

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 02.06.05 - Rules Governing Plant Disease and Quarantines (New Chapter, Fee Rule) -
Proposed Rule (Docket No. 02-0605-1901);

IDAPA 02.06.09 - Rules Governing Invasive Species and Noxious Weeds (New Chapter, Fee Rule) -
Proposed Rule (Docket No. 02-0609-1901);

IDAPA 02.06.10 - Rules Governing the Growing of Potatoes (New Chapter, Fee Rule) - Proposed
Rule (Docket No. 02-0610-1901).

Pursuant to Section 67-454, Idaho Code, a meeting on the enclosed rules may be called by the
cochairmen or by two (2) or more members of the subcommittee giving oral or written notice to Research
and Legislation no later than fourteen (14) days after receipt of the rules' analysis from Legislative
Services. The final date to call a meeting on the enclosed rules is no later than 12/09/2019. 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 01/08/2020.

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 19, 2019

SUBJECT: Department of Agriculture

IDAPA 02.06.05 - Rules Governing Plant Disease and Quarantines (New Chapter, Fee Rule) - Proposed Rule (Docket No. 02-0605-1901)

IDAPA 02.06.09 - Rules Governing Invasive Species and Noxious Weeds (New Chapter, Fee Rule) - Proposed Rule (Docket No. 02-0609-1901)

IDAPA 02.06.10 - Rules Governing the Growing of Potatoes (New Chapter, Fee Rule) - Proposed Rule (Docket No. 02-0610-1901)

1. IDAPA 02.06.05 - Rules Governing Plant Disease and Quarantines (New Chapter, Fee Rule)

Summary and Stated Reasons for the Rule

The Idaho State Department of Agriculture submits notice of proposed rule at IDAPA 02.06.05 - Rules Governing Plant Disease and Quarantines. This is a new chapter and a fee rule. According to the department, eleven rules administered by it are related to regulation and quarantine of certain crops to prevent the spread of plant disease and pests. The department notes that the rules put in place restrictions, as requested by the regulated industry, to ensure that quarantine and disease fee areas within and outside the state of Idaho are maintained and protected. The department states that in order to streamline and simplify rules related to plant disease and quarantines, it is proposing to combine all eleven rules into a single rule. The department adds that no substantive changes are being made to the eleven 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, in its entirety, regulates an activity not regulated by the federal government.

The department states that fees included in the original rules have not been changed in the new combined rule.

Negotiated Rulemaking / Fiscal Impact

Negotiated rulemaking was conducted.

Statutory Authority

The rulemaking appears to be authorized pursuant to Sections 22-2004 and 22-2006, 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
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2. IDAPA 02.06.09 - Rules Governing Invasive Species and Noxious Weeds (New Chapter, Fee Rule)

Summary and Stated Reasons for the Rule

The Idaho State Department of Agriculture submits notice of proposed rule at IDAPA 02.06.09 - Rules Governing Invasive Species and Noxious Weeds. This is a new chapter and a fee rule. According to the department, there are three rules that are administered by it related to the regulation of noxious weeds and invasive species, so as to prevent the spread of such species and their impacts on natural resources and crops. The department states that in order to streamline and simplify rules related to noxious weeds and invasive species, it proposes to combine all three rules into a single rule. The department adds that no substantive changes are being made to the three 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 states that the rule, in its entirety, regulates an activity not regulated by the federal government.

The department states that fees included in the original rules have not been changed in the new combined rule.

Negotiated Rulemaking / Fiscal Impact

Negotiated rulemaking was conducted.

Statutory Authority

The rulemaking appears to be authorized pursuant to Sections 22-1907, 22-2004, 22-2006, 22-2403, and 22-2412, Idaho Code.

3. IDAPA 02.06.10 - Rules Governing the Growing of Potatoes (New Chapter, Fee Rule)

Summary and Stated Reasons for the Rule

The Idaho State Department of Agriculture submits notice of proposed rule at IDAPA 02.06.10 - Rules Governing the Growing of Potatoes. This is a new chapter and a fee rule. According to the department, there are four rules that are administered by it related to the regulation of the planting and growing of potatoes, so as to prevent the spread of pests and disease of potatoes and their impacts on potato production. The department states that in order to streamline and simplify rules related to potato production, it proposes to combine all four rules into a single rule. The department adds that no substantive changes are being made to the four 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 states that the rule, in its entirety, regulates an activity not regulated by the federal government.

The department states that fees included in the original rules have not been changed in the new combined rule.

Negotiated Rulemaking / Fiscal Impact

Negotiated rulemaking was conducted.

Statutory Authority

The rulemaking appears to be authorized pursuant to Sections 22-505, 22-1907, 22-2004, 22-2006, and 22-2013, 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
02.06.05 – RULES GOVERNING PLANT DISEASE AND QUARANTINES
DOCKET NO. 02-0605-1901 (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 Section 22-2004 and 22-2006, 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: Eleven rules administered by the ISDA are related to the regulation and quarantine of certain crops to prevent the spread of plant disease and pests. These rules are IDAPA 02.06.05, “Rules Governing Diseases of Hops,” IDAPA 02.06.11, “Rules Governing European Corn Borer,” IDAPA 02.06.15, “Rules Governing Peach Tree Diseases,” IDAPA 02.06.18, “Rules Governing Mint Rootstock and Clone Production,” IDAPA 02.06.20, “Rules Governing Grape Planting Stock,” IDAPA 02.06.24, “Rules Governing the Japanese Beetle,” IDAPA 02.06.32, “Rules Concerning the Anthracnose Disease of Lentil,” IDAPA 02.06.38, “Rules Governing Plum Curculio,” IDAPA 02.06.08, “Quarantine Rules Pertaining to Apples and Cherries,” IDAPA 02.06.07, “Rules Governing White Rot Disease of Onion,” and IDAPA 02.06.17, “Rules Governing the Disposal of Cull Onion and Potatoes.” These rules put in place a number of restrictions, as requested by the regulated industry, to ensure that quarantine and disease free areas within and outside the state of Idaho are maintained and protected. These rules were promulgated to carry out requirements described in Title 22, Chapters 19, 20 and 38, Idaho Code. In order to streamline and simplify rules related to plant disease and quarantines, the ISDA is proposing to combine all eleven rules into a single rule to be titled “**02.06.05, Rules Governing Plant Disease and Quarantines.**” No substantive changes are being made to the eleven 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: Fees included in the original rules (Rules Governing Diseases of Hops and Rules Governing Mint Rootstock and Clone Production) have not been changed in the new combined rule. Fees associated with these rules are imposed pursuant to Sections 22-107, 22-112 and 22-2006, 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, in its entirety, regulates an activity not regulated by the federal government.

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:

There is no change in fiscal impact as a result of this consolidation rulemaking.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted on September 18, 2019. The Notice of Intent to Promulgate Rules – 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: This section is not applicable, as there are no materials incorporated by reference in this rule.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Lloyd Knight, Administrator, at (208) 332-8664.

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. 02-0605-1901
(New Chapter)

02.06.05 – RULES GOVERNING PLANT DISEASE AND QUARANTINES

000. LEGAL AUTHORITY.

This chapter is adopted under legal authority of Sections 22-2004, and 22-2006, Idaho Code. ()

001. TITLE AND SCOPE.

01. Title. The title of this chapter is IDAPA 02.06.05, “Rules Governing Plant Disease and Quarantines.” ()

02. Scope. This rule establishes regulated pests, regulated products, regulated articles, control areas, quarantine areas and special permits for certain crops to prevent the spread of plant disease and pests. This rule will provide regional consistency for plant pest quarantines. ()

002. -- 009. (RESERVED)

010. DEFINITIONS.

The definitions set forth in Section 22-2005, Idaho Code, apply in the interpretation and enforcement of this rule. ()

SUBCHAPTER A – DISEASES OF HOPS

011. -- 111. (RESERVED)

112. REGULATED PESTS.

01. Verticillium Wilt. Plant Material infected with the disease caused by the fungus *Verticillium nonalfalfae* (formerly known as *Verticillium albo-atrum Reinke and Berth*) and any species or strains of the genus *Verticillium* pathogenic to hops. ()

02. Powdery Mildew. Plant Material infected with the disease caused by the fungus *Podosphaera macularis* (Wallr. Fr.), synonyms *Sphaerotheca macularis* (Wallr. Fr.) Lind and *Sphaerotheca humuli* (Burril) Lind. ()

03. Hop Stunt Viroid. Plant Material infected with the disease caused by the viroid *Hostuviroid hop stunt viroid* and all strains and genetic variants associated with the genus. ()

04. Ilarvirus Species. Plant Material infected with the disease caused by virus species within the Genus Ilarvis, including but not limited to Apple Mosaic Virus and Prunus Necrotic Ringspot Virus. ()

113. -- 119. (RESERVED)

120. REGULATED ARTICLES.

01. Plant Material. Plants and all plant parts of hops, except kiln dried cones. ()

02. Machinery. Machinery, vehicles, tools, equipment, trellis poles, wire, anchor irons, and any other appurtenances used in the culture and/or production of hops. ()

121. -- 129. (RESERVED)

130. QUARANTINE AREA.

All areas outside of the territorial borders of Idaho, Oregon, and Washington. ()

131. -- 139. (RESERVED)

140. RESTRICTIONS ON IMPORT.

No person may import restricted articles from the quarantined area into Idaho unless the person importing the regulated articles first obtains a special permit from the department as set forth in Section 160. ()

141. --149. (RESERVED)

150. MOVEMENT OF USED FARMING EQUIPMENT.

01. Clean and Free. Used farm equipment including, but not limited to, tillage equipment, vehicles, and hop yard appurtenances moving into Idaho from the quarantine area, must be clean and free of soil and plant material including, but not limited to, hop debris. ()

02. Requirements. Freedom from plant material and soil may be accomplished by washing, steam cleaning, and/or use of a disinfectant appropriately labeled for the purpose. ()

151. -- 159. (RESERVED)

160. SPECIAL PERMITS.

Any person(s) or agencies wishing to import covered commodities from the area under quarantine must apply in writing for a special permit as authorized by the director of the department. ()

01. Application. Application for special permits must list the prospective buyer and seller; the number, and origin of stock; location of proposed planting site; and any other relevant information. ()

02. Conditions. Special permits, when granted, may include such conditions as may be necessary to prevent disease establishment. All permitted material must be found free from regulated pests by the Clean Plant Center at Washington State University, Prosser, Washington, or an equivalent lab approved by the department. ()

161. -- 169. (RESERVED)

170. PEST DETECTION.

01. Inspection. If evidence of a regulated pest is detected by visual inspection, the Department, in cooperation with the University of Idaho, Department of Plant, Soil and Entomological Sciences, will perform laboratory procedures sufficient to determine the causal organism. ()

02. Consequences. Positive identification of the presence of Verticillium wilt, hop stunt viroid, ilar viruses, or powdery mildew virulently pathogenic to hops will result in loss of eligibility for sale or transfer for those rootstocks within the infected field. The director may also order that the infested area be removed from hop production and the soil be disinfested. ()

171. -- 179. (RESERVED)

180. AUTHORITY TO ENTER AND INSPECT.

The Director of the Idaho State Department of Agriculture or his designated agent is authorized to enter and inspect any and all hop plantings within the state of Idaho. ()

181. -- 189. (RESERVED)

190. FEES AND CHARGES.

01. Special Permits. For special permits for importation of hops from areas under quarantine, the fee will be sixty dollars (\$60) per permit. ()

02. General Fees and Charges. The fees and charges for inspection, certificates, and permits are as set forth in IDAPA 02.06.04, "Idaho Department of Agriculture, Rules Governing Plant Exports," Section 195. ()

191. -- 211. (RESERVED)

SUBCHAPTER B – WHITE ROT DISEASE OF ONION

212. REGULATED PEST.

Onion white rot (*Sclerotium cepivorum*). ()

213. -- 219. (RESERVED)

220. DESIGNATED COUNTIES.

Ada, Bingham, Blaine, Boise, Bonneville, Canyon, Cassia, Elmore, Gem, Gooding, Jefferson, Jerome, Lincoln, Madison, Minidoka, Owyhee, Payette, Power, Twin Falls, and Washington Counties, state of Idaho. ()

221. -- 229. (RESERVED)

230. REGULATED PRODUCTS.

Bulbs, sets, or seedlings of onion, garlic, leek, chive, shallot or other Allium species, including all ornamental Allium species, for planting purposes, and all machinery, tools, and equipment used in the production of Allium species. ()

231. -- 249. (RESERVED)

250. RULES GOVERNING SHIPMENTS.

01. Shipment for Planting Purposes. No person may import into the designated counties bulbs, sets or seedlings of onion, garlic, leek, chives, shallots or other Allium species, including ornamentals, for planting purposes except as provided in Subsections 250.02 through 250.04. ()

02. Designated Counties. Allium production within the designated counties shall be limited to production from seed, or from vegetative propagative material produced from seed within the designated counties. Bulbs, sets or seedlings of Allium species produced within the designated counties then exported from the designated counties for processing or other purposes cannot be returned to the designated counties for planting purposes. ()

03. Vegetative Propagative Material. Vegetative propagative material, produced under aseptic conditions, may be brought into the designated counties if an exemption is granted by the Director, or the Director's designated agent. ()

04. Allium Exemption. Bulbs, sets, or seedlings of Allium species, for planting purposes, produced in Malheur County, Oregon, and regulated by similar rules are exempt from the restrictions of Subsection 250.01. ()

05. Machinery, Tools and Equipment. Except as provided in Subsections 250.06 and 250.07, no person shall, in any manner, import or move into the designated counties any machinery, tools, or equipment that have been previously used in any manner on fields outside the designated counties where the host plants named in Section 230 have ever been cultivated. ()

06. Cleaning Machinery, Tools and Equipment. Machinery, tools, or equipment may be imported or moved into the designated counties if they are first steam cleaned and disinfested to the satisfaction of, and with the prior approval of, the Director. The cleaning shall include the complete removal of all soil by the use of steam under pressure. Disinfestation is accomplished as specified by the Director. For the purpose of Subchapter B, machinery, tools and equipment includes, but is not limited to, farm trucks, harvesters, and tillage equipment. ()

07. Exemptions. Machinery, tools or equipment utilized in Malheur County, Oregon, are exempt from the prohibition in Subsections 250.05 and 250.06. ()

08. Authority of Director. The Director may stop the movement into or within any designated county of any machinery, tools, or equipment that have not been cleaned and disinfested as provided for in Subsection 250.06 until such machinery, tools and equipment are so cleaned and disinfested. ()

251. -- 259. (RESERVED)

260. DISPOSITION OF VIOLATIONS.

Any plant material, plant products or machinery, tools or equipment, imported into any designated county in violation of Subchapter B shall immediately be sent out of the county and all counties specified in Section 220 or destroyed at the option and expense of the owner or owners, his or their agents and under the direction of the Director. ()

261. -- 269. (RESERVED)

270. INSPECTION AND CONTROL PROCEDURES.

01. Inspection. The Director may inspect any regulated product or regulated product planting areas within the designated counties during any time of the year to determine if the disease organism is present therein. If the Director finds that any of the regulated products enumerated in Section 230, whether or not being transported, or any fields are infested with the disease organism, the Director will, by written control order, delivered or mailed to the grower and/or land owner, direct the control of the infestation, and may, prior to issuance of the order, seize any infected regulated products that are separated from the land on which grown. ()

02. Movement. Movement of such regulated products within the designated counties or removal of such from the designated counties may be carried out only with the Director's prior approval and under the Director's

supervision. ()

03. Controls. Control methods used are only those approved by the Director and may include, but are not limited to, the following directives: ()

a. Any infected regulated products will be destroyed. ()

b. A directive that a specific part or all of any infested area will be taken out of Allium species production. ()

c. Any infested area will be fenced, properly diked to prevent runoff or irrigation or rainwater, and planted to an approved crop that will prevent soil erosion and will not require annual tillage. ()

d. The pasturing of animals on any infested area is prohibited. ()

e. Equipment, tools and machinery used on an infested area will be cleaned and disinfested prior to removal from said area. ()

271. -- 279. (RESERVED)

280. SPECIAL EXEMPTIONS.

The Director may, with the consent of the owner, allow use of an infested growing area as an experimental plot in cooperation with the University of Idaho for onion white rot research. ()

281. -- 309. (RESERVED)

SUBCHAPTER C – APPLE AND CHERRY PESTS

310. DEFINITIONS.

The definitions found in section 310 apply to the interpretation and enforcement of Subchapter C only: ()

01. Commercial Fruit. Fruit harvested from a commercial orchard and destined to a commercial processing plant, packing plant, or for retail or wholesale sales. ()

02. Commercial Orchard. An orchard in which fruit is grown for commercial purposes under accepted industry, university agricultural extension service, and regulatory guidelines. ()

03. Graded Culls. Apples that have failed to meet industry quality standards for fresh markets, yet meet industry quality standards for processing purposes. ()

04. Infested Area. An area where a regulated pest is known to be present and is capable of reproducing and maintaining a viable population. ()

05. Threatened with Infestation. The entire commercial orchard is threatened with infestation when an outside boundary is within one-half (1/2) mile of an established regulated pest even if a portion of the commercial orchard is beyond one-half (1/2) mile of an established regulated pest. ()

311. -- 319. (RESERVED)

320. REGULATED PESTS.

01. Apple Maggot (*Rhagoletis pomonella*). ()

02. Cherry Fruit Fly (*Rhagoletis cingulata* complex, including *R. indifferens* and *R. fausta*). ()

321. REGULATED ARTICLES.

01. Apple Maggot. All fresh fruit of apple (including crabapple), cherry (except cherries that are commercial fruit), hawthorn (haw), pear (except pears that are commercial fruit from California, Idaho, Oregon, Utah, and Washington), plum, prune, quince, and rose hips are regulated under quarantine for apple maggot. ()

02. Cherry Fruit Fly. All domestic and wild cherries and cherry trees. ()

322. --329. (RESERVED)

330. REGULATED AREAS - APPLE MAGGOT.

01. Non-Infested Areas -- Within Idaho. The entire counties of Canyon, Owyhee and Payette; portions of the counties of Gem and Washington lying south of the quarantine areas as outlined in Subsections 330.02.a. and 330.02.b. ()

02. Infested Areas -- Within Idaho. The following areas are declared by the director to be under quarantine for Apple maggot: the counties of Franklin, Oneida, Caribou, Ada, Boise and Gooding; and portions of Gem and Washington counties as outlined in Subsections 330.02.a. and 330.02.b. ()

a. Gem County Quarantine Area. Those portions of Gem county lying northerly of a line described as follows: Commencing at the Northwest corner of Section 3, T.7N, R.2W; thence East along section lines to the Northwest corner of Section 6, T.7N, R.1W; thence South along section lines to the Southwest corner of Section 7; thence East along section lines to the Northeast corner of Section 15, T.7N, R.1W; thence South along section lines to the middle of the main channel of the Payette River; thence easterly along said river to the East line of the county. ()

b. Washington County Quarantine Area. Those portions of Washington county lying northerly of a line described as follows. Commencing at the Snake River at the Southern boundary of T.12N, R.7W; thence East along section lines to the Southwest corner of Section 35, T.12N, R.5W; thence North along section lines to the Northwest corner of Section 23, T.12N, R.5W; thence East along section lines to the Northwest corner of Section 21, T.12N, R.4W; thence South along section lines to the Southwest corner of Section 33, T.12N, R.4W; thence East along section lines to the Southwest corner of Section 31, T.12N, R.1E; thence East along section lines to the East line of the county. ()

03. Infested Areas -- Outside of Idaho. All states or foreign countries or portion thereof where Apple maggot is known to occur. ()

331. -- 339. (RESERVED)

340. RESTRICTIONS - APPLE MAGGOT.

01. Certification Required. Regulated articles described in this quarantine that are produced in or shipped from infested areas are prohibited movement into or within the state of Idaho unless a certificate accompanies the shipment evidencing compliance with Subsections 340.03, 340.04, 340.05, or 340.07. No certificate is required for regulated articles meeting the requirements of Subsections 340.02 or 340.06. ()

02. Reshipments in Original Containers. Regulated articles in original unopened containers, each bearing labels or other identifying marks evidencing origin outside an infested area, may be reshipped to the regulated area from any point within the area under quarantine. ()

03. Repacked Regulated Articles. Regulated articles may be repacked and shipped by common carrier from any point within an infested regulated area provided that each lot or shipment is accompanied by a certificate stating that the regulated articles have been grown outside an infested regulated area and have had their identity continuously maintained while in an infested regulated area. The certificate shall contain the following information: ()

a. The county in which the regulated articles were grown. ()

- b.** The point of repacking and reshipment. ()
- c.** The amount and kind of regulated articles comprising the lot or shipment. ()
- d.** The names and addresses of the shipper and consignee. ()

04. Apples Exposed to Controlled Atmosphere Storage. Apples exposed for a continuous period of ninety (90) days, during which period the temperature within the storage room has been maintained at thirty-eight (38) degrees Fahrenheit or less, may be admitted into the regulated area, provided that the storage room or building is approved by the Director as a controlled atmosphere facility, and each lot or shipment of such apples to the regulated area is accompanied by a certificate, as provided in Subsection 340.01. ()

05. Shipments From Cold Storage. Regulated articles described in Subsection 321.01 that are held in cold storage for a continuous period of forty (40) days or more, during which period the temperature within the storage room is maintained at thirty-two (32) degrees Fahrenheit or less, may be admitted into the regulated area, provided that each lot or shipment is accompanied by a certificate as stated in Subsection 340.01 evidencing compliance with the minimum temperature requirements. ()

