

MINUTES
SENATE AGRICULTURAL AFFAIRS COMMITTEE

DATE: Thursday, January 14, 2021

TIME: 8:00 A.M.

PLACE: Room WW53

MEMBERS PRESENT: Chairman Burtenshaw, Vice Chairman Bayer, Senators Patrick, Den Hartog, Johnson, Zito, Ricks, Nelson, and Rabe

ABSENT/ EXCUSED: None

NOTE: The sign-in sheet, testimonies and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

CONVENED: **Chairman Burtenshaw** called the meeting of the Senate Agricultural Affairs Committee (Committee) to order at 8:03 a.m.

PASSED THE GAVEL: **Chairman Burtenshaw** passed the gavel to Vice Chairman Bayer.

DISCUSSION: **Vice Chairman Bayer** detailed the dockets and rules to be presented by the Idaho State Department of Agriculture (ISDA). She emphasized that one of the dockets, **Docket 02-0000-2000FA**, comprises 19 chapters, and only 17 chapters will be heard in the meeting. The other two chapters will be presented in the next Committee hearing.

Vice Chairman Bayer introduced Brian Oakey, Deputy Director and Rules Review Coordinator, ISDA. She also mentioned there were six other ISDA administrators on standby to answer questions related to the two dockets.

DOCKET NO. 02-0000-2000F **Notice of Omnibus Rulemaking - Adoption of Pending Fee Rule, p. 5. Mr. Oakey** detailed the three rules that appear in **Docket No. 02-0000-2000F**: Rules Governing the Idaho Preferred Promotion Program, Rules Governing Certificates of Free Sale, and Organic Food Products Rules.

Mr. Oakey stated **Docket No. 02-0000-2000F** contains no changes from the previous year's docket. However, he pointed out that fee rules are required to be approved by both Houses, and both Houses did not approve a concurrent resolution in 2020. Thus, ISDA is required to have all its rules republished, repromulgated, and undergo renegotiation rulemaking process in 2020. **Docket No. 02-0000-2000F** was presented for the Committee's reconsideration. **Mr. Oakey** advised the Committee that ISDA Bureau Chief Laura Johnson and ISDA Administrator Cindy Stark were on hand to answer any questions related to the three rules at issue.

MOTION: **Senator Johnson** moved to approve **Docket No. 02-0000-2000F**. **Senator Nelson** seconded the motion. The motion passed by **voice vote**.

DOCKET NO. 02-0000-2000FA **Notice of Omnibus Rulemaking - Adoption of Pending Fee Rule**, p. 23. **Mr. Oakey** presented **Docket No. 02-0000-2000FA**, explaining it reauthorizes 19 previously reviewed and approved rules. Furthermore, he highlighted that **Docket No. 02-0000-2000FA** was in a slightly different format because it contains Idaho Code § 22-101A. Idaho Code § 22-101A addresses additional requirements as part of the rulemaking process: "The legislature directs that any rule proposed by the director which is broader in scope or more stringent than federal law or regulations, or proposes to regulate an activity not regulated by the federal government, is subject to the following additional requirements: the notice of proposed rulemaking and rulemaking record requirements under chapter 52, title 67, Idaho Code, must clearly specify that the proposed rule, or portions of the proposed rule, are broader in scope or more stringent than federal law or regulations, or regulate an activity not regulated by the federal government, and must delineate which portions of the proposed rule are broader in scope or more stringent than federal law or regulations, or regulate an activity not regulated by the federal government." For this reason, a separate fee docket is required to differentiate the rules under Idaho Code § 22-101A from the others.

Mr. Oakey emphasized ISDA is proposing non-substantive changes on the three rules of this docket: Rules Governing Animal Industry (Rule 02.04.03), Rules Governing Grade A Milk and Manufacture Grade Milk (Rule 02.04.05), and Poultry Operations (Rule 02.04.32). The proposed rules changes are highlighted in Attachment 1. **Mr. Oakey** introduced Dr. Bill Barton, Administrator and State Veterinarian, ISDA Division of Animal Industries, to give a detailed report of the changes in the three rules.

Dr. Barton enumerated all the amendments in the three rules. He emphasized that all the changes are in compliance with the Governor's directive on the Red Tape Reduction Act.

Mr. Oakey clarified that all the other rules in **Docket No. 02-0000-2000FA** – with exception to Rules Governing Weights and Measures (Rule 02.02.14) and Rules Governing Pesticide and Chemigation Use and Application (Rule 02.03.03) contain no changes from what was previously presented and approved last year.

DISCUSSION: In response to a question from Senator Ricks, **Mr. Oakey** affirmed there are fee changes in the two aforementioned rules on **Docket No. 02-0000-2000FA**. He indicated the rules underwent extensive negotiated rulemaking processes that need ample time to explain. Thus, ISDA will have separate presentations on the two rules in the next Committee hearing.

TESTIMONY: **Mr. Jonathan Oppenheimer**, External Relations Director, Idaho Conservation League (ICL), testified in opposition to **Docket No. 02-0000-2000FA** (Rule 02.04.19), Rules Governing Domestic Cervidae. He expressed his concerns on the spread and exacerbation of Chronic Wasting Disease (CWD) among wild animals. He described CWD as a fatal and incurable disease that attacks brains of elks, moose, and deer. He added that elk and game farms are breeding grounds of the disease.

DISCUSSION: **Senator Patrick** asked Mr. Oppenheimer if he was present and stated his opinions during the negotiated rulemaking process concerning Rules Governing Domestic Cervidae. Mr. Oppenheimer answered no. **Senator Johnson** requested Mr. Oakey respond to Mr. Oppenheimer's concerns on the rules. **Mr. Oakey** confirmed that they are included in the list to be reviewed by ISDA in the coming year. He added that stakeholders and interested industry members will have the opportunity to interact with ISDA experts, veterinarians, and staff, and discuss substantive issues related to the rules such as CWD.

MOTION: Vice Chairman Bayer informed the Committee that voting for **Docket No. 02-0000-2000FA** will be on hold until the next Committee hearing.

PASSED THE GAVEL: Vice Chairman Bayer passed the gavel back to Chairman Burtenshaw.

ADJOURNED: There being no further business at this time, **Chairman Burtenshaw** adjourned the meeting at 8:33 a.m.

Senator Burtenshaw
Chair

Rellie Wisdom
Secretary