

TITLE 22
AGRICULTURE AND HORTICULTURE

CHAPTER 20
IDAHO PLANT PEST ACT OF 2002

22-2001. TITLE. This chapter shall be known as the "Idaho Plant Pest Act of 2002."

[22-2001, added 2002, ch. 89, sec. 2, p. 211.]

22-2002. ADMINISTRATION. This chapter shall be administered by the Idaho state department of agriculture.

[22-2002, added 2002, ch. 89, sec. 2, p. 211.]

22-2003. STATEMENT OF PURPOSE. The purpose of this chapter is to prevent the introduction and subsequent dissemination of plant pests into Idaho through the movement of nursery stock and other plants and plant products. This chapter provides for the regulation of plant material and plant pests moving into Idaho and establishes provisions under which such plant material and products may legally enter the state. This chapter also establishes provisions for the establishment of interstate and intrastate quarantines to restrict the movement of nursery stock, plant pests and plant products.

[22-2003, added 2002, ch. 89, sec. 2, p. 211.]

22-2004. DUTIES OF THE DEPARTMENT. The department may control and prevent, by such means as shall be prescribed and provided by law, rule, or by order of the department, all contagious, infectious and plant pests destructive to the state's agricultural, forestry or horticultural interests or to the state's general environmental quality.

[22-2004, added 2002, ch. 89, sec. 2, p. 211.]

22-2005. DEFINITIONS. When used in this chapter:

(1) "Acceptable level" means the probable level of harm that is so low that the imposition of phytosanitary requirements is not required; or the probable level of harm that the trade partners agree to achieve through or by the imposition of pest risk mitigation measures or strategies and accept for continued trade when confirmed by phytosanitary certification of specified host commodities.

(2) "Agent" means any person who on behalf of any other person receives on consignment, contracts for, or solicits for sale on commission, any plant product from a producer of such product, or who negotiates the consignment or purchase of any plant product on behalf of any other person.

(3) "Agricultural commodities" means plant products including any horticultural product.

(4) "Agriculture" means the production of plants.

(5) "Appliance" means any box, tray, container, ladder, tent vehicle, implement or other article which is, or may be, used in connection with the growing, harvesting, handling or transportation of any agricultural commodity.

(6) "Area" means any political division or subdivision or any officially defined area including adjacent parts of contiguous political divisions or subdivisions. Political divisions include nations and states or provinces within nations and states. Political subdivisions include counties, parishes and cities or municipalities. Officially defined areas also may include any other clearly defined and identifiable area including a specific property or facility.

(7) "Certificate" means a document authorized or prepared by a duly authorized federal or state regulatory official that affirms, declares or verifies that an article, nursery stock, plant product, shipment or any other officially regulated article meets phytosanitary, quarantine, nursery inspection, pest freedom, plant registration or certification, or other set of legal requirements. Such documents are known by their purpose of issuance: phytosanitary certificate, for the purpose of verifying compliance with phytosanitary or quarantine requirements; nursery stock certificate, for the purpose of verifying compliance with nursery inspection and pest freedom standards; registration or certification tags and seals, for the purpose of verifying compliance with registration or certification requirements.

(8) "Certification" means the official act of affirming, declaring or verifying compliance with phytosanitary, quarantine, nursery inspection, pest freedom, plant registration or any other set of legal requirements.

(9) "Compliance agreement" means any written agreement between a person and a duly authorized regulatory agency to achieve compliance with any set of requirements being enforced by the agency.

(10) "Control" means abatement, suppression, containment or eradication of a pest population.

(11) "Control order" means a written directive from the director requiring the control of a pest.

(12) "Conveyance" means a method of transportation.

(13) "Crop management area" means that area in which certain specified crop management practices are required.

(14) "Crop seed" means the seed or seedlike fruit of grain, beans, flax, beets, onions or any other crop whether or not it is intended for planting purposes.

(15) "Department" means the Idaho state department of agriculture.

(16) "Director" means the director of the Idaho state department of agriculture or his duly authorized representative.

(17) "Economic impacts" means significant damage or harm in terms of well documented:

- (a) Plant or crop destruction or injury;
- (b) Increased cultural or pest control costs;
- (c) Disruption of existing pest control strategies such as biological control, integrated pest management, sustainable agriculture or forestry, and cropping patterns or loss of a high value crop without replacement by an equally valuable and marketable crop;
- (d) Social adversities such as interference with home or urban gardening, human health, worker safety, food safety or jobs; or
- (e) Environmental quality including added pesticide use, scenic and watershed damage, destruction of ecosystems and food chain interference.

