

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 270

BY WAYS AND MEANS COMMITTEE

AN ACT

1 RELATING TO RULEMAKING BY THE DIRECTOR OF THE IDAHO STATE DEPARTMENT OF AGRI-
2 CULTURE; AMENDING CHAPTER 1, TITLE 22, IDAHO CODE, BY THE ADDITION OF
3 A NEW SECTION 22-101A, IDAHO CODE, TO PROVIDE PROCEDURES IN THE EVENT
4 RULES OF THE DIRECTOR ARE MORE STRINGENT THAN FEDERAL LAW OR REGULATIONS
5 OR PROPOSE TO REGULATE AN ACTIVITY NOT REGULATED BY THE FEDERAL GOVERN-
6 MENT, TO PROVIDE THAT THE DIRECTOR SHALL UTILIZE SPECIFIED CRITERIA IN
7 CERTAIN RULEMAKING, TO PROVIDE THAT CERTAIN INFORMATION BE INCLUDED IN
8 THE RULEMAKING RECORD REQUIREMENTS IN THE EVENT A PROPOSED RULE PRO-
9 PSES A STANDARD NECESSARY TO PROTECT HUMAN HEALTH AND THE ENVIRONMENT,
10 TO REQUIRE CERTAIN INFORMATION IN THE NOTICE OF RULEMAKING, TO REQUIRE
11 CERTAIN NOTICE BY THE DIRECTOR TO THE STANDING COMMITTEE OF THE LEGIS-
12 LATURE IDENTIFYING PORTIONS OF A RULE THAT ARE BROADER IN SCOPE OR MORE
13 STRINGENT THAN FEDERAL LAW OR RULES, OR WHICH REGULATE AN ACTIVITY NOT
14 REGULATED BY THE FEDERAL GOVERNMENT, TO CLARIFY THAT PROVISIONS ARE NOT
15 INTENDED TO ALTER THE SCOPE OR EFFECT OF ANY PROVISION OF LAW LIMITING
16 OR PROHIBITING ACTIONS OR RULEMAKING THAT IS BROADER IN SCOPE OR MORE
17 STRINGENT THAN FEDERAL LAW, TO CLARIFY THAT SPECIFIED PROVISIONS ARE
18 NOT INTENDED TO GRANT THE DIRECTOR ADDITIONAL RULEMAKING AUTHORITY AND
19 TO PROVIDE THAT SPECIFIED REQUIREMENTS SHALL ALSO APPLY TO AMENDMENTS
20 TO RULES IN EFFECT ON THE EFFECTIVE DATE OF THE ACT.
21

22 Be It Enacted by the Legislature of the State of Idaho:

23 SECTION 1. That Chapter 1, Title 22, Idaho Code, be, and the same is
24 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
25 ignated as Section 22-101A, Idaho Code, and to read as follows:

26 22-101A. RULES OF THE DIRECTOR. (1) The legislature directs that any
27 rule proposed by the director which is broader in scope or more stringent
28 than federal law or regulations, or proposes to regulate an activity not
29 regulated by the federal government, is subject to the following additional
30 requirements: the notice of proposed rulemaking and rulemaking record re-
31 quirements under chapter 52, title 67, Idaho Code, must clearly specify that
32 the proposed rule, or portions of the proposed rule, are broader in scope or
33 more stringent than federal law or regulations, or regulate an activity not
34 regulated by the federal government, and must delineate which portions of
35 the proposed rule are broader in scope or more stringent than federal law or
36 regulations, or regulate an activity not regulated by the federal govern-
37 ment.

38 (2) In proposing any rule or portions of any rule pursuant to chapter
39 49, title 22, Idaho Code, chapter 38, title 25, Idaho Code, or chapter 4, ti-
40 tle 37, Idaho Code, the director shall utilize:

1 (a) The best available peer reviewed science and supporting studies
2 conducted in accordance with sound and objective scientific practices;
3 and

4 (b) Data collected by accepted methods or best available methods if the
5 reliability of the method and the nature of the decision justify use of
6 the data.

7 (3) Any proposed rule subject to this section which proposes a standard
8 necessary to protect human health and the environment shall also include in
9 the rulemaking record requirements under chapter 52, title 67, Idaho Code,
10 the following additional information:

11 (a) Identification of each population or receptor addressed by an esti-
12 mate of public health effects or environmental effects; and

13 (b) Identification of the expected risk or central estimate of risk for
14 the specific population or receptor; and

15 (c) Identification of each appropriate upper bound or lower bound esti-
16 mate of risk; and

17 (d) Identification of each significant uncertainty identified in the
18 process of the assessment of public health effects or environmental ef-
19 fects and any studies that would assist in resolving the uncertainty;
20 and

21 (e) Identification of studies known to the director that support, are
22 directly relevant to, or fail to support any estimate of public health
23 effects or environmental effects and the methodology used to reconcile
24 inconsistencies in the data.

25 (4) The director shall also include a summary of the information re-
26 quired by subsection (3) of this section in the notice of rulemaking required
27 by chapter 52, title 67, Idaho Code.

28 (5) Any rule promulgated or adopted by the director which is broader
29 in scope or more stringent than federal law or regulations, or which regu-
30 lates an activity not regulated by the federal government, submitted to the
31 standing committee of the legislature pursuant to section 67-5291, Idaho
32 Code, shall include a notice by the director identifying the portions of the
33 adopted rule that are broader in scope or more stringent than federal law or
34 rules, or which regulate an activity not regulated by the federal govern-
35 ment.

36 (6) Nothing provided herein is intended to alter the scope or effect
37 of any other provision of state law which limits or prohibits agency action
38 or rulemaking that is broader in scope or more stringent than federal law or
39 regulations.

40 (7) The provisions of this section place conditions on the director's
41 rulemaking authority, which authority is authorized pursuant to provisions
42 other than those set forth in chapter 1, title 22, Idaho Code. Nothing pro-
43 vided in this section is intended to grant the director additional rulemak-
44 ing authority.

45 (8) The requirements of this section shall apply to the director's pro-
46 mulgation of new rules as well as the amendment of rules in effect on the ef-
47 fective date of this act.