06. Solid Frozen Fruits Exempt. No restrictions are placed on the movement of fruits that upon arrival are frozen solid and that are under refrigeration to assure their solid frozen state. ()

07. Regulatory and Control Measures. Regulatory and control measures may be prescribed by the Director within designated areas to prevent or minimize the possible movement of Apple maggot from commercial orchards. When it has been determined that commercial fruit of apple (including crabapple), hawthorn (both native and ornamental), plum, prune, peach and apricot trees (except graded culls – see Subsection 340.07.b.iii.) may be infested with or threatened with infestation by Apple maggot, the fruit will be sampled by an investigator, following accepted industry procedures for sampling and inspection for presence of Apple maggot. ()

a. If found to be free from Apple maggot, a certificate as provided for in Subsection 340.01 will be issued. ()

b. If found to be infested with Apple maggot, one (1) or more of the following procedures will be prescribed before fresh fruit of apple (including crabapple) and hawthorn (both native and ornamental) are moved from designated or regulated areas. ()

- i.** Fresh fruit to be exposed to controlled atmosphere storage as provided in Subsection 340.04. ()
- ii.** Fresh fruit to be exposed to cold storage as provided in Subsection 340.05. ()
- iii.** Graded culls are subject to Subsections 340.07.b.i. or 340.07.b.ii. ()

08. Infested or Damaged Regulated Articles. All regulated articles as described in Section 321.01 known, or found to be infested with, or damaged by Apple maggot shall not be sold, held for sale, or offered for sale, except as provided for in Subsections 340.04 and 340.05. ()

341. -- 349. (RESERVED)

350. REGULATED AREAS - CHERRY FRUIT FLY.

01. Canyon County, Idaho. The following is hereby designated an area of mandatory control for Cherry fruit fly: Commencing at the corner common to Sections 22, 23, 26 and 27 of Township 4 North, Range 5 West, Boise, Meridian; thence South to the Snake River to the point formed by section line between Sections 11 and 14 in Township 2 North, Range 4 West, Boise, Meridian; then East along said section line projected to where said line meets Lake Lowell; thence northwesterly across Lake Lowell to a point on the section line between Sections 26 and 27 of Township 3 West, Range 3 North, Boise, Meridian where said line meets Lake Lowell; then North along said

section line to a point which is the corner common to Sections 10, 11, 14 and 15 of Township 3 North, Range 3 West, Boise, Meridian; thence West to a point, the west corner common to Sections 7, 12, 13 and 18, Township 3 North, Range 3 West Boise, Meridian; thence North to a point the east corner common to Sections 1 and 12, Township 3 North, Range 4 West, Boise, Meridian; thence West to a point the corner common to Sections 2, 3, 10 and 11, Township 3 North, Range 4 West, Boise, Meridian; thence North to a point which is the section corner common to Sections 26, 27, 34 and 35 of Township 4 North, Range 4 West, Boise, Meridian; thence West to a point which is the section corner common to Sections 27, 28, 33 and 34 of Township 4 North, Range 4 West, Boise, Meridian; thence North to a point which is the section corner common to Sections 21, 22, 27 and 28, Township 4 North, Range 4 West, Boise, Meridian; thence West to the point of beginning. ()

02. Gem County, Idaho. The following is hereby designated an area of mandatory control for Cherry fruit fly: Commencing at the corner common to Sections 4 and 5 of T. 6 N., R. 3 W. B. M. and Sections 32 and 33 of T. 7 N., R. 3 W., B. M., which corner is on the West line of Gem County, Idaho; thence South along said county line to a point which is the Southwest corner of Section 33 of T. 6 N., R. 3 W., B. M.; thence East along the South line of said Section 33 to its Southeast corner; thence North along the East line of said Section 33; and continuing North along the extension of said line to a point which is the corner common to Sections 15, 16, 22 and 23 of T. 6 N., R. 3 W., B. M.; thence East along the section line between Sections 15 and 22 of T. 6 N., R. 3 W., B. M. to a point on the division line between Ranges 2 and 3 W., T. 6 N., B. M.; thence South along the division line between the said Ranges 2 and 3 W., T. 6 N., B. M., to the East corner common to Sections 24 and 25, T. 6 N., R. 3 W., B. M.; thence East to a point which is the East corner common to Sections 19 and 30 of T. 6 N., R. 2 W., B. M.; thence South to a point which is the East corner common to Sections 30 and 31, T. 6 N., R. 2 W., B. M.; thence East along the section line between said Sections 30 and 31, extended to a point which is the East corner common to Sections 29 and 32, T. 6 N., R. 1 W., B. M.; thence North to a point which is the East corner common to Sections 20 and 29, T. 6 N., R. 1 W., B. M.; thence East to a point which is the East corner common to Sections 21 and 28, T. 6 N., R. 1 W., B. M.; thence North to a point which is the East corner common to Sections 16 and 21, T. 6 N., R. 1 W., B. M.; thence East to a point which is the East corner common to Sections 15 and 22, T. 6 N., R. 1 W., B. M.; thence North to a point which is the East corner common to Sections 8 and 10, T. 6 N., R. 1 W., B. M.; thence East to a point which is the East corner common to Sections 2 and 11, T. 6 N., R. 1 W., B. M.; thence North to a point which would be the East corner common to Sections 23 and 26, T. 7 N., R. 1 W., B. M.; thence West to a point which is the Northwest corner of Section 25, T. 7 N., R. 2 W., B. M.; thence South to a point which is the Northwest corner of Section 1, T. 6 N., R. 2 W., B. M.; thence West to the point of beginning. ()

351. -- 359. (RESERVED)

360. RESTRICTIONS - CHERRY FRUIT FLY.

01. Treatments Required. Each person, or person's agent, located in Cherry fruit fly regulated areas as stated in Section 350 shall treat, or cause to be treated at his own expense, each of the regulated articles as listed in Subsection 321.02 on their property in order to minimize the population of the Cherry fruit fly. ()

02. Chemical Treatments. Chemical treatments shall be carried out utilizing proper timing, methods and pesticides as recommended by the University of Idaho Cooperative Extension Service, approved for use on the commodity by the Environmental Protection Agency, and registered with the Idaho State Department of Agriculture. The regulated articles will be treated so as to effect the best control of the Cherry fruit fly, as per the pesticide label and University recommendations. ()

03. Emergence. The date of the emergence of the first Cherry fruit fly in the county will be made public in the Cherry fruit fly regulated areas by the Department. The date of first emergence is determined by historical evidence, a population model utilizing degree-day accumulations or by actual trapping of adult individuals. ()

04. Additional Spraying Responsibilities. The duty to treat cherry trees includes a similar duty to treat all parts of any type of tree within twenty (20) feet of any portion of a cherry tree, using methods specified in Subsection 360.02. ()

05. Failure to Treat. In the event that the person or person's agent fails or refuses to effect the treatment specified in Subsection 360.02, the Director will carry out the treatment at the expense of the person in

charge or possession of the tree(s), as provided under Section 22-2010, Idaho Code. ()

361. – 369. (RESERVED)

370. SPECIAL PERMITS.

The Director may issue special permits admitting regulated articles covered in this quarantine not otherwise eligible for entry from the area under quarantine, subject to conditions and provisions, that the Director may prescribe to prevent introduction, escape or spread of the quarantine pests. ()

371. -- 411. (RESERVED)

SUBCHAPTER D – EUROPEAN CORN BORER

412. REGULATED PEST.

European corn borer (*Ostrinia nubilalis*). ()

413. -- 419. (RESERVED)

420. AREA AND ARTICLES UNDER QUARANTINE.

01. Infested Area. ()

a. Alabama, Arkansas, Colorado, Connecticut, Delaware, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, New Hampshire, New Jersey, New York, North Carolina, North Dakota, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Vermont, Virginia, West Virginia, Wisconsin, Wyoming, and the District of Columbia. ()

b. In Florida, the counties of Calhoun, Escambia, Gadsden, Hamilton, Holmes, Jackson, Jefferson, Madison, Okaloosa, and Santa Rosa. ()

c. In Louisiana, the parishes of Bossier, Caddo, Concordia, East Carroll, Franklin, Madison, Morehouse, Natchitoches, Ouachita, Red River, Richland, Tensas, and West Carroll. ()

d. In Texas, the counties of Bowie, Carson, Castro, Dallam, Deaf Smith, Gray, Hansford, Hartley, Hemphill, Hutchinson, Lipscomb, Moore, Ochiltree, Oldham, Potter, Randall, Roberts, and Sherman. ()

02. Noninfested Area. All parishes, counties, states, districts, and territories of the United States not named in the infested area are known as the non-infested area. ()

03. Articles and Commodities Covered. ()

a. Corn, broomcorn, sorghum, and sudan grass plants and all parts thereof (including shelled grain and stalks, ears, cobs, and all other parts, fragments, or debris of said plants); ()

b. Beans in the pod and pepper fruits; ()

c. Plants of aster, chrysanthemum, geranium, hollyhock, dahlia, and gladiolus. ()

421. -- 429. (RESERVED)

430. RESTRICTIONS AND EXEMPTIONS.

01. Restrictions. ()

a. Articles and commodities covered are prohibited entry into Idaho from the infested area unless

accompanied by a certificate, issued by an authorized representative of the origin state Department of Agriculture, as provided below in Subsections 430.01.a.i. and 430.01.a.ii. ()

i. Shelled grain certificate of treatment stating that the grain has passed through a one-half (1/2) inch or smaller size mesh screen. ()

ii. Shelled grain not screened as in Subsection 430.01.a.i. or other articles and commodities certificate of processing and inspection specifying that all of the commodities and articles in the lot or shipment were processed and inspected in conformity with a method and in a manner prescribed by the Director, or the Director's agent. Such methods are obtainable on request from the Department. ()

iii. Articles and commodities covered originating in the parishes of Louisiana and the counties of Florida and Texas that are not infested with European corn borer may enter Idaho if accompanied by a certificate of origin issued by an authorized representative of the origin state Department of Agriculture specifying that no portion of the articles or commodities in the lot or shipment was grown in an area where the European corn borer is known to occur. Origin certification is not required for entry into Idaho of articles and commodities covered that originated in states, districts, and territories in the noninfested area. ()

b. All certificates must be dated and set forth the kind and quantity of articles or commodities constituting the lot or shipment covered thereby, the initials and number of the railway car or license number of the truck, and the names and addresses of the shipper and consignee. ()

02. Exemptions. Certification requirements are waived on the following articles and commodities covered, with the stipulation that such articles and commodities are subject to inspection by the Director and must be free of plant portions or fragments capable of harboring European corn borer. ()

a. Shelled popcorn, seed for planting or clean sacked grain for human consumption. ()

b. Beans in the pod or pepper fruits in lots or shipments of ten (10) pounds or less. ()

c. Seedling plants or divisions without stems of the previous year's growth of aster, chrysanthemum or hollyhock. ()

d. Dahlia tubers without stems. ()

e. Gladiolus corms without stems. ()

f. Very pungent types of pepper fruits. ()

g. Articles and commodities covered when they have been processed or manufactured in a manner that in the judgement of the Director eliminates all danger of carrying European corn borer. ()

h. The Director may, upon application, issue a permit to a recognized research agency to import specified quantities of the quarantined articles listed in Subsection 420.03 for experimental purposes. ()

431. -- 439. (RESERVED)

440. VIOLATIONS.

01. Incoming Shipments. ()

a. Any or all shipments of lots of the quarantined articles enumerated in Subsection 420.03 arriving in Idaho in violation of this quarantine shall immediately be sent out of the state, destroyed, or treated by a method and in a manner prescribed by the Director at the option and expense of the owner or owners, or responsible agents. ()

b. If any lot or shipment certified by the state of origin as prescribed in Subsection 430.01 is found to

contain materials capable of harboring an infestation, the Director may review the program of the state of origin to determine if it meets the requirements of Subchapter D. ()

441. -- 511. (RESERVED)

SUBCHAPTER E – PEACH TREE DISEASES

512. REGULATED PESTS.

The viral diseases known as Peach Yellows, Peach Rosette, and Little Peach. ()

513. -- 516. (RESERVED)

517. AREA UNDER QUARANTINE.

The entire states of Alabama, Arkansas, (except counties of Benton, Clark, Columbia, Garland and White), Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Kentucky, Maryland (except counties of Worcester and Somerset), Massachusetts, Michigan, Mississippi, New Jersey, New York, North Carolina, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, Tennessee, Virginia, West Virginia, and the District of Columbia. ()

518. -- 521. (RESERVED)

522. REGULATED ARTICLES.

All trees, cuttings, grafts, scions, or buds of all species and varieties including the flowering forms of peach, nectarine, apricot, almond, plum, and prune, and any trees budded or grafted on peach stock or peach roots, coming from a regulated area. ()

523. -- 531. (RESERVED)

532. RESTRICTIONS GOVERNING SHIPMENTS.

The regulated articles will not be admitted into Idaho from the regulated areas unless the state of origin certifies that they were produced in a county free from infection with the regulated pests, as determined by adequate annual surveys satisfactory to the Director, and from disease-free bud sources, rootstocks, and environs. ()

533. -- 541. (RESERVED)

542. OFFICIAL CERTIFICATE REQUIREMENTS.

The certificates required by Section 532 will state the names and addresses of the shipper and consignee, the number and kind of regulated articles in the shipments, and the area where grown. A copy of the certificate accompanies the shipment, and one (1) copy is forwarded at the time of shipment to the Division of Plant Industry, Idaho State Department of Agriculture, Boise, Idaho. ()

543. -- 551. (RESERVED)

552. EXEMPTIONS.

This quarantine does not apply to experiments of the United States Department of Agriculture in the state of Idaho nor to experiments of the College of Agriculture, Department of Pathology of the University of Idaho. ()

553. -- 556. (RESERVED)

557. PENALTY.

Any or all shipments or lots of the regulated articles enumerated in Section 522 arriving in Idaho in violation of this chapter shall immediately be sent out of the state or destroyed at the option and expense of the owner or owners, or responsible agents and under the direction of the Director. ()

558. -- 561. (RESERVED)

562. COMMON CARRIER AGENTS MUST HOLD SHIPMENTS.

Any and all lots of shipments of commodities covered by this quarantine must be held and not delivered to consignee or agent until inspected and passed by the Director. ()

563. – 609. (RESERVED)

SUBCHAPTER F – DISPOSAL OF CULL ONIONS AND POTATOES

610. DEFINITIONS.

The definitions found in section 610 apply to the interpretation and enforcement of Subchapter F only. ()

01. Cull Onions. Refers to those onions that are not marketable or useable for consumption or are generally considered waste, and includes the residue left in the field from the production of onion seed as well as commercial onions. ()

02. Cull Potatoes. Refers to those potatoes that are not marketable or useable for consumption or as seed potatoes and includes the residue left in the field from commercial or seed potato production, or as a result of spoilage while in storage. ()

611. -- 619. (RESERVED)

620. REGULATED AREA.

01. Onions. Ada, Canyon, Gem, Payette, Owyhee, and Washington Counties, state of Idaho. ()

02. Potatoes. The entire state of Idaho. ()

621. -- 629. (RESERVED)

630. REGULATED PRODUCTS.

01. Cull Onions. All cull onions produced as a result of market conditions, the grading process, or as a result of breakdown in storage or sorted out in the field during harvest and bulbs and waste left over from seed production. ()

02. Cull Potatoes. All cull potatoes produced as a result of market conditions, the grading process, or as a result of breakdown in storage, or sorted out in the field during harvest and tubers and waste left over from potato seed production. ()

631. -- 639. (RESERVED)

640. DISPOSITION OF CULL ONIONS.

All cull onions existing in the control area shall be disposed of by a method approved of in Section 641 of this rule, to prevent sprouting. Disposal of all existing cull onions and debris must be completed prior to March 15th, of each year; provided; however, that in the case of onions sorted on or after March 15th of each year, the cull onions resulting therefrom shall be disposed of within one (1) week after such sorting regardless of the disposal method. The Department only enforces the cull onion disposal portions of this rule from March 15th through July 1st of each year. ()

641. DISPOSAL METHODS.

To control the spread of the onion maggot and related onion diseases, all disposal methods listed in Section 641 must be carried out to the extent that control of the regulated pest(s) is achieved in order to be in compliance with Subchapter F. ()

01. Disposal by Covering in Dumps or Pits. ()

a. Cull onions disposed of by being dumped in pits shall be managed and covered as recommended by the University of Idaho Agricultural Extension Service. ()

b. Covering shall be accomplished by March 15th of each year or as provided in Section 640 of this rule. ()

02. Disposal by Feeding After March 15th of Each Year. ()

a. Sheep or goats shall be fed no more than fifty-three (53) pounds of cull onions per individual animal per day. Cull onions shall be fed from either bunks or by spreading throughout the pasture or feedlot. Cull onions may not be fed from piles. ()

b. Cattle may be fed a ration containing no more than twenty-five percent (25%) cull onions on a dry matter basis. ()

c. Onion debris shall be completely removed from feeding areas and buried under twelve (12) inches or more of onion-free soil by March 15th of each year. ()

d. In the case of residues of onion debris two (2) inches or less in depth, or onions tramped into the soil so that they cannot be removed, such areas shall be disked and plowed as deep as possible, and such that all onions and debris are buried under eight (8) inches or more of onion-free soil by March 15th of each year. ()

e. Feeding areas and areas where onions are buried shall be treated in the manner set out in Section 641. ()

f. Cattle and sheep being finished for market or dairy cattle shall not be fed forage or grains grown on feeding areas treated in the manner set forth in Section 641. ()

03. Disposal by Composting. Cull onions being composted shall be covered by twelve (12) inches or more of onion-free soil or composting material until the onions have turned to compost. ()

04. Disposal of Residue in Onion Producing Fields. ()

a. Commercial onion fields where sort-out bulbs are left at harvest shall be disked and plowed as deep as possible, and such that all onions and debris are buried under eight (8) inches or more of onion-free soil by March 15th of each year. ()

b. Following final seed harvest, seed bulbs shall be disked and plowed as deep as possible, and such that all onions and debris are buried under eight (8) inches or more of onion-free soil by March 15th of each year. ()

05. Disposal by Chopping or Shredding. Cull onions that have been chopped or shredded to the point that they are incapable of sprouting, shall be disked and plowed as deep as possible, and such that all onions and debris are buried under eight (8) inches or more of onion-free soil by March 15th of each year. ()

06. Disposal by Spreading. Cull Onions may be disposed of by being spread on agricultural fields destined to be planted to a crop other than onions provided the onions are disked and plowed as deep as possible, and such that all onions and debris are buried under eight (8) inches or more of onion-free soil. ()

642. INCLEMENT WEATHER.
If inclement weather prevents disposal by the methods in Subsections 641.01 through 641.06, culls shall be treated with an EPA-labeled insecticide at prescribed intervals as recommended by the University of Idaho Agricultural Extension Service until proper disposal as prescribed in Subsections 641.01 through 641.06 can be carried out. ()

643. (RESERVED)

644. NOTIFICATION REQUIRED.

Any person or entity delivering cull onions for disposal in the area regulated for cull onion disposal shall provide written notification to the recipient of those cull onions advising the recipient of this rule and the recipient's obligations for the disposal of the cull onions under this rule. If the recipient is not the property owner, written notification shall also be made to the owner of the property where the onions are to be disposed of. Failure to make such notification in writing is a violation of Subchapter F. ()

645. -- 649. (RESERVED)

650. DISPOSITION OF CULL POTATOES.

All cull potatoes existing west of the Raft River shall be rendered non-viable by April 15th of each year and all cull potatoes generated after April 15th shall be rendered non-viable on a daily basis until September 20th. All cull potatoes existing east of the Raft River shall be rendered non-viable by May 15th of each year and all cull potatoes generated after May 15th shall be rendered non-viable on a daily basis until September 20th. ()

651. CULL POTATO DISPOSAL METHODS.

Cull potatoes shall be disposed of in a manner as to render them non-viable. Disposal methods are those as recommended by the University of Idaho Agricultural Extension Service. ()

652. -- 659. (RESERVED)

660. AUTHORITY TO ENTER AND INSPECT.

The Director or Director's agents are authorized to enter and inspect all onion and potato cull dumps and disposal sites in the state of Idaho for the purpose of insuring compliance with Subchapter F. ()

661. – 709. (RESERVED)

SUBCHAPTER G - MINT ROOTSTOCK AND CLONE PRODUCTION

710. DEFINITIONS.

The definitions found in section 710 apply in the interpretation and enforcement of Subchapter G only: ()

01. Certified Defined Generation. The origin of mint rootstock is in the restricted area and its history may be directly traced, not to exceed five (5) generations, to its source as healthy clones. ()

02. Healthy Clones (HC). Those plants, which are cloned, having been cleansed, tested and maintained in an approved greenhouse and under the supervision of the state of origin's agricultural regulatory authority. The origin of all clones shall be listed on all clone transfer permits. ()

03. Nuclear Planting Stock (NPS). Those rootstocks originating from healthy clones. ()

04. Certified Defined Generation 1 (CDG-1). Those rootstocks one (1) generation removed from nuclear planting stock, and fulfilling the requirements as herein provided. ()

05. Certified Defined Generation 2 (CDG-2). Those rootstocks one (1) generation removed from CDG-1 planting stock and fulfilling the requirements as herein provided. ()

06. Certified Defined Generation 3 (CDG-3). Those rootstocks one (1) generation removed from CDG-2 planting stock and fulfilling the requirements as herein provided. ()

07. Certified Defined Generation 4 (CDG-4). Those rootstocks one (1) generation removed from CDG-3 planting stock and fulfilling the requirements as herein provided. ()