(18) "Economically unacceptable impact" means that level of adverse economic impact which is identified and defined for plants for planting by a duly authorized federal or state plant protection organization.

(19) "Endangered area" means continent, region, country, state, county, province, municipality or any other delineated political or otherwise lawfully constituted geographic area which has been officially identified for protection from injurious pests not already present.

(20) "Eradication" means elimination of a pest based on absence determined by a negative, mutually agreed upon verification survey for the target pest.

(21) "Farm product" includes, but is not limited to, every agricultural, horticultural, viticultural, apicultural, floricultural and vegetable product, including honey bees.

(22) "Free from" means that either a valid detection survey has been performed or there is no published record showing that a specific pest is present; or that the article, nursery stock, plant, plant product or any other regulated article has been visually inspected or tested in accordance with specified requirements and that no live life stage of the regulated pest(s) was found.

(23) "Grain" means any crop seed intended for human or animal consumption.

(24) "Hold order or stop sale" means any written directive issued by the director to a person who owns or controls any appliance, article, nursery stock, plant, plant product or any other article that has been determined to be, or likely to be, infested with regulated pest(s) or otherwise not in compliance with this chapter or rules promulgated hereunder, prohibiting movement from one location to another, except as otherwise prescribed in the directive.

(25) "Host" means any appliance, article, commodity, nursery stock, plant, plant product or any other item which may or may not be capable of transporting a pest from one place to another.

(26) "Infected" means a plant that has been determined by the department to be contaminated with an infectious, transmissible, or contagious plant pest, or so exposed to the aforementioned that contamination can reasonably be expected to exist. This includes disease conditions, regardless of their mode of transmission, or any disorder of plants which manifest symptoms which, after investigation, are determined by a federal or state plant protection organization to be characteristic of an infectious, transmissible or contagious disease.

(27) "Infested" means a plant that has been determined by the department to be contaminated by a plant pest, or so exposed to the aforementioned that contamination can reasonably be expected to exist.

(28) "Investigator" means any person duly authorized by the director to perform any required regulatory activity.

(29) "Limited distribution" means a pest known to occur in the state, but with a limited distribution to a single small geographic area or a few small geographic areas which are widely separated within the state.

(30) "Management area" means that area in which certain specified crop management practices are required.

(31) "Mark" means, for purposes of identification or separation, the department may affix a conspicuous official indicator to, on, around or near, plants or plant material known, or suspected to be, infected or

infested with a plant pest. This includes, but is not limited to: paint, markers, tags, seals, stickers, tape, signs or placards.

(32) "Move" means to ship, offer for shipment, receive for transport, carry or, in any manner whatsoever, relocate a regulated article from one place to another.

(33) "Nursery stock" means all plants or any part thereof, such as aquatic or herbaceous plants, bulbs, sod, buds, corms, culms, roots, scions, grafts, cuttings, fruit pits, seeds of fruits, forest and ornamental trees and shrubs, berry plants, and all trees, shrubs, vines, and plants collected in the wild that are grown or kept for propagation or sale. The term does not include field and forage crops, seeds of grasses, cereal grains, vegetable crops and flower crops, bulbs and tubers of vegetable crops, vegetable crops, vegetables or fruit used for food or feed, cut trees or cut flowers unless stems or other portions thereof are intended for propagation.

(34) "Official" means authorized, implemented and directed, or performed by a government plant protection organization.

(35) "Officially controlled" means the conduct, by an official government plant protection organization, of eradication or intensive suppression activity including various treatments, quarantine and other measures with the goal of eliminating an isolated infestation or prevention of further spread within the endangered area. It does not include private general agricultural, urban forestry or home garden pest control measures conducted by persons against pests permanently established in an endangered area.

(36) "Owner" means the person, with the legal right of possession, proprietorship of, or responsibility for the property or place where any of the regulated articles as defined in this chapter are to be found, or the person who is in possession of, in proprietorship of, or has responsibility for the regulated articles.

(37) "Pathway" means any natural or artificial means or avenue that allows for the movement of a pest from one area to another.

(38) "Permit" means any official document that allows the movement of any regulated article from one location to another in accordance with specified conditions or requirements and for a specified purpose.

(39) "Person" means, but is not limited to, any individual, partnership, corporation, company, firm, society, association, organization, government agency or any other entity.

