

Dear Senators GUTHRIE, Den Hartog, Jordan, and
Representatives BOYLE, Troy, Erpelding:

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

IDAPA 02.04.21 - Rules Governing the Importation of Animals - Proposed Rule (Docket No.
02-0421-1901);

IDAPA 02.04.23 - Rules Governing Commercial Livestock Truck Washing Facilities - Proposed
Rule (Docket No. 02-0423-1901);

IDAPA 02.04.32 - Rules Governing Poultry Operations (Fee Rule) - Proposed Rule (Docket No.
02-0432-1901).

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 10/10/2019. 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 11/08/2019.

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 334-4854, or send a written request to the address on the
memorandum attached below.



Eric Milstead
Director

Legislative Services Office

Idaho State Legislature

Serving Idaho's Citizen Legislature

MEMORANDUM

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

FROM: Deputy Division Manager - Katharine Gerrity

DATE: September 23, 2019

SUBJECT: Department of Agriculture

IDAPA 02.04.21 - Rules Governing the Importation of Animals - Proposed Rule (Docket No. 02-0421-1901)

IDAPA 02.04.23 - Rules Governing Commercial Livestock Truck Washing Facilities - Proposed Rule (Docket No. 02-0423-1901)

IDAPA 02.04.32 - Rules Governing Poultry Operations (Fee Rule) - Proposed Rule (Docket No. 02-0432-1901)

1. IDAPA 02.04.21 - Rules Governing the Importation of Animals

Summary and Stated Reasons for the Rule

The Idaho State Department of Agriculture submits notice of proposed rule at IDAPA 02.04.21 - Rules Governing the Importation of Animals. According to the department, the rule will amend the extended validity equine certificate to allow participation in an electronic certificate program and modify the requirements of the certificate. The department states that the rule also amends the entry permit language to allow for the use of Idaho's online livestock entry permit database. The department notes that the rule will remove the brucellosis testing requirement for import of domestic cervidae that originate from a state/region that is declared free of brucellosis. The department states that this is an unnecessary entry requirement for domestic cervidae producers, as the only remaining reservoir of brucellosis left in the country is located in Yellowstone Park. The department indicates that the rule was also reviewed for compliance with the Red Tape Reduction Act. The department also provided a Section 22-101A statement setting forth the sections of the rule that are more stringent than federal regulations or those that regulate an activity not regulated by the federal government.

Negotiated Rulemaking / Fiscal Impact

The department indicates that negotiated rulemaking was conducted.

Statutory Authority

The rulemaking appears to be authorized pursuant to Section 25-203, 25-305, 25-401 and 25-601, Idaho Code.

Kristin Ford, Manager
Research & Legislation

Paul Headlee, Manager
Budget & Policy Analysis

April Renfro, Manager
Legislative Audits

Glenn Harris, Manager
Information Technology

Statehouse, P.O. Box 83720
Boise, Idaho 83720-0054

Tel: 208-334-2475
www.legislature.idaho.gov

2. IDAPA 02.04.23 - Rules Governing Commercial Livestock Truck Washing Facilities

Summary and Stated Reasons for the Rule

The Idaho State Department of Agriculture submits notice of proposed rule at IDAPA 02.04.23 - Rules Governing Commercial Livestock Truck Washing Facilities. According to the department, the rule adopts a previously approved and codified chapter. The department notes that the rule establishes standards for the permitting and management of commercial livestock truck washing facilities in Idaho. The department states that the rule was also reviewed for compliance with the Red Tape Reduction Act. The department submits a Section 22-101A statement indicating that the rule in its entirety regulates an activity not regulated by the federal government. The department states that the rule regulates commercial livestock truck washing facilities in order to protect human health and the environment.

Negotiated Rulemaking / Fiscal Impact

The department indicates that negotiated rulemaking was not conducted because the chapter is being republished and reauthorized as previously promulgated and approved by the legislature.

Statutory Authority

The rulemaking appears to be authorized pursuant to Sections 22-103 and 22-110, Idaho Code.

3. IDAPA 02.04.32 - Rules Governing Poultry Operations (Fee Rule)

Summary and Stated Reasons for the Rule

The Idaho State Department of Agriculture submits notice of proposed rule at IDAPA 02.04.32 - Rules Governing Poultry Operations. According to the department, the rule adopts a previously approved and codified chapter. The department states that the rule establishes standards for the storage, management and application of nutrients from commercial poultry facilities. The department notes that the rule was also reviewed for compliance with the Red Tape Reduction Act. This is a fee rule and the department states that there is an annual fee or assessment for each permittee of no more than three cents per square foot of containment area. The department also provided a Section 22-101A statement setting forth the sections of the rule that are broader in scope than activities regulated by the federal government.

Negotiated Rulemaking / Fiscal Impact

The department states that negotiated rulemaking was not conducted because this existing chapter is being republished and reauthorized as previously promulgated and approved by the legislature.

Statutory Authority

The rulemaking appears to be authorized pursuant to Section 25-4012, Idaho Code.

cc: Department of Agriculture
Brian J. Oakey

***** PLEASE NOTE *****

Per the Idaho Constitution, all administrative rules may be reviewed by the Legislature during the next legislative session. The Legislature has 3 options with this rulemaking docket: **1)** Approve the docket in its entirety; **2)** Reject the docket in its entirety; or **3)** Reject the docket in part.

IDAPA 02 – DEPARTMENT OF AGRICULTURE
02.04.21 – RULES GOVERNING THE IMPORTATION OF ANIMALS
DOCKET NO. 02-0421-1901
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 25-203, 25-305, 25-401, 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 September 18, 2019.

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:

This rule change will amend the Extended Validity Equine Certificate to allow participation in an electronic certificate program and modify the requirements of the certificate. The second rule change will amend entry permit language to allow for the use of Idaho’s online livestock entry permit database. The third rule change will remove the brucellosis testing requirement for import of domestic cervidae that originate from a state/region that is declared free of brucellosis. This is an unnecessary entry requirement for domestic cervidae producers, as the only remaining reservoir of brucellosis left in the United States is located in Yellowstone Park. IDAPA 02.04.21 was also reviewed for amendment or repeal of non-substantive sections in order to comply with the Red Tape Reduction Act.

IDAHO CODE SECTION 22-101A STATEMENT: This rule is more stringent than federal regulation or regulates an activity not regulated by the federal government in the following sections:

02.04.21.100.03	More stringent
02.04.21.104-105	Not regulated
02.04.21.108	More stringent
02.04.21.108-109	Not regulated
02.04.21.111	More stringent
02.04.21.201	More stringent
02.04.21.202	More stringent
02.04.21.210	More stringent
02.04.21.260	Not regulated
02.04.21.300	More stringent
02.04.21.301	More stringent
02.04.21.302	More stringent
02.04.21.500	Not regulated
02.04.21.600	More stringent
02.04.21.601	More stringent
02.04.21.603	More stringent
02.04.21.604	More stringent
02.04.21.605	More stringent
02.04.21.650	More stringent
02.04.21.660-670	More stringent
02.04.21.705-707	More stringent
02.04.21.710	More stringent
02.04.21.720	More stringent

For a more detailed analysis, please see Rulemaking Record for IDAPA 02-0421-1901.

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:

The agency does not anticipate any fiscal impact as a result of this rulemaking.

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 5, 2019 Idaho Administrative Bulletin, **Vol. 19-6 pgs. 26-27**. Negotiated rulemaking meeting was held at the Idaho State Department of Agriculture on June 27, 2019. There were several comments received from the meeting attendees entered into the record that were taken into consideration when drafting this proposed rule. Meeting attendees also participated in amending or repealing sections of this rule to comply with the Red Tape Reduction Act.

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 proposed rule, contact Dr. Scott Leibsle, Deputy Administrator – Division of Animal Industries 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 September 25, 2019.

DATED this 2nd day of August, 2019.

Brian Oakey
Deputy Director
Idaho Department of Agriculture
2270 Old Penitentiary Road
P.O. Box 790
Boise, Idaho 83701
Phone: (208) 332-8550
Fax: (208) 334-2710

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 02-0421-1901
(Only Those Sections With Amendments Are Shown.)

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. This document can be viewed online at https://www.aphis.usda.gov/animal_health/animal_diseases/brucellosis/downloads/umr_bovine_bruc.pdf. (3-29-17)

02. The September 30, 2003 Edition of the Brucellosis in Cervidae: Uniform Methods and Rules. This document can be viewed online at https://www.aphis.usda.gov/animal_health/animal_diseases/brucellosis/

[downloads/bcervumr.pdf](#). (3-29-17)

03. The April 1998 Edition of the Swine Brucellosis Control/Eradication: State-Federal-Industry Uniform Methods and Rules. This document can be viewed online at https://www.aphis.usda.gov/animal_health/animal_dis_spec/swine/downloads/sbruumr.pdf. (3-29-17)

04. The Code of Federal Regulations Title 9, Parts 71, 75, 77, 78, 85, 145, 147, and 161, January 1, 2016. This document can be viewed online at http://www.ecfr.gov/cgi-bin/text-idx?SID=9e3e2eff1a42367841dc92eee8d5324d&mc=true&tpl=/ecfrbrowse/Title09/9cfrv1_02.tpl#0. (3-29-17)

05. The January 1, 2005 Edition of the Bovine Tuberculosis Eradication Uniform Methods and Rules. This document can be viewed online at https://www.aphis.usda.gov/animal_health/animal_diseases/tuberculosis/downloads/tb-umr.pdf. (3-29-17)

06. The November 1, 2003 Edition of the Pseudorabies Eradication, State-Federal-Industry Program Standards. This document can be viewed online at http://www.aphis.usda.gov/animal_health/animal_diseases/pseudorabies/downloads/program_stds.pdf. (4-11-06)

~~**07. The April 19, 2004 Edition of the Equine Viral Arteritis Uniform Methods and Rules.** This document can be viewed online at http://www.aphis.usda.gov/vs/nahss/equine/eva/eva_umr.pdf. (5-8-09)~~

~~**08. The January 10, 2007 Edition of the Equine Infectious Anemia: Uniform Methods and Rules.** This document can be viewed online at https://www.aphis.usda.gov/vs/nahss/equine/eia/eia_umr_jan_10_2007.pdf. (3-29-17)~~

(BREAK IN CONTINUITY OF SECTIONS)

101. CONTENTS OF CERTIFICATES.

All certificates shall provide a written, legible record attesting the animal(s) meet the importation requirements of the state of Idaho. The certificate shall be on an official form of the state of origin, if applicable, 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 or other approved certificate.~~ All certificates shall contain the following information: (5-3-03)()

01. Name and Address. Name and address of the consignor and consignee; and (5-3-03)

02. Origin of Shipment. Including city and state; and (5-3-03)

03. Final Destination of Shipment. Including city and state; and (5-3-03)

04. Description of Animals. An accurate description and identification of each animal if required; and (5-3-03)

05. Purpose of Shipment. The purposes for which the animals were shipped, and method of transportation; and (5-3-03)

06. 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 (5-3-03)

07. Signature. The signature of the accredited veterinarian, or state or federal animal health official, conducting the veterinary inspection. (5-3-03)