08. In-State Defined Generation. The roots have been grown in the commercial production area and their history may be directly traced, not to exceed five (5) generations, to their source as healthy clones. ()

09. In-State Defined Generation 1 (SDG-1). Those rootstocks one (1) generation removed from nuclear planting stock, and fulfilling the requirements as herein provided. ()

10. In-State Defined Generation 2 (SDG-2). Those rootstocks one (1) generation removed from SDG-1 or CDG-1 planting stock and fulfilling the requirements as herein provided. ()

11. In-State Defined Generation 3 (SDG-3). Those rootstocks one (1) generation removed from SDG-2 or CDG-2 planting stock and fulfilling the requirements as herein provided. ()

12. In-State Defined Generation 4 (SDG-4). Those rootstocks one (1) generation removed from SDG-3 or CDG-3 planting stock and fulfilling the requirements as herein provided. ()

13. Field. A parcel of land submitted to the department for inspection of the mint being grown thereon, and physically separated by a minimum of five (5) feet of bare ground, or irrigation ditch, or road, or other physically discernible barrier separating it from an adjacent parcel of land planted with mint. ()

711. (RESERVED)

712. REGULATED PESTS.

01. Diseases. Verticillium wilt (*Verticillium dahliae* Kleb) a persistent soil-borne fungal disease of mint and any virulently pathogenic, persistent disease known to be detrimental to the production of mint rootstock in the restricted area and the commercial production area. ()

02. Insects. ()

a. Restricted area as defined in Subsection 720.02: Mint stem borer (*Pseudobaris nigrina*), insect pests of mint rootstocks and any persistent insect pest known to be detrimental to the production of mint rootstocks and without effective control options. ()

b. Commercial production area as defined in Subsection 720.01: Mint stem borer (*Pseudobaris nigrina*), insect pest of mint rootstocks and any persistent insect pest known to be detrimental to the production of mint rootstocks and without effective control options. ()

03. Noxious Weeds. ()

a. In both the commercial production area and restricted area as defined in Subsections 720.01 and 720.02: those weeds declared noxious by authority of Title 22, Chapter 24, Idaho Code (Noxious Weed Law) and Rules. ()

b. Growers will be notified by the Department of existing noxious weed problems. If noxious weeds have not been effectively controlled as determined by the Department, prior to the second inspection, the field will be rejected for certification by the Department. ()

713. -- 714. (RESERVED)

715. REGULATED PRODUCTS.

01. Mentha. Rootstocks of all species of the genus *Mentha*. ()

02. Mentha Production Equipment. Machinery, tools, and equipment used in the production of *Mentha* species. ()

716. -- 719. (RESERVED)

720. CONTROL AREAS.

To facilitate inspection and control, the land mass of the state of Idaho is divided into two (2) areas, currently defined as: ()

01. Commercial Production Area. Ada, Canyon, Elmore, Gem, Gooding, Payette, Owyhee, and Washington Counties. ()

02. Restricted Area. That land mass of the state of Idaho not included in the commercial production area. ()

a. Certified defined generation mint shall not be grown when the specific location is within five (5) miles of uncertified mint unless there are adequate physical and cultural barriers. ()

721. -- 729. (RESERVED)

730. REQUIREMENTS FOR MINT ROOTSTOCK TO BE PLANTED IN IDAHO.

01. Restricted Area as Defined in Subsection 720.02. ()

a. Healthy clones shall be accompanied by a phytosanitary certificate issued by a regulatory agency of the state of origin with zero (0) tolerance for regulated disease(s), insect(s) and noxious weed(s); or ()

b. Certified rootstock from the restricted area shall be accompanied by a certified defined generation transfer permit with the parent rootstock number and with zero (0) tolerance for stem borer, or insect(s) without effective control options (i.e. stem borer), regulated disease(s) and noxious weed(s). ()

02. Commercial Production Area. As defined in Subsection 720.01, has no restrictions except for those wishing to participate in the inspection program who will adhere to the following rules: ()

a. Healthy clones shall be accompanied by a phytosanitary certificate, issued by a regulatory agent of the state of origin with zero (0) tolerance for regulated disease(s), insect(s) and noxious weeds; or ()

b. Certified rootstock from the restricted area shall be accompanied by a certified defined generation transfer permit with the parent rootstock number, level of mint root borer infestation and zero (0) tolerance for stem borer, or, insect(s) without effective control options (i.e., stem borer) regulated disease(s) and weed(s); or ()

c. In-state defined generation rootstock from the commercial production area shall be accompanied by a transfer permit with the parent rootstock number, level of mint root borer infestation and zero (0) tolerance for stem borer, regulated disease(s) and weed(s). ()

731. -- 739. (RESERVED)

740. INSPECTION PROCEDURES.

01. Inspection Requests. All requests for inspection shall be made prior to May 1 of each year on forms provided by the Department. ()

a. Incomplete applications for inspection will not be accepted. ()

b. No application for field inspection will be accepted after June 1 of each year except in the case of healthy clones. ()

02. First Field Inspection. Mint fields submitted for inspection will be inspected during active growth prior to oil harvest, but not earlier than the third week of July and not later than the first week of August, by the Idaho Department of Agriculture inspector. The inspection protocol is as follows: ()

a. Inspectors will walk the entire field at ten (10) row intervals. ()

b. The inspector will wear rubber boots that are sanitized between each field. A ten percent (10%) solution of sodium hypochlorite will be used to sanitize boots. ()

- c.** The site of any sample taken for a Verticillium wilt determination will be marked. ()
- d.** Fields found with Verticillium wilt during the first inspection will result in the entire field being disapproved and permanently ineligible for certification purposes by the Department. ()
- 03. Second Field Inspection.** Mint fields submitted for inspection will be sampled after oil harvest or removal of foliage in early to mid September for the presence of the mint root borer. The sampling protocol is as follows: ()

 - a.** Three (3) samples per five (5) acres will be collected. ()
 - b.** Sampling sites will include areas of plant stress. ()
 - c.** In each sampling site one (1) square foot samples of mint roots and two (2) to three (3) inches of soil will be selected. ()
 - d.** The mint roots and the soil in each sample will be examined for evidence of regulated pests. ()
 - e.** The site of any sample taken will be appropriately marked. ()
 - f.** Fields found with Verticillium wilt during the second inspection will result in the entire field being disapproved by the Department and permanently ineligible for certification purposes, by the Department. ()
 - g.** Fields with stem borer or other insects without control options (i.e., stem borer), will be disapproved by the Department for certification but, if proven clean at a later date, could again be considered for certification. ()
- 04. Notification of Infestation.** The Idaho Department of Agriculture will notify the grower immediately upon the completion of any test results for regulated pest(s). ()
- 05. Issuance of Certified Defined Generation and In-State Defined Generation Transfer Permits.** ()

 - a.** Restricted area as defined in Subsection 740.02: a certified defined generation transfer permit with the parent rootstock number will be issued for rootstock that meets the following requirements: ()

 - i.** Roots shall be grown in restricted areas. ()
 - ii.** Field submitted and inspected per Subsections 740.01 through 740.04. ()
 - iii.** Zero (0) tolerance for regulated disease(s), insect(s) without effective control options (i.e., stem borer), and noxious weed(s). ()
 - iv.** Levels of mint root borer infestation will be listed in the transfer permit. ()
 - b.** Commercial production area as defined in Subsection 720.01: an in-state defined generation transfer permit with the parent rootstock number and level of mint root borer infestation issued for rootstock that meets the following requirements: ()

 - i.** Field submitted and inspected per Subsections 740.01 through 740.04. ()
 - ii.** Zero (0) tolerance for regulated disease(s), insect(s) without effective control options (i.e., stem borer), and noxious weed(s). ()
 - iii.** Levels of mint root borer infestation will be listed in the transfer permit. ()
- 06. Exemptions -- Issuance of In-State Transfer Numbers.** ()

a. Restricted area as defined in Subsection 720.02: rootstock found to be infested with noxious weed(s), shall not be eligible for a certified defined generation transfer permit for the current year. The Department of Agriculture will issue an in-state transfer number to allow the grower to plant rootstock within their farm for the purpose of controlling the infestation. The field must be submitted for inspection per Subsections 740.01 through 740.04. If the rootstock is found to be free of the noxious weed(s), the rootstock will be eligible for a certified defined generation transfer permit with parent rootstock number. The eligible rootstock will be assigned a certified defined generation transfer permit with parent rootstock number corresponding to the next generation had it not been denied certification the previous year. Rootstock denied certification two consecutive years shall not be eligible for future certification. ()

b. Commercial production area as defined in Subsection 720.01: rootstock found to be infested with a noxious weed(s) or insect(s) shall not be eligible for an in-state defined generation transfer permit for the current year. The Department of Agriculture will issue an in-state transfer number to allow the grower to plant the rootstock within their farm for the purpose of controlling the infestation. The field must be submitted for inspection per Subsections 740.01 through 740.04. If the rootstock is found to be free from the noxious weed(s) the rootstock will be eligible for an in-state defined generation transfer permit with parent rootstock number. The eligible rootstock will be assigned an in-state defined generation transfer permit corresponding to the next generation had it not been denied certification the previous year. Rootstock denied certification two consecutive years is not eligible for future certification. ()

07. Laboratory Tests. In the event visual examination reveals evidence of a regulated pest, laboratory tests, if necessary to determine the causal organism, will be conducted by the Idaho Department of Agriculture laboratory on official samples in addition to the field inspection. In the case of a disagreement between the state Department of Agriculture and the interested party concerning the identity of the regulated pest in question, the state Department of Agriculture will submit an official sample to any lab of the University of Idaho, for a final determination. ()

08. Transfer Permits and Resale. ()

a. It is the responsibility of each grower producing certified or in-state defined generation mint rootstock originating within the state to obtain transfer permits from the Department prior to moving planting stocks for resale. ()

b. Each time a transfer permit is issued, the Idaho Department of Agriculture will send a copy and/or notification to the office of the Idaho Mint Commission. ()

741. MOVEMENT OF FARM EQUIPMENT.

Farm equipment, including but not limited to tillage equipment, planters and digging equipment moving from the infested area into the restricted area shall be clean and free of soil to the satisfaction of the Director or the Director's designated agent. ()

742. -- 744. (RESERVED)

745. GREENHOUSES.

Greenhouses shall be screened and tightly constructed to preclude the entry of any regulated insect or noxious weed as defined in Subsections 712.02 and 712.03 above. Planting media shall be sterilized prior to planting, and not re-used for planting of any mint destined to be entered in the mint certification process as outlined in this rule. Greenhouses shall be disinfected annually with a ten percent (10%) sodium hypochlorite solution and licensed as such under Chapter 23, Title 22, Idaho Code. ()

746. -- 749. (RESERVED)

750. POSTING OF FIELDS.

01. Posting. All mint fields within the restricted area shall be posted to prevent entry of unauthorized personnel. ()

02. Approval by Department. Signs and method of placement shall be of a type and manner approved by the Department with the advice of the Idaho Mint Commission. ()

751. -- 759. (RESERVED)

760. AUTHORITY TO ENTER, INSPECT, AND CONTROL REQUIREMENTS.

01. Agent Authorization. The Idaho Director of Agriculture or the Director's designated agents are authorized to enter and inspect any and all mint plantings in the restricted area and any and all mint plantings that have been submitted for inspection. ()

02. Submission for Inspection. Additionally, all mint planted in the restricted area shall be submitted to the Idaho Department of Agriculture for annual inspection. ()

761. -- 769. (RESERVED)

770. PENALTY.

Restricted area as defined in Subsection 720.02: any field of mint rootstock determined to be infected with a regulated pest including those without control options may be destroyed to eliminate the regulated pest by or at the expense of the grower or landlord. Except if the county, or any portion thereof, as determined by the Department, in which a field of mint rootstock determined to be infected with the regulated disease(s) or infested with insects without control options is to be made part of the commercial production area, then destruction of the field shall not be required. The method of destruction includes but is not limited to uprooting to expose and desiccate the rootstocks. All destruction must be completed by November 1st of each year. ()

771. -- 779. (RESERVED)

780. EXEMPTIONS.

01. Government Agencies. Subchapter G does not apply to any governmental agency growing mint in experimental plots approved by the Director of the Idaho Department of Agriculture and under the supervision of qualified plant scientists. ()

02. Private, Non-Commercial Home Use. These rules do not apply to species of the genus *Mentha* intended for private, non-commercial home use. However, species of the genus *Mentha* intended for private, non-commercial home use entering Idaho shall be accompanied by a phytosanitary certificate issued by the state of origin's department of agriculture certifying them free of pests and diseases listed under Section 712. ()

781. -- 789. (RESERVED)

790. FEES AND CHARGES.

Under provisions of Section 22-2006, Idaho Code, the fees and charges for inspections, certificates, and permits under Subchapter G are as follows: ()

01. Transfer Permits. For in-state sale or movement of certified or in-state defined generation rootstock: ten dollars (\$10) per permit. ()

02. Field Inspections. ()

a. Application for field inspection: five dollars (\$5) per field. ()

b. Field inspection, collection of samples and examination of samples will be assessed at a rate of fifteen dollars (\$15) per acre per inspection. ()

c. Travel costs and lodging will be charged according to established state rates and policy. ()

d. Every effort will be made to schedule field inspections to insure the most efficient use of travel

time. Charges for travel time will be charged on a prorated basis when more than one (1) farm is inspected during a trip. ()

791. -- 819. (RESERVED)

SUBCHAPTER H – GRAPE PLANTING STOCK

820. REGULATED AREAS.

All areas outside of the territorial borders of the state of Idaho. ()

821. -- 829. (RESERVED)

830. REGULATED COMMODITIES.

Planting stock of grape (*Vitis* species) including live plants, hardwood cuttings, softwood cuttings, rootstocks, and any other parts of the grape plant, except fruit, capable of propagation (except fruit). ()

831. REGULATED PESTS.

Regulated pests include, but are not limited to: ()

- 01. Grapevine Fanleaf Virus.** ()
- 02. Grapevine Leaf Roll - Associated Viruses.** ()
- 03. Red Blotch Virus.** ()
- 04. Grapevine Corky Bark Disease.** Which include, but may not be limited to: ()
 - a. Grapevine virus A.** ()
 - b. Grapevine virus B.** ()
- 05. Grape Phylloxera.** (*Daktulosphaira vitifoliae*); ()
- 06. Pierce's Disease.** As caused by the bacterium *Xylella fastidiosa*; ()
- 07. Vine Mealybug.** (*Planococcus ficus*) ()
- 08. Glassy-Winged Sharpshooter.** (*Homalodisca vitripennis*). ()
- 09. European Grapevine Moth.** (*Lobesia botrana*) ()
- 10. Xiphinema Index.** ()

832. -- 834. (RESERVED)

835. RULES GOVERNING SHIPMENTS.

01. Admittance into Idaho. Each shipment of a regulated article from a regulated area must be accompanied by a certificate issued by the state or country of origin's plant protection organization, stating that the grape planting stock to be imported has been certified in accordance with the regulations of an official grapevine certification program of the state or country of origin's plant protection organization, that includes annual inspections at all certification levels and testing at the foundation level for regulated pests and: ()

a. The grapevines, rootstock and/or softwood cuttings were grown in and shipped from an area known to be free from regulated pests; or ()

b. For small shipments (five hundred (500) or less) of un-rooted softwood cuttings, were individually inspected by an authorized inspector and were found to be free from regulated pests; or ()

c. The grapevines, rootstock or softwood cuttings were grown under a sterile soil-less media and treated with a soil or systemic insecticide and a hot water dip treatment, as outlined in Section 840 of this rule, proven to be effective against vine mealybug and any other pests that may be present on the roots; or ()

d. The grapevines, rootstock, and/or softwood cuttings were subject to one (1) of the two (2) treatments outlined in Section 840 of this rule, or such additional methods as may be determined to be effective and are approved by the director and were stored in a manner after treatment that would prevent re-infestation. ()

02. Marking Contents. All shipments of grape planting stock must be plainly marked with the contents on the outside of the package or container. ()

03. Shipment Notification. Persons shipping or transporting grape planting stock into this state from areas under regulation shall notify the department by electronic mail, regular mail or fax prior to shipment including the nature of the grape planting stock (such as live plants, hardwood cuttings, softwood cuttings, rootstocks, or other similar categories), the quantity in each shipment, the expected date of arrival, the name of the intended receiver and the destination. An official certificate issued by the plant protection organization of the state of origin certifying that the grapevines meet the requirements of this chapter must accompany the grape planting stock into the state. All treatments and inspections must have been witnessed or performed by an official of the state of origin's plant protection organization. ()

836. -- 839. (RESERVED)

840. ACCEPTABLE TREATMENTS.

01. Hot Water Treatment. Dormant, rooted grapevines or rootstock shall be washed to remove all soil or other propagative media by immersing in a hot water bath for a period of not less than three (3) minutes, nor more than five (5) minutes, at a temperature of not less than one hundred twenty-five degrees Fahrenheit (125° F.) or fifty-two degrees Celsius (52° C.), nor more than one hundred thirty degrees Fahrenheit (130° F.) or fifty-five degrees Celsius (55° C.) at any time during immersion; or ()

02. Fumigation. Grapevines, rootstock or softwood cuttings may be treated with a fumigant approved for the regulated pests. ()

03. Other Methods. Upon written application to the Director, variations to the above mentioned acceptable treatments or additional treatment methods may be considered. ()

841. -- 844. (RESERVED)

845. DISPOSITION OF COMMODITIES IN VIOLATION OF RULES.

Any commodity set forth in Section 835 of Subchapter H or any grape plants or parts thereof, not meeting the requirements of Subchapter H shall immediately be sent out of the state of Idaho or destroyed at the option and expense of the owner or owners, or responsible agents and under the direction of the Director. ()

846. -- 849. (RESERVED)

850. AUTHORITY TO ENTER, INSPECT, AND CONTROL.

01. Entry and Inspection. The Director is authorized to enter and inspect any or all grape plantings in the state of Idaho. ()

02. Control and Destruction of Infected Plants. Whenever the Director finds that there is imminent peril that virus diseases or plant pests will spread from infected grape plantings to and contaminate other uninfected grape plantings because of refusal, failure, or neglect to control the already infected grape plantings, the Director may at once give notice in writing to control or destroy in part or total the infected grape plantings under the provisions of

Title 22, Chapter 20, Idaho Code, and may thereafter, if necessary, proceed to destroy such infected grape plantings under the terms and provisions of Title 22, Chapter 20, Idaho Code. ()

851. – 854. (RESERVED)

SUBCHAPTER I – JAPANESE BEETLE

855. REGULATED PEST.

Japanese beetle (*Popillia japonica*). ()

856. -- 859. (RESERVED)

860. AREAS UNDER QUARANTINE.

01. States. The entire states of Alabama, Connecticut, Delaware, Georgia, Illinois, Indiana, Kentucky, Maine, Maryland, Massachusetts, Michigan, Minnesota, Missouri, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Vermont, Virginia, West Virginia, and the District of Columbia. ()

02. Canada. In Canada: ()

a. In the Province of Ontario: Lincoln, Welland and Wentworth. ()

b. In the Province of Quebec: Missiquoi and St. Jean. ()

03. Other Areas. Any areas not mentioned above and subsequently found to be infested. ()

861. -- 869. (RESERVED)

870. ARTICLES AND COMMODITIES UNDER QUARANTINE.

01. Possible Hosts and Carriers. The following are hereby declared to be hosts and possible carriers of the Japanese beetle: ()

a. Soil, humus, compost, and manure (except when commercially packaged); ()

b. All plants with roots (except bareroot plants free from soil); ()

c. Grass sod; ()

d. Plant crowns or roots for propagation (except when free from soil); ()

e. Bulbs, corms, tubers, and rhizomes of ornamental plants (except when free from soil); ()

f. Any other plant, plant part, article, or means of conveyance when it is determined by the Director or authorized agent to present a hazard of spreading live Japanese beetle due to infestation or exposure to infestation by Japanese beetle. ()

02. Soil. For the purposes of this quarantine, soil is defined as all growing media in which the plants are actually rooted. Packing material other than soil, added to bareroot plants after harvesting would not normally pose a pest risk. Packing material would be covered under (Subsection 930.01.f.), at the inspector's discretion. ()

03. Free from Soil. For the purposes of this quarantine, free from soil is defined as soil in amounts that could not contain concealed Japanese beetle larvae or pupae. ()

871. -- 879. (RESERVED)

880. RESTRICTIONS.

All articles and commodities under quarantine are prohibited entry into Idaho from an area under quarantine with the following exceptions: ()

01. Certificate of Treatment. All of the articles and commodities covered are approved for entry into Idaho when accompanied by a certificate issued by an authorized state agricultural official at origin stating that the article or shipment was treated for Japanese beetle or grown in accordance with methods and procedures approved and prescribed by the Director. A Certificate of Treatment shall include the date of treatment. Shipment of the articles or commodities shall not take place sooner than ten (10) days after the date of treatment, but no later than thirty (30) days after treatment. ()

