

MINUTES  
**SENATE AGRICULTURAL AFFAIRS COMMITTEE**

**DATE:** Tuesday, January 17, 2023

**TIME:** 8:00 A.M.

**PLACE:** Room WW53

**MEMBERS PRESENT:** Chairman Hartgen, Vice Chairman Nichols, Senators Foreman, Hart, Schroeder, Carlson, Zuiderveld, Semmelroth, and Taylor

**ABSENT/ EXCUSED:** None

**NOTE:** The sign-in sheet, testimonies and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

**CONVENED:** **Chairman Hartgen** called the meeting of the Agricultural Affairs Committee (Committee) to order at 8:00 a.m.

**PASSED THE GAVEL:** Chairman Hartgen passed the gavel over to Vice Chairman Nichols.

**INTRODUCTION:** **Vice Chair Nichols** stated she represented District 10. Agriculture was important to District 10 and to the State of Idaho. She explained the approach of the meeting was to familiarize the Senators with the process of administrative rules review and that there would be no voting of the dockets that day.

**PRESENTATION:** **Lloyd Knight**, Rules Review Officer, Idaho State Department of Agriculture (ISDA) introduced himself to the Committee. **Mr. Knight** provided a brief overview of the rules process. He noted that ISDA implemented and enforced roughly 60 different parts of the Idaho Code. ISDA focused on a customer service approach, in that the rule must make sense and was consistent with normal activity or practices in the regulated community. The rules went through zero-based rule making. Obsolete and unnecessary requirements were removed.

**DISCUSSION:** **Senator Carlson** questioned Mr. Knight on why the red-line version of the proposed rules was not available online. **Mr. Knight** answered that the Legislative Services Office (LSO) and Idaho Division of Financial Management (IDFM) had a clean version of the final rule on the website which does not show the red lines. The ISDA website did contain the red-line version. He stated the next docket was an example of one without red-lines as the entire rule was repealed.

**DOCKET NO. 02-0425-2201** **Rules Governing Private Feeding of Big Game Animals (Chapter Repeal) - Proposed Rule.** **Lloyd Knight**, Rules Review Officer, Idaho State Department of Agriculture (ISDA) explained the rule was originally put in place to help prevent the spread of diseases between big game animals and livestock. The Fish and Game Department did zero-based rule making of their own which made the ISDA rule unnecessary. This was the proposed repeal of the rule, and there were no comments from the public. Should the pending rule be approved, it would become final and effective upon the adoption of the concurrent resolution. (Attachment 1)

**DISCUSSION:** **Vice Chair Nichols** asked for clarification of public input. **Mr. Knight** stated there were comment periods open for the public.

**Senator Schroeder** asked if the rule would exist only in the Fish and Game Rule. **Mr. Knight** stated the entire rule would only exist in the Fish and Game Rule.

**MOTION:** **Senator Foreman** moved to approve **Docket No. 02-0425-2201**. **Vice Chair Nichols** asked the motion to be withdrawn stating they were not voting on the rules that day. **Senator Foreman** withdrew the motion.

**DOCKET NO. 02-0104-2201** **Rules Governing the Voluntary Idaho Preferred Promotion Program (ZBR Chapter Rewrite, Fee Rule) - Temporary and Proposed Rule.** **Laura Johnson**, Bureau Chief, Market Development Division, Idaho State Department of Agriculture (ISDA) stated the mission of the program was to connect Idaho agricultural producers with consumers, retailers and food service to grow their marketplace. They applied to the U.S. Department of Agriculture (USDA) for specialty crop grants. Specialty crops were defined as fresh produce, horticulture, fruits and vegetables. The strategy was to connect consumers to local products produced in Idaho. Their strategies included a website, in-store merchandising and promotions, social media, and a newsletter. **Ms. Johnson** explained the rules for the voluntary program. The product must be considered Idaho, local, and participation was voluntary. She noted these rules eliminated definitions that were not used. In addition, they removed application and program details. These rules eliminated separate categories for beef, lamb, and pork. The rules added a qualification for distilled spirits to the existing rules relating to beer. These rules created an exception allowing participation by an Idaho processing plant processing local product who found it necessary to use a co-packer outside of Idaho. The fees for participation in the program remained the same. Finally, these rules changed the date to renew participation in the program from June to January. (Attachment 2)

**DISCUSSION:** **Senator Semmelroth** questioned the application fee and asked whether it went to support the program. **Ms. Johnson** affirmed the fee did go to support the program.

**Senator Carlson** inquired about the change in language relating to the requirement that 80 percent of wooden fiber content from trees be grown in Idaho from "shall" to "will be". **Ms. Johnson** stated that there was no substantial difference in the change in terminology. The Idaho Division of Financial Management (IDFM) recommended that change. **Senator Schroeder** offered a distinction in legal terms. He noted that "shall" imposed a duty. **Ms. Johnson** explained that in order for forest products to qualify they must meet those criteria.

**Senator Foreman** asked if the minimal fee could be dropped. He stated he had constituents that were fee sensitive. **Ms. Johnson** expressed that the ISDA operates on a shoestring budget. The fee was an excellent value to those who participated and qualified.

**Senator Foreman** inquired about the authority of the Director. **Ms. Johnson** explained the ISDA and the staff had two audits a year for compliance and membership, to assure they self-certify and qualify.

