

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 02.04.26 - Rules Governing the Public Exchange of Livestock (New Chapter, Fee Rule) -
Proposed Rule (Docket No. 02-0426-1901);

IDAPA 02.04.30 - Rules Governing Environmental and Nutrient Management (New Chapter) -
Proposed Rule (Docket No. 02-0430-1903).

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 12/06/2019. 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 01/07/2020.

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: November 18, 2019

SUBJECT: Department of Agriculture

IDAPA 02.04.26 - Rules Governing the Public Exchange of Livestock (New Chapter, Fee Rule) - Proposed Rule (Docket No. 02-0426-1901)

IDAPA 02.04.30 - Rules Governing Environmental and Nutrient Management (New Chapter) - Proposed Rule (Docket No. 02-0430-1903)

1. IDAPA 02.04.26 - Rules Governing the Public Exchange of Livestock (New Chapter, Fee Rule)

Summary and Stated Reasons for the Rule

The Idaho State Department of Agriculture submits notice of proposed rule at IDAPA 02.04.26 - Rules Governing the Public Exchange of Livestock. This is a new chapter and a fee rule. According to the department, two rules administered by it are related to the sale, trade, exchange, identification and movement of livestock through public livestock markets, buying stations or trader lots. The department notes that each of the rules address regulations pertaining to how livestock must be properly identified, quarantined, and have their movement documented when being bought, sold or exchanged. The department indicates that in order to streamline and simplify all rules related to disease prevention, disease surveillance, and reporting, it is proposing to combine both rules into a single rule. The department adds that no substantive changes are being made to the rules that are being combined and that all rules were reviewed for amendment or repeal of select sections in order to comply with the Red Tape Reduction Act. The department states that the rule does contain provisions that are broader in scope than federal regulations.

The department states that no changes were made to the fee already included in the rules that are being combined and that the fees are authorized pursuant to Section 25-1724, Idaho Code.

Negotiated Rulemaking / Fiscal Impact

Negotiated rulemaking was conducted.

Statutory Authority

The rulemaking appears to be authorized pursuant to Sections 25-203, 25-305, 25-401, 25-601, 25-1723, and 25-3520, 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 02.04.30 - Rules Governing Environmental and Nutrient Management (New Chapter)

Summary and Stated Reasons for the Rule

The Idaho State Department of Agriculture submits notice of proposed rule at IDAPA 02.04.30 - Rules Governing Environmental and Nutrient Management. This is a new chapter. According to the department, four rules administered by it are related to general environmental issues associated with agricultural and livestock facilities. The rules address the inspection of regulated facilities, regulation of odor, waste stockpiling, nutrient management, and CAFO site approval for regulated facilities and the various environmental factors associated with each. The department states that in order to streamline and simplify all rules related to general environmental regulations on agriculture and livestock facilities, it is proposing to combine all four rules into one rule. The department notes that no substantive changes are being made to the rules that are being combined and that the rules were reviewed for amendment or repeal of select sections in order to comply with the Red Tape Reduction Act. The department adds that the rule, in its entirety, regulates an activity not regulated by the federal government.

Negotiated Rulemaking / Fiscal Impact

Negotiated rulemaking was conducted.

Statutory Authority

The rulemaking appears to be authorized pursuant to Sections 67-6529F, 37-401, 37-405, 22-4903, 25-4012, 37-603, 25-3802, and 22-110, 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

02.04.26 – RULES GOVERNING THE PUBLIC EXCHANGE OF LIVESTOCK

DOCKET NO. 02-0426-1901 (NEW CHAPTER, 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 Sections 25-203, 25-305, 25-401, 25-601, 25-1723, and 25-3520, Idaho Code.

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

PUBLIC HEARING
Thursday, November 14, 2019 @ 9:00 a.m.
Idaho State Department of Agriculture 2270 Old Penitentiary Road Boise, ID 83712

The hearing site 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:

Two rules administered by the ISDA are related to the sale, trade, exchange, identification and movement of livestock through public livestock markets, buying stations or trader lots. These rules are IDAPA 02.04.26, “Rules Governing Livestock Marketing,” and IDAPA 02.04.28, “Rules Governing Livestock Dealers, Buying Stations, and Livestock Trader Lots.” Each of these rules addresses regulations pertaining to how livestock must be properly identified, quarantined and have their movement documented when being bought, sold or exchanged. In order to streamline and simplify all rules related to disease prevention, disease surveillance and reporting, the ISDA is proposing to combine both rules into a single rule to be titled “**02.04.26, Rules Governing the Public Exchange of Livestock.**” No substantive changes are being made to the two rules cited above. All rules were reviewed for amendment or repeal of select sections in order to comply with the Red Tape Reduction Act.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: No changes were made to the fee already included in the Rules Governing Livestock Marketing now found in the new combined rule, 02.04.26, Rules Governing the Public Exchange of Livestock. These fees are authorized pursuant to Section 25-1724, Idaho Code.

IDAHO CODE SECTION 22-101A STATEMENT: Section 22-101A, Idaho Code, requires that in this notice of proposed rulemaking, the Director must specify whether this rule is broader in scope or more stringent than federal law or regulations, or regulates an activity not regulated by the federal government. This rule contains provisions that are broader in scope than federal regulations. Those specific provisions are as follows:

02.04.26.100-570	Broader in scope
02.04.26.700	Broader in scope
02.04.26.701	Broader in scope
02.04.26.710	Broader in scope
02.04.26.715	Broader in scope

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 on September 16, 2019. The Notice of Intent to Promulgate Rules – Omnibus Negotiated Rulemaking was published in the September 4, 2019 Idaho Administrative Bulletin, **Vol. 19-9, pages. 15-19.**

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:

No documents are incorporated by reference into Subchapter A of this Rule.

The following materials are incorporated by reference into Subchapter B:

1. Code of Federal Regulations, Title 9, Parts 71, 75, 77, 78, 85 and 161, January 1, 2003. Include requirements for the interstate movement of livestock, approval and maintenance of livestock marketing facilities, control of communicable diseases, tuberculosis, brucellosis and pseudorabies, requirements and standards for accredited veterinarians.

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 November 27, 2019.

Dated this 3rd day of October, 2019.

Brian Oakey
Deputy Director
Idaho Department of Agriculture
2270 Old Penitentiary Road
P.O. Box 7249
Boise, Idaho 83707
Phone: (208) 332-8552
Fax: (208) 334-2710

THE FOLLOWING IS THE PROPOSED TEXT OF FEE DOCKET NO. 02-0426-1901
(New Chapter)

02.04.26 – RULES GOVERNING THE PUBLIC EXCHANGE OF LIVESTOCK

000. LEGAL AUTHORITY.

This chapter is adopted under the legal authority of Sections 25-203, 25-305, 25-401, 25-601, 25-1723(b), and 25-3520, Idaho Code. ()

001. TITLE AND SCOPE.

01. Title. The title of this chapter is “Rules Governing the Public Exchange of Livestock.” ()

02. Scope. These rules govern the record keeping of livestock dealers and facilities, record keeping, identification, quarantine and movement of livestock through buying stations, trader lots and livestock markets. ()

002. -- 109. (RESERVED)

SUBCHAPTER A – LIVESTOCK DEALERS, BUYING STATIONS, AND LIVESTOCK TRADER LOTS

110. DEFINITIONS.

The definitions apply in the interpretation and enforcement of Subchapter A only. ()

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

02. Approved Slaughter Establishment. A USDA inspected slaughter establishment where ante-mortem and post-mortem inspection is conducted by USDA inspectors. ()

03. Cattle. All domestic bovidae including domestic bison. ()

04. Domestic Bison. All animals in the genus *Bison* owned by a person. ()

05. Domestic Cervidae. Elk, fallow deer, and reindeer owned by a person. ()

06. Epithelioma of the Eye. A carcinoma of the eye of cattle commonly known as cancer eye. ()

07. Federal Animal Health Official. An employee of USDA/APHIS/VS who is authorized to perform animal health activities. ()

08. Interstate Movement. Movement of livestock from Idaho into any other state, territory or the District of Columbia, or from any other state, territory or the District of Columbia into Idaho. ()

09. Livestock. Cattle, domestic bison, swine, horses, mules, asses, domestic cervidae, sheep, goats, camelids, and ratites. ()

10. Lump Jaw. Condition also known as actinomycosis in cattle. ()

11. Official Ear Tag. APHIS approved identification ear tags conforming to the alphanumeric national uniform ear tagging system including official brucellosis vaccination ear tags, or NAIS compliant ear tags, that provide unique identification for each animal. ()

12. Official Identification. Official USDA approved ear tag, USDA Backtag, breed registration tattoo, or identification method approved by the Administrator. ()

13. Official Brucellosis Vaccination Ear Tag. An APHIS approved identification ear tag conforming to the alphanumeric national uniform ear tagging system that provides unique identification for each animal. ()

14. Operator. The person who has authority to manage or direct a buying station or livestock trader lot. ()

15. Owner. The person who owns or has financial control of a buying station, livestock trader lot or cattle. ()

16. Parturient. Visibly prepared to give birth or within two (2) weeks before giving birth. ()

17. Postparturient. Having already given birth. ()

18. Premises. The ground, area, buildings, corrals, and equipment utilized to keep, hold, or maintain animals. ()

19. Previous Location. The premises where cattle were confined immediately prior to delivery to a buying station, livestock trader lot, or purchase by a livestock dealer. ()