02. Certificate of Origin. Commercial plant shipments with soil may be shipped from an area under quarantine into Idaho provided such shipments are accompanied by a certificate issued by an authorized state agricultural official at origin. Such certificates shall be issued only if the shipment confirms fully with either Subsections 880.02.a., 880.02.b., or 880.02.c. of Subchapter I: ()

a. The greenhouse in which the plants were produced was tightly constructed so that adult Japanese beetles would not gain entry, the plants and greenhouses were inspected and found to be free from all stages of Japanese beetle, and the plants and soil were protected from subsequent infestation while being stored, packed and shipped; or ()

b. The plants were not produced in the regulated area, were transported into the regulated area in a closed conveyance or closed containers and at all times thereafter were protected from becoming infested with Japanese beetle; or ()

c. States or portions of states listed in the area under quarantine may have counties that are not infested with Japanese beetle. Shipments of articles and commodities covered will be accepted from these noninfested counties if annual surveys are made in such counties and the results of such surveys are negative for Japanese beetle. A list of counties so approved will be maintained by the Director. Agricultural officials of other states may recommend a noninfested county be placed on the approved county list by writing for such approval and stating how the surveys were made giving the following information: ()

i. Area surveyed. ()

ii. How survey was carried out. ()

iii. Personnel involved. ()

iv. If county was previously infested, give date of last infestation. ()

v. The recommendation for approval of such counties will be evaluated by the Department of Feeds and Plant Services, Division of Plant Industries, Idaho Department of Agriculture. ()

03. Denial of Approval. If heavy infestations occur in neighboring counties, approval may be denied. To be maintained on the approved list, each county will be reapproved every twelve (12) months. Shipments of articles and commodities under quarantine from noninfested counties will only be allowed entry into Idaho if the noninfested county has been placed on the approved list prior to the arrival of the shipment to Idaho. ()

04. Privately Owned House Plants. Up to twenty-five (25) privately owned house plants grown indoors may be inspected and approved for entry by the Director or Director's authorized agent if found free from Japanese beetle. ()

881. -- 889. (RESERVED)

890. PENALTY.

Any or all shipments or lots of quarantined articles or commodities listed in Section 870 above arriving in Idaho in

violation of this quarantine shall immediately be sent out of the state, destroyed, or treated by a method and in a manner as directed by the Director. Treatment shall be performed at the expense of the owner, or owners, or their duly authorized agent. ()

891. -- 919. (RESERVED)

SUBCHAPTER J - ANTHRACNOSE DISEASE OF LENTIL

920. REGULATED DISEASE.

The anthracnose disease of lentil, caused by the fungi identified as *Colletotrichum truncatum* (Schwein) Andrus & W.D. Moore and *Colletotrichum destructivum*. ()

921. -- 929. (RESERVED)

930. REGULATED PRODUCTS.

The seeds and vegetative parts of lentil, *Vicia sp.*, faba beans, peas, Tangier pea, vetch, and other host of the regulated disease. ()

931. -- 934. (RESERVED)

935. AREA UNDER QUARANTINE.

The Canadian provinces of Manitoba and Saskatchewan and all states and territories of the United States and foreign countries known to have confirmed the presence of the anthracnose of lentil. ()

936. -- 939. (RESERVED)

940. SHIPMENTS.

No person shall import any regulated products into Idaho for planting purposes from any area under quarantine. ()

941. -- 949. (RESERVED)

950. INSPECTION AND CONTROL PROCEDURES.

01. Inspection. The Department may inspect any regulated product or planting of regulated products during any time of the year to determine if the regulated disease is present therein. If the Department finds that any regulated product or planting of the same is infected or otherwise in violation of Subchapter J, it shall direct the control and/or the eradication of the infection. ()

02. Control. The control and/or the eradication methods shall be only those approved by the Director, at the expense of the owner, and may include but are not limited to: ()

a. Any infected regulated product will be destroyed. ()

b. The infected crop will be sprayed with fungicide(s) registered with the United States Environmental Protection Agency and the state of Idaho. ()

c. Any infested field will not be planted to any regulated products cited in Section 930. ()

d. Volunteer regulated products cited in Section 930 growing in any infested field shall be destroyed by a method(s) approved by the Director. ()

951. -- 959. (RESERVED)

SUBCHAPTER K - PLUM CURCULIO

960. REGULATED PEST.

Plum curculio (*Conotrachelus nenuphar* (Coleoptera: Curculionidae)). ()

961. -- 969. (RESERVED)

970. AREA UNDER QUARANTINE.

In the eastern United States and Canada, all states and provinces east of and including Manitoba, North Dakota, South Dakota, Nebraska, Kansas, Oklahoma and Texas. In Utah, Box Elder County. ()

971. -- 979. (RESERVED)

980. ARTICLES AND COMMODITIES COVERED.

01. Fresh Fruit of All Plants Listed Below: ()

a. Apple (*Malus spp.*); ()

b. Apricot (*Prunus armeniaca*); ()

c. Cherry, black (*P. serotina*); ()

d. Cherry, choke (*P. virginiana*); ()

e. Cherry, pin (*P. pensylvanica*); ()

f. Cherry, sand (*P. pumila*); ()

g. Cherry, sour (*P. cerasus*); ()

h. Cherry, sweet (*P. avium*); ()

i. Crabapple (*Malus spp.*); ()

j. Hawthorn or haw (*Crataegus spp.*); ()

k. Nectarine (*Prunus persica nectarina*); ()

l. Peach (*P. persica*); ()

m. Pear (*Pyrus communis*); ()

n. Plum, American (wild) (*Prunus alleghaniensis*); ()

o. Plum, beach (*P. maritima*); ()

p. Plum, European (*P. domestica*); ()

q. Plum, Japanese (*P. salicina*); ()

r. Prune (*P. spp.*); ()

s. Quince (*Cydonia oblonga*). ()

02. Soil. Soil or other growing medium within the drip zone of plants producing or that have produced fruit as listed in Subsection 980.01. ()

981. -- 989. (RESERVED)

990. RESTRICTIONS.

01. Certification Required. Articles and commodities covered that are produced in or shipped from the area under quarantine are prohibited entry into the state of Idaho unless each lot or shipment is accompanied by a certificate issued by and bearing the original or facsimile signature of the authorized agricultural official of the state from which the article or commodity is shipped evidencing compliance with Subsections 990.03, 990.04, 990.06 or 990.07 of Subchapter K. No certificate is required for commodities meeting the requirements of Subsections 990.02 or 990.05 of Subchapter K. ()

02. Reshipments in Original Containers from Area Under Quarantine of Commodities Grown Outside Thereof. Commodities in original unopened containers, each bearing labels or other identifying marks evidencing origin outside the area under quarantine, may be reshipped to this state from any point within the area under quarantine. ()

03. Repacked Commodities Admissible from Area Under Quarantine If Certified Grown Outside Thereof. Provided each lot or shipment is certified by an authorized agricultural official to have been grown outside the area under quarantine and that continued identity has been maintained while within the area under quarantine, the commodities may be repacked and shipped by common carrier from any point within the area under quarantine to this state. The certificate shall set forth the state in which commodities were grown, point of repacking and reshipment, amount and kind of commodities comprising the lot or shipment, and the names and addresses of the shipper and consignee. ()

04. Apples Exposed to Controlled Atmosphere (CA) Storage Admissible Under Certificate. Apples that are exposed to controlled atmosphere (CA) storage for a continuous period of ninety (90) days, during which period the temperature within the storage room is maintained at thirty-eight degrees Fahrenheit (38° F), three point three degrees Celsius (3.3° C) or less, may be admitted into Idaho provided said storage room or building is approved by the proper authorities in the state of origin as a controlled atmosphere facility and further provided each lot or shipment of such apples to Idaho is accompanied by a certificate, as stated in Subsection 990.01, evidencing compliance with the minimum requirements of this section. ()

05. Solid Frozen Fruits Exempt. No restrictions are placed by this rule on the entry into this state of fruits that upon arrival are frozen solid and that are under refrigeration to assure their solid frozen state. ()

06. Shipments from Cold Storage at Thirty-Two Degrees Fahrenheit (32° F), Zero Degrees Celsius (0° C). Commodities covered that are held in cold storage for a continuous period of forty (40) days or more, during which period the temperature within the storage room is maintained at thirty-two degrees Fahrenheit (32° F) zero degrees Celsius (0° C) or less, may be admitted into Idaho provided each lot or shipment is accompanied by a certificate, as stated in Subsection 990.01, evidencing compliance with the minimum requirements of Subsection 990.06. ()

07. Soil or Growing Media When Certified. Soil or growing media specified in Subsection 980.02 is admissible when certified as treated at origin in a manner approved by the Director. ()

991. -- 999. (RESERVED)

IDAPA 02 – DEPARTMENT OF AGRICULTURE
02.06.09 – RULES GOVERNING INVASIVE SPECIES AND NOXIOUS WEEDS
DOCKET NO. 02-0609-1901 (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 22-1907, 22-2004, 22-2006, 22-2403, and 22-2412, 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(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

Three rules administered by the ISDA are related to the regulation of noxious weeds and invasive species, so as to prevent the spread of such species and their impacts on natural resources and crops. These rules are IDAPA 02.06.09, “Rules Governing Invasive Species,” IDAPA 02.06.22, “Noxious Weeds Rules,” and IDAPA 02.06.31, “Noxious Weed Free Forage and Straw Certification Rules.” These rules were promulgated to carry out requirements described in Title 22, Chapters 19, 20, and 24, Idaho Code. In order to streamline and simplify rules related to noxious weeds and invasive species, the ISDA has decided to combine all three rules into a single rule to be titled “*02.06.09, Rules Governing Invasive Species and Noxious Weeds.*” No substantive changes are being made to the three 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: Fees included in the original rule (Noxious Weed Free Storage Rules, 02.06.31) have not been changed in the new combined rule. Fees associated with these rules are imposed pursuant to Section 22-2412, 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, in its entirety, regulates an activities not regulated by the federal government.

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: There is no change in fiscal impact as a result of this consolidation rulemaking.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted on September 18, 2019. The Notice of Intent to Promulgate Rules – 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:

Subchapter C of this Rule has incorporated the following document:

The NAISMA Weed Free Forage Minimum Certification Standards, as published at https://www.naisma.org/images/NAISMA_WFF_Minimum_Standards_10_17_2018_Approved_Changes.pdf.

The Standards are updated periodically for the purposes of standardizing the voluntary certification of forage and straw. NAISMA is a nationally recognized organization that periodically updates standards for certification of forage and straw. Incorporating this document by reference allows Idaho to be consistent with the latest certification requirements.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Lloyd Knight, Administrator, at (208) 332-8664.

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. 02-0609-1901
(New Chapter)

02.06.09 – RULES GOVERNING INVASIVE SPECIES AND NOXIOUS WEEDS

000. LEGAL AUTHORITY.

This chapter is adopted under the legal authority of Sections, 22-1907, 22-2004, 22-2006, 22-2403, and 22-2412, Idaho Code. ()

001. TITLE AND SCOPE.

01. Title. The title of this chapter is IDAPA 02.06.09, “Rules Governing Invasive Species and Noxious Weeds.” ()

02. Scope. This rule governs the designation of invasive species, inspection, permitting, decontamination, recordkeeping and enforcement and apply to the possession, importation, shipping, transportation, eradication, and control of invasive species. This rule identifies those noxious weeds that have been officially designated by the Director as Noxious Weeds in the state of Idaho, designates articles capable of disseminating noxious weeds, requires treatment of articles to prevent dissemination of noxious weeds and provides authority to designate cooperative weed management areas for management of noxious weeds. Also this rule governs the inspection, certification, and marking of noxious weed free forage and straw to allow for the transportation and use of forage and straw in Idaho and states where regulations and restrictions are placed on such commodities. ()

002. -- 109. (RESERVED)

SUBCHAPTER A – INVASIVE SPECIES

110. DEFINITIONS.

In addition to the definitions found in Section 22-1904 and 22-2005, Idaho Code, the following definitions apply in the interpretation and enforcement of Subchapter A only: ()

01. Acts. Title 22, Chapter 19, Idaho Code, the “Idaho Invasive Species Act of 2008” and Title 22, Chapter 20, the “Idaho Plant Pest Act of 2002.” ()

02. Aquatic Invertebrate Invasive Species. Those species listed in Section 140. ()

03. Control. The abatement, suppression, or containment of an invasive species or pest population. ()

04. Conveyance. A terrestrial or aquatic vehicle or a vehicle part that may carry or contain an invasive species or plant pest. A conveyance includes a motor vehicle, a vessel, a motorboat, a sailboat, a personal watercraft, a container, a trailer, or any other means or method of transportation. “Conveyance” also includes a live well or a bilge area. ()

05. Dreissenia Infested Waterbody. Body of water designated by the United States Geological Survey, <http://nas.er.usgs.gov/taxgroup/mollusks/zebramussel/>, or the Director as having a population of any life stage of Dreissenia mussels. ()

06. Early Detection/Rapid Response. Finding invasive species during the initial stages of colonization and then responding within ten (10) days. ()

07. Energy Crop Invasive Species. An Energy Crop Invasive Species is a non-native plant grown to harvest for use in making biofuels, such as bioethanol, or combusted for its energy content to generate electricity or heat. Energy Crop Invasive Species are non-native plants that are cultivated for the purpose of producing (non-food) energy. ()

08. Equipment. An article, tool, implement, or device capable of carrying or containing: ()

a. Water; or ()

b. An invasive species. ()

09. Facility. Any place, site or location or part thereof where a species listed as invasive pursuant to Subchapter A are found, handled, housed, held, planted, or otherwise maintained for purposes governed by a possession, production, or transport permit issued pursuant to Subchapter A and includes, but is not limited to all fields, plats, buildings, lots, structures, and other appurtenances and improvements on the land. ()

10. Possession. The act of cultivating, importing, exporting, shipping or transporting a listed invasive species in Idaho. Possession does not include the act of having, releasing or transporting a listed invasive species through circumstances beyond individual control, including but not limited to infestations in a water supply system, infestations resulting from natural spread of the species or some other acts of nature. ()

11. Trap Crop Invasive Species. A Trap Crop Invasive Species is a non-native plant species planted for purposes of controlling or eradicating a Plant Pest, as defined in the Idaho Plant Pest Act of 2002. ()

12. Water Body. Natural or impounded surface water, including a stream, river, spring, lake, reservoir, pond, wetland, tank and fountain. ()

13. Water Supply System. A system used to treat, store, convey, or distribute water for irrigation, industrial, waste water treatment, residential, or culinary use. A Water Supply System includes a pump, canal, ditch, regulating impoundment, in-canal forebay, pipeline, or associated wetland and water quality improvement project, but does not include a Water Body as defined in Subsection 110.12. ()

111. ABBREVIATIONS.

01. AIIS. Aquatic Invertebrate Invasive Species. ()

02. EDRR. Early Detection/Rapid Response. ()

03. HACCP. Hazard Analysis and Critical Control Points. ()

112. – 119. (RESERVED)

120. PROHIBITION ON POSSESSION, IMPORTATION, SHIPPING OR TRANSPORTATION OF INVASIVE SPECIES.

No person may possess, cultivate, import, ship, or transport any invasive species, including but not limited to an Energy Crop Invasive Species or Trap Crop Invasive Species, into or through the state of Idaho following the effective date of Subchapter A, unless the person possessing, importing, shipping or transporting has obtained a permit under Section 122, or unless otherwise exempt by Subchapter A, as set forth in Section 123. Prohibited acts include but are not limited to: ()

01. Possession or Transportation. Possessing, cultivating, importing, exporting, shipping, or transporting an invasive species into or through the state of Idaho. ()

02. Releasing. Releasing, placing, planting, or causing to be released, an invasive species in a water body, facility, water supply system, field, garden, planted area, ecosystem, or otherwise into the environment within the state of Idaho. ()

03. Transporting From an Infested Environment. Transporting a conveyance or equipment into or through the state of Idaho that has been in an infested environment without obtaining a Department-approved decontamination of the conveyance or equipment. ()

04. Transporting an Infested Article. Transporting, importing or shipping any plant, animal, mode of transportation, conveyance, or article that is infested with an invasive species into or through the state of Idaho without obtaining a Department-approved decontamination of the object. ()

121. INTRODUCTION OF NEW SPECIES TO THE STATE.

Following the effective date of Subchapter A, no person may introduce or import a species not previously present in Idaho without first receiving a determination from the Department that the species is not an invasive species. ()

122. POSSESSION PERMITS.

Possession of invasive species is authorized only if the person possessing the species obtains a possession permit. ()

01. Application for Possession Permits. Persons seeking a possession permit must make application on a form prescribed by the Director. A separate application must be submitted for each facility where invasive species will be possessed. The application must include: ()

a. The applicant's name, address (residence and mailing), and Employer or Tax Identification Number. ()

b. Description of the proposed facility, including: ()

i. A map identifying the location of the proposed facility; ()

- ii. The legal description of the real property for the proposed facility; ()
- iii. The approximate total area of the proposed facility; ()
- iv. A detailed diagram of proposed facility, ()
- v. A detailed confinement or HACCP Plan if applicable. ()
- c. Name and address of the owner(s) and/or operator(s) of the proposed facility, if different than the applicant. If the proposed facility will be leased, a written and notarized authorization by the property owner must be included. ()
- d. A copy of local zoning authority approval, if approval is required by the local zoning authority. ()
- e. Description of the invasive species to be possessed at the facility, including, to the extent possible, the genus, species, sex, life state, age, identification, and purpose for possessing each species. ()
- f. The date upon which the proposed facility will be available for inspection by the Department, which must be not less than seven (7) days prior to the time the invasive species are possessed at the proposed facility. ()

02. Application Process. The Director will consider all information in the application and issue a written decision granting or denying the application. In reviewing the application, the Director will consider factors including but not limited to: ()

- a. Proximity of the facility to agricultural operations, and environmentally sensitive lands and waters. ()
- b. Potential for access to the facility by unauthorized persons. ()
- c. Potential for vandalism, adverse weather, or other events that compromise the security of the facility. ()
- d. Potential for the invasive species to escape or be released from the facility. ()
- e. Whether, based on the applicant's certification and any other evidence received by the Director in connection with the application or proposed facility, all federal, state, county and city laws applicable to the facility have been met. ()
- f. Whether the applicant has adequate knowledge, experience and training to ensure that the invasive species will not harm agriculture, the natural resources and environment of the state of Idaho. Such experience may be documented by a log book, employment records, education records or other means by which experience may be authenticated. ()
- g. Whether the facility is or will be adequately designed, constructed, and managed to protect agriculture, the natural resources and environment of the state of Idaho from escape of the invasive species. ()
- h. Prior to issuing a possession permit, the Director or his designee may perform an inspection of the facility to determine if its design, construction and proposed operation is consistent with the applicable provisions of Idaho law. ()

03. Grant or Denial of the Permit. Following review of the application and any other relevant information, the Director will either issue the possession permit or deny the application and notify the applicant. If the Director issues the permit, he may include any necessary conditions to prevent release or escape of the invasive species, and to prevent harm to Idaho's agriculture, natural resources, and the environment. ()

04. Duration of Possession Permit. A possession permit is valid until the permitted person no longer possesses the invasive species, or until the invasive species leaves the state. ()

05. Permit Revocation. Permits issued pursuant to Subchapter A may be revoked at any time if the Director or Director's designee finds that the permit holder has violated any of the provisions of this Subchapter A, the Invasive Species Act, the Plant Pest Act, or any of the conditions included in the permit. ()

06. Disposition of Non-Permitted Invasive Species. The Director may order non-permitted or illegally imported invasive species to be removed from the state or destroyed. ()

07. Annual Report. All permit holders shall submit a report no later than January 1 of each calendar year, on forms provided by the Department. ()

123. EXEMPT SPECIES.

The following species were present in portions of the state of Idaho prior to adoption of Subchapter A of these Rules. However, they are not present throughout the state, and in accordance with the policy of the state of Idaho, as expressed in Idaho Code, Section 22-1902, the spread of these species should be prevented to the greatest extent possible. Therefore, the species listed below are exempt from the permit requirements of Sections 121 and 122 above. However, those seeking to transport the species listed in Section 123.01 outside the known established distribution area must obtain a transport permit in accordance with Section 123.03. ()

01. Exempt Species List: ()

a. New Zealand Mud Snail, *Potamopyrgus antipodarum*; ()

b. Bullfrog, *Lithobates catesbeianus*; ()

c. Asian Clam, *Corbicula fluminea*. ()

02. Location of Known Established Populations. Known established distributions of the New Zealand Mud Snail, Bullfrog, and Asian Clam are identified and mapped online at <http://nas.er.usgs.gov/queries>. ()

03. Transport Permits. Any person seeking to transport one of the species listed in Subsection 123.01, above, outside of the known established distribution boundaries delineated in Subsection 123.02, above, must obtain a transport permit that will be valid for five (5) years. For the purposes of Subchapter A, transport of these exempt species is assumed when biological organisms and associated water from aquaculture facilities and hatcheries is moved from known infested areas in the state. ()

04. Application for Transport Permits. Persons seeking a transport permit must make application on a form prescribed by the Director. A separate application must be submitted for each facility from which invasive species will be transported. The application must include: ()

a. The applicant's name, address (residence and mailing), and Employer or Tax Identification Number. ()

b. Description of the facility of origin, including: ()

i. A map identifying the location of the facility; ()

ii. The legal description of the real property for the facility; ()

iii. The approximate total area of the facility; ()

iv. A detailed diagram of facility, ()

v. A detailed HACCP Plan if applicable. ()

c. Name and address of the owner(s) and/or operator(s) of the facility, if different than the applicant. If the proposed facility will be leased, a written and notarized authorization by the property owner must be included. ()

d. Description of the invasive species to be transported from the facility, including the genus, species, sex, life state, age, and purpose for transporting the species. ()

e. Description of self-contained areas needing draining or discharges of water during or after the transport of invasive species. ()

f. Description of procedures to drain self contained areas after transport is complete, including: ()

i. Into a municipal water treatment facility; or ()

ii. Into an on-site waste treatment facility incorporating sand filtration and chlorination; or ()

iii. As approved by the Department. ()

