

Dear Senators CORDER, Smyser and Bock, , and  
Representatives ANDRUS, Boyle and Pence:

The Legislative Services Office, Research and Legislation, has received the enclosed rules of the  
Idaho State Department of Agriculture:

IDAPA 02.04.20 - Rules Governing Brucellosis (Docket No. 02-0420-1101).

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 06/27/2011. 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 07/26/2011.

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 334-4845, or send a written request to the address or FAX  
number indicated on the memorandum enclosed.



Jeff Youtz  
Director

# Legislative Services Office Idaho State Legislature

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*Serving Idaho's Citizen Legislature*

## 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:** June 08, 2011  
**SUBJECT:** Idaho State Department of Agriculture

IDAPA 02.04.20 - Rules Governing Brucellosis (Docket No. 02-0420-1101)

The Idaho State Department of Agriculture submits notice of temporary and proposed rule at IDAPA 02.04.20 – Rules Governing Brucellosis. According to the Department, cattle are not currently required to be brucellosis tested prior to leaving Idaho's designated surveillance area and, as a result, two of Idaho's trading partner states have implemented brucellosis testing requirements on all Idaho cattle imported into their state. The Department states that, in addition, two other states are requiring that cattle leaving the surveillance area be individually identified with official identification. The Department notes that the new import requirements pose a significant financial hardship to all Idaho cattle producers and limit their marketing options. The Department states that the purpose of the rule is to define Idaho's designated surveillance area, outline brucellosis testing requirements for cattle leaving Idaho's designated surveillance area and provide for official individual identification of all sexually intact cattle leaving Idaho's designated surveillance area.

The Department indicates that a temporary rule is appropriate because the rule will ensure that brucellosis affected cattle are not inadvertently introduced to other portions of Idaho or exported to Idaho's trading partner states. The Department states that producers outside the designated surveillance area will see decreased testing costs and maintain marketing options for their cattle. According to the Department, the rule will help to maintain the marketability of cattle originating from Idaho's designated surveillance area.

Negotiated rulemaking was not conducted due to the temporary nature of this rule. However, the Department states that the temporary rule was discussed with cattle producers located in and around Idaho's designated surveillance area, the Idaho Cattlemen's Association, Idaho Farm Bureau and Idaho Dairymen's Association.

The action appears to be authorized pursuant to Section 25-601, Idaho Code.

cc: Dr. Bill Barton  
Brian Oakey

## IDAPA 02 - DEPARTMENT OF AGRICULTURE

### 02.04.20 - RULES GOVERNING BRUCELLOSIS

#### DOCKET NO. 02-0420-1101

#### NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

**EFFECTIVE DATE:** The effective date of the temporary rule is May 1, 2011.

**AUTHORITY:** In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Section 25-601, 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 June 15, 2011.

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 the required finding and concise statement of its supporting reasons for adopting a temporary rule and a nontechnical explanation of the substance and purpose of the proposed rulemaking:

Currently, cattle are not required to be brucellosis tested prior to leaving Idaho's Brucellosis Designated Surveillance Area (DSA). As a result, two (2) of our trading partner states have implemented brucellosis testing requirements on all Idaho cattle imported into their state. In addition, two (2) other states are requiring that cattle leaving the DSA be individually identified with official identification. It is expected that more states will follow suit. These new import requirements pose a significant financial hardship to all Idaho cattle producers and limit their marketing options.

This temporary rule will define Idaho's Designated Surveillance Area, outline brucellosis testing requirements for cattle leaving Idaho's Designated Surveillance Area and provide for official individual identification of all sexually intact cattle leaving Idaho's Designated Surveillance Area.

