

Dear Senators HEINRICH & Stennett, and
Representatives TRAIL, Andrus & Pence:

The Legislative Services Office, Research and Legislation, has received the enclosed
rules of the Idaho Dept. Of Agriculture:

IDAPA 02.01.04 - Rules Governing The Idaho Preferred Promotion Program
(Docket #02-0104-0801);

02.04.03 - Rules Governing Animal Industry (Docket #02-0403-0801);

02.04.21 - Rules Governing The Importation Of Animals
(Docket #02-0421-0802);

02.04.27 - Rules Governing Deleterious Exotic Animals
(Docket #02-0427-0801);

02.06.09 - Invasive Species Rules (Docket #02-0609-0801).

Pursuant to Section 67-454, Idaho Code, a meeting on the enclosed rules may be called by the cochairmen or by two (2) or more members of the subcommittee giving oral or written notice to Research and Legislation no later than fourteen (14) days after receipt of the rules' analysis from Legislative Services. The final date to call a meeting on the enclosed rules is no later than 10-6-08. If a meeting is called, the subcommittee must hold the meeting within forty-two (42) days of receipt of the rules' analysis from Legislative Services. The final date to hold a meeting on the enclosed rules is 11-3-08.

_____The germane joint subcommittee may request a statement of economic impact with respect to a proposed rule by notifying Research and Legislation. There is no time limit on requesting this statement, and it may be requested whether or not a meeting on the proposed rule is called or after a meeting has been held.

To notify Research and Legislation, call 334-2475, or send a written request to the address or FAX number indicated on the memorandum enclosed.

MEMORANDUM

TO: Rules Review Subcommittee of the Senate Agricultural Affairs Committee and the House Agricultural Affairs Committee

FROM: Principal Legislative Research Analyst - Katharine Gerrity

DATE: September 17, 2008

SUBJECT: Idaho State Department of Agriculture

IDAPA 02.01.04 - Rules Governing The Idaho Preferred Promotion Program
(Docket #02-0104-0801)

IDAPA 02.04.03 - Rules Governing Animal Industry (Docket #02-0403-0801)

IDAPA 02.04.21 - Rules Governing The Importation Of Animals
(Docket #02-0421-0802)

IDAPA 02.04.27 - Rules Governing Deleterious Exotic Animals
(Docket #02-0427-0801)

IDAPA 02.06.09 - Invasive Species Rules (Docket #02-0609-0801)

1. IDAPA 02.01.04 - Rules Governing The Idaho Preferred Promotion Program

The Idaho State Department of Agriculture submits notice of a proposed rule at IDAPA 02.01.04 - Rules Governing The Idaho Preferred Promotion Program. According to the Department, the purpose of the rule is to define product qualifications for lamb, pork, poultry and other meats not already defined in the existing rule. In addition, the Department notes that the approval for use of logo section will be amended to correct duplication concerning submission of samples. The Department states that informal negotiated rulemaking was conducted.

We have no specific comments relating to this proposed rule. The action appears to be authorized pursuant to Section 22-112, Idaho Code.

2. IDAPA 02.04.03 - Rules Governing Animal Industry

The Idaho State Department of Agriculture submits notice of a proposed rule at IDAPA 02.04.03 - Rules Governing Animal Industry. According to the Department, Idaho's equine industry requested that the Department place Equine Viral Arteritis (EVA), a viral disease found in horses, mules and asses, on the state veterinarian's reportable disease list to provide clear authority to prevent and control the disease. In addition, various documents and some updates to documents are being incorporated by reference. The Department also states that a new form of equine herpes virus was added to the USDA's list of notifiable diseases and needs to be added to Idaho's rules. Finally, the Department notes that ponies and zebras are being added to the definition of "Equidae". The Department states that informal negotiated rulemaking was conducted.

The action appears to be authorized pursuant to provisions of Chapter 2, Title 25, Idaho Code.

3. IDAPA 02.04.21 - Rules Governing The Importation Of Animals

The Idaho State Department of Agriculture submits notice of a proposed rule at IDAPA 02.04.21 - Rules Governing The Importation Of Animals. According to the Department, this rule also partially originates based on the desire of Idaho's equine industry to have Equine Viral Arteritis (EVA) placed on the reportable disease list. The Department states that the USDA's EVA Uniform Methods and Rules are incorporated by reference to outline biosecurity procedures for the disease and that there are updates to other documents that are incorporated by reference. The Department adds that there is a method of genetic purity verification added to the options for imported domestic cervidae (registration with the Montana Department of Livestock) and that additional documents for certification of the health of imported fish are added to the fish importation requirements. Several other changes of a technical nature have also been made. The Department states that informal negotiated rulemaking was conducted.

We have no specific comments relating to this rule. The action appears to be authorized pursuant to provisions of Chapter 2, Title 25, Idaho Code.

4. IDAPA 02.04.27 - Rules Governing Deleterious Exotic Animals

The Idaho State Department of Agriculture submits notice of a proposed rule at IDAPA 02.04.27 - Rules Governing Deleterious Exotic Animals. According to the Department, the rule will clarify the Department's criteria and requirements for the possession and importation of deleterious exotic animals in the state. The Department notes that the changes include the addition of definitions, requirements for obtaining permits, standards for construction of confinement areas, identification requirements, and record keeping requirements. The list of deleterious exotic animals has also been revised. The Department indicates that negotiated rulemaking was conducted.

We note that the changes to the rule provide that the Administrator may add or remove animal species to the list of deleterious exotic animals in the rule by issuing a written order listing the animals as well as the reason for the addition or removal from the list. The rule presently provides for the animals listed. The Committees should note that Section 25-3904, Idaho Code, does provide for the designation by rule *or order*. We also note that the Department proposes to remove various invertebrates and fish that presently appear on the list pursuant to the rule. It appears that the rule relating to invasive species, as reviewed in subpart 5 of this memorandum, picks up those species that are being removed from the list in this rule.

We have no other comments relating to this rule. The action appears to be authorized pursuant to Sections 25-3902 and 25-3903, Idaho Code.

5. IDAPA 02.06.09 - Invasive Species Rules

The Idaho State Department of Agriculture submits notice of proposed rule at IDAPA 02.06.09 - Invasive Species Rules, which is a new chapter. According to the Department, the rule determines which species are invasive in Idaho and establishes procedures for testing, sampling, inspection, certification, permitting, compliance verification and record keeping. The Department notes that negotiated rulemaking was conducted.

We have no specific comments relating to this rule. The action appears to be authorized pursuant to Sections 22-1907, 22-2006 and 22-2015, Idaho Code.

cc: Idaho State Department of Agriculture

Laura Johnson

Dr. Bill Barton

Amy Ferriter

IDAPA 02 - DEPARTMENT OF AGRICULTURE

02.01.04 - RULES GOVERNING THE IDAHO PREFERRED® PROMOTION PROGRAM

DOCKET NO. 02-0104-0801

NOTICE OF RULEMAKING - 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 22-112, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 15, 2008.

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 proposed rule changes will define product qualifications for lamb, pork, poultry and other meats not already defined in the existing rule. Approval for use of logo section will be amended to correct duplication concerning submission of samples.

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

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: N/A

NEGOTIATED RULEMAKING: Informal negotiated rulemaking was conducted. Input was solicited from all Idaho Preferred® participants.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Laura Johnson, Section manager at (208)332-8533 or Leah Clark, Trade Specialist at (208) 332-8684.

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 22, 2008.

DATED this 7th day of August, 2008.

Brian J. Oakey, Deputy Director
Idaho State Department of Agriculture
2270 Old Penitentiary Rd
P.O. Box 790
Boise, Idaho 83701
Phone: (208) 332-8503
Fax: (208) 334-2170

THE FOLLOWING IS THE TEXT OF DOCKET NO. 02-0104-0801

200. PRODUCT QUALIFICATION.

01. Authority of Determination. The Director shall have the sole authority in determining the eligibility of a product for participation in the program. (3-16-04)

02. General Product Qualifications. Except as specified in this chapter, or by written order of the Director, products must meet or exceed the following criteria: (3-16-04)

a. Fresh produce and commodities bearing the Idaho Preferred® logo shall be one hundred percent (100%) Idaho grown or raised. (4-2-08)

b. Processed foods and beverages shall contain a minimum of twenty percent (20%) agricultural content by weight that has been grown or raised in Idaho and shall be processed in the state of Idaho. (4-2-08)

c. Non-food agricultural products must be at least fifty percent (50%) agricultural content by weight and that agricultural content must have been grown or raised in Idaho. (3-16-04)

03. Potatoes. Only certification marks owned or administered by the Idaho Potato Commission may be branded on potatoes grown in Idaho unless prior Idaho Potato Commission approval in writing is secured and granted for the use of additional words or designs. Any person or participant applying to the Idaho Preferred® program, with the intention to promote Idaho-grown potatoes or products made from Idaho-grown potatoes, shall provide proof of such permission prior to making application with the Department. (3-30-07)

04. Wine. Wines shall contain a minimum of ninety-five percent (95%) Idaho grapes. (4-6-05)

05. Nursery Stock. Nursery stock shall have been grown in Idaho a minimum of one (1) growing season or growing cycle. (4-6-05)

06. Beef and Beef Products. Beef and beef products shall come from cattle that: (4-6-05)

a. Were born, raised and harvested in the United States. No cattle that originate from outside the United States may qualify for the Idaho Preferred® logo. (3-30-07)

b. Reside in Idaho at least twelve (12) months prior to harvest. The twelve (12) months need not be contiguous, but must be verifiable. (4-6-05)

c. Reside their entire lives in Idaho if harvested prior to twelve (12) months of age. (4-6-05)

d. Are processed in federally inspected plants and meet marbling and age requirements for USDA grade Select or better. (4-6-05)

07. Lamb and Lamb Products. Lamb and lamb products shall come from sheep that: ()

a. Are born, raised and harvested in the United States. No lambs that originate from, or reside for any portion of their life outside the United States may qualify for the Idaho Preferred® logo. ()

b. Have grazed or been fed in Idaho at least three (3) months prior to harvest. The three (3) months need not be contiguous, but must be verifiable. ()

c. Are processed at approximately one (1) year of age or less and qualify as lamb or carcasses from older animals, identified as mutton by USDA inspectors, may qualify if they have met requirements in Subsection 200.07.b. ()

08. Pork and Pork Products. Pork and pork products shall come from hogs that: ()

a. Are born, raised and harvested in the United States. No hogs that originate from, or reside for portion of their life outside the United States may qualify for the Idaho Preferred® logo. ()

b. Are raised in or processed in Idaho. ()

- c.** Are processed at less than one (1) year of age in a federally inspected plant. ()
- 09. Poultry and Poultry Products.** Poultry and poultry products shall come from fowl that: ()
- a.** Are hatched, raised and harvested in the United States. No fowl that originate from, or reside for any portion of their life outside the United States may qualify for the Idaho Preferred® logo. ()
- b.** Are raised and processed in Idaho. Fertile eggs, also known as hatching eggs, or chicks less than three (3) days of age that originate outside of Idaho, but are raised and processed in Idaho, may qualify for Idaho Preferred®. ()
- c.** Are processed in a facility that is approved through a District Health Department for retail sales, or in a federally inspected plant. ()
- 10. Game Meat.** Game meat shall: ()
- a.** Come from domestic elk that are born, raised and processed in Idaho and originate from a facility licensed by the Idaho State Department of Agriculture. ()
- b.** Come from domestic buffalo that are born, raised and processed in Idaho. ()
- c.** Be processed in a federally inspected plant. ()
- ~~07~~**11. Apicultural Products.** Products produced by honey bees including raw honey, wax, pollen, and propolis shall be one hundred percent (100%) Idaho origin. Processed honey shall be eighty percent (80%) Idaho origin. (4-6-05)
- ~~08~~**12. Exceptions.** The Director shall have the authority to establish product qualification requirements specific to individual products and commodities by written order. (3-16-04)

201. -- 299. (RESERVED).