08. Mailing Certificate to Idaho. The required copies of certificates of veterinary inspection or other approved certificates shall be mailed, within ~~thirty seven~~ (307) days of inspection, to the Division of Animal Industries, P.O. Box 7249, Boise, ID 83707. (5-3-03)()

09. **Period of Certificate Validity.** Certificates of veterinary inspection shall be valid for no longer than thirty (30) days after the date ~~of inspection~~ issued. (5-3-03)()

102. EXTENDED VALIDITY EQUINE CERTIFICATES.

Equidae from other states may enter the state of Idaho for shows, rides or other equine events and return to the state of origin on an extended validity equine certificate provided there is a written agreement between the Administrator and the chief livestock ~~sanitary~~ official of the state of origin or the provider of an approved electronic extended validity equine certificate system. (5-3-03)()

01. **Valid for One Animal.** An extended validity equine certificate shall be valid for only one (1) animal. Each animal shall have a separate certificate. (5-3-03)

02. **Contents.** Extended validity equine certificates shall contain the following information: name and address of the owner, location at which the animal is stabled, housed, pastured or kept, if different from that of the owner, an accurate description and identification of the animal, date of veterinary inspection, dates and results of EIA or other required tests or vaccinations, EVA statement, if applicable, and signature of inspecting veterinarian. (4-4-13)()

03. **Period of Validity.** Extended validity equine certificates are valid for no longer than six (6) months from date of veterinary inspection for the certificate. (3-30-07)

04. **Travel Itinerary.** Recipients of extended validity equine certificates shall submit ~~a completed~~ travel itinerary information to the Division of Animal Industries ~~within ten (10) working days of the end of the six (6) month period of validity of the certificate~~ or electronic certificate provider prior to movement into Idaho or to a new destination within Idaho. The travel itinerary shall provide a listing of all travel into the state of Idaho, including travel dates, purpose for travel, and destinations, during the period of validity of the certificate. (5-3-03)()

05. **Cancellation.** Extended validity equine certificates may be canceled at any time by the Administrator in the event of serious or emergency disease situations or for non-compliance with the provisions of these rules. (5-3-03)

(BREAK IN CONTINUITY OF SECTIONS)

104. IMPORT PERMITS.

Request for permits to import animals, ~~other than sheep and goats~~ when applicable, into the state of Idaho shall be directed to the Division of Animal Industries, ~~P.O. Box 7249, Boise, Idaho, 83707;~~ online Import Permit System at <https://www.isda.idaho.gov/AnimalImport/> or by telephone (208) 332-8540. (5-3-03)()

01. **Telephone Requests.** Import permits may be requested by telephone ~~or facsimile~~ during office hours as stated in Section 005. (5-3-03)()

02. **Contents of a Permit Request.** The request for an import permit shall include the following information: (5-3-03)

- a. Name, ~~and~~ physical address, and phone number of the consignor and consignee; (5-3-03)()
- b. Number and kind of animals; (5-3-03)
- c. Origin of shipments; (5-3-03)
- d. Final destination; (5-3-03)
- e. Purpose of shipment; (5-3-03)

f. ~~Method~~ Date of shipment; ~~and~~ (5-3-03)()

g. Results of any required tests, inspections or vaccinations: and (5-3-03)()

h. Issuing veterinarian contact information. ()

03. Timeframe for Requesting a Permit. Permits may be requested no more than seventy-two (72) hours in advance of the shipment of the animals. (5-3-03)

04. Period of Validity. Permits are valid for no longer than fifteen (15) days from the date of issuance unless otherwise specified. (5-3-03)

~~05. Sheep and Goats. Request for permits for sheep and goats shall be directed to the Idaho Sheep and Goat Health Board, P. O. Box 825, Emmett, ID 83617; telephone (208) 803-5084.~~ (5-3-03)

(BREAK IN CONTINUITY OF SECTIONS)

109. VESICULAR STOMATITIS.

No livestock may enter Idaho from another state if Vesicular Stomatitis has been diagnosed on the premises of origin of the shipment within the last thirty (30) days. (4-11-15)

01. Certificate of Inspection. Any livestock entering Idaho from a state where Vesicular Stomatitis has been diagnosed within the last thirty (30) days shall be accompanied by a certificate of veterinary inspection with the following statement written by the accredited veterinarian on the certificate: "All animals identified on this certificate of veterinary inspection have ~~been examined and found to be free from Vesicular Stomatitis. During the last thirty (30) days; these animals have~~ neither been exposed to Vesicular Stomatitis nor located within an area where Vesicular Stomatitis has been diagnosed." (5-3-03)()

02. Permit for Entry. Livestock from states in which Vesicular Stomatitis has been diagnosed within the last thirty (30) days shall be accompanied by a permit for entry into Idaho. The permit number shall be written on the certificate of veterinary inspection. (5-3-03)

110. GENERAL DUTIES OF CARRIER.

All owners and operators of railroads, trucks, airplanes, or other conveyances shall conform to all rules and statutes of the state of Idaho in transporting or moving any animals into, within or through the state of Idaho. (5-3-03)

01. Duties of Carrier Regarding Certificates of Veterinary Inspection or Permits. All owners and operators of ~~railroads, trucks, airplanes, or other~~ conveyances used in the transportation of animals into or within the state of Idaho shall assure ~~themselves~~ each consignment or shipment is in conformity with the applicable statutes and rules of the state of Idaho, and ~~that each consignment~~ is accompanied by an official certificate of veterinary inspection, ~~when required,~~ or ~~by a~~ permit, or by both, where so required. Such certificate of veterinary inspection or permit, ~~or both,~~ shall be ~~attached to the waybill accompanying the shipment or be~~ in the possession of the attendant in charge of the animals. (5-3-03)()

02. Sanitary Condition of Cars, Trucks and Airplanes. All railroad cars, trucks, airplanes, or other conveyances used in the transportation of animals shall be maintained in a clean and sanitary condition. (5-3-03)

03. Disinfection of Cars, Trucks and Airplanes Conveyances. All owners and operators of ~~railroad cars, trucks, airplanes, or other~~ conveyances which have been used for movement of animals infected with or exposed to any infectious, ~~contagious, or communicable~~ disease shall have such ~~cars, trucks, airplanes or other~~ conveyances thoroughly cleaned and disinfected under official supervision by any accredited veterinarian or state or federal animal health official, at the point of destination or by permit from the sanitary officials, may be moved to some other point for cleaning and disinfecting. (5-3-03)()

(BREAK IN CONTINUITY OF SECTIONS)

200. IMPORTATION OF CATTLE INTO IDAHO.

All cattle that enter the state of Idaho shall possess appropriate official individual identification, if required, and be accompanied by a certificate of veterinary inspection ~~or other approved certificate~~ attesting they are free from evidence of any infectious, ~~contagious, or communicable~~ disease, or exposure thereto, and by a permit if required, except: (3-29-17)()

01. Approved Slaughter Establishments. Cattle consigned directly to approved slaughter establishments shall be accompanied by a statement of ownership such as a brand certificate or waybill, and a permit, if required; or (5-3-03)

02. Specifically Approved Livestock Market. Cattle consigned directly to specifically approved livestock markets shall be accompanied by a statement of ownership such as a brand certificate or waybill, and a permit, if required; or (5-3-03)

03. Feedlots Approved by the Administrator. Cattle consigned directly to feedlots approved by the Administrator for conducting veterinary inspections upon the arrival of the cattle. (5-3-03)

04. Post-Entry Inspection. All cattle entering Idaho may be subject to a post-entry inspection by state or federal animal health officials. (5-3-03)

(BREAK IN CONTINUITY OF SECTIONS)

202. WHEN PERMITS ARE REQUIRED FOR CATTLE.

01. Dairy. For all intact male and female cattle of dairy breeds not consigned directly to an approved slaughter establishment, or to a specifically approved livestock market. All dairy cattle shall be officially identified as provided in Section 203 of these rules. (3-29-17)

02. Beef Bulls. All bulls of beef breeds not consigned directly to an approved slaughter establishment, or to a specifically approved livestock market, except intact male calves accompanying their dams. (5-3-03)

03. Female Beef Cattle. All intact female cattle of beef breeds not consigned directly to an approved slaughter establishment or to a specifically approved livestock market that are: (5-3-03)

a. From states or areas that are not Brucellosis Class Free; or (5-3-03)

b. Not officially vaccinated pursuant to IDAPA 02.04.20, "Rules Governing Brucellosis," except calves over one hundred twenty (120) days of age accompanying their dam; or (4-11-06)

c. Under one hundred twenty (120) days of age, except calves accompanying their dam. (5-3-03)

04. Restricted Areas. All cattle from areas or states on which Idaho or USDA has imposed restrictions. (5-3-03)

05. Domestic Bison. ~~All~~ Domestic bison imported into Idaho shall ~~require an entry permit from the Division of Animal Industries prior to importation and~~ be in compliance with the same requirements as cattle contained in this chapter and Title 9, Parts 71, 77, and 78, CFR. (4-4-13)()

06. Canadian Cattle and Canadian Domestic Bison. All cattle and Canadian domestic bison imported into Idaho from Canada, except those imported directly to slaughter, must have an import permit prior to

- importation. (4-4-13)
07. Other. Cattle of any classification that do not meet other entry requirements. (5-3-03)

(BREAK IN CONTINUITY OF SECTIONS)

210. BRUCELLOSIS VACCINATION REQUIREMENTS.

All intact female cattle entering Idaho shall have been officially vaccinated for brucellosis except: (5-3-03)

01. Cattle Consigned to Slaughter. Female cattle consigned directly to an approved slaughter establishment; or (5-3-03)
02. Cattle Consigned to Specifically Approved Livestock Markets. Female cattle consigned directly to a specifically approved livestock market; or (5-3-03)
03. Approved Feedlot. Female cattle consigned directly to an Idaho approved feedlot, by permit; or (5-3-03)
04. Calves. Female calves less than one hundred twenty (120) days of age by permit; or (5-3-03)
05. Vaccination on Arrival. Non-vaccinated females ~~between one hundred twenty (120) and three hundred sixty five (365) days of age~~ may, by permit, be consigned to a qualified destination approved by the Administrator to be officially vaccinated on arrival pursuant to IDAPA 02.04.20, "Rules Governing Brucellosis"; or ~~(4-11-06)~~ ()
06. Show Cattle. Female cattle may enter Idaho for the purpose of participating in shows or exhibitions, by permit. (5-3-03)

(BREAK IN CONTINUITY OF SECTIONS)

212. TEST ELIGIBLE CATTLE.

Test eligible cattle are: (5-3-03)

01. Unvaccinated or Vaccinated with Brucella Abortus Strain RB 51 Vaccine. All intact male and female cattle, ~~eighteen~~ twelve (~~18~~12) months of age or older, ~~that are not vaccinated against brucellosis with Brucella abortus strain 19 vaccine; or~~ (5-3-03) ()
- ~~02. Strain 19 Dairy Vaccinates. Brucellosis strain 19 vaccinated female cattle of dairy breeds that are:~~ (5-3-03)
- ~~a. Twenty (20) months of age or older; or~~ (5-3-03)
- ~~b. Within two (2) weeks prior to calving or already calved.~~ (5-3-03)
- ~~03. Strain 19 Beef Vaccinates. Brucellosis strain 19 vaccinated female cattle of beef breeds that are:~~ (5-3-03)
- ~~a. Twenty four (24) months of age or older; or~~ (5-3-03)
- ~~b. Within two (2) weeks prior to calving or already calved.~~ (5-3-03)
04. All Test Eligible Cattle Entering Idaho. All test eligible cattle entering Idaho shall be officially identified on the certificate of veterinary inspection. (5-3-03)

