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**IDAPA 02
TITLE 04
CHAPTER 32**

02.04.32 - RULES GOVERNING POULTRY OPERATIONS

000. LEGAL AUTHORITY.

This chapter is adopted under the legal authority of Title 25, Chapter 40, Idaho Code. (3-21-12)

001. TITLE AND SCOPE.

01. Title. The title of this chapter is IDAPA 02.04.32, "Rules Governing Poultry Operations." (3-21-12)

02. Scope. These rules govern the design, function and management practices of waste systems on poultry concentrated animal feeding operations. These rules also establish the procedures and requirements for issuance of a permit to construct, operate, or expand poultry concentrated animal feeding operations. The official citation of this Chapter is IDAPA 02.04.32.000 et seq. For example, this section's citation is IDAPA 02.04.32.001. (3-21-12)

002. WRITTEN INTERPRETATIONS.

There are no written interpretations of these rules. (3-21-12)

003. ADMINISTRATIVE APPEAL.

Hearing and appeal rights are set forth in Title 67, Chapter 52, Idaho Code. There is no provision for administrative appeal before the department of Agriculture under these rules. (3-21-12)

004. INCORPORATION BY REFERENCE.

The following documents are incorporated by reference and copies of these documents may be obtained from the Idaho State Department of Agriculture central office. (3-21-12)

01. The 2004 Code of Federal Regulations (CFR) Title 40 Part 122 Section 122.23 (b). This document can be viewed online at http://www.access.gpo.gov/nara/cfr/waisidx_04/40cfrv20_04.html. (3-21-12)

02. Natural Resources Conservation Service Agricultural Waste Management Field Handbook Appendix 10D (Appendix 10D) (March 2008 Edition) (USDA, NRCS). This document can be viewed online at http://www.agri.idaho.gov/Categories/Environment/Documents/2008_Appendix_10D.PDF. (3-21-12)

03. Nutrient Management Standard (NMS). The June 2007 publication by the United States Department of Agriculture (USDA) Idaho Natural Resources Conservation Service (NRCS) Idaho Conservation Practice Standard, Nutrient Management Code 590. This document can be viewed online at http://www.agri.idaho.gov/Categories/Environment/nmp/nmpPDF/june_2007_NRCS_590.pdf. (3-21-12)

04. Natural Resources Conservation Service (NRCS) Idaho Conservation Practice Standard Waste Storage Facility Code 313 December 2004. This document can be viewed online at http://www.agri.idaho.gov/Categories/Environment/Documents/nrcs_313_Dec_2004.pdf. (3-21-12)

05. American Society of Agricultural and Biological Engineers Specification ASAE EP393.3 Manure Storages February 2004. This document can be viewed online at http://www.agri.idaho.gov/Categories/Environment/Documents/asae_EP393.3_Feb_04.pdf. (3-21-12)

005. ADDRESS, OFFICE HOURS, TELEPHONE, AND FAX NUMBERS.

01. Physical Address. The central office of the Idaho State Department of Agriculture is located at 2270 Old Penitentiary Road, Boise, Idaho 83712-0790. (3-21-12)

02. Office Hours. Office hours are 8 a.m. to 5 p.m., Mountain Time, Monday through Friday, except holidays designated by the state of Idaho. (3-21-12)

03. Mailing Address. The mailing address for the central office is Idaho State Department of Agriculture, P.O. Box 790, Boise, Idaho 83701. (3-21-12)

04. Telephone Number. The telephone number of the central office is (208) 332-8500. (3-21-12)

05. Fax Number. The fax number of the central office is (208) 334-2170. (3-21-12)

006. IDAHO PUBLIC RECORDS ACT.

These rules are public records and are available for inspection and copying at the Idaho State Department of Agriculture central office. (3-21-12)

007. -- 009. (RESERVED)

010. DEFINITIONS.

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

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

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

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

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

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

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

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

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

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

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

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

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

source, placement, form and timing of the land application of nutrients and soil amendments. (3-21-12)

16. Operator. The person who has power or authority to manage, or direct, or has financial control of a poultry animal feeding operation. (3-21-12)

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

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

19. Process Wastewater. (3-21-12)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

011. ABBREVIATIONS.

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

012. -- 099. (RESERVED)

100. PERMIT REQUIRED.

No person may construct, operate, or expand a poultry CAFO after April 6, 2011, without first obtaining a permit issued by the director as provided in these rules. (3-21-12)