300. LOGO.

The Idaho Preferred® logo has been registered ~~or filed for registration~~ by the Department with the United States Library of Congress (Copyright registration), the United States Patent and Trademark Office (Certification Mark registration), the Idaho Secretary of State (Certificate of Trademark) and is afforded all protections provided for by law. The logo shall be used only by those participants in compliance with this chapter. The Director will establish by written order a logo style manual specifying approved colors, treatments, and fonts for the Idaho Preferred® logo. (3-30-07)()

01. Description of the Idaho Preferred® Logo. The Idaho Preferred® logo is an oval background containing a snow-capped mountain range topped with a sunburst. The word "IDAHO" appears in Brand Idaho logotype, and a banner emblazoned with the word "PREFERRED" scrolls across the bottom of the logo. (3-30-07)

02. Graphic Depiction of the Idaho Preferred® Logo:



®

(3-30-07)

03. Approval for Use of Logo. Participants who wish to use the Idaho Preferred® logo on packaging, labels, flyers, promotional materials, or any other materials that will be viewed by the public must submit a proof of text and design to the Department for approval. Requests for approval must be submitted to the Idaho State Department of Agriculture, Marketing Division not less than five (5) working days prior to the proposed date of use. Written approval from the Department for logo use must be issued prior to use of the logo. *Participants must provide a sample of the finished packaging, labels, flyers or promotional materials to the Department.* (3-30-07)(____)

IDAPA 02 - IDAHO DEPARTMENT OF AGRICULTURE

02.04.03 - RULES GOVERNING ANIMAL INDUSTRY

DOCKET NO. 02-0403-0801

NOTICE OF RULEMAKING - 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 25-207, 25-210, 25-212, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be held as follows:

Wednesday, October 15, 2008 -- 7:00 p.m. to 7:30 p.m

**IDAHO DEPARTMENT OF AGRICULTURE
2270 Old Penitentiary Road
Boise, ID 83712**

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:

Idaho's equine industry has expressed a desire for ISDA to place Equine Viral Arteritis (EVA), a viral disease of equids (horses, mules, asses) on the State Veterinarian's Reportable Disease List in order to have clear authority to prevent and control the disease. EVA causes abortions in mares and creates a carrier state in stallions. The USDA's EVA Uniform Methods and Rules will be incorporated by reference. Other incorporated reference documents are updated to the latest versions. A new form of equine herpes virus was added to USDA's list of notifiable diseases and needs to be added to Idaho's notifiable disease list to enable the Division of Animal Industries to monitor and report an occurrence in the state. The rule also adds ponies and zebras to the definition of equidae.

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

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 as a result of this rulemaking: NA

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, informal negotiated rulemaking was conducted.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Dr. Bill Barton, Administrator at (208) 332-8540.

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 22, 2008.

DATED this 18th day of August, 2008.

Brian J. Oakey, Deputy Director
Idaho State Department of Agriculture
2270 Old Penitentiary Road
P.O. Box 790
Boise, Idaho 83701
Phone: (208) 332-8500
Fax: (208) 334-2170

THE FOLLOWING IS THE TEXT OF DOCKET NO. 02-0403-0801

004. INCORPORATION BY REFERENCE.

01. **Incorporated Documents.** IDAPA 02.04.03 incorporates by reference the following documents: (5-3-03)
2003. a. The USDA Pseudorabies Eradication State-Federal-Industry Program Standards, November 1, 2003. (3-30-07)
- b. National Poultry Improvement Plan and Auxiliary Provisions, February 12, 2007~~8~~. (~~4-2-08~~)()
- c. Title 9, Parts 145, 146, 147, and 161, CFR, January 1, 2006~~8~~. (~~3-30-07~~)()
- d. The Compendium of Animal Rabies Prevention and Control, 2007~~8~~. (~~4-2-08~~)()
- e. Equine Viral Arteritis Uniform Methods and Rules, April 19, 2004. ()

(BREAK IN CONTINUITY OF SECTIONS)

010. DEFINITIONS.

As used in these rules the following terms have the following meanings: (5-3-03)

01. **Accredited Veterinarian.** A veterinarian approved by the Administrator and USDA/APHIS/VS, in accordance with the provisions of Title 9, Part 161, Code of Federal Regulations, to perform functions of State-Federal animal disease control programs. (5-3-03)
02. **Administrator.** The administrator of the Division of Animal Industries, Idaho State Department of Agriculture or his designee. (5-3-03)
03. **Animal.** Any vertebrate member of the animal kingdom, except man. (3-20-04)
04. **Approved Pseudorabies Vaccine.** Any pseudorabies vaccine produced under current USDA license and intended for immunizing swine against pseudorabies. (3-20-04)
05. **Cachexia.** Weakness and emaciation caused by a serious disease such as tuberculosis or cancer. (3-20-04)
06. **Department.** The Idaho State Department of Agriculture. (5-3-03)
07. **Director.** Director of the Idaho State Department of Agriculture or his designee. (9-6-61)
08. **Division of Animal Industries.** Idaho State Department of Agriculture, Division of Animal Industries. (5-3-03)
09. **Epithelioma.** Cancer or tumor. (3-20-04)
10. **Equidae.** Horses, ponies, mules, ~~and~~ asses, and zebras. (~~3-20-04~~)()
11. **Exposed Livestock.** Any livestock that have been in contact with an animal infected with, or affected by, any contagious, infectious or communicable disease, including all livestock in a known infected herd. (3-20-04)

12. **Federal Animal Health Official.** An employee of USDA/APHIS/VS who is authorized to perform animal health activities. (3-20-04)
13. **Gamebirds.** Domesticated gallinaceous fowl such as pheasants, partridge, quail, grouse, and guineas. (5-3-03)
14. **Garbage.** Putrescible animal and vegetable waste containing animal parts resulting from the handling, preparation, processing, cooking or consumption of foods. (3-20-04)
15. **Hatching Eggs.** Fertilized eggs. (5-3-03)
16. **Herd.** A herd is any group of livestock maintained on common ground for any purpose, or two (2) or more groups of livestock under common ownership or supervision, geographically separated, but which have an interchange or movement of animals without regard to whether the animals are infected with or exposed to contagious, infectious, or communicable animal diseases. (3-20-04)
17. **Infected Livestock.** Any livestock determined to be infected with a contagious infectious, of communicable disease by an official test or diagnostic procedure, or diagnosed by a veterinarian as infected. (3-20-04)
18. **Interstate Movement.** Movements of livestock and poultry from Idaho into any other state, territory or the District of Columbia or from any other state, territory or the District of Columbia into Idaho. (3-20-04)
19. **Intrastate Movement.** Movement of any animal from one location to another location within Idaho. (3-20-04)
20. **Known Infected Herd.** Any herd in which any livestock has been determined to be infected with contagious, infectious, or communicable diseases by an official test or diagnostic procedure, or diagnosed by a veterinarian as being infected. (3-20-04)
21. **Livestock.** Swine, cattle, sheep, goats, equidae, domestic bison, domestic cervidae, camelids, ratites, and other domestically raised animals. (4-2-08)
22. **Necrosis.** Death of tissue. (3-20-04)
23. **Negative.** An animal that has been tested with official test procedures and is found to be negative. (3-20-04)
24. **Neoplastic Tissue.** New growth or tissue associated with a tumor. (3-20-04)
25. **Official Pseudorabies Test.** Any test for the diagnosis of pseudorabies that has been approved by USDA/APHIS and is conducted by a state/federal approved laboratory. (3-20-04)
26. **Orbital Region.** The cavity containing the eye and surrounding bones. (4-2-08)
27. **Positive.** An animal that has been tested and found positive with official disease test procedures and is considered infected with any contagious, infectious, or communicable disease. (3-20-04)
28. **Poultry.** Domesticated fowl, including chickens, turkeys, waterfowl, and gamebirds. (5-3-03)
29. **Pseudorabies.** The contagious, infectious, and communicable disease of livestock and other animals also known as Aujeszky's disease, mad itch or infectious paralysis. (3-20-04)
30. **Quarantine.** A written order, or a verbal order followed by a written order, executed by the Administrator, to confine or hold animals on a premise or any other location, and to prevent movement of animals

from a premise or any other location when the Administrator has determined that the animals have been found or are suspected to be exposed to or infected with any contagious, infectious, or communicable disease, or the animals are not in compliance with the provisions of this chapter. (3-20-04)

31. Quarantined Area. The counties, areas, or districts, portions thereof, quarantined by the Division of Animal Industries for specific contagious, infectious, or communicable animal diseases. (5-3-03)

32. Quarantined. Isolation of all animals diseased or exposed thereto, from contact with healthy animals and exclusion of such healthy animals from enclosures or grounds where said diseased or exposed animals are, or have been kept. (9-6-61)

33. Ratites. Large, non-flying birds including, but not limited to ostriches, emus, cassowaries, and rheas. (3-20-04)

34. Registered Veterinarians. Veterinarians registered with, and approved by, the Division of Animal Industries to collect Trichomoniasis samples for official Trichomoniasis culture testing. (5-3-03)

35. Restrain. The confinement of livestock, or other animals, in a chute, or other device, for the purpose of efficiently, effectively, and safely inspecting, treating, vaccinating, or testing, as approved by the Administrator. (3-20-04)

36. State Animal Health Official. The Administrator, or his designee, responsible for disease control and eradication activities. (5-3-03)

37. Stockyards. A facility where trading in livestock is carried on, where yarding, feeding and watering places are provided by the stockyards or transportation companies, or where livestock associations or similar companies maintain corrals for feeding, shearing, dipping and separating animals. (3-20-04)

38. Suppuration. The formation of pus. (3-20-04)

39. Suspect. An animal that has a response to an official test, but the response is not sufficient to determine the disease status of the animal tested. (3-20-04)

40. Swine. All breeds of domestic porcine and all wild and exotic porcine. (3-20-04)

41. Swine Feedlot. Premises designed and used exclusively for the finish feeding of swine, from which the swine will be moved directly to slaughter. (3-20-04)

42. Waterfowl. Domesticated fowl that normally swim such as ducks and geese. (5-3-03)

43. Wildfowl. Wild gallinaceous fowl, turkeys, and waterfowl. (5-3-03)

(BREAK IN CONTINUITY OF SECTIONS)

305. FOREIGN ANIMAL AND REPORTABLE DISEASES - EQUINE DISEASES.

01. African Horse Sickness. (4-2-08)

02. Contagious Equine Metritis. (4-2-08)

03. Dourine. (4-2-08)

04. Equine Encephalomyelitis (Eastern, Western, Venezuelan). (4-2-08)

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|------------------|---|----------|
| 05. | Equine Infectious Anemia. | (4-2-08) |
| 06. | Equine Piroplasmosis (<i>Babesiosis</i>). | (4-2-08) |
| <u>07.</u> | <u>Equine Viral Arteritis.</u> | () |
| 078. | Glanders. | (4-2-08) |
| 089. | Hendra Virus. | (4-2-08) |
| 0910. | Japanese Encephalitis. | (4-2-08) |
| 101. | Surra (<i>Trypanosoma evansi</i>). | (4-2-08) |