213. -- 219. (RESERVED)

220. GRAZING CATTLE.

Cattle herds moved into Idaho or from Idaho to other states for seasonal grazing periods shall be moved only under special grazing permits issued jointly by the Division of Animal Industries and the chief livestock sanitary official in a state which reciprocates with Idaho in honoring grazing permits. (3-30-07)

01. Grazing Permits. Grazing permits shall be for one (1) specified season only and be issued prior to movement on a case-by-case basis. (~~3-20-04~~) ()

02. Tests. The Administrator, in cooperation with the appropriate agency of the reciprocating state, shall have the authority to impose tuberculosis, brucellosis, trichomoniasis, or other tests on cattle entering for grazing purposes. This test requirement shall be evaluated on an annual basis by the Administrator and the chief livestock sanitary official of the reciprocating state. (4-2-08)

03. Herd Ownership. Cattle herds permitted to move under the provisions of Section 220 shall be established herds. Change of ownership of the herd shall not be allowed while the herd is under the requirements of the grazing permit, and the cattle shall be moved interstate with such certification, identification and testing requirements as the Administrator may require. (3-20-04)

(BREAK IN CONTINUITY OF SECTIONS)

240. TUBERCULOSIS TEST REQUIREMENTS.

Cattle and domestic bison may enter the state of Idaho provided: (5-3-03)

01. Tuberculosis Accredited Free State or Zone. Cattle and bison that originate from a bovine tuberculosis accredited free state or zone, as defined by USDA in Title 9, Part 77, CFR, in which there are no animals or herds infected with or exposed to tuberculosis may be imported upon meeting the following requirements: (4-11-06)

a. Cattle of beef breeds may enter the state without a tuberculosis test. (4-11-06)

b. All sexually intact male and female cattle, six (6) months of age and older, of dairy breeds, shall be officially identified and tested negative for tuberculosis, within sixty (60) days prior to entry into the state of Idaho except intact male and female cattle of dairy breeds consigned directly to a feedlot approved for finish feeding of cattle for slaughter ~~only relative to tuberculosis~~ may enter by permit without a tuberculosis test provided the cattle have been individually identified on a certificate of veterinary inspection. (~~4-2-08~~) ()

c. All sexually intact male and female cattle, six (6) months of age and older, of dairy breeds, may enter Idaho for the purpose of participating in shows or exhibitions, by permit, without a tuberculosis test. (4-11-06)

02. Tuberculosis Accredited Free Herd. Cattle and bison that originate in an accredited tuberculosis free herd in either an accredited free state or zone, a modified accredited advanced state or zone, or a modified accredited state or zone, as defined by USDA in Title 9, Part 77, CFR, and for which both an accredited herd number and date of last tuberculosis test are shown on the certificate of veterinary inspection, may enter the state without a tuberculosis test. (5-3-03)

03. Tuberculosis Modified Accredited Advanced State or Zone. Cattle and bison that originate from a modified accredited advanced state or zone, as defined by USDA in Title 9, Part 77, CFR, and are not known to be infected with or exposed to tuberculosis, may be imported upon meeting the following requirements: (5-3-03)

a. Steers, spayed heifers, and intact heifers of beef and dairy breeds that are less than fifteen (15) months of age, which are consigned for grazing, or steers, spayed heifers, and intact heifers of beef and dairy breeds that are consigned directly to a feedlot approved for finish feeding of cattle or bison ~~relative to tuberculosis~~, may

enter without individual identification or testing for tuberculosis; and

~~(4-11-15)~~()

b. All other cattle and bison, except those moving on grazing permits issued by the Administrator under the provisions of Section 220 and those consigned directly to slaughter at an approved slaughter establishment, shall be tested for tuberculosis with negative results within sixty (60) days prior to entry into Idaho. (3-29-17)

c. Tuberculosis testing requirements in Subsection 240.03 may be waived, with administrator-approval, for feeder animals of beef breeds and bison originating from a modified accredited advanced state or zone previously classified as accredited free if the state of origin has had no laboratory confirmed case or other epidemiological evidence of tuberculosis in the previous twelve (12) months and the herd of origin is not under hold order, quarantine, or epidemiological investigation for tuberculosis. (4-7-11)

04. Tuberculosis Modified Accredited State or Zone. Cattle and bison that originate in a modified accredited state or zone, as defined by USDA in Title 9, Part 77, CFR, and which are not known to be infected with or exposed to tuberculosis, may enter Idaho under one (1) of the following conditions: (5-3-03)

a. The cattle and bison are steers, spayed heifers or intact heifers which are consigned directly to a feedlot approved for finish feeding of cattle and bison ~~relative to tuberculosis~~ and that have been individually identified and classified negative on an official tuberculosis test within sixty (60) days prior to entry into Idaho; or ~~(5-3-03)~~()

b. The cattle and bison are consigned directly to slaughter at an approved slaughter establishment; or (3-29-17)

c. The cattle and bison have been subjected to two (2) official tuberculosis tests, the results of which are negative, the first test shall be a whole herd test, the second test shall be at least sixty (60) days, and no more than six (6) months, after the whole herd test and shall be not more than sixty (60) days prior to entry into Idaho. (5-3-03)

05. Tuberculosis Accredited Preparatory State or Zone. Cattle and bison that originate in an accredited preparatory state or zone, as defined by USDA in Title 9, Part 77, CFR, and which are not known to be infected with or exposed to tuberculosis, may enter Idaho under one (1) of the following conditions: (5-3-03)

a. The cattle and bison are steers, spayed heifers or intact heifers which are consigned directly to a feedlot approved for finish feeding of cattle and bison ~~relative to tuberculosis~~ and that are individually identified and have been classified negative on two (2) official tuberculosis tests conducted at least sixty (60) days, but not more than six (6) months apart, with the second test being conducted not more than sixty (60) days prior to entry into Idaho; or ~~(5-3-03)~~()

b. The cattle and bison originate in a tuberculosis accredited free herd, are individually identified, and have been tested negative on an official tuberculosis test within sixty (60) days prior to entry into Idaho; or (5-3-03)

c. The cattle and bison are individually identified, are from a herd that has been subjected to a complete tuberculosis herd test with negative results within the past twelve (12) months and the animals being imported have been subjected to two (2) additional official tuberculosis tests with negative results, conducted not less than sixty (60) days apart with the second test being conducted not more than sixty (60) days prior to the date of importation. (5-3-03)

06. Tuberculosis Non-Accredited State or Zone. Cattle and bison that originate in a non-accredited state or zone, as defined by USDA in Title 9, Part 77, CFR, may not enter Idaho except by special permit issued by the administrator and under the conditions specified by the administrator at the time the permit is issued. (5-3-03)

07. Rodeo Stock. All cattle six (6) months of age or older imported into Idaho for rodeo or timed events must have been tested negative for bovine tuberculosis within twelve (12) months prior to importation into Idaho. (4-7-11)

241. -- ~~249.~~ ~~(RESERVED)~~

250. SCABIES.

~~All cattle not known to be infected with Scabies consigned to Idaho from any state or area designated as a Scabies quarantined area are to be accompanied by a certificate of veterinary inspection from the state of origin indicating that such animals have been treated with an approved scabicide. Such cattle shall be accompanied by an entry permit from the Division of Animal Industries. The only exceptions to the above requirements are as follows: (5-3-03)~~

~~**01. Treatment After Arrival.** Cattle may be moved, by permit from the Division of Animal Industries, to an Idaho location for treatment for Scabies within twenty four (24) hours after arrival. Such cattle shall not be mixed or allowed to intermingle with resident cattle prior to official treatment. (5-3-03)~~

~~**02. Direct to Slaughter.** Cattle may be shipped without permit directly to an approved slaughter establishment. (5-3-03)~~

~~**03. Inspection.** Female cattle of dairy breeds over eighteen (18) months of age may be shipped into Idaho by permit, without treatment for Scabies, provided a hands-on inspection by an accredited veterinarian, or a state or federal animal health official, is conducted to ascertain that the cattle are not infected. (5-3-03)~~

~~251.— 259. (RESERVED)~~

(BREAK IN CONTINUITY OF SECTIONS)

300. EQUIDAE.

All horses, mules, asses and other equidae that are to be transported or moved into the state of Idaho shall be accompanied by an official certificate of veterinary inspection or extended validity equine certificate, from the state of origin, stating that the equidae are free from evidence of any communicable disease and have completed EIA test requirements, except as provided in this section. (4-4-13)

01. EIA Test Requirements. An official EIA test is a blood test conducted by a USDA approved laboratory, within twelve (12) months prior of entry of the equidae into Idaho. (3-30-07)

a. Entry of equidae into Idaho shall not be allowed until the EIA test has been completed and reported negative. Equidae which test positive to the EIA test shall not be permitted entry into Idaho, except by special written permission from the Administrator. (5-3-03)

b. A nursing foal less than six (6) months of age accompanied by its EIA negative dam is exempt from the test requirements. (5-3-03)

02. Working Horses Included on Grazing Permits. “Working horses” used for seasonal ranching purposes may be exempt from the requirements of this section if the horses have been included on a current grazing permit which has received prior approval from the Administrator and the chief livestock ~~sanitary~~ official in a ~~western~~ state which reciprocates with Idaho in honoring grazing permits. (5-3-03)

03. Approved Equine Feedlot. Equids imported to be fed for slaughter in an equine feedlot approved by the Administrator may be exempt from EIA test requirements provided: (3-29-17)

a. Horses qualified into the approved facility must be sent directly to slaughter within sixty (60) days; (3-29-17)

b. A distance of no less than two hundred (200) yards is maintained at all times between designated slaughter horses and all other equids; (3-29-17)

c. Feedlot owners maintain complete and accurate records of the disposition of all equids qualified into the approved equine feedlot; and (3-29-17)

d. Feedlot owners annually apply for renewal of approved feedlot status prior to expiration on

December 31st of each calendar year. (3-29-17)

04. Reciprocal Agreements. The Administrator may enter into cooperative reciprocal agreements with neighboring states which exempt EIA testing requirements for movement of equidae between the cooperating states. (5-3-03)

~~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: (5-8-09)~~

~~**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. (5-8-09)~~

~~**02. Seropositive Carrier of EVA.** The EVA test date is listed on the interstate certificate of veterinary inspection. (5-8-09)~~

~~**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. (5-8-09)~~

~~**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. (5-8-09)~~

~~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. (5-8-09)~~

~~**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. (5-8-09)~~

~~**02. Stallion is EVA Carrier.** The EVA test date is listed on the statement of EVA status for each semen shipment. (5-8-09)~~