**TEMPORARY RULE JUSTIFICATION:** Pursuant to Section(s) 67-5226(1), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons:

Requiring a brucellosis test for test eligible cattle within the DSA following a change of ownership and cattle leaving Idaho's DSA will likely address the concerns of Idaho's trading partner states thereby lifting testing requirements on cattle originating from outside of the Idaho DSA. Additionally, the rule will ensure that brucellosis affected cattle are not inadvertently introduced to other portions of Idaho or exported to our trading partner states. Producers outside the DSA will see decreased testing costs and maintain marketing options for their cattle. Requiring cattle within the DSA to be officially individually identified will help to maintain the marketability of cattle originating from Idaho's DSA.

**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: N/A

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because of the urgency of getting the temporary rule provisions in place. The temporary rule was discussed with cattle producers located in and around Idaho's DSA, the Idaho Cattlemen's Association, Idaho Farm Bureau and Idaho Dairymen's Association.

**INCORPORATION BY REFERENCE:** Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: N/A

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance

on technical questions concerning the temporary and proposed rule, contact Dr. Bill Barton, Administrator/State Veterinarian at (208) 332-8540.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before June 22, 2011.

DATED this 5th day of May, 2011,

Brian J. Oakey, Deputy Director  
Idaho State Department of Agriculture  
2270 Old Penitentiary Road  
P.O. Box 790  
Boise, Idaho 83701-0790  
(208) 332-8500, Fax (208) 334-4062

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**THE FOLLOWING IS THE TEXT OF THE TEMPORARY RULE AND THE  
PROPOSED RULE TEXT FOR DOCKET NO. 02-0420-1101**

**010. DEFINITIONS.**

The following definitions shall apply in the interpretation and enforcement of this chapter. (5-3-03)

**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. Approved Brucella Vaccine.** A vaccine product that is approved by and produced under license of the USDA for administration to cattle, domestic bison, swine or domestic cervidae for the purpose of enhancing the resistance to *brucellosis*. (5-3-03)

**04. Approved Feedlot.** A feedlot approved by the Administrator to feed female cattle and domestic bison, which have not been officially vaccinated against *brucellosis*. (5-3-03)

**05. Brucellosis.** An infectious disease of animals and humans caused by bacteria of the genus *Brucella*. (5-3-03)

**06. Brucellosis Emergency.** The declaration of an animal health emergency by the director as the result of the diagnosis of *brucellosis* in cattle, domestic bison, swine or domestic cervidae in the state of Idaho or in areas outside the state that could result in transmission of *brucellosis* to Idaho cattle, domestic bison, swine, or domestic cervidae. (5-3-03)

**07. Brucellosis Herd Management Plan.** A written document outlining management practices a livestock producer will take to minimize the exposure of cattle or domestic bison to brucellosis. The herd management plan shall be valid when signed by the owner and the State Veterinarian or his designee. (5-1-11)T