124. ENERGY CROP POSSESSION/PRODUCTION PERMITS.

Possession and/or production of Energy Crop Invasive Species is authorized only if the person possessing the species obtains an Energy Crop Invasive Species Possession/Production Permit (“Energy Crop Invasive Species Permit”). ()

01. Application for Energy Crop Invasive Species Permits. Persons seeking an Energy Crop Invasive Species Permit must make application on a form prescribed by the Director. A separate application must be submitted for each facility or field where the Energy Crop Invasive Species will be possessed and/or produced. The application must include: ()

a. The applicant’s name, address (residence and mailing), and Employer or Tax Identification Number. ()

b. Description of the proposed facility, including: ()

i. A map identifying the location of the proposed facility or field; ()

ii. The legal description of the real property for the proposed facility or field; ()

iii. The approximate total area of the proposed facility or field; ()

iv. A detailed diagram of proposed facility or field; ()

v. A detailed confinement plan if applicable; and ()

vi. A detailed plan outlining survey and reconnaissance for escaped Energy Crop Invasive Species and a detailed plan for their control or elimination. ()

c. Name and address of the owner(s) and/or operator(s) of the proposed facility or field, if different than the applicant. If the proposed facility or field will be leased, a written and notarized authorization by the property owner must be included. ()

d. A copy of local zoning authority approval, if approval is required by the local zoning authority. ()

e. Description of the Energy Crop Invasive Species to be possessed at the facility or field, including, to the extent possible, the genus, species, sex, life state, age, identification, and purpose for possessing each species. ()

f. The date upon which the proposed facility or field will be available for inspection by the Department, which must be not less than seven (7) days prior to the time the Energy Crop Invasive Species are possessed at the proposed facility. ()

02. Application Process. The Director will consider all information in the application and issue a written decision granting or denying the application. In reviewing the application, the Director will consider factors including but not limited to: ()

a. Proximity of the facility to other agricultural operations, and environmentally sensitive lands and waters. ()

b. Potential for access to the facility or field by unauthorized persons. ()

c. Potential for vandalism, adverse weather, or other events that compromise the security of the facility or field. ()

d. Potential for the Energy Crop Invasive Species to escape or be released from the facility or field. ()

e. Whether, based on the applicant's certification and any other evidence received by the Director in connection with the application or proposed facility, all federal, state, county and city laws applicable to the facility or field have been met. ()

f. Whether the applicant has adequate knowledge, experience and training to ensure that the Energy Crop Invasive Species will not harm agriculture, the natural resources and environment of the state of Idaho. Such experience may be documented by a log book, employment records, education records or other means by which experience may be authenticated. ()

g. Whether the facility or field is or will be adequately designed, constructed, and managed to protect agriculture, the natural resources and environment of the state of Idaho from release or escape of the Energy Crop Invasive Species. ()

h. Prior to issuing an Energy Crop Invasive Species Permit, the Director or his designee may perform an inspection of the facility or field to determine if its design, construction and proposed operation is consistent with the applicable provisions of Idaho law. ()

03. Grant or Denial of the Permit. Following review of the application and any other relevant information, the Director will either issue the permit or deny the application and notify the applicant. If the Director issues the permit, he may include any necessary conditions to prevent release or escape of the Energy Crop Invasive Species, and to prevent harm to Idaho's agriculture, natural resources, and the environment. ()

04. Duration of Possession Permit. An Energy Crop Invasive Species Permit is valid for one (1) year. ()

05. Permit Revocation. Permits issued pursuant to this section may be revoked at any time if the Director or his designee finds that the permit holder has violated any of the provisions of Subchapter A, the Invasive Species Act, the Plant Pest Act, or any of the conditions included in the permit. ()

06. Disposition of Non-Permitted Invasive Species. The Director may order non-permitted or illegally imported Energy Crop Invasive Species to be removed from the state or destroyed. ()

07. Annual Report. All permit holders shall submit a report no later than January 1 of each calendar year, on forms provided by the Department. ()

125. TRAP CROP INVASIVE SPECIES PERMITS.

Production/research of Trap Crop Invasive Species is authorized only if the person possessing the species obtains a

Trap Crop Production/Research Permit (“Trap Crop Invasive Species Permit”). ()

01. Application for Trap Crop Invasive Species Permits. Persons seeking a Trap Crop Invasive Species Permit must make application on a form prescribed by the Director. A separate application must be submitted for each facility where Trap Crop Invasive Species will be researched or produced. The application must include: ()

a. The applicant’s name, address (residence and mailing), and Employer or Tax Identification Number. ()

b. Description of the proposed facility, including: ()

i. A map identifying the location of the proposed facility; ()

ii. The legal description of the real property for the proposed facility; ()

iii. The approximate total area of the proposed facility; ()

iv. A detailed diagram of proposed facility; ()

v. A detailed confinement plan if applicable; and ()

vi. A detailed plan outlining survey and reconnaissance for escaped plants and a detailed plan for their control or elimination. ()

c. Name and address of the owner(s) and/or operator(s) of the proposed facility, if different than the applicant. If the proposed facility will be leased, a written and notarized authorization by the property owner must be included. ()

d. A copy of local zoning authority approval, if approval is required by the local zoning authority. ()

e. Description of the Trap Crop Invasive Species to be possessed at the facility, including, to the extent possible, the genus, species, sex, life state, age, identification, and purpose for possessing each species. ()

f. The date upon which the proposed facility will be available for inspection by the Department, which must be not less than seven (7) days prior to the time the Trap Crop Invasive Species is possessed at the proposed facility. ()

02. Application Process. The Director will consider all information in the application and issue a written decision granting or denying the application. In reviewing the application, the Director will consider factors including but not limited to: ()

a. Proximity of the facility to agricultural operations, and environmentally sensitive lands and waters. ()

b. Potential for access to the facility by unauthorized persons. ()

c. Potential for vandalism, adverse weather, or other events that compromise the security of the facility. ()

d. Potential for the Trap Crop Invasive Species to escape or be released from the facility. ()

e. Whether, based on the applicant’s certification and any other evidence received by the Director in connection with the application or proposed facility, all federal, state, county and city laws applicable to the facility have been met. ()

f. Whether the applicant has adequate knowledge, experience and training to ensure that the Trap Crop Invasive Species will not harm agriculture, the natural resources and environment of the state of Idaho. Such experience may be documented by a log book, employment records, education records or other means by which experience may be authenticated. ()

g. Whether the facility is or will be adequately designed, constructed, and managed to protect agriculture, the natural resources and environment of the state of Idaho from escape of the Trap Crop Invasive Species. ()

h. Prior to issuing a Trap Crop Invasive Species Permit, the Director or his designee may perform an inspection of the facility to determine if its design, construction and proposed operation is consistent with the applicable provisions of Idaho law. ()

03. Grant or Denial of the Trap Crop Invasive Species Permit. Following review of the application and any other relevant information, the Director will either issue the Trap Crop Invasive Species Permit or deny the application and notify the applicant. If the Director issues the Trap Crop Invasive Species Permit, he may include any necessary conditions to prevent release or escape of the Trap Crop Invasive Species, and to prevent harm to Idaho's agriculture, natural resources, and the environment. ()

04. Duration of Trap Crop Invasive Species Permit. A Trap Crop Invasive Species Permit is valid for one (1) year. ()

05. Permit Revocation. Permits issued pursuant to this section may be revoked at any time if the Director or his designee finds that the permit holder has violated any of the provisions of this Subchapter A, the Invasive Species Act, the Plant Pest Act, or any of the conditions included in the permit. ()

06. Disposition of Non-Permitted Invasive Species. The Director may order non-permitted or illegally imported Trap Crop Invasive Species to be removed from the state or destroyed. ()

07. Annual Report. All permit holders shall submit a report no later than January 1 of each calendar year, on forms provided by the Department. ()

126. -- 129. (RESERVED)

130. EARLY DETECTION AND RAPID RESPONSE AQUATIC INVERTEBRATE INVASIVE SPECIES.

01. Statewide EDRR AIIS List. If any of the species listed in the following table are found to occur in Idaho, they shall be reported to the Department immediately. Positive identification will be made by the Department or other qualified authority as approved by the Director. Subsections 130.02 through 130.05 are applicable to EDRR AIIS only and not to other invasive species listed in Sections 140 through 148.

Early Detection Rapid Response Aquatic Invertebrate Invasive Species (EDRR AIIS) List	
Common Name	Scientific Name
Quagga Mussel	<i>Dreissenia bugensis</i>
Zebra Mussel	<i>Dreissenia polymorpha</i>

()

02. Transporting EDRR AIIS Over Public Roads. No person may transport Equipment or any Conveyance containing EDRR AIIS over public roads within the state of Idaho without first being decontaminated. ()

03. Contaminated Conveyances in Idaho Waters. No person may place any EDRR AIIS contaminated Equipment or Conveyance into any Water Body or Water Supply System in the state of Idaho. ()

04. Firefighting Equipment. Precautions should be taken to prevent the introduction and spread of EDRR AIIS through firefighting activities. All firefighting agencies moving equipment into the state of Idaho shall follow protocols similar to the United States Forest Service decontamination protocols set forth in “Preventing Spread of Aquatic Invasive Organisms Common to the Intermountain Region.” Those protocols can be viewed online at http://www.fs.usda.gov/detail/r4/landmanagement/resourcemanagement/?cid=fsbdev3_016113. ()

05. Construction and Road Building and Maintenance Equipment. Construction and equipment used for road building and maintenance must be free of EDRR AIIS. If equipment that is being transported into the state of Idaho has been in an infested water body or water supply system within the preceding thirty (30) days, the equipment must be inspected in accordance with Section 132. The Department may require decontamination. ()

131. REPORTING REQUIREMENTS.

01. Discovery. Any person who discovers an EDRR AIIS within the state or who has reason to believe that an invasive species may exist at a specific location shall immediately report the discovery to the Department. ()

02. Contents. The report shall, to the best of the reporter’s ability, contain the following information: location of the invasive species; date of discovery; and identification of any conveyance, equipment, water body, or host in or upon which the invasive species may be found. ()

03. Methods of Reporting. The report shall be made in person or in writing (which may include electronic mail) as follows: ()

- a. At any Department office or headquarters; ()
- b. To the Department’s toll free hotline at 1-877-336-8676; or ()
- c. Via the Department’s website at www.agri.idaho.gov. ()

04. Hold Harmless. Reporting parties will be held harmless from violations pursuant to this Subchapter A regarding possession of EDRR AIS. ()

132. INSPECTIONS.

01. Qualified Inspectors. Inspections to detect the presence of EDRR AIIS may be conducted by any authorized agent, private inspector or peace officer qualified and trained in accordance with the Department’s requirements. ()

02. Conveyances That Have Been in Infested Waters. All persons transporting a conveyance must receive documentation of an inspection prior to launching in any water of the state if the vessel has been in infested water within the last thirty (30) days. ()

03. All Other Conveyances. All conveyances are subject to inspection. All compartments, equipment and containers that may hold water, including, but not limited to live wells and ballast and bilge areas will be drained as part of all inspections. ()

04. Inspection Methods. Inspectors will determine if EDRR AIIS are present by interviewing the person transporting the conveyance and using visual and/or tactile inspection methods, or such other methods as may be appropriate and using forms supplied by the Department. ()

05. Inspection Results. Any authorized agent or private inspector or private decontaminator who, through the course of an inspection, determines that AIIS are present shall advise the operator that the conveyance is suspected of possessing EDRR AIIS and that it must be decontaminated according to Departmental procedures. ()

()

06. Decontamination. Any conveyance found or reasonably believed to contain EDRR AIIS shall be decontaminated in accordance with Section 134. ()

133. HOLD ORDERS.

01. Hold Order. If any person refuses to permit inspection or decontamination of his or her conveyance, that conveyance is subject to a hold order until the inspection and/or decontamination is complete. ()

02. Notification to Owner. If the person in charge of the conveyance is not the registered owner, the registered owner shall be notified by mail, return receipt requested, within five (5) days of the Hold Order. Such notification must also include Department contact information. If the registered owner is present when the Hold Order is issued, then the same information shall be provided to the registered owner at the time the order is issued. ()

03. Release of Hold Order. Decontamination and proof of decontamination, in accordance with Section 134, is necessary in order for the Hold Order to be released. The Hold Order must be released in writing, and may be released only by the Director or his designee. ()

134. EDRR AIIS DECONTAMINATION.

01. Decontamination Protocol. All decontamination must be accomplished by Department-approved service providers, using Department protocol. All decontamination methods must be in accordance with all applicable laws, disposal methods, recommended safety precautions, and safety equipment and procedures. ()

02. Reinspection. After decontamination, the Department or its authorized agent must re-inspect the conveyance to ensure complete decontamination prior to releasing the conveyance and any associated Hold Order. ()

03. Proof of Decontamination. Proof of decontamination will consist of a completed post-decontamination inspection form and application of a tamper-proof seal to the conveyance. ()

135. -- 139. (RESERVED)

140. INVASIVE SPECIES - AQUATIC INVERTEBRATES.

INVASIVE SPECIES - AQUATIC INVERTEBRATES		
	Common Name	Scientific Name
01.	Zebra Mussel	<i>Dreissenia polymorpha</i>
02.	Quagga Mussel	<i>Dreissenia bugensis</i>
03.	New Zealand Mud Snail	<i>Potamopyrgus antipodarum</i>
04.	Red Claw Crayfish	<i>Cherax quadricarinatus</i>
05.	Yabby Crayfish	<i>Cherax albidus/C. destructor</i>
06.	Marone Crayfish	<i>Cherax tenuimanus</i>
07.	Marbled Crayfish	<i>(Procambarus marmoratus)</i>
08.	Rusty Crayfish	<i>Orconectes rusticus</i>
09.	Asian Clam	<i>Corbicula fluminea</i>
10.	Spiny Waterflea	<i>Bythotrephes cederstroemi</i>

INVASIVE SPECIES - AQUATIC INVERTEBRATES		
	Common Name	Scientific Name
11.	Fishhook Waterflea	<i>Cercopagis pengoi</i>
12.	Marmorkrebs	<i>Procambarus</i> sp.

()

141. INVASIVE SPECIES - FISH.

INVASIVE SPECIES - FISH		
	Common Name	Scientific Name
01.	Green Sturgeon	<i>Acipenser medirostris</i>
02.	Walking Catfish	<i>Clariidae</i>
03.	Bowfin	<i>Ania Calva</i>
04.	Gar	<i>Lepiostidae</i>
05.	Piranhas	<i>Serrasalmus</i> spp., <i>Rosseveltella</i> spp., <i>Pygocentrus</i> spp.
06.	Rudd	<i>Scardinius erythrophthalmus</i>
07.	Ide	<i>Leuciscus idus</i>
08.	Diploid Grass Carp	<i>Ctenopharyngoden idella</i>
09.	Bighead Carp	<i>Hypophthalmichthys nobilis</i>
10.	Silver Carp	<i>Hypophthalmichthys molitrix</i>
11.	Black Carp	<i>Mylopharyngodeon piceus</i>
12.	Snakeheads	<i>Channa</i> spp., <i>Parachanna</i> spp.
13.	Round Goby	<i>Neogobius melanostomas</i>
14.	Ruffe	<i>Gymnocephalus cernuus</i>

()

142. INVASIVE SPECIES - AMPHIBIANS

TABLE 1:

INVASIVE SPECIES - AMPHIBIANS		
	Common Name	Scientific Name
01.	Rough-skinned Newt	<i>Taricha granulose</i>
02.	Bullfrog	<i>Lithobates catesbeianus</i>

()

143. INVASIVE SPECIES - REPTILES.

INVASIVE SPECIES - REPTILES		
	Common Name	Scientific Name
01.	Red-eared Slider	<i>Trachemys scripta elegans</i>
02.	Mediterranean Gecko	<i>Hemidactylus turcicus</i>
03.	Common Wall Lizard	<i>Podarcis muralis</i>
04.	Italian Wall Lizard	<i>Podarcis sicula</i>
05.	Brahminy Blindsnake	<i>Ramphotyphlops braminus</i>
06.	Snapping Turtle	<i>Chelydra serpentina</i>

()

144. INVASIVE SPECIES - BIRDS.

INVASIVE SPECIES - BIRDS		
	Common Name	Scientific Name
01.	Monk Parakeet	<i>Myiopsitta monachus</i>

()

145. INVASIVE SPECIES - MAMMALS.

INVASIVE SPECIES - MAMMALS		
	Common Name	Scientific Name
01.	Nutria	<i>Myocastor coypus</i>

()

146. INVASIVE SPECIES - INSECTS.

INVASIVE SPECIES - INSECTS		
	Common Name	Scientific Name
01.	Asian Longhorned Beetle	<i>Anoplophora glabripennis</i>
02.	Citrus Longhorned Beetle	<i>Anoplophora chinensis</i>
03.	Emerald Ash Borer	<i>Agrilus planipennis</i>
04.	Marmorated Stink Bug	<i>Halyomorpha halys</i>
05.	European Woodwasp	<i>Sirex noctilio</i>
06.	European Gypsy Moth	<i>Lymantria dispar</i>
07.	Asian Gypsy Moth	<i>Lymantria dispar</i>
08.	Soybean Aphid	<i>Aphis glycines</i>

INVASIVE SPECIES - INSECTS		
	Common Name	Scientific Name
09.	Potato Tuber Moth	<i>Tecia solanivora</i>
10.	Japanese Beetle	<i>Popillia japonica</i>
11.	Mexican Bean Beetle	<i>Epilachna varivestis</i>
12.	Kaphra Beetle	<i>Trogoderma granarium</i>
13.	Red Imported Fire Ant	<i>Solenopsis invicta</i>
14.	Glassy-winged Sharpshooter	<i>Homalodisca vitripennis</i>
15.	Grape Phylloxera	<i>Daktulosphaira vitifoliae</i>
16.	Vine Mealybug	<i>Planococcus ficus</i>
17.	Summer Fruit Tortix	<i>Adoxophyes orana</i>
18.	Silver Y Moth	<i>Autographa gamma</i>
19.	False Codling Moth	<i>Cryptophlebia leucotreta</i>
20.	Light Brown Apple Moth	<i>Epiphyas postvittana</i>
21.	Apple Tortrix	<i>Archips fuscocupreanus</i>
22.	Pine Shoot Beetle	<i>Tomicus piniperda</i>
23.	Cherry Bark Tortrix	<i>Enarmonia formosana</i>
24.	Apple Ermine Moth	<i>Yponomeuta malinellus</i>
25.	Cherry Ermine Moth	<i>Enarmonia formosana</i>
26.	European Grape Vine Moth	<i>Lobesia botrana</i>
27.	European Grape Berry Moth	<i>Eupoecilia ambiguella</i>
28.	Plum Fruit Moth	<i>Cydia funebrana</i>
29.	Plum Curculio	<i>Conotrachelus nenuphar</i>
30.	Leek Moth	<i>Acrolepiopsis assectella</i>
31.	Bee Mite	<i>Tropilaelaps clareae</i>
32.	Small Hive Beetle	<i>Aethina tumida</i>
33.	Africanized Honey Bee	<i>Apis mellifera</i>
34.	Black Currant Gall Mite	<i>Cecidophyopsis ribis</i>
35.	Exotic Bark Beetles	(Scolytidae): a. <i>Scolytus mali</i> . b. <i>Xylosandrus crassiusculus</i> . c. <i>Xylosandrus germanus</i> . d. <i>Xyleborus californicus</i> .
36.	Sunni Bug	<i>Eurygaster integriceps</i>
37.	German Yellowjacket	<i>espula germanica</i>
38.	European Paper Wasp	<i>Polistes dominulus</i>
39.	European Elm Bark Beetle	<i>Scolytus multistriatus</i>

INVASIVE SPECIES - INSECTS		
	Common Name	Scientific Name
40.	Banded Elm Bark Beetle	<i>Scolytus schevyrewi</i>
41.	Wheat Blossom Midge,	<i>Sitodiplosis mosellana</i>
42.	Potato Tuberworm	<i>Phthorimeaea operculella</i>
43.	Pink Hibiscus Mealybug	<i>Maconellicoccus hirsutus</i>
44.	Bean Plataspid (Kudzu Bug)	<i>Megacopta cribraria</i>

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147. INVASIVE SPECIES - PLANT PATHOGENS AND PARASITIC NEMATODES.