01. Common Control. Two (2) or more poultry CAFOs under common control of the same person may be considered, for purposes of permitting, to be a single facility, even though separately their capacity is less than a large or medium poultry CAFO, if they use a common animal waste system or land application site. (3-21-12)

02. Existing Poultry Facilities. Poultry operations that existed on or before April 6, 2011, are not required to obtain a permit unless the facility is expanding to the extent that it will meet the definition of a poultry CAFO. Existing poultry facilities must register and submit an NMP in accordance with Section 170 of these rules, and must otherwise comply with these rules. (3-21-12)

101. -- 109. (RESERVED)

110. PERMIT APPLICATION.

01. Permit Application. Every person required by these rules to obtain a permit must submit a permit application to the department. The permit application will be used to determine if the construction and operation of the poultry CAFO will be in conformance with these rules. (3-21-12)

02. Contents of Application. Each application must include, in the format set forth by the director and when determined applicable by the director, the information set forth in Section 110 in sufficient detail to allow the director to make necessary application review decisions concerning design and environmental protection. (3-21-12)

- 03. Relevant Information.** (3-21-12)
 - a.** Name, mailing address and phone number of the facility owner. (3-21-12)

- b. Name, mailing address and phone number of the facility operator. (3-21-12)
- c. Name and mailing address of the facility. (3-21-12)
- d. Legal description of the facility location. (3-21-12)
- e. The one-time animal capacity, by head, of the facility. (3-21-12)
- f. The type of animals to be confined at the facility. (3-21-12)
- g. The facility's biosecurity and sanitary standards. (3-21-12)
- 04. Construction Plans.** Plans and specifications for the facility's animal waste management system that include the following information: (3-21-12)
 - a. Vicinity map(s) prepared on one (1) or more seven and one-half minute (7.5') USGS topographic quadrangle maps or a high quality reproduction(s) that includes the following: (3-21-12)
 - i. Layout of the facility, including buildings and animal waste management system; (3-21-12)
 - ii. The one hundred (100) year FEMA flood zones or other appropriate flood data for the facility site and land application sites owned or leased by the applicant; and (3-21-12)
 - iii. Private and community domestic water wells, irrigation wells, monitoring wells, and injection wells, irrigation conveyance and drainage structures, wetlands, streams, springs, and reservoirs that are within a one (1) mile radius of the facility. (3-21-12)
 - b. A site plan showing: (3-21-12)
 - i. Building locations; (3-21-12)
 - ii. Waste facilities; (3-21-12)
 - iii. All waste conveyance systems; and (3-21-12)
 - iv. All irrigation systems used for land application, including details of approved water supply protection devices. (3-21-12)
 - c. Building plans showing: (3-21-12)
 - i. All wastewater collection systems in housed units; (3-21-12)
 - ii. All freshwater supply systems, including details of approved water supply protection devices; (3-21-12)
 - iii. Detailed drawings of wastewater collection and conveyance systems and containment construction. (3-21-12)
 - d. If a CAFO Site Advisory Team suitability determination was not conducted for the facility, the following additional information must be provided: (3-21-12)
 - i. Idaho DEQ delineated source water assessment areas within a one (1) mile radius of the facility and land application area; (3-21-12)
 - ii. Idaho DEQ delineated nitrate priority areas that intersect the facility or land application area; (3-21-12)

iii. Soil characteristics from NRCS; and (3-21-12)

iv. Well logs associated with wells listed in Subsection 110.04.a.iii. (3-21-12)

e. All construction plans will specify how the facility will meet the engineering standards outlined in the Natural Resources Conservation Service Agricultural Waste Management Field Handbook Appendix 10D (Appendix 10D) (March 2008 Edition) (USDA, NRCS), Natural Resources Conservation Service (NRCS) Idaho Conservation Practice Standard Waste Storage Facility Code 313 December 2004, or American Society of Agricultural and Biological Engineers Specification ASAE EP393.3 Manure Storages February 2004. (3-21-12)

05. Nutrient Management Plan. NMPs must be prepared in conformance with the Nutrient Management Standard or other equally protective standard for managing the amount, source, placement, form and timing of the land application of nutrients or soil amendments. (3-21-12)

06. Other Information. An applicant must provide any other information required by Section 110 as deemed necessary by the director to assess whether the facility poses or will pose a threat to the state's water resources. (3-21-12)