(40) "Pest" means any insect, snail, rodent, nematode, fungus, virus, bacterium, microorganism, mycoplasma-like organism, weed, plant, or parasitic higher plant and any other pest as defined by rule or any of the following that is known to cause damage or harm to agriculture or the environment:

(a) Any infectious, transmissible or contagious disease of any plant; or any disorder of any plant which manifests symptoms or behavior which, after investigation and hearing, is found and determined by a duly constituted federal, state or local plant protection organization, to be characteristic of an infectious, transmissible or contagious disease;

(b) Any form of invertebrate animal life;

(c) Any form of plant life.

(41) "Pest-free area" means an area kept free from a specific pest.

(42) "Pest risk analysis" means characterizing the nature of pest hazard or harm; identifying the degree of probability or likelihood of harm; analyzing the degree to which risk mitigation measures or strategies can reduce the probability of harm to an acceptable level; and recommending pest risk mitigation measures or strategies.

(43) "Phytopsanitary" means plant health.

(44) "Phytopsanitary measures" means any growing season or postharvest treatment or any other method (tactic) or strategy (combination of methods or tactics) specified in a quarantine to reduce pest risk to an acceptable level.

(45) "Plant" means any part of a plant, tree, aquatic plant, plant product, plant material, shrub, vine, fruit, rhizome, sod, vegetable, seed, bulb, stolon, tuber, corm, pip, cutting, scion, bud, graft or fruit pit, also including:

(a) Agricultural commodities;

(b) Noncultivated or feral plants gathered from the environment;

(c) Plants produced by tissue culture, cloning or from stem cell cultures or other prepared media culture.

(46) "Plants for planting" means any part of a plant that is intended to be planted.

(47) "Preclearance" means an agreement between quarantine officials of exporting and importing states or countries to pass plants through quarantine by allowing the exporting state or country to inspect the plants pre-shipment, rather than the importing state or country inspecting the shipment upon arrival.

(48) "Public nuisance" means any premises, plant, appliance, conveyance or article which is infected or infested with any plant pest that may cause significant damage or harm, or premises where any plant pest is found.

(49) "Quarantine" means a restriction imposed by a duly authorized plant regulatory agency whereby the production, movement or existence of plants, or any other article or material, or the normal activity of persons, is brought under regulation, in order that the introduction or spread of a pest may be prevented or limited, or in order that a pest already introduced may be controlled or eradicated, thereby reducing or avoiding losses that would otherwise occur through damage done by the pest or through continuing cost of control measures.

(50) "Quarantine pest" means a pest of economically unacceptable impact to the area endangered thereby and not yet present there, or present but not widely distributed and being officially controlled.

(51) "Registration" means the official recording of a growing location, person, plant, sales location or any other item or place as one that has met specified requirements and therefore eligible for a particular activity, operation or purpose.

(52) "Regulated article" means any item the movement of which is governed by a quarantine or any other rule.

(53) "Regulated nonquarantine pest" means a nonquarantine pest whose presence affects the intended use of plants with an economically unacceptable impact.

(54) "Regulated pest" means quarantine pest or regulated nonquarantine pest.

(55) "Regulated or restricted area" means a geographical area in which special restrictions on the management of certain plant materials are imposed.

(56) "Regulatory incident" means the detection of a pest under circumstances which indicate the absence of establishment.

(57) "Restrictive measure" means a phytopsanitary measure allowing only specified actions that are subject to certain requirements.

(58) "Shipment" means anything which is, may be, or has been transported from one place to another.

(59) "Significant damage or harm" means that level of economic impact that results in damage, injury or loss that exceeds the cost of control for a particular crop.

(60) "State plant regulatory official" means the employee(s) designated to enforce the provisions of a state's plant pest laws, quarantines and rules.

(61) "State quarantine" means a rule promulgated pursuant to state authority that identifies a pest or pests and imposes requirements for certification of regulated articles as being in compliance with specified restrictions or requirements for pest freedom.

(62) "Suppressive area" means a plant pest infested area where phytosanitary measures are being applied to reduce the plant pest population and thereby limit the spread of the pest.

(63) "Survey" means the systematic search for pests in accordance with mutually agreed upon methods designed to assure confidence in their meaning and accuracy for pest prevention purposes such as control, verification of pest-free areas, identification of possible harm, evaluation of probability of harm, and taking appropriate actions to prevent predicted significant harm. Surveys may be performed for the purposes of detection, delimitation or verification.