(BREAK IN CONTINUITY OF SECTIONS)

334. NOTIFIABLE DISEASES - EQUINE DISEASES.

- | | | |
|-----|--|-------------------------|
| 01. | Equine Viral Arteritis <u>Equine Herpesvirus Myeloencephalopathy.</u> | (4-2-08) () |
| 02. | Equine Rhinopneumonitis. | (4-2-08) |

IDAPA 02 - IDAHO DEPARTMENT OF AGRICULTURE
02.04.21 - RULES GOVERNING THE IMPORTATION OF ANIMALS
DOCKET NO. 02-0421-0802
NOTICE OF RULEMAKING - 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 25-207, 25-212, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be held as follows:

Wednesday - October 15, 2008 - 7:30 pm to 8:00 pm

IDAHO DEPARTMENT OF AGRICULTURE
2270 Old Penitentiary Road
Boise, ID 83712

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:

Idaho's equine industry has expressed a desire for ISDA to place Equine Viral Arteritis (EVA), a viral disease of equids (horses, mules, asses) on the State Veterinarian's Reportable Disease List in order to have clear authority to prevent and control the disease. EVA causes abortions in mares and creates a carrier state in stallions. Additionally, the USDA's EVA Uniform Methods and Rules are incorporated by reference to outline biosecurity procedures for the disease. Other incorporated reference documents are updated to the latest versions. A typographical error is corrected in Section 211 and Subsection 240.05. A method of genetic purity verification is added to the options for imported domestic cervidae. Additional documents for certification of the health of imported fish are added to the fish importation requirements. A terminology correction is made in Section 800 pertaining to the USDA biologics licensing program.

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

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 as a result of this rulemaking: NA

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, informal negotiated rulemaking was conducted.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Dr. Bill Barton, Administrator at (208) 332-8540. 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 22, 2008.

DATED this 18th day of August, 2008.

Brian J. Oakey, Deputy Director
Idaho State Department of Agriculture
2270 Old Penitentiary Road
P.O. Box 790
Boise, Idaho 83701
Phone: (208) 332-8500
Fax: (208) 334-2170

THE FOLLOWING IS THE TEXT OF DOCKET NO. 20-0421-0801

004. INCORPORATION BY REFERENCE.

Copies of these documents may be obtained from the Idaho State Department of Agriculture Central Office. IDAPA 02.04.21 incorporates by reference: (4-11-06)

01. **The October 1, 2003 Edition of the Brucellosis Eradication Uniform Methods and Rules.** (4-11-06)
02. **The September 30, 2003 Edition of the Brucellosis in Cervidae: Uniform Methods and Rules.** (4-11-06)
03. **The April 1998 Edition of the Swine Brucellosis Control/Eradication: State-Federal-Industry Uniform Methods and Rules.** (5-3-03)
04. **The Code of Federal Regulations Title 9, Parts 71, 75, 77, 78, 85, 145, 146, 147, and 161, January 1, 2006~~8~~.** (~~3-30-07~~)()
05. **The January 1, 2005 Edition of the Bovine Tuberculosis Eradication Uniform Methods and Rules.** (4-11-06)
06. **The November 1, 2003 Edition of the Pseudorabies Eradication, State-Federal-Industry Program Standards.** (4-11-06)
07. **The April 19, 2004 Edition of the Equine Viral Arteritis Uniform Methods and Rules.** ()

(BREAK IN CONTINUITY OF SECTIONS)

010. DEFINITIONS.

01. **Accredited Veterinarian.** A veterinarian approved by the Administrator and USDA/APHIS/VS in accordance with provisions of Title 9, Part 161, Code of Federal Regulations to perform functions of State-Federal animal disease control programs. (5-3-03)
02. **Administrator.** The administrator of the Division of Animal Industries, Idaho State Department of Agriculture or his designee. (5-3-03)
03. **Animals.** All vertebrates, except humans. (5-3-03)
04. **Approved Brucella Vaccine.** A vaccine product that is approved by and produced under license of the United States Department of Agriculture for administration to cattle, domestic bison, swine or domestic cervidae for the purpose of enhancing the resistance to brucellosis. (5-3-03)
05. **Approved Feedlot.** A feedlot approved by the Administrator to feed female cattle and domestic bison which have not been officially vaccinated against brucellosis or other bovidae not in compliance with Idaho's rules. (5-3-03)
06. **Approved Slaughter Establishment.** A USDA inspected slaughter establishment at which ante-mortem and post-mortem inspection is conducted by USDA inspectors. (5-3-03)
07. **Brucellosis.** An infectious disease of animals and humans caused by bacteria of the genus Brucella. (5-3-03)

- 08. Brucellosis Surveillance Area or High Risk Areas.** Any area of a state that has been identified by USDA/APHIS/VS or state animal health officials as an area that poses a greater risk for transmission of brucellosis than would be expected based upon the official classification of the state. (5-3-03)
- 09. Camelids.** Llamas, alpacas, vicunas, camels. (5-3-03)
- 10. Cattle.** All bovidae including domestic bison. (5-3-03)
- 11. Certificate.** An official certificate of veterinary inspection or other approved certificate issued by an accredited veterinarian, state or federal animal health official or other approved official at the point of origin of the shipment of animal(s) being imported. (5-3-03)
- 12. Department.** The Idaho State Department of Agriculture. (5-3-03)
- 13. Director.** The director of the Idaho State Department of Agriculture or his designee. (5-3-03)
- 14. Division of Animal Industries.** Idaho State Department of Agriculture, Division of Animal Industries. (5-3-03)
- 15. Domesticated.** Propagated and maintained under the control of a person. (5-3-03)
- 16. Domestic Bison.** All animals in the family Bison that are owned by a person. (5-3-03)
- 17. Domestic Cervidae.** Elk, fallow deer and reindeer that are owned by a person. (5-3-03)
- 18. Equidae.** Horses, ponies, asses, mules, zebras. ()
- 189. Exposed.** Animals that have had direct contact with other animals, herds, or materials that have been determined to be infected with or affected by any infectious, contagious, or communicable disease. (5-3-03)
- 1920. Federal Animal Health Official.** An employee of USDA/APHIS/VS who has been authorized to perform animal health activities. (5-3-03)
- 201. Feeder Animals.** Animals to be fed for slaughter only. (5-3-03)
- 212. Game Birds.** Domesticated gallinaceous fowl such as pheasants, partridge, quail, grouse and guineas. (5-3-03)
- 223. Hatching Eggs.** Fertilized eggs. (5-3-03)
- 234. Livestock.** Shall mean cattle, swine, horses, mules, asses, domestic cervidae, sheep, goats, camelids, and ratites. (5-3-03)
- 245. Negative.** Animals are classified as negative when they have been subjected to official tests for a disease, and the tests performed have failed to disclose evidence of the disease. (5-3-03)
- 256. Official Identification.** The unique individual identification of cattle, domestic bison, swine, or domestic cervidae in accordance with the rules governing each species. (5-3-03)
- 267. Official Vaccinate.** Cattle or domestic bison female that was inoculated, in accordance with IDAPA 02.04.20 "Rules Governing Brucellosis" or the Brucellosis Eradication UM&R, with an approved Brucella vaccine. (5-3-03)
- 278. Person.** Any individual, association, partnership, firm, joint stock company, joint venture, trust, estate, political subdivision, public or private corporation, or any legal entity, which is recognized by law as the subject of rights and duties. (5-3-03)

289. Poultry. The term shall mean chickens, turkeys, ducks, geese, guinea fowl, pigeons, pheasants, domestic fowl, waterfowl and gamebirds. (5-3-03)

2930. Quarantine. A written order, executed by the Administrator, to confine or hold animals on a premise or any other location, where found, and prevent movement of animals from a premise or any other location when the administrator has determined that the animals are infected with or exposed to a disease, or are not in compliance with the provisions of this chapter. (5-3-03)

301. Ratites. Ostrich, emu, rhea and cassowaries. (5-3-03)

342. Slaughter Animals. Animals of any kind for immediate slaughter, or those consigned for slaughter within fourteen (14) days of date of shipment. (5-3-03)

323. State Animal Health Official. The Administrator, or his designee, responsible for disease control and eradication programs. (5-3-03)

334. VHSV Positive Area. Any area or region that has been identified by USDA as affected by VHSV. (4-2-08)

344. Waterfowl. Domestic fowl that normally swim, such as ducks and geese. (5-3-03)

356. Wildlife. Any animal generally living in a state of nature except, domestic bison, domestic cervidae, domestic fur bearing animals, and fish. (4-2-08)

011. ABBREVIATIONS.

01. APHIS. Animal and Plant Health Inspection Service. (4-2-08)

02. AVIC. Area Veterinarian in Charge. (5-3-03)

03. AZA. American Zoological Association. (5-3-03)

04. CF. Complement Fixation Test. (3-30-07)

05. CFR. Code of Federal Regulations. (5-3-03)

06. CWD. Chronic Wasting Disease. (5-3-03)

07. EIA. Equine Infectious Anemia. (5-3-03)

08. EVA. Equine Viral Arteritis. ()

089. NAEBA. North American Elk Breeders Association. (5-3-03)

0910. NPIP. National Poultry Improvement Plan. (5-3-03)

101. PCR. Polymerase Chain Reaction. (4-2-08)

142. TB. Tuberculosis. (5-3-03)

123. UM&R. Uniform Methods and Rules. (5-3-03)

134. USDA. United States Department of Agriculture. (5-3-03)

145. VHSV. Viral Hemorrhagic Septicemia Virus. (4-2-08)

156. VS. Veterinary Services.

(5-3-03)

(BREAK IN CONTINUITY OF SECTIONS)

050. REQUIREMENTS OF TITLE 9, PARTS 71, 75, 77, 78, 85, 145, 146, 147, AND 161, CFR.

In addition to meeting the requirements of this chapter for entry, animals imported into Idaho shall meet all applicable requirements set forth in the Title 9, Parts 71, 75, 77, 78, 85, 145, 146, 147, and 161, CFR, January 1, 2006.

(3-30-07)()

(BREAK IN CONTINUITY OF SECTIONS)

301. EQUINE VIRAL ARTERITIS.

Intact male equidae twelve (12) months of age and older may enter Idaho when accompanied by an official interstate certificate of veterinary inspection or extended validity equine certificate from the state of origin, and one (1) of the following statements on the certificate: ()

01. Vaccinated for EVA. A copy of the animal's official EVA Test and Vaccination Certificate from a USDA approved lab, signed by an accredited veterinarian, is attached to the official interstate certificate of veterinary inspection. ()

02. Seropositive Carrier of EVA. The EVA test date is listed on the interstate certificate of veterinary inspection. ()

03. Seropositive Non-Shedder of EVA. A copy of the stallion's negative semen EVA virus isolation test result conducted in a USDA approved lab is attached to the official interstate certificate of veterinary inspection. ()

04. Unknown EVA Status. Each stallion listed on the health certificate must have the EVA status statement recorded adjacent to the stallion's name or official identification. ()

302. IMPORTATION OF EQUINE SEMEN.

Equine semen may be imported into Idaho if one (1) of the following statements from the stallion's owner, agent, or veterinarian concerning the EVA status of the donor is included with the shipment: ()

01. Stallion is Vaccinated for EVA. A copy of the stallion's official EVA Test and Vaccination Certificate from a USDA approved lab, signed by an accredited veterinarian, is included with the statement of EVA status for each semen shipment. ()

02. Stallion is EVA Carrier. The EVA test date is listed on the statement of EVA status for each semen shipment. ()

03. Stallion is Seropositive Non-Shedder of EVA. A copy of the stallion's negative semen EVA virus isolation test result conducted in a USDA approved lab is included with the statement of EVA status for each semen shipment. ()

04. Stallion EVA Status is Unknown. Each shipment of equine semen must include a statement of EVA status of the donor stallion. ()

~~304~~3. -- 399. (RESERVED).

