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**IDAPA 02
TITLE 04
CHAPTER 18**

02.04.18 - RULES GOVERNING CAFO SITE ADVISORY TEAM

000. LEGAL AUTHORITY.

This chapter is adopted under the legal authority of Title 67, Chapter 65, Idaho Code. (3-15-02)

001. TITLE AND SCOPE.

01. Title. The title of this chapter is IDAPA 02.04.18, "Rules Governing CAFO Site Advisory Team." (3-15-02)

02. Scope. These rules shall govern the contents of a request to form a CAFO Site Advisory Team, formation of a CAFO Site Advisory Team, development of a site suitability determination, and submission of the suitability determination to the appropriate county officials. The official citation of this chapter is IDAPA 02.04.18.000 et seq. For example this section's citation is IDAPA 02.04.18.001. (3-15-02)

002. WRITTEN INTERPRETATIONS.

There are no written interpretations of these rules. (3-15-02)

003. ADMINISTRATIVE APPEAL.

There is no provision for administrative appeal before the ISDA under this chapter. Persons may be entitled to appeal agency actions authorized under these rules pursuant to Title 67, Chapter 52, Idaho Code. (3-15-02)

004. INCORPORATION BY REFERENCE.

The following documents are incorporated by reference, and copies of the documents may be obtained from the Idaho State Department of Agriculture central office at 2270 Old Penitentiary Road, Boise, Idaho, 83712 or accessed online. (3-29-12)

01. Nutrient Management Standard (NMS). (3-29-12)

a. The 1999 publication by the United States Department of Agriculture (USDA) 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/AGRI/Categories/Animals/Documents/nutrient_Management_code_590.PDF. (3-29-12)

b. The 2007 publication by the United States Department of Agriculture (USDA) 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/AGRI/Categories/Environment/nmpPDF/june_2007_NRCS_590.pdf. (3-29-12)

005. IDAHO PUBLIC RECORDS ACT.

These rules are public records and are available for inspection and copying at the Idaho State Department of Agriculture. (3-15-02)

006. 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. (3-15-02)

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. (3-15-02)

03. Mailing Address. The mailing address for the central office is Idaho State Department of Agriculture, P. O. Box 790, Boise, Idaho 83701. (3-15-02)

- 04. Telephone Number.** The telephone number of the central office is (208) 332-8500. (3-15-02)
- 05. Fax Number.** The fax number of the central office is (208) 334-4062. (3-15-02)
- 007. -- 009. (RESERVED)**
- 010. DEFINITIONS.**
The following definitions shall apply in the interpretation and enforcement of this chapter. (3-15-02)
- 01. Best Management Practices.** Practices, techniques, or measures that are determined by the Department to be a cost-effective and practicable means of preventing or reducing pollutants from point or non-point sources from entering waters of the state and managing odor generated on an agriculture operation to a level associated with accepted agriculture practices. (3-29-12)
- 02. CAFO Site Advisory Team.** Representatives of the Idaho State Department of Agriculture, Idaho Department of Environmental Quality, and Idaho Department of Water Resources, with the Idaho State Department of Agriculture as the team lead, who review a site proposed for a CAFO, determine environmental risks, and submit a site suitability determination to the county that has requested the determination. (3-15-02)
- 03. Concentrated Animal Feeding Operation (CAFO).** For those counties that have requested a site suitability determination, a CAFO is as defined in the applicable ordinance of the county where the CAFO is located. If the requesting county has not defined CAFO in its ordinances, CAFO means a lot or facility where the following conditions are met: (3-29-12)
- a.** Animals have been, are, or will be stabled or confined and fed or maintained for a total of ninety (90) consecutive days or more in any twelve (12) month period; (3-15-02)
- 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; (3-15-02)
- c.** The lot or facility is designed to confine or actually does confine as many as or more than the numbers of animals specified in any of the following categories: (3-29-12)
- i.** Seven hundred (700) mature dairy cows, whether milked or dry; (3-29-12)
- ii.** One thousand (1,000) veal calves; (3-29-12)
- iii.** One thousand (1,000) cattle other than mature dairy cows or veal calves; (3-29-12)
- iv.** Two thousand five hundred (2,500) swine each weighing fifty-five (55) pounds or more; (3-29-12)
- v.** Ten thousand (10,000) swine each weighing less than fifty-five (55) pounds; (3-29-12)
- vi.** Five hundred (500) horses; (3-29-12)
- vii.** Ten thousand (10,000) sheep or lambs; or (3-29-12)
- viii.** Eighty-two thousand (82,000) chickens; and (3-29-12)
- d.** Two (2) or more concentrated animal feeding operations under common ownership are considered, for the purposes of this definition, to be a single animal feeding operation if they adjoin each other or if they use a common area or system for the disposal of wastes. (3-15-02)
- 04. Department.** The Idaho State Department of Agriculture. (3-15-02)
- 05. Director.** The Director of the Idaho State Department of Agriculture or his designee. (3-29-12)

