under 22-802, Idaho Code, to publish apple grades in a publication of regulations. Apple growers are then required to follow these grading regulations in the marketing of their produce.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: There is no fee associated with this rule.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking: There is no fiscal impact 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 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 02.02.02, Subchapter B – Controlled Atmosphere Storage, in its entirety, regulates 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. 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:

United States Standards for Apples. This rule incorporates CFR Title 7 Subtitle B Chapter I Subchapter C Part 51, Subpart B: <https://www.ecfr.gov/current/title-7/subtitle-B/chapter-I/subchapter-C/part-51/subpart-B>; published Nov. 19, 2002.

Incorporating these standards ensures that the produce grown in Idaho is eligible for and consistent with grading and marketing of apples grown nationwide.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Jared Stuart, Administrator, Division of Agricultural Inspection, at (208) 332-8500 or jared.stuart@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 DOCKET NO. 02-0202-2201

02.02.02 – RULES GOVERNING APPLE GRADING AND STORAGE

000. LEGAL AUTHORITY.

Sections 22-702, 22-802, and 22-803 Idaho Code. ()

001. SCOPE.

These rules govern the criteria and grades for Idaho Apples and Idaho Summer Apples, including color requirements, defects, tolerances, packing, and marking. These rules also govern registration requirements and prescribe the maximum oxygen levels for sealed controlled atmosphere storage of apples. ()

002. -- 008. (RESERVED)

009. INCORPORATION BY REFERENCE.

01. United States Standards for Apples. This rule incorporates CFR Title 7 Subtitle B Chapter I Subchapter C Part 51, Subpart B: <https://www.ecfr.gov/current/title-7/subtitle-B/chapter-I/subchapter-C/part-51/subpart-B>; published Nov. 19, 2002. ()

010. DEFINITIONS.

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

01. Carefully Hand-Picked. Apples do not show evidence of rough handling or of having been on the ground. ()

02. Lot. Any group of containers of apples from one (1) grower or orchard and of one (1) variety and that is set apart or is separate from any other group or groups by some evidence such as a lot number or similar mark of identification. ()

03. Packer or Repacker. A person other than an owner or operator of a controlled atmosphere storage plant who removes apples from the containers in which they were treated and places them into other containers or replaces them into the original containers. ()

011. -- 119. (RESERVED)

SUBCHAPTER A – APPLE GRADES

120. GRADES.

01. Idaho Extra Fancy. “Idaho Extra Fancy” consists of apples of one (1) variety that are mature but not overripe except that Red Delicious and Delicious are not further advanced in maturity than “Firm ripe”. All “Idaho Extra Fancy” apples are to be carefully hand-picked, clean, fairly well formed; free from decay, internal browning, internal breakdown, scald, bitter pit, scab, Jonathan spot, freezing injury, visible water core, and broken skins and bruises except those that are slight and incident to proper handling and packing. The apple is also free from injury caused by smooth net-like russetting, sunburn or sprayburn, limb rubs, hail, drought spots, scars, disease, insects, or other means; and free from damage by smooth solid, slightly rough or rough russetting, or stem or calyx cracks, and free from damage by invisible water core after January 31st of the year following the year of production. Each apple of this grade has the amount of color specified in US Standards for Grades of Apples. ()

02. Idaho Fancy. “Idaho Fancy” consists of apples of one (1) variety that are mature but not overripe except that Red Delicious and Delicious are not further advanced in maturity than “Firm ripe”. All “Idaho Fancy” apples shall be carefully hand-picked, clean, fairly well formed; free from decay, internal browning, internal breakdown, bitter pit, Jonathan spot, scald, freezing injury, visible water core, and broken skins and bruises except those that are incident to proper handling and packing. The apples are also free from damage caused by russetting, sunburn or sprayburn, limb rubs, hail, drought spots, scars, stem or calyx cracks, disease, insects, invisible water core after January 31st of the year following the year of production, or damage by other means. Each apple of this grade has the amount of color specified in US Standards for Grades of Apples. ()

03. Idaho No. 1. The requirements of this grade are the same as for “Idaho Fancy” except for color, russetting, and invisible water core. In this grade less color is required for all varieties with the exception of the yellow and green varieties other than Golden Delicious. Apples of this grade are free from excessive damage caused by russetting, which means that apples meet the russetting requirements for “Idaho Fancy” as defined under the definitions of “damage by russetting,” except the aggregate area of an apple that may be covered by smooth net-like russetting does not exceed twenty-five percent (25%); and the aggregate area of an apple that may be covered by smooth solid russetting does not exceed ten percent (10%): Provided, that in the case of the Yellow Newtown or similar varieties the aggregate area of an apple that may be covered with smooth solid russetting. This grade has the amount of color specified in US Standards for Grades of Apples. for the variety. There is no requirement in this grade pertaining to invisible water core. ()

a. Idaho No. 1 Hail consists of apples that meet the requirements of Idaho No. 1 grade except that hail marks where the skin has not been broken, and well healed hail marks where the skin has been broken, are permitted, provided the apples are fairly well formed. ()

04. Idaho Utility. “Idaho Utility” consists of apples of one (1) variety that are mature but not overripe, carefully hand-picked, not seriously deformed, free from decay, internal browning, internal breakdown, scald, and freezing injury. The apples are also free from serious damage caused by dirt or other foreign matter, broken skins, bruises, russetting, sunburn or sprayburn, limb rubs, hail, drought spots, scars, stem or calyx cracks, visible water

core, disease, insects, or other means. ()

05. Combination Grades. ()

a. Combinations of the above grades may be used as follows: ()

i. Combination Idaho Extra Fancy and Idaho Fancy; ()

ii. Combination Idaho Fancy and Idaho No. 1; ()

iii. Combination Idaho No. 1 and Idaho Utility; ()

b. Combinations other than these are not permitted in connection with the Idaho apple grades. When combination grades are packed, at least fifty percent (50%) of the apples in any lot will meet the requirements of the higher grade in the combination. ()

121. UNCLASSIFIED DESIGNATION.

“Unclassified” consists of apples that have not been classified in conformity with any of the foregoing grades. The term “unclassified” is not a grade within the meaning of these standards, but is provided as a designation to show that no definite grade has been applied to the lot. ()

122. TOLERANCES.

In order to allow for variations incident to proper grading and handling in each of the foregoing grades, the following tolerances are provided as specified: ()

01. Defects. ()

a. Idaho Extra Fancy, Idaho Fancy, Idaho No. 1, Idaho No. 1 Early and Idaho No. 1 Hail grades: Ten percent (10%) of the apples in any lot may fail to meet the requirements of the grade, but not more than one-half (1/2) of this amount, or five percent (5%), is allowed for apples that are seriously damaged, including therein not more than one percent (1%) for apples affected by decay or internal breakdown. ()

b. Idaho Utility grade: Ten percent (10%) of the apples in any lot may fail to meet the requirements of the grade, but not more than one-half (1/2) of this amount, or five percent (5%), is allowed for apples that are seriously damaged by insects, and including in the total tolerance not more than one percent (1%) for apples affected by decay or internal breakdown. ()

02. Applying Tolerances to Combination Grades. When applying tolerances to combination grades, no part of any tolerance is allowed to reduce, for the lot as a whole, the fifty percent (50%) of apples of the higher grade required in the combination but individual containers will not have less than forty percent (40%) of the higher grade. ()

03. Size. When size is designated by the numerical count for a container, not more than five percent (5%) of the apples in the lot may vary more than one fourth (1/4) inch in diameter. When size is designated by minimum or maximum diameter, not more than five percent (5%) of the apples in any lot may be smaller than the designated minimum and not more than ten percent (10%) may be larger than the designated maximum. ()

04. Firmness. Not more than five percent (5%) of the apples in any lot of Red Delicious and Delicious varieties can be further advanced in maturity than “Firm ripe” as defined in Subsection 010.05.c. Provided, the Idaho No. 1, Idaho No. 1 Hail, and Idaho Utility grades are exempt from this requirement. ()

123. CALCULATION OF PERCENTAGES.

01. When Numerical Count is Marked On Container. Percentages are calculated on the basis of count. ()

02. When Minimum Diameter or Minimum and Maximum Diameters are Marked on Container.

Percentages are calculated on the basis of weight. ()

03. Apples are in Bulk. Percentages are calculated on the basis of weight. ()

124. CONDITION AFTER STORAGE OR TRANSIT.

Decay, scald, or any other deterioration that may have developed on apples after they have been in storage or transit are considered as affecting condition and not the grade. ()

125. -- 129. (RESERVED)

130. SCORABLE DEFECTS.

01. Injury. Any specific defect defined in this subsection or an equally objectionable variation of any one (1) of these defects, any other defect, or any combination of defects, that more than slightly detracts from the appearance or the edible or shipping quality of the apple. The following specific defects are considered as injury: ()

a. Russeting in the stem cavity or calyx basin that cannot be seen when the apple is placed stem end or calyx end down on a flat surface, is not considered in determining whether or not an apple is injured by russeting. Smooth net-like russeting outside of the stem cavity or calyx basin is considered as injury when an aggregate area of more than ten percent (10%) of the surface is covered, and the color of the russeting shows no very pronounced contrast with the background color of the apple, or lesser amounts of more conspicuous net-like russeting when the appearance is affected to a greater extent than the above amount permitted. ()

b. Sunburn or sprayburn, when the discolored area does not blend into the normal color of the fruit. ()

c. Dark brown or black limb rubs that affect a total area of more than one-fourth (1/4) inch in diameter, except that light brown limb rubs of a russet character are considered under the definition of injury by russeting. The area refers to that area of a circle of the specified diameter. ()

d. Hail marks, drought spots, other similar depressions or scars. ()

i. When the skin is broken, whether healed or unhealed; ()

ii. When there is appreciable discoloration of the surface; ()

iii. When any surface indentation exceeds one-sixteenth (1/16) inch in depth; ()

iv. When any surface indentation exceeds one-eighth inch (1/8) in diameter; or ()

v. When the aggregate affected area of such spots exceeds one-half (1/2) inch in diameter. The area refers to that of a circle of the specified diameter. ()

e. Disease. ()

i. Cedar rust infection that affects a total area of more than three-sixteenths (3/16) inch in diameter. The area refers to that of a circle of the specified diameter. ()

ii. Sooty blotch or fly speck that is thinly scattered over more than five percent (5%) of the surface, or dark, heavily concentrated spots that affect an area of more than one-fourth (1/4) inch in diameter. The area refers to that of a circle of the specified diameter. ()

iii. Red skin spots that are thinly scattered over more than one-tenth (1/10) of the surface, or dark, heavily concentrated spots that affect an area of more than one-fourth (1/4) inch in diameter. ()

f. Insects. ()

i. Any healed sting or healed stings that affect a total area of more than one-eighth (1/8) inch in diameter including any encircling discolored rings. The area refers to that of a circle of the specified diameter. ()

ii. Worm holes. ()