20. Restraint. The confinement of cattle in a chute, or other device, for the purpose of efficiently, effectively, and safely inspecting, treating, vaccinating, or testing. ()

21. State Animal Health Official. The Administrator, or his designee, responsible for disease control and eradication activities. ()

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

23. USDA Backtag. A backtag issued by APHIS that conforms to the eight-character alphanumeric National Backtagging System that provides unique identification for each animal. ()

111. ABBREVIATIONS.

01. APHIS. Animal and Plant Health Inspection Service. ()

02. AVIC. Area Veterinarian In Charge. ()

03. CAFO. Concentrated Animal Feeding Operation. ()

04. CFR. Code of Federal Regulations. ()

05. NAIS. National Animal Identification System. ()

06. USDA. United States Department of Agriculture. ()

07. VS. Veterinary Services. ()

112. -- 119. (RESERVED)

120. APPLICABILITY.

Subchapter A applies to livestock dealers, buying stations, and livestock trader lots operating in Idaho. ()

121. -- 129. (RESERVED)

130. INSPECTIONS.

To prevent the introduction and dissemination, or to control and eradicate diseases, state and federal animal health officials are authorized to inspect livestock records, premises, facilities, and livestock to ensure compliance with the provisions of this chapter and other state or federal laws or rules applicable to livestock dealers, buying stations and livestock trader lots. ()

01. Entering Premises. In order to conduct activities authorized by this chapter, state or federal animal health officials are authorized to enter buying stations or livestock trader lots. State or federal officials will attempt to notify the owner or operator of the premises prior to conducting an inspection. ()

02. Inspecting Records. To ensure compliance with the provisions of this chapter, state or federal animal health officials are authorized to access, inspect, review, and copy any records deemed necessary during normal business hours. State or federal animal health officials will attempt to notify the owner or operator of the premises prior to inspecting records. ()

03. Emergencies. In the event of an emergency, as determined by the Administrator, the notification requirements of this section are not required. ()

131. -- 139. (RESERVED)

140. LIVESTOCK TREATMENT.

Each livestock dealer, buying station and livestock trader lot shall humanely treat all livestock. All non-ambulatory livestock shall be: ()

01. Returned. Returned to premises of origin; or ()

02. Fed and Watered. Provided adequate feed and clean water; or ()

03. Euthanized. Humanely euthanized. ()

141. -- 149. (RESERVED)

150. DEAD ANIMAL DISPOSAL.

The movement and disposal of all dead animals shall be pursuant to the provisions of IDAPA 02.04.17, "Rules Governing Dead Animal Movement and Disposal." ()

151. -- 159. (RESERVED)

160. ENVIRONMENTAL REQUIREMENTS.

All buying stations and livestock trader lots shall meet the provisions of IDAPA 02.04.15, "Rules Governing Beef Cattle Animal Feeding Operations." ()

161. -- 199. (RESERVED)

200. LIVESTOCK DEALERS.

Livestock dealers that do not operate buying stations or livestock trader lots shall keep complete and accurate records such that cattle purchased may be traced to the previous location, previous owner and the subsequent owner. ()

201. -- 209. (RESERVED)

220. CONTENT OF RECORDS.

Livestock dealer records shall include, but are not limited to: ()

01. Name, Telephone Number, and Address. The name, telephone number, and address of the owner of the cattle prior to purchase by the livestock dealer. ()

02. Identification. All cattle shall be identified to their previous location with a form of identification approved by the Administrator. ()

03. Previous Location. The location where cattle were held prior to purchase by the livestock dealer shall be either the NAIS premises identification number or the physical address. ()

04. The Date of Purchase. The date individual cattle were purchased. ()

05. Date of Sale. Date individual cattle were sold or changed ownership. ()

06. Name, Telephone Number, and Address of the Purchaser of Cattle. The name, telephone number, and address of the person that purchased cattle from the livestock dealer. ()

07. Death Loss. An accurate account of all death loss, including identification, and disposition of the dead cattle. ()

221. -- 229. (RESERVED)

230. RECORDS RETENTION.

Livestock dealers shall retain all records relating to cattle for a period of not less than two (2) years. Records must be made available to the administrator upon request. ()

231. -- 239. (RESERVED)

240. APPROVED FORMS OF IDENTIFICATION.

The following are approved forms of identification. ()

01. USDA Approved Backtag. ()

02. Official USDA Ear Tag. ()

03. Registration Tattoo. Breed registration tattoo and corresponding registration papers. ()

04. Brand Inspection. Statement of ownership such as a brand inspection certificate. ()

05. Administrator Approval. The Administrator may approve other forms of individual identification on a case-by-case basis. ()

06. Removal of Animal Identification. No approved or official animal identification shall be removed, tampered with or otherwise altered. ()

241. -- 299. (RESERVED)

300. APPROVED BUYING STATIONS.

No livestock dealer shall operate a buying station prior to receiving approval from the Administrator. All cattle entering the buying station shall be shipped to an approved slaughter establishment within seven (7) days of arrival at the buying station. ()

301. APPLICATION FOR DESIGNATION AS AN IDAHO APPROVED BUYING STATION.

Application for designation as an Idaho approved buying station shall be made on application forms available from the Administrator. ()

302. ADMINISTRATOR APPROVAL.

State or federal animal health officials will inspect all buying stations prior to approval by the Administrator. The Administrator may take any past enforcement or violation history of the owner or operator of the buying station into consideration when making the final approval determination. ()

303. APPROVED BUYING STATION NUMBER.

The license number issued to the livestock dealer by the State Brand Board will be used to identify the approved buying station. ()

304. EXPIRATION OF APPROVED STATUS.

Approved buying station status will remain in effect unless the status is revoked by the Administrator or there is a change in ownership or operator. If there is a change in ownership or operator, it is the responsibility of the new buying station owner or operator to apply for reinstatement of approved status. ()

305. REVOCATION OF APPROVED BUYING STATION STATUS.

In addition to any other Department administrative or civil action, the Administrator may withdraw or deny the approval of any buying station, by notifying the owner in writing, when one (1) or more of the following conditions exist: ()

01. Recordkeeping Requirements. There is evidence that the owner or operator of the buying station violated the recordkeeping requirements of this rule, or animal health regulations. ()

02. Inability to Trace Animals. There is a repeated history of an inability to trace the affected, ()

exposed or reactor cattle handled by the buying station to the previous location and owner. ()

03. Violations. A buying station violates any of the provisions of Subchapter A. ()

04. Owner Request. Owners may have the approved status revoked by emptying the buying station and requesting in writing that the status be revoked. ()

05. Regulation Changes. Idaho approved buying station status may be revoked as required by changes in state or federal rules or regulations. ()

306. DISPOSITION OF CATTLE.

When approved buying station status is revoked, cattle still in the buying station shall be removed directly to an approved slaughter establishment within seven (7) days. ()

307. -- 314. (RESERVED)

315. IDENTIFICATION.

All cattle shall be individually identified with an official USDA backtag immediately upon arrival at a buying station. Animal identification is to be maintained to slaughter and shall not be removed, tampered with or otherwise altered. ()

316. -- 319. (RESERVED)

320. BUYING STATION RECORDS.

Each buying station shall keep sufficient records of all livestock that enter, leave, or die on the premises to enable state or federal animal health officials to trace such animals satisfactorily to their previous location. ()

321. CONTENT OF RECORDS -- BUYING STATIONS.

Buying station records shall include, but are not limited to: ()

01. Name, Telephone Number, and Address. The name, telephone number, and address of: ()

a. The owner of the livestock entering the buying station; and ()

b. The person delivering the livestock to the buying station. ()

02. Individual Identification. Individual USDA Backtag number for each animal entering the buying station. ()

03. Previous Location. The location where cattle were held prior to purchase by the buying station shall be either the NAIS premises identification number or the physical address. ()

04. The Date of Entry. The date individual cattle enter a buying station. ()

05. Date of Shipment to Slaughter. ()

06. Approved Slaughter Establishment Destination. Name and address of the approved slaughter establishment. ()

07. Death Loss. An accurate account of all death loss, including individual identification number and disposition of the dead cattle. ()

08. Dead Animals. An accurate description, including any forms of identification, of any dead animals that are left at the buying station by other persons. ()

322. BUYING STATION RECORDS RETENTION.

All records relating to cattle that have been in the buying station facility shall be retained for a period of not less than

two (2) years. Records must be made available to the administrator upon request. ()

323. -- 329. (RESERVED)

330. CATTLE SUBJECT TO QUARANTINE -- BUYING STATIONS.

No cattle that have reacted to the brucellosis or tuberculosis test, or cattle affected with, or suspected of being affected with a foreign animal disease, shall be allowed to enter, occupy, or be sold from a buying station. ()

331. -- 339. (RESERVED)

340. PREMISES REQUIREMENTS.

An approved buying station shall meet the following requirements: ()

01. Restraint System. A restraint system, approved by the Administrator, for humanely, efficiently and effectively restraining livestock for the purpose of inspecting, identifying or testing of animals by state or federal animal health officials. ()

02. Feed and Water. Provide access to a clean source of water sufficient for the number of animals present, and an adequate quality and quantity of feed for all cattle that are on the premises for over twelve (12) hours. ()

03. Pens. Comply with IDAPA 02.04.15, "Rules Governing Beef Cattle Animal Feeding Operations," and pens that contain cattle on the premises for over twelve (12) hours provide adequate pen space for the cattle to rest and ruminate, and provide adequate drainage. ()

04. Fences. Construct fences sufficient to prevent the escape of livestock from the premises, as determined by the Administrator. ()

