

MINUTES
SENATE AGRICULTURAL AFFAIRS COMMITTEE

DATE: Thursday, January 21, 2016

TIME: 8:00 A.M.

PLACE: Room WW53

MEMBERS PRESENT: Chairman Rice, Vice Chairman Bayer, Senators Patrick, Souza, Lee, Den Hartog, Harris, Ward-Engelking and Burgoyne

**ABSENT/
EXCUSED:**

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: **Vice Chairman Bayer** called the meeting to order at 8:02 a.m.

PRESENTATION: **Pacific Northwest Economic Region (PNWER), Invasive Species - Zebra and Quagga Mussels. Representative Mike Cuff**, Montana, Vice President of PNWER, explained their strategic defense perimeter in the prevention of the spread of invasive mussels in the Pacific Northwest. Idaho, Washington, Oregon, Wyoming and Montana make up the last major region in North America that does not have these invasive species. Because of the efforts of Eric Anderson, Idaho has lead the way in the prevention and monitoring of these species and has appropriated annually from state funds \$1.2 million for the inspection of watercraft movement within their borders. Funds were obtained from the federal Water Resources Development Act, which has authorized the establishment of a program to prevent and manage aquatic invasive species in these states (see attachment 1). For fiscal year 2016 \$4 million was appropriated to conduct monitoring and risk assessment of each major public and private water resources facility in the Basin. These funds will be administrated through the U.S. Army Corps of Engineers for the inspection and monitoring of watercraft in the Basin.

In summary, **Mr. Cuff** thanked Idaho for leading the way in the prevention and monitoring of this invasive species and also for the persistent efforts of Eric Anderson in pushing this legislation to the forefront for the region.

Senator Souza asked what are the source areas of the contamination? Are their any remediation efforts that have been effective, and can you stop them at their source? **Mr. Cuff** advised that the efforts at the sources have been improved. Efforts have been stepped up in the main sources, such as Lake Mead and the Great Lakes. Still the best option is prevention by inspecting the boats that come into the state.

Senator Harris asked if other water gear is inspected for the mussels as well. **Mr. Cuff** explained that efforts are being made to include scuba gear, wave runners and floats on airplanes for inclusion in the inspection process.

DOCKET NO.

02-0214-1501

Rules for Weights and Measures. Stacie Ybarra, Agriculture Program Specialist, Idaho State Department of Agriculture (ISDA) explained the amendment text can be found on page 5 under Section - 004, which references the 2016 edition of "Handbook 44". The Weights and Measures Program's primary purpose is to inspect and test commercial weighing and measuring devices such as gas pumps or scales used to buy or sell crops or livestock. This is an annual update to the rule to incorporate the current date-specific edition of "Handbook 44".

Maintaining a current handbook is important to weight's and measures officials and the service industry that repairs commercial weighing or measuring devices. It also promotes uniformity by keeping the codes current with new technology and uniform with surrounding states that also adopt this reference handbook.

Senator Den Hartog asked are there major changes to Handbook 44 for each of the years that need to be incorporated by reference? **Ms. Ybarra** explained that this year there were 37 amendments and 6 editorial changes. The most significant changes involved electrical vehicle charging changes, gas pump calibration and field use of trucks for law enforcement.

MOTION: **Senator Burgoyne** moved to approve **Docket No. 02-0214-1501**. Seconded by **Senator Den Hartog**. The motion carried by **voice vote**.

DOCKET NO.

02-0421-1501

Rules Governing Importation of Animals. Dr. Scott Leibsle, Deputy State Veterinarian, Idaho State Department of Agriculture, indicated the premise for this proposed rule change is in regard to modification of requirements for importing cattle into the State of Idaho for surveying for the disease trichomoniasis. Trichomoniasis is a venereal disease that is contagious among cattle. Idaho has the longest-standing trichomoniasis surveillance perimeter, started in 1989, in the country.

There are four variables that are typically seen in how trichomoniasis is tested for: 1) what age is a bull considered a virgin; 2) type of test used to identify the organism; 3) whether pooling of the test is allowed; and 4) how long test results are valid.

Idaho has its own standards, as do many of the western states; the complaint from the industry was that it was too confusing moving from one state's standards to another when importing cattle. The request for rule change came out of the Western States Livestock Health Association (Association) meeting for the western states to harmonize their trichomoniasis regulations.

The following changes to the rule are for animals that are moving within the State: 1) change the virgin age of a bull to 18 months and 2) increase the validity of the test results from 30 days to 60 days. **Chairman Rice** asked for Dr. Leibsle to cover any concerns he would foresee in lengthening the time for the validity of the test and the age of the bull. Could this lead to missing an infected animal and create a greater risk to the livestock of our State? **Dr. Leibsle** explained the lengthened time for test results was done for those entities involved in bull sales. The animals are often sold in a group and sometimes cannot be transported in their entirety within a reasonable period; they are isolated until the transport of the group is completed. Increasing the virgin age was a consensus agreement among the Western states. Idaho's testing program is one of the most successful in the United States. When the program was initially started in 1989, more than 500 positive bulls tested that year; in the last three years there have been less than 5.