06. Environmental Risk. That risk to the environment deemed posed by a proposed CAFO site, as determined and categorized by the CAFO site advisory team and set forth in the site advisory team's suitability determination report. (3-15-02)

07. Land Application. The spreading on, or incorporation into the soil of agricultural by-products such as manure, process wastewater, compost, cull potatoes, cull onions, or crop residues into the soil primarily for beneficial purposes. (3-29-12)

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

09. Nutrient Management Standard. For dairies and beef cattle animal feeding operations, the 1999 publication by the United States Department of Agriculture Natural Resources Conservation Service, Conservation Practice Standard, Nutrient Management Code 590, or other equally protective standard approved by the Director. For poultry concentrated animal feeding operations, the 2007 publication by the United States Department of Agriculture Natural Resources Conservation Practice Standard, Nutrient Management Code 590, or other equally protective standard approved by the Director. (3-29-12)

10. Odor Management Plan. A site-specific plan approved by the Director to manage odor from a CAFO to a level associated with accepted agricultural practices by utilizing best management practices. (3-15-02)

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

12. Suitability Determination. The document created and submitted by the CAFO site advisory team, after review and analysis of a proposed CAFO site and information provided subsequent to Section 300 of these rules, that identifies the environmental risk categories related to a proposed CAFO site, describes the factors that contribute to the environmental risks, and sets forth any possible mitigation of risk. (3-15-02)

011. ABBREVIATIONS.

- 01. BMP.** Best Management Practices. (3-15-02)
- 02. CAFO.** Concentrated Animal Feeding Operation. (3-15-02)
- 03. DEQ.** Idaho Department of Environmental Quality. (3-15-02)
- 04. FEMA.** Federal Emergency Management Agency (3-15-02)
- 05. IDWR.** Idaho Department of Water Resources. (3-15-02)
- 06. NRCS.** The United States Department of Agriculture, Natural Resources Conservation Service. (3-15-02)
- 07. NMP.** Nutrient Management Plan. (3-15-02)
- 08. OMP.** Odor Management Plan. (3-15-02)
- 09. USGS.** United States Geological Survey. (3-15-02)

012. -- 099. (RESERVED)

100. APPLICABILITY.

01. Site for a Proposed CAFO. A CAFO site advisory team shall review and make a site suitability determination for all proposed CAFO sites, as defined in these rules, submitted by a board of county commissioners

pursuant to these rules. (3-15-02)

02. Sites That Do not Meet the Definition of a CAFO. The Director may form a CAFO site advisory team, as requested by a board of county commissioners, for a site that does not meet the animal numbers in the definition of a CAFO provided that: (3-29-12)

a. The county demonstrates that the site is in an environmentally sensitive area or is in close proximity to streams, lakes, or other bodies of surface water; or (3-15-02)

b. The state agencies have personnel and other resources available to conduct the site suitability determination. (3-15-02)

101. -- 199. (RESERVED)

200. FORMATION OF A SITE ADVISORY TEAM.

A board of county commissioners may request the formation of a CAFO site advisory team to provide a site suitability determination by submitting to the Director a written request supported by the adoption of a resolution by the county. (3-15-02)

01. Designation of the Team Leader. Upon receipt of a request to form a site advisory team, the Director shall designate a team leader. (3-15-02)

02. Notification of Team Members. The team leader shall provide a copy of the request to form a site advisory team to DEQ and IDWR. After receiving notification, DEQ and IDWR shall notify the Team Leader of their respective representatives to the team. (3-15-02)

201. -- 299. (RESERVED)

300. CONTENTS OF A REQUEST TO FORM A SITE ADVISORY TEAM.

The information contained in a request shall include, but not be limited to, the following: (3-15-02)