05. Condition. Maintain premises in good repair. ()

341. -- 349. (RESERVED)

350. SANITATION.

All buying stations shall be maintained in a sanitary condition. The buying station shall provide the necessary equipment to clean and disinfect the premises, and the owner or operator of the buying station shall clean and disinfect the premises at the direction of the Administrator. ()

351. -- 359. (RESERVED)

360. SIGNAGE.

Each buying station shall comply with the following signage requirements: ()

01. Wording. Signs state "ALL CATTLE ENTERING THIS FACILITY SHALL GO DIRECTLY TO SLAUGHTER." ()

02. Color. Lettering in red and not less than four (4) inches in height on a white background. ()

03. Location. Signs placed prominently at each entrance, exit and cattle loading or unloading facility. ()

361. -- 369. (RESERVED)

370. LOCATION OF BUYING STATIONS.

All buying stations shall be located separate and apart from any other cattle handling facilities, as determined by the Administrator, that handle any cattle not destined to slaughter within seven (7) days. ()

371. -- 499. (RESERVED)

500. APPROVED LIVESTOCK TRADER LOTS.

All livestock dealers licensed by the Idaho State Brand Board shall receive approval from the Administrator as an Idaho approved feedlot or approved livestock trader lot if the following conditions exist: ()

01. Cattle Are Received. Cattle of unknown disease status are received from the farm or ranch of origin. ()

02. Sold to Individuals. Brucellosis test eligible cattle are sold and transported to destinations other than an approved slaughter establishment, a specifically approved livestock market, an Idaho approved feedlot, or out of the state of Idaho. ()

501. APPLICATION FOR APPROVED LIVESTOCK TRADER LOT STATUS.

Application for approved livestock trader lot status is made on application forms available from the Administrator. ()

502. ADMINISTRATOR APPROVAL.

The Administrator may approve livestock trader lot applications after state or federal animal health officials have inspected the trader lot facility and: ()

01. Adequate Facilities. The livestock dealer has demonstrated that cattle can be secured and restrained in the facility. ()

02. Adequate Records. The livestock dealer's records are adequate to show the origin and disposition of the cattle that enter the facility. ()

03. Past History. The Administrator may take any past enforcement or violation history of the owner or operator of the livestock trader lot into consideration when making the final approval determination. ()

503. APPROVED LIVESTOCK TRADER LOT NUMBER.

The license number issued by the State Brand Board to livestock dealers shall be used to identify the livestock trader lot. ()

504. EXPIRATION OF APPROVED STATUS.

Approved livestock trader lot status remains in effect unless there is a material change in operation, as determined by the Administrator, or the status is revoked by the Administrator. If there is a material change in operation, as determined by the Administrator, it is the responsibility of the livestock dealer to apply for reinstatement of approved status. ()

505. -- 519. (RESERVED)

520. IDENTIFICATION.

All cattle shall be identified, to their previous location, with a form of identification approved by the Administrator immediately upon arrival at a livestock trader lot. Animal identification is to be maintained and not be removed, tampered with, or otherwise altered at the livestock trader lot. ()

521. APPROVED FORMS OF IDENTIFICATION.

The following are approved forms of individual identification. ()

01. USDA Approved Backtag. All brucellosis test eligible cattle shipped to approved slaughter establishments must be individually identified with an approved USDA Backtag. ()

02. Official USDA Ear Tag. ()

03. Registration Tattoo. A breed registration tattoo accompanied by registration papers. ()

04. Brand Inspection. Statement of ownership such as a brand inspection certificate. ()

05. Administrator Approval. The Administrator may approve other forms of identification on a case-by-case basis. ()

06. Removal of Individual Animal Identification. No approved animal identification shall be removed, tampered with or otherwise altered. ()

522. CONTENT OF RECORDS FOR APPROVED LIVESTOCK TRADER LOTS.

All approved livestock trader lots shall keep accurate and complete records of all cattle that enter, leave or die on the premises. These records shall readily show: ()

01. Name, Telephone Number, and Address. The name, telephone number, and address of: ()

a. The owner of the cattle prior to acquisition by the livestock dealer; and ()

b. The person delivering the cattle to the livestock trader lot. ()

02. Identification. Identification, approved by the Administrator, for the cattle entering the livestock trader lot. ()

03. Previous Location. The location where cattle were held prior to entering the livestock trader lot shall be either the NAIS premises identification number or the physical address of the premises. ()

04. The Date of Entry. The date the cattle enter a livestock trader lot. ()

05. Date of Shipment Out of the Livestock Trader Lot. ()

06. Name, Telephone Number, and Address of Shipment Destination. ()

07. Death Loss. An accurate account of all death loss, including identification and disposition of the dead cattle. ()

08. Dead Animals. An accurate description of any dead animals, including any forms of identification, that are left at the livestock trader lot by other persons. ()

09. Requirements. That all applicable state and federal permit, test, examination, identification and vaccination requirements have been met. ()

523. TRADER LOT RECORDS RETENTION.

Livestock trader lots shall retain their records for a period of not less than two (2) years following removal of the cattle from the premises. Records must be made available to the administrator upon request. ()

524 -- 529. (RESERVED)

530. CATTLE SUBJECT TO QUARANTINE -- TRADER LOTS.

No cattle that have reacted to the brucellosis or tuberculosis test, or animals affected with, or suspected of being affected with a foreign animal or reportable disease shall be allowed to enter, occupy, or be sold from a livestock trader lot. ()

531. -- 539. (RESERVED)

540. REMOVAL REQUIREMENTS.

All brucellosis test eligible cattle that are removed from an approved livestock trader lot shall be accompanied by a certificate of veterinary inspection issued by an accredited veterinarian prior to removal, except: ()

01. Livestock Markets. Cattle shipped directly to a specifically approved livestock market. ()

02. Slaughter. Cattle shipped directly to an approved slaughter establishment must be individually identified with an approved USDA Backtag. ()

03. Approved Feedlots. Cattle shipped directly to an Idaho approved feedlot. ()

541. LIVESTOCK DEALER'S DUTY.

It is the duty of a livestock dealer to ensure that all livestock removed from a livestock trader lot are in compliance with the animal health requirements of the state of Idaho and the point of destination. ()

542. -- 549. (RESERVED)

550. LIVESTOCK TRADER LOT PREMISES.

Approved livestock trader lots shall meet the following requirements: ()

01. Restraint System. A restraint system, approved by the Administrator, for humanely, efficiently and effectively restraining cattle for the purpose of inspecting, identifying, treating or testing of animals by state or federal animal health officials. ()

02. Feed and Water. Provide access to a clean source of water sufficient for the number of cattle present, and an adequate quality and quantity of feed for all cattle on the premises for over twelve (12) hours. ()

03. Pens. Comply with IDAPA 02.04.15, "Rules Governing Beef Cattle Animal Feeding Operations," and pens that contain cattle on the premises for over twelve (12) hours provide adequate pen space for the cattle to rest and ruminate and be adequately drained. ()

04. Fences. Construct fences sufficient to prevent the escape of cattle from the premises, as determined by the Administrator. ()

05. Condition. Maintain premises in good repair. ()

551. -- 559. (RESERVED)

560. SANITATION.

All livestock trader lots shall be maintained in a sanitary manner. The livestock dealer shall provide the necessary equipment to clean and disinfect the premises, and the livestock dealer shall clean and disinfect the premises at the direction of the Administrator. ()

561. -- 569. (RESERVED)

570. REVOCATION OF APPROVED STATUS.

In addition to any other Department administrative or civil action, the Administrator may withdraw or deny the approval of any livestock trader lot by notifying the dealer in writing when one or more of the following conditions exist: ()

01. Recordkeeping Requirements. There is evidence that the livestock dealer violated the recordkeeping requirements of this rule or animal health regulations. ()

02. Inability to Trace Animals. There is a repeated history of inability to trace to the affected, exposed, or reactor cattle that enter the livestock trader lot to the previous location and owner. ()

03. Violations. A livestock dealer violates any of the provisions of Subchapter A. ()

04. Dealer Request. The livestock dealer may have the approved status revoked by emptying the livestock trader lot and requesting in writing that the status be revoked. ()

05. Regulation Changes. Approved trader lot status may be revoked as required by changes in state or federal rules or regulations. ()

571. -- 603. (RESERVED)

SUBCHAPTER B – LIVESTOCK MARKETING

604. INCORPORATION BY REFERENCE.

The following document is incorporated by reference into Subchapter B, sections 604-770 only: ()

01. Incorporated Documents. The following documents are incorporated by reference: Code of Federal Regulations, Title 9, Parts 71, 75, 77, 78, 85, and 161, CFR, January 1, 2003, which can be viewed online at <https://www.govinfo.gov/content/pkg/CFR-2003-title9-vol1/pdf/CFR-2003-title9-vol1-chapI.pdf>. ()

605. -- 609. (RESERVED)

610. DEFINITIONS.

In addition to the definitions found in Idaho Code sections 25-239 and 25-1721, the following definitions apply in the interpretation and enforcement of Subchapter B only: ()

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

02. Approved Slaughter Establishment. A USDA inspected slaughter establishment where ante-mortem and post-mortem inspections are conducted by USDA inspectors. ()

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

04. Cattle. All domestic bovidae, including domestic bison. ()

05. Domestic Bison. All animals in the genus *Bison* owned by a person. ()

06. Domestic Cervidae. Elk, fallow deer, and reindeer owned by a person. ()

07. Epithelioma of the Eye. Carcinoma of the eye of cattle commonly known as cancer eye. ()

08. Federal Animal Health Official. An employee of USDA/APHIS/VS who is authorized to perform animal health activities. ()