(64) "Undesirable plant" means any plant species which is detrimental to the quality of the product of that crop, by competition, cross-pollination, or any other means to the production of the crop for which a crop management area was established.

[22-2005, added 2002, ch. 89, sec. 2, p. 212.]

22-2006. PROMULGATION OF RULES -- COLLECTION AND DEPOSIT OF FEES AND PENALTIES. (1) The director is hereby authorized to promulgate rules:

(a) Necessary for the efficient enforcement of the provisions of this chapter including, but not limited to: setting of quarantine boundaries, requirements for importing and exporting plant materials, planting, testing, sampling, inspection, certification, compliance verification procedures, recordkeeping procedures, and setting of a schedule of fees for services performed by the department in the administration of this chapter.

(b) To implement and carry out the purposes of this chapter to control and prevent the spread of plant pests within the state and from within the state to points outside the state.

(c) To regulate nonquarantine species, exempt species and federally quarantined species.

(2) All revenues from fees and penalties collected as authorized under this chapter shall be deposited to the agricultural department inspection fund created pursuant to section [22-105](#), Idaho Code.

[22-2006, added 2002, ch. 89, sec. 2, p. 216.]

22-2007. AUTHORITY TO CONDUCT INSPECTIONS -- ENTRY ON LANDS. (1) The director may enter into each county of the state for the purpose of inspecting, examining and determining thereby the healthfulness and general condition of the environmental, horticultural, forestry and agricultural interests.

(2) In order to accomplish the purposes of this chapter, the director may enter upon and inspect any public or private premises, lands, or means of conveyance, or article of any person within this state, for the purpose of inspecting, surveying, treating, controlling or destroying any plant or plant pest.

[22-2007, added 2002, ch. 89, sec. 2, p. 217.]

22-2008. DISCOVERY OF PLANT PESTS -- OFFICIAL MARKING OF INFESTED OR INFECTED ARTICLES -- REPORTING THE DETECTION OF PLANT PESTS. (1) Upon knowledge of the existence of a regulated pest or a pest that may cause significant damage or harm within the state, the department is authorized to conspicuously mark all plants, materials and articles known or suspected to be infected or infested with the pest. The department shall notify the person, owner or the tenant in possession of the premises or area in question of the existence of the pest and of the prescribed control measures. The aforementioned person shall, within the prescribed time limit, implement the conditions of the department's hold order or stop sale or be subject to civil penalties.

(2) The state plant regulatory official shall immediately report the detection of new plant pests within the state to the director and to the U.S. department of agriculture. Other state plant regulatory officials shall be notified as deemed necessary.

[22-2008, added 2002, ch. 89, sec. 2, p. 217.]

22-2009. HOLD ORDER OR STOP SALE. The director may issue hold orders or stop sales to take prompt regulatory action in plant pest emergencies on any plant, article, or commodity entering this state in violation of this chapter or rules promulgated hereunder.

[22-2009, added 2002, ch. 89, sec. 2, p. 217.]

22-2010. CONTROL ORDERS -- CONTROL OF NUISANCES -- LIENS AND COST RECOVERY. (1) If upon any complaint or inspection, there is found any pest injurious to plants, or an imminent potential threat of any pests injurious to any plants, the director shall notify the owner or the person in charge or in possession of such places, fields, plants or other articles. The director shall issue a control order requiring such owner or person to control said injurious pests or to take such steps as may be necessary to remove the imminent potential threat of pests within a reasonable time to be specified. The control order shall be served in person or in writing, or it may be served in the same manner as a summons in a civil action, on the owner or person owning or in charge or in possession of such infested places, rights-of-way, fields or plants.

(2) If the owner or person in charge of any property on which there are plants or other articles infested with any pest thereof, or any article known to be a host of a pest, after having been issued a control order to control such pests or articles, shall fail, neglect or refuse to do so, then all such property, plants and articles are declared to be a public nuisance and shall be proceeded against as such. When such nuisance shall exist on any property within the state, the department shall cause such nuisance to be controlled at once by disinfecting or destroying the infested articles or host material. The expense of such proceedings shall be paid for by the state pursuant

to section [22-2019](#), Idaho Code, subject to the provisions of subsection (3) of this section.