(BREAK IN CONTINUITY OF SECTIONS)

601. TESTING REQUIREMENTS.

All cervidae imported into Idaho shall meet the following test requirements, except cervidae that do not originate from a CWD or Tuberculosis endemic area, as determined by the administrator, may be imported directly to an approved slaughter establishment for immediate slaughter without meeting the test requirements. (4-2-08)

01. Brucellosis. Animals six (6) months of age and older shall be negative to at least two (2) different official brucellosis tests, one (1) of which shall be the rivanol, or the CF, within thirty (30) days prior to entry, or the animals shall originate directly from a Brucellosis certified free herd or a brucellosis class free state for cervidae. (3-30-07)

02. Tuberculosis. Imported domestic cervidae shall be tested according to the provisions in Title 9, Part 77, CFR. (5-3-03)

03. Red Deer Genetic Factor. Elk shall have either tested negative for red deer genetic factor by a laboratory approved by the Division of Animal Industries, or shall have been registered with NAEBA or the Canadian Food Inspection Agency, or the Montana Department of Livestock. (4-2-08)()

(BREAK IN CONTINUITY OF SECTIONS)

660. CERTIFICATE AND PERMIT.

In addition to any permits or certifications required by the Idaho Department of Fish and Game, all live fish and viable hatching eggs imported into Idaho must be accompanied by ~~a certificate of veterinary inspection issued in the state of origin and~~ an import permit issued by the Administrator; and (4-2-08)()

01. A Certificate of Veterinary Inspection Issued in the State of Origin; or ()

02. Title 50 Certification; or ()

03. American Fisheries Society Certified Fish Health Inspector's Certification. ()

(BREAK IN CONTINUITY OF SECTIONS)

800. BIOLOGICS.

01. ~~Distribution Permit~~ USDA License. Serum, vaccines, bacterins and biological remedies of all kinds used as diagnostic agents or used in the treatment of diseases of animals shall not be sold, distributed or used within the state of Idaho or imported into the state for sale, distribution or use unless such serum, vaccines, bacterins and biological remedies have been produced under a ~~permit granted~~ license issued by USDA/AHPIS/VS. (5-3-03)()

02. Shipping Virulent Blood or Living Virus. All manufacturers, dealers and distributors of biological products are hereby prohibited from shipping any virulent blood or living virus or bacteria (*Brucella abortus* vaccine) of any disease affecting animals into the state of Idaho except with the written permission of the Administrator, and no living virus for use in animals or poultry shall be distributed or used within the state of Idaho unless approved by the Administrator in writing. (5-3-03)

03. Labels. No permit under Subsections 800.01 and 800.02 of this rule shall be issued unless the product is contained in vessels bearing labels approved by the Division of Animal Industries, properly identifying the product by proper name and description, bearing adequate directions for the use of the product, and bearing no statement, design, or device that may deceive the purchaser, or that is false or misleading in any particular. (5-3-03)

IDAPA 02 - IDAHO DEPARTMENT OF AGRICULTURE
02.04.27 - RULES GOVERNING DELETERIOUS EXOTIC ANIMALS
DOCKET NO. 02-0427-0801
NOTICE OF RULEMAKING - 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 25-3902, Idaho Code.

PUBLIC HEARING SCHEDULE: A public hearing concerning this rulemaking will be held as follows:

Tuesday - October 21, 2008 - 7:00 pm

IDAHO DEPARTMENT OF AGRICULTURE
2270 Old Penitentiary Road
Boise, ID 83712

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 proposed rulemaking clarifies the Idaho State Department of Agriculture's criteria and requirements for the possession and importation of deleterious exotic animals in the state of Idaho. The amendments to the rules include the addition of definitions, requirements for obtaining permits, standards for construction of confinement areas, identification requirements, and record keeping requirements. The rulemaking amends the list of Deleterious Exotic Animals, contained with the rules.

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

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 as a result of this rulemaking: NA

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 June 4, 2008, Idaho Administrative Bulletin, Vol. 08-6, Page 26.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Dr. Bill Barton, Administrator at (208) 332-8540.

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 22, 2008.

DATED this 18th day of August, 2008.

Brian J. Oakey, Deputy Director
Idaho State Department of Agriculture
2270 Old Penitentiary Road
P.O. Box 790
Boise, Idaho 83701
Phone: (208) 332-8500
Fax: (208) 334-2170

THE FOLLOWING IS THE TEXT OF DOCKET NO. 20-0427-0801

004. INCORPORATION BY REFERENCE.

01. ~~Incorporated Documents~~ **Code of Federal Regulations**. *This chapter incorporates the following documents by reference: Code of Federal Regulations, Title 9, Parts 1, 2, 3, 4, and 161, CFR, January 1, 2005.* (4-11-06)()

02. **Association of Zoos and Aquariums Minimum Husbandry Guidelines for Mammals**. Issued November 14, 1997. ()

023. **Availability of Documents**. Copies of these documents may be obtained from the Idaho State Department of Agriculture Central Office. (3-20-04)

(BREAK IN CONTINUITY OF SECTIONS)

010. DEFINITIONS.

The following definitions ~~shall~~ will apply in the interpretation and enforcement of this chapter. (3-20-04)()

01. **Accredited Veterinarian**. A veterinarian approved by the Administrator and the USDA/APHIS/VS, in accordance with provisions of Title 9, Part 161, Code of Federal Regulations, to perform functions of State-Federal animal disease control programs. (3-20-04)

02. **Administrator**. The administrator of the Division of Animal Industries, Idaho State Department of Agriculture, or his designee. (3-20-04)

03. **Animal**. Any member of the animal kingdom, except man. (3-20-04)

04. **Deleterious Exotic Animal**. Any live animal, or hybrid thereof, that is not native to the state of Idaho and is determined by the Administrator to be dangerous to the environment, livestock, agriculture, or wildlife of the state. (4-11-06)

05. **Department**. The Idaho State Department of Agriculture. (3-20-04)

06. **Director**. The director of the Idaho State Department of Agriculture or his designee. (3-20-04)

07. **Division of Animal Industries**. Idaho State Department of Agriculture, Division of Animal Industries. (3-20-04)

08. **Facility**. A location, including buildings, cages, corrals, pens, ponds, raceways, tanks, adjacent land, or other areas, where deleterious exotic animals are possessed. ()

089. **Federal Animal Health Official**. An employee of the United States Department of Agriculture, Animal Plant Health Inspection Service, Veterinary Services who is authorized to perform animal health activities. (3-20-04)

0910. **Livestock**. Cattle, domestic bison, swine, horses, mules, asses, domestic cervidae, sheep, goats, camelids, and raites. (3-20-04)

101. **Operator**. The person who has authority to manage or direct a ~~premises~~ facility or other area where animals are kept. (3-20-04)()

~~12.~~ **Owner.** The person who owns or has financial control of ~~premises a facility~~ or other areas where animals are kept. (3-20-04)(____)

123. **Person.** Any individual, association, partnership, firm, joint stock company, joint venture, trust, estate, political subdivision, public or private corporation, or any legal entity, which is recognized by law as the subject of rights and duties. (3-20-04)

14. **Possess.** To confine, control, keep, have, hold, house, or own for any period of time. (____)

~~13.~~ **Premises.** ~~The ground, area, buildings, corrals, enclosures, pens, cages, ponds, raceways, tanks, and equipment utilized to keep, hold, or maintain animals.~~ (3-20-04)

15. **State.** The state of Idaho. (____)

146. **State Animal Health Official.** The Administrator, or his designee, responsible for disease control and eradication activities. (3-20-04)

17. **Traveling Exhibition.** A temporary exhibition, including, but not limited to, circus, carnival, group, show, or zoo that is not permanently located in the state and that possesses deleterious exotic animals. (____)

011. ABBREVIATIONS.

01. **AZA.** ~~American Association of Zoos and Aquariums Association.~~ (3-20-04)(____)

02. **CFR.** Code of Federal Regulations. (3-20-04)

03. **IDFG.** Idaho Department of Fish and Game. (3-20-04)

04. **ISDA.** Idaho State Department of Agriculture. (3-20-04)

05. **ISIS.** International Species Information System. (____)

06. **PMP.** Population Management Plan. (____)

07. **SSP.** Species Survival Plan. (____)

08. **TAG.** Taxon Advisory Group. (____)

~~059.~~ **USDA.** United States Department of Agriculture. (3-20-04)

(BREAK IN CONTINUITY OF SECTIONS)

~~100. IMPORTATION OF DELETERIOUS EXOTIC ANIMALS.~~

~~No person shall import any deleterious exotic animals into Idaho, except by permit. The Administrator may authorize, by permit, the importation of deleterious exotic animals to:~~ (3-20-04)

~~01.~~ **Zoos.** Public or private zoos accredited by the AZA. (3-20-04)

~~02.~~ **Educational Institutions.** Public or private institutions of higher education, for research purposes. (3-20-04)

~~03.~~ **Research Facilities.** Persons conducting research determined by the Administrator to be beneficial to agriculture, the environment, or wildlife. (3-20-04)

~~**04. USDA Licensed Facilities.** Zoos and exhibitors open to the public, licensed by USDA pursuant to Title 9, Parts 1, 2, 3, and 4, CFR, and approved by the Administrator. (3-20-04)~~

100. POSSESSION AND PROPAGATION OF DELETERIOUS EXOTIC ANIMALS.

01. Possession. No person may possess a deleterious exotic animal in the state, unless such person obtains a possession permit issued by the Administrator. ()

02. Propagation. No person may propagate a deleterious exotic animal in the state without the approval of the Administrator. If the Administrator grants approval to propagate deleterious exotic animals, such approval must be noted on the applicable possession permit. Persons seeking permission to propagate a deleterious exotic animal must meet the following requirements: ()

a. Obtain, and be in full compliance with, a possession permit issued by the Administrator; ()

b. Obtain, and be in full compliance with, a USDA exhibitor's license for the facility where deleterious exotic animals will be possessed; ()

c. Be a member in good standing of ISIS; and ()

d. Participate in a PMP or SSP administered by an AZA TAG. ()

e. In the event a PMP or SSP does not exist for the deleterious exotic animal(s) a person seeks to propagate, the Administrator will determine if the propagation of such deleterious exotic animal(s) carries a significant risk of injury to the agricultural industry, wildlife or environment of the state. The person must provide the following information to the Administrator to assist the Administrator in making that determination: ()

i. The facility's capacity to hold deleterious exotic animals and any anticipated offspring; ()

ii. The frequency of the proposed propagation; ()

iii. The purpose(s) of the proposed propagation; and ()

iv. The destination or use of the anticipated offspring. ()