Senator Lee asked which states are not in the Association. **Dr. Leibsle** replied there are two holdout states, Nevada and California, that are stuck on some specific points. In Nevada the virgin age for a bull is 9 months. Nevada has had ongoing infections in all forms of trichomoniasis; for their needs the regulations need to be tighter. California is not convinced that pooling of tests is not a loss in sensitivity.

Senator Lee said how does that impact the animals that would come from Nevada to Idaho? **Dr. Leibsle** answered the animals coming into Idaho from Nevada still have to meet the import requirements, which are 18 months of age tested; test results would be valid for 60 days. If cattle coming in from Nevada came from a farm that had tested positive, the herd would be recorded and processed as a contact herd.

Senator Burgoyne said is the 18-month risk deemed by you and the ISDA an acceptable risk for the State? **Dr. Leibsle** replied the field staff and Dr. Leibsle's office at ISDA are confident that they can adequately maintain the success of the trichomoniasis program with the new regulations.

Chairman Rice stated that this body has a constitutional obligation when it comes to livestock and questioned what changes in the follow-up procedures might be affected by the changes in testing procedures. **Dr. Leibsle** explained when they find a trichomoniasis positive the State Lab performs a PCR test to confirm the initial positive test and then the animal would go to slaughter. Then the herd would be quarantined until additional testing is performed on the other bulls in the same herd.

Senator Harris allowed that as a cattle producer he is comfortable with the changes in the rule. **Senator Harris** asked are there some cattle producers that are not following these testing procedures? **Dr. Leibsle** answered there are very few large producers that do not follow these testing rules because it is just not good business. Cases of trichomoniasis are typically found with single producers that have very small herds. The enforcement and outreach that has been done by ISDA has driven the positive testing numbers to very few animals.

MOTION: **Senator Patrick** moved to approve **Docket No. 02-0421-1501**. Seconded by **Senator Lee**. The motion carried by **voice vote**.

DOCKET NO.

02-0429-1501

Rules Governing Trichomoniasis. **Dr. Scott Leibsle**, said this rule prepares the general management of the trichomoniasis program. The changes are the same variables bearing the validity of the tests: the virgin age of the bull; what type of test is performed, culture or PCR,; allowing pooling. All the changes were to include PCR to extend the validity of the test.

Chairman Rice clarified that what is being stricken in this rule is the requirement that the sample be submitted to the lab within 48 hours. Could you expand on why is there no time frame needed using the PCR testing? **Dr. Leibsle** explained the reason that has changed is the time frame was for confirmatory testing. Field veterinarians are certified to do the culture; if the culture comes up positive, it is sent to the State Lab to confirm. The State Lab does not perform culture to confirm; they perform PCR testing. PCR does not need the organism to be alive, so the 48-hour requirement is no longer relevant for testing.

MOTION: **Senator Souza** moved to approve **Docket No. 02-0429-1501**. Seconded by **Chairman Rice**. The motion carried by **voice vote**.

DOCKET NO.

02-0602-1501

Rules Pertaining to the Idaho Commercial Feed Law, Jared Stuart, Agriculture Section Manager, Idaho State Department of Agriculture, said Idaho incorporates by reference standard manuals used nationally by industry. Regulatory officials provide producers with clear and defined definitions and terms, as well as acceptable standard practices and policies. In this instance the manual is the Association of American Feed Control Officials (AAPFCO) publication. This rule change updates the rule to reference the most recently available copy of the manual so that terms, definition and standards are up to date for producers and regulators in the state. This also ensures that producers and distributors do not have to worry about changing standards from state to state while producing and distributing product in Idaho.

Senator Den Hartog stated when agencies are incorporating by reference, it would be helpful for the Committee to have a list or include in the presentation the substantive changes from year to year. **Mr. Stuart** explained that most of the changes in the incorporated references are changes in definitions and descriptions of ingredients. **Senator Den Hartog** stated that some other state agencies that incorporate by reference provide reference changes on a thumb drive so that the Committee members can look at the references prior to reviewing the rule. Even brief notes from the presenting agency expanding on the changes from these referenced documents and highlighting their potential impact to the rule would be helpful.

MOTION: **Senator Harris** moved to approve **Docket No. 02-0602-1501**. Seconded by **Senator Den Hartog**. The motion carried by **voice vote**.

DOCKET NO.

02-0612-1501

Rules Pertaining to the Idaho Fertilizer Law. **Jared Stuart**, Agriculture Section Manager, stated this is another incorporation by references rule to the Idaho Commercial Fertilizer Law. This adoption by reference comes from the Association of American Plant Food Control Officials (AAPFCO) that is referenced in the Idaho Fertilizer Law, as well as in the Idaho Soil and Plant Amendment Act of 2001. The AAPFCO publication is updated annually and provides a national standard for the industry to follow.