(3) All sums so paid for carrying out the provisions of this section shall be a legal charge against such property and if not paid within thirty (30) days from the time when demand therefor is first made upon the owner of such property by the department controlling such nuisance, shall be certified by the said department to the tax collector of the county wherein the property is situated and thereafter shall constitute a lien upon such property and such sum shall be added by said tax collector to the general taxes assessed against said property which becomes due the next year thereafter and shall be collected by him in the same manner and with the same penalties as such other taxes. Nothing contained in this section shall be construed to require satisfaction of the obligation imposed hereby in whole or in part from the sale of property or to bar the application of any other or additional remedy otherwise available. Amounts collected under this subsection shall be paid into the state treasury and credited to the general fund.

[22-2010, added 2002, ch. 89, sec. 2, p. 217.]

22-2012. QUARANTINES. The director, by and with the approval of the governor, may, after investigations or hearings, establish, maintain and enforce quarantines as the director deems necessary to protect any and all plants against infestation or infection by any plant pest, new to or not heretofore widely prevalent or distributed within or throughout the state of Idaho. Quarantine rules issued under this chapter shall be promulgated in accordance with [chapter 52, title 67](#), Idaho Code.

[22-2012, added 2002, ch. 89, sec. 2, p. 218.]

22-2013. QUARANTINE RULES -- REGULATED AREAS AND ARTICLES -- TEMPORARY RULES. The director may promulgate quarantine rules, whereby the production, movement or existence of plants, or any other article or material, or the normal activity of persons, is brought under rules, in order that the introduction or spread of a plant pest may be prevented or limited, or in order that a plant pest already introduced may be officially controlled, thereby reducing or avoiding an economic impact that would otherwise occur through damage done by the pest or through continuing cost of control measures.

(1) Federal quarantine. The department may enter into cooperative agreements with the U.S. department of agriculture, and other federal, state, city or county agencies to assist in the enforcement of federal quarantines. The department may establish a quarantine and promulgate a rule against a plant pest or an area not covered by a federal quarantine. The department may seize, destroy or require treatment of products moved from a federally regulated area if they were not moved in accordance with the federal quarantine rules or, if certified, they were found to be infested with the plant pest.

(2) State plant quarantines:

(a) State interior quarantine. The department may establish a quarantine against a plant pest that is not of quarantine significance to other states, to prevent the spread of the plant pest within its borders; or establish a quarantine against a plant pest of regional or national significance when no federal quarantine has been established.

(b) Parallel state interior quarantine. The department may establish a parallel state interior quarantine against a plant pest which is of

limited distribution in the state and is the subject of a federal quarantine. The quarantine regulates intrastate movement between quarantined and nonquarantined areas of the state. This quarantine action is required if the federal quarantine is to apply only to the infested portion of the state.

(c) Uniform state quarantine. The department may establish a uniform state quarantine with other infested states which are parallel with respect to their basic quarantine requirements. The regulated area in the uniform state quarantine shall describe the area to be regulated. The quarantine shall include a reference to regulated areas of all the infested states under the uniform state quarantine. When a plant pest of regional or national significance occurs only in limited areas of the state and no federal quarantine is established, a state interior quarantine shall be established.

(d) Standard state exterior quarantine. The department may establish a standard state exterior quarantine if the plant pest is not established in the state but is established in other states and no federal quarantine has been established. The department may require controls at origin or destination as are necessary to provide protection for Idaho industries, the public and the environment.

(3) Regulated areas. The regulated area to be described in quarantine rules may involve the entire state, portion of the state (areas) or a list of locations of infested properties:

(a) Regulated areas may be subdivided into suppressive and generally infested areas where it is desirable to augment control measures being applied in certain areas, and it is believed necessary to control movement into such areas from generally infested areas.

(b) Provisions in the quarantine rules may be made for adding to the regulated area any other area known to be infested, or which is found to be infested after establishment of the quarantine, when so declared by the director.

(c) When an infestation in a certain regulated area has been eliminated through the application of treatments, to the extent that movements of the regulated articles therefrom would no longer present a pest risk, the quarantine may be lifted. Provided, a hold order shall be issued to each owner of any remaining infested property in the aforementioned regulated area.

(4) Movement of regulated articles:

(a) Interstate shipments:

(i) Any regulated article that is prohibited interstate movement or is required to be certified, if moved interstate from an area regulated by a state or federal quarantine, shall be refused entry into the state.

(ii) The owner or carrier of regulated articles that are reportedly originating in nonregulated areas of a quarantined state must provide proof of origin of the regulated articles through an invoice, waybill or other shipping document.