02. Damage. Any specific defect defined in this subsection or an equally objectionable variation of any one of these defects, any other defect, or any combination of defects, that materially detracts from the appearance, or the edible or shipping quality of the apple. The following specific defects are considered damage: ()

a. Russeting in the stem cavity or calyx basin that cannot be seen when the apple is placed stem end or calyx end down on a flat surface, is not considered in determining whether or not an apple is damaged by russeting, except that excessively rough or bark-like russeting in the stem cavity or calyx basin shall be considered as damage when the appearance of the apple is materially affected. The following types and amounts of russeting outside of the stem cavity or calyx basin are considered as damage: ()

i. Russeting that is excessively rough on Roxbury Russet and other similar varieties. ()

ii. Smooth net-like russeting, when an aggregate area of more than fifteen percent (15%) of the surface is covered, and the color of the russeting shows no very pronounced contrast with the background color of the apple, or lesser amounts of more conspicuous net-like russeting when the appearance is affected to a greater extent than the above amount permitted. ()

iii. Smooth solid russeting, when an aggregate area of more than five percent (5%) of the surface is covered, and the pattern and color of the russeting shows no very pronounced contrast with the background color of the apple, or lesser amounts of more conspicuous solid russeting when the appearances affected to a greater extent than the above amount permitted. ()

iv. Slightly rough russeting that covers an aggregate area of more than one-half (1/2) inch in diameter. ()

v. Rough russeting that covers an aggregate area of more than one-fourth (1/4) inch in diameter. ()

b. Sunburn or sprayburn that has caused blistering or cracking of the skin, or when the discolored area does not blend into the normal color of the fruit unless the injury can be classed as russeting. ()

c. Limb rubs that affect a total area of more than one-half (1/2) inch in diameter, except that light brown limb rubs of a russet character are considered under the definition of damage by russeting. ()

d. Hail marks, drought spots, other similar depressions or scars. ()

i. When any unhealed mark is present; ()

ii. When any surface indentation exceeds one-eighth (1/8) inch in depth; ()

iii. When the skin has not been broken and the aggregate affected area exceeds one-half (1/2) inch in diameter. The area refers to that of a circle of the specified diameter; or ()

iv. When the skin has been broken and well healed, and the aggregate affected area exceeds one-fourth (1/4) inch in diameter. ()

e. Stem or calyx cracks that are not well healed, or well healed stem or calyx cracks that exceed an aggregate length of one-fourth (1/4) inch. ()

f. Invisible water core existing around the core and extending to water core in the vascular bundles; or

surrounding the vascular bundles when the affected area surrounding three (3) or more vascular bundles meet or coalesce; or existing in more than slight degree outside the circular area formed by the vascular bundles. ()

g. Disease. ()

i. Scab spots that affects a total area of more than one-fourth (1/4) inch in diameter. The area refers to that of a circle of the specified diameter. ()

ii. Cedar rust infection that affects a total area of more than one-fourth (1/4) inch in diameter. The area refers to that of a circle of the specified diameter. ()

iii. Sooty blotch or fly speck that is thinly scattered over more than one-tenth (1/10) of the surface, or dark, heavily concentrated spots that affect an area of more than one-half (1/2) inch in diameter. The area refers to that of a circle of the specified diameter. ()

iv. Red skin spots that are thinly scattered over more than one-tenth (1/10) of the surface, or dark, heavily concentrated spots that affect an area of more than one-half (1/2) inch in diameter. The area refers to that of a circle of the specified diameter. ()

h. Insects. ()

i. Any healed sting or healed stings that affect a total area of more than three-sixteenths (3/16) inch in diameter including any encircling discolored rings. The area refers to that of a circle of the specified diameter. ()

ii. Worm holes. ()

03. Serious Damage. Any specific defect defined in this subsection or an equally objectionable variation of any one of these defects, any other defect, or any combination of defects that seriously detracts from the appearance, or the edible or shipping quality of the apple. The following specific defects are considered as serious damage: ()

a. The following types and amounts of russeting are considered as serious damage: Smooth solid russeting, when more than one-half (1/2) of the surface in the aggregate is covered, including any russeting in the stem cavity or calyx basin, or slightly rough, or excessively rough or bark-like russeting, that detracts from the appearance of the fruit to a greater extent than the amount of smooth solid russeting permitted: Provided, that any amount of russeting is permitted on Roxbury Russet and other similar varieties. ()

b. Sunburn or sprayburn that seriously detracts from the appearance of the fruit. ()

c. Limb rubs that affect more than one-tenth (1/10) of the surface in the aggregate. ()

d. Hail marks, drought spots, or scars, if they materially deform or disfigure the fruit, or if such defects affect more than one-tenth (1/10) of the surface in the aggregate: Provided, that no hail marks that are unhealed are permitted and not more than an aggregate area of one-half (1/2) inch is allowed for well healed hail marks where the skin has been broken. The area refers to that of a circle of the specified diameter. ()

e. Stem or calyx cracks that are not well healed, or well healed stem or calyx cracks that exceed an aggregate length of one-half (1/2) inch. ()

f. Visible water core that affects an area of more than one-half (1/2) inch in diameter. ()

g. Disease. ()

i. Scab spots that affect a total area of more than three-fourths (3/4) inch in a circle of the specified diameter. ()

ii. Cedar rust infection that affects a total area of more than three-fourths (3/4) inch in diameter. The

- area refers to that of a circle of the specified diameter. ()
- iii. Sooty blotch or fly speck that affects more than one-third (1/3) of the surface. ()
 - iv. Red skin spots that affect more than one-third (1/3) of the surface. ()
 - v. Bitter pit or Jonathan spot that is thinly scattered over more than one-tenth (1/10) of the surface and does not materially deform or disfigure the fruit. ()
 - h. Insects. ()
 - i. Healed stings that affect a total area of more than one-fourth (1/4) inch in diameter including any encircling discolored rings. The area refers to that of a circle of the specified diameter. ()
 - ii. Worm holes. ()

131. -- 219. (RESERVED)

SUBCHAPTER B – CONTROLLED ATMOSPHERE STORAGE

220. APPLES, CONTROLLED ATMOSPHERE REGISTRATION.

01. Registration. Any person who owns or operates a controlled atmosphere room or storage building for apples in Idaho, and any person who engages in this State in the business of packing or repacking apples so treated in this State or any other state and who intends to, or does, represent such apples as having been exposed to “controlled atmosphere” storage, shall register with the Director on a form prescribed by the Director. ()

02. Registration Period. The registration period for owners or operators of controlled atmosphere rooms or storage buildings in this State commences on September 1 and end on August 31 of each year, and for packers or repackers of apples that have been held in a controlled atmosphere room or storage building in this State or in any other state, the registration period extends for a period not to exceed one (1) year. Owners or operators of such rooms or storage buildings shall register on or before September 1 of each year. ()

03. Interstate Registration. Any person who owns or operates a controlled atmosphere room or storage building located outside of Idaho or who engages at a place outside of this State in the business of packing or repacking apples that have been held in controlled atmosphere storage and who intends to, or does, market in the state of Idaho apples so treated and represented as having been exposed to “controlled atmosphere” storage, shall register with the Director in the same manner as required of any person within the State unless such person has registered with the proper authorities in the state of origin and has been assigned a comparable registration number or CA identification under authority of laws or rules of such state that at least conform to the provisions of these rules. ()

04. Written Agreement. The Director will assign each approved registrant a registration number preceded by the letters CA. The Director shall require from each applicant for registration, an agreement in writing in the form required by the Director that the apples so treated or packed or repacked by said applicant will be or have been kept in a room or storage building with not more than five percent (5%) oxygen for a minimum of not less than forty-five (45) days for Gala and Jonagold varieties and not less than sixty (60) days for other apples, and that the oxygen level in such room or storage building will be or has been reduced to five percent (5%) within twenty (20) days after the date of sealing of the storage room, and including any other pertinent facts as may be required by the Director to assure that the apples in question have been so treated. ()

05. Refusal Upon Violation. The Director may refuse to approve an application for registration and refuse to issue a registration number if the applicant previously has violated any of the provisions of these rules, or has failed or refused to furnish the information or evidence required by these rules. ()

06. Required Air Components Determinations. Each owner or operator of a controlled atmosphere room or storage building in this state shall make the required air components determinations as to the percentage of

carbon dioxide and oxygen and temperature at least once each day and maintains a record in the form as required by the Director of Agriculture, including the name and address of the owner or operator, room number or numbers, room capacity, lot identification, quantity in each lot, date of sealing, date of opening; a daily record of date and time of test, percentage of carbon dioxide, percentage of oxygen and the temperature. ()

07. Written Reports. Each owner or operator of a controlled atmosphere room or storage building in this state will submit to the Idaho Director of Agriculture, within ten (10) days after the date of sealing, a written report pertaining to each room showing the owner's room number, or numbers, date of sealing, and variety and quantity of apples contained therein. ()

08. Maintaining Identity. The identity of all apples represented as having been exposed to "controlled atmosphere" storage will be maintained from the original room or storage building where they were treated through the various channels of trade to the retailer. ()

09. Investigations. Enforcing officers may investigate and examine records and invoices relating to any transactions in order to determine the identity of apples represented as having been exposed to controlled atmosphere storage and in this connection gives consideration to the presence of CA storage registration numbers on invoices submitted in transactions by the owners or operators and a combination of both the CA storage and packer or repacker's CA registration number on invoices submitted in transactions by said packer or repacker. ()

221. APPLES REPRESENTED AS HAVING BEEN EXPOSED TO "CONTROLLED ATMOSPHERE" STORAGE.

01. Registration Number -- Owner/Operator. Each container and consumer package of such apples moved into the channels of trade by the owner or operator of a controlled atmosphere room or storage building located in Idaho or by any other person, will be marked with said owner or operator's assigned registration number. ()

02. Registration Number -- Packer/Repacker. Each container and consumer package of such apples received from an owner or operator of a controlled atmosphere room or storage building located either in Idaho or in another state and that are packed or repacked by another person in this state, will be marked with the said packer or repacker's assigned registration number. ()

03. Controlled Atmosphere (CA) Identification. Each container and consumer package of such apples moved into the channels of trade in Idaho by the owner or operator of a controlled atmosphere room or storage building located outside of Idaho or by any other person or by a packer or repacker of such apples engaged in such business outside of Idaho will be marked with the proper registration number or CA identification. Such registration number or CA identification is the registration number assigned by the Director to such owner or operator of a CA plant or to such packer or repacker as the case may be or a comparable registration number of identification assigned under authority of laws or regulations of another state that at least conform to the provisions of Subsection 200.04 above. ()

04. Labeling Requirements. The registration number or other identification required to be marked on containers is in letters or figures at least one-half (1/2) inch in height, and all such markings are clear and conspicuous and in a place readily visible to the purchaser, and shall meet the rule requirements of Sections 22-801 and 22-802, Idaho Code. ()

05. Inspection and Certification. All apples sold as Controlled Atmosphere apples must be inspected and certified as to grade and condition and be marked with a state lot number in addition to the CA number. ()

06. Conditions and Standards. At the time of shipment, all apples shipped and marked with a CA number will meet the U.S. condition and maturity standards for Export. ()

07. Failure to Meet Requirements. Failure to meet any one of the requirements noted above will prohibit such apples from being sold as CA storage apples or the containers marked as such. ()

222. -- 999. (RESERVED)

IDAPA 02 – DEPARTMENT OF AGRICULTURE
02.04.04 – RULES FOR ARTIFICIAL DAIRY PRODUCTS
DOCKET NO. 02-0404-2201 (ZBR CHAPTER REWRITE)
NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

[LINK: LSO Rules Analysis Memo](#)

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2023 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved or rejected in part by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 37-303, Idaho Code.