101. POSSESSION PERMITS.

01. Application for Possession Permits. Persons seeking a possession permit must make application on a form prescribed by the Administrator. A separate application must be submitted for each facility where deleterious exotic animals will be possessed. A person who receives a possession permit for deleterious exotic animals must submit a new application for each additional deleterious exotic animal that person seeks to possess. The application must include: ()

a. The applicant's name, address (residence and mailing), and Employer Identification Number or Social Security Number. ()

b. Description of the proposed facility, including: ()

i. A map identifying the location of the proposed facility; ()

ii. The geographic location (township, range, and quarter section) of the proposed facility; ()

iii. The legal description of the real property for the proposed facility; ()

iv. The approximate total area of the proposed facility; ()

v. A detailed diagram of proposed facility, identifying fences, gates, confinement areas; and ()

vi. The specifications of the confinement areas for all deleterious exotic animals listed on the application, identifying exterior fencing, interior fencing, fence height, fencing materials, size of confinement areas, etc. ()

c. Name and address of the owner(s) of the proposed facility, if not the applicant. If the proposed facility will be leased, include a written and notarized statement by the owner of the property authorizing the use of the proposed facility to house deleterious exotic animals. ()

d. Name and address of the operator(s) of the proposed facility, if not the applicant. ()

e. Copy of approval by the local zoning authority, if approval is required by the local zoning authority. ()

f. Description of each deleterious exotic animal to be possessed at the facility, including genus, species, sex, age, identification, and purpose for possessing each deleterious exotic animal. ()

g. Name and address of the owner of each deleterious exotic animal listed on the application. ()

h. Name and address of the licensed Idaho veterinarian who will provide care for the deleterious exotic animal(s) listed on the application. ()

i. Written statement detailing the applicant's training and experience with the species listed on the application. ()

i. Written statement detailing the procedure in the event a deleterious exotic animal escapes from the facility. ()

k. Documentation of licenses issued by the USDA, if applicable. ()

l. Documentation of licenses issued by the U.S. Fish and Wildlife Service, if applicable. ()

m. Documentation of accreditation by the AZA, if applicable. ()

n. Proof of membership in ISIS, if applicable. ()

o. Proof of approved participation in a PMP or SSP administered by an AZA TAG, if applicable. ()

p. The required information set forth Paragraph 100.02.e., of these rules, if applicable. ()

q. Proof of sterilization or use of a method of birth control administered by a licensed veterinarian and approved by the Administrator for each deleterious exotic animal listed on the application, unless the applicant intends to propagate the deleterious exotic animal and fully satisfies the requirements of Subsection 100.02, of these rules. ()

r. The date upon which the proposed facility will be available for inspection by the Department, which must be not less than seven (7) days prior to the time the exotic animals are possessed at the proposed facility. ()

02. Application Process. The Administrator will consider all information in the application for a possession permit and issue a written decision granting or denying the application. ()

03. Application Review. The Administrator will review the possession permit application and, in determining whether to issue the possession permit, will consider factors relating to protection of the state's agriculture industry, the wildlife of the state, and the environment. Such factors include, but are not limited to: ()

a. Proximity of the facility to farms, ranches, wildlife migration routes, and other areas in which native Idaho wildlife may commonly be found. ()

b. Potential for unintended or accidental access to the facility. ()

c. Potential for vandalism that compromises the security of the facility. ()

d. Potential for escape from the facility. ()

e. The size of the facility relative to the number of animals proposed to be kept at the facility. ()

f. Whether, based on the applicant's certification and any other evidence received by the Administrator in connection with the proposed facility, all federal, state, county and city laws applicable to the facility have been met. ()

g. The applicant has adequate knowledge, experience and training to maintain the health, welfare and safety of the deleterious exotic animal(s), to handle the deleterious exotic animal(s) with safety and competence, and to ensure that the deleterious exotic animal(s) will not harm the state's agriculture, wildlife or the environment. Such experience may be documented by a log book, employment records, education records or other means by which experience may be authenticated. ()

h. The facility is adequately designed, constructed, and must be managed to protect agriculture, wildlife and the environment from escape of the confined animal(s), including those instances when the applicant is not present at the facility. ()

i. Prior to issuing a possession permit, the Administrator may perform an inspection of the facility to determine if its design, construction and proposed operation is consistent with the applicable provisions of Idaho law. ()

04. Grant or Denial of the Permit. Following review of the application and any other relevant information, the Administrator will either issue the possession permit or deny the application and notify the applicant. If the Department issues the permit, it may include any conditions intended to ensure the health, welfare and safety of the animal(s) covered by the permit and, where the Department finds it necessary, conditions intended to assure the security of the facility so as to avoid undue risk to the state's agriculture, wildlife and the environment. ()

05. Duration of Possession Permit. A possession permit must exist and be valid for the life of the deleterious exotic animal listed on a possession permit, until the permitted person no longer possess the deleterious exotic animal, or until the deleterious exotic animal leaves the state. ()

1012. CIRCUSES AND TRAVELING TEMPORARY EXHIBITIONS OR PERMITS.
The Administrator may authorize, by permit, the importation and possession of deleterious exotic animals by circuses and other traveling exhibitions licensed by USDA. A traveling exhibition may not possess any deleterious exotic animal in the state unless the traveling exhibition obtains a temporary exhibitor permit issued by the Administrator.
(3-20-04)()

01. Application for Temporary Exhibitor Permits. Persons seeking a temporary exhibitor permit must make application on a form prescribed by the Administrator. The application must include: ()

a. The applicant's name, address (business and mailing) and Employer Identification Number or Social Security Number. ()

b. The name and address of the owner(s) and operator(s) of the temporary exhibition, if not the applicant. ()

c. Description of the cages or other housing in which the deleterious exotic animal(s) will be kept in the state. ()

- d.** The physical address of each location(s) at which the deleterious exotic animal(s) will remain while in the state. ()
- e.** A map identifying the location(s) at which the deleterious exotic animal(s) will be kept. ()
- f.** Name and address of the owner(s) of the location(s) at which the deleterious exotic animal(s) will be kept. ()
- g.** Written statement detailing the procedure(s) in the event a deleterious exotic animal escapes from the temporary exhibit. ()
- h.** Documentation of licenses issued by the USDA, if applicable. ()
- 012.** Period of Validity. ~~Import~~ Temporary exhibitor permits, issued pursuant to Section 101, shall will be valid for no more than ~~fourteen~~ thirty (~~14~~30) days after the date of issuance of the permit. (~~3-20-04~~)()
- 023.** Removal. All deleterious exotic animals ~~imported pursuant to Section 101, shall~~ subject to a temporary exhibitors permit will be removed from Idaho prior to the expiration of the import permit.(~~3-20-04~~)()
- 03-** Time Extension. The Administrator may extend the time limits in Section 101 of this rule on a case-by-case basis. (~~3-20-04~~)

103.-- 109. (RESERVED).

102110. IMPORTATION PERMIT AND CERTIFICATE OF VETERINARY INSPECTION OF DELETERIOUS EXOTIC ANIMALS.

~~All~~ No person may import any deleterious exotic animals ~~imported pursuant to Sections 100 or 101 of this rule shall be~~ into the state unless the deleterious exotic animal is accompanied in transit by an import permit issued by the Administrator, any permits required by the Idaho Department of Fish and Game, and an official certificate of veterinary inspection. (~~3-20-04~~)()

111. IMPORT PERMITS.

The Administrator will issue import permits in accordance with IDAPA 02.04.21, "Rules Governing the Importation of Animals." ()

01. Application for Import Permits. In addition to the requirements set forth in IDAPA 02.04.21, Section 104, persons seeking import permits must submit the following: ()

- a.** An application on a form prescribed by the Administrator; ()
- b.** A valid possession permit or temporary exhibitor permit issued by the Administrator; and ()
- c.** A certificate of veterinary inspection that meets the requirements in Section 112, of these rules. ()

02. Period of Validity. Import permits will be valid for fifteen (15) days from the date of issuance of the permit, unless stated otherwise on the permit. ()

103112. CONTENTS OF CERTIFICATES OF VETERINARY INSPECTION.

All deleterious exotic animals imported into the state must be accompanied in transit by an official certificate of veterinary inspection. All certificates ~~shall~~ must be written, legible, and attest that the animal(s) meet the importation requirements of the state, ~~of Idaho~~ set forth in IDAPA 02.04.21, "Rules Governing the Importation of Animals." The certificate ~~shall~~ must be on an official form of the state of origin, be approved by its livestock sanitary official, and be issued by an accredited veterinarian. An equivalent form of the USDA issued by a federal animal health official is acceptable in lieu of a certificate of veterinary inspection. ~~All certificates shall contain the following information:~~ (~~3-20-04~~)()

01. Required Information. All certificates of veterinary inspection must contain the following information: ()

- 01a. Name and Address.** Name and address of the consignor and consignee; and (3-20-04)()
- 02b.** Origin of shipment, including city and state; and (3-20-04)()
- 03c. Final Destination.** Final destination of shipment in Idaho the state, including city; and (3-20-04)()
- 04d. Description of Animals.** An accurate description and identification of each animal; and (3-20-04)()
- 05e. Purpose of Shipment.** The purposes for which the animals were shipped; and (3-20-04)()
- 06f.** Method of transportation; and (3-20-04)()
- 07g. Health Status.** The certificate shall indicate the health status of the animals involved including dates and results of inspection and of tests and vaccinations, if any, required by the state of Idaho; and (3-20-04)()
- 08h. Signature.** The signature of the accredited veterinarian, or state or federal animal health official, conducting the veterinary inspection. (3-20-04)()

092. Submission of Certificate. The required copies of certificates of veterinary inspection or other approved certificates shall must be submitted, within thirty (30) days of inspection, to the Division. (3-20-04)()

103. Period of Certificate Validity. Certificates of veterinary inspection shall must be valid for no longer more than thirty (30) days after the date of inspection. (3-20-04)()

10413-- 1019. (RESERVED).

110. DECLARATION OF EXISTING DELETERIOUS EXOTIC ANIMALS.

Any person that possesses deleterious exotic animals shall declare those animals to the Administrator, in writing, on a form provided by the Division of Animal Industries prior to June 30, 2004. The declaration form shall be filled out accurately, legibly, and completely. (3-20-04)

111. POSSESSION PERMIT REQUIRED.

Effective July 1, 2004, no person shall possess a deleterious exotic animal without a possession permit signed by the Administrator. (3-20-04)

01. Existing Deleterious Animals. *The Administrator may authorize possession permits for existing deleterious exotic animals on a case-by-case basis.* (3-20-04)

02. Permit Applications. *Possession permit applications shall be on a form prescribed by the Administrator and obtained from the Division of Animal Industries.* (3-20-04)

03. Deadline for Application. *Possession permit applications for existing deleterious exotic animals shall be received by the Administrator prior to June 30, 2004.* (3-20-04)

04. Exceptions. *The Administrator may grant exceptions to the requirements of Section 111, or extensions of the time limits set in Section 111, on a case-by-case basis.* (3-20-04)

120. DISPOSITION OF NON-PERMITTED DELETERIOUS EXOTIC ANIMALS.

The Administrator may order non-permitted or illegally possessed or imported deleterious exotic animals to be removed from the state, moved to premises facilities that are in compliance with this chapter, or destroyed. (3-30-07)()

~~113. 119.~~ (RESERVED).