**DOCKET NO. 02-0404-2201** **Rules for Artificial Dairy Products (ZBR Chapter Rewrite) - Proposed Rule.** **Dr. Scott Leibsle** explained the ISDA rule identified standards for dairy products that used the terms butter, milk or cream. In the event a product was mislabeled, the ISDA could issue a stop sale. No other changes were made. (Attachment 3)

**DOCKET NO.  
02-0415-2201**

**Rules Governing Beef Cattle Animal Feeding Operations (ZBR Chapter Rewrite) - Proposed Rule.** **Dr. Leibsle** stated these rules governed the storage and management of manure and nutrients produced on beef cattle Animal Feeding Operations (AFOs) to minimize the impact to public health and the environment. They required an up-to-date Nutrition Management Plan (NMP) that was reviewed annually for large AFOs defined as one with 700 dairy cattle, 1,000 non-dairy cattle and/or veal calves. A NMP was recommended, but not mandatory, for medium AFOs defined as one with 200-699 mature dairy cows or 300-999 non-dairy cattle or veal calves. A NMP was a detailed document that laid out the expectations of a beef producer to manage nutrients and required beef cattle facilities in Idaho to store nutrients in an approved lagoon which was inspected twice a year and required to be constructed in a specific manner. **Dr. Leibsle** informed the Committee that most of the rule changes in this docket were to simplify the language or delete references to authorities that were in other rules and duplicative.

The proposed rules also allowed producers to choose between two methods of measuring phosphorous. Idaho is a phosphorous limiting state. The first method of measuring phosphorous was the phosphorous threshold. This method measured the amount of phosphorous in the soil. The second method of measuring phosphorous was phosphorus indexing. Under that method of measuring phosphorous, various factors such as the slope of the field, the proximity of the field to surface water or groundwater, and whether the soil was permeable. Dairy farmers adopted this method of measuring phosphorous. The proposed rules would allow cattle farmers to choose between the two options of measuring phosphorous. The nutrients must be applied in an agronomic manner.

Section .04 of the docket clarified the definition of AFO in the event an individual has two medium AFOs on contiguous property. If the sum of the two medium AFOs exceeded the minimum per head count, it would be considered a large AFO. (Attachment 4)

**DISCUSSION:**

**Senator Schroeder** asked for clarification regarding the notification by a producer to the ISDA of an overflow. **Dr. Leibsle** explained that a phone call would be sufficient notification. **Senator Schroeder** next inquired whether the proposed rule section .050 of the docket eliminated the director's authority to inspect. **Dr. Leibsle** clarified that was duplicative language also contained in the Beef Cattle Environmental Control Act, Idaho Code Title 22, Chapter 49.

**DOCKET NO.  
02-0417-2201**

**Rules Governing Dead Animal Movement and Disposal (ZBR Chapter Rewrite) - Proposed Rule.** **Dr. Leibsle** explained the rules were to minimize the impact to public health and the environment with specifications and processes to manage dead animal disposal. Within 72 hours of knowledge of the death of an animal the owner was expected to properly dispose of the body by burning, rendering, landfill composting, chemical digestion, incineration burning, or natural decomposition. Burial must be at least 200 feet from surface water, 100 feet from a public roadway, or at least 50 feet from a property line. **Dr. Leibsle** further explained that Section .030 of the docket contained some specific requirements for composting. There had to be a fuel source for the compost pile. A temperature of 145 degrees must be retained for at least three consecutive days. The ISDA would work with owners who had an animal die of chronic wasting disease, or prion disease, such as bovine spongiform encephalopathy or scrapie. Finally, **Dr. Leibsle** stated that Section .030.04e of the docket clarified burial of a carcass in proximity to surface water. Elevated or up-gradient surface waters were not subject to the setback requirements. (Attachment 5)

**DISCUSSION:** **Vice Chairman Nichols** inquired whether any of these rules applied to domestic animals. **Dr. Leibsle** responded that the ISDA did not have any authority over domestic animals.

**DOCKET NO. 02-0429-2201** **Rules Governing Trichomoniasis (ZBR Chapter Rewrite) - Proposed Rule.** **Dr. Leibsle** explained that trichomoniasis caused infertility and pregnancy loss. The ISDA found ways to eliminate backlogs in obtaining tags by buying 30,000 tags all at once. In addition reduced the cost of testing by using centrifuge tubes instead of pouches, Section .004 of the docket included changes in protocol for collecting samples with the less expensive centrifuge tubes. In addition, Section .010.01 of the docket excluded bison from the testing requirements because they have natural immunity and there were safety concerns regarding collecting the samples. Next, Sections .100.10 and .300 of the docket, removed the 45 day post-testing waiting period before you could turn out the cattle to the grazing allotments. The new Polymerase Chain Reaction (PCR) test was more accurate making the waiting period unnecessary. Section 02.04.29.110 of the docket adopted a tag color rotation. Section .333 of the docket clarified that only veterinarians accredited by the USDA could collect the samples. Finally, Section .400 of the docket clarified that rodeo bulls must be identified with a Radio Frequency Identification (RFID), or metal tag. (Attachment 6)

**DISCUSSION:** **Vice Chairman Nichols** asked whether there were one or more testing facilities in Idaho. **Dr. Leibsle** responded that veterinarians in Idaho had the option to read their own cultures after taking a proficiency test that was renewed every several years. However, only the ISDA lab offers the PCR test.

**PASSED THE GAVEL:** Vice Chairman Nichols passed the gavel back to Chairman Hartgen.

**ADJOURNED:** There being no further business at this time, **Chairman Hartgen** adjourned the meeting at 9:12 a.m.

---

Senator Hartgen  
Chair

---

Melissa Price  
Secretary

---

Meg Lawless  
Assisting Secretary