INVASIVE SPECIES - PLANT PATHOGENS AND PARASITIC NEMATODES		
	Common Name	Scientific Name
01.	Phytophthora blight (nursery stock)	<i>Phytophthora ramorum</i> , <i>Phytophthora kernoviae</i>
02.	Karnal Bunt	<i>Tilletia indica</i>
03.	Bean Common Mosaic Necrosis Virus (strain NL-3 and NL-5)	
04.	Potato Wart	<i>Synchytrium endobioticum</i>
05.	Golden Nematode	<i>Globodera rostochiensis</i>
06.	Soybean Cyst Nematode	<i>Heterodera glycines</i>
07.	Bacterial Wilt of Alfalfa	<i>Clavibacter michiganensis</i> spp. <i>insidiosus</i>
08.	Wheat Seed Gall Nematode	<i>Anguina tritici</i>
09.	Pine Wilt Nematode	<i>Bursaphelenchus xylophilus</i>
10.	Brown Rot of Potatoes	<i>Ralstonia solanacearum</i> , race 3, biovar 2 (alternate hosts include tomato, pepper, eggplant, and some greenhouse plants including geranium)
11.	Java Downy Mildew of Corn	<i>Peronosclerospora maydis</i>
12.	Philippine Downy Mildew of Corn	<i>Peronosclerospora philippenensis</i>
13.	Asian Soybean Rust	<i>Phakopsora pachyrhizi</i>
14.	Plum Pox Potyvirus	
15.	Cherry Leaf Roll Virus	
16.	Stewart's Wilt of Corn	<i>Pantoea stewartii</i>
17.	Brown Stripe Downy Mildew of Corn	<i>Sclerophthora rayssiae</i> var. <i>zeae</i> .
18.	Potato Spindle Tuber Viroid	
19.	Pierce's Disease of Grapes	<i>Xylella fastidiosa</i>

INVASIVE SPECIES - PLANT PATHOGENS AND PARASITIC NEMATODES	
Common Name	Scientific Name
20. Black Currant Reversion Disease	
21. Powdery Mildew of Hops	<i>Sphaerotheca macularis (s. humuli)</i>
22. Wheat Smut	<i>Tilletia tritici</i>
23. Wheat Scab	<i>Fusarium graminearum</i>
24. Potato Ring Rot	<i>Clavibacter michiganensis subsp. sepedonicus</i>
25. Potato Late Blight	<i>Phytophthora infestans</i>
26. Onion White Rot	<i>Sclerotium cepivorum</i>
27. White Pine Blister Rust	<i>Cronartium ribicola</i>
28. Potato Mop Top Virus, PMTV	
29. Black Stem Rust	<i>Puccinia graminis f.sp. tritici</i> Race UG99
30. Apple proliferation phytoplasma	<i>Candidatus Phytoplasma mali</i>

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148. INVASIVE SPECIES - INVASIVE MOLLUSKS (TERRESTRIAL SNAILS AND SLUGS).

INVASIVE SPECIES - INVASIVE MOLLUSKS (TERRESTRIAL SNAILS AND SLUGS)	
Common Name	Scientific Name
01. Green or Burrowing Snail	<i>Cantareus apertus</i>
02. Pulmonate Snail	<i>Helix pomatia</i>
03. White Garden Snail	<i>Theba pisana</i>
04. Giant African Snail	<i>Achatha fulica</i>
05. Lactea Snail	<i>Otala lactea</i>
06. Maritime Garden Snail	<i>Ceruella virgata</i>
07. Brown Garden Snail	<i>Cryptomphalus aspersa</i>
08. Wrinkled Snail	<i>Candidula intersepta</i>
09. Chinese Mysterysnail	<i>Bellamyia chinensis</i>
10. Japanese Mysterysnail	<i>Bellamyia japonica</i>
11. Applesnail	<i>Pomacea spp.</i>
12. Marisa	<i>Marisa cornuarietis</i>
13. Red-lipped Melania	<i>Melanoides tuberculata</i>
14. Quilted Melania	<i>Tarebia granifera</i>
15. Decollate Snail	<i>Rumina decollate</i>

INVASIVE SPECIES - INVASIVE MOLLUSKS (TERRESTRIAL SNAILS AND SLUGS)		
	Common Name	Scientific Name
16.	Faucet Snail	<i>Bithynia tentaculata</i>

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149. INVASIVE SPECIES - INVASIVE PLANTS: ENERGY CROPS.

INVASIVE SPECIES - INVASIVE PLANTS: ENERGY CROPS		
	Common Name	Scientific Name
01.	Giant Reed	<i>Arundo donax</i> (and hybrids)
02.	Switch Grass	<i>Panicum virgatum</i> (and hybrids)
03.	Kudzu	<i>Pueraria montana</i> (and hybrids)
04.	Chinese Silver Grass	<i>Miscanthus giganteus</i> (and hybrids)
05.	Purging Nut	<i>Jatropha curcus</i> (and hybrids)
06.	Cold Tolerant Eucalyptis (and hybrids)	

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150. INVASIVE SPECIES - INVASIVE PLANTS: TRAP CROPS.

INVASIVE SPECIES - INVASIVE PLANTS: TRAP CROPS		
	Common Name	Scientific Name
01.	Litchi Tomato	<i>Solanum sisymbriifolium</i> (and hybrids) (Otherwise known as Sticky Nightshade or Fire and Ice)
02.	Black Nightshade	<i>Solanum nigrus</i> (and hybrids)

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151. -- 209. (RESERVED)

SUBCHAPTER B – NOXIOUS WEEDS

210. DEFINITIONS.

In addition to the definitions found in Section 22-2402, Idaho Code, the definitions found in Section 210 apply in the interpretation and enforcement of Subchapter B only: ()

01. **Early Detection and Rapid Response (EDRR).** Finding invasive plant species during the initial stages of colonization and then responding within the same season to initiate eradication of the invasive plant species. ()

02. **Implements of Husbandry.** Every vehicle, including self-propelled units, designed or adapted and used exclusively in agricultural, horticultural, dairy and livestock growing and feeding operations when being incidentally operated as an implement of husbandry. Such implements include, but are not limited to, combines,

discs, dry and liquid fertilizer spreaders, cargo tanks, harrows, hay balers, harvesting and stacking equipment, pesticide applicator equipment, plows, swathers, mint tubs and mint wagons, and farm wagons. A farm tractor when attached to or drawing any implement of husbandry shall be construed to be an implement of husbandry. Implements of husbandry do not include semi trailers, nor do they include motor vehicles or trailers, unless their design limits their use to agricultural, horticultural, dairy or livestock growing and feeding operations. ()

03. Subtaxa(on). A supplementary piece of identifying information in a plant’s or animal’s scientific name. ()

211. ABBREVIATIONS.

01. CWMA. Cooperative Weed Management Area. ()

02. EDRR. Early Detection/Rapid Response. ()

03. ISDA. Idaho State Department of Agriculture. ()

212. -- 219. (RESERVED)

220. NOXIOUS WEEDS - DESIGNATIONS.

The weeds listed on the Statewide Prohibited Genera, EDRR, Containment, and Control lists are hereby officially designated and published as noxious. ()

01. Statewide Prohibited Genera Noxious Weed List. ()

a. All plants and plant parts in the generas of: *Cytisus*, *Genista*, *Spartium*, and *Chamaecytisus* additionally including “all” subtaxa of these plant genera are prohibited in Idaho. ()

b. Weeds listed in the Prohibited Genera list may exist in varying populations throughout the state. The concentration of these weeds is at a level where control and/or eradication may be possible. A written plan for weeds on the Statewide Prohibited Genera Noxious Weed List shall be developed by the control authority that specifies active control methods to reduce known populations in not more than five (5) years. The plan shall be available to the Department upon request. ()

02. Statewide EDRR Noxious Weed List. If any of the listed plants (Subsection 220.02) are found to occur in Idaho, they shall be reported to the Department within ten (10) days following positive identification by the University of Idaho or other qualified authority as approved by the Director. These weeds shall be eradicated during the same growing season as identified.

	Common Name	Scientific Name
1.	Brazilian Elodea	<i>Egeria densa</i>
2.	Common/European Frogbit	<i>Hydrcharis morsus-ranae</i>
3.	Fanwort	<i>Cobomba caroliniana</i>
4.	Feathered Mosquito Fern	<i>Azolla pinnata</i>
5.	Giant Hogweed	<i>Heracleum mantegazzianum</i>
6.	Giant Salvinia	<i>Salvinia molesta</i>
7.	Hydrilla	<i>Hydrilla verticillata</i>
8.	Iberian Starthistle	<i>Centaurea iberica</i>
9.	Policeman’s Helmet	<i>Impatiens glandulifera</i>
10.	Purple Starthistle	<i>Centaurea calcitrapa</i>

	Common Name	Scientific Name
11.	Squarrose Knapweed	<i>Centaurea triumfetti</i>
12.	Syrian Beancaper	<i>Zygophyllum fabago</i>
13.	Tall Hawkweed	<i>Hieracium piloselloides</i>
14.	Variable-Leaf-Milfoil	<i>Myriophyllum heterophyllum</i>
15.	Water Chestnut	<i>Trapa natans</i>
16.	Water Hyacinth	<i>Eichhornia crassipes</i>
17.	Yellow Devil Hawkweed	<i>Hieracium glomeratum</i>
18.	Yellow Floating Heart	<i>Nymphoides pelata</i>

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03. Statewide Control Noxious Weed List. Weeds listed in the control list are known to exist in varying populations throughout the state. The concentration of these weeds is at a level where control or eradication, or both, may be possible. A written plan for weeds on the Statewide Control Noxious Weed List shall be developed by the control authority that specifies active control methods to reduce known populations in not more than five (5) years. The plan shall be available to the Department upon request.

	Common Name	Scientific Name
1.	Black Henbane	<i>Hyoscyamus niger</i>
2.	Bohemian Knotweed	<i>Polygonum X bohemicum</i>
3.	Buffalobur	<i>Solanum rostratum</i>
4.	Common Crupina	<i>Crupina vulgaris</i>
5.	Common Reed (Phragmites)	<i>Phragmites australis</i>
6.	Dyer's Woad	<i>Isatis tinctoria</i>
7.	Eurasian Watermilfoil	<i>Myriophyllum spicatum</i>
8.	Giant Knotweed	<i>Polygonum sachalinense</i>
9.	Japanese Knotweed	<i>Polygonum cuspidatum</i>
10.	Johnsongrass	<i>Sorghum halepense</i>
11.	Matgrass	<i>Nardus stricta</i>
12.	Meadow Knapweed	<i>Centaurea debeauxii</i>
13.	Mediterranean Sage	<i>Salvia aethiopsis</i>
14.	Musk Thistle	<i>Carduus nutans</i>
15.	Orange Hawkweed	<i>Hieracium aurantiacum</i>
16.	Parrotfeather Milfoil	<i>Myriophyllum aquaticum</i>
17.	Perennial Sowthistle	<i>Sonchus arvensis</i>
18.	Russian Knapweed	<i>Acroptilon repens</i>
19.	Scotch Broom	<i>Cytisus scoparius</i>
20.	Small Bugloss	<i>Anchusa arvensis</i>

	Common Name	Scientific Name
21.	Vipers Bugloss	<i>Echium vulgare</i>
22.	Yellow Hawkweed	<i>Hieracium caespitosum</i>

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04. Statewide Containment Noxious Weed List. Weeds listed in the containment noxious weeds list are known to exist in various populations throughout the state. Weed control efforts may be directed at reducing or eliminating new or expanding weed populations while known and established weed populations, as determined by the weed control authority, may be managed by any approved weed control methodology, as determined by the weed control authority.

	Common Name	Scientific Name
1.	Canada Thistle	<i>Cirsium arvense</i>
2.	Curlyleaf Pondweed	<i>Potamogeton crispus</i>
3.	Dalmatian Toadflax	<i>Linaria dalmatica ssp. dalmatica</i>
4.	Diffuse Knapweed	<i>Centaurea diffusa</i>
5.	Field Bindweed	<i>Convolvulus arvensis</i>
6.	Flowering Rush	<i>Butomus umbellatus</i>
7.	Hoary Alyssum	<i>Berteroa incana</i>
8.	Houndstongue	<i>Cynoglossum officinale</i>
9.	Jointed Goatgrass	<i>Aegilops cylindrica</i>
10.	Leafy Spurge	<i>Euphorbia esula</i>
11.	Milium	<i>Milium vernale</i>
12.	Oxeye Daisy	<i>Leucanthemum vulgare</i>
13.	Perennial Pepperweed	<i>Lepidium latifolium</i>
14.	Plumeless Thistle	<i>Carduus acanthoides</i>
15.	Poison Hemlock	<i>Conium maculatum</i>
16.	Puncturevine	<i>Tribulus terrestris</i>
17.	Purple Loosestrife	<i>Lythrum salicaria</i>
18.	Rush Skeletonweed	<i>Chondrilla juncea</i>
19.	Saltcedar	<i>Tamarix sp.</i>
20.	Scotch Thistle	<i>Onopordum acanthium</i>
21.	Spotted Knapweed	<i>Centaurea stoebe</i>
22.	Tansy Ragwort	<i>Senecio jacobaea</i>
23.	White Bryony	<i>Bryonia alba</i>
24.	Whitetop (Hoary Cress)	<i>Cardaria draba</i>
25.	Yellow Flag Iris	<i>Iris pseudocorus</i>
26.	Yellow Starthistle	<i>Centaurea solstitialis</i>

Common Name	Scientific Name
27. Yellow Toadflax	<i>Linaria vulgaris</i>

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05. Designation of Articles Capable of Disseminating Noxious Weeds. The following articles are designated by the Director as capable of disseminating noxious weeds: ()

- a. Construction equipment, road building and maintenance equipment, and implements of husbandry. ()
- b. Motorized vehicles such as, all-terrain vehicles, motorcycles, and other off-road vehicles and non-motorized vehicles such as bicycles and trailers. ()
- c. Grain and seed. ()
- d. Hay, straw and other material of similar nature. ()
- e. Nursery stock including plant material propagated for the support of aquarium, pet, or horticultural activities. ()
- f. Feed and seed screenings. ()
- g. Fence posts, fencing and railroad ties. ()
- h. Sod. ()
- i. Manure, fertilizers and material of similar nature. ()
- j. Soil, sand, mulch, and gravel. ()
- k. Boats, personal watercraft, watercraft trailers, and items of a similar nature. ()

221. -- 229. (RESERVED)

230. TREATMENT OF ARTICLES.

01. Duty. It is the duty of every person, before removing any article from any place that is infested with noxious weeds or before moving the article onto any public roadway, to enclose, clean, or treat the article in a manner that will prevent the spread of noxious weeds ()

02. Treatment. No article containing noxious weed propagules shall be sold or furnished to any person within this state, until it has been treated in a manner sufficient to eliminate all noxious weed propagating capability except when sold or furnished to a person for the purpose of destroying the viability of the noxious weed propagules. ()

231. – 303. (RESERVED)

SUBCHAPTER C - NOXIOUS WEED FREE FORAGE AND STRAW CERTIFICATION

304. INCORPORATION BY REFERENCE.

The following document is incorporated by reference and applies to Subchapter C, only: ()

01. The NAISMA Weed Free Forage Minimum Certification Standards, as published at https://www.naisma.org/images/NAISMA_WFF_Minimum_Standards_10_17_2018_Approved_Changes.pdf. ()

305. – 309. (RESERVED)

310. DEFINITIONS.

In addition to the definitions found in Section 22-2402, Idaho Code, the definitions found in section 310 apply to the interpretation and enforcement of Subchapter C only: ()

01. Agent. Any instrumentality or entity authorized by the Director of the Department, and acting in an official capacity and under the supervision of the Department, to administer the provisions of Subchapter C. The principal purpose of the agent is to establish, conduct, and maintain a uniform and reasonable system of inspection and certification of forage and straw crops to determine if such crops are noxious weed free. ()

02. Approved Inspector. An individual who has been accredited by the Department or by the Department's agent in the noxious weed free forage and straw certification program. ()

03. Bale. A mechanically compressed package of forage or straw bound by string or wire, or other binding material. ()

04. Bale Tag. A tag or label that is attached to the string or wire, or other binding material of a bale of certified forage or straw, and identifies the bale as being certified noxious weed free. ()

05. Certificate of Inspection. A record of inspection issued by an approved inspector that states the results of a field or commodity inspection. The certificate shall document that the inspected field or commodity is Idaho State Noxious Weed Free, NAISMA Noxious Weed Free, or that the field or commodity contains noxious weeds. ()

06. Certification. The process whereby an approved inspector conducts field or commodity inspections to determine that the field or commodity is noxious weed free. ()

07. Certification Markings. Bale tags, purple and yellow colored twine, compressed forage/straw bale binding material, and forage cubes/pellets container tags/labels. ()

08. Certified Compressed Forage/Straw Bale Binding Material. An ISDA approved binding material that is attached to a compressed forage/straw bale of certified noxious weed free forage/straw and identifies the bale as being certified to the NAISMA Standards. ()

09. Compressed Forage/Straw Bale. A bale that has been twice compressed, once in the field by a forage/straw baler and then recompressed a second time and bound by string, wire or other binding material. ()

10. Field. The land on which a forage or straw crop is grown and is not divided by streams, public roads, other crops, or other barriers. ()

11. Forage. Alfalfa, grain, and grass hay, and/or combinations of alfalfa, grain, or grass hay; the term "forage" includes forage cubes, compressed forage bales, and pellets. ()

12. Forage Cubes. Forage that is harvested from a field certified to NAISMA Standards and is mechanically compacted into wafers or cubes. ()

13. Forage Cube/Pellet Tag. A tag, label, or statement that is attached or printed on a container of certified noxious weed free forage cubes or pellets, and identifies the container as being certified to the NAISMA Standards. ()

14. Idaho State Noxious Weed Free. Forage and straw inspected for weeds designated by the Director as noxious as defined in Section 22-2402(17), Idaho Code, and determined to be free of such weeds. ()

15. Idaho State Noxious Weed Free Standards. Forage and straw that meets the requirements Idaho State Noxious Weed Free. ()

16. NAISMA Noxious Weed Free. Forage and straw inspected for, and determined to be free of, weeds designated as noxious by the Director as defined in Section 22-2402(17), Idaho Code, and noxious weeds listed on the NAISMA Designated Weed List. ()

17. NAISMA Weed Free Forage Certification Program. The North American Invasive Species Management Association standard for forage certification. ()

18. NAISMA Twine. Special purple and yellow colored twine approved by NAISMA that is used to mark bales as certified to the NAISMA Standards. ()

19. NAISMA Standards. Requirements of the NAISMA Weed Free Forage Certification Program. ()

20. Noxious Weed Free. No noxious weeds with viable seed, injurious portions, or propagating parts were found during inspection procedures. ()

21. Pellets. Forage that is harvested from a field certified to NAISMA Standards and is manufactured into an agglomerated feed, formed by compacting and forcing through die openings by a mechanical process. ()

23. Straw. The dried stalks or stems remaining after grain is harvested. ()

24. Transit Certificate. A document completed by an approved inspector to certify products proposed for movement as certified noxious weed free into states that require noxious weed free forage and straw certification. The transit certificate must be in the possession of the transporter. ()

311. ABBREVIATIONS.

01. ISDA. The Idaho State Department of Agriculture. ()

02. NAISMA. North American Invasive Species Management Association. ()

03. NWFF&S. Noxious Weed Free Forage and Straw. ()

312. -- 319. (RESERVED)

320. VOLUNTARY NOXIOUS WEED FREE FORAGE AND STRAW CERTIFICATION PROGRAM.

01. Purpose. The noxious weed free forage and straw certification program is a voluntary program, the purpose of which is to provide a means for the inspection, certification, and marking of forage and straw as noxious weed free. The program will be managed by the Department and may be implemented through an agent of the Department. The program will allow for the preparation of a transit certificate for the purpose of interstate transport or shipping of forage and straw into and through states that place regulations and restrictions on such commodities. The program is intended to reduce the exportation, importation, growth, and spread of noxious weeds. ()

02. Certifying Authority. The Department or its agent is the certifying authority. The certifying authority will appoint, as needed, approved inspectors throughout the state, who may issue certificates of inspection. ()

03. Certification Training. The Department will determine minimum training and accreditation standards for approved inspectors. Training will be provided annually by the Department or its agent. Attendance at annual training will certify accreditation for the inspector for that calendar year. Approved inspectors will be issued a certificate of training for the calendar year. Annual training includes: ()

a. Field inspection techniques and procedures; ()

b. ISDA Noxious Weed Lists and NAISMA Weed Free Forage Prohibited Weed List plant

- identification; ()
- c. ISDA and NAISMA certification standards and guidelines; ()
 - d. Knowledge of weed management, including: ()
 - i. Burning; ()
 - ii. Mowing, cutting or roguing; ()
 - iii. Mechanical methods; and ()
 - iv. Herbicides. ()
 - e. Inspection forms. ()
- 04. Certification Program.** ()
 - a. The Department or its agent will: ()
 - i. Coordinate forage and straw inspections within the state; ()
 - ii. Select, train, and supervise persons who serve as approved inspectors; ()
 - iii. Issue certificates of inspection, transit certificates, NAISMA Twine, forage cubes/pellets tags/labels, certified compressed forage/straw bale binding material, and bale tags to qualifying participants; ()
 - iv. Maintain a record of inspections performed and certificates and tags issued; ()
 - b. Under the direction of the Department or its agent an approved inspector may perform inspections and issue certificates of inspection, transit certificates, NAISMA Twine, forage cubes/pellets tags/labels, and bale tags within the state at cost. ()
- 05. Application for Certification.** ()
 - a. Application for certification inspection shall be made on forms available from the Department or its agent and submitted to the Department or its agent. ()
 - b. An applicant's signature on the application for certification is verification of the accuracy of the information submitted, and signifies the applicant's intent to comply with the post-certification and distribution requirements. ()
- 06. Field Inspection Procedures.** ()
 - a. Forage or straw shall be inspected within a maximum of ten (10) days prior to cutting/harvesting in the field of origin for each field and cutting to be certified. Fields must be inspected again if circumstances prevent harvest of the forage/straw for a period greater than ten (10) days from the first inspection. ()
 - b. Each field inspected shall be identified by the name of the owner and a field name or number. The certification inspection may be performed on an entire field or a portion of a field, if the portion is plainly marked and identified prior to inspection. ()
 - c. Field inspections must take place prior to any operation that will limit the approved inspector's ability to properly inspect and certify the field. Fields that have been cut or harvested prior to inspection are ineligible for certification. ()
 - d. There shall be a minimum of two (2) entry points per field. ()