~~120. IDENTIFICATION OF DELETERIOUS EXOTIC ANIMALS.~~

~~All deleterious exotic animals in Idaho shall be officially identified with permanent types of identification, approved by the Administrator.~~ (3-20-04)

~~121. 149.~~ (RESERVED).

~~150. PROPAGATION OF DELETERIOUS EXOTIC ANIMALS.~~

~~No person shall propagate any deleterious exotic animals in Idaho. The Administrator may authorize, by permit, the following entities to propagate deleterious exotic animals:~~ (3-20-04)

~~01. Zoos. Public or private zoos accredited by the AZA.~~ (3-20-04)

~~02. Educational Institutions. Public or private institutions of higher education, for research purposes.~~ (3-20-04)

~~03. Research Facilities. Persons conducting research determined by the Administrator to be beneficial to agriculture, the environment, or wildlife.~~ (3-20-04)

~~04. USDA Licensed Facilities. Zoos and exhibitors, open to the public, licensed by USDA pursuant to Title 9, Parts 1, 2, 3, and 4, CFR, and approved by the Administrator.~~ (3-20-04)

~~05. Existing Operations. Persons that have declared under Section 110 and that possess deleterious exotic animals under Section 111 may be permitted to propagate deleterious exotic animals on a case by case basis.~~ (3-20-04)

121. TRANSFER OF DELETERIOUS EXOTIC ANIMALS.

No person may transfer, sell, barter, trade, change ownership, or change possession of any deleterious exotic animal, unless the person receiving the deleterious exotic animal has obtained a possession permit, issued by the Administrator, for the animal being transferred. ()

122. RELEASE OF DELETERIOUS EXOTIC ANIMALS.

No person may release any deleterious exotic animal within the state. ()

~~151~~**123. REVOCATION OF PERMITS.**

Permits issued pursuant to this chapter may be revoked at any time if the Administrator finds violations of any of the provisions of this chapter. (4-11-06)

~~152~~**124. -- 199. (RESERVED).**

200. CONFINEMENT OF DELETERIOUS EXOTIC ANIMALS.

All deleterious exotic animals ~~shall~~ must be confined in appropriate facilities, as determined by the Administrator. These facilities shall be constructed and maintained to: (3-20-04)()

01. Prevent Escape. Prevent the escape of deleterious exotic animals for any length of time. (3-20-04)()

02. Prevent Ingress of Wildlife. Prevent the ingress of free ranging wildlife that could be negatively impacted by the confined deleterious exotic animals. (3-20-04)

03. Assure Animal Care. Assure the appropriate level of animal care, including maintaining the facilities in a sanitary condition. (4-11-06)

~~04. Escapes. The escape of any deleterious exotic animal shall be reported to the Administrator within twenty four (24) hours of the discovery of the escape.~~ (4-11-06)

201. CONSTRUCTION STANDARDS FOR CONFINEMENT AREAS.

Confinement areas for deleterious exotic must be constructed according to the following construction standards, depending on the species of the deleterious exotic animal: ()

01. Birds. Confinement areas for birds on the list of deleterious exotic animal set forth in Section 401 of these Rules must be constructed to prevent egress and provide adequate space for the birds. Confinement areas must include a cover sufficient to prevent egress or escape of the species of birds contained therein. ()

02. Mammals. Confinement areas for mammals on the list of deleterious exotic animal in Sections 402-413 of these Rules must comply with the construction standards in the AZA Minimum Husbandry Guidelines for Mammals. ()

202. ESCAPE OF DELETERIOUS EXOTIC ANIMALS.

Persons possessing deleterious exotic animals must report the escape of any deleterious exotic animal to the Administrator within twenty-four (24) hours of the discovery of the escape. ()

203. IDENTIFICATION OF DELETERIOUS EXOTIC ANIMALS.

All deleterious exotic animals must be identified with an unique identification according to the following standards, depending on the species of the deleterious exotic animal: ()

01. Birds. Birds must be identified with a microchip and a leg band. ()

02. Mammals. Mammals must be identified with a microchip and a tattoo. ()

~~204.~~ -- 299. (RESERVED).

~~**300. DISPOSITION OF DELETERIOUS EXOTIC ANIMALS WITHIN IDAHO.**~~

~~*No person shall sell, barter, trade, change ownership, or release into the wild within Idaho, any deleterious exotic animal except:*~~ (3-20-04)

~~**01. To Permitted Facilities.** *Deleterious exotic animals may be sold, bartered, traded, or given to a zoo, educational institution, USDA licensed facility, or research facility that has a possession permit pursuant to Section III.*~~ (3-20-04)

~~**02. Between Permitted Facilities.** *Zoos, educational institutions, USDA licensed facilities, or research facilities that have a possession permit, pursuant to Section III of this rule, may sell, trade, barter, or exchange deleterious exotic animals with other zoos, educational institutions, USDA licensed facilities, or research facilities that have possession permits pursuant to Section III.*~~ (3-20-04)

~~**03. Records.** *All persons who sell, barter, trade, change ownership or possession of deleterious exotic animals shall keep complete and accurate records of the disposition of any deleterious exotic animals, including the new contact information for persons in possession of the deleterious exotic animal and date of disposition. Such records shall be maintained for a minimum of three (3) years and shall be presented to the Administrator upon request.*~~ (4-11-06)

300. RECORDKEEPING.

01. Annual Inventory. Any person that possesses deleterious exotic animals must submit a complete and accurate annual inventory of such animals to the Administrator on or before the first day of July each year. The annual inventory must include the following information: ()

a. Identify each deleterious exotic animal by genus, species, sex, and identification. ()

b. Identify each deleterious exotic animal born during the last reporting year, including the genus, species, sex, identification, and date of birth. ()

c. Identify each deleterious exotic animal that was transferred to another person, including the genus, species, sex, identification, date of transfer, and name and address of the person to whom the deleterious exotic animals was transferred. ()

d. Identify each deleterious exotic animal that died during the last reporting year, including the genus, species, sex, identification, date of death, and cause of death. ()

02. Records of Transfers. All persons who transfer, sell, barter, trade, change ownership, or change possession of deleterious exotic animals must keep complete and accurate records of the disposition of any deleterious exotic animals, including the new contact information for persons in possession of the deleterious exotic animal and date of disposition. Such records must be maintained for a minimum of three (3) years and must be presented to the Administrator upon request. ()

~~301. EXPORT OF DELETERIOUS EXOTIC ANIMALS.~~

~~Any deleterious exotic animals exported from Idaho shall meet all applicable federal regulations for the interstate movement of animals. (3-20-04)~~

~~302. ANNUAL INVENTORY.~~

~~Any person that possesses deleterious exotic animals shall submit a complete and accurate inventory of such animals to the Administrator on or before the first day of July each year. Each inventory shall clearly show the disposition of all deleterious exotic animals including, but not limited to: (4-11-06)~~

~~01. Date and Cause of Death.~~ The date and cause of death of any deleterious exotic animals. (4-11-06)

~~02. New Owner Information.~~ The name and address of any person to whom deleterious exotic animals were transferred. (4-11-06)

~~303~~301. -- 309. (RESERVED).

310. DEAD ANIMALS MOVEMENT AND DISPOSAL.

All deleterious exotic animals that die, or are euthanized, ~~shall~~ must be disposed of in accordance with IDAPA 02.04.17 "Rules Governing Dead Animal Movement and Disposal" and the death ~~shall~~ must be reported to the Administrator within five (5) business days of the discovery of the death. (4-11-06)()

311. -- 399. (RESERVED).

~~400. DELETERIOUS EXOTIC ANIMALS — INVERTEBRATES.~~

~~01. Zebra Mussel (Dreissenia polymorpha). (3-20-04)~~

~~02. New Zealand Mud Snail (Potamopyrgus antipodarum). (3-20-04)~~

~~03. Red Claw Crayfish (Cherax quadricarinatus). (4-11-06)~~

~~04. Yabby Crayfish (Cherax albidus/C. destructor). (4-11-06)~~

~~05. Marone Crayfish (Cherax tenuimanus). (4-11-06)~~

400. LIST OF DELETERIOUS EXOTIC ANIMALS.

The Administrator may add or remove animal species to the list of deleterious exotic animals in this chapter by issuing a written order listing animals and the reasons for adding them to or removing them from the list deleterious exotic animals. ()

~~401. — 499. (RESERVED).~~

~~500. DELETERIOUS EXOTIC ANIMALS — FISH.~~

- ~~01. Green Sturgeon (*Acipenser medirostris*). (3-20-04)~~
~~02. Walking Catfish (*Claridae*). (3-20-04)~~
~~03. Bowfin (*Ania Calva*). (3-20-04)~~
~~04. Gar (*Lepiostidae*). (3-20-04)~~
~~05. Piranhas (*Serrasalmus spp.*, *Rosseveltiella spp.*, *Pygocentrus spp.*). (3-20-04)~~
~~06. Rudd (*Scardinius erythrophthalmus*). (3-20-04)~~
~~07. Ide (*Leuciscus idus*). (3-20-04)~~
~~08. Grass Carp (*Ctenopharyngodon idella*). Diploid grass carp. (3-20-04)~~
~~09. Bighead Carp (*Hypophthalmichthys nobilis*). (3-20-04)~~
~~10. Silver Carp (*Hypophthalmichthys molitrix*). (3-20-04)~~
~~11. Black Carp (*Mylopharyngodon piceus*). (3-20-04)~~
~~12. Snakeheads (*Channa spp.*, *Paraichanna spp.*). (3-20-04)~~
~~501.—599. (RESERVED).~~
~~600. DELETERIOUS EXOTIC ANIMALS — AMPHIBIANS.~~
~~601.—649. (RESERVED).~~
~~650. DELETERIOUS EXOTIC ANIMALS — REPTILES.~~
~~651.—699. (RESERVED).~~
700~~401.~~ DELETERIOUS EXOTIC ANIMALS -- BIRDS.
01. Mute Swan (*Cygnus olor*). Mute swans except those that have been pinioned. (3-20-04)
~~701.—799. (RESERVED).~~
~~800~~402. DELETERIOUS EXOTIC ANIMALS -- MAMMALS -- CANIDAE.
All non-native canidae species. (4-11-06)
~~800~~403. DELETERIOUS EXOTIC ANIMALS -- MAMMALS -- CERVIDAE.
01. Red Deer (*Cervus elaphus elaphus*). (3-20-04)
02. Sika Deer (*Cervus nippon*). (3-20-04)
404. (RESERVED).
~~807~~405. DELETERIOUS EXOTIC ANIMALS -- MAMMALS -- FELIDAE.
~~071.~~ 01. Caracal (*Felis caracal*). (4-11-06)
~~052.~~ 02. Cheetah (*Acinonyx jubatus*). (4-11-06)