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

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. No negative comments were submitted as part of this rulemaking process.

The rule provides the authority for the enforcement of a written stop sale for artificial dairy products as determined by the Department. This rule is authorized by 37-303, Idaho Code. The issue of artificial dairy products in the marketplace cannot be authorized by non-regulatory measures.

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 28-29](#).

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 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:

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 Dr. Scott Leibsle, Administrator, Division of Animal Industries, at (208) 332-8500 or scott.leibsle@isda.idaho.gov.

DATED this October 5, 2022.

Lloyd B. Knight
Rules Review Officer
Idaho State Department of Agriculture
2270 Old Penitentiary Road
P.O. Box 7249
Boise, Idaho 83707
Phone: (208) 332-8664
Fax: (208) 334-2170
Email: rulesinfo@isda.idaho.gov

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 Section 37-303, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than July 20, 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. No negative comments were submitted as part of this rulemaking process.

The rule provides the authority for the enforcement of a written stop sale for artificial dairy products as determined by the Department. This rule is authorized by 37-303, Idaho Code. The issue of artificial dairy products in the marketplace cannot be authorized by non-regulatory measures.

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

There is no fee associated with this rule.

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

There is no fiscal impact 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 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:

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:

No documents are incorporated by reference in this rule.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Dr. Scott Leibsle, Administrator, Division of Animal Industries, at (208) 332-8500 or scott.leibsle@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 DOCKET NO. 02-0404-2201

02.04.04 – RULES FOR ARTIFICIAL DAIRY PRODUCTS

000. LEGAL AUTHORITY.

Section 37-303, Idaho Code. ()

001. SCOPE.

These rules govern the process, sale, and distribution of artificial dairy products. ()

002. – 099. (RESERVED)

100. GENERAL.

The Department will issue and enforce a written stop sale order to the owner or custodian of any quantity of artificial dairy products that has been determined by the Department to be in violation of Sections 37-315 through 37-318, Idaho Code. The order shall prohibit further sale, processing, or movement of such artificial dairy products, until the Department has evidence that the law has been complied with. ()

101. – 999. (RESERVED)

IDAPA 02 – DEPARTMENT OF AGRICULTURE
02.04.15 – RULES GOVERNING BEEF CATTLE ANIMAL FEEDING OPERATIONS
DOCKET NO. 02-0415-2201 (ZBR CHAPTER REWRITE)
NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

[LINK: LSO Rules Analysis Memo](#)

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2023 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved or rejected in part by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 22-110 and 22-4903, 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.

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 30-35](#).

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:

IDAPA 02.04.15.013, 02.04.15.031, 02.04.15.032, 02.04.15.040, are broader in scope than federal law or regulations.

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 Dr. Scott Leibsle, Administrator, Division of Animal Industries, at (208) 332-8500 or scott.leibsle@isda.idaho.gov.

DATED this October 5, 2022

Lloyd B. Knight
Rules Review Officer
Idaho State Department of Agriculture
2270 Old Penitentiary Road
P.O. Box 7249
Boise, Idaho 83707
Phone: (208) 332-8664
Fax: (208) 334-2170
Email: rulesinfo@isda.idaho.gov

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 22-110 and 22-4903, 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.

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

There is no fee associated with this rule.

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

There is no fiscal impact 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:

IDAPA 02.04.15.013, 02.04.15.031, 02.04.15.032, 02.04.15.040, are broader in scope than federal law or regulations.

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 following documents are incorporated by reference, and are important content due to the need for clear and standardized design specifications for nutrient containment and management.

The 1997 United States Department of Agriculture Natural Resources Conservation Service Agricultural Waste Management Field Handbook, Appendix 10 D.

Society of Agricultural and Biological Engineers Specification ASAE EP393.3 Manure Storages February 2004.

The 1999 Publication by the United States Department of Agriculture, Natural Resource Conservation Service, Conservation Practice Standard, Nutrient Management Code 590.

The Phosphorus Site Index: A Systematic Approach to Assess the Risk of Nonpoint Source Pollution of Idaho Waters by Agricultural Phosphorus, 2022.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Dr. Scott Leibsle, Administrator, Division of Animal Industries, at (208) 332-8500 or scott.leibsle@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 DOCKET NO. 02-0415-2201

02.04.15 – RULES GOVERNING BEEF CATTLE ANIMAL FEEDING OPERATIONS

000. LEGAL AUTHORITY.

Sections 22-110 and 22-4903, Idaho Code.

()

001. SCOPE.

These rules govern the design, function, and management practices of waste systems on beef cattle animal feeding operations. Nothing in this rule affects the authority of the Department of Environmental Quality to enforce an IPDES permit for dairy farms that discharge pollutants to waters of the United States, including without limitation, the authority to issue permits, access records, conduct inspections and take enforcement actions. The provisions of this rule do not alter the requirements, liabilities, and authorities with respect to or established by the IPDES program.

()

002. INCORPORATION BY REFERENCE.

The following documents are incorporated by reference into this chapter:

()

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

()

02. Society of Agricultural and Biological Engineers Specification ASAE EP393.3 Manure Storages February 2004. This document is part of a copyrighted publication and is available for viewing at the ISDA offices or a copy may be purchased online at <http://www.asabe.org/>.

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03. The 1999 Publication by the United States Department of Agriculture, Natural Resource Conservation Service, Conservation Practice Standard, Nutrient Management Code 590. This can be viewed online at https://agri.idaho.gov/main/wp-content/uploads/2017/08/nutrient_Management_code_590.pdf.

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04. The Phosphorus Site Index: A Systematic Approach to Assess the Risk of Nonpoint Source Pollution of Idaho Waters by Agricultural Phosphorus, 2022. This document is available online at <https://agri.idaho.gov/main/wp-content/uploads/2022/03/PSIBeef.pdf>.

()

003. DEFINITIONS.

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

()

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

()

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

()

03. Compost. A biologically stable material derived from the biological decomposition of organic matter.

()

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

()

05. Discharge. Release of process wastewater or manure from a beef cattle animal feeding operation to waters of the state.

()

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

()

07. Land Application. The spreading on, or incorporation of manure or process wastewater into the soil.

()

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

()

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

()

- b.** One thousand (1,000) veal calves; ()
- c.** One thousand (1,000) cattle other than mature dairy cows or veal calves. Cattle includes but is not limited to heifers, steers, bulls and cow/calf pairs; ()
- 09. Medium Concentrated Animal Feeding Operation.** A medium CAFO includes any AFO that has been defined or designated as CAFO and stables or confines the number of cattle that fall within any of the following ranges: ()
- a.** Two hundred (200) to six hundred ninety-nine (699) mature dairy cows, whether milked or dry; ()
- b.** Three hundred (300) to nine hundred ninety-nine (999) veal calves; ()
- c.** Three hundred (300) to nine hundred ninety-nine (999) cattle other than mature dairy cows or veal calves. Cattle includes but is not limited to heifers, steers, bulls and cow/calf pairs; ()
- 10. Operate.** Confining and feeding slaughter and feeder cattle in the state of Idaho. ()
- 11. Operator.** The person who has power or authority to manage, or direct, or has financial control of a beef cattle animal feeding operation. ()
- 12. Phosphorus Site Index.** A method to evaluate the relative potential for off-site movement of phosphorus from a field or pasture based upon risk factors relating to surface transport, phosphorus loss potential and nutrient management practices. ()
- 13. Runoff.** Any precipitation that comes into contact with manure, compost, bedding, or feed on a beef cattle animal feeding operation. ()
- 14. Slaughter and Feeder Cattle.** All cattle except those cattle located on a dairy farm permitted by the Idaho State Department of Agriculture pursuant to IDAPA 02.04.14, "Rules Governing Dairy Byproduct." ()
- 15. Small Concentrated Animal Feeding Operation.** An AFO that is designated as a CAFO and is not a medium or large CAFO. ()
- 004. ABBREVIATIONS.**
- 01. AFO.** Animal Feeding Operation. ()
- 02. CAFO.** Concentrated Animal Feeding Operation. ()
- 03. IPDES.** Idaho Pollutant Discharge Elimination System. ()
- 04. NMP.** Nutrient Management Plan. ()
- 05. NRCS.** United States Department of Agriculture, Natural Resources Conservation Service. ()
- 06. PSI.** Phosphorus Site Index ()
- 005. PROHIBITED DISCHARGES.**
Unauthorized discharges of manure or process wastewater from beef cattle AFOs or land application sites owned or controlled by a beef cattle AFO are prohibited. ()
- 006. NOTIFICATION OF DISCHARGE.**

01. Notification Within Twenty-Four Hours of Discharge. Within twenty-four (24) hours of learning of a discharge, the operator of a beef cattle AFO shall verbally notify the Director of such a discharge. ()

007. -- 019. (RESERVED)

020. WASTEWATER STORAGE AND CONTAINMENT FACILITIES.

01. Wastewater Storage and Containment Facilities. All beef cattle AFOs where process wastewater leaves the confinement area and has the potential to impact surface water or be in violation of state water quality standards shall have wastewater storage and containment facilities designed, constructed, operated, and maintained sufficient to contain: ()

- a.** All process wastewater generated on the facility during the non-land application season; and ()
- b.** The runoff from a twenty-five (25) year, twenty-four (24) hour rainfall event; and ()
- c.** Either three (3) inches of runoff from the accumulation of winter precipitation or the amount of runoff from the accumulation of precipitation from a one-in-five (1 in 5) year winter. ()

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

021. NEW OR MODIFIED BEEF CATTLE ANIMAL FEEDING OPERATIONS.

Each new or modified beef cattle AFO shall design and construct wastewater storage and containment facilities completed after July 1, 2000, in accordance with the engineering standards and specifications contained in the Natural Resources Conservation Service Agricultural Waste Management Field Handbook, Appendix 10D or the American Society of Agricultural Engineers Standard EP393.3, or other equally protective standards approved by the Director. ()

022. -- 029. (RESERVED)

030. NUTRIENT MANAGEMENT.

Each beef cattle AFO shall submit a NMP for land owned or controlled by the operator, which conforms to the nutrient management standard and addresses odors generated in excess of odors normally associated with raising beef cattle in Idaho, to the Director for approval. Following department review and approval, the plan, and all copies of the plan, shall be returned to the operation and maintained on site. ()

01. Implementation of a Nutrient Management Plan. Failure to implement an approved NMP is a violation of these rules. ()

031. PHOSPHORUS MANAGEMENT.

Beef cattle AFOs must utilize either Phosphorus Indexing or Phosphorus Threshold to manage nutrient application. ()

01. Phosphorus Indexing. The PSI shall be calculated annually by a certified planner for each field receiving land application of manure or process wastewater. A beef cattle AFO must implement best management practices that fully conform to NRCS standards to receive full BMP Coefficient credit. The Department may award zero (0) or partial credit for non-conformity to NRCS standards. ()

02. Phosphorus Threshold. Land application of phosphorus to fields that have exceeded the soil phosphorus threshold established in the NMS shall be limited to the appropriate crop uptake rate. ()

032. NUTRIENT MANAGEMENT RECORDS.

The operators of beef cattle AFOs shall keep complete and accurate records of: ()

01. Land Application. The dates and amounts of any manure or process wastewater applied on land owned or controlled by the operator. ()