- e. There shall be minimum of one (1) entry point per each ten (10) acres (four (4) hectares). ()
 - f. Each point of entry shall be at least one hundred fifty (150) feet (forty-five (45) meters) into the field, and each additional one hundred fifty (150) feet (forty-five (45) meters) traveled constitutes an entry point. Travel shall be uninterrupted, proceeding through the field being inspected. ()
 - g. The entire field border will be physically inspected. ()
 - h. The field inspection will include all ditches, fence rows, roads, easements, rights-of-way, or buffer zones surrounding the field. ()
 - i. Forage/straw that contains any noxious weeds as identified in Section 22-2402(17) or noxious weeds listed on the NAISMA Weed Free Forage Prohibited Weed List, may be certified if the following requirements are met: ()
 - i. Forage/straw that contains any noxious weeds may still be certified if the field upon which the forage/straw was produced is treated to prevent noxious weed seed or other propagule viability according to agricultural practices acceptable to, and to the satisfaction of, the approved inspector. ()
 - ii. Noxious weed(s) were treated not later than rosette to bud stage, or boot stage for grass species classified as noxious weeds, prior to cutting or harvesting; and ()
 - iii. Treatment method can include, but is not limited to burning, mowing, cutting or roguing, mechanical methods, or chemicals. ()
 - j. An inspection certificate shall document that the above requirements have been met. ()
 - k. Baling equipment must be cleaned of any noxious weeds prior to harvesting certified forage. If the baling equipment is not cleaned, the first three (3) small square bales or the first large round or square bale produced shall be considered non-certified. ()
 - l. Interstate shipment of baled forage and straw shall be accompanied by an original transit certificate issued by the approved inspector in the county of origin. The storage area shall also be inspected and be free of noxious weeds. ()
 - m. An approved inspector may not inspect fields of which said inspector has ownership or financial interest. ()
- 07. Certification Standards.** After completing an inspection, the approved inspector will complete a certificate of inspection. ()
- a. If the field or commodity inspected is certified as NAISMA Noxious Weed Free, the approved inspector will issue a certificate of inspection for that harvest or cutting. If the field or commodity contains NAISMA Noxious Weeds, but does not contain Idaho State noxious weeds, it may be certified as Idaho State noxious weed free, and such certification will be noted on the certificate of inspection. ()
 - b. If the field or commodity inspected is certified as noxious weed free, as defined in Subchapter C, the approved inspector may also issue, upon request, any of the following documents: ()
 - i. Transit certificates. ()
 - ii. Bale tags. The date on the bale tag must accurately reflect the year in which the bale was produced. ()
 - iii. NAISMA Twine only if the field or commodity is certified as NAISMA Noxious Weed Free. ()
 - iv. Forage cube/pellet tag/labels only if the field or commodity is certified as NAISMA Noxious Weed

Free. ()

v. Certified compressed forage /straw bale binding material only if the field or commodity is certified as NAISMA Noxious Weed Free. ()

c. Certificates of inspection, transit certificates and bale tags shall be on forms prescribed by the Department or its agent. ()

d. NAISMA Twine and bale tags must be purchased from the Department or its agent. ()

08. Copy of Inspections and a List of Approved Inspectors. Upon request, the agent shall provide the Department with a copy of certificates of inspections issued and a current list of approved inspectors. ()

09. Reciprocity. Forage or straw certified under a reciprocal agreement between the Department and another state, and certified as NAISMA Noxious Weed Free according to the other state's approved certification standards, may be shipped into the state of Idaho and will be considered to meet the requirements of the Idaho program. ()

10. Exports. Certification under Subchapter C does not qualify a commodity for export from the United States. Applications for certification for export should be made directly to the Division of Plant Industries within the Department. ()

11. Voluntary Posting. After certification, a producer may post signs, or other forms of notification, on the certified commodity indicating that the commodity is certified as noxious weed free. ()

12. Post-Certification and Distribution Requirements. After a producer's commodity has been inspected and certified, the producer shall: ()

a. Take reasonable and prudent steps to protect the certified commodity from contamination; ()

b. Keep the certified commodity separated from all uncertified commodity; ()

c. Attach bale tags, certified compressed forage/straw bale binding material, or NAISMA Twine to each bale of certified forage or straw intended for sale as noxious weed free forage or straw prior to the bales leaving the producers stack yard or storage area; and ()

d. Attach cube/pellet tag/label to each container of certified forage cubes/pellets intended for sale as noxious weed free forage prior to the containers leaving the producer's facility. ()

e. Provide the shipper, trucker, or transporter with the appropriate number of transit certificates. ()

13. Cancellation for Failure to Comply. Any person who provides false information on an application for inspection or who fails to comply with the post-certification and distribution requirements may, upon order of the Director, be suspended for a period of up to two (2) years from participating in the forage and straw certification program. ()

14. Enforcement and Cancellation. Harvested lots of forage or straw from certified fields may be checked at any time by an approved inspector. Manufactured lots of forage cubes, pellets, and compressed forage/straw bales may be checked at any time by an approved inspector. Evidence that forage, straw, forage cubes/pellets, or compressed forage/straw bales are not from a certified field or that any lot has not been protected from contamination shall be cause for cancellation of certification. ()

15. Misuse of Transit Certificate and Certification Markings. Using a transit certificate or certification marking for forage/straw from a field that has not been certified constitutes a violation of Subchapter C. ()

16. Certification Fees. A minimum of thirty dollars (\$30) per inspection will be charged for up to ten

(10) acres, and three dollars (\$3) per acre thereafter, for fields up to ninety-nine (99) acres. Fields that are one-hundred (100) acres or larger in size, the fee is three dollars (\$3) per acre for the first one-hundred (100) acres and two dollars (\$2) per acre thereafter. The agent is authorized to assess a general fee of thirty dollars (\$30) per year to recover overhead costs. ()

321. – 329. (RESERVED)

330. NAISMA WEED FREE FORAGE PROHIBITED WEED LIST.

This list is incorporated by reference in Section 304.01 and is available in electronic format at: <https://www.naisma.org>. ()

331. -- 339. (RESERVED)

340. APPLICATION FORM REQUIREMENTS.

A person wishing to participate in the noxious weed free forage and straw program shall make an application in writing on a form prescribed by ISDA for NWFF&S certification annually. There are no fees for application. The application shall be made with the ISDA agent in the county in which the person resides or in the county in which the person owns or leases land on which forage/straw will be produced. ()

341. -- 349. (RESERVED)

350. CERTIFICATION MARKING.

Each certified bale or container shall be marked by one (1) of the following: ()

01. NAISMA Twine. Only one (1) strand is required per bale. ()

02. Bale Tag. The following information shall be shown on baled forage and straw: ()

a. The words - “NAISMA Weed Free Forage Certification Program” or “Idaho State Noxious Weed Free Forage & Straw Certification Program”; ()

b. Bale tag serial number; ()

c. County of origin identification; ()

d. ISDA emblem; ()

e. ISDA telephone number; and ()

f. A statement that the product is “Certified to the NAISMA Standards” or “Certified to the Idaho State Noxious Weed Free Standards.” ()

g. Year the bale tag was issued. ()

03. Forage Cube/Pellet Tag/Label. Certification tags/labels shall be attached to or a statement with the following information printed on each container of noxious weed free product: ()

a. The words - “NAISMA Weed Free Forage Certification Program”; ()

b. ISDA forage manufacturer identification number; ()

c. ISDA emblem; ()

d. ISDA telephone number; and ()

e. A statement that the product is “Certified to the NAISMA Standards.” ()

04. Certified Compressed Forage/Straw Bale Binding Material. The following information shall be ()

printed in purple ink on yellow binding material. Two (2) consecutive vertical purple lines approximately one-eighth of an inch (1/8") wide, spaced approximately one and one-quarter inches (1 1/4") apart, placed before and after written text that includes the acronym "ISDA NWFFS" and can include the manufacturer's name. ()

351. -- 359. (RESERVED)

360. PROCEDURES FOR CERTIFICATION OF FORAGE CUBES/PELLETS/COMPRESSED FORAGE/STRAW BALES.

01. Application. A person desiring to certify forage cubes/pellets/compressed forage/straw bales as noxious weed free must make an annual application on the ISDA's forage cube/pellet/compressed forage/straw bale certification application form. ()

02. Validity. The application will be valid from the date of Department approval through December 31 of that calendar year. ()

03. Equipment. Equipment will be cleaned of any noxious weed propagules prior to processing forage/straw for certification. ()

04. Purging. After cleaning equipment, a minimum of five hundred (500) pounds of certified forage/straw must be purged through the entire system prior to processing certified forage cubes/pellets/compressed forage/straw bales. The five hundred (500) pounds of forage/straw used to eliminate any noxious weed seeds shall not be certified. ()

05. Documentation. A person who manufactures products referenced in Section 360 shall retain the following records for two (2) years: ()

a. All NWFF&S inspection certificates relating to the certified forage/straw delivered to their manufacturing facility each calendar year. ()

b. Quantity of certified forage cubes/pellets/compressed forage/straw bales processed each calendar year; and ()

c. Quantity of non-certified forage cubes/pellets/compressed forage/straw bales processed each calendar year. ()

361. -- 999. (RESERVED)

IDAPA 02 – DEPARTMENT OF AGRICULTURE
02.06.10 – RULES GOVERNING THE GROWING OF POTATOES
DOCKET NO. 02-0610-1901 (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 22-505, 22-1907, 22-2004, 22-2006, and 22-2013, 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

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 the regulation of the planting and growing of potatoes, so as to prevent the spread of pests and disease of potatoes and their impacts on potato production. These rules are IDAPA 02.06.10, “Rules Governing the Pale Cyst Nematode; IDAPA 02.06.26, “Rules Concerning Seed Potato Crop Management Areas,” IDAPA 02.06.27, “Rules Governing Bacterial Ring Rot,” and IDAPA 02.06.39, “Rules Governing Minimum Standards for Planting Uncertified Seed Potatoes in Idaho.” The rules were promulgated to carry out the requirements described in Title 22, Chapters 1, 5, and 20, Idaho Code. In order to streamline and simplify rules related to potato production, the ISDA has decided to combine all four rules into a single rule to be titled “**02.06.10, Rules Governing the Growing of Potatoes.**” 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: Fees included in the original rules have not been changed in the new combined rule. Fees associated with these rules are imposed pursuant to Section 22-505, 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, in its entirety, regulates an activity not regulated by the federal government.

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:

No changes were made to the fees already included in the original rules.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted on September 18, 2019. The Notice of Intent to Promulgate Rules – Negotiated Rulemaking was published in the September 4, 2019 Idaho Administrative Bulletin, [Vol. 19-9, Page 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: Each of these materials represent regulations of extensive size that would be unduly cumbersome, expensive, or otherwise inexpedient to include in this rule.

The following materials are incorporated by reference into Subchapter A only:

1. 7 CFR Part 301 SubPart - Pale Cyst Nematode. Sections 301.86 through 301.86-9 as published under Docket No. APHIS-2006-0143 in the Federal Register Volume 72, No. 176, Wednesday, September 12, 2007, and as amended under Docket No. APHIS-2006-0143 published in the Federal Register Vol. 74, No. 81, Wednesday, April 29, 2009.
2. USDA APHIS PPQ Treatment Manual Schedule T406-d, Revision 10, September 2006.
3. 7 CFR Part 305 - Phytosanitary Treatments, as revised September 12, 2007.

Idaho Code 67-5229(1)(a) authorizes the incorporation by reference of applicable federal regulations or standard into a state rule and the incorporation by reference of these regulations and standards are an efficient way to put the public on notice of both state and federal requirements.

The following materials are incorporated by reference into Subchapter C only:

1. IDAPA 08.05.01.000 et seq., "Rules Governing Seed and Plant Certification" and materials incorporated therein by reference.

Section 67-5229(1)(d), Idaho Code, authorizes the incorporation by reference of an applicable state rule and its incorporation by reference is an efficient way to put the public on notice of the state requirements laid out by both rules.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Lloyd Knight, Administrator, at (208) 332-8664.

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. 02-0610-1901
(New Chapter)

02.06.10 – RULES GOVERNING THE GROWING OF POTATOES

000. LEGAL AUTHORITY.

This chapter is adopted under the legal authority of Sections, 22-505, 22-1907, 22-2004, 22-2006, and 22-2013, Idaho Code. ()

001. TITLE AND SCOPE.

01. Title. The title of this chapter is IDAPA 02.06.10, “Rules Governing the Growing of Potatoes.” ()

02. Scope. These rules govern the procedures for all potato management within Seed Potato Crop Management Areas and establish the procedures of identifying, handling and testing uncertified seed potatoes to be planted in Idaho. These rules also seek to prevent the spread of Pale Cyst Nematode and the introduction and/or spread of *Cms* and subsequently bacterial ring rot throughout Idaho and the United States. ()

002. -- 103. (RESERVED)

SUBCHAPTER A - PALE CYST NEMOTODE

104. INCORPORATION BY REFERENCE.

The following are incorporated by reference into Subchapter A only: ()

01. 7 CFR Part 301 SubPart - Pale Cyst Nematode. Sections 301.86 through 301.86-9 as published under Docket No. APHIS-2006-0143 in the Federal Register Volume 72, No. 176, Wednesday, September 12, 2007, and as amended under Docket No. APHIS-2006-0143 published in the Federal Register Vol. 74, No. 81, Wednesday, April 29, 2009, and except as amended below in Subchapter A of this rule. ()

02. USDA APHIS PPQ Treatment Manual Schedule T406-d, Revision 10, September 2006. ()

03. 7 CFR Part 305 - Phytosanitary Treatments, as revised September 12, 2007. ()

105. -- 109. (RESERVED)

110. DEFINITIONS AND TERMS.

In addition to the definitions found in Section 22-2005, Idaho Code, the following definitions found in Section 110 apply in the interpretation and enforcement of Subchapter A only: ()

01. Inspector. Any employee of ISDA, APHIS, the U.S. Department of Agriculture, or other person authorized by the USDA APHIS Administrator or ISDA Director to perform the duties required under Subchapter A. ()

02. Interstate. From any state into or through any other state. ()

03. Intrastate. Movement within the boundaries of the state of Idaho. ()

111. ABBREVIATIONS.

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

02. ISDA. Idaho State Department of Agriculture. ()

03. PCN. Pale Cyst Nematode. ()

04. PPQ. Plant Protection and Quarantine. ()

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

112. -- 119. (RESERVED)

120. INTRASTATE MOVEMENT.

No regulated articles may move within the state of Idaho without complying with the federal regulations, as incorporated by reference in Subsection 104.01 in Subchapter A. ()

121. QUARANTINED AREAS.

Those areas of the State quarantined or regulated for PCN under 7 CFR Part 301 Sections 301.86-3 as published on the USDA APHIS PPQ internet website at http://www.aphis.usda.gov/plant_health/plant_pest_info/potato/pcn.shtml. ()

122. RESTRICTIONS.

01. Movement From a Non-Quarantined Area. Movement of regulated articles from a non-quarantined area is subject to inspection by an inspector. Permits and certifications are not required. ()

02. Movement From a Quarantined Area. Movement of regulated articles from a quarantined area is subject to the provision of Section 123 of Subchapter A. ()

03. Other Restrictions. No potatoes, tomatoes, eggplants, or any other known host crops may be planted in the infested fields. Soil must not be moved from the infested fields. Any equipment leaving the infested fields must be sanitized and certified using USDA APHIS approved protocols. ()

04. Seed Potatoes. Seed potatoes may not be grown in a quarantined area. ()

05. Exemptions. Host plant material may be planted in infested fields under the authorization and supervision of the USDA and Idaho State Department of Agriculture eradication program. ()

123. CONDITIONS FOR INTRASTATE OR INTERSTATE MOVEMENT OF REGULATED ARTICLES.

Regulated articles may only be moved intrastate or interstate from a quarantined area by a person under a compliance agreement if accompanied by a certificate or limited permit issued by an inspector in accordance with 7 CFR Part 301 Sections 301.86-4 and 5, as incorporated by reference in Section 104 in Subchapter A of this rule. ()

124. -- 129. (RESERVED)

130. INSPECTION, SAMPLING, AND TESTING.

In order to accomplish the purposes of Subchapter A, an inspector may enter upon and inspect any public or private premises, lands, means of conveyance, or article of any person within this State, for the purpose of inspecting, surveying, sampling, testing, treating, controlling, or destroying any soil, plant, or plant material thought to or found to contain or be infested with Pale Cyst Nematode. ()

131. – 209. (RESERVED)

SUBCHAPTER B – SEED POTATO CROP MANAGEMENT AREA

210. DEFINITIONS.

In addition to the definitions found in Idaho Code Sections 22-501 and 22-2005, Idaho Code, the definitions found in section 210 apply to the interpretation and enforcement of Subchapter B. ()

01. Cull Potatoes. Potatoes not usable for planting or consumption. ()

02. Grower. Any person who plants and cultivates more than fifteen one-hundredths (.15) acres of potatoes within a Seed Potato Crop Management Area. ()

03. Volunteer Potatoes. Volunteer potatoes are defined as any residue left in a field from previous

years of production that has sprouted and is growing. ()

211. ABBREVIATIONS.

01. ICIA. Idaho Crop Improvement Association. ()

212. -- 219. (RESERVED)

220. SEED POTATO CROP MANAGEMENT AREAS.

01. Fremont Seed Potato Crop Management Area. That portion of Fremont county described as follows: Beginning at a point that is the southwest corner of Section 16, Township 7 North, Range 43 East, Boise, Meridian, Fremont County, Idaho; Thence north approximately 1 mile to the northwest corner of Section 16, Township 7 North, Range 43 East; Thence west approximately 2 miles to the southwest corner of Section 7, Township 7 North, Range 43 East; Thence north approximately 1 mile to the northwest corner of Section 7, Township 7 North, Range 43 East; Thence west approximately 3 miles to the southwest corner of Section 3, Township 7 North, Range 42 East; Thence north approximately 2 miles to the northwest corner of Section 34, Township 8 North, Range 42 East; Thence west approximately 2 miles to the southwest corner of Section 29, Township 8 North, Range 42 East; Thence north approximately 1-3/8 miles to the center line of Fall River; Thence northwest along Fall River approximately 1-1/8 miles to where Fall River intersects the west line of Section 8, Township 8 North, Range 41 East; Thence north approximately 1-7/8 miles to the northwest corner of Section 7, Township 18 North, Range 41 East; Thence west approximately 2 miles to the southwest corner of Section 2, Township 8 North, Range 41 East; Thence north approximately 1 mile to the northwest corner of Section 2, Township 8 North, Range 41 East; Thence west approximately 1/4 of 1 mile; Thence north along an existing road approximately 4 miles; Thence northeasterly along said road approximately 1-1/10 miles to the northwest corner of Section 11, Township 9 North, Range 41 East; Thence north approximately 1 mile to the northwest corner of Section 2, Township 9 North, Range 41 East; Thence east approximately 14 miles to the northeast corner of Section 1, Township 9 North, Range 43 East; Thence south approximately 2 miles to the southeast corner of Section 12, Township 9 North, Range 43 East; Thence east approximately 4 miles to the northeast corner of Section 15, Township 9 North, Range 44 East, which is the west boundary line of the Targhee National Forest; Thence south along said forest boundary approximately 3 miles to the southeast corner of Section 27, Township 9 North, Range 44 East; Thence east continuing along said forest boundary approximately 2 miles to the northeast corner of Section 36, Township 9 North, Range 44 East; Thence south along said forest boundary approximately 1 mile to the east 1/4 corner of Section 1, Township 8 North, Range 44 East; Thence east continuing along said forest boundary approximately 2 miles to the east 1/4 corner of Section 5, Township 8 North, Range 45 East; Thence south continuing along said forest boundary approximately 5 miles to the east 1/4 corner of Section 32, Township 8 North, Range 45 East; Thence east continuing along said forest boundary approximately 1-1/2 miles to the center of Section 34, Township 8 North, Range 45 East; Thence south continuing along said forest boundary approximately 1-1/8 miles to the center line of Bitch Creek; Thence southwesterly along the center line of Bitch Creek approximately 10-1/2 miles to the confluence of Bitch Creek with the Teton River; Thence westerly 8 miles along the center line of the Teton River to the west line of Section 21, Township 7 North, Range 43 East; Thence north approximately 1/10 of a mile to the southwest corner of Section 16, Township 7 North, Range 43 East and the point of beginning. ()

02. Teton And Portions Of Madison County Seed Potato Crop Management Area. ()

a. All of Teton County, Idaho; ()

b. That portion of Madison County, Idaho, located in Township 6 North and Township 7 North lying East of Canyon Creek; and ()

c. That portion of Madison County, Idaho located in Township 6 North, Range 42 East, which includes portions of Sections 11 and 13 located south of Highway 33 and all of Sections 14, 15, 23, and 24. ()

03. Lost River Seed Potato Crop Management Area. Those portions of Butte and Custer Counties within Township 3 North to Township 7 North and Range 23 East to Range 27 East. ()

04. Caribou and Franklin County Seed Potato Crop Management Area. All of Caribou County,

Idaho and all of Franklin County, Idaho. ()