111. -- 119. (RESERVED)

120. APPLICATION PROCESSING PROCEDURE.

01. Application Completeness. Within thirty (30) days of receipt of an application, the department will provide written notice to the applicant as to whether the application contains all of the information required in Section 110. If the application is incomplete, the department will provide a specific list of the missing information. The application will not be processed until it is deemed complete by the department. (3-21-12)

02. Application Processing. Within sixty (60) days of receiving a complete application, the department will review the application materials and determine whether the design of the facility is in accordance with the engineering standards and specifications provided by the NRCS or ASABE. The department will notify the applicant of the results of that review. (3-21-12)

121. -- 129. (RESERVED)

130. PERMIT CONDITIONS.

The following conditions will apply to all permittees: (3-21-12)

01. Compliance Required. The permittee must comply with all conditions of the permit. The permit must not relieve the permittee of the responsibility of complying with all applicable local, state, and federal laws. (3-21-12)

02. Construction, Operation, and Maintenance of the Facility. The permittee must ensure that construction, operation, and maintenance of the facility proceed according to the construction plans and specifications and the approved nutrient management plans, and comply with the following: (3-21-12)

a. Within thirty (30) days of construction completion, submit as-built construction plans. (3-21-12)

b. Apply best management practices as approved by the director. (3-21-12)

c. The facility or operations associated with the facility must not adversely affect waters of the state or create nuisance conditions including odor. (3-21-12)

d. The removal of animal waste from an impoundment or storage structure must be performed in a manner not to damage the integrity of the liner. (3-21-12)

e. Dead animals must be handled in accordance with IDAPA 02.04.17, "Rules Governing Dead

Animal Movement and Disposal.” (3-21-12)

f. Nutrient management plans must be amended in accordance with IDAPA 02.04.30.000 et seq. “Rules Governing Nutrient Management.” (3-21-12)

g. Soil tests must be conducted annually on all land application sites owned or leased by the permittee to determine compliance with the NMP and NMS. The director may require more frequent soil tests if he deems it necessary. (3-21-12)

03. Information to be Provided. The permittee must furnish to the director, within a reasonable time, any information which the director may reasonably require to determine whether causes exists to modify or revoke the permit, or to determine compliance with the permit or applicable rules. (3-21-12)

04. Entry and Access. The permittee must allow the director entry and access in accordance with Section 25-4008, Idaho Code. (3-21-12)

05. Reporting. Permittees must report discharges or noncompliance issues within the following time frames: (3-21-12)

a. Within twenty-four (24) hours of the time the permittee knows or should have known of a discharge or unauthorized discharge, the permittee must verbally report the discharge. (3-21-12)

b. Within five (5) working days from the time a permittee knows or reasonably should have known of any event which has resulted or which may result in noncompliance with these rules, the permittee must file a written report with the director. The report must contain: (3-21-12)

i. A description of the event and its cause or if the cause is not known, steps taken to investigate and determine the cause; (3-21-12)

ii. The period of the event including, to the extent possible, times and dates; (3-21-12)

iii. Measures taken to mitigate or eliminate the event; and (3-21-12)

iv. Steps taken to prevent recurrence of the event. (3-21-12)

c. Immediately, whenever the permittee knows or learns or should reasonably know of material relevant acts not submitted or incorrect information submitted in a permit application or any report or notice to the director. (3-21-12)

06. Construction Commencement. If a permittee fails to begin construction or expansion of a facility within five (5) years of the effective date of the permit, the director may void the permit and require a new permit application. (3-21-12)

07. Permit Renewal. If a permittee intends to continue operation of the permitted facility after expiration of an existing permit, the permittee must apply for a new permit at least one hundred eighty (180) days prior to the expiration of the permit. (3-21-12)

08. Specific Permit Conditions. The director may establish specific permit conditions on a case by case basis. Specific conditions will be established in consideration of facility’s specific characteristics and will be designed to protect the state’s water resources. (3-21-12)

131. -- 139. (RESERVED)

140. FEES AND ASSESSMENTS.

01. Annual Fees or Assessments. The director may establish annual fees or assessments for each permittee of no more than three cents (\$0.03) per square foot of containment area. (3-21-12)

02. Payment of Annual Fees or Assessments. The director must notify each permittee with a fee or assessment invoice by December 20th of each calendar year. Annual fees or assessments are due annually by January 20th of the next calendar year. (3-21-12)