02. Manure Transferred to Another Person. The name and address of any third party that receives manure or process wastewater from the operation, including the dates of the transfer and the amount of manure or process wastewater transferred. ()

033. -- 039. (RESERVED)

040. DESIGNATION OF BEEF CATTLE ANIMAL FEEDING OPERATIONS.

01. Designation of Animal Feeding Operations. The Director, on a case by case basis, may designate any AFO that confines slaughter and feeder cattle as a beef cattle AFO if, after an inspection, the Director determines that the AFO is a significant contributor of pollution to waters of the state. When designated, these operations shall be considered existing beef cattle AFOs. The Director considers the following factors when making such designation: ()

a. Size of the AFO and the amount of manure, process wastewater, and runoff reaching waters of the state; ()

b. Location of the AFO relative to waters of the state; ()

c. Means of conveyance of manure, process wastewater, and runoff into waters of the state; and ()

d. Slope, vegetation, precipitation, and other factors affecting the likelihood or frequency of discharge of manure, process wastewater, or runoff into waters of the state. ()

02. Redesignation of a Beef Cattle Animal Feeding Operation. Upon request by the operator, the Director will redesignate a facility previously designated under Section 040, if the facility is no longer a significant contributor of pollution to waters of the state. Such redesignation is provided to the operator in writing. ()

041. -- 049. (RESERVED)

050. ADMINISTRATION OF IPDES PROGRAM.

The Director of the Department of Agriculture and the Director of the Department of Environmental Quality shall, as appropriate, establish an agreement relating to the administration of an IPDES program that recognizes the expertise of the Department of Agriculture. ()

051. COMPLIANCE WITH IDAHO POLLUTANT DISCHARGE ELIMINATION SYSTEM RULES.

The Department of Environmental Quality shall be solely responsible and authorized to determine whether the discharge of pollutants from a beef cattle feeding operation is required to be authorized by an IPDES permit. The provisions of this rule do not define when a beef cattle feeding operations is required to obtain a permit for a discharge, do not exempt a beef cattle feeding operation from permitting requirements for such discharges or alter the authority of DEQ with respect to such discharges. ()

052. -- 999. (RESERVED)

IDAPA 02 – DEPARTMENT OF AGRICULTURE
02.04.17 – RULES GOVERNING DEAD ANIMAL MOVEMENT AND DISPOSAL
DOCKET NO. 02-0417-2201 (ZBR CHAPTER REWRITE)
NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

[LINK: LSO Rules Analysis Memo](#)

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2023 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved or rejected in part by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 25-203, and 25-237, 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 is necessary to effectively enforcement the statutory authorities found in 22-237, Idaho Code. The proposed changes ensure that the rule is clear and concise in accordance with the Executive Order.

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 36-40](#).

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

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 in its entirety 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 Dr. Scott Leibsle, Administrator, Division of Animal Industries, at (208) 332-8500 or scott.leibsle@isda.idaho.gov.

DATED this October 5, 2022.

Lloyd B. Knight
Rules Review Officer
Idaho State Department of Agriculture
2270 Old Penitentiary Road
P.O. Box 7249
Boise, Idaho 83707
Phone: (208) 332-8664
Fax: (208) 334-2170
Email: rulesinfo@isda.idaho.gov

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 25-203 and 25-237, 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 is necessary to effectively enforcement the statutory authorities found in 22-237, Idaho Code. The proposed changes ensure that the rule is clear and concise in accordance with the Executive Order.

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

There is no fee associated with this rule.

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

There is no fiscal impact 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 in its entirety 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:

Livestock Carcass Composting Best Practices. 2022. Compiled by ISDA from other sources and housed on the ISDA website or available upon request.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Dr. Scott Leibsle, Administrator, Division of Animal Industries, at (208) 332-8500 or scott.leibsle@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 DOCKET NO. 02-0417-2201

02.04.17 – RULES GOVERNING DEAD ANIMAL MOVEMENT AND DISPOSAL

000. LEGAL AUTHORITY.

This chapter is adopted under the legal authority of Sections 25-203 and 25-237, Idaho Code. ()

001. SCOPE.

These rules govern the management, movement and disposal of dead animals. ()

002. INCORPORATION BY REFERENCE.

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

01. Livestock Carcass Composting Best Practices. 2022. This document can be viewed online at <https://agri.idaho.gov/main/wp-content/uploads/2022/06/Dead-Animal-Composting-BMPs-final-6.13.22.pdf>. ()

003. -- 009. (RESERVED)

010. DEFINITIONS.

01. Abandon. To desert or intentionally leave a dead animal without proper disposal as provided in these rules. ()

02. Air Curtain Incineration. A mechanical process of incineration by which super-heated air is

continuously circulated to enhance combustion. ()

03. Burning. The act of consuming or destroying by fire with or without the use of an accelerant. ()

04. Composting. The biological decomposition of organic matter under controlled conditions. ()

05. Dead Animals. Carcasses and parts of carcasses from domestic livestock including, but not limited to: bovidae, suidae, equidae, captive cervidae, camelidae, ratitidae, gallinaceous birds and captive waterfowl. ()

06. Decomposition. The decay of dead animals under natural conditions. ()

07. Digestion. A process by which organic matter is hydrolyzed. ()

08. Harvested. Domesticated livestock killed by a person if any portion of the carcass is salvaged. ()

09. Incineration. The controlled and monitored combustion of dead animals for the purposes of volume reduction and pathogen control. ()

10. Pets. Cats, dogs, and other non-human species of animals that are kept as household companions. ()

11. Rendering. The process or business of recycling dead animals and animal by-products. ()

12. Sanitary Landfill. A solid waste disposal site permitted or approved by the Idaho Department of Environmental Quality. ()

011. EXCLUSIONS.
The following establishments and animals are excluded from the provisions of these rules. ()

01. Slaughter Establishments. Establishments that slaughter livestock for human consumption. ()

02. Free-Ranging Wildlife. Non-captive wildlife or wild fish. ()

03. House Pets. House pets less than one hundred (100) pounds in weight. ()

04. Pets Buried in a Licensed Pet Cemetery. Pets of any weight buried in a licensed pet cemetery. ()

012. -- 019. (RESERVED)

020. ABANDONMENT OF DEAD ANIMALS.
No person who owns or is caring for an animal that has died may abandon the dead animal. Animals that are being disposed of by decomposition in accordance with these rules are not considered abandoned. ()

021. -- 029. (RESERVED)

030. DISPOSAL OF DEAD ANIMALS.
Dead animals shall be disposed of within seventy-two (72) hours, by one (1) of the following methods, after knowledge of the death of the animal or as provided by the Administrator. No person shall dispose of a dead animal on the land of another without the permission of the property owner. ()

01. Dead Animals on Federally Managed Land. Animals that die on federally managed rangeland from causes other than significant infectious or contagious diseases or agents shall be disposed of as provided by the regulations of the responsible land management agency. ()

02. Disposal Methods Determined by the Administrator. The Administrator may determine the appropriate method of disposal for animals that die of significant infectious or contagious diseases or agents. ()

a. The owner of any dead animal known to be infected with a prion disease must notify the Administrator prior to disposing of the carcass. ()

03. Rendering. If a licensed and approved rendering facility accepts the dead animal, rendering is an approved method of disposal. ()

a. When carcasses are held for pickup, the site shall be screened from public view, in a dry area and not in a water runoff or drainage area. ()

b. Run-off from the holding area must be contained. ()

04. Burial. Dead animals shall be buried to such a depth that no part of the dead animal may be nearer than three (3) feet to the natural surface of the ground. Every part of the dead animal shall be covered with at least three (3) feet of earth. The location of a burial site shall be: ()

a. At least three hundred (300) feet from any wells, surface water intake structures, and public or private drinking water supply lakes or springs. ()

b. At least three hundred (300) feet from any existing residences. ()

c. At least fifty (50) feet from property lines. ()

d. At least one hundred (100) feet from public roadways. ()

e. At least two hundred (200) feet from any body of surface water such as a river, stream, lake, pond, intermittent stream, or sinkhole. Elevated or up-gradient surface waters are not subject to this setback. ()

f. Burial sites shall not be located in low-lying areas subject to flooding, or in areas with a high water table where the seasonal high water level may contact the burial pit. ()

05. Disposal in an Approved Sanitary Landfill. Arrangements shall be made with a city, county, regional, or private landfill official in order to dispose of a dead animal in a city, county, regional, or private landfill. ()

06. Composting. ()

a. Composting of dead animals may be allowed in a manner approved by the Administrator. ()

b. No composters that have been approved by other agencies shall begin composting dead animals without the approval of the Administrator. ()

07. Digestion. Digestion of dead animals may be accomplished in a properly designed and sized dead animal digester approved by the Administrator. ()

08. Incineration. ()

a. Incineration of dead animals shall be accomplished in an approved incineration facility, or by a mobile air curtain incinerator at a site approved by the Administrator. ()

b. The incineration shall be thorough and complete, reducing the carcass to mineral residue. ()

09. Burning. Open burning of dead animals is not allowed, except as authorized by the Administrator, in coordination with the Department of Environmental Quality. ()

10. Decomposition. Animals that die on private or state rangeland, except domesticated livestock that are harvested, from causes other than significant infectious or contagious diseases or agents may be left to decompose naturally provided that they are at least one thousand three hundred twenty (1,320) feet from any surface water (public or private), wells, springs, public roadways and residences. ()

031. -- 039. (RESERVED)

040. MOVEMENT OF DEAD ANIMALS.

No dead animals may be loaded into the same vehicle with live animals. ()

01. Vehicles Used for Transporting Dead Animals. Vehicles used for transporting dead animals shall be constructed and maintained, or be prepared prior to receiving dead animals into the vehicle, so that no liquid or fluid from the dead animals is allowed to drip or seep from the vehicle during transport. ()

02. Dead Animals Concealed from View. Dead animals shall be concealed from public view during transportation. ()

03. Direct to Destination. Vehicles hauling dead animals shall travel to their destination directly. ()

04. Disinfection. Vehicles that have hauled dead animals off an owner's property shall not be used to haul live animals, feeds or similar commodities to the property of another person until they have been thoroughly cleaned and disinfected. ()

05. Transport of Dead Animals. No person may transport a dead animal across or through the property of another person without the landowner's permission. ()

041. -- 049. (RESERVED)

050. DEAD ANIMAL EMERGENCIES.

Dead animal emergencies are those situations involving dead animals that have been determined by the Administrator to require extraordinary disposal measures. ()

01. Situations Requiring Extraordinary Disposal Measures. These situations include, but are not limited to, the following: ()

a. Situations where one (1) or more animals die of an infectious or contagious disease or agent that may pose a significant threat to humans or animals; ()

b. Situations wherein the number of dead animals is large enough to require extraordinary disposal measures. ()

02. Administrator to Determine Disposal Methods. The Administrator may employ exceptional or extraordinary methods of dead animal disposal as necessary to protect the health and welfare of the human and animal populations of the state of Idaho. Such methods may include, but not be limited to: ()

a. Open burning; ()

b. Pit burning; ()

c. Burning with accelerants; ()

d. Pyre burning; ()

e. Air curtain incineration; ()

- f. Mass burial; or ()
 - g. Natural decomposition. ()
- 051. -- 999. (RESERVED)**

IDAPA 02 – IDAHO STATE DEPARTMENT OF AGRICULTURE
02.04.25 – RULES GOVERNING PRIVATE FEEDING OF BIG GAME ANIMALS
DOCKET NO. 02-0425-2201 (CHAPTER REPEAL)
NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

[LINK: LSO Rules Analysis Memo](#)

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2023 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved or rejected in part by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 25-207A, Idaho Code.