~~**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. (5-8-09)~~

~~**04. Stallion EVA Status is Unknown.** Each shipment of equine semen must include a statement of EVA status of the donor stallion. (5-8-09)~~

303~~1~~. -- 399. (RESERVED)

400. IMPORTATION OF SWINE.

Swine may enter the state of Idaho provided, they are individually identified by official ear tags or other approved techniques indicating the state and herd of origin, a permit has been issued for their entry by the Division of Animal Industries, and they are accompanied by a certificate of veterinary inspection attesting to the following: (3-30-07)

01. Animals Inspected. All swine have been inspected within thirty (30) days prior to the date of shipment, and that they are free from evidence of all infectious, ~~contagious, or communicable~~ diseases, or known exposure thereto during the preceding sixty (60) days; and (5-3-03)()

02. Vaccination. The swine have not been vaccinated with any pseudorabies vaccine; and (5-3-03)

03. Garbage. The swine have not been fed raw garbage. (5-3-03)

04. Slaughter Swine Exceptions. Swine directly to slaughter that are apparently healthy may enter the state of Idaho without a certificate of veterinary inspection, provided the applicable permit requirements are met and the swine are consigned directly to an approved slaughter establishment, or to a specifically approved livestock market for sale to an approved slaughter establishment. (3-29-17)

(BREAK IN CONTINUITY OF SECTIONS)

500. DOGS AND CATS.

01. Dogs. All dogs imported into the state of Idaho shall be accompanied by an official certificate of veterinary inspection attesting that such dogs are apparently free from any infectious, ~~contagious or communicable~~ disease, ~~and have been officially vaccinated for rabies in accordance with the current recommendations of the National Association of State Public Health Veterinarian's Compendium of Animal Rabies Prevention and Control.~~ Dogs three (3) months of age or older shall have been vaccinated for rabies. Dogs three (3) months of age or older originating from a rabies quarantined area must have a permit from the Division of Animal Industries prior to importation. (4-2-08)()

02. Cats. All cats imported into the state of Idaho shall be accompanied by an official certificate of veterinary inspection attesting that such cats are apparently free from any infectious, ~~contagious or communicable~~ disease. Cats three (3) months of age or older shall have been vaccinated for rabies ~~according to the recommendations of the current National Association of State Public Health Veterinarian's Compendium on Animal Rabies Prevention and Control.~~ (4-2-08)()

03. Permits Required. The Administrator may require any dog or cat, from an area that has been determined to pose a significant threat of disease, to have an import permit prior to movement into Idaho. (5-3-03)

501. -- 599. (RESERVED)

600. IMPORTATION OF DOMESTIC CERVIDAE.

Domestic cervidae may enter the state of Idaho, by permit, provided: (5-3-03)

01. Certificate of Veterinary Inspection. The cervidae are accompanied by a certificate of veterinary inspection certifying that they have been inspected within thirty (30) days prior to the date of shipment, that they are free from evidence of infectious, ~~contagious, or communicable~~ diseases, or known exposure thereto during the preceding sixty (60) days; and (5-3-03)()

02. Meet Testing Requirements. The cervidae shall meet the testing requirements of Section 601. (5-3-03)

03. National CWD Herd Certification Program Participation. All cervidae must originate from a herd that is in good standing and actively participating in the National CWD Herd Certification Program. (3-20-14)

04. Deworming Requirement. All cervidae, except those consigned directly to slaughter at an approved slaughter establishment, are required to receive anthelmintic, approved for treatment of *P. tenuis*, within thirty (30) days prior to import into Idaho. Treatment must be documented on the certificate of veterinary inspection. (3-29-17)

05. *P. tenuis* Statement. The certificate of veterinary inspection accompanying the cervidae shipment must contain the following written statement from the accredited veterinarian on the certificate: "No cervids identified on this certificate of veterinary inspection have displayed symptoms consistent with *P. tenuis* infection. These cervids have neither been exposed to *P. tenuis* or originated from a premises where *P. tenuis* has been identified." (4-11-15)

601. TESTING REQUIREMENTS.

All cervidae imported into Idaho shall meet the following test requirements: (3-29-17)

01. Brucellosis. Animals six (6) months of age and older originating from a brucellosis surveillance area or brucellosis high risk area shall be negative to at least two (2) different official brucellosis tests from a single blood sample, one (1) of which shall be the BAPA/BPAT and the other shall be the FPA, within ~~thirty~~ sixty (~~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. (~~3-29-17~~)()

02. Red Deer Genetic Factor. Elk shall have either tested negative for red deer genetic factor (RDGF) by a laboratory approved by the Division of Animal Industries, or shall have been registered with NAEBA or the Canadian Food Inspection Agency, or a state with an ISDA approved RDGF prevention program. (4-4-13)

03. Tuberculosis. Cervid imports shall comply with all provisions of the “Uniform Methods and Rules – Bovine Tuberculosis Eradication” and Title 9, Part 77 CFR, which is incorporated by reference in Subsection 004.05 of this Chapter. (3-29-17)

04. Exceptions. Domestic cervids consigned directly to slaughter at an approved slaughter establishment. (3-29-17)

(BREAK IN CONTINUITY OF SECTIONS)

702. POULTRY HATCHING EGGS.
All poultry hatching eggs being imported into Idaho shall: (5-3-03)

01. NPIP Flock. Originate from a certified NPIP flock and have a valid VS Form 9-3 accompanying the shipment; or (5-3-03)

02. Negative Birds. Come from birds that have been tested negative to *Salmonella pullorum-typhoid*, *Salmonella enteritidis*, ~~and~~ *Mycoplasma synoviae*, and *Mycoplasma gallisepticum* within the past thirty (30) days prior to shipment and the test results for the parent birds shall be recorded on a valid certificate of veterinary inspection issued within the last thirty (30) days, which shall accompany the egg shipment. (~~5-3-03~~)()

(BREAK IN CONTINUITY OF SECTIONS)

~~**705. WATERFOWL.**
*Waterfowl imported into the state of Idaho shall be tested negative for *Salmonella pullorum-typhoid*, *Salmonella enteritidis*, *Mycoplasma synoviae*, and *Mycoplasma gallisepticum* within the past thirty (30) days and have a valid certificate of veterinary inspection accompanying the shipment. Test results shall be recorded on the certificate of veterinary inspection.*~~ (~~5-3-03~~)

~~**706. WILDFOWL HATCHING EGGS.**
*All wildfowl hatching eggs imported into the state of Idaho shall come from birds that have been tested negative for *Salmonella pullorum typhoid*, *Salmonella enteritidis*, *Mycoplasma synoviae*, and *Mycoplasma gallisepticum* within the past thirty (30) days prior to shipment and the test results for the parent birds shall be recorded on a valid certificate of veterinary inspection issued within the last thirty (30) days, which shall accompany the egg shipment.*~~ (~~5-3-03~~)

~~**707. PSITTACINE BIRDS.**
Parakeets and other psittacine birds that will not be commercially exchanged in any manner may enter the state of Idaho with a certificate of veterinary inspection. Parakeets and other psittacine birds that are being imported for the purposes of commercial sale or exchange shall have both a permit and a certificate of veterinary inspection. (5-3-03)~~

~~**708. -- 709. (RESERVED)**~~

IDAPA 02 – DEPARTMENT OF AGRICULTURE

02.04.23 – RULES GOVERNING COMMERCIAL LIVESTOCK TRUCK WASHING FACILITIES

DOCKET NO. 02-0423-1901

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 22-103(15) and 22-110, 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 September 18, 2019.

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:

This proposed rule adopts a previously approved and codified chapter under IDAPA 02, rules of the Idaho State Department of Agriculture. This rule establishes standards for the permitting and management of commercial livestock truck washing facilities in Idaho. This rule was reviewed for amendment or repeal of non-substantive sections to comply with the Red Tape Reduction Act.

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

IDAHO CODE SECTION 22-101A(1) STATEMENT: This rule in its entirety regulates an activity not regulated by the federal government.

For a more detailed analysis, please see Rulemaking Record for IDAPA 02-0423-1901.

IDAHO CODE SECTION 22-101A (4)STATEMENT: Idaho Code § 22-101A(4) requires that in proposing any rule necessary to protect human health and the environment, the Director shall include a summary of information in the rulemaking record by Idaho Code § 22-101A(3). This summary of Idaho Code § 22-101A(3) information is as follows:

IDAPA 02.04.23 regulates commercial livestock truck washing facilities in order to protect human health and the environment. The upper bound risks associated with phosphorus storage and application by Idaho commercial livestock truck washing facilities are elevated phosphorus concentrations in phosphorus sensitive water bodies which can lead to blue-green algae blooms and the presence of cyanotoxins in waterbodies. Algal blooms can impair water use for industry, recreation, drinking and fisheries. Further, cyanotoxins create the upper bound risk of physical illness to approximately 400,000 private domestic well users, wildlife and domestic animals. Because the long term health and environmental effects of harmful algal blooms remain unclear, the absolute central and lower bound risks are not quantifiable.

ISDA uses the best available, peer reviewed studies to support and implement IDAPA 02.04.23, including studies done by U.S. Environmental Protection Agency, USDA Agricultural Resource Service, and other professional and scientific journals. However, even with such data, uncertainties remain, including variability in phosphorus sampling and testing.

To view ISDA's complete Idaho Code § 22-101A analysis and a comprehensive list of studies supporting and directly relevant to this Rule, please see the IDAPA 02.04.23 Rulemaking Record located at <https://agri.idaho.gov/main/i-need-to-see-laws/rules/rulemaking/isda-rulemaking-2019-2020/animal-industries-temporary-rulemaking-2019-2020/>.

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:

The agency does not anticipate any fiscal impact as a result of this rulemaking.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because this existing chapter of IDAPA is being re-published and re-authorized as previously promulgated and approved by the Legislature pursuant to the Idaho Administrative Procedures Act, Chapter 52, Title 67, Idaho Code; and because engaging in negotiated rulemaking for all previously existing rules would have inhibited the agency from executing its responsibilities to serve the citizens of Idaho and to protect their health, safety, and welfare.

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 proposed rule, contact Dr. Scott Leibsle, Deputy Administrator – Division of Animal Industries 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 September 25, 2019.

DATED this 2nd day of August, 2019.

Brian Oakey
Deputy Director
Idaho Department of Agriculture
2270 Old Penitentiary Road
P.O. Box 7249
Boise, Idaho 83707
Phone: (208) 332-8500
Fax: (208) 334-2170

THE FOLLOWING IS THE PROPOSED RULE TEXT OF DOCKET NO. 02-0423-1901

Pursuant to Section 67-5221(1), Idaho Code, this docket is being published as a proposed rule.

This docket has been previously published as a temporary rule.