09. Herd. Any group of livestock maintained on common ground, or two (2) or more groups of livestock under common ownership or supervision that are geographically separated from other groups but can have an interchange or movement without regard to health status. ()

10. Interstate Movement. Movements of livestock from Idaho into any other state, territory or the District of Columbia or from any other state, territory or the District of Columbia into Idaho. ()

11. Livestock. Cattle, domestic bison, swine, horses, mules, asses, domestic cervidae, sheep, goats, camelids, and ratites. ()

12. Lump Jaw. A condition known as actinomycosis or actinobacillosis in cattle. ()

13. Official Ear Tag. An APHIS approved identification ear tag conforming to an alphanumeric national uniform ear tagging system, that provides unique identification for each animal. ()

14. Official Individual Identification. Official USDA approved ear tag, USDA back tag, registration tattoo, or identification approved by the Administrator. ()

15. Official Vaccination Ear Tag. An APHIS approved identification ear tag conforming to the alphanumeric national uniform ear tagging system that provides unique identification for each animal. ()

16. Operator. The person who has authority to manage or direct a public livestock market. ()

17. Owner. The person who owns or has financial control of a public livestock market. ()

18. Restraint. The confinement of livestock in a chute, or other device, for the purpose of efficiently, effectively, and safely inspecting, treating, vaccinating, or testing. ()

19. State Animal Health Official. The Administrator, or his designee, responsible for disease control and eradication activities. ()

20. Tuberculosis. An infectious disease of humans and animals caused by *Mycobacterium bovis*. ()

21. USDA Back Tag. A back tag issued by APHIS that conforms to the eight (8) character alphanumeric National Back Tagging System and that provides unique identification for each animal. ()

611. -- 629. (RESERVED)

620. APPLICABILITY.
This subchapter of rules applies to chartered public livestock markets operating in Idaho. ()

621. -- 629. (RESERVED)

630. INSPECTIONS.
To prevent the introduction and dissemination, or to control and eradicate diseases, state and federal animal health officials are authorized to inspect livestock records, premises, facilities, and livestock to ensure compliance with the provisions of Subchapter B and other state or federal laws or rules applicable to public livestock markets. ()

01. Entering Premises. In order to conduct activities authorized by Subchapter B, state or federal animal health officials are authorized to enter public livestock market premises during normal business hours. ()

02. Inspecting Records. To ensure compliance with the provisions of Subchapter B, state or federal animal health officials are authorized, during normal business hours, to have access to, inspect, review, and copy any livestock records deemed necessary. ()

631. -- 639. (RESERVED)

640. LIVESTOCK TREATMENT.
Each public livestock market shall humanely treat all livestock. All non-ambulatory livestock shall be: ()

01. Returned. Returned to the owner; or ()

02. Feed and Water. Provided adequate feed and clean water; or ()

03. Euthanized. Humanely euthanized, and disposed of in accordance with IDAPA 02.04.17 "Rules Governing Dead Animal Movement and Disposal." ()

641. -- 649. (RESERVED)

650. DEAD ANIMAL DISPOSAL.
The movement and disposal of all dead animals shall be pursuant to the provisions of IDAPA 02.04.17 "Rules Governing Dead Animal Movement and Disposal." ()

651. -- 659. (RESERVED)

660. ENVIRONMENTAL REQUIREMENTS.

All public livestock markets shall meet the provisions of IDAPA 02.04.15 “Rules Governing Beef Cattle Animal Feeding Operations.” ()

661. -- 699. (RESERVED)

700. PUBLIC LIVESTOCK MARKET CHARTER.

No person shall conduct or operate a public livestock market without first securing a charter from the Department. Charters expire on April 30 of each year. It is the responsibility of the public livestock market operator to apply each year for charter renewal on a form prescribed by the Department. The charter renewal form must be accompanied by an annual market charter fee of one hundred dollars (\$100) and be received by the Department on or before May 1 of each year. ()

701. PUBLIC LIVESTOCK MARKET MINIMUM SALE REQUIREMENT.

Each chartered public livestock market shall conduct a minimum of one (1) sale during each calendar year. ()

702. -- 709. (RESERVED)

710. MARKET RELEASE.

Prior to any livestock being released from a public livestock market, the following conditions shall be fulfilled: ()

01. Veterinary Inspection. A visual inspection, of each animal, made by an accredited veterinarian authorized to provide veterinary services to the market. ()

02. Affected Animals. Immediate isolation of animals affected by any infectious or contagious disease in quarantine pens subject to the market’s bio-security protocol or any animals determined to be affected by any infectious or contagious disease. ()

03. Removal of Animals. Animals may not be removed from the livestock market until all animals determined to be affected with a contagious or infectious disease have been examined by an accredited veterinarian authorized to provide veterinary services to the market. ()

04. Saleyard Release Form. Complete an accurate and legible “saleyard release” form, certificate of veterinary inspection, or other market release mechanism, approved by the Administrator certifying that the animals meet the health requirements for movement to the point of destination. ()

711. -- 714. (RESERVED)

715. BIO-SECURITY PLAN.

All public livestock markets shall submit a bio-security plan to the Administrator for approval. All approved bio-security plans shall be implemented by the public livestock market. Each bio-security plan includes, but is not limited to, the following elements: ()

01. Identification. Procedures for identifying animals that are affected by any contagious or infectious disease. ()

02. Diagnosis. Procedures for examination and diagnosis, by an accredited veterinarian, of any animals affected by any contagious or infectious disease. ()

03. Disposition. Procedures for the disposition of any livestock diagnosed as affected by any contagious or infectious disease. ()

04. Records. Keep complete and accurate records on site at the livestock market, showing that the market’s bio-security plan is being implemented. ()

716. -- 719. (RESERVED)

720. IDENTIFICATION.

All livestock entering a public livestock market shall be individually identified to the herd of origin. ()

721. APPROVED FORMS OF IDENTIFICATION.

The following are approved methods of identification. ()

01. Back Tag. USDA approved back tag; or ()

02. Ear Tag. Official USDA ear tag; or ()

03. Registration Tattoo; or ()

04. Brand Inspection. Statement of ownership such as a brand inspection certificate. ()

05. Administrator Approval. The Administrator may approve other forms of identification on a case by case basis. ()

06. Removal of Identification. No animal identification may be intentionally removed, tampered with, or otherwise altered, except as approved by the Administrator. ()

722. -- 729. (RESERVED)

730. QUARANTINE PENS.

A quarantine pen or pens shall be provided at all public livestock markets and such pens used only to hold animals that have reacted to the brucellosis or tuberculosis test or animals affected with, or suspected of being affected with a contagious or infectious disease, epithelioma of the eye, or lump jaw. The pens shall comply with the following requirements: ()

01. Hard Surface. Hard surfaced with concrete or similar impervious material in good repair; and ()

02. Feed and Water. Adequate feed and clean water facilities that are completely separate from all other livestock; and ()

03. Signage. Identified with the word "QUARANTINE" in red letters, not less than four (4) inches high, on a white background on the pen gate; and ()

04. Cleaning and Disinfection. Cleaned and disinfected no later than the day following date of sale; and ()

05. Fence Construction. Solid fences, constructed by boards or other material approved by the Administrator, and be a minimum of five and one-half (5 ½) feet high; and ()

06. Drainage. Drainage shall not be onto adjoining pens, restraint facilities or alleys. ()

731. -- 749. (RESERVED)

750. RESTRAINT FACILITIES.

Each public livestock market shall have a restraint system, approved by the Administrator, for humanely, efficiently, and effectively restraining livestock for the purpose of inspecting, identifying, treating, or testing of animals by state or federal animal health officials. ()

751. -- 759. (RESERVED)

760. SANITARY CONDITIONS.

All pens, alleys, troughs, restraint facilities, and runways shall be kept in a sanitary condition. Operators of public livestock markets shall clean and disinfect livestock market facilities, under the supervision of a state or federal animal health official, upon request by the Administrator. ()

761. -- 769. (RESERVED)

770. RECORDS.

Each public livestock market shall keep sufficient records of animals presented for sale to enable state or federal animal health officials to trace such animals satisfactorily to their herd of origin, and such records shall be maintained for a minimum of five (5) years. ()

771. -- 999. (RESERVED)

IDAPA 02 – DEPARTMENT OF AGRICULTURE

02.04.30 – RULES GOVERNING ENVIRONMENTAL AND NUTRIENT MANAGEMENT

DOCKET NO. 02-0430-1903 (NEW CHAPTER)

NOTICE OF RULEMAKING – PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 67-6529F, 37-401, 37-405, 22-4903, 25-4012(2), 37-603(1), 25-3802, and 22-110, Idaho Code.

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

PUBLIC HEARING

Thursday, November 14, 2019 @ 9:00 a.m.

**Idaho State Department of Agriculture
2270 Old Penitentiary Road
Boise, ID 83712**

The hearing site 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:

Four rules administered by the ISDA are related to general environmental issues associated with agricultural and livestock facilities. These rules are IDAPA 02.04.16, “Rules Governing Agriculture Odor Management,” IDAPA 02.04.18, “Rules Governing CAFO Site Advisory Team,” IDAPA 02.04.30, “Rules Governing Nutrient Management,” and IDAPA 02.04.31, “Rules Governing Stockpiling of Agricultural Waste.” These rules address the inspection of regulated facilities, regulation of odor, waste stockpiling, nutrient management, and CAFO site approval for regulated facilities and the various environmental factors associated with each. In order to streamline and simplify all rules related to general environmental regulations on agriculture and livestock facilities, the ISDA is proposing to combine all four rules into a single rule titled “**02.04.30, Rules Governing Environmental and Nutrient Management.**” No substantive changes are being made to the four rules cited above. All rules were reviewed for amendment or repeal of select sections in order to comply with the Red Tape Reduction Act.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: This rule does not impose a fee or charge.