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

The Idaho Department of Fish and Game (IDFG) facilitated a Zero-Based Rulemaking (ZBR) re-write of IDAPA 13.01.18, “Rules Governing Feeding of Wild Cervids” (Docket No. 13-0118-2201). IDFG and the Idaho State Department of Agriculture (ISDA) have evaluated the potential to consolidate regulation of private feeding of wild cervids under IDFG’s authority in this rule chapter, such that ISDA Rules Governing Private Feeding of Big Game Animals, IDAPA 02.04.25, is proposed to be repealed.

This pending rule includes changes to integrate current IDFG and ISDA restrictions into a single rule chapter under IDFG’s authority to regulate the feeding of wildlife, to continue protection of the health of livestock, domestic cervids, domestic bison, and wildlife. For example, the proposed rule specifically identifies geographic areas identified in ISDA’s current rule to prevent brucellosis transmission between wildlife and livestock. IDFG proposes to change rule wording (previously “pronghorn, elk, and deer”) to distinguish “wild cervids” managed under IDFG authority from “domestic cervids” regulated under ISDA authority. The agency also proposes to present the statement of rule intent in the cover sheet published in the Administrative Code, instead of in the rule chapter itself as done currently. The rule also incorporates language related to the Commission’s management of Chronic Wasting Disease in wild cervids.

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the October 5, 2022 Idaho Administrative Bulletin, [Vol. 22-10, pages 30-31](#).

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 because of the repeal of this rule.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending 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, Idaho 83707
Phone: (208) 332-8664
Fax: (208) 334-2170
Email: rulesinfo@isda.idaho.gov

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 Section 25-207A, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 26, 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:

The Idaho Department of Fish and Game (IDFG) facilitated a Zero-Based Rulemaking (ZBR) re-write of IDAPA 13.01.18 Rules Governing Feeding of Wild Cervids (Docket No. 13-0118-2201). IDFG and the Idaho State Department of Agriculture (ISDA) have evaluated the potential to consolidate regulation of private feeding of wild cervids under IDFG's authority in this rule chapter, such that ISDA Rules Governing Private Feeding of Big Game Animals, IDAPA 02.04.25, is proposed to be repealed.

This proposed rulemaking includes changes to integrate current IDFG and ISDA restrictions into a single rule chapter under IDFG's authority to regulate the feeding of wildlife, to continue protection of the health of livestock, domestic cervids, domestic bison, and wildlife. For example, the proposed rule specifically identifies geographic areas identified in ISDA's current rule to prevent brucellosis transmission between wildlife and livestock. IDFG proposes to change rule wording (previously "pronghorn, elk, and deer") to distinguish "wild cervids" managed under IDFG authority from "domestic cervids" regulated under ISDA authority. The agency also proposes to present the statement of rule intent in the cover sheet published in the Administrative Code, instead of in the rule chapter itself as done currently. The rule also incorporates language related to the Commission's management of Chronic Wasting Disease in wild cervids.

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

There are no fees including in this rule.

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

There is no fiscal impact because of the repeal of this rule.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because this is a repeal of a rule because of regulation of private feeding of big game animals that is otherwise implemented by another state agency, the Idaho Department of Fish and Game.

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 is no Incorporation by Reference section in this rule that is proposed to be repealed.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Lloyd Knight at lloyd.knight@isda.idaho.gov or (208)332-8664.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 26, 2022.

DATED this October 5, 2022.

IDAPA 02.04.25 IS BEING REPEALED IN ITS ENTIRETY

IDAPA 02 – DEPARTMENT OF AGRICULTURE
02.04.29 – RULES GOVERNING TRICHOMONIASIS
DOCKET NO. 02-0429-2201 (ZBR CHAPTER REWRITE)
NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

[LINK: LSO Rules Analysis Memo](#)

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2023 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved or rejected in part by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 25-203, Idaho Code.

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

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 statue 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.

The rule fulfills the statutory authorization and direction to prevent the spread of disease. As proposed, the rule fulfills the need for a regulatory framework to prevent the spread of trichomoniasis, while also meeting the expectations of the Executive Order.

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 41-47](#).

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 association 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 Dr. Scott Leibsle, Administrator, Division of Animal Industries, at (208) 332-8500 or scott.leibsle@isda.idaho.gov.

DATED this October 5, 2022.

Lloyd B. Knight
Rules Review Officer
Idaho State Department of Agriculture
2270 Old Penitentiary Road
P.O. Box 7249
Boise, Idaho 83707
Phone: (208) 332-8664
Fax: (208) 334-2170
Email: rulesinfo@isda.idaho.gov

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 Section 25-203 Idaho Code.

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

The rule fulfills the statutory authorization and direction to prevent the spread of disease. As proposed, the rule fulfills the need for a regulatory framework to prevent the spread of trichomoniasis, while also meeting the expectations of the Executive Order.

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

There is no fee associated with this rule.

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

There is no fiscal impact 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:

This rule incorporates the official 2022 Edition of Idaho’s “Protocol for Trichomonas fetus Diagnosis in Cattle”, which can be viewed online at <https://agri.idaho.gov/main/laboratories/animal-health-laboratories/>.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Dr. Scott Leibsle, Administrator, Division of Animal Industries, at (208) 332-8500 or scott.leibsle@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 DOCKET NO. 02-0429-2201

02.04.29 – RULES GOVERNING TRICHOMONIASIS

000. LEGAL AUTHORITY.

Section 25-203, Idaho Code. ()

001. SCOPE.

These rules govern procedures for the prevention, control and eradication of Trichomoniasis, a venereal disease of cattle caused by the organism *Tritrichomonas foetus*. ()

002. -- 003. (RESERVED)

004. INCORPORATION BY REFERENCE.

IDAPA 02.04.29 incorporates by reference the official 2022 Edition of Idaho “Protocol for *Trichomonas foetus* Diagnosis in Cattle” which can be viewed online at <https://agri.idaho.gov/main/laboratories/animal-health-laboratories/>. ()

005. -- 009. (RESERVED)

010. DEFINITIONS.

The following definitions apply: ()

01. Cattle. All bovidae, except bison. ()

02. Exposed Cattle. Any cattle that have been in contact with cattle infected with or affected by Trichomoniasis. ()

03. Herd. A herd is any group of cattle maintained on common ground for any purpose, or two (2) or more groups of cattle under common ownership or supervision, geographically separated, but which have an interchange or movement of cattle without regard to whether they are infected with or exposed to Trichomoniasis. ()

04. Infected Cattle. Any cattle determined by an official test or diagnostic procedure to be infected with Trichomoniasis or diagnosed by a veterinarian as infected. ()

05. Infected Herd. Any herd in which any cattle have been determined by an official test or diagnostic procedure to be infected with Trichomoniasis or diagnosed by a veterinarian as being infected. ()

06. Negative. Cattle that have been found to be free from infection with Trichomoniasis using an official test. ()

07. PCR. Polymerase Chain Reaction. ()

08. Positive. Cattle that have been found to be infected with Trichomoniasis using an official test. ()

09. T Brand. A two inch by three inch (2" x 3") single-character hot iron T brand, applied to the left of the tail-head of a bull, signifying that the bull is infected with Trichomoniasis. ()

10. Trichomoniasis. A venereal disease caused by the organism *Tritrichomonas foetus*. ()

011. – 099. (RESERVED)

100. TRICHOMONIASIS CONTROL AND ERADICATION PROGRAM.

The Trichomoniasis testing season begins on September 1 of each year and continues until August 31 of the succeeding year. All bulls within the state of Idaho shall be tested negative for Trichomoniasis before being allowed to come into contact with female cattle or by April 15 of each Trichomoniasis testing season, whichever occurs first, except: ()

01. Bulls in Public Grazing Allotments. Bulls that are to be turned out on public grazing allotments shall be tested for Trichomoniasis by April 15 of each Trichomoniasis testing season or prior to turnout, which ever occurs first. ()

02. Virgin Bulls. All bulls native to Idaho that are less than twenty-four (24) months of age and have never serviced a cow are exempt from the Trichomoniasis testing requirements. ()

a. Such bulls shall be identified by an accredited veterinarian with an official Trichomoniasis bangle tag for the current testing season and the identification recorded on an electronic Trichomoniasis Test and Report Form. ()

b. If sold, such bulls shall be accompanied by a certificate signed by the owner or his representative attesting that they are virgin bulls. ()

03. Dairy Bulls. All dairy bulls in dry lot operations are exempt from the Trichomoniasis testing requirements. Dairy bulls that are pastured or grazed must meet the Trichomoniasis testing requirements. ()

04. Bulls Consigned to Slaughter or to an Approved Feedlot. Bulls consigned directly to slaughter at an approved slaughter establishment or to an approved feedlot are exempt from testing requirements. ()

05. Extension of Testing Deadline. The Administrator may grant an extension of time beyond April

15 to accomplish Trichomoniasis testing after the owner submits a written request, outlining the reasons for the extension and requested length of extension, to the Division of Animal Industries. ()

a. The herd of bulls shall be put under Hold Order until the owner furnishes documentation that the bulls have been tested. ()

101. – 109. (RESERVED)

110. TRICHOMONIASIS TESTING IDENTIFICATION.

All bulls tested and tagged for Trichomoniasis shall be identified by an official Trichomoniasis bangle tag of for the current testing season and the identification recorded on a Trichomoniasis Test and Report Form approved by the Administrator. Beginning with the September 2021 testing season, annual tag colors will be rotated in the following order: White, Orange, Blue, Yellow, and Green. ()

111. -- 199. (RESERVED)

200. BULLS FOR SALE.

Bulls presented for sale at approved livestock markets, shows, special sales, or by private contract in Idaho shall be accompanied by a certificate of negative test and a statement signed by the owner certifying “Trichomoniasis has not been diagnosed in the herd of origin;” or ()

01. Returned to Home Premises. Such bulls shall be returned to home premises for official testing; or ()

02. Sold Directly to Slaughter. Such bulls shall be sold directly to slaughter at an approved slaughter establishment, an Idaho approved feedlot, as defined in IDAPA 02.04.20, “Rules Governing Brucellosis”; or ()

03. Placed Under a Hold Order. Such bulls will be placed under Hold Order by the livestock market veterinarian or a private veterinarian and have three (3) consecutive negative Trichomoniasis PCR or culture tests. The samples for each test shall be collected at least seven (7) days apart and tested for Trichomoniasis to be eligible to receive a certificate of negative test; or ()

04. Virgin Bulls. Virgin bulls native to Idaho that are less than twenty-four (24) months of age and have never serviced a cow shall be identified with an official Trichomoniasis bangle tag for the current testing season. ()

05. Period of Validity. For resident breeding bulls sold in Idaho, the negative test is valid for up to ninety (90) days provided the bull(s) has had no contact with female cattle from the time of test to the time of sale. ()

06. Contact with Female Cattle. Bulls that have had contact with female cattle subsequent to testing must be retested prior to sale. ()

201. -- 299. (RESERVED)