03. Adjustment in Fees or Assessments. The director will provide at least thirty (30) days written notice to each permittee before fees or assessments are increased or decreased. (3-21-12)

141. -- 149. (RESERVED)

150. PERMIT MODIFICATION.

01. Minor Modifications. Minor permit modifications are those which do not have a potential effect on the state's water resources. Such modifications will be made by the director, and are generally limited to: (3-21-12)

- a. The correction of typographical or clerical errors; (3-21-12)
- b. Transfer of ownership or operational control in accordance with Section 160; or (3-21-12)
- c. Certain minor changes in monitoring or operational conditions. (3-21-12)

02. Major Modifications. All permit modifications not considered minor will be deemed major. The procedure for making major modifications is the same as that used for a new permit under these rules. (3-21-12)

151. -- 159. (RESERVED)

160. TRANSFER OF PERMITS.

01. Transfer Application. A new owner or operator of a facility must submit a transfer application to the director that includes at least the following: (3-21-12)

- a. The relevant information required by Subsection 110.03; and (3-21-12)
- b. Any change of conditions at the facility resulting from the ownership or operation transfer. (3-21-12)

02. Transfer Application Review. The director will review the transfer application and either approve or deny the application within sixty (60) days of its receipt. (3-21-12)

a. An approved transfer will be considered a minor modification pursuant to Subsection 150.01 as long as there are no major changes of conditions at the facility. Major changes of conditions at the facility are subject to Subsection 150.02. (3-21-12)

b. If the director denies the transfer application, he will set forth the specific reasons for the denial, the steps necessary to meet the requirements for a permit transfer, and the opportunity to request a hearing. (3-21-12)

161. -- 169. (RESERVED)

170. REGISTRATION OF EXISTING POULTRY CAFOS.

All large and medium poultry CAFOs in existence on or before April 6, 2011, must register with the department no later than January 1, 2012, upon forms furnished by the department. (3-21-12)

01. Information Required. The following information must be provided to the department in order to register an existing medium or large poultry CAFO. (3-21-12)

- a. Name, mailing address, phone number and email address (if applicable) of the facility owner;

- (3-21-12)
- b. Name, mailing address, phone number and email address (if applicable) of the facility operator; (3-21-12)
 - c. Physical address of the facility; (3-21-12)
 - d. Facility site map; (3-21-12)
 - e. Facility capacity; and (3-21-12)
 - f. Average poultry population over the twelve (12) months preceding the date the registration information is provided by the operator. (3-21-12)

02. Nutrient Management Plan. No later than April 6, 2012, existing medium and large poultry CAFOs must submit an NMP, prepared in conformance with the NMS or other equally protective standard for managing the amount, source, placement, form and timing of the land application of nutrients or soil amendments. The NMP must accurately reflect the operation of the facility. (3-21-12)

03. Permit Allowed. An existing medium or large CAFO may, in the alternative, seek a permit pursuant to Section 110. (3-21-12)

04. Permit Required. An existing facility must obtain a permit in accordance with Section 110, prior to increasing the one-time animal capacity of the facility by ten percent (10%) or more. (3-21-12)

05. Ownership Transfer. If an existing poultry CAFO has registered with the department and ownership is subsequently transferred to a new owner, the new owners must apply for and obtain a new permit in accordance with Section 110. (3-21-12)

171. -- 199. (RESERVED)

200. WASTE STORAGE AND CONTAINMENT FACILITIES.

01. Wastewater Storage and Containment Facilities. All poultry AFOs where process wastewater leaves the confinement area and has the potential to impact water of the state or be in violation of state water quality standards or ground water quality standards must have wastewater storage and containment facilities designed, constructed, operated, and maintained sufficient to contain: (3-21-12)

- a. All process wastewater generated on the facility during the non-land application season; (3-21-12)
- b. The runoff from a twenty-five (25) year, twenty-four (24) hour rainfall event; and (3-21-12)
- 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. (3-21-12)

02. All Substances Entering Wastewater Storage and Containment Facilities. All substances entering wastewater storage and containment facilities must be composed of manure and process wastewater from the operation of the poultry AFO. The disposal of any other materials into a wastewater storage and containment facility, including, but not limited to, human waste, is prohibited. (3-21-12)