**078. Cattle.** All bovidae. (5-3-03)

- ~~089~~. **Commuter Herd.** A herd of cattle or domestic bison that moves from Idaho to another state pursuant to the provisions of IDAPA 02.04.21, "Rules Governing the Importation of Animals," Section 220. (3-30-07)
- ~~0910~~. **Department.** The Idaho State Department of Agriculture. (5-3-03)
11. **Designated Surveillance Area.** An area of Idaho, as ordered by the director or his designee, where brucellosis positive wildlife are known or believed to exist and where comingling of wildlife and livestock may lead to transmission of *brucellosis* from wildlife to livestock. (5-1-11)T
- ~~102~~. **Director.** The director of the Idaho State Department of Agriculture or his designee. (5-3-03)
- ~~143~~. **Division of Animal Industries.** Idaho State Department of Agriculture, Division of Animal Industries. (5-3-03)
- ~~124~~. **Domestic Bison.** All animals in the genus *Bison* that are owned by a person. (5-3-03)
- ~~135~~. **Domestic Cervidae.** Elk, fallow deer and reindeer that are owned by a person. (5-3-03)
- ~~146~~. **Exposed.** Animals that have had contact with other animals, herds, or materials that have been determined to be infected with or affected by *Brucella*. (5-3-03)
- ~~157~~. **Federal Animal Health Official.** An employee of USDA, APHIS, VS who is authorized to perform animal health activities. (5-3-03)
- ~~168~~. **Infected Animals or Herds.** Animals that are classified as reactors by the designated *brucellosis* epidemiologist or herds that contain one or more reactor animals. (5-3-03)
- ~~179~~. **Negative.** Cattle, domestic bison, swine or domestic cervidae are classified negative: (5-3-03)
- a. When their blood serum has been subjected to official serological tests and the test results fail to disclose evidence of *Brucella* infection; and (5-3-03)
- b. If blood, milk or tissues are subjected to bacteriological methods for cultivating field-strain *Brucella* and none are recovered. An animal is classified as negative when all tests that are performed fail to disclose evidence of *brucellosis*. (5-3-03)
- ~~1820~~. **Official Identification.** The unique individual identification of cattle, domestic bison, swine, or domestic cervidae in accordance with these rules. (5-3-03)
- ~~1921~~. **Official Vaccinate.** A bovine or domestic bison female that was inoculated, in accordance with these rules and the *brucellosis* Eradication UM&R, with an approved *Brucella* vaccine. (5-3-03)
- ~~202~~. **Operator.** The person who has authority to manage or direct a cattle, domestic bison, swine, or domestic cervidae premises, or conveyance and the animals thereon. (3-30-07)
- ~~243~~. **Owner.** The person who owns or has financial control of cattle, domestic bison, swine, domestic cervidae, or a cattle, domestic bison, swine, or domestic cervidae premises. (3-30-07)
- ~~224~~. **Parturient.** Visibly prepared to give birth or within two (2) weeks before giving birth. (3-30-07)
- ~~235~~. **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)
- ~~246~~. **Postparturient.** Having already given birth. (3-30-07)

**257. Premises.** The ground, area, buildings, corrals, and equipment utilized to keep, hold, or maintain animals. (3-30-07)

**268. Quarantine.** 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 to be or are suspected to be exposed to or infected with *Brucella*, or the animals are not in compliance with the provisions of this chapter. (3-30-07)

**279. Reactor.** Cattle, domestic bison, swine or domestic cervidae are classified as reactors when their blood serum has been subjected to official serological tests and the test results indicate that the animal has been exposed to and infected with *Brucella*. Cattle, domestic bison, swine or domestic cervidae are also classified as reactors in the absence of significant serologic test results when other diagnostic methods, such as bacteriologic methods, result in the recovery of field-strain *Brucella* organisms, or a significant rise in the serologic titer occurs, or when other epidemiologic evidence of *Brucella* infection is demonstrated. (5-3-03)

**2830. Re-Identification of Official Vaccinates.** The identification of female cattle or other animals which have been officially vaccinated and identified, as provided in this chapter, and which have lost the official identification device or the tattoo has faded to the extent that it cannot be discerned. (5-3-03)

**2931. Restrain.** The confinement of cattle, domestic bison, swine, or domestic cervidae in a chute, or other device, for the purpose of efficiently, effectively, and safely inspecting, treating, vaccinating, or testing. (5-3-03)

**302. Restricted Movement Permit.** A VS Form 1-27, or other document approved by the Administrator for movement of reactor or exposed animals in commerce. (5-3-03)

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

**324. State/Federal Animal Health Laboratory.** The official laboratory in Idaho that is approved by the Administrator and USDA/APHIS/VS, to conduct serologic and bacteriologic tests to detect *Brucella*. (5-3-03)

**335. Suspect.** Cattle, domestic bison, swine, or domestic cervidae are classified as suspects when their blood serum has been subjected to official serologic tests and the results suggest infection but are inconclusive. If bacteriologic methods to culture *Brucella* from blood, milk or tissues were used, they did not yield field-strain *Brucella*. (5-3-03)