**The original text of the temporary rule was published in the Idaho Administrative Bulletin,
[Volume 19-7, July 3, 2019, pages 93 through 99.](#)**

02.04.23 – RULES GOVERNING COMMERCIAL LIVESTOCK TRUCK WASHING FACILITIES

000. LEGAL AUTHORITY.

This chapter is adopted under the legal authority of Title Sections 22, ~~Chapter~~ 103(175) and 22-110, Idaho Code. (5-3-03)()

001. TITLE AND SCOPE.

01. Title. The title of this chapter is IDAPA 02.04.23, “Rules Governing Commercial Livestock Truck Washing Facilities.” (5-3-03)

02. Scope. These rules govern the permitting, construction, and management of commercial livestock truck washing facilities. (5-3-03)

002. WRITTEN INTERPRETATIONS.

There are no written interpretations of these rules. (5-3-03)

003. ADMINISTRATIVE APPEAL.

Persons may be entitled to appeal agency actions authorized under these rules pursuant to Title 67, Chapter 52, Idaho Code. (5-3-03)

004. INCORPORATION BY REFERENCE.

Copies of these documents may be obtained from the Idaho State Department of Agriculture central office and the State Law Library. (5-3-03)

01. The 1997 United States Department of Agriculture Natural Resources Conservation Service Agricultural Waste Management Field Handbook, Appendix 10 D. (5-3-03)

02. The 2000 American Society of Agricultural Engineers Standard EP393.3. (5-3-03)

03. The 1999 Publication by the United States Department Of Agriculture, Natural Resource Conservation Service, Conservation Practice Standard, Nutrient Management Code 590. (5-3-03)

005. ADDRESS, OFFICE HOURS, TELEPHONE, FAX NUMBERS, WEB ADDRESS.

The Idaho State Department of Agriculture central office is located at 2270 Old Penitentiary Road, Boise, ID 83712-8298. The office is open from 8 a.m. to 5 p.m., except Saturday, Sunday, and legal holidays. The mailing address is PO Box 7249, Boise, Idaho 83707. The phone number is (208) 332-8500 and the fax number is (208) 334-2170. The Department web address is <https://agri.idaho.gov/>. (5-3-03)

006. IDAHO PUBLIC RECORDS ACT.

These rules are public records available for inspection and copying at the central office of ISDA and the State Law Library. (5-3-03)

007. -- 009. (RESERVED)

010. DEFINITIONS.

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

01. Commercial Livestock Truck Washing Facilities. Livestock truck washing facilities that charge a fee to wash livestock trucks and trailers, or those facilities where the process wastewater is not regulated pursuant IDAPA 02.04.14 “Rules Governing Dairy Waste,” or 02.04.15 “Rules of the Department of Agriculture Governing Beef Cattle Animal Feeding Operations.” (5-3-03)

- 02.** **Compost.** A biologically stable material derived from the biological decomposition of organic matter. (5-3-03)
- ~~**03.** **Director.** *The Director of the Idaho State Department of Agriculture or his designee.* (5-3-03)~~
- 043.** **Discharge.** Release of process wastewater or manure from a commercial livestock truck washing facility to waters of the state. (5-3-03)
- ~~**054.** **Land Application.** The spreading on, or incorporation of manure or process wastewater into the soil. (5-3-03)~~
- ~~**065.** **Livestock.** Bovidae, ovidae, suidae, and equidae. (5-3-03)~~
- ~~**076.** **Livestock Truck Washing Facilities.** Those facilities utilized primarily for washing and cleaning trucks and trailers that haul livestock. (5-3-03)~~
- ~~**08.** **Manure.** *Livestock excrement that may also contain bedding, spilled feed, water, or soil.* (5-3-03)~~
- 097.** **Modified.** Structural or management changes, or alterations to the livestock truck washing facility which would require increased storage or containment capacity or such changes, which would alter the function of the wastewater storage or containment facility. (5-3-03)
- ~~**108.** **Non-Compliance.** A practice or condition that causes an unauthorized discharge or a practice or condition that if left uncorrected will cause an unauthorized discharge. (5-3-03)~~
- ~~**109.** **Non-Land Application Season.** The portion of the year during which land application is not allowed pursuant to an approved NMP. (5-3-03)~~
- ~~**1210.** **Nutrient Management Plan.** A plan prepared in conformance with the nutrient management standard or other equally protective standard for managing the amount, source, placement, form, and timing of the land application of nutrients or soil amendments. (5-3-03)~~
- ~~**13.** **Nutrient Management Standard.** *The 1999 publication by the United States Department of Agriculture Natural Resources Conservation Service, Conservation Practice Standard, Nutrient Management Code 590, or other equally protective standard approved by the Director.* (5-3-03)~~
- ~~**1411.** **Operate.** Washing or cleaning livestock trucks. (5-3-03)~~
- ~~**1512.** **Operator.** The person who has power or authority to manage, or direct, or has financial control of a commercial livestock truck washing facility. (5-3-03)~~
- ~~**16.** **Person.** *Any individual, association, partnership, firm, joint stock company, joint venture, trust, estate, political subdivision, public or private corporation, state, or federal governmental department, agency or instrumentality, or any legal entity, which is recognized by law as the subject of rights and duties.* (5-3-03)~~
- ~~**1713.** **Process Wastewater.** Any water generated on a commercial livestock truck washing facility that comes into contact with manure, compost, bedding, or feed. (5-3-03)~~
- ~~**1814.** **Runoff.** Any precipitation that comes into contact with manure, compost, bedding, or feed on a commercial livestock truck washing facility. (5-3-03)~~
- ~~**1915.** **Unauthorized Discharge.** A discharge of process wastewater or manure from a commercial livestock truck washing facility to surface waters of the state that is not authorized by a National Pollutant Discharge Elimination System permit issued by the United States Environmental Protection Agency. (5-3-03)~~
- ~~**2016.** **Wastewater Storage and Containment Facility.** That portion of a CLTWF where manure or process wastewater is stored or collected. This includes, but is not limited to, waste collection systems, waste~~

conveyance systems, waste storage ponds, waste treatment lagoons and evaporative ponds. (5-3-03)

417. **Waters of the State.** All surface and ground water located within the boundaries of the state or boundary streams, rivers and lakes except for private waters as defined in Title 42, Chapter 2, Idaho Code. (5-3-03)

011. ABBREVIATIONS.

- 01. CLTWF.** Commercial Livestock Truck Washing Facility. (5-3-03)
- 02. FEMA.** Federal Emergency Management Agency. (5-3-03)
- 03. ISDA.** Idaho State Department of Agriculture. (5-3-03)
- 04. NMP.** Nutrient Management Plan. (5-3-03)
- 05. NPDES.** National Pollutant Discharge Elimination System. (5-3-03)
- 06. NRCS.** Natural Resources Conservation Service. (5-3-03)
- 07. USDA.** United States Department of Agriculture. (5-3-03)

012. APPLICABILITY.

These rules apply to all CLTWF. (5-3-03)

013. -- 049. (RESERVED)

050. INSPECTIONS.

In order to ascertain compliance with this chapter, the Director shall have reasonable access to: (5-3-03)

- 01. Inspect Facilities.** Inspect any facility or land application site listed in the CLTWF's NMP. (5-3-03)
- 02. Inspect Records.** Inspect, review, or copy any CLTWF's records deemed necessary, during normal business hours. (5-3-03)

051. -- 099. (RESERVED)

100. PERMIT REQUIRED.

No person shall construct or operate a CLTWF without first obtaining a permit to do so from the Director. (5-3-03)

101. APPLICATION FOR PERMIT.

Applications for permits submitted to the Director shall contain the following: (5-3-03)

- 01. Name, Telephone Number, and Address.** The name, telephone number, and address of the owner and operator of the CLTWF. (5-3-03)
- 02. Physical Address.** The physical address of the CLTWF. (5-3-03)
- 03. Scaled Vicinity Map With Site Location.** A detailed sketch of the proposed or existing CLTWF site location, on an aerial photograph if available, which includes the following: (5-3-03)
 - a.** The location of all homes, schools, churches, etc. within a one (1) mile radius of the proposed CLTWF; and (5-3-03)
 - b.** Private and community domestic water wells, irrigation wells, existing monitoring wells, and existing injection wells as documented by Idaho Department of Water Resources or other sources, which are within a one (1) mile radius of the proposed or existing CLTWF; and (5-3-03)

c. Irrigation canals, irrigation laterals, rivers, streams, springs, lakes, reservoirs, and designated wetlands, which are within a one (1) mile radius of the proposed CLTWF; and (5-3-03)

d. Location of all land application sites; and (5-3-03)

e. FEMA flood zones or other appropriate flood data for the CLTWF site and all land application sites. (5-3-03)

04. Scaled Site Plan. A site plan showing all buildings, process wastewater and manure storage areas, piping, and roadways. (5-3-03)

05. Land Application System. A detailed description of the current or proposed management practices and methods used to make land application including: (5-3-03)

a. Timing, frequency, and duration of practices. (5-3-03)

b. Proximity of land application sites to residential and public use areas. (5-3-03)

06. Nutrient Management Plan. A NMP for all land where manure or process wastewater from the CLTWF is land applied. (5-3-03)

102. -- 109. (RESERVED)

110. DURATION OF PERMIT.

Permits issued pursuant to this chapter ~~shall be~~ are valid for a period of two (2) years. (~~5-3-03~~)()

111. RENEWAL OF PERMIT.

The operator of a CLTWF shall submit an application to renew the permit to the Director for approval ninety (90) days prior to the expiration of the existing permit. (5-3-03)

112. -- 119. (RESERVED)

120. REVOCATION OF PERMIT.

The Director may revoke the permit of any CLTWF that violates any of the provisions of this Chapter. (5-3-03)

121. -- 199. (RESERVED)

200. UNAUTHORIZED DISCHARGES.

Unauthorized discharges of manure or process wastewater from CLTWF or land application sites owned or controlled by a CLTWF are prohibited. (5-3-03)

201. -- 209. (RESERVED)

210. NOTIFICATION OF DISCHARGE.

Within twenty-four (24) hours of learning of a discharge, the operator of a CLTWF shall verbally notify the Director of such a discharge. (5-3-03)

211. WRITTEN NOTIFICATION.

If the ISDA has not begun a discharge investigation within five (5) days of the verbal notification to the director, the operator shall submit a written report to the Director which includes: (5-3-03)

01. A Description of the Discharge. A description of the flow path to the receiving water body; and (5-3-03)

02. Flow Rate. An estimation of the flow rate and volume discharged; and (5-3-03)

03. Dates and Time. The period of discharge, including dates and times, and if not already corrected, the anticipated time the discharge is expected to continue; and (5-3-03)

04. Steps Taken. Steps taken to reduce, eliminate, and prevent recurrence of the discharge. (5-3-03)

212. -- 299. (RESERVED)

300. WASTEWATER STORAGE AND CONTAINMENT FACILITIES.

All CLTWF shall have wastewater storage and containment facilities designed, constructed, operated, and maintained sufficient to contain: (5-3-03)

01. Process Wastewater. All process wastewater generated on the CLTWF during the non-land application season; and (5-3-03)

02. Rainfall. The runoff from a twenty-five (25) year, twenty-four (24) hour rainfall event; and (5-3-03)

03. Winter Precipitation. Either three (3) inches of runoff from the accumulation of winter precipitation or the amount of runoff from the accumulation of precipitation from a one-in-five (1 in 5) year winter. (5-3-03)

301. -- 309. (RESERVED)