Chairman Rice asked are any of the changes in the fertilizer rules governed by the Food Safety Modernization Act (FSMA)? **Mr. Stuart** answered that the changes are not driven by FSMA; these changes are set at the federal level and they do not apply to the AAPFCO. ISDA has not seen any changes with the commercial changes from FSMA in the manual or in any of the rules.

Senator Burgoyne advised that he supports Senator Den Hartog's request for more information on the rule changes when they use publications for incorporation by reference. A summary of the changes supplied by the agencies when these rules have incorporation by reference would be a sufficient avenue for reference.

MOTION: **Senator Burgoyne** moved to approve **Docket No. 02-0612-1501**. Seconded by **Senator Ward - Engelking**. The motion carried by **voice vote**.

DOCKET NO.

02-0622-1501

Noxious Weed Rules, Matt Voile, Agriculture Section Manager, Idaho State Department of Agriculture, advised that in August of 2014, a pioneer colony of Purple and/or Iberian Starthistle was identified in Twin Falls County, Idaho. Upon notification and confirmation of the identity of the plant, these species were listed as Early Detection Rapid Response (EDRR) Species under the Director's temporary listing authority Section 22-2404(1)(u), Idaho Code. Additionally, the population was treated by Twin Falls County weed control personnel.

On page 24 of the pending rule, note the addition of the two new species in the EDRR list; Iberian Starthistle (*Centaurea iberica*) and Purple Starthistle (*Centaurea calcitrapa*).

MOTION: **Senator Ward-Engelking** moved to approve **Docket No. 02-0612-1501**. Seconded by **Senator Dan Hartog**. The motion carried by **voice vote**.

**DOCKET NO.
02-0625-1501**

Rules Governing the Planting of Beans, Other Than *Phaseolus Species*, In Idaho. **Jared Stuart**, stated that late in 2014, ISDA received petitions from the industry to amend the Non-Phaseolus bean rule to add the same trial ground exemption to the rule as exists in the similar Phaseolus bean rule.

1) For imported seed, add the trial ground exemption for small seed lots. This would allow for multiple growing season inspections in lieu of required testing where the testing would result in the destruction of much of the seed lot. This has been added as Section 250 to the existing rule.

2) Add language to the soil requirement in Section 13 to clarify the zero tolerance for soil applies to seed that was produced outside of Idaho or Malheur County, Oregon.

3) In Section 03.(e) as a housekeeping item, remove the statement about the need for growing season inspections. This is already stated in Section 200 of the existing rule.

This will make it possible for companies to import small seed lots safely into Idaho while avoiding seed destruction, at the same time not compromising the safety of the Idaho agriculture from threats of plant pests and disease.

Senator Lee stated Malheur County, Oregon, is in another state, so it is really important to her district that the growers, packers and producers work across the state borders in a cooperative way. She complimented the ISDA for recognizing that working in conjunction with other states is beneficial to the future of agriculture.

Senator Patrick commented that as a seed grower, this rule change brings up concerns and he asked for further explanation. **Mr. Stuart** recounted the changes to the rule that incorporate a trial ground exemption. Their division tests any bean seed that comes into Idaho, capable of transferring serious seed diseases that could harm the seed industry and the export market. If the seed passes their testing, it may be planted. A trial ground exemption allows research facilities to bring small lots of seed into the State of Idaho without testing. These research facilities are allowed a seed lot of one pound or less that is planted and that much of it is destroyed in the research. To avoid the destruction of all of the seed, the trial ground exemption is put in place, which moves from testing for diseases to five inspections during the growing season. **Senator Patrick** explained that he was concerned about bringing in any diseased seed. **Mr. Stuart** stated that regarding risk of diseased seed, this trial ground exemption has been in place for the bean industry since rules were introduced. ISDA has not seen any issues of risk. These rules specifically reference the beans rather than Phaseolus bean seed.

Chairman Rice questioned what gives ISDA confidence that this trial process will not open the door for a seed crop that might damage Idaho's ability to sell seed all over the world. **Mr. Stuart** replied that trial ground exemption have been in place since 2003 and they have been doing inspections since that time. Their department has seen no manifestation of disease that has resulted in any outbreak.

Senator Souza questioned what measurable benefit there would be in approving this rule. **Mr. Stuart** answered that the petition by research companies was brought before ISDA for them to research on different lots for characteristics. If this rule is not approved, it will limit the companies' research capabilities.

MOTION:

Senator Patrick moved to hold **Docket No. 02-0625-1501** for a time certain of one week. Seconded by **Senator Souza**. The motion carried by **voice vote**.

DOCKET NO.

02-0641-1501

Rules Pertaining to Soil and Plant Amendments. The Committee ran out of time to address this docket. The rule will be heard at the next Committee meeting on January 26, 2016.

ADJOURNED: There being no further business, **Vice Chairman Bayer** adjourned the meeting at 9:30 a.m.

Senator Rice
Chair

Carol Deis
Secretary