IDAHO CODE SECTION 22-101A STATEMENT: Section 22-101A, Idaho Code, requires that in this notice of proposed rulemaking, the Director must specify whether this rule is broader in scope or more stringent than federal law or regulations, or regulates an activity not regulated by the federal government. This Rule, in its entirety, regulates an activity not regulated by the federal government.

02.04.30.000-999	The entirety of this rule regulates an activity not regulated by the federal government
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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 on September 16, 2019. The Notice of Intent to Promulgate Rules – Omnibus Negotiated Rulemaking was published in the September 4, 2019 Idaho Administrative Bulletin, [Vol. 19-9, pages 15-19](#).

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:

1. The 1999 publication by United States Department of Agriculture (USDA) Natural Resources Conservation Service (NRCS) Idaho Conservation Practice Standard, Nutrient Management Code 590 outlines standards for managing the amount, source, placement, form and timing of the application of nutrients and soil amendments to agricultural fields.
2. The 2001 Best Management Practices listed in the “Idaho Agricultural Pollution Abatement Plan” are recommendations for the control of nonpoint sources of pollution from agriculture that may benefit facilities generating significant odor.
3. The November 1997 publication of the “ASAE Standard EP379.2”, Sections 5 and 6 in their entirety, are construction guidelines for structures built to contain and store nutrients and byproduct.
4. The 2001 NRCS Conservation Practice Standard 317 are guidelines to facilitate an aerobic microbial ecosystem for the decomposition of manure and/or other organic material into a final product that is stable for storage, on farm use and application to land as a soil amendment.
5. The August 1997 University of Idaho, Soil Sampling Bulletin 704 (revised) are requirements and practices for certified soil samplers to accurately collect, process and submit soil for nutrient testing from fields that have receive land applied nutrients.
6. The 2007 publication by United States Department of Agriculture (USDA) Natural Resources Conservation Service (NRCS) Idaho Conservation Practice Standard, Nutrient Management Code 590 outlines standards for managing the amount, source, placement, form and timing of the application of nutrients and soil amendments to agricultural fields.

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 November 27, 2019.

Dated this 3rd day of October, 2019.

Brian Oakey, Deputy Director
Idaho Department of Agriculture
2270 Old Penitentiary Road
P.O. Box 7249
Boise, Idaho 83707
Phone: (208) 332-8552
Fax: (208) 334-2710

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 02-0430-1903
(New Chapter)

02.04.30 – RULES GOVERNING ENVIRONMENTAL AND NUTRIENT MANAGEMENT

000. LEGAL AUTHORITY.

This chapter is adopted under the legal authority of Sections 22-110, 22-4903, 25-3802, 25-4012(2), 37-401(1), 37-405, 37-603(1), 67-6529F(4), Idaho Code. ()

001. TITLE AND SCOPE.

01. Title. The title of this chapter is IDAPA 02.04.16, “Rules Governing Environmental and Nutrient Management.” ()

02. Scope. This rule governs the certification process for soil samplers and nutrient management planners, the process for collecting and handling soil samples, the contents of a request to form a CAFO Site Advisory Team, formation of a CAFO Site Advisory Team, development of a site suitability determination, submission of the suitability determination to the appropriate county officials, the management of odor generated on agricultural operations, except beef cattle animal feeding operations and large swine and poultry operations and the stockpiling of agricultural waste at agricultural operations to safeguard and protect animals, man, and the environment. ()

002. -- 103. (RESERVED)

SUBCHAPTER A – NUTRIENT MANAGEMENT

104. INCORPORATION BY REFERENCE.

The following documents are incorporated by reference into Subchapter A, Sections 104-203 only: ()

01. August 1997 University of Idaho, Soil Sampling Bulletin 704 (revised). This document can be viewed online at <http://www.extension.uidaho.edu/publishing/pdf/EXT/EXT0704.pdf>. ()

02. Nutrient Management Standard (NMS). ()

a. The 1999 publication by the United States Department of Agriculture (USDA) 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/2017/08/nutrient_Management_code_590.pdf. ()

b. The 2007 publication by the United States Department of Agriculture (USDA) 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. ()

105. -- 109. (RESERVED)

110. DEFINITIONS.

In addition to the definitions found in Sections 22-4904, 25-4002, and 37-604, Idaho Code, the following definitions apply in the interpretation and enforcement of Subchapter A, Sections 104-203 only: ()

01. Certified Soil Sampler. A person who has completed a Department approved soil sampler certification program and has received written certification from the Department. ()

02. Nutrient Management Plan. A plan prepared in conformance with the Nutrient Management Standard for managing the amount, source, placement, form, and timing of the land application of nutrients and soil amendments for plant production. ()

03. Nutrient Management Standard. For dairies and beef cattle animal feeding operations, the Nutrient Management Standard is the 1999 publication by the United States Department of Agriculture Natural Resources Conservation Service Conservation Practice Standard, Nutrient Management Code 590 or other standard approved by the Director. For poultry concentrated animal feeding operations, the Nutrient Management Standard is the 2007 publication by the United States Department of Agriculture Natural Resources Conservation Service Conservation Practice Standard, Nutrient Management Code 590 or other standard approved by the director. ()

04. Operation(s). Animal feeding operation(s). ()

05. Representative Soil Sample. A representative soil sample is a soil sample obtained as outlined by the August 1997 University of Idaho, Soil Sampling Bulletin 704 (revised) or other equivalent method as approved by the Department. ()

06. Resource Concerns. Surface water runoff that leaves the operation from normal storm events, rain or snow, frozen ground or irrigation; and ground water concerns on the operation from a high water table, fractured bedrock, cobbles, gravel, coarse textured soils or other environmental considerations such as tile drains or shallow soils that are conducive for the downward movement of water and associated nutrients. ()

111. ABBREVIATIONS.

The following abbreviations apply in the interpretation and enforcement of Subchapter A, Sections 104-203 only:

01. CNMP. Certified Nutrient Management Planner. ()

02. CSS. Certified Soil Sampler. ()

03. NMP. Nutrient Management Plan. ()

04. NMS. Nutrient Management Standard. ()

05. NRCS. United States Department of Agriculture, Natural Resources Conservation Service. ()

06. SSB. August 1997 University of Idaho Soil Sampling Bulletin 704 (revised). ()

07. USDA. United States Department of Agriculture. ()

112. -- 119. (RESERVED)

120. APPLICABILITY.

These rules apply to nutrient management on the following operations: ()

01. Dairies. All Manufactured Grade and Grade A dairies located in Idaho licensed to sell milk for human consumption, pursuant to Title 37, Chapter 6, Idaho Code. ()

02. Beef Cattle Animal Feeding Operations. All beef cattle animal feeding operations in Idaho required to implement a NMP pursuant to Title 22, Chapter 49 Idaho Code. ()

03. Poultry Concentrated Animal Feeding Operations. All poultry operations required to implement an NMP pursuant to Title 25, Chapter 40, Idaho Code. ()

121. -- 129. (RESERVED)

130. NUTRIENT MANAGEMENT PLANS.

All NMPs required by IDAPA 02.04.14, "Rules Governing Dairy Byproduct," IDAPA 02.04.15, "Rules Governing Beef Cattle Animal Feeding Operations," and IDAPA 02.04.32, "Rules Governing Poultry Operations," must be written by nutrient management planners who have been certified by the Department. ()

131. -- 139. (RESERVED)

140. NUTRIENT MANAGEMENT PLANNER CERTIFICATION.

All persons who develop NMPs must be certified through the Department Certification Program. ()

01. Certification. The Nutrient Management Planner Certification will be valid unless revoked by the Department. ()

02. Development. Any person may develop an NMP for his own operation provided the person possesses a valid Nutrient Management Planner Certification issued by the Department. ()

03. Continuing Education. The Department may require a CNMP to complete periodic continuing education training to retain certification. ()

141. REVOCATION OF NUTRIENT MANAGEMENT PLANNER CERTIFICATION.

CNMP Certification may be revoked by the Department if the CNMP: ()

01. Submits Inaccurate Information. Submits NMPs that contain falsified or materially inaccurate information. ()

02. Fails to Submit Plans. Fails to submit an NMP to the ISDA within thirty (30) days after being paid by a producer. ()

03. Fails to Follow Provisions. Fails to meet any requirement in Subchapter A of this rule. ()

142. -- 149. (RESERVED)

150. SOIL SAMPLES.

Dairies, beef cattle operations, and poultry operations implementing nutrient management plans pursuant to IDAPA 02.04.14, "Rules Governing Dairy Byproduct," IDAPA 02.04.15, "Rules Governing Beef Cattle Animal Feeding Operations," and IDAPA 02.04.32, "Rules Governing Poultry Operations," must have soil samples collected each year from all fields owned or operated by the dairy, beef, or poultry operation to which livestock waste, manure, or process wastewater from the operation was land applied. In addition, a poultry operation must have soil samples collected each year from all fields owned or operated by the poultry operation to which soil amendments from the operation were land applied. ()