(iii) If only a portion of a state is under a state or federal quarantine, the shipment will not be refused nor a certificate required if the article originates from a nonregulated area of the shipping state, unless the article is found to be infested or prohibited.

(b) Intrastate shipments:

(i) Certificates or permits are required for the movement of nonexempted regulated articles when:

1. Moving from a regulated area to any point outside thereof.
2. Moving from a generally infested area into a suppressive area.
3. Moving within a suppressive area where such control over this movement is desirable.

(ii) Certificates or permits should not be required for any regulated article originating outside of a regulated area moving to another nonregulated area, or moving through or reshipped from a regulated area when the point of origin of the article is clearly indicated on a waybill, bill of lading, shipper's invoice or other similar document accompanying the shipment, provided that shipments moving through or being reshipped from a regulated area must be safeguarded against infestation while within the regulated area in a manner satisfactory to an investigator.

(iii) Certificates should not be issued unless provisions of other applicable quarantines have been met and the regulated articles:

1. Originate in a noninfested portion of the regulated area and have not been exposed to infestation while within the regulated area; or
2. Have been examined and found to be free of infestation; or
3. Have been treated in accordance with procedures approved by the director; or
4. Have been grown, produced, manufactured, stored or handled in such a manner that, in the judgment of the investigator, no infestation would be transmitted thereby.

(iv) Limited permits may be issued to allow the movement of regulated articles to a specified destination for limited handling, utilization, or processing, provided the investigator has determined that such movement will not result in the spread of the pest and requirements of other quarantines have been met.

(v) Control over the movement of regulated articles from infested areas to noninfested areas within a regulated area may be provided for when such control over movement within a regulated area is desired to prevent the spread of plant pests. This provision usually will be applicable only when officially controlled treatments are being applied and would be handled through a direct written notice to the property owner concerned.

(vi) Compliance agreements should be required as a basis for the issuance of certificates or permits in bulk to industry for their issuance, and they are desirable to explain the main provisions of the quarantine for that particular concern.

(5) Temporary rules. The department may promulgate temporary rules pursuant to [chapter 52, title 67](#), Idaho Code, in order to take immediate regulatory action to prevent the introduction or establishment of a plant pest.

[22-2013, added 2002, ch. 89, sec. 2, p. 218.]

22-2014. REPEAL OF QUARANTINES. The director, by and with the approval of the governor, may repeal a quarantine when its purposes have been accomplished, or if the progress of events has clearly proved that the desired end

is not possible to attain by the restrictions adopted. The quarantine shall be promptly reconsidered, either with a review or repeal or with intent of substituting other measures. Before any such repeal of a quarantine shall become effective, the same shall be approved by the governor and shall be signed in duplicate by him, and one (1) copy thereof shall be filed in the office of the secretary of state and the other in the office of the director. Quarantine rules issued under this chapter must be repealed in accordance with [chapter 52, title 67](#), Idaho Code.

[22-2014, added 2002, ch. 89, sec. 2, p. 221.]

22-2015. LISTING OF REGULATED NONQUARANTINE PESTS AND RESTRICTIONS BY RULES. The director may promulgate rules listing regulated nonquarantine pests and specify restrictions for specific plant pests with a specified economically unacceptable impact to Idaho agriculture.

[22-2015, added 2002, ch. 89, sec. 2, p. 221.]

22-2016. PROHIBITED ACTIVITY -- PERMITS -- EXPORT CERTIFICATION AND COMPLIANCE AGREEMENTS -- NONINDIGENOUS PLANT PEST SPECIES. (1) The shipment, introduction into or release within this state of any plant pest, biocontrol agent, or genetically engineered plant or plant pest, or any other organism which may directly or indirectly affect the plant life of this state as an injurious pest, parasite or predator of other organisms, or any arthropod, is prohibited, except under permit issued by the department, or as exempted by rule.

(2) Permits:

(a) Permits for shipment of plant pests. No person may sell, offer for sale, move, convey, transport, deliver, ship or offer for shipment, any plant pest or biological control agent, without an application and permit to move live plant pests and noxious weeds, PPQ Form 526, supplements thereto, published by the U.S. department of agriculture, animal and plant health inspection service, plant protection and quarantine, or any publication revising or superseding the aforementioned, or its state equivalent. Permits may be issued only after the director determines that the proposed shipment or use will not create a hazard to the agricultural, forest or horticultural interests of this state or to the state's general environmental quality. The permit shall be affixed conspicuously and on the exterior of each shipping container, box, package, appliance, or accompany each shipping container, box, package or appliance, as the director requires.