- ~~403.~~ ~~4~~Geoffroy's Cat (*Felis geoffroyi*). (4-11-06)
- 04.** **Jaguar (*Panthera onca*).** (4-11-06)
- ~~035.~~ **Leopard (*Panthera pardus*).** All leopards. (4-11-06)
- ~~046.~~ **Lion (*Panthera leo*).** (4-11-06)
- ~~097.~~ **Margay (*Felis wiedii*).** (4-11-06)
- 08.** **Ocelot (*Felis pardalis*).** (4-11-06)
- ~~069.~~ **Serval (*Felis serval*).** (4-11-06)
- ~~0210.~~ **Tiger (*Panthera tigris*).** All tigers. (4-11-06)
- ~~805406.~~ **DELETERIOUS EXOTIC ANIMALS -- MAMMALS -- INSECTIVORES.**
- 01.** **European Hedgehog (*Erinaceus europeus*).** (4-11-06)
- ~~804407.~~ **DELETERIOUS EXOTIC ANIMALS -- MAMMALS -- MARSUPIALS.**
- 01.** **Brush Tailed Possum (*Trichsurus vulpecula*).** (4-11-06)
- ~~810408.~~ **DELETERIOUS EXOTIC ANIMALS -- MAMMALS -- NON-HUMAN PRIMATES.**
All non-human primates. (4-11-06)
- ~~801409.~~ **DELETERIOUS EXOTIC ANIMALS -- MAMMALS -- OVIDAE.**
- 01.** **Barbary Sheep (*Ammotragus lervia*).** (4-11-06)
- 02.** **Mouflon Sheep (*Ovis musimon*).** (4-11-06)
- ~~809810.~~ **DELETERIOUS EXOTIC ANIMALS -- MAMMALS -- PROCYONIDAE.**
- 01.** **Kinkajou.** (4-11-06)
- 02.** **Coatimundi.** (4-11-06)
- ~~806411.~~ **DELETERIOUS EXOTIC ANIMALS -- MAMMALS -- RODENTIA.**
- 01.** **South American Rodents.** All South American rodents except guinea pigs and chinchillas. (4-11-06)
- a.** **Nutria (*Myocastor coypus*).** (4-11-06)
- b.** **Capybara (*Hydrochoerus hydrochaeris*).** (4-11-06)
- 02.** **Prairie Dogs (*Cynomys*).** (4-11-06)
- 03.** **African Tree Squirrels (*Heliosciurus*).** (4-11-06)
- 04.** **African Rope Squirrels (*Funisciurus*).** (4-11-06)
- 05.** **African Dormice (*Graphiurus*).** (4-11-06)
- 06.** **Gambian Giant Pouched Rats (*Cricetomys*).** (4-11-06)

07. Brush-tailed Porcupines (*Atherurus*). (4-11-06)

08. African Striped Mice (*Hybomys*). (4-11-06)

803412. DELETERIOUS EXOTIC ANIMALS -- MAMMALS -- SUIDAE.

01. European or Russian Wild Boar (*Sus scrofa*). (4-11-06)

802413. DELETERIOUS EXOTIC ANIMALS -- MAMMALS -- TAYASSUIDAE

01. Peccary (*Dicotyles tajacu*). (4-11-06)

811414. -- 8499. (RESERVED).

900. ~~ADDITION OF ANIMALS.~~

~~The Administrator may add or remove animal species to the deleterious exotic animals list in this chapter by issuing a written order listing animals and the reasons for adding them to or removing them from the deleterious exotic animals list.~~ (3-30-07)

901. -- 989. (RESERVED).

990500. PENALTIES FOR VIOLATIONS.

Any person who violates the provisions of this chapter ~~shall~~ will be subject to the penalty provisions of Section 25-3905, Idaho Code. (3-20-04)(____)

991. -- 998. (RESERVED).

999501. MINOR VIOLATIONS.

Nothing in this chapter ~~shall~~ will be construed as requiring ISDA to report minor violations when ISDA believes that the public interest will be best served by suitable warnings or other administrative action. (3-20-04)(____)

502. -- 999. (RESERVED).

IDAPA 02 - DEPARTMENT OF AGRICULTURE

02.06.09 - INVASIVE SPECIES RULES

DOCKET NO. 02-0609-0801 (NEW CHAPTER)

NOTICE OF RULEMAKING - 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 22-1907, 22-2006 and 22-2015, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be held as follows:

Tuesday - October 14, 2008 - 6:00 pm to 8:00 pm

**SANDPOINT COMMUNITY CENTER
204 S. First Avenue, Sandpoint, ID**

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 rule determines which species are invasive in Idaho and establishes procedures for testing, sampling, inspection, certification, permitting, compliance verification and recordkeeping.

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 July 2, 2008 Idaho Administrative Bulletin, Volume 08-07, p. 19.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Amy Ferriter, Invasive Species Coordinator (208) 332-8686 or Thomas E. Dayley, Administrator (208) 332-8620.

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 22, 2008.

DATED this 25th day of August, 2008.

Brian J. Oakey
Deputy Director
Idaho State Department of Agriculture
2270 Old Penitentiary Road
P.O. Box 790
Boise, Idaho 83701-0790
Phone 332-8500, Fax 334-2170

THE FOLLOWING IS THE TEXT OF DOCKET NO. 02-0609-0801

IDAPA 02
TITLE 06
CHAPTER 09

02.06.09 - RULES GOVERNING INVASIVE SPECIES

000. LEGAL AUTHORITY.

This chapter is adopted under the legal authority of Title 22, Chapter 19, Idaho Code, the “Idaho Invasive Species Act of 2008” and Title 22, Chapter 20, Idaho Code, the “Idaho Plant Pest Act of 2002.” ()

001. TITLE AND SCOPE.

01. Title. The title of this chapter is IDAPA 02.06.09, “Rules Governing Invasive Species.” ()

02. Scope. These rules govern the designation of invasive species, and establish procedures for testing, sampling, inspection, certification, permitting, compliance verification and recordkeeping of regulated species. The official citation of this chapter is IDAPA 02.06.09, et seq. For example, the citation for this section is IDAPA 02.06.09.001. ()

002. WRITTEN INTERPRETATIONS.

As described in Section 67-5201(19) (b) (iv), Idaho Code, the Idaho State Department of Agriculture may have written statements which pertain to the interpretation of these rules. If available, such written statements can be inspected and copied at cost at the Idaho State Department of Agriculture, 2270 Old Penitentiary Road, Boise, Idaho 83712. ()

003. ADMINISTRATIVE APPEAL.

There is no provision for administrative appeal before the Idaho State Department of Agriculture under this chapter. Persons may be entitled to appeal agency actions authorized under these rules pursuant to Title 67, Chapter 52, Idaho Code. ()

004. INCORPORATION BY REFERENCE.

There are no documents incorporated by reference in this chapter. However, other species of plants or animals harmful to Idaho agriculture or the environment, and not listed herein as an invasive species, may be regulated by other administrative rules. Please contact the Department for additional information. ()

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. ()

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. ()

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

04. Telephone Number. The telephone number for the Division of Plant Industries at the central office is (208) 332-8620. ()

05. Fax Number. The fax number for the Division of Plant Industries at the central office is (208) 334-2283. ()

006. IDAHO PUBLIC RECORDS ACT.

These rules are public records available for inspection and copying at the Department and the State Law Library. ()

007. -- 009. (RESERVED).

010. DEFINITIONS.

The Department adopts the definitions set forth in Section 22-1904, Idaho Code. In addition, the following definitions shall apply in the interpretation and enforcement of this rule. ()

- 01. Control.** The abatement, suppression, containment or eradication of an invasive species. ()
- 02. Department.** The Idaho State Department of Agriculture. ()
- 03. Director.** The director of the Idaho State Department of Agriculture or the director's designee. ()
- 04. Decontaminate.** To decontaminate means to control an invasive species on a conveyance or equipment in accordance with rule or accepted practices and/or label requirements. ()
- 05. Environmental Harm.** To cause significant adverse effects on uses of natural resources or on plants or animals. ()
- 06. Equipment.** An article, tool, implement, or device capable of carrying or containing an invasive species. ()
- 07. Infested.** A plant, animal, geographic region, water body, facility or water supply system that:
 - a.** Has been determined by the Department to contain an invasive species; ()
 - b.** Has been so exposed to an invasive species and that invasive species can reasonably be expected to persist. ()
- 08. Invasive Species Act.** The Idaho Invasive Species Act of 2008. ()
- 09. Plant Pest Act.** The Idaho Plant Pest Act of 2002. ()
- 10. State.** The State of Idaho. ()
- 11. Water Body.** Natural or impounded surface water, including a stream, river, spring, lake, reservoir, pond, wetland, tank, and fountain. Tanks open to the air are included in this definition of water body. Tanks that are sealed, e.g. chemigation equipment and drinking water system storage tanks, are not water bodies for the purpose of this rule. ()
- 12. Water Supply System.** A system used to treat, convey or distribute water for irrigation, industrial, waste water treatment or culinary use. A water supply system includes a pump, canal, ditch, or pipeline, but does not include a water body as defined in Section 010.11. ()

011. ABBREVIATIONS.

- 01. IDFG.** Idaho Department of Fish & Game. ()

012. -- 099. (RESERVED).

100. PROHIBITION ON POSSESSION, IMPORTATION, SHIPPING, AND TRANSPORTATION.

- 01. Prohibited Acts.** No person shall undertake or commit any of the prohibited acts listed below

following the effective date of this rule, unless the act falls within one (1) of the exceptions set forth in Section 100.02. Prohibited acts include but are not limited to: ()

- a. Possession, propagation, importation, export, shipping, and transportation of an invasive species; ()
- b. Release, placement, planting, or causing to be released, placed, or planted an invasive species in a water body, facility, water supply system, field, garden, planted area, ecosystem, or otherwise into the environment; ()
- c. Transportation of a conveyance or equipment that has been in an infested water within the previous thirty (30) days without decontaminating the conveyance or equipment; or ()
- d. Transportation, importation or shipping of any plant, animal, mode of transportation, conveyance, or any thing or object that is infested with an invasive species without decontaminating the object. ()

02. Exceptions. The Director may authorize, by permit, the possession, importation, shipping, and/or transportation of an invasive species into or through the state of Idaho only if: ()

- a. The invasive species is being transported to the Department or IDFG, or such other destination as the Director may direct, in a sealed container for purposes of identifying the species or reporting the presence of the species; or ()
- b. The species is being transported for disposal as part of a control activity, in accordance with a permit issued pursuant to Section 22-1906, Idaho Code; or ()
- c. The invasive species specimen has been lawfully acquired and is dead, and in the case of plant species, all seed has been removed and the plant rendered otherwise nonviable; or ()
- d. The invasive species is in the form of herbaria or has otherwise been preserved, and rendered nonviable. ()

110. PERMITS.

01. Research Permit. The Director may issue a research permit to any division of federal, state or local government, a college or university, or other research facility, upon receipt of an application on forms provided by the Department. In order to obtain a research permit, the person seeking that permit shall prove, to the Director's satisfaction, that: ()

- a. Any person capturing, harvesting or otherwise acquiring an invasive species under the permit shall utilize capturing, harvesting or acquisition practices that will ensure that the invasive species is not spread or disseminated as a result of the capture, harvest or acquisition; ()
- b. Any person who comes into contact with an invasive species will decontaminate any equipment as soon as possible after leaving infested waters or the area in which the invasive species was found; and ()
- c. Any invasive species will be rendered nonviable prior to disposal. ()

02. Cooperative Agreements. Nothing contained in Section 110 shall prevent the Director from entering into memoranda of agreement, cooperative agreements or other agreements with other governmental entities to address the possession, transportation, shipping, decontamination or capture of an invasive species. ()

111. -- 119. (RESERVED).

120. DECLARATION OF EXISTING INVASIVE SPECIES.

01. Declaration. Any person possessing an invasive species listed herein prior to the effective date of

this rule shall declare those species to the director, in writing, on a form provided by the Division of Plant Industries prior to one hundred and twenty (120) days after the effective date of these Rules. The declaration form shall be completed accurately, legibly, and completely. ()

02. No Propagation. No person who possesses an invasive species prior to the effective date of this rule shall undertake or allow propagation or spread of that species. ()

121. -- 299. (RESERVED).