151. SOIL SAMPLE COLLECTION.

01. CSS. All soil samples collected pursuant to this chapter must be collected by a CSS. ()

02. Representative Samples. All soil samples collected by a CSS must be representative samples pursuant to the provisions of the SSB. ()

03. Sampling Depth. The soil samples shall be obtained from depths outlined in each operation's NMP unless soil survey data or site specific situations warrant alternative sampling depths. ()

04. Alternative Sampling Depths. If the CSS determines that an alternative sampling depth is necessary due to resource concerns, the CSS must indicate such deviation in sampling depths on soil samples and laboratory soil sample submission forms. ()

152. SOIL SAMPLE SUBMISSION.

All soil samples collected pursuant to this chapter must be appropriately handled to protect the integrity of the sample and submitted to an approved laboratory by the CSS who collected the soil sample. ()

153. -- 159. (RESERVED)

160. APPROVED LABORATORIES.

Only laboratories that hold a current valid certification from the North American Laboratory Proficiency Testing Program or equivalent method approved by the Department are approved laboratories for the purposes of this chapter. ()

161. RECORDS OF NUTRIENT ANALYSIS.

Owners or operators of facilities who are required to implement NMPs pursuant to IDAPA 02.04.14, "Rules Governing Dairy Byproduct," IDAPA 02.04.15, "Rules Governing Beef Cattle Animal Feeding Operations," and IDAPA 02.04.32, "Rules Governing Poultry Operations," must retain records of nutrient analysis for a minimum of five (5) years. ()

01. Complete Records. Records must be complete, readily available, and identified to the fields listed in the facility's NMP. ()

02. Available to the Director. Records must be made available to the director for inspection and copying upon request. ()

162. -- 169. (RESERVED)

170. SOIL SAMPLER CERTIFICATION.

All persons who collect soil samples pursuant to Subchapter A must be certified through the Department Certification Program. ()

01. Certification. The Soil Sampler Certification will be valid unless revoked by the Department. ()

02. Sampling. Any person may sample their own operation as outlined in Subchapter A of these rules provided the person possesses a valid Soil Sampler Certification issued by the Department. ()

03. Continuing Education. The Department may require CSS to complete continuing education training to ensure compliance within the provisions of this chapter. ()

171. REVOCATION OF SOIL SAMPLER CERTIFICATION.

Soil Sampler Certification is subject to revocation by the Department if the Certified Soil Sampler fails to meet the soil sampling criteria set forth in Subchapter A. ()

172. -- 179. (RESERVED)

180. PENALTIES.

Any person violating any of the provisions of Subchapter A may be subject to the penalty provisions of Title 22, Chapter 1 and 49, Title 37, Chapter 4 and 6, and Title 25, Chapter 40, Idaho Code. ()

01. Monetary Penalties. The imposition or computation of monetary penalties shall take into account the seriousness of the violation, good faith efforts to comply with the law, the economic impact of the penalty on the violator and such other matters as justice requires. ()

02. Minor Violations. The Director may issue suitable warnings or other administrative actions for minor violations. ()

181. -- 203. (RESERVED)

SUBCHAPTER B – CAFO SITE ADVISORY TEAM

204. INCORPORATION BY REFERENCE.

The following documents are incorporated by reference into Subchapter B, Sections 204-303: ()

01. Nutrient Management Standard (NMS). ()

a. The 1999 publication by the United States Department of Agriculture (USDA) 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/2017/08/nutrient_Management_code_590.pdf. ()

b. The 2007 publication by the United States Department of Agriculture (USDA) 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. ()

210. DEFINITIONS.

In addition to the definitions found in Section 67-6529C, Idaho Code, the following definitions apply in the interpretation and enforcement of Subchapter B, Sections 204-303: ()

01. Best Management Practices. Practices, techniques, or measures that are determined by the Department to be a cost-effective and practicable means of preventing or reducing pollutants from point or non-point sources from entering waters of the state and managing odor generated on an agriculture operation to a level associated with accepted agriculture practices. ()

02. Land Application. The spreading on, or incorporation into the soil of agricultural by-products such as manure, process wastewater, compost, cull potatoes, cull onions, or crop residues into the soil primarily for beneficial purposes. ()

03. Nutrient Management Plan. A plan prepared in conformance with the nutrient management standard. ()

04. Nutrient Management Standard. For dairies and beef cattle animal feeding operations, 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. For poultry concentrated animal feeding operations, the 2007 publication by the United States Department of Agriculture Natural Resources Conservation Practice Standard, Nutrient Management Code 590, or other equally protective standard approved by the Director. ()

05. Odor Management Plan. A site-specific plan approved by the Director to manage odor from a CAFO to a level associated with accepted agricultural practices by utilizing best management practices. ()

211. ABBREVIATIONS.

The following abbreviations apply in the interpretation and enforcement of Subchapter B, Sections 204-303: ()

01. BMP. Best Management Practices. ()

02. CAFO. Concentrated Animal Feeding Operation. ()

03. DEQ. Idaho Department of Environmental Quality. ()

04. FEMA. Federal Emergency Management Agency ()

05. IDWR. Idaho Department of Water Resources. ()

06. NRCS. The United States Department of Agriculture, Natural Resources Conservation Service. ()

- ()
- 07. NMP. Nutrient Management Plan. ()
- 08. OMP. Odor Management Plan. ()
- 09. USGS. United States Geological Survey. ()

212. -- 219. (RESERVED)

220. APPLICABILITY.

01. Site for a Proposed CAFO. A CAFO site advisory team shall review and make a site suitability determination for all proposed CAFO sites, as defined in Subchapter B of these rules, submitted by a board of county commissioners pursuant to Subchapter B. ()

02. Sites That Do not Meet the Definition of a CAFO. The Director may form a CAFO site advisory team, as requested by a board of county commissioners, for a site that does not meet the animal numbers in the definition of a CAFO provided that: ()

a. The county demonstrates that the site is in an environmentally sensitive area or is in close proximity to streams, lakes, or other bodies of surface water; or ()

b. The state agencies have personnel and other resources available to conduct the site suitability determination. ()

221. -- 229. (RESERVED)

230. FORMATION OF A SITE ADVISORY TEAM.

A board of county commissioners may request the formation of a CAFO site advisory team to provide a site suitability determination by submitting to the Director a written request supported by the adoption of a resolution by the county. ()

01. Designation of the Team Leader. Upon receipt of a request to form a site advisory team, the Director shall designate a team leader. ()

02. Notification of Team Members. The team leader shall provide a copy of the request to form a site advisory team to DEQ and IDWR. After receiving notification, DEQ and IDWR shall notify the Team Leader of their respective representatives to the team. ()

240. CAFO SITE ADVISORY TEAMS

01. Site for a Proposed CAFO. A CAFO site advisory team shall review and make a site suitability determination for all proposed CAFO sites, as defined in Subchapter B, submitted by a board of county commissioners pursuant to this Subchapter. ()

02. Sites That Do not Meet the Definition of a CAFO. The Director may form a CAFO site advisory team, as requested by a board of county commissioners, for a site that does not meet the animal numbers in the definition of a CAFO provided that: ()

a. The county demonstrates that the site is in an environmentally sensitive area or is in close proximity to streams, lakes, or other bodies of surface water; or ()

b. The state agencies have personnel and other resources available to conduct the site suitability determination. ()

241. FORMATION OF A SITE ADVISORY TEAM.

A board of county commissioners may request the formation of a CAFO site advisory team to provide a site suitability determination by submitting to the Director a written request supported by the adoption of a resolution by the county. ()

01. Designation of the Team Leader. Upon receipt of a request to form a site advisory team, the Director will designate a team leader. ()

02. Notification of Team Members. The team leader will provide a copy of the request to form a site advisory team to DEQ and IDWR. After receiving notification, DEQ and IDWR will notify the Team Leader of their respective representatives to the team. ()

242. CONTENTS OF A REQUEST TO FORM A SITE ADVISORY TEAM.
The information contained in a request includes, but is not limited to, the following: ()

01. County Definition of CAFO. The county’s definition of “CAFO” as set forth in any applicable county ordinance. ()

02. Legal Description and Address. Legal description and address of the proposed CAFO. ()

03. One-Time Unit Capacity. The one-time animal capacity of the proposed CAFO. ()

04. Type of Animals. The type of animals to be confined at the proposed CAFO. ()

05. Water Right Information. All requests shall include one (1) of the following: ()

a. Evidence that a valid water right exists to supply adequate water for the operation of the proposed CAFO; or ()

b. A copy of an application for a permit to appropriate water that has been filed with IDWR, that if approved, will supply adequate water for operation of the proposed CAFO; or ()

c. A copy of an application to change the point of diversion, place, period, and nature of use of an existing water right that has been filed with IDWR, that if approved, will supply adequate water for the operation of the proposed CAFO. ()

06. Vicinity Map with Site Location. A detailed sketch of the proposed CAFO site location, on an aerial photograph if available, that includes the following: ()

a. Building locations; ()

b. Waste storage facilities and general areas for any land application including a narrative description of the waste system; ()

c. FEMA flood zones or other appropriate flood data for the proposed CAFO site and land application sites owned or leased by the applicant; ()

d. Private and community domestic water wells, irrigation wells, existing monitoring wells, and existing injection wells as documented by IDWR or other sources, including the associated well logs if available, that are within a one (1) mile radius of the proposed CAFO; ()

e. Irrigation canals, irrigation laterals, rivers, streams, springs, lakes, reservoirs, and designated wetlands, that are within a one (1) mile radius of the proposed CAFO. ()