(b) Biotechnology permits. The director may enter into cooperative agreements with the U.S. department of agriculture to provide oversight and regulation of genetically engineered plants or any organism that may be a plant pest. This includes reviewing U.S. department of agriculture biotechnology notifications and permits, inspection of facilities conducting agricultural biotechnology and field release sites.

(c) Interstate origin inspection and preclearance permits (compliance agreements). The director may issue permits for interstate origin and preclearance of quarantine articles based on pest risk mitigation tactics or strategies that can be enforced at the point of origin of the shipment. Interstate origin inspection programs can be developed to

achieve compliance with quarantine restrictions, regulated nonquarantine pest restrictions and product quality standards.

(3) Export certification and compliance agreements. The director has the authority to enter into compliance agreements for the purpose of certifying articles as pest free for export certification.

(4) A nonindigenous plant pest species known or not known to occur in the state of Idaho may not be granted entry into the state unless issued a written permit by the director. Permits shall contain such conditions and measures as the director may see fit to prevent the species from becoming established or further established within the state.

[22-2016, added 2002, ch. 89, sec. 2, p. 221.]

22-2017. CROP MANAGEMENT AREAS. The legislature recognizes the fact that in order to produce crops that are free from plant pests, and to control such plant pests, it is frequently necessary to apply certain crop management practices over an area which may include several farms, orchards, nurseries or other crop producing entities. Such practices may include, but are not limited to, use of clean seed, destruction of infested or undesirable plants, use of chemicals and prohibiting introduction of host materials. The legislature further recognizes that it is in the public interest that the director be authorized to designate certain areas as crop management areas and to stipulate those practices which shall be followed in the management area insofar as they affect the particular crop.

(1) The director may provide for establishment of a crop management area after presentation of a petition signed by not less than twenty-five (25) registered electors residing within the confines of the proposed crop management area. The petitioners shall give the petition to the county clerk of the county or counties who shall examine the signatures and certify the number of valid signatures of electors residing within the confines of the proposed crop management area and transmit the petition to the director. The director may establish a crop management area within the boundaries specified in the petition.

(2) In instances where there are less than twenty-five (25) registered electors residing within the confines of the proposed crop management area, a majority of those registered electors must sign the petition in order for the petition to be considered by the director. The petitioner(s) of the proposed crop management area shall present the petition to the county clerk of the county of the proposed crop management area. The county clerk of the county shall examine the signatures presented by the petitioner(s) and shall certify that the number of valid signatures constitutes a majority of electors residing within the confines of the proposed crop management area. The county clerk of the county shall then transmit the petition to the director. The director may establish a crop management area within the boundaries specified in the petition.

(3) In instances where there are no registered electors residing within the confines of the proposed crop management area, the petitioner(s) of the proposed crop management area shall present the petition to the county clerk of the county of the proposed crop management area. The county clerk of the county shall notify the director in writing certifying that there are no registered electors residing in the proposed crop management area. The county clerk of the county shall then transmit the petition to the director. The director may establish a crop management area within the boundaries specified in the petition.

(4) The director may make and enforce rules to maintain the management area. Rules may include, but shall not be limited to:

- (a) Specification of the kind and quality of seed or other propagative material which may be planted in the area;
- (b) Specification of treatments, chemical or otherwise, which shall be used to control pests or undesirable plants in the area;
- (c) Transportation of vegetative material into, within or out of the area;
- (d) Disposition of infested crops, undesirable plants or other material which may include destruction of the crops, plants or other material;
- (e) Disposition of vegetative material planted in violation of the rules.

(5) Disposition of infested or violative material in a crop management area shall be at the expense of the owner thereof.

[22-2017, added 2002, ch. 89, sec. 2, p. 222; am. 2004, ch. 186, sec. 1, p. 577.]

22-2018. RESEARCH AND INVESTIGATION OF PLANT PEST PROBLEMS AND CONTROL. As deemed necessary, the director may fund research to prevent the introduction or spread of plant pests causing or having the potential to cause significant damage or harm in the state, and to investigate the feasibility of their control.

[22-2018, added 2002, ch. 89, sec. 2, p. 223.]