300. REPORTING REQUIREMENTS.

01. Reporting Invasive Species. Any person who discovers an invasive species within the State or who has reason to believe that an invasive species may exist at a specific location shall immediately report the discovery to the Department. ()

02. Report Information. The report shall, to the best of the reporter's ability, contain the following information: ()

a. Location of the invasive species; ()

b. Date of discovery; and ()

c. Identification of any conveyance, equipment, water body, or host in or upon which the invasive species may be found. ()

03. Reporting Method. The report shall be made in person or in writing (which shall include electronic mail) at any Department office or headquarters. ()

301. -- 399. (RESERVED).

400. INVASIVE SPECIES - INVERTEBRATES (NOT INCLUDING SNAILS AND SLUGS).

01. Dreissena Mussels, *Dreissena spp.* ()

02. New Zealand Mud Snail, *Potamopyrgus antipodarum.* ()

03. Red Claw Crayfish, *Cherax quadricarinatus.* ()

04. Yabby Crayfish, *Cherax albidus/C. destructor.* ()

05. Marone Crayfish, *Cherax tenuimanus.* ()

06. Rusty Crayfish, *Orconectes rusticus.* ()

07. Asian clam, *Corbicula fluminea.* ()

401. INVASIVE SPECIES -- FISH.

01. Green sturgeon, *Acipenser medirostris.* ()

02. Walking Catfish, *Clariidae batrachus.* ()

03. Bowfin, *Ania calva.* ()

04. Gar, *Lepiostidae.* ()

05. Piranhas, *Serrasalmus spp., Rosseveltiella spp., Pygocentrus spp.* ()

06. Rudd, *Scardinius erythrophthalmus*. ()
07. Ide, *Leuciscus idus*. ()
08. Diploid Grass Carp, *Ctenopharyngoden idella*. ()
09. Bighead Carp, *Hypophthalmichthys nobilis*. ()
10. Silver Carp, *Hypophthalmichthys molitrix*. ()
11. Black Carp, *Mylopharyngodon piceus*. ()
12. Snakeheads, *Channa spp.*, *Parachanna spp.* ()
13. Round Goby, *Neogobius melanostomas*. ()
14. Ruffe, *Gymnocephalus cernuus*. ()
402. INVASIVE SPECIES -- AMPHIBIANS.
01. Rough-Skinned Newt, *Taricha granulose*. ()
02. Bullfrog, *Lithobates catesbeianus*. ()
403. INVASIVE SPECIES -- REPTILES.
01. Red-Eared Slider, *Trachemys scripta elegans*. ()
02. Mediterranean Gecko, *Hemidactylus turcicus*. ()
03. Common Wall Lizard, *Podarcis muralis*. ()
04. Italian Wall Lizard, *Podarcis sicula*. ()
05. Brahminy Blindsnake, *Ramphotyphlops braminus*. ()
404. INVASIVE SPECIES -- BIRDS.
01. Monk Parakeet, *Myiopsitta monachus*. ()
405. INVASIVE SPECIES – MAMMALS.
01. Nutria, *Myocastor coypus*. ()
406. INVASIVE SPECIES – INSECTS.
01. Asian Longhorned Beetle, *Anoplophora glabripennis*. ()
02. Citrus Longhorned beetle, *Anoplophora chinensis*. ()
03. Emerald Ash Borer, *Agrilus planipennis*. ()
04. Marmorated Stink bug, *Halyomorpha halys*. ()
05. European Woodwasp, *Sirex noctilio*. ()

06. European Gypsy Moth, *Lymantria dispar*. ()
07. Asian Gypsy Moth, *Lymantria dispar*. ()
08. Soybean Aphid, *Aphis glycines*. ()
09. Potato Tuber Moth, *Tecia solanivora*. ()
10. Japanese Beetle, *Popilla japonica*. ()
11. Mexican Bean Beetle, *Epilachna varivestis*. ()
12. Kaphra Beetle, *Trogoderma granarium*. ()
13. Red Imported Fire Ant, *Solenopsis invicta*. ()
14. Glassy-Winged Sharpshooter, *Homalodisca coagulata*. ()
15. Grape Phylloxera, *Daktulosphaira vitifoliae*. ()
16. Vine Mealybug, *Planococcus ficus*. ()
17. Summer Fruit Tortix, *Adoxophyes orana*. ()
18. Silver Y Moth, *Autoographa gamma*. ()
19. False Codling Moth, *Cyrtophlebia leucotreta*. ()
20. Light Brown Apple Moth, *Epiphyas postvittana*. ()
21. Apple Tortrix, *Archips fuscocupreanus*. ()
22. Pine Shoot Beetle, *Tomicus piniperda*. ()
23. Cherry Bark Tortrix, *Enarmonia formosana*. ()
24. Apple Ermine Moth, *Ypomoneuta malinellus*. ()
25. Cherry Ermine Moth, *Enarmonia formosana*. ()
26. European Grape Vine Moth, *Lobesia botrana*. ()
27. European Grape Berry Moth, *Eupoecilia ambiguella*. ()
28. Plum Fruit Moth, *Cydia funebrana*. ()
29. Plum Curculio, *Conotrachelus nenuphar*. ()
30. Leek Moth, *Acrolepiopsis assectella*. ()
31. Bee Mite, *Tropilaelaps cleareae*. ()
32. Small Hive Beetle, *Aethina tumida*. ()
33. Africanized Honey Bee, *Apis mellifera*. ()
34. Black Currant Gall Mite, *Cecidophyopsis ribis*. ()

- 35. Exotic Bark Beetles, (Scolytidae). ()
 - a. *Scolytus mali*. ()
 - b. *Xylosandrus crassiusculus*. ()
 - c. *Xylosandrus germanus*. ()
 - d. *Xyleborus californicus*. ()
- 36. Sunni Bug, *Eurygaster intergriceps*. ()
- 37. German Yellowjacket, *Vespula germanica*. ()
- 38. European Paper Wasp, *Polistes dominulus*. ()
- 39. European Elm Bark Beetle, *Scolytus multistriatus*. ()
- 40. Banded Elm Bark Beetle, *Scolytus schevyrewi*. ()
- 41. Wheat Blossom Midge, *Sitodiplosis mosellana*. ()
- 42. Potato Tuberworm, *Phthorimeaea operculella*. ()
- 407. INVASIVE SPECIES – PATHOGENS, DISEASES AND PARASITIC NEMATODES.
 - 01. Whirling Disease, *Myxobolus cerebralis*. ()
 - 02. VHS, *Viral hemorrhagic septicemia*. ()
 - 03. Sudden Oak Death (Ramorum Blight), *Phytophthora ramorum*. ()
 - 04. Karnal Bunt, *Tilletia indica*. ()
 - 05. Bean Common Mosaic Virus, (strain US-6). ()
 - 06. Bean Common Mosaic Necrosis Virus (strain NL-3 and NL-5). ()
 - 07. Potato Wart, *Synchytrium endobioticum*. ()
 - 08. Golden Nematode, *Globodera rostochiensis*. ()
 - 09. Soybean Cyst Nematode, *Heterodera glycines*. ()
 - 10. Bacterial Wilt of Alfalfa, *Clavibacter michiganensis spp insidiosus*. ()
 - 11. Wheat Seed Gall Nematode, *Anguina tritici*. ()
 - 12. Pine Wilt Nematode, *Bursaphelenchus xylophilus*. ()
 - 13. Brown rot of Potatoes, *Ralstonia solanacearum*, race 3, biovar 2 (alternate hosts include tomato, pepper, eggplant, and some greenhouse plants including geranium). ()
 - 14. Java Downy Mildew of Corn, *Peronosclerospora maydis*. ()
 - 15. Philippine Downy Mildew of Corn, *Peronosclerospora philipeninsis*. ()

16. Asian Soybean Rust, *Phakospora pachyrhizi*. ()
17. Plum Pox Potyvirus. ()
18. Cherry Leaf Roll Virus. ()
19. Stewart's Wilt of Corn, *Pantoea stewartii*. ()
20. Brown Stripe Downy Mildew of Corn, *Sclerophthora rayssiae* var. *zeae*. ()
21. Potato Spindle Tuber Viroid. ()
22. Pierce's Disease of Grapes, *Xylella fastidiosa*. ()
23. Black Currant Reversion Disease. ()
24. Powdery Mildew of Hops, *Sphaerotheca macularis* (s. *humuli*). ()
25. Bacterial Brown Spot of Beans, *Pseudomonas syringae* pv *syringa*. ()
26. Wheat Smut, *Tilletia tritici*. ()
27. Wheat Scab, *Fusarium graminearum*. ()
28. Potato Ring Rot, *Corynebacterium sepedonicum*. ()
29. Potato Late Blight, *Phytophthora infestans*. ()
30. Onion White Rot, *Sclerotium cepivorum*. ()
31. Sugar Beet Rhizomania (beet necrotic yellow vein virus (BNYVV) and transmitted by the soil fungus *Polymyxa betae*). ()
32. White Pine Blister Rust, *Cronartium ribicola*. ()
33. Cereal Cyst Nematode, *Heterodera avenae*. ()
34. Columbia Root Knot Nematode, *Meloidogyne chitwoodi*. ()
35. Onion Stem And Bulb Nematode, *Ditylenchus dipsaci* (onion race). ()
36. Iris Yellow Spot Virus – IYSV of onions. ()
37. Potato Mop Top Virus, PMTV. ()
408. INVASIVE SPECIES – INVASIVE MOLLUSKS (TERRESTRIAL SNAILS AND SLUGS).
 01. Green Or Burrowing Snail, *Cantareus apertus*. ()
 02. Pulmonate Snail, *Helix pomatia*. ()
 03. White Garden Snail, *Theba pisana*. ()
 04. Giant African Snail, *Achatha fulica*. ()
 05. Lactea Snail, *Otala lactea*. ()

06. Maritime Garden Snail, *Ceriuella virgata*. ()
07. Brown Garden Snail, *Cryptomphalus aspersa*. ()
08. Wrinkled Snail, *Candidula intersecta*. ()
09. Chinese Mystery Snail, *Bellamya chinensis*. ()
10. Japanese Mystery Snail, *Bellamya japonica*. ()
11. Apple Snail, *Pomacea spp.* ()
12. Marisa, *Marisa cornuarietis*. ()
13. Red-Lipped Melania, *Melanoides tuberculata*. ()
14. Quilted Melania, *Tarebia granifera*. ()
15. Decollate Snail, *Rumina decollata*. ()
409. -- 499. (RESERVED).
- 500. ADDITION OF SPECIES.**
The Director may add or remove species to the invasive species list in this chapter by issuing a written order listing the invasive species and the reasons for adding them to or removing them from the invasive species list. ()
501. -- 599. (RESERVED).
- 600. PENALTIES FOR VIOLATION.**
Any person who violates the provisions of this chapter shall be subject to the penalty provisions of Section 22-1913 and/or Section 22-2020, Idaho Code. ()
601. -- 698. (RESERVED).
- 699. MINOR VIOLATIONS.**
Nothing in this chapter shall be construed as requiring the Department to report minor violations when the Department believes that the public interest will be best served by suitable warnings or other administrative action. ()
700. -- 999. (RESERVED).