**346. Swine.** All animals in the family suidae. (5-3-03)

**357. Test Eligible.** Unless otherwise specifically provided in these rules, all sexually intact cattle and domestic bison eighteen (18) months of age and over, and all parturient, and postparturient cattle and domestic bison regardless of age. (3-30-07)

**368. Wild Bison.** All animals in the genus *Bison* that are not owned by a person. (5-3-03)

**379. Wild Elk.** All elk that are not owned by a person. (5-3-03)

**011. ABBREVIATIONS.**

**01. APHIS.** Animal Plant Health Inspection Service. (5-3-03)

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

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

**04. DSA.** Designated Surveillance Area. (5-1-11)T

- ~~045.~~ MCI. Market Cattle Identification. (5-3-03)
- ~~056.~~ UM&R. Uniform Methods and Rules. (5-3-03)
- ~~067.~~ USDA. United States Department of Agriculture. (5-3-03)
- ~~078.~~ VS. Veterinary Services. (5-3-03)

**(BREAK IN CONTINUITY OF SECTIONS)**

**028. BRUCELLOSIS TESTING.**

The Administrator may require *brucellosis* testing of cattle, domestic bison, swine, domestic cervidae, or other animals. (5-3-03)

**01. Duty to Restrain.** It shall be the duty of each person who has control of such animals to pen the animals in suitable pens and restrain them for the test when directed to do so in writing by the Administrator. (5-3-03)

**02. Records of Tests.** When any cattle, domestic bison, swine, or domestic cervidae are tested for *brucellosis* a complete test record shall be made and the record shall be shown on an official *brucellosis* test form provided by the Administrator. The test form shall be completely filled out, including the following information: (5-3-03)

- a. The name and address of the owner and the location of the animals at the time of test. (5-3-03)
- b. The name and signature of the person conducting the test. (5-3-03)
- c. Individual identification number of each animal and the registration name and number of each purebred animal. (5-3-03)
- d. Age of each animal. (5-3-03)
- e. Sex of each animal. (5-3-03)
- f. Breed of each animal. (5-3-03)
- g. Species of animals tested. (5-3-03)
- h. Vaccination status, including the vaccination tattoo for each vaccinated animal. (5-3-03)
- i. Test results, if a *brucellosis* test has been performed, for each animal. (5-3-03)
- j. Date sample was collected for testing. (3-30-07)

**03. Interstate Movement.** All test eligible cattle and domestic bison exported from Idaho shall be tested negative for *brucellosis* within thirty (30) days prior to the interstate movement if required by the state of destination, or if the cattle or domestic bison are being moved from a DSA. (~~4-2-08~~)(5-1-11)T

**04. Dairy Herds.** *Brucellosis* ring tests shall be conducted on all dairy herds at least once every six (6) months. (4-2-08)

(BREAK IN CONTINUITY OF SECTIONS)

**123. DESIGNATED SURVEILLANCE AREA (DSA).**

All intact cattle and domestic bison within a DSA are subject to additional rule requirements for the prevention or eradication of *brucellosis*. (5-1-11)T

**01. Individual Identification Requirements.** All intact cattle and domestic bison, regardless of age, that leave the DSA must be identified with official individual identification. (5-1-11)T

**02. Testing Requirements Within The DSA.** The following official *brucellosis* test requirements apply to all test eligible cattle and domestic bison that are or have been located within the DSA at any time between January 1 and July 1 of any calendar year. (5-1-11)T

**a.** All test eligible cattle and domestic bison must have a negative *brucellosis* test within thirty (30) days prior to a change of ownership, interstate movement or prior to leaving the DSA, except cattle or domestic bison moving directly to an approved Idaho livestock market or a federally-inspected slaughter plant that will test the animals for *brucellosis* on arrival. (5-1-11)T

**b.** Variances or exceptions to the *brucellosis* testing requirements may be considered on an individual basis by the administrator, based upon a *brucellosis* herd management plan. (5-1-11)T

~~1234.~~ -- **129. (RESERVED).**