300. PUBLIC GRAZING.

All bulls that are turned out on public grazing allotments shall be certified and identified as virgin bulls, or tested negative for Trichomoniasis prior to the turnout date, or before April 15 of each testing season, which ever occurs first. ()

01. Grazing Associations. All bulls that are in a public grazing association or run in common on an allotment will be considered part of one (1) herd. ()

02. Positive Tests. If any bull owned by any of the producers in a grazing association or allotment tests positive on an official test, all other producers in the association or allotment are considered part of an infected bull herd and handled in accordance with Section 310 of this rule. ()

301. -- 309. (RESERVED)

310. INFECTED BULLS AND HERDS.

Any bull or cow that is positive to an official Trichomoniasis test is considered infected. A herd in which one (1) or more bulls or cows are found infected with Trichomoniasis is considered infected. ()

01. Confirmatory Testing of Culture Positive Bulls. Any culture positive bull must be confirmed by PCR test at an approved laboratory unless the animal is destined directly to slaughter. The result of the PCR will be the final determinant of the test status. ()

02. Quarantine of Infected Herds. Any veterinarian that discovers an infected herd shall notify the Division of Animal Industries within forty-eight (48) hours that the test was positive. A quarantine will be issued and may include a provision requiring all breeding age female cattle in the infected herd to be held in isolation from all bulls for a period of up to one hundred twenty (120) days as determined by the Administrator. ()

03. Exposed Herds. Herds identified as exposed through an epidemiological investigation will be placed under a Hold Order. ()

a. Bulls in exposed herds will be tested as determined by the Administrator. ()

b. All bulls tested in exposed herds shall be individually identified pursuant to Section 110. ()

04. Testing of Infected Herds. Bulls in infected herds shall be tested negative for Trichomoniasis three (3) consecutive times, using PCR, before the quarantine can be released. Samples for each test must be collected at least seven (7) days apart and tested for Trichomoniasis to be eligible to receive a certificate of negative test. ()

a. All bulls tested in the infected herd and all purchased and home raised additions to the bull herd, including virgin bulls, shall be individually identified and recorded pursuant to Section 110. ()

b. Bulls that have three (3) consecutive negative PCR tests conducted at least seven (7) days apart shall be considered negative for Trichomoniasis and can be so certified. ()

05. Identifying Infected Bulls. The administrator may require all bulls testing positive for trichomoniasis, to be identified with a hot iron T brand applied to the left of the tail-head indicating that the bull is positive for trichomoniasis. ()

311. -- 319. (RESERVED)

320. MOVEMENT OF INFECTED CATTLE.

All infected cattle shall be consigned to slaughter at an approved slaughter establishment or consigned to an approved livestock market for sale to an approved slaughter establishment and remain under quarantine until moved to slaughter. All infected cattle being moved from the premise of origin to an approved livestock market for sale to slaughter, or directly to an approved slaughter establishment for slaughter, shall move on a valid VS 1-27 form. ()

01. Slaughter Within Thirty Days. All infected cattle shall be moved to slaughter within thirty (30) days of the issuance of the quarantine. All infected cattle are to be kept separate and apart from cattle or domestic bison of the opposite sex. The infected cattle will remain under quarantine until moved to slaughter. ()

02. Exceptions. Upon request the Division of Animal Industries may grant an extension of time after the owner submits a written request for extension of time for movement to slaughter to the Division of Animal Industries. ()

321. TREATMENT OF INFECTED BULLS.

There are no treatments for Trichomoniasis approved for use in Idaho. ()

322. -- 329. (RESERVED)

330. OFFICIAL LABORATORIES.

Only laboratories approved by the Division of Animal Industries as official laboratories may test official Trichomoniasis samples. ()

01. Protocols. Official laboratories will operate in accordance with the official Idaho “Protocol for *Trichomonas foetus* Diagnosis in Cattle.” ()

02. Check Test. Official laboratories personnel responsible for conducting trichomoniasis testing must be trained and certified by ISDA in the detection of trichomonad organisms and must pass a certifying check test administered by the Division of Animal Industries. ()

331. OFFICIAL TRICHOMONIASIS TESTS.

01. Culture Tests. An official test is one in which the sample is received in the official laboratory, in good condition, and tested according to the official Idaho “Protocol for *Trichomonas foetus* Diagnosis in Cattle.” Samples which have been frozen or exposed to high temperatures shall be discarded. ()

02. Polymerase Chain Reaction. PCR test completed by a qualified laboratory, approved by the Administrator. ()

03. Other Official Tests. Other tests for Trichomoniasis may be approved by the Division of Animal Industries, as official tests, after the tests have been proven effective by research, have been evaluated sufficiently to determine efficacy, and a protocol for use of the test has been established. ()

04. Use of Official Laboratories. Accredited veterinarians are to utilize only official laboratories for testing of Trichomoniasis samples. ()

332. SAMPLE SUBMISSION AND REPORTING OF TEST RESULTS AND OFFICIAL IDENTIFICATION.

Accredited veterinarians must submit samples, test results, and official identification of all Trichomoniasis tests on a form approved by the Administrator within five (5) business days of: ()

01. Collecting the Sample. If submitting to an official lab for PCR testing; or ()

02. Finalizing Culture Results. or ()

03. Identifying Virgin Bulls. Identifying virgin bulls with official Trichomoniasis bangle tags. ()

333. -- 399. (RESERVED)

400. RODEO BULLS.

Bulls currently in a rodeo string, bulls purchased under the feedlot exemption at an approved livestock market, bulls purchased by private treaty, and bulls purchased in other states and imported into Idaho for rodeo purposes are exempt from Trichomoniasis testing under the following conditions: ()

01. Division Approval. The owner of the rodeo bulls has completed and submitted an application to the Division of Animal Industries, which the Division has approved; and ()

02. Not Mixed with Cows. The rodeo bulls are confined to a dry lot and not mixed with cows or used for breeding purposes; and ()

03. Permanently Identified. All bulls in the rodeo string are officially identified; and ()

04. Records Maintained. Official identification records are maintained in a permanent record file at the owner’s premises and a copy of the record will be provided to the Division of Animal Industries upon request; and

()

05. Bulls Purchased. Bulls purchased for addition to the rodeo string shall meet all other health requirements. Purchased bulls shall be immediately officially identified as specified in Subsection 400.03 of this rule. Official back tag and ear tag numbers on the bull at time of purchase shall be correlated to the official identification in the official record; and ()

06. Bulls Removed for Slaughter. Removal of bulls to slaughter is documented in the permanent record; and ()

07. Bulls Removed for Breeding Purposes. Bulls that are removed from the rodeo string for breeding purposes shall undergo three (3) consecutive negative official tests for Trichomoniasis. The samples for each test are to be collected at least seven (7) days apart and tested for Trichomoniasis to be eligible to receive a certificate of negative test. ()

401. -- 409. (RESERVED)

410. FEEDING BULLS OF UNKNOWN TRICHOMONIASIS STATUS. Bulls of unknown Trichomoniasis status may be fed for slaughter in an Idaho approved feedlot. ()

01. Removal of Untested Bulls. Untested bulls shall be sold directly to slaughter at an approved slaughter establishment. ()

02. Removal of Bulls for Breeding Purposes. Bulls that are removed for breeding purposes shall undergo three (3) consecutive negative official tests for Trichomoniasis. The samples for each test are to be collected at least seven (7) days apart and tested for Trichomoniasis to be eligible to receive a certificate of negative test. ()

411. -- 999. (RESERVED)

IDAPA 02 – DEPARTMENT OF AGRICULTURE
02.06.05 – RULES GOVERNING PLANT DISEASE AND QUARANTINES
DOCKET NO. 02-0605-2201 (ZBR CHAPTER REWRITE)
NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

[LINK: LSO Rules Analysis Memo](#)

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2023 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved or rejected in part by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 22-2004 and 22-2006, 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 provide for quarantine activities that are authorized in statute (Plant Pest Act). These quarantines provide for two primary services: First, the quarantines are in place to protect from the spread of pests and disease that can be harmful to the production of certain crops. Second, quarantine activities can be necessary to provide verification of disease or pest activities in order for Idaho grown crops to be eligible for export.

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 55-66](#).

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
2270 Old Penitentiary Road
P.O. Box 7249
Boise, Idaho 83707
Phone: (208) 332-8664
Fax: (208) 334-2170
Email: rulesinfo@isda.idaho.gov

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 22-2004 and 22-2006, 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 provide for quarantine activities that are authorized in statute (Plant Pest Act). These quarantines provide for two primary services: First, the quarantines are in place to protect from the spread of pests and disease that can be harmful to the production of certain crops. Second, quarantine activities can be necessary to provide verification of disease or pest activities in order for Idaho grown crops to be eligible for export.

There are no comparable federal quarantine regulations. These quarantines are state specific, although there is consistency between Oregon, Washington, and Idaho related to the quarantines for hops and grapes.

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

There are no fees associated with this rule.

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

There is no fiscal impact 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:

There are no documents incorporated by reference.

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 DOCKET NO. 02-0605-2201

02.06.05 – RULES GOVERNING PLANT DISEASE AND QUARANTINES

000. LEGAL AUTHORITY.

Sections 22-2004, and 22-2006, Idaho Code.

()

001. SCOPE.

This rule establishes regulated pests, regulated products, regulated articles, control areas, quarantine areas and special permits for certain crops to prevent the spread of plant disease and pests. This rule will provide regional consistency for plant pest quarantines.

()

002. -- 009. (RESERVED)

010. DEFINITIONS.

The definitions set forth in Section 22-2005, Idaho Code, apply in the interpretation and enforcement of this rule.

()

SUBCHAPTER A – DISEASES OF HOPS

011. -- 111. (RESERVED)

112. REGULATED PESTS.

01. **Verticillium Wilt.** Plant Material infected with the disease caused by the fungus *Verticillium nonalfalfae* (formerly known as *Verticillium albo-atrum Reinke and Berth*) and any species or strains of the genus *Verticillium* pathogenic to hops. ()

02. **Powdery Mildew.** Plant Material infected with the disease caused by the fungus *Podosphaera macularis* (Wallr. Fr.), synonyms *Sphaerotheca macularis* (Wallr. Fr.) Lind and *Sphaerotheca humuli* (Burril) Lind. ()

03. **Hop Stunt Viroid.** Plant Material infected with the disease caused by the viroid *Hostuviroid hop stunt viroid* and all strains and genetic variants associated with the genus. ()

04. **Iarvirus Species.** Plant Material infected with the disease caused by virus species within the Genus Iarvis, including but not limited to Apple Mosaic Virus and Prunus Necrotic Ringspot Virus. ()

113. -- 119. (RESERVED)

120. REGULATED ARTICLES.

01. **Plant Material.** Plants and all plant parts of hops, except kiln dried cones. ()

121. -- 129. (RESERVED)

130. QUARANTINE AREA.

All areas outside of the territorial borders of Idaho, Oregon, and Washington. ()

131. -- 139. (RESERVED)

140. RESTRICTIONS ON IMPORT.

No person may import restricted articles from the quarantined area into Idaho unless the person importing the regulated articles first obtains a special permit from the department as set forth in Section 160. ()

141. –159. (RESERVED)

160. SPECIAL PERMITS.

Any person(s) or agencies wishing to import covered commodities from the quarantine area must apply in writing for a special permit as authorized by the department. ()