07. Site Characterization. A characterization of the proposed CAFO site and any land application sites owned or leased by the applicant, that includes the following information, if available: ()

a. Annual precipitation and prevailing wind direction as contained in the Idaho Waste Management

- Guidelines, 1997; ()
- b.** Soil characteristics from NRCS; ()
 - c.** Hydrologic characteristics from IDWR and USGS including:
 - i. Depth to first water yielding zone and first encountered water; ()
 - ii. Direction of ground water movement and gradient; ()
 - iii. Sources and estimates of recharge; ()
 - iv. Seasonal variations in water level and recharge characteristics; ()
 - v. Susceptibility to contamination; and ()
 - vi. Relation of ground water to surface water. ()
 - d.** Water quality data from DEQ, the Department, IDWR, or USGS, including:
 - i. Microorganisms; ()
 - ii. Nutrients; and ()
 - iii. Pharmaceuticals and organic compounds. ()
- 08. Required OMPs or NMPs.** Any OMPs or NMPs that are required by the county to be submitted by the applicant at the time of application. ()

243. -- 249. (RESERVED)

250. REVIEW OF REQUEST.

Team members review the information provided in the request for the formation of a site advisory team to determine if it includes the required elements of Section 242. ()

01. Insufficient Information. If the team determines that the information provided by the county does not include the required elements of Section 242, the team leader will contact the county and request additional information. ()

02. Sufficient Information. When the team has determined that the information submitted by the county contains the required elements of Section 242, the team leader schedules an onsite review of the information with the team members. The team leader informs the county requesting the formation of the site advisory team of the date and time of the onsite review and the county may have a representative present. ()

251. -- 259. (RESERVED)

260. SITE SUITABILITY DETERMINATION.

Within thirty (30) days of receiving a request for the formation of a CAFO site advisory team that includes the required elements of Section 242, the team develops and submits to the county a site suitability determination, based on the elements of Section 242 or other relevant information, that contains: ()

01. Risk Category. A determination of an environmental risk category: high, moderate; low; or insufficient information to make a determination; ()

02. Description of Factors. A description of the factors that contribute to the environmental risks; ()

- 03. Mitigation.** Any possible mitigation of the environmental risks. ()
- 261. -- 303. (RESERVED)**

SUBCHAPTER C – AGRICULTURE ODOR MANAGEMENT

304. INCORPORATION BY REFERENCE.
The following documents are incorporated by reference into Subchapter C, Sections 304-409 only: ()

- 01. Idaho NRCS Nutrient Management Standard 590, June 1999.** ()
- 02. Best Management Practices listed in the “Idaho Agricultural Pollution Abatement Plan,” August 2001.** ()
- 03. ASAE Standard EP379.2 Sections 5 and 6 in their entirety, November 1997.** ()
- 04. NRCS Conservation Practice Standard 317, March 2001.** ()

305. -- 309. (RESERVED)

310. DEFINITIONS.
In addition to the definitions found in Section 25-3803, Idaho Code, the following definitions apply in the interpretation and enforcement of Subchapter C, Sections 304-409: ()

- 01. Animal.** Livestock and agricultural animals. ()
- 02. BAT.** The best application of science that is accessible and obtainable to achieve a desired objective. ()
- 03. Beef Cattle.** All cattle except those located on a dairy farm that have been permitted by the Idaho State Department of Agriculture pursuant to IDAPA 02.04.14, “Rules Governing Dairy Byproduct.” ()
- 04. Beef Cattle Animal Feeding Operation.** Those operations regulated pursuant to IDAPA 02.04.15, “Rules Governing Beef Cattle Animal Feeding Operations.” ()
- 05. Compost.** A biologically stable material derived from the biological decomposition of organic matter. ()
- 06. Composting.** The aerobic degradation of manure and other organic material to a biologically stable form. ()
- 07. Land Application.** The spreading on, or incorporation into the soil of agricultural by-products including, but not limited to, manure, wastewater, compost, cull potatoes, cull onions, or crop residues. ()
- 08. Large Swine And Poultry Operations.** Those swine operations regulated pursuant to IDAPA 58.01.09, “Rules Regulating Swine Facilities,” and those poultry operations regulated pursuant to IDAPA 02.04.32, “Rules Governing Poultry Operations.” ()
- 09. Liquid-Solid Separation.** The removal of solid manure from water through mechanical or settling means. ()
- 10. Waste Collection and Conveyance Systems.** The areas and systems used in the collection and transfer of manure from the point of generation to the wastewater storage and containment facilities, prior to land application. ()
- 11. Wastewater Treatment.** A process by which wastewater is treated through aerobic or anaerobic

degradation or other means. ()

311. ABBREVIATIONS.

The following abbreviations apply in the interpretation and enforcement of Subchapter C, Sections 304-409: ()

- 01. ASAE.** American Society of Agricultural Engineers. ()
- 02. BAT.** Best Available Technology. ()
- 03. BMP.** Best Management Practice. ()
- 04. DEQ.** Idaho Department of Environmental Quality. ()
- 05. NMP.** Nutrient Management Plan. ()
- 06. NOV.** Notice Of Violation. ()
- 07. NRCS.** The United States Department of Agriculture, Natural Resources Conservation Service. ()
- 08. OMP.** Odor Management Plan. ()

312. -- 319. (RESERVED)

320. ACCEPTED AGRICULTURAL PRACTICES.

Management practices conducted in accordance with applicable laws, rules and best management practices, as referenced in Subsections 320.01 and 320.02, or in the absence of referenced best management practices, management practices conducted in a manner that demonstrates reasonable efforts to minimize odors, are considered accepted agricultural practices for purposes of Subchapter C. ()

- 01. Applicable Rules.** The following are applicable rules for the purpose of Section 320: ()
 - a.** IDAPA 02.04.14, "Rules Governing Dairy Byproduct." ()
 - b.** IDAPA 02.03.03, "Rules Governing Pesticide and Chemigation Use and Application." ()
 - c.** IDAPA 02.06.17, "Rules Concerning Disposal of Cull Onion and Potatoes." ()
 - d.** IDAPA 02.04.17, "Rules Governing Dead Animal Movement and Disposal." ()

02. Applicable Best Management Practices. The following practices, or other management practices approved by the Director that are conducted in a manner that demonstrates reasonable efforts to minimize odors are considered accepted agricultural practices for purposes of this rule. ()

- a.** Idaho NRCS Nutrient Management Standard 590, June 1999. ()
- b.** Best Management Practices listed in the "Idaho Agricultural Pollution Abatement Plan," August 2001. ()
- c.** "Control of Manure Odors," ASAE Standard EP379.2 Sections 5 and 6 in their entirety, November 1997. ()
- d.** "Composting Facility," NRCS Conservation Practice Standard 317, March 2001. ()

03. Excess Odors. An agricultural operation using an accepted agricultural practice that generates odors in excess of levels normally associated with such practice, as determined by the Department on a site specific basis, shall develop and submit an odor management plan to the Director in accordance with Section 340. ()

321. -- 329. (RESERVED)

330. APPLICABILITY.

Subchapter C applies to all agricultural operations, except: ()

01. Beef Cattle. Beef cattle animal feeding operations regulated pursuant to IDAPA 02.04.15, "Rules Governing Beef Cattle Animal Feeding Operations." ()

02. Swine and Poultry. Large swine operations regulated pursuant to IDAPA 58.01.09, "Rules Regulating Swine Facilities," and large poultry operations regulated pursuant to IDAPA 02.04.32, "Rules Governing Poultry Operations." ()

331. -- 319. (RESERVED)

320. LIQUID WASTE SYSTEMS.

No person shall begin construction of a new or modified liquid waste system prior to approval of such system by the Director. ()

01. Department Review. The Director may order the construction to cease if the construction of a new or modified liquid waste system has commenced prior to the Director's approval. In doing so, the Director will consider a review and assessment of such systems made by Department staff. ()

02. Design Requirements. All new or modified liquid waste systems shall be designed by licensed professional engineers, approved in writing by the Director, and constructed in accordance with standards and specifications approved by the Director for management of odors. ()

a. If construction is commenced prior to the Director's written approval, the Director may order construction activities to be ceased. ()

b. Material deviations from the approved plans and specifications are not allowed without the prior written approval of the director. ()

c. Within thirty (30) days of completion of construction, alteration or modification of any new or modified liquid waste system, complete and accurate plans and specifications depicting the actual construction, alteration, or modification performed must be submitted by the operator to the Director. ()

d. If construction does not materially deviate from the plans approved by the Director, a statement to that effect shall be filed by the agricultural operation with the Director. ()

321. STANDARDS AND SPECIFICATIONS FOR LIQUID WASTE SYSTEMS.

All new or modified liquid waste systems shall be designed and constructed in accordance with applicable laws and rules, and for the purpose of managing odors. The Director shall require techniques and management practices as standards and specifications of liquid waste systems for the management of odors. These techniques and management practices may include but are not be limited to the following: ()

01. Wastewater Storage and Containment Facilities: ()

a. Liquid-solid separation. ()

b. Wastewater treatment. ()

c. Use of chemical or biological additives. ()

d. Dilution of wastewater. ()

e. Impermeable or permeable storage covers. ()