03. Waste Storage. Storage areas for poultry waste including compost and solid manure storage areas must be located on approved soils and appropriately protected to prevent run on and run off. (3-21-12)

04. Waste and Wastewater System Maintenance. Waste and wastewater storage and containment systems must be maintained in a condition that allows the producer to regularly inspect the integrity of the systems. (3-21-12)

05. Additional Ground Water Protection Requirements. The permittee must construct and maintain all waste containment structures within the parameters of this rule, including the Natural Resources Conservation Service Agricultural Waste Management Field Handbook Appendix 10D (Appendix 10D) (March 2008 Edition) (USDA, NRCS), Natural Resources Conservation Service (NRCS) Idaho Conservation Practice Standard Waste Storage Facility Code 313 December 2004, or American Society of Agricultural and Biological Engineers Specification ASAE EP393.3 Manure Storages February 2004 (see Section 004, Incorporation by Reference). After inspection, if the Department has information that the waste containment structure(s) has been compromised severely enough to no longer meet the requirements of this rule, the Department may require an evaluation to be conducted by a licensed professional engineer. The engineer will make recommendations on steps needed to bring the facility into compliance with this rule. The permittee is responsible for engineering and reconstruction costs. If the permittee has a repeat waste containment compromise, as determined by the department, the Director may require ground water monitoring by the permittee. (3-21-12)

201. -- 249. (RESERVED)

250. NUTRIENT MANAGEMENT.

Each poultry CAFO must submit an NMP for land owned or controlled by the operator to the director for approval. The NMP must conform to the NMS and address odors generated in excess of odors normally associated with raising poultry in Idaho. (3-21-12)

01. Existing Poultry CAFOs. Poultry CAFOs that are operating on or before April 6, 2011, must submit an NMP to the director for approval no later than April 6, 2012. (3-21-12)

02. New Poultry CAFOs. Any poultry CAFO which commences operations after April 6, 2011, must not operate prior to the director's approval of the NMP. (3-21-12)

03. Designated Poultry CAFOs. Any poultry AFO which is designated as a CAFO by the department in accordance with Section 400 must submit an NMP within forty-five (45) days of designation. (3-21-12)

04. NMP Approval. The director will respond to or approve an NMP in writing within forty-five (45) days of submission. (3-21-12)

05. NMP Updates or Amendments. Nutrient management plans must be updated as needed to accurately reflect the facility and its nutrient management system. (3-21-12)

251. NUTRIENT MANAGEMENT PLAN RETENTION.

All NMPs which have been approved by the department and returned to the CAFO must be maintained on site at the CAFO and available to the department upon request. The department will retain a copy of the NMP. (3-21-12)

252. NUTRIENT MANAGEMENT RECORDS.

01. Required Nutrient Management Records. The CAFO operator must keep complete and accurate records of: (3-21-12)

a. Land application records, consisting of, at a minimum: (3-21-12)

i. The dates, methods and approximate amounts of any manure or process wastewater applied on land owned or controlled by the operator. (3-21-12)

ii. Weather conditions and soil moisture at the time of application. (3-21-12)

iii. The lapsed time to manure incorporation, rainfall or irrigation event. (3-21-12)

iv. Documentation of the actual rate at which nutrients were applied. When the actual rate used differs from the recommended and planned rates, nutrient management records must indicate the rationale for the difference. (3-21-12)

b. The name and address of any third party receiving manure or process wastewater from the facility, including the dates of the transfer and the amount of manure or process wastewater transferred. (3-21-12)

c. Nutrient Application. The quantities, analyses and sources of nutrients applied. (3-21-12)

d. Soil Analysis. Complete soil analysis to create nutrient budget. (3-21-12)

e. Crops. Crops planted, planting and harvest dates, yields and crop residues removed. (3-21-12)

f. Record Review. Dates of annual review, person performing the review, and recommendations determined from the review. (3-21-12)

02. Records Retention. All nutrient management records must be maintained for a period of five (5) years and provided to the department upon request. (3-21-12)

253. NMP VIOLATIONS.

The failure to implement an approved NMP, failure to retain and maintain an NMP at the CAFO, or failure to retain nutrient management records is a violation of these rules. (3-21-12)

254. -- 259. (RESERVED)

260. GROUND WATER QUALITY MONITORING.

At least annually, the department will sample and test the facility's production well water for nitrogen. (3-21-12)

261. -- 299. (RESERVED)