310. CONSTRUCTION REQUIREMENTS.

All CLTWF shall have wastewater storage and containment facilities designed and constructed in accordance with the engineering standards and specifications contained in the Natural Resources Conservation Service Agricultural Waste Management Field Handbook, Appendix 10D or the American Society of Agricultural Engineers Standard EP393.3, or other equally protective standards approved by the Director. (5-3-03)

311. -- 319. (RESERVED)

320. SUBSTANCES ENTERING WASTEWATER STORAGE AND CONTAINMENT FACILITIES.

Only manure and process wastewater from the operation of the CLTWF shall be allowed to enter wastewater storage and containment facilities. The disposal of any other materials into a wastewater storage and containment facility, including, but not limited to oil, grease, heavy metals, chlorinated solvents, and human waste is prohibited. (5-3-03)

321. -- 329. (RESERVED)

330. NUTRIENT MANAGEMENT.

Each CLTWF shall submit, to the Director for approval, a NMP that conforms to the nutrient management standard. (5-3-03)

01. Odor. Each NMP shall address odors generated on the CLTWF, and land application sites. Odors shall not be generated in excess of odors normally associated with livestock production in Idaho. (5-3-03)

02. Land Application. Each NMP shall include all land to which manure or process wastewater from the CLTWF is land applied. (5-3-03)

03. Duty of Operator. It shall be the duty of the operator of a CLTWF to ensure that the NMP, for any land included in the NMP, is implemented. (5-3-03)

04. Implementation of NMP. Failure to implement and abide by an approved NMP is a violation of this chapter. (5-3-03)

~~331. -- 349. (RESERVED)~~

~~350. EXISTING CLTWF.~~

~~CLTWF that are operating on or before July 1, 2002 shall submit a NMP to the director for approval no later than January 1, 2003.~~ (5-3-03)

~~351.~~ 359. (RESERVED)

360. NEW CLTWF.

Any new CLTWF, ~~commencing operations after July 1, 2002,~~ shall submit a NMP to the Director for approval with its application for a permit to operate a CLTWF. The Director ~~shall~~ responds to or approves such NMP within sixty (60) days of submission. (5-3-03)()

361. -- 999. (RESERVED)

IDAPA 02 – DEPARTMENT OF AGRICULTURE
02.04.32 – RULES GOVERNING POULTRY OPERATIONS
DOCKET NO. 02-0432-1901 (FEE RULE)
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 25-4012, 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 September 18, 2019.

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:

This proposed rule adopts a previously approved and codified chapter under IDAPA 02, rules of the Idaho State Department of Agriculture. The Rules Governing Poultry Operations establish standards for the storage, management and application of nutrients from commercial poultry facilities. This rule was reviewed for amendment or repeal of non-substantive sections to comply with the Red Tape Reduction Act.

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

An annual fee or assessment for each permittee of no more than three cents (\$0.03) per square foot of containment area.

IDAHO CODE SECTION 22-101A(1) STATEMENT: This rule is broader in scope than an activity regulated by the federal government in the following sections:

02.04.32.100	Broader in scope
02.04.32.110	Broader in scope
02.04.32.120	Broader in scope
02.04.32.130	Broader in scope
02.04.32.140	Broader in scope
02.04.32.150	Broader in scope
02.04.32.160	Broader in scope
02.04.32.170	Broader in scope
02.04.32.250	Broader in scope
02.04.32.251	Broader in scope
02.04.32.252	Broader in scope
02.04.32.253	Broader in scope
02.04.32.260	Broader in scope
02.04.32.300	Broader in scope
02.04.32.310	Broader in scope
02.04.32.400	Broader in scope
02.04.32.500	Broader in scope
02.04.32.550	Broader in scope

For a more detailed analysis, please see Rulemaking Record for Docket No. 02-0432-1901.

IDAHO CODE SECTION 22-101A(4) STATEMENT: Idaho Code § 22-101A(4) requires that in proposing any rule necessary to protect human health and the environment, the Director shall include a summary of information in the rulemaking record by Idaho Code § 22-101A(3). This summary of Idaho Code § 22-101A(3) information is as follows:

IDAPA 02.04.32 regulates the public health and environmental effects associated with poultry operations. The upper bound risks associated with phosphorus storage and application by Idaho poultry operations are elevated phosphorus concentrations in phosphorus sensitive water bodies which can lead to blue-green algae blooms and the presence of cyanotoxins in waterbodies. Algal blooms can impair water use for industry, recreation, drinking and fisheries. Further, cyanotoxins create the upper bound risk of physical illness to approximately 400,000 private domestic well users, wildlife and domestic animals. Because the long term health and environmental effects of harmful algal blooms remain unclear, the absolute central and lower bound risks are not quantifiable.

ISDA uses the best available, peer reviewed studies to support and implement IDAPA 02.04.32, including studies done by U.S. Environmental Protection Agency, USDA Agricultural Resource Service, and other professional and scientific journals. However, even with such data, uncertainties remain, including variability in phosphorus sampling and testing.

To view ISDA's complete Idaho Code § 22-101A analysis and a comprehensive list of studies supporting and directly relevant to this Rule, please see the IDAPA 02.04.32 Rulemaking Record located at <https://agri.idaho.gov/main/i-need-to-see-lawsrules/rulemaking/isda-rulemaking-2019-2020/animal-industries-temporary-rulemaking-2019-2020/>.

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:

The agency does not anticipate any fiscal impact as a result of this rulemaking.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because this existing chapter of IDAPA is being re-published and re-authorized as previously promulgated and approved by the Legislature pursuant to the Idaho Administrative Procedures Act, Chapter 52, Title 67, Idaho Code; and because engaging in negotiated rulemaking for all previously existing rules would have inhibited the agency from executing its responsibilities to serve the citizens of Idaho and to protect their health, safety, and welfare.

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 proposed rule, contact Dr. Scott Leibsle, Deputy Administrator – Division of Animal Industries 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 September 25, 2019.

DATED this 2nd day of August, 2019.

Brian Oakey
Deputy Director
Idaho Department of Agriculture
2270 Old Penitentiary Road
P.O. Box 7249
Boise, Idaho 83707
Phone: (208) 332-8500
Fax: (208) 334-2170

THE FOLLOWING IS THE PROPOSED RULE TEXT OF DOCKET NO. 02-0432-1901

Pursuant to Section 67-5221(1), Idaho Code, this docket is being published as a proposed rule.

This docket has been previously published as a temporary rule.

The original text of the temporary rule was published in the Idaho Administrative Bulletin,
[Volume 19-7, July 3, 2019, pages 110 through 121.](#)

02.04.32 – RULES GOVERNING POULTRY OPERATIONS

000. LEGAL AUTHORITY.

This chapter is adopted under the legal authority of Section 25-4012, Idaho Code. (3-21-12)

001. TITLE AND SCOPE.

01. Title. The title of this chapter is IDAPA 02.04.32, “Rules Governing Poultry Operations.” (3-21-12)

02. Scope. These rules govern the design, function and management practices of waste systems on poultry concentrated animal feeding operations. These rules also establish the procedures and requirements for issuance of a permit to construct, operate, or expand poultry concentrated animal feeding operations. (3-21-12)

002. WRITTEN INTERPRETATIONS.

There are no written interpretations of these rules. (3-21-12)

003. ADMINISTRATIVE APPEAL.

Hearing and appeal rights are set forth in Title 67, Chapter 52, Idaho Code. There is no provision for administrative appeal before the department of Agriculture under these rules. (3-21-12)

004. INCORPORATION BY REFERENCE.

The following documents are incorporated by reference and copies of these documents may be obtained from the Idaho State Department of Agriculture central office. (3-21-12)

01. The 2004 Code of Federal Regulations (CFR) Title 40 Part 122 Section 122.23 (b). This document can be viewed online at http://www.access.gpo.gov/nara/cfr/waisidx_04/40cfrv20_04.html. (3-21-12)

02. Natural Resources Conservation Service Agricultural Waste Management Field Handbook Appendix 10D (Appendix 10D) (March 2008 Edition) (USDA, NRCS). This document can be viewed online at https://agri.idaho.gov/main/wp-content/uploads/2017/10/2008_Appendix_10D.pdf. (3-21-12)

03. Nutrient Management Standard (NMS). The June 2007 publication by the United States Department of Agriculture (USDA) Idaho Natural Resources Conservation Service (NRCS) Idaho Conservation Practice Standard, Nutrient Management Code 590. This document can be viewed online at https://agri.idaho.gov/main/wp-content/uploads/2017/10/june_2007_NRCS_590.pdf. (3-21-12)

04. Natural Resources Conservation Service (NRCS) Idaho Conservation Practice Standard Waste Storage Facility Code 313 December 2004. This document can be viewed online at https://agri.idaho.gov/main/wp-content/uploads/2017/10/nrcs_313_Dec_2004.pdf. (3-21-12)

05. American Society of Agricultural and Biological Engineers Specification ASAE EP393.3

Manure Storages February 2004. This document can be viewed online at https://agri.idaho.gov/main/wp-content/uploads/2017/10/asae_EP393.3_Feb_04.pdf. (3-21-12)

005. ADDRESS, OFFICE HOURS, TELEPHONE, FAX NUMBERS, WEB ADDRESS.

The Idaho State Department of Agriculture central office is located at 2270 Old Penitentiary Road, Boise, ID 83712-8298. The office is open from 8 a.m. to 5 p.m., except Saturday, Sunday and legal holidays. The mailing address is PO Box 7249, Boise, Idaho 83707. The phone number is (208) 332-8500 and the fax number is (208) 334-2170. The Department web address is <https://agri.idaho.gov/>. (3-21-12)

006. IDAHO PUBLIC RECORDS ACT.

These rules are public records and are available for inspection and copying at the Idaho State Department of Agriculture central office. (3-21-12)

007. -- 009. (RESERVED)

010. DEFINITIONS.

~~In addition to~~ the definitions set forth in Section 25-4002, Idaho Code, ~~must~~ the following definitions apply in the interpretation and the enforcement of this chapter. (~~3-21-12~~)()

01. Discharge. Release of process wastewater or manure from a poultry animal feeding operation, including its land application area, to waters of the state or beyond the poultry facility's property boundaries or beyond the property boundary of any facility. Contract manure haulers, producers and other persons who haul manure beyond the operator's property boundaries are responsible for releases of manure between the property boundaries of the operator and the property boundaries at the point of application. A discharge does not include aerosolized matter, or manure that has been reasonably incorporated on the land application area. (3-21-12)

02. Idaho Pollutant Discharge Elimination System (IPDES). Idaho's program for issuing, modifying, revoking and reissuing, terminating, monitoring and enforcing permits, and imposing and enforcing pretreatment requirements, under these rules and the Clean Water Act sections 307, 402, 318, and 405. (3-29-17)

03. Runoff. Any precipitation that comes into contact with manure, compost, bedding, or feed on a poultry feeding operation and flows off the production area or flows off land application areas where the manure, compost, bedding, or feed has not been reasonably incorporated into the soil. (3-21-12)