01. **Application.** Application for special permits must list the prospective buyer and seller; the number, and origin of stock; location of proposed planting site; and any other relevant information. ()

02. **Conditions.** Special permits, when granted, may include such conditions as may be necessary to prevent disease establishment. All permitted material must be found free from regulated pests by a federal, state, or university laboratory. ()

161. -- 211. (RESERVED)

SUBCHAPTER B – WHITE ROT DISEASE OF ONION

212. REGULATED PEST.

Onion white rot (*Sclerotium cepivorum*). ()

213. -- 219. (RESERVED)

220. DESIGNATED COUNTIES.

Ada, Bingham, Blaine, Boise, Bonneville, Canyon, Cassia, Elmore, Gem, Gooding, Jefferson, Jerome, Lincoln, Madison, Minidoka, Owyhee, Payette, Power, Twin Falls, and Washington Counties, state of Idaho. ()

221. -- 229. (RESERVED)

230. REGULATED PRODUCTS.

Bulbs, sets, or seedlings of onion, garlic, leek, chive, shallot or other Allium species, including all ornamental Allium species, for planting purposes. ()

231. -- 249. (RESERVED)

250. RULES GOVERNING SHIPMENTS.

01. Shipment for Planting Purposes. No person may import into the designated counties bulbs, sets or seedlings of onion, garlic, leek, chives, shallots or other Allium species, including ornamentals, for planting purposes except as provided in Subsections 250.02 through 250.04. ()

02. Designated Counties. Allium production within the designated counties shall be limited to production from seed, or from vegetative propagative material produced from seed within the designated counties. Bulbs, sets or seedlings of Allium species produced within the designated counties then exported from the designated counties for processing or other purposes cannot be returned to the designated counties for planting purposes. ()

03. Vegetative Propagative Material. Vegetative propagative material, produced under aseptic conditions or field inspected annually by the Department during active growth, may be brought into the designated counties if an exemption is granted by the Department. ()

04. Allium Exemption. Bulbs, sets, or seedlings of Allium species, for planting purposes, produced in Malheur County, Oregon, and regulated by similar rules are exempt from the restrictions of Subsection 250.01. ()

251. -- 309. (RESERVED)

SUBCHAPTER C – APPLE AND CHERRY PESTS

310. DEFINITIONS.

The definitions found in section 310 apply to the interpretation and enforcement of Subchapter C only: ()

01. Commercial Fruit. Fruit harvested from a commercial orchard and destined to a commercial processing plant, packing plant, or for retail or wholesale sales. ()

02. Commercial Orchard. An orchard in which fruit is grown for commercial purposes under accepted industry, university agricultural extension service, and regulatory guidelines. ()

03. Graded Culls. Apples that have failed to meet industry quality standards for fresh markets, yet meet industry quality standards for processing purposes. ()

04. Infested Area. An area where a regulated pest is known to be present and is capable of reproducing and maintaining a viable population. ()

05. Threatened with Infestation. The entire commercial orchard is threatened with infestation when an outside boundary is within one-half (1/2) mile of an established regulated pest even if a portion of the commercial orchard is beyond one-half (1/2) mile of an established regulated pest. ()

311. – 319. (RESERVED)

320. REGULATED PESTS.

- 01. Apple Maggot.** (*Rhagoletis pomonella*). ()
- 02. Plum Curculio.** (*Conotrachelus nenuphar* (Coleoptera: Curculionidae)). ()

321. REGULATED ARTICLES.

All commercially packed fresh fruit of apple (including crabapple), cherry, hawthorn (haw), pear, plum, prune, and quince. ()

322. --329. (RESERVED)

330. REGULATED AREAS.

01. Non-Infested Areas -- Within Idaho. Any commercial orchard surveyed for verification of pest freedom and found negative. ()

331. -- 339. (RESERVED)

340. RESTRICTIONS.

Any shipment of regulated articles shall be free from infestation of regulated pests. ()

341. -- 511. (RESERVED)

SUBCHAPTER D – PEACH TREE DISEASES

512. REGULATED PESTS.

The viral diseases known as Peach Yellows, Peach Rosette, and Little Peach. ()

513. -- 519. (RESERVED)

520. AREA UNDER QUARANTINE.

All states or foreign countries or portion thereof where Peach Yellows is known to occur. ()

521. -- 524. (RESERVED)

525. REGULATED ARTICLES.

All trees, cuttings, grafts, scions, or buds of all *Prunus* species and varieties including the flowering forms of peach, nectarine, apricot, almond, plum, and prune, and any trees budded or grafted on peach stock or peach roots, coming from a regulated area. ()

526. -- 529. (RESERVED)

530. RESTRICTIONS GOVERNING SHIPMENTS.

The regulated articles will not be admitted into Idaho from the regulated areas unless the state of origin certifies that they were produced in a county free from infection with the regulated pests, as determined by adequate annual surveys satisfactory to the Director, and from disease-free bud sources, rootstocks, and environs. ()

531. -- 539. (RESERVED)

540. OFFICIAL CERTIFICATE REQUIREMENTS.

The certificates required by Section 530 of these rules, will state the names and addresses of the shipper and consignee, the number and kind of regulated articles in the shipments, and the area where grown. A copy of the certificate accompanies the shipment, and one (1) copy is forwarded at the time of shipment to the Division of Plant Industry, Idaho State Department of Agriculture, Boise, Idaho. ()

541. -- 549. (RESERVED)

550. EXEMPTIONS.

This quarantine does not apply to experiments of the United States Department of Agriculture in the state of Idaho nor to experiments of the College of Agriculture, Department of Pathology of the University of Idaho. ()

551. -- 609. (RESERVED)

SUBCHAPTER E – DISPOSAL OF CULL ONIONS AND POTATOES

610. DEFINITIONS.

The definitions found in section 610 apply to the interpretation and enforcement of Subchapter E only. ()

01. Cull Onions. Refers to those onions that are not marketable or usable for consumption or are generally considered waste, and includes the residue left in the field from the production of onion seed as well as commercial onions. ()

02. Cull Potatoes. Refers to those potatoes that are not marketable or usable for consumption or as seed potatoes and includes the residue left in the field from commercial or seed potato production, or as a result of spoilage while in storage. ()

611. -- 619. (RESERVED)

620. REGULATED AREA.

01. Onions. Ada, Canyon, Gem, Payette, Owyhee, and Washington Counties, state of Idaho. ()

02. Potatoes. The entire state of Idaho. ()

621. -- 629. (RESERVED)

630. REGULATED PRODUCTS.

01. Cull Onions. All cull onions produced as a result of market conditions, the grading process, or as a result of breakdown in storage or sorted out in the field during harvest and bulbs and waste left over from seed production. ()

02. Cull Potatoes. All cull potatoes produced as a result of market conditions, the grading process, or as a result of breakdown in storage, or sorted out in the field during harvest and tubers and waste left over from potato seed production. ()

631. -- 639. (RESERVED)

640. DISPOSITION OF CULL ONIONS.

All cull onions existing in the control area shall be disposed of by a method approved of in Section 641 of this rule, to prevent sprouting. Disposal of all existing cull onions and debris must be completed prior to March 15th, of each year; provided; however, that in the case of onions sorted on or after March 15th of each year, the cull onions resulting therefrom shall be disposed of within one (1) week after such sorting regardless of the disposal method. The Department only enforces the cull onion disposal portions of this rule from March 15th through July 1st of each year. ()

641. DISPOSAL METHODS.

To control the spread of the onion maggot and related onion diseases, all disposal methods listed in Section 641 must be carried out to the extent that control of the regulated pest(s) is achieved in order to be in compliance with Subchapter E. ()

01. Disposal by Covering in Dumps or Pits. ()

a. Cull onions disposed of by being dumped in pits shall be managed and covered as recommended by the University of Idaho Agricultural Extension Service. ()

b. Covering shall be accomplished by March 15th of each year or as provided in Section 640 of this rule. ()

02. Disposal by Feeding After March 15th of Each Year. ()

a. Onion debris shall be completely removed from feeding areas and buried under twelve (12) inches or more of onion-free soil by March 15th of each year. ()

b. In the case of residues of onion debris two (2) inches or less in depth, or onions tramped into the soil so that they cannot be removed, such areas shall be disked and plowed as deep as possible, and such that all onions and debris are buried under eight (8) inches or more of onion-free soil by March 15th of each year. ()

c. Feeding areas and areas where onions are buried shall be treated in the manner set out in Section 641. ()

03. Disposal by Composting. Cull onions being composted shall be covered by twelve (12) inches or more of onion-free soil or composting material until the onions have turned to compost. ()

04. Disposal of Residue in Onion Producing Fields. ()

a. Commercial onion fields where sort-out bulbs are left at harvest shall be disked and plowed as deep as possible, and such that all onions and debris are buried under eight (8) inches or more of onion-free soil by March 15th of each year. ()

b. Following final seed harvest, seed bulbs shall be disked and plowed as deep as possible, and such that all onions and debris are buried under eight (8) inches or more of onion-free soil by March 15th of each year. ()

05. Disposal by Chopping or Shredding. Cull onions that have been chopped or shredded to the point that they are incapable of sprouting, shall be disked and plowed as deep as possible, and such that all onions and debris are buried under eight (8) inches or more of onion-free soil by March 15th of each year. ()

06. Disposal by Spreading. Cull Onions may be disposed of by being spread on agricultural fields destined to be planted to a crop other than onions provided the onions are disked and plowed as deep as possible, and such that all onions and debris are buried under eight (8) inches or more of onion-free soil. ()

642. INCLEMENT WEATHER.

If inclement weather prevents disposal by the methods in Subsections 641.01 through 641.06, culls shall be treated with an EPA-labeled insecticide at prescribed intervals as recommended by the University of Idaho Agricultural Extension Service until proper disposal as prescribed in Subsections 641.01 through 641.06 can be carried out. ()

643. (RESERVED)

644. NOTIFICATION REQUIRED.

Any person or entity delivering cull onions for disposal in the area regulated for cull onion disposal shall provide written notification to the recipient of those cull onions advising the recipient of this rule and the recipient's obligations for the disposal of the cull onions under this rule. If the recipient is not the property owner, written notification shall also be made to the owner of the property where the onions are to be disposed of. Failure to make such notification in writing is a violation of Subchapter E. ()

645. -- 649. (RESERVED)

650. DISPOSITION OF CULL POTATOES.

All cull potatoes existing west of the Raft River shall be rendered non-viable by April 15th of each year and all cull potatoes generated after April 15th shall be rendered non-viable on a daily basis until September 20th. All cull potatoes existing east of the Raft River shall be rendered non-viable by May 15th of each year and all cull potatoes generated after May 15th shall be rendered non-viable on a daily basis until September 20th. ()

651. CULL POTATO DISPOSAL METHODS.

Cull potatoes shall be disposed of in a manner as to render them non-viable. Disposal methods are those as recommended by the University of Idaho Agricultural Extension Service. ()

652. -- 709. (RESERVED)

SUBCHAPTER F – MINT ROOTSTOCK AND CLONE PRODUCTION

710. DEFINITIONS.

The definitions found in section 710 apply in the interpretation and enforcement of Subchapter F only: ()

01. Field. A parcel of land submitted to the department for inspection of the mint being grown thereon, and physically separated by a minimum of five (5) feet of bare ground, or irrigation ditch, or road, or other physically discernible barrier separating it from an adjacent parcel of land planted with mint. ()