- f. Biofilters. ()
- g. Enhancing dispersion. ()
- h. Location of wastewater discharge into storage and containment facilities. ()
- 02. Wastewater Collection and Conveyance Systems.** ()
- a. Wastewater Treatment. ()
- b. Use of chemical or biological additives. ()
- c. Dilution of wastewater. ()
- d. Impermeable or permeable covers of collection areas. ()
- e. Timing of collection and conveyance system operation. ()
- f. Frequency and duration of collection and conveyance system operation. ()
- g. Enhancing dispersion. ()

322. -- 329. (RESERVED)

330. INSPECTIONS.

The Director or Director's designee is authorized to enter and inspect any agricultural operation, and during normal business hours have access to or copy any facility records deemed necessary to ensure compliance with Subchapter C of these rules. ()

01. Notification of County Commissioners. Prior to conducting an inspection, the Department will notify the board of county commissioners for the county in which the agricultural operation is located and the board of county commissioners may have a designee accompany the department during the inspection. ()

331. -- 339. (RESERVED)

340. ODOR MANAGEMENT PLANS.

OMPs shall be designed to work in conjunction with any required NMP and shall be submitted to the Director in writing, and upon approval by the Director, signed by owner or operator of the agricultural operation. ()

01. OMP Development. Within sixty (60) days of receiving a NOV for a first time violation, the owner or operator of the agriculture operation receiving the NOV shall submit to the Director an OMP for approval. ()

02. Interim Measures. The Department will work with the owner or operator of an agriculture operation that has received a NOV for a first time violation to identify interim measures that can be implemented in a timely manner to begin the process of reducing odors while the OMP is being developed. ()

03. Department Approval. The Director will approve, reject, or request additional information within thirty (30) days of receiving an OMP from the owner or operator of an agricultural operation deemed to have committed a first time violation and provide to the owner or operator of the agricultural operation the approval, rejection, or request for additional information in writing. ()

a. If the Director rejects an OMP or requests additional information, the owner or operator of the agricultural operation shall submit to the Director the additional information or a rewritten OMP that address the reasons for the rejection within thirty (30) days of receiving written notification from the Director. ()

b. Within fifteen (15) days of receiving the additional information or a rewritten OMP, the Director will approve or reject the OMP. If the OMP is rejected, the Director may issue a subsequent violation under Section 351 and assess the penalty provisions specified in Subchapter C, Section 350 and Section 25-3808, Idaho Code. ()

c. The Director may, on a case by case basis, grant extensions to the deadlines contained in Section 340. ()

04. Implementation. OMPs shall be implemented as approved by the Director. ()

05. Review of OMP. The Department will review OMPs no less than annually for three (3) years after the Director approves the OMP. If the Department determines an approved OMP has not reduced odors to a level associated with accepted agricultural practices after a reasonable period of time, as determined by the Department, the Department will review the OMP with the owner or operator of the agricultural operation and adjust the OMP to meet the goals of the Agriculture Odor Management Act. ()

341. CONTENTS OF AN ODOR MANAGEMENT PLAN.

Contents of an OMP for an agricultural operation may include, but are not limited to the following: ()

01. Owner's Name. Name and telephone number of the owner of the operation. ()

02. Address. Physical address of the operation. ()

03. Location. County in which the operation is located. ()

04. Operation Description. A description of the operation that includes, as applicable: ()

a. Type of operation. ()

b. General description of operation. ()

c. Number and type of any animals including age groups. ()

d. Any plans for expansion. ()

e. Type of housing used related to age groups of animals. ()

f. General description of nearby residential areas, public use areas, and pertinent agricultural operations. ()

g. Type of crop and number of acres grown. ()

05. Scaled Vicinity Map. A map that shall include all residences, public use areas, roads, general topography of the area, and other pertinent agricultural operations within a two (2) mile radius of the facility. ()

06. Manure Management System. A detailed description of the present manure handling systems including timing, frequency, duration, volumes, dimensions, and flow rates where applicable for the following: ()

a. Manure cleaning systems. ()

b. Manure transfer systems. ()

c. Manure separation systems. ()

07. Scaled Site Plan. A site plan showing all buildings, housing facilities, waste/manure storage areas, piping, feed storage areas, and roadways. ()

08. Land Application System. A detailed description of the present management practices and methods used to make land application including: ()

- a. Timing, frequency, and duration of practices. ()
- b. Proximity of land application sites to residential and public use areas. ()

09. Climatic Data. A description of the typical climatic conditions for a minimum period of two (2) years that exist in the geographical area of the operation or have been recorded on-site for the operation including: ()

- a. Wind Speed and direction(s). ()
- b. Temperature range. ()
- c. Relative humidity range. ()
- d. Precipitation data. ()

10. Facility Odor Sources. A list of all primary odor sources located on the operation with a general ranking of low, moderate, or high with respect to overall odor production along with an explanation of why it is listed as a source and the reasoning for the overall ranking. ()

11. Tiered Implementation. A three-tier process shall be used to reduce odor production from the facility with each tier containing a list of the primary BMPs and BATs that are going to be implemented by the facility. For each tier BMP and BAT listed, the plan shall include, but not be limited to: ()

- a. Process of how the BMP or BAT will be designed or managed. ()
- b. Implementation schedule that defines when the BMP or BAT will be implemented on the facility and justification for why this time frame was chosen. ()
- c. Monitoring program that will be implemented to evaluate the effectiveness of the BMP or BAT, with quantitative or qualitative reduction goals. ()

12. Public Involvement. This section shall describe how the public in the area of the facility will be involved in the implementation or evaluation of the OMP. ()

13. Timeframe for Review of OMP. A designated period of time when each tier of the plan will be evaluated to determine if further implementation is necessary, how each tier will be evaluated, which Department staff will conduct the review, and a period of time in which the agricultural operation will attain full compliance with the plan. ()

342. -- 349. (RESERVED)

350. FIRST TIME VIOLATIONS.

If the Department determines that an agricultural operation is generating odors in excess of levels of odors normally associated with accepted agricultural practices, the agricultural operations shall be deemed to have committed a first time violation of Subchapter C. The Department shall require agricultural operations deemed to have committed a first time violation to cooperate with the Department to develop and submit to the Director for approval an OMP. ()

351. SUBSEQUENT VIOLATIONS.

Agricultural operations have committed a subsequent violation if the operation is determined to have committed a subsequent violation within three (3) years, has failed to comply with a required OMP, or the Department determines that the owner or operator of the agriculture operation has not cooperated with the Department by failing to submit an

OMP that meets Department approval requirements. ()

352. EXCEPTIONS.

Events contemplated in Idaho Code Section 25-3805(7) are not considered violations of this subchapter. Idaho Code Section 25-3805 is applicable whether or not an agricultural operation is required to have an OMP. ()

353. -- 409. (RESERVED)

SUBCHAPTER D – STOCKPILING OF AGRICULTURAL WASTE

410. DEFINITIONS.

The following definitions apply in the interpretation and enforcement of Subchapter D, Sections 410-999: ()

01. Agricultural Operation. Facilities that generate or receive and stockpile agricultural waste and that are not regulated under IDAPA 02.04.14, “Rules Governing Dairy Byproduct,” or IDAPA 02.04.15, “Rules Governing Beef Cattle Animal Feeding Operations.” ()

02. Agricultural Waste. Agricultural waste means livestock waste. ()

03. Duration. The length of time agricultural waste is stockpiled. ()

04. Dwelling. The house, residence, abode, or other structure where a person lives. ()

05. Livestock. Bovidae, suidae, equidae, captive cervidae, camelidae, ratitidae, gallinaceous birds, and captive waterfowl. ()

06. Livestock Waste. Manure that may also contain bedding, spilled feed, feathers, water, or soil. It also includes wastes not particularly associated with manure, such as milking center or washing wastes, milk, feed leachate, or livestock carcasses or parts thereof. ()

07. Non-Compliance. A practice or facility condition that does not comply with Section 22-110, Idaho Code, or the provisions of these rules. ()

08. Public Highway. All highways open to public use in the state, whether maintained by the state or by any county, highway district, city, or other political subdivision. ()

09. Responsible Party. A person who generates or receives and stockpiles agricultural waste on property the person owns, leases, or otherwise has permission to use as a stockpile site. ()

10. Setbacks for a Stockpile Site. The distance from a stockpile site to a location identified in Section 420 of Subchapter D. ()

11. Stockpile Staging Site. A physical area where stockpiling occurs for a duration of no longer than thirty (30) days. ()

12. Stockpile Site. A physical location where agricultural waste is stockpiled for a duration of more than thirty (30) days and that stockpiles more than fifty (50) cubic yards of agricultural waste. ()

13. Stockpiling. The accumulation of agricultural waste on an agricultural operation. ()

14. Surface Waters of the State. All accumulations of surface water, natural and artificial, public and private, or parts thereof that are wholly or partially within, that flow through or border upon the state. ()

411. -- 419. (RESERVED)

420. SETBACKS FOR STOCKPILE SITES.

Stockpile sites at agricultural operations must meet the following setback requirements. ()

01. Setback Distances. Stockpile sites shall maintain the following setbacks: ()

a. Three hundred (300) feet from a non-responsible party's dwelling. ()

b. Five hundred (500) feet from a hospital, church, or school. ()

c. One hundred (100) feet from a domestic or irrigation well. ()

d. One hundred (100) feet from surface waters of the State. ()

e. Fifty (50) feet from a public highway. ()

02. Responsible Party's Dwellings. Stockpile sites do not have setbacks from a responsible party's dwelling or dwellings owned by the responsible party. ()

03. Stockpile Staging Sites. Stockpile staging sites are not subject to the setbacks set forth in Subchapter D. ()

421. -- 999. (RESERVED)