011. ABBREVIATIONS.

- 01. AFO.** Animal Feeding Operation. (3-21-12)
- 02. ASABE.** American Society of Agricultural and Biological Engineers. (3-21-12)
- 03. CAFO.** Concentrated Animal Feeding Operation. (3-21-12)
- 04. DEQ.** Department of Environmental Quality. (3-21-12)
- 05. FEMA.** Federal Emergency Management Agency. (3-21-12)
- 06. IPDES.** Idaho Pollutant Discharge Elimination System. (3-29-17)
- 07. NMP.** Nutrient Management Plan. (3-21-12)
- 08. NMS.** Nutrient Management Standard. (3-21-12)
- 09. NRCS.** United States Department of Agriculture, Natural Resources Conservation Service. (3-21-12)
- 10. USGS.** United States Geological Survey. (3-21-12)

012. -- ~~099.~~ ~~(RESERVED)~~

~~100. PERMIT REQUIRED.~~

~~No person may construct, operate, or expand a poultry CAFO after April 6, 2011, without first obtaining a permit issued by the director as provided in these rules. (3-21-12)~~

~~01. Common Control. Two (2) or more poultry CAFOs under common control of the same person may be considered, for purposes of permitting, to be a single facility, even though separately their capacity is less than a large or medium poultry CAFO, if they use a common animal waste system or land application site. (3-21-12)~~

~~02. Existing Poultry Facilities. Poultry operations that existed on or before April 6, 2011, are not required to obtain a permit unless the facility is expanding to the extent that it will meet the definition of a poultry CAFO. Existing poultry facilities must register and submit an NMP in accordance with Section 170 of these rules, and must otherwise comply with these rules. (3-21-12)~~

~~101.~~ 109. (RESERVED)

110. PERMIT APPLICATION.

01. **Permit Application.** Every person required by ~~these rules~~ Section 25-4003, Idaho Code, to obtain a permit must submit a permit application to the department. The permit application will be used to determine if the construction and operation of the poultry CAFO will be in conformance with these rules. ~~(3-21-12)~~()

02. **Contents of Application.** Each application must include, in the format set forth by the director ~~and when determined applicable by the director, the information set forth in Section 110~~ in sufficient detail to allow the director to make necessary application review decisions concerning design and environmental protection. ~~by providing the following:~~ ~~(3-21-12)~~()

~~03. Relevant Information. (3-21-12)~~

a. Name, mailing address and phone number of the facility owner. (3-21-12)

b. Name, mailing address and phone number of the facility operator. (3-21-12)

c. Name and mailing address of the facility. (3-21-12)

d. Legal description of the facility location. (3-21-12)

e. The one-time animal capacity, by head, of the facility. (3-21-12)

f. The type of animals to be confined at the facility. (3-21-12)

g. The facility's biosecurity and sanitary standards. (3-21-12)

~~043.~~ **Construction Plans.** Plans and specifications for the facility's animal waste management system that include the following information: (3-21-12)

a. Vicinity map(s) prepared on one (1) or more seven and one-half minute (7.5') USGS topographic quadrangle maps or a high quality reproduction(s) that includes the following: (3-21-12)

i. Layout of the facility, including buildings and animal waste management system; (3-21-12)

ii. The one hundred (100) year FEMA flood zones or other appropriate flood data for the facility site and land application sites owned or leased by the applicant; and (3-21-12)

iii. Private and community domestic water wells, irrigation wells, monitoring wells, and injection wells, irrigation conveyance and drainage structures, wetlands, streams, springs, and reservoirs that are within a one

- (1) mile radius of the facility. (3-21-12)
 - b.** A site plan showing: (3-21-12)
 - i. Building locations; (3-21-12)
 - ii. Waste facilities; (3-21-12)
 - iii. All waste conveyance systems; and (3-21-12)
 - iv. All irrigation systems used for land application, including details of approved water supply protection devices. (3-21-12)
 - c.** Building plans showing: (3-21-12)
 - i. All wastewater collection systems in housed units; (3-21-12)
 - ii. All freshwater supply systems, including details of approved water supply protection devices; (3-21-12)
 - iii. Detailed drawings of wastewater collection and conveyance systems and containment construction. (3-21-12)
 - d.** If a CAFO Site Advisory Team suitability determination was not conducted for the facility, the following additional information must be provided: (3-21-12)
 - i. Idaho DEQ delineated source water assessment areas within a one (1) mile radius of the facility and land application area; (3-21-12)
 - ii. Idaho DEQ delineated nitrate priority areas that intersect the facility or land application area; (3-21-12)
 - iii. Soil characteristics from NRCS; and (3-21-12)
 - iv. Well logs associated with wells listed in Subsection 110.04.a.iii. (3-21-12)
 - e.** All construction plans will specify how the facility will meet the engineering standards outlined in the Natural Resources Conservation Service Agricultural Waste Management Field Handbook Appendix 10D (Appendix 10D) (March 2008 Edition) (USDA, NRCS), Natural Resources Conservation Service (NRCS) Idaho Conservation Practice Standard Waste Storage Facility Code 313 December 2004, or American Society of Agricultural and Biological Engineers Specification ASAE EP393.3 Manure Storages February 2004. (3-21-12)

05. Nutrient Management Plan. NMPs must be prepared in conformance with the Nutrient Management Standard or other equally protective standard for managing the amount, source, placement, form and timing of the land application of nutrients or soil amendments. (3-21-12)

~~**06. Other Information.** An applicant must provide any other information required by Section 110 as deemed necessary by the director to assess whether the facility poses or will pose a threat to the state's water resources. (3-21-12)~~

~~**111. -- 119. (RESERVED)**~~

~~**120. APPLICATION PROCESSING PROCEDURE.**~~

~~**01. Application Completeness.** Within thirty (30) days of receipt of an application, the department will provide written notice to the applicant as to whether the application contains all of the information required in Section 110. If the application is incomplete, the department will provide a specific list of the missing information.~~

~~The application will not be processed until it is deemed complete by the department. (3-21-12)~~

~~02. **Application Processing.** Within sixty (60) days of receiving a complete application, the department will review the application materials and determine whether the design of the facility is in accordance with the engineering standards and specifications provided by the NRCS or ASABE. The department will notify the applicant of the results of that review. (3-21-12)~~

~~121.~~ 129. (RESERVED)

130. PERMIT CONDITIONS.

The following conditions will apply to all permittees: (3-21-12)

01. **Compliance Required.** The permittee must comply with all conditions of the permit. The permit must not relieve the permittee of the responsibility of complying with all applicable local, state, and federal laws. (3-21-12)

02. **Construction, Operation, and Maintenance of the Facility.** The permittee must ensure that construction, operation, and maintenance of the facility proceed according to the construction plans and specifications and the approved nutrient management plans, and comply with the following: (3-21-12)

a. Within thirty (30) days of construction completion, submit as-built construction plans. (3-21-12)

b. Apply best management practices as approved by the director. (3-21-12)

c. The facility or operations associated with the facility must not adversely affect waters of the state or create nuisance conditions including odor. (3-21-12)

d. The removal of animal waste from an impoundment or storage structure must be performed in a manner not to damage the integrity of the liner. (3-21-12)

e. Dead animals must be handled in accordance with IDAPA 02.04.17, "Rules Governing Dead Animal Movement and Disposal." (3-21-12)

f. Nutrient management plans must be amended in accordance with IDAPA 02.04.30.000 et seq. "Rules Governing Nutrient Management." (3-21-12)

g. Soil tests must be conducted annually on all land application sites owned or leased by the permittee to determine compliance with the NMP and NMS. The director may require more frequent soil tests if he deems it necessary. (3-21-12)

03. **Information to be Provided.** The permittee must furnish to the director, within a reasonable time, any information which the director may reasonably require to determine whether causes exists to modify or revoke the permit, or to determine compliance with the permit or applicable rules. (3-21-12)

04. **Entry and Access.** The permittee must allow the director entry and access in accordance with Section 25-4008, Idaho Code. (3-21-12)

05. **Reporting.** Permittees must report discharges or noncompliance issues within the following time frames: (3-21-12)

a. Within twenty-four (24) hours of the time the permittee knows or should have known of a discharge or unauthorized discharge, the permittee must verbally report the discharge. (3-21-12)

b. Within five (5) working days from the time a permittee knows or reasonably should have known of any event which has resulted or which may result in noncompliance with these rules, the permittee must file a written report with the director. ~~The report must contain~~ing: (3-21-12)()

- i. A description of the event and its cause or if the cause is not known, steps taken to investigate and determine the cause; (3-21-12)
 - ii. The period of the event including, to the extent possible, times and dates; (3-21-12)
 - iii. Measures taken to mitigate or eliminate the event; and (3-21-12)
 - iv. Steps taken to prevent recurrence of the event. (3-21-12)
- c. Immediately, whenever the permittee knows or learns or should reasonably know of material relevant acts not submitted or incorrect information submitted in a permit application or any report or notice to the director. (3-21-12)

06. Construction Commencement. If a permittee fails to begin construction or expansion of a facility within five (5) years of the effective date of the permit, the director may void the permit and require a new permit application. (3-21-12)

07. Permit Renewal. If a permittee intends to continue operation of the permitted facility after expiration of an existing permit, the permittee must apply for a new permit at least one hundred eighty (180) days prior to the expiration of the permit. (3-21-12)

08. Specific Permit Conditions. The director may establish specific permit conditions on a case by case basis. Specific conditions will be established in consideration of facility's specific characteristics and will be designed to protect the state's water resources. (3-21-12)

131. -- 139. (RESERVED)

140. FEES AND ASSESSMENTS.

01. Annual Fees or Assessments. The director may establish annual fees or assessments for each permittee of no more than three cents (\$0.03) per square foot of containment area. (3-21-12)

02. Payment of Annual Fees or Assessments. ~~The director must notify each permittee with a fee or assessment invoice by December 20th of each calendar year.~~ Annual fees or assessments are due annually by January 20th of the next calendar year. ~~(3-21-12)~~ ()

~~**03. Adjustment in Fees or Assessments.** The director will provide at least thirty (30) days written notice to each permittee before fees or assessments are increased or decreased.~~ (3-21-12)

141. -- 149. (RESERVED)

150. PERMIT MODIFICATION.

01. Minor Modifications. Minor permit modifications are those which do not have a potential effect on the state's water resources. Such modifications will be made by the director, and are generally limited to: (3-21-12)

- a. The correction of typographical or clerical errors; (3-21-12)
- b. Transfer of ownership or operational control in accordance with Section 160; or (3-21-12)
- c. Certain minor changes in monitoring or operational conditions. (3-21-12)

02. Major Modifications. All permit modifications not considered minor will be deemed major. The procedure for making major modifications is the same as that used for a new permit under these rules. (3-21-12)

151. -- 159. (RESERVED)

160. TRANSFER OF PERMITS.

01. Transfer Application. A new owner or operator of a facility must submit a transfer application to the director that includes at least the following: (3-21-12)

- a. The relevant information required by Subsection 110.03; and (3-21-12)
- b. Any change of conditions at the facility resulting from the ownership or operation transfer. (3-21-12)

02. Transfer Application Review. The director will review the transfer application and either approve or deny the application within sixty (60) days of its receipt. (3-21-12)

a. An approved transfer will be considered a minor modification pursuant to Subsection 150.01 as long as there are no major changes of conditions at the facility. Major changes of conditions at the facility are subject to Subsection 150.02. (3-21-12)

b. If the director denies the transfer application, he will set forth the specific reasons for the denial, the steps necessary to meet the requirements for a permit transfer, and the opportunity to request a hearing. (3-21-12)