711. (RESERVED)

712. REGULATED PESTS.

01. Diseases. Verticillium wilt (*Verticillium dahliae* Kleb) a persistent soil-borne fungal disease of mint and any virulently pathogenic, persistent disease known to be detrimental to the production of mint rootstock. ()

02. Insects. Mint stem borer (*Pseudobaris nigrina*), insect pests of mint rootstocks and any persistent insect pest known to be detrimental to the production of mint rootstocks and without effective control options. ()

03. Noxious Weeds. Those weeds declared noxious by authority of Title 22, Chapter 24, Idaho Code (Noxious Weed Law) and Rules. Growers will be notified by the Department of existing noxious weed problems. If noxious weeds have not been effectively controlled as determined by the Department, prior to the second inspection, the field will be rejected for certification by the Department. ()

713. -- 714. (RESERVED)

715. REGULATED PRODUCTS.

01. Mentha. Rootstocks of all species of the genus *Mentha*. ()

716. -- 719. (RESERVED)

720. CONTROL AREAS.

To facilitate inspection and control, the areas, currently defined as: Cassia, Gooding, Jerome, Minidoka, and Twin Falls counties. ()

01. Certified mint shall not be grown when the specific location is within five (5) miles of uncertified mint unless there are adequate physical and cultural barriers. ()

721. -- 729. (RESERVED)

730. REQUIREMENTS FOR PLANTING MINT ROOTSTOCK.

01. State of Origin Phytosanitary Certificate. Healthy clones shall be accompanied by a phytosanitary certificate or transfer permit issued by a regulatory agency of the state of origin with zero (0) tolerance for regulated disease(s), insect(s) and noxious weed(s). ()

02. Greenhouse Requirements. Greenhouses shall be screened and tightly constructed to preclude entry of any regulated pest. Planting media shall be sterilized prior to planting and not re-used for planting of any mint destined to be entered in mint certification. Greenhouses shall be disinfected annually with a ten percent (10%) sodium hypochlorite solution. ()

731. -- 739. (RESERVED)

740. DETECTION OF REGULATED PESTS.

In the event visual examination reveals evidence of a regulated pest, laboratory tests, if necessary to determine the causal organism, will be conducted by the Idaho Department of Agriculture laboratory on official samples in addition to the field inspection. In the case of a disagreement between the state Department of Agriculture and the interested party concerning the identity of the regulated pest in question, the state Department of Agriculture will submit an official sample to any lab of the University of Idaho, for a final determination. ()

741. -- 779. (RESERVED)

780. EXEMPTIONS.

01. Government Agencies. Subchapter F does not apply to any governmental agency growing mint in experimental plots approved by the Director of the Idaho Department of Agriculture and under the supervision of qualified plant scientists. ()

02. Private Home Use. These rules do not apply to species of the genus *Mentha* intended for private home use. ()

781. -- 819. (RESERVED)

SUBCHAPTER G – GRAPE PLANTING STOCK

820. REGULATED AREAS.

All areas outside of the territorial borders of the state of Idaho. ()

821. -- 829. (RESERVED)

830. REGULATED COMMODITIES.

Planting stock of grape (*Vitis* species) including live plants, hardwood cuttings, softwood cuttings, rootstocks, and any other parts of the grape plant, except fruit, capable of propagation (except fruit). ()

831. REGULATED PESTS.

Regulated pests include, but are not limited to: ()

01. Grapevine Fanleaf Virus. ()

02. Grapevine Leaf Roll - Associated Viruses. ()

03. Red Blotch Virus. ()

04. Grapevine Corky Bark Disease. Which include, but may not be limited to: ()

a. Grapevine virus A. ()

b. Grapevine virus B. ()

- 05. **Grape Phylloxera.** (*Daktulosphaira vitifoliae*); ()
- 06. **Pierce's Disease.** As caused by the bacterium *Xylella fastidiosa*; ()
- 07. **Vine Mealybug.** (*Planococcus ficus*) ()
- 08. **Glassy-Winged Sharpshooter.** (*Homalodisca vitripennis*). ()
- 09. **European Grapevine Moth.** (*Lobesia botrana*) ()
- 10. **Xiphinema Index.** ()

832. -- 834. (RESERVED)

835. RULES GOVERNING SHIPMENTS.

01. Admittance into Idaho. Each shipment of a regulated article from a regulated area must be accompanied by a certificate issued by the state or country of origin's plant protection organization, stating that the grape planting stock to be imported has been certified in accordance with the regulations of an official grapevine certification program of the state or country of origin's plant protection organization, that includes annual inspections at all certification levels and testing at the foundation level for regulated pests and: ()

a. The grapevines, rootstock and/or softwood cuttings were grown in and shipped from an area known to be free from regulated pests; or ()

b. For small shipments (five hundred (500) or less) of un-rooted softwood cuttings, were individually inspected by an authorized inspector and were found to be free from regulated pests; or ()

c. The grapevines, rootstock or softwood cuttings were grown under a sterile soil-less media and treated with a soil or systemic insecticide and a hot water dip treatment, as outlined in Section 840 of this rule, proven to be effective against vine mealybug and any other pests that may be present on the roots; or ()

d. The grapevines, rootstock, and/or softwood cuttings were subject to one (1) of the two (2) treatments outlined in Section 840 of this rule, or such additional methods as may be determined to be effective and are approved by the director and were stored in a manner after treatment that would prevent re-infestation. ()

02. Marking Contents. All shipments of grape planting stock must be plainly marked with the contents on the outside of the package or container. ()

03. Shipment Notification. Persons shipping or transporting grape planting stock into this state from areas under regulation shall notify the department by electronic mail, regular mail or fax prior to shipment including the nature of the grape planting stock (such as live plants, hardwood cuttings, softwood cuttings, rootstocks, or other similar categories), the quantity in each shipment, the expected date of arrival, the name of the intended receiver and the destination. An official certificate issued by the plant protection organization of the state of origin certifying that the grapevines meet the requirements of this chapter must accompany the grape planting stock into the state. All treatments and inspections must have been witnessed or performed by an official of the state of origin's plant protection organization. ()

836. -- 839. (RESERVED)

840. ACCEPTABLE TREATMENTS.

01. Hot Water Treatment. Dormant, rooted grapevines or rootstock shall be washed to remove all soil or other propagative media by immersing in a hot water bath for a period of not less than three (3) minutes, nor more than five (5) minutes, at a temperature of not less than one hundred twenty-five degrees Fahrenheit (125° F.) or fifty-two degrees Celsius (52° C.), nor more than one hundred thirty degrees Fahrenheit (130° F.) or fifty-five degrees Celsius (55° C.) at any time during immersion; or ()

02. Fumigation. Grapevines, rootstock or softwood cuttings may be treated with a fumigant approved for the regulated pests. ()

03. Other Methods. Upon written application to the Director, variations to the above mentioned acceptable treatments or additional treatment methods may be considered. ()

841. -- 854. (RESERVED)

SUBCHAPTER H – JAPANESE BEETLE

855. REGULATED PEST.
Japanese beetle (*Popillia japonica*). ()

856. -- 859. (RESERVED)

860. AREAS UNDER QUARANTINE.
Any areas known to be infested or subsequently found to be infested. ()

861. -- 869. (RESERVED)

870. ARTICLES AND COMMODITIES UNDER QUARANTINE.

01. Possible Hosts and Carriers. The following are hereby declared to be hosts and possible carriers of the Japanese beetle: ()

a. Soil, humus, compost, and manure (except when commercially packaged); ()

b. All plants with roots (except bareroot plants free from soil); ()

c. Grass sod; ()

d. Plant crowns or roots for propagation (except when free from soil or under 50mm plug or liner rooting media); ()

e. Bulbs, corms, tubers, and rhizomes of ornamental plants (except when free from soil); ()

f. Any other plant, plant part, article, or means of conveyance when it is determined by the Director or authorized agent to present a hazard of spreading live Japanese beetle due to infestation or exposure to infestation by Japanese beetle. ()

02. Soil. For the purposes of this quarantine, soil is defined as all growing media in which the plants are actually rooted. Packing material other than soil, added to bareroot plants after harvesting would not normally pose a pest risk. Packing material would be covered under (Subsection 870.01.f.), at the inspector's discretion. ()

03. Free from Soil. For the purposes of this quarantine, free from soil is defined as soil in amounts that could not contain concealed Japanese beetle larvae or pupae. ()

871. -- 879. (RESERVED)

880. RESTRICTIONS.

All articles and commodities under quarantine are prohibited entry into Idaho from an area under quarantine with the following exceptions: ()

01. Certificate of Treatment. All of the articles and commodities covered are approved for entry into Idaho when accompanied by a certificate issued by an authorized state agricultural official at origin stating that the article or shipment was treated for Japanese beetle or grown in accordance with methods and procedures approved

and prescribed by the Director. A Certificate of Treatment shall include the date of treatment. During the adult flight period (June to September), the treatment must occur no more than 2 weeks prior to shipment or be retreated. If plants are exposed to a second or additional flight season, they must be retreated during each flight season. Plants that are treated outside of the adult flight season are certified until the next flight season; at which time they must be retreated if not sold before the next flight season begins. ()

02. Certificate of Origin. Commercial plant shipments with soil may be shipped from an area under quarantine into Idaho provided such shipments are accompanied by a certificate issued by an authorized state agricultural official at origin. Such certificates shall be issued only if the shipment confirms fully with either Subsections 880.02.a., 880.02.b., or 880.02.c. of Subchapter H: ()

a. The greenhouse in which the plants were produced was tightly constructed so that adult Japanese beetles would not gain entry, the plants and greenhouses were inspected and found to be free from all stages of Japanese beetle, and the plants and soil were protected from subsequent infestation while being stored, packed and shipped; or ()

b. The plants were not produced in the regulated area, were transported into the regulated area in a closed conveyance or closed containers and at all times thereafter were protected from becoming infested with Japanese beetle; or ()

c. States or portions of states listed in the area under quarantine may have counties that are not infested with Japanese beetle. Shipments of articles and commodities covered will be accepted from these noninfested counties if annual surveys are made in such counties and the results of such surveys are negative for Japanese beetle. A list of counties so approved will be maintained by the Director. Agricultural officials of other states may recommend a noninfested county be placed on the approved county list by writing for such approval and stating how the surveys were made giving the following information: ()

i. Area surveyed. ()

ii. How survey was carried out. ()

iii. Personnel involved. ()

iv. If county was previously infested, give date of last infestation. ()

v. The recommendation for approval of such counties will be evaluated by the Department of Feeds and Plant Services, Division of Plant Industries, Idaho Department of Agriculture. ()

03. Denial of Approval. If heavy infestations occur in neighboring counties, approval may be denied. To be maintained on the approved list, each county will be reapproved every twelve (12) months. Shipments of articles and commodities under quarantine from noninfested counties will only be allowed entry into Idaho if the noninfested county has been placed on the approved list prior to the arrival of the shipment to Idaho. ()

04. Privately Owned House Plants. Privately owned house plants grown indoors are exempt from Subchapter H. ()

05. Certificate Requirements. A copy shall be forwarded at the time of shipment to the Division of Plant Industry, Idaho State Department of Agriculture, Boise, Idaho. ()

881. -- 999. (RESERVED)