22-2019. INFESTATIONS -- CONTROL AND ERADICATION COSTS -- DEFICIENCY WARRANTS -- COOPERATION WITH OTHER ENTITIES AND CITIZENS. Whenever the director determines that there exists the threat of an infestation of grasshoppers, crickets or exotic plant pests on state-owned land, private, range or agricultural land, and that the infestation is of such a character as to be a menace to state, private, range or agricultural land, the director shall cause the infestation to be controlled and eradicated, using such funds as have been appropriated or may hereafter be made available for such purposes. Provided however, that whenever the cost of control and eradication exceeds the funds appropriated or otherwise available for that purpose, the state board of examiners may authorize the issuance of deficiency warrants against the general fund for up to five million dollars (\$5,000,000) in any one (1) year for such control and eradication. Control and eradication costs may include, but are not limited to, costs for survey, detection, inspection, diagnosis, treatment, and disposal of infected or infested plants and plant materials, cleaning and disinfecting of infected premises and indemnity paid to owners for infected or infested plants and plant materials destroyed by order of the director. The director, in executing the provisions of this chapter insofar as it relates to control and eradication, shall have the authority to cooperate with federal, state, county and municipal agencies and private citizens in control and eradication efforts; provided, that in the case of joint federal/state programs the state funds shall only be used to pay the state's share of the cost of the control and eradication efforts. Such moneys as the state shall thus become liable for shall be paid as a part of the expenses of the department of agriculture out of appropriations which shall be made by the legislature for that purpose from the general fund of the state. In all appropriations

hereafter made for expenses of the department of agriculture, account shall be taken of and provision made for this item of expense.

[22-2019, added 2006, ch. 197, sec. 3, p. 612.]

22-2020. PENALTIES FOR VIOLATIONS. (1) Any person who violates any provision of this chapter, or of the rules promulgated hereunder for carrying out the provisions of this chapter, or who fails or refuses to comply with any requirements herein specified, or who interferes with the department, its agents or employees, in the execution, or on account of the execution of its or their duties under this chapter or rules promulgated hereunder, shall be guilty of a misdemeanor and upon conviction thereof, shall be fined not more than three thousand dollars (\$3,000) or be imprisoned in a county jail for not more than twelve (12) months or be subject to both such fine and imprisonment.

(2) Any person who violates or fails to comply with any of the provisions of this chapter or any rules promulgated hereunder may be assessed a civil penalty by the department or its duly authorized agent of not more than ten thousand dollars (\$10,000) for each offense and shall be liable for reasonable attorney's fees.

(a) Assessment of a civil penalty may be made in conjunction with any other department administrative action.

(b) No civil penalty may be assessed unless the person charged was given notice and opportunity for a hearing pursuant to the Idaho administrative procedure act.

(c) If the department is unable to collect such penalty or if any person fails to pay all or a set portion of the civil penalty as determined by the department, it may recover such amount by action in the appropriate district court.

(d) Any person against whom the department has assessed a civil penalty under the provisions of this section may, within thirty (30) days of the final action by the agency making the assessment, appeal the assessment to the district court of the county in which the violation is alleged by the department to have occurred.

(e) All civil penalties collected pursuant to this section shall be remitted to the agricultural department inspection fund.

(3) Nothing in this chapter shall be construed as requiring the director to report minor violations for prosecution when he believes that the public interest will be best served by suitable warnings or other administrative action.

[22-2020, added 2002, ch. 89, sec. 2, p. 223.]

22-2021. COOPERATION WITH OTHER JURISDICTIONS. (1) The department may enter into cooperative agreements with organizations including, but not limited to: persons, civic groups, or governmental agencies, to adopt and execute plans to detect and control areas infested or infected with plant pests. Such cooperative agreements may include provisions of joint funding of any control treatment.

(2) If a plant pest occurs and cannot be adequately controlled by individual person(s), owner(s), tenant(s) or local units of government, the department may conduct the necessary control measures independently or on a cooperative basis with federal or other units of government.

[22-2021, added 2002, ch. 89, sec. 2, p. 224.]

22-2022. SEVERABILITY. If any section, sentence, clause, phrase, or other portion of this chapter is for any reason held to be unconstitutional, the decision shall not affect the validity of the remaining portions thereof.

[22-2022, added 2002, ch. 89, sec. 2, p. 224.]

22-2023. NO EFFECT ON EXISTING LIABILITY. The enactment of this chapter does not terminate or modify any civil or criminal liability relating to plant pests which exists prior to the effective date of this chapter.

[22-2023, added 2002, ch. 89, sec. 2, p. 224.]

CHAPTER 21
PLANT PEST CONTROL AND RESEARCH COMMISSION [REPEALED]