161. -- ~~160.~~ **(RESERVED)**

~~170. REGISTRATION OF EXISTING POULTRY CAFOS.~~

~~All large and medium poultry CAFOs in existence on or before April 6, 2011, must register with the department no later than January 1, 2012, upon forms furnished by the department. (3-21-12)~~

~~**01. Information Required.** The following information must be provided to the department in order to register an existing medium or large poultry CAFO. (3-21-12)~~

- ~~a. Name, mailing address, phone number and email address (if applicable) of the facility owner; (3-21-12)~~
- ~~b. Name, mailing address, phone number and email address (if applicable) of the facility operator; (3-21-12)~~
- ~~c. Physical address of the facility; (3-21-12)~~
- ~~d. Facility site map; (3-21-12)~~
- ~~e. Facility capacity; and (3-21-12)~~
- ~~f. Average poultry population over the twelve (12) months preceding the date the registration information is provided by the operator. (3-21-12)~~

~~**02. Nutrient Management Plan.** No later than April 6, 2012, existing medium and large poultry CAFOs must submit an NMP, prepared in conformance with the NMS or other equally protective standard for managing the amount, source, placement, form and timing of the land application of nutrients or soil amendments. The NMP must accurately reflect the operation of the facility. (3-21-12)~~

~~**03. Permit Allowed.** An existing medium or large CAFO may, in the alternative, seek a permit pursuant to Section 110. (3-21-12)~~

~~**04. Permit Required.** An existing facility must obtain a permit in accordance with Section 110, prior to increasing the one-time animal capacity of the facility by ten percent (10%) or more. (3-21-12)~~

~~**05. Ownership Transfer.** If an existing poultry CAFO has registered with the department and~~

~~ownership is subsequently transferred to a new owner, the new owners must apply for and obtain a new permit in accordance with Section 110. (3-21-12)~~

~~171.~~ 199. (RESERVED)

200. WASTE STORAGE AND CONTAINMENT FACILITIES.

01. Wastewater Storage and Containment Facilities. All poultry AFOs where process wastewater leaves the confinement area and has the potential to impact water of the state or be in violation of state water quality standards or ground water quality standards must have wastewater storage and containment facilities designed, constructed, operated, and maintained sufficient to contain: (3-21-12)

- a. All process wastewater generated on the facility during the non-land application season; (3-21-12)
- b. The runoff from a twenty-five (25) year, twenty-four (24) hour rainfall event; and (3-21-12)
- c. Either three (3) inches of runoff from the accumulation of winter precipitation or the amount of runoff from the accumulation of precipitation from a one-in-five (1 in 5) year winter. (3-21-12)

02. All Substances Entering Wastewater Storage and Containment Facilities. All substances entering wastewater storage and containment facilities must be composed of manure and process wastewater from the operation of the poultry AFO. The disposal of any other materials into a wastewater storage and containment facility, including, but not limited to, human waste, is prohibited. (3-21-12)

03. Waste Storage. Storage areas for poultry waste including compost and solid manure storage areas must be located on approved soils and appropriately protected to prevent run on and run off. (3-21-12)

04. Waste and Wastewater System Maintenance. Waste and wastewater storage and containment systems must be maintained in a condition that allows the producer to regularly inspect the integrity of the systems. (3-21-12)

05. Additional Ground Water Protection Requirements. The permittee must construct and maintain all waste containment structures within the parameters of this rule, including the Natural Resources Conservation Service Agricultural Waste Management Field Handbook Appendix 10D (Appendix 10D) (March 2008 Edition) (USDA, NRCS), Natural Resources Conservation Service (NRCS) Idaho Conservation Practice Standard Waste Storage Facility Code 313 December 2004, or American Society of Agricultural and Biological Engineers Specification ASAE EP393.3 Manure Storages February 2004 (see Section 004, Incorporation by Reference). After inspection, if the Department has information that the waste containment structure(s) has been compromised severely enough to no longer meet the requirements of this rule, the Department may require an evaluation to be conducted by a licensed professional engineer. The engineer will make recommendations on steps needed to bring the facility into compliance with this rule. The permittee is responsible for engineering and reconstruction costs. If the permittee has a repeat waste containment compromise, as determined by the department, the Director may require ground water monitoring by the permittee. (3-21-12)

201. -- 249. (RESERVED)

250. NUTRIENT MANAGEMENT.

Each poultry CAFO must submit an NMP for land owned or controlled by the operator to the director for approval. The NMP must conform to the NMS and address odors generated in excess of odors normally associated with raising poultry in Idaho. (3-21-12)

~~01. Existing Poultry CAFOs. Poultry CAFOs that are operating on or before April 6, 2011, must submit an NMP to the director for approval no later than April 6, 2012. (3-21-12)~~

~~02. New Poultry CAFOs. Any poultry CAFO which commences operations after April 6, 2011, must not operate prior to the director's approval of the NMP. (3-21-12)~~

031. Designated Poultry CAFOs. Any poultry AFO which is designated as a CAFO by the department in accordance with Section 400 must submit an NMP within forty-five (45) days of designation. (3-21-12)

042. NMP Approval. The director will respond to or approve an NMP in writing within forty-five (45) days of submission. (3-21-12)

053. NMP Updates or Amendments. Nutrient management plans must be updated as needed to accurately reflect the facility and its nutrient management system. (3-21-12)

251. NUTRIENT MANAGEMENT PLAN RETENTION.

All NMPs which have been approved by the department and returned to the CAFO must be maintained on site at the CAFO and available to the department upon request. The department will retain a copy of the NMP. (3-21-12)

252. NUTRIENT MANAGEMENT RECORDS.

01. Required Nutrient Management Records. The CAFO operator must keep complete and accurate records of: (3-21-12)

- a.** Land application records, consisting of, at a minimum: (3-21-12)
 - i.** The dates, methods and approximate amounts of any manure or process wastewater applied on land owned or controlled by the operator. (3-21-12)
 - ii.** Weather conditions and soil moisture at the time of application. (3-21-12)
 - iii.** The lapsed time to manure incorporation, rainfall or irrigation event. (3-21-12)
 - iv.** Documentation of the actual rate at which nutrients were applied. When the actual rate used differs from the recommended and planned rates, nutrient management records must indicate the rationale for the difference. (3-21-12)
- b.** The name and address of any third party receiving manure or process wastewater from the facility, including the dates of the transfer and the amount of manure or process wastewater transferred. (3-21-12)
- c.** Nutrient Application. The quantities, analyses and sources of nutrients applied. (3-21-12)
- d.** Soil Analysis. Complete soil analysis to create nutrient budget. (3-21-12)
- e.** Crops. Crops planted, planting and harvest dates, yields and crop residues removed. (3-21-12)
- f.** Record Review. Dates of annual review, person performing the review, and recommendations determined from the review. (3-21-12)

02. Records Retention. All nutrient management records must be maintained for a period of five (5) years and provided to the department upon request. (3-21-12)

253. NMP VIOLATIONS.

The failure to implement an approved NMP, failure to retain and maintain an NMP at the CAFO, or failure to retain nutrient management records is a violation of these rules. (3-21-12)

254. -- 259. (RESERVED)

260. GROUND WATER QUALITY MONITORING.

At least annually, the department will sample and test the facility's production well water for nitrogen. (3-21-12)

261. -- 299. (RESERVED)

300. PROHIBITED DISCHARGES.

Discharges or unauthorized discharges of manure or process wastewater from poultry CAFO or land application sites owned or controlled by a poultry CAFO are prohibited. (3-21-12)

301. -- 309. (RESERVED)

310. NOTIFICATION OF DISCHARGE.

Within twenty-four (24) hours of learning of a discharge or unauthorized discharge, the operator of a poultry CAFO must verbally notify the department of the discharge or unauthorized discharge. (3-21-12)

311. -- 399. (RESERVED)

~~**400. DESIGNATION OF POULTRY CONCENTRATED ANIMAL FEEDING OPERATIONS.**~~

~~**01. Designation of Animal Feeding Operations.** The director may designate any poultry AFO as a CAFO if, after inspection, the director determines that the AFO is a significant contributor of pollution to waters of the state. The director will consider the following factors when making a designation: (3-21-12)~~

~~**a.** The size of the AFO and the amount of manure, process wastewater and runoff reaching waters of the state; (3-21-12)~~

~~**b.** Location of the AFO relative to waters of the state; (3-21-12)~~

~~**c.** Means of conveyance of manure, process wastewater, and runoff into waters of the state; (3-21-12)~~

~~**d.** Slope, vegetation, precipitation and other factors that affect the likelihood or frequency of discharge of manure, process wastewater and runoff into waters of the state; (3-21-12)~~

~~**e.** Unauthorized discharges into waters of the state through a man made ditch, flushing system, or other similar man made device; (3-21-12)~~

~~**f.** Unauthorized discharges directly into waters of the state that originate outside of and pass over, across or through the facility or otherwise come into contact with the animals confined in the AFO; and (3-21-12)~~

~~**g.** Repeated instances of noncompliance. (3-21-12)~~

~~**02. Effect of Designation.** Upon designation, a poultry facility will be required to follow all permit requirements for a medium poultry CAFO. (3-21-12)~~

~~**03. Redesignation of a Poultry CAFO.** The operator may request that the director redesignate a facility previously designated under Subsection 400.01. The director will redesignate the CAFO only if the facility is no longer a significant contributor of pollution to waters of the state. If granted, the redesignation will be provided to the operator in writing. No fees or assessments paid by the facility after designation will be refunded. (3-21-12)~~

~~**401. -- 499. (RESERVED)**~~

500. INSPECTIONS.

Pursuant to Title 25, Chapter 40, Idaho Code, the director or his designee is authorized to inspect any poultry AFO, and to have access to and copy any facility records deemed necessary to ensure compliance with Title 25, Chapter 40, Idaho Code, and these rules. (3-21-12)

01. Frequency. All poultry CAFOs will be inspected at least annually, or at intervals sufficient to determine that waste has been managed to prevent an unauthorized discharge or contamination of waters of the state. (3-21-12)

02. Inspection Methods. Inspections may include, but are not limited to, evaluating effectiveness of best management practices, collecting samples, taking photographs, video recording or collecting other information

as necessary. (3-21-12)

~~03. **Inspection Report Forms.** An official inspection report form will be completed at the time of the inspection and provided to the operator. (3-21-12)~~

501. -- 549. (RESERVED)

550. VIOLATIONS.

01. Failure to Comply. Failure by a permittee to comply with the provisions of these rules or with any permit condition is a violation of these rules. (3-21-12)

02. Falsification of Statements and Records. It is a violation of these rules for any person to knowingly make a false statement, representation, or certification in any application, report, document, or record developed, maintained, or submitted pursuant to these rules or the conditions of a permit. (3-21-12)

03. Discharge. Any discharge or unauthorized discharge from a facility is a violation of these rules. (3-21-12)

551. -- 999. (RESERVED)