300. PROHIBITED DISCHARGES.

Discharges or unauthorized discharges of manure or process wastewater from poultry CAFO or land application sites owned or controlled by a poultry CAFO are prohibited. (3-21-12)

301. -- 309. (RESERVED)

310. NOTIFICATION OF DISCHARGE.

Within twenty-four (24) hours of learning of a discharge or unauthorized discharge, the operator of a poultry CAFO must verbally notify the department of the discharge or unauthorized discharge. (3-21-12)

311. -- 399. (RESERVED)

400. DESIGNATION OF POULTRY CONCENTRATED ANIMAL FEEDING OPERATIONS.

01. Designation of Animal Feeding Operations. The director may designate any poultry AFO as a CAFO if, after inspection, the director determines that the AFO is a significant contributor of pollution to waters of the state. The director will consider the following factors when making a designation: (3-21-12)

a. The size of the AFO and the amount of manure, process wastewater and runoff reaching waters of the state; (3-21-12)

b. Location of the AFO relative to waters of the state; (3-21-12)

c. Means of conveyance of manure, process wastewater, and runoff into waters of the state; (3-21-12)

d. Slope, vegetation, precipitation and other factors that affect the likelihood or frequency of discharge of manure, process wastewater and runoff into waters of the state; (3-21-12)

e. Unauthorized discharges into waters of the state through a man-made ditch, flushing system, or other similar man-made device; (3-21-12)

f. Unauthorized discharges directly into waters of the state that originate outside of and pass over, across or through the facility or otherwise come into contact with the animals confined in the AFO; and (3-21-12)

g. Repeated instances of noncompliance. (3-21-12)

02. Effect of Designation. Upon designation, a poultry facility will be required to follow all permit requirements for a medium poultry CAFO. (3-21-12)

03. Redesignation of a Poultry CAFO. The operator may request that the director redesignate a facility previously designated under Subsection 400.01. The director will redesignate the CAFO only if the facility is no longer a significant contributor of pollution to waters of the state. If granted, the redesignation will be provided to the operator in writing. No fees or assessments paid by the facility after designation will be refunded. (3-21-12)

401. -- 499. (RESERVED)

500. INSPECTIONS.

Pursuant to Title 25, Chapter 40, Idaho Code, the director or his designee is authorized to inspect any poultry AFO, and to have access to and copy any facility records deemed necessary to ensure compliance with Title 25, Chapter 40, Idaho Code, and these rules. (3-21-12)

01. Frequency. All poultry CAFOs will be inspected at least annually, or at intervals sufficient to determine that waste has been managed to prevent an unauthorized discharge or contamination of waters of the state. (3-21-12)

02. Inspection Methods. Inspections may include, but are not limited to, evaluating effectiveness of best management practices, collecting samples, taking photographs, video recording or collecting other information as necessary. (3-21-12)

03. Inspection Report Forms. An official inspection report form will be completed at the time of the inspection and provided to the operator. (3-21-12)

501. -- 549. (RESERVED)

550. VIOLATIONS.

01. Failure to Comply. Failure by a permittee to comply with the provisions of these rules or with any permit condition is a violation of these rules. (3-21-12)

02. Falsification of Statements and Records. It is a violation of these rules for any person to knowingly make a false statement, representation, or certification in any application, report, document, or record developed, maintained, or submitted pursuant to these rules or the conditions of a permit. (3-21-12)

03. Discharge. Any discharge or unauthorized discharge from a facility is a violation of these rules. (3-21-12)

551. PENALTIES.

Any person violating any provision of these rules or any permit or order issued thereunder must be liable for a civil penalty in accordance with Section 25-4014, Idaho Code, or a permit revocation in accordance with Section 25-4013, Idaho Code, and Section 552 of these rules. (3-21-12)

552. PERMIT REVOCATION.

Prior to revoking a permit, the director will issue a notice of intent to revoke, which will become final unless the permittee timely requests, in writing, an administrative hearing. The administrative hearing will be conducted in accordance with Title 67, Chapter 52, Idaho Code. (3-21-12)

01. Material Violation. The director may revoke a permit for a material violation of any condition of a permit. (3-21-12)

02. Misrepresentation of Failure to Disclose. If the permit was obtained by misrepresentation or a knowing failure to disclose all relevant facts, the director may revoke a permit. (3-21-12)

553. -- 999. (RESERVED)

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