01. County Definition of CAFO. The county's definition of "CAFO" as set forth in any applicable county ordinance. (3-29-12)

02. Legal Description and Address. Legal description and address of the proposed CAFO. (3-15-02)

03. One-Time Unit Capacity. The one-time animal capacity of the proposed CAFO. (3-29-12)

04. Type of Animals. The type of animals to be confined at the proposed CAFO. (3-15-02)

05. Water Right Information. All requests shall include one (1) of the following: (3-15-02)

a. Evidence that a valid water right exists to supply adequate water for the operation of the proposed CAFO; or (3-15-02)

b. A copy of an application for a permit to appropriate water that has been filed with IDWR, which if approved, will supply adequate water for operation of the proposed CAFO; or (3-15-02)

c. A copy of an application to change the point of diversion, place, period, and nature of use of an existing water right that has been filed with IDWR, which if approved, will supply adequate water for the operation of the proposed CAFO. (3-15-02)

06. Vicinity Map with Site Location. A detailed sketch of the proposed CAFO site location, on an aerial photograph if available, which includes the following: (3-15-02)

a. Building locations; (3-15-02)

b. Waste storage facilities and general areas for any land application including a narrative description of the waste system; (3-15-02)

c. FEMA flood zones or other appropriate flood data for the proposed CAFO site and land application sites owned or leased by the applicant; (3-15-02)

d. Private and community domestic water wells, irrigation wells, existing monitoring wells, and existing injection wells as documented by IDWR or other sources, including the associated well logs if available, which are within a one (1) mile radius of the proposed CAFO; (3-29-12)

e. Irrigation canals, irrigation laterals, rivers, streams, springs, lakes, reservoirs, and designated wetlands, which are within a one (1) mile radius of the proposed CAFO. (3-15-02)

07. Site Characterization. A characterization of the proposed CAFO site and any land application sites owned or leased by the applicant, which includes the following information, if available: (3-15-02)

a. Annual precipitation and prevailing wind direction as contained in the Idaho Waste Management Guidelines, 1997; (3-15-02)

b. Soil characteristics from NRCS; (3-15-02)

c. Hydrologic characteristics from IDWR and USGS including: (3-15-02)

i. Depth to first water yielding zone and first encountered water; (3-15-02)

ii. Direction of ground water movement and gradient; (3-15-02)

iii. Sources and estimates of recharge; (3-15-02)

iv. Seasonal variations in water level and recharge characteristics; (3-15-02)

v. Susceptibility to contamination; and (3-15-02)

vi. Relation of ground water to surface water. (3-15-02)

d. Water quality data from DEQ, the Department, IDWR, or USGS, including: (3-29-12)

i. Microorganisms; (3-15-02)

ii. Nutrients; and (3-15-02)

iii. Pharmaceuticals and organic compounds. (3-15-02)

08. Required OMPs or NMPs. Any OMPs or NMPs that are required by the county to be submitted by the applicant at the time of application. (3-15-02)

301. -- 399. (RESERVED)

400. REVIEW OF REQUEST.

Team members shall review the information provided in the request for the formation of a site advisory team to determine if it includes the required elements of Section 300. (3-15-02)

01. Insufficient Information. If the team determines that the information provided by the county does not include the required elements of Section 300, the team leader shall contact the county and request additional information. (3-15-02)

02. Sufficient Information. When the team has determined that the information submitted by the

county contains the required elements of Section 300, the team leader shall schedule an onsite review of the information with the team members. The team leader shall inform the county requesting the formation of the site advisory team of the date and time of the onsite review and the county may have a representative present. (3-15-02)

401. -- 499. (RESERVED)

500. SITE SUITABILITY DETERMINATION.

Within thirty (30) days of receiving a request for the formation of a CAFO site advisory team that includes the required elements of Section 300, the team shall develop and submit to the county a site suitability determination, based on the elements of Section 300 or other relevant information, that contains: (3-15-02)

01. Risk Category. A determination of an environmental risk category: high, moderate; low; or insufficient information to make a determination; (3-15-02)

02. Description of Factors. A description of the factors that contribute to the environmental risks; (3-15-02)

03. Mitigation. Any possible mitigation of the environmental risks. (3-15-02)

501. -- 999. (RESERVED)

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