05. Almo Valley Bridge Seed Potato Crop Management Area. ()

a. That portion of Cassia County, Idaho located in Township 16 South, Range 24 East, which includes all of Sections 1, 2, 3, 4, 9, 10, 11, 12, 13, 14, 15, 16, 21, 22, 23, 24, 25, 26, 27, 28, 33, 34, 35, and 36; ()

b. That portion of Cassia County, Idaho located in Township 15 South, Range 24 East, which includes all of Sections 1, 2, 3, 4, 9, 10, 11, 12, 13, 14, 15, 16, 21, 22, 23, 24, 25, 26, 27, 28, 33, 34, 35, and 36; ()

c. That portion of Cassia County, Idaho located in Township 14 South, Range 24 East, which includes all of Section 36; ()

d. That portion of Cassia County, Idaho located in Township 14 South, Range 25 East, which includes all of Sections 19, 20, 29, 30, 31, and 32; ()

e. That portion of Cassia County, Idaho located in Township 15 South, Range 25 East, which includes all of Sections 5, 6, 7, 8, 18, 19, 20, 29, 30, 31, 32 and the Northeast ¼ of Section 33; ()

f. That portion of Cassia County, Idaho located in Township 16 South, Range 25 East, which includes all of Sections 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 19, 20, 29, 30, 31, 32, 33, 34, 35, and 36; ()

g. That portion of Cassia County, Idaho located in Township 16 South, Range 26 East; and ()

h. That portion of Cassia County, Idaho located in Township 16 South, Range 27 East, which includes all of Sections 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 26, 27, 28, 29, and 30. ()

06. Ririe Reservoir Seed Potato Crop Management Area. ()

a. That portion of Bonneville County, Idaho located in Township 3 North, Range 40 East, which includes all of Sections 19, 20, 21, 22, 25, 26, 27, 28, 29, 30, 31, 33, 34, 35, and 36; ()

b. That portion of Bonneville County, Idaho located in Township 3 North, Range 41 East, which includes all of Sections 8, 15, 16, 17, 18, 20, 21, 22, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, and 36; ()

c. That portion of Bonneville County, Idaho located in Township 2 North, Range 42 East, which includes all of Sections 3, 4, 5, 6, 7, 8, 9, 10, 15, 16, 17, 18, 19, 20, 21, 22, 27, 28, 29, 30, 31, 32, 33, and 34; and ()

d. That portion of Bonneville County, Idaho located in Township 3 North, Range 42 East, which includes all of Sections 31, 32, and 33. ()

07. Picabo Seed Potato Crop Management Area. That portion of Blaine County, Idaho beginning with Township 1S, in Range 18, all of sections 23 and 24, leading into Township 1N, in Range 19 all of sections: 19, 20, 21, 22, 23, 26, 27, 28, 29, 30, 31, 32, 33, and 34. Leading into Township 1S, in Range 19, the W ½ of section 1, and all of sections: 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, and 29. Leading into Township 1S, Range 20, all of sections: 7, 8, 11, 12, 13, 16, 17, 18, 19, 20, 21, 22, 26, 27, 28, 29, 30, 35, and 36, including the N ½ of Sections 33 and 34. Leading into Township 2S, Range 20, all of sections 1, 2, and 12. Leading into Township 1S, Range 21, all of sections: 3, 4, 5, 6, 7, 8, 9, 10, 16, 17, 18, 19, 20, W ½ of section 28, and all of sections 29, 30, 31, 32, and the NW ¼ of section 33, from Hwy 20 North, plus section 21 from Dry Creek Road North. Leading into Township 2S, Range 21, all of the W ½ of section 3, and all of the following sections: 4, 5, 6, 7, 8, E ½ of section 9, all of sections 17, 18, 19, 20, 21, 28, 29, 30, and 31, W ½ and the SE ½ of the NE ¼ of section 10. Leading into Township 1N, Range 21, all of sections: 30, 31, and 32. All U.S. Department of the Interior, Bureau of Land Management property and property owned by the state of Idaho existing within the above mentioned areas will not be considered part of the management area. ()

08. Little Camas Ranch Seed Potato Crop Management Area. ()

a. That portion of Elmore County, Idaho located in Township 1 North, Range 9 East, Boise Meridian, which includes the S $\frac{1}{2}$ N $\frac{1}{2}$ SE $\frac{1}{4}$, S $\frac{1}{2}$ SE $\frac{1}{4}$, SW $\frac{1}{4}$ of Section 27, the SE $\frac{1}{4}$ SE $\frac{1}{4}$, SW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 28, the S $\frac{1}{2}$ S $\frac{1}{2}$, N $\frac{1}{2}$ SE $\frac{1}{4}$, SE $\frac{1}{4}$ NE $\frac{1}{4}$, W $\frac{1}{2}$ NE $\frac{1}{4}$, NE $\frac{1}{4}$ NE $\frac{1}{4}$ NW $\frac{1}{4}$, S $\frac{1}{2}$ NE $\frac{1}{4}$ NW $\frac{1}{4}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$, N $\frac{1}{2}$ SW $\frac{1}{4}$, NE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 32, the E $\frac{1}{2}$, E $\frac{1}{2}$ W $\frac{1}{2}$, SW $\frac{1}{4}$ SW $\frac{1}{4}$, NW $\frac{1}{4}$ SW $\frac{1}{4}$, SW $\frac{1}{4}$ NW $\frac{1}{4}$, NW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 33, and all of Section 34; and ()

b. That portion of Elmore County, Idaho located in Township 1 South, Range 9 East, Boise Meridian, which includes all of Section 4, all less the SW $\frac{1}{4}$ NW $\frac{1}{4}$ and less the W $\frac{1}{2}$ SW $\frac{1}{4}$ of Section 5, the N $\frac{1}{2}$ NE $\frac{1}{4}$ of Section 8, and the NW $\frac{1}{4}$ NE $\frac{1}{4}$, N $\frac{1}{2}$ NW $\frac{1}{4}$ of Section 9; and ()

c. That portion of Elmore County, Idaho located in Township 1 South, Range 9 East, Boise Meridian, which includes Lots 1, 2, 3, and 4, and the S $\frac{1}{2}$ N $\frac{1}{2}$, N $\frac{1}{2}$ SE $\frac{1}{4}$, SW $\frac{1}{4}$ of Section 3 less Tax Lot 1 described as follows: That portion of Elmore County, Idaho located in Township 1 South Range 9 East, Boise Meridian, described above as Tax Lot 1: Save and Except that portion of S $\frac{1}{2}$ SW $\frac{1}{4}$, Section 3, Township 1 South, Range 9 East, Boise Meridian, Elmore County, Idaho more particularly described as follows: Commencing at the Southwest corner of Section 3, Township 1 South, Range 9 East, Boise Meridian, and running thence South 89o51' East along the South Section line of said Section 3, a distance of 437 feet to a steel pin in the center of a graveled road, the Real Point of Beginning. Thence continuing from the Real Point of Beginning North 0o04' West a distance of 1,000 feet to a steel pin; thence South 89o51' East a distance of 1,742.4 feet to a steel pin; thence South 0o04' East a distance of 1,000 feet to a steel pin on the South Section line of said Section 3; thence North 89o51' West along the South Section line of said Section 3 a distance of 1,742.4 feet, more or less to the Real Point of Beginning more particularly described as Tax Lot 1. ()

09. Hog Hollow Seed Potato Crop Management Area. ()

a. Beginning at a point that is the northeast corner of Section 19, Township 7 North, Range 43 East, Boise Meridian; Thence south along the eastern border of Section 19, Township 7 North, Range 43 East approximately $\frac{3}{4}$ mile to the centerline of the Teton River as it enters said Section 19 at the eastern border of said Section 19; Thence southwesterly along the centerline of the Teton River as it runs through the southeast corner of Section 19, Township 7 North, Range 43 East; Continuing along the centerline of the Teton River as it runs southwesterly into the N $\frac{1}{2}$ NE $\frac{1}{4}$ of Section 30, Township 7 North, Range 43 East and then northwesterly out of the N $\frac{1}{2}$ NE $\frac{1}{4}$ of said Section 30; Continuing along the centerline of the Teton River as it runs northwesterly from the southern borderline of Section 19, Township 7 North, Range 43 East and then as the river curves southwesterly to the western border of said Section 19; Continuing along the centerline of the Teton River as it runs generally north-northwesterly through Section 24, Township 7 North, Range 42 East to the western border of said Section 24; Continuing along the centerline of the Teton River as it runs generally northwesterly through Section 23, Township 7 North, Range 42 East and to the northern border of said Section 23; Continuing along the centerline of the Teton River as it runs northwesterly through the SW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 14, Township 7 North, Range 42 East to the western border of said Section 14; Continuing along the centerline of the Teton River as it runs generally westerly through Section 15, Township 7 North, Range 42 East to the western border of said Section 15; Continuing along the centerline of the Teton River as it runs southwesterly through the SE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 16, Township 7 North, Range 42 East to the southern border of said Section 16; Thence west approximately $\frac{3}{4}$ mile along the southern border of Section 16, Township 7 North, Range 42 East to the southwest corner of said Section 16; Thence north 1 mile along the western border of Section 16, Township 7 North, Range 42 East to the northwest corner of said Section 16; Thence north approximately $\frac{1}{4}$ mile along the western border of Section 9, Township 7 North, Range 42 East to the northwest corner of the SW $\frac{1}{4}$ SW $\frac{1}{4}$ of said Section 9; Thence west 1 mile along the northern border of the S $\frac{1}{2}$ S $\frac{1}{2}$ of Section 8, Township 7 North, Range 42 East to the western border of said Section 8; Thence west 1 mile along the northern border of the S $\frac{1}{2}$ S $\frac{1}{2}$ of Section 7, Township 7 North, Range 42 East to the western border of said Section 7; Thence south $\frac{1}{4}$ mile to the southeast corner of Section 12, Township 7 North, Range 41 East; Thence west approximately $\frac{3}{4}$ mile along the southern border of Section 12, Township 7 North, Range 41 East to the southwest corner of the SE $\frac{1}{4}$ SW $\frac{1}{4}$ of said Section 12; Thence north approximately $\frac{3}{4}$ mile to the northwest corner of the SE $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 12, Township 7 North, Range 41 East; Thence east $\frac{1}{4}$ mile along the northern border of the S $\frac{1}{2}$ NW $\frac{1}{4}$ of Section 12, Township 7 North, Range 41 East to the southwest corner of the N $\frac{1}{2}$ NE $\frac{1}{4}$ of said Section 12; Thence north $\frac{1}{4}$ mile along the western border of the NE $\frac{1}{4}$ of Section 12, Township 7 North, Range 41 East to the northern border of said Section 12; Thence east along the northern border of Section 12, Township 7 North, Range 41 East to the northeast corner of said Section 12; Excluding from the described portion of

Section 12, Township 7 North, Range 41 East, Boise Meridian the following parcel; Commencing at the northeast corner of Section 12, Township 7 North, Range 41 East thence North 89°02'34" West, along the north line of said Section, 40.03 feet to a point on the westerly line of a county road; said point being the true point of beginning; thence continuing North 89°02'34" West, along the Section line, 612.05 feet; thence South 253.12 feet; thence East 611.96 feet, to a point on the westerly line of said county road: thence North 242.89 feet to the true point of beginning, containing 3.48 acres more or less; Thence east along the northern border of Section 7, Township 7 North, Range 42 East, Boise Meridian to the northeast corner of said Section 7; Thence east along the northern border of Section 8, Township 7 North, Range 42 East to the northeast corner of said Section 8; Thence east along the northern border of Section 9, Township 7 North, Range 42 East to the northeast corner of said Section 9; Thence east along the northern border of Section 10, Township 7 North, Range 42 East to the northeast corner of said Section 10; Thence east 1/4 mile along the northern border of Section 11, Township 7 North, Range 42 East to the northeast corner of the NW1/4 NW1/4 of said Section 11; Thence south approximately 3/4 mile to a county road known as the Old Hog Hollow Road, located approximately along the northern border of the S1/2 S1/2 of Section 11, Township 7 North, Range 42 East; Thence east along the county road known as the Old Hog Hollow Road as it travels easterly approximately along the northern border of the S1/2 S1/2 of Section 11, Township 7 North, Range 42 East approximately to the northeast corner of the SW1/4 SE1/4 of said Section 11; Thence southeast along the county road known as the Old Hog Hollow Road as it travels southeasterly through the SE1/4 SE1/4 of Section 11, Township 7 North, Range 42 East to the to the eastern border of said Section 11; Thence generally easterly along the county road known as the Old Hog Hollow Road as it travels generally easterly through the S1/2 S1/2 of Section 12, Township 7 North, Range 42 East to the eastern border of said Section 12; Thence south approximately 1/4 mile along the eastern border of Section 12, Township 7 North, Range 42 East to the southeast corner of said Section 12; Thence south 1 mile along the eastern border of Section 13, Township 7 North, Range 42 East to the southeast corner of said Section 13; Thence east 1 mile along the northern border of Section 19, Township 7 North, Range 43 East to the northeast corner of said Section 19 the point of beginning. ()

b. Including also the following non-contiguous parcel: Beginning at a point that is the northeast corner of Section 5, Township 7 North, Range 42 East, Boise Meridian and continuing south along the eastern border of said Section 5 to the southeast corner of the NE1/4 of said Section 5; Thence west 1 mile along the northern border of the S1/2 of Section 5, Township 7 North, Range 42 East to the western border of said Section 5; Thence north 1/2 mile along the western border of Section 5, Township 7 North, Range 42 East to the northwest corner of said Section 5; Thence north 1/4 mile along the western border of Section 32, Township 8 North, Range 42 East to the northwest corner of the SW1/4 SW1/4 of said Section 32; Thence east 1 mile along the northern border of the S1/2 S1/2 of Section 32, Township 8 North, Range 42 East to the eastern border of said Section 32; Thence south 1/4 mile along the eastern border of Section 32, Township 8 North, Range 42 East to the northeast corner of Section 5, Township 7 North, Range 42 East the point of beginning. ()

221. -- 229. (RESERVED)

230. REGULATED ARTICLES.

- 01. Irish Potato.** All plants and plant parts of the Irish potato, *Solanum tuberosum*. ()
- 02. Green Peach Aphid Hosts.** All plants that are hosts to the green peach aphid, *Myzus persicae*, including but not limited to peach and apricot trees and bedding plants. ()
- 03. Any Host.** Any host that may spread or assist in the spread of any of the diseases or pests of concern. ()
- 04. Equipment.** All ground working, earth moving, or potato handling equipment shall be cleaned of soil and plant debris and disinfected before entering the Seed Potato Crop Management Areas in order to prevent the introduction of disease(s) or pest(s) of concern. ()

231. -- 239. (RESERVED)

240. DISEASES AND PESTS OF CONCERN.

- 01. Introduction of Pests.** Introduction into the Seed Potato Crop Management Areas of any of the

pests or diseases listed in this Section by a contaminated vehicle or any other means constitutes a violation of Subchapter B of this rule. ()

02. Leaf Roll. *Net necrosis* or leaf roll, caused by potato leaf roll virus. ()

03. Ring Rot. Ring rot, *Corynebacterium sepedonicum*. ()

04. Columbia Root Knot Nematode. Columbia root knot nematode, *Meloidogyne chitwoodii*. ()

05. Green Peach Aphid. Green peach aphid, *Myzus persicae*, a vector of the leaf roll virus. ()

06. Northern Root Knot Nematode. Northern root knot nematode, *Meloidogyne hapla*. ()

07. Corky Ring Spot. Corky ring spot, a disease caused by tobacco rattle virus. ()

08. Powdery Scab. Powdery scab, *Spongospora subterranea* (Wallr.) Lagerh. f. sp. *subterranea*. ()

09. Stubby Root Nematode. Stubby root nematode, *Paratrichodorus pachydermus*, *Paratrichodorus christiei*, *Trichodorus primitivus*. ()

10. Potato Late Blight. Potato late blight, a disease caused by *Phytophthora infestans*. ()

241. -- 249. (RESERVED)

250. PLANTING OF POTATOES.

01. Seed Potato Crop Management Area. No person shall plant any potatoes in any of the Seed Potato Crop Management Areas except those that have met standards for recertification of the ICIA or equivalent agency of another state or political jurisdiction in accordance with Section 22-503, Idaho Code. ()

02. Certification. All plantings of potatoes shall be entered for certification with ICIA who notifies ISDA of any lots of potatoes rejected. Exceptions: ()

a. All plantings of potatoes in Lost River Seed Potato Crop Management Area; and ()

b. All plantings of potatoes in home gardens that are fifteen one-hundredths (.15) acre or less. ()

03. Home Gardens. Potatoes planted in home gardens within a Seed Potato Crop Management Area are subject to inspection by the ISDA for the pests and diseases listed in Section 240. ISDA ensures that proper control measures are taken. ()

04. Control. The grower shall spray with a pesticide or take other control measures approved by ISDA when potato late blight is found within a twenty-five (25) mile radius of a Seed Potato Crop Management Area boundary except the Lost River Seed Potato Crop Management Area. A grower in the Lost River Seed Potato Crop Management Area shall spray with a pesticide or take other control measures approved by ISDA when potato late blight is found within the boundaries of the Lost River Seed Potato Crop Management Area. ()

251. -- 259. (RESERVED)

260. PEACH, APRICOT TREES, OR ANY HOST. Peach, apricot trees, or any host of green peach aphid growing in Seed Potato Crop Management Areas shall be controlled with an ISDA approved pesticide. ()

261. BEDDING PLANTS.

01. Aphid Inspection. All bedding plants are subject to inspection by the Director for aphids. If aphids

are found, the plants shall be treated by a method approved by the Director. Such methods may include destruction of infested plants. ()

02. Treatment for Infestation. Bedding plants in transit to Seed Potato Crop Management Areas are subject to inspection for aphids and if found infested, treated in a manner approved by the Director before delivery into Seed Potato Crop Management Areas. ()

03. Treatment of Property. The Director may order treatment of property on which there are bedding plants or cut floral arrangements where he determines such treatment is necessary to control aphids. ()

04. Treatment of Cemeteries. All cemeteries within Seed Potato Crop Management Areas shall be sprayed or controlled for insects immediately after the Memorial Day holiday. Such spraying or control will be done in compliance with all State and Federal laws, rules and regulations. ()

262. -- 269. (RESERVED)

270. STORAGE OF POTATOES.

01. Potatoes Produced Within Seed Potato Crop Management Areas. All potatoes grown within Seed Potato Crop Management Areas may be stored within Seed Potato Crop Management Areas. All potatoes found to be infested with any disease or pests of concern as defined in Section 240 shall be removed from Seed Potato Crop Management Areas no later than April 15 of the year following harvest. ()

02. Potatoes Produced Outside Seed Potato Crop Management Areas. Before any lot of potatoes can be brought into Seed Potato Crop Management Areas, the lot shall be inspected, certified, and tagged by ICIA, the Federal/State Inspection Service or a recognized equivalent agency of another state or territory in accordance with Section 22-503, Idaho Code except the Lost River Seed Potato Crop Management Area. Before any lot of potatoes can be brought into the Lost River Seed Potato Crop Management Area the lot shall pass ICIA summer inspection or inspected, certified, and tagged by the Federal/State Inspection Service or a recognized equivalent agency of another state or territory in accordance with Section 22-503, Idaho Code. ()

271. SEED DISPOSITION NOTIFICATION. The Federal/State Inspection Service will notify the ISDA of all seed lots rejected for certification. This notification will include the variety, grower, storage location and the certification number of each rejected lot. ()

272. -- 279. (RESERVED)

280. CULL AND VOLUNTEER POTATOES.

01. Plant Growth. All plant growth on cull potato piles shall be controlled by a state approved chemical or mechanical measure including, but not limited to, burial with a minimum of eighteen (18) inches of soil, field spreading no more than two (2) potato layers and composting. ()

02. Destroying Volunteer Potatoes. It is the responsibility of each grower within Seed Potato Crop Management Areas to destroy all cull piles and volunteer potatoes growing on summer fallow, set-aside and non-cultivated areas of the grower's property. In the event that the grower fails to destroy such plants, the Director may order them destroyed at the expense of the grower. ()

281. -- 289. (RESERVED)

290. TRANSPORTATION OF POTATOES.

01. Responsibilities. It is the responsibility of the growers of rejected lots to keep contaminated trucks and equipment, infested vegetable matter and foliage from contaminating public roadways, neighboring fields and cellars. ()

02. In Transit. Potatoes in transit through Seed Potato Crop Management Areas shall be in covered

vehicles and not be unloaded in Seed Potato Crop Management Areas. ()

291. – 294. (RESERVED)

295. POTATOES FOR CONSUMPTION.

Potatoes for human and animal consumption, grown outside Seed Potato Crop Management Areas as defined in Section 220, shall be treated with a sprout inhibitor before being offered for sale within Seed Potato Crop Management Areas as defined in Section 220 of Subchapter B. ()

296. -- 303. (RESERVED)

SUBCHAPTER C – BACTERIAL RING ROT

304. INCORPORATION BY REFERENCE.

The following documents are incorporated by reference into Subchapter C only: ()

01. IDAPA 08.05.01.000 et seq., “Rules Governing Seed and Plant Certification” and Materials Incorporated Therein By Reference. A copy may be accessed online at: <http://adminrules.idaho.gov/rules/current/08/index.html>. ()

305. -- 309. (RESERVED)

310. DEFINITIONS.

In addition to the definitions in Sections 22-1904 and 22-2005, Idaho Code, the definitions in section 310 apply in the interpretation and the enforcement of this Subchapter C only: ()

01. Bacterial Ring Rot. Caused by a bacterium, *Clavibacter michiganensis subsp. sepedonicus* (*Cms*). ()

02. Contact Lot. A seed lot produced on a farming operation using common production and handling equipment or storage facilities, or both. ()

03. Idaho Crop Improvement Association, Inc. A grower association of certified seed producers and conditioners. In 1959, the Regents of the University of Idaho appointed the Idaho Crop Improvement Association, Inc. as its duly authorized agent to administer and conduct seed certification in Idaho. ()

04. Seed Lot. A field or a group of fields producing seed potatoes or the potatoes (tubers) harvested from a seed potato field, identified with a certification number and a North American Plant Health Certificate, enabling identity preservation and tracking. ()

05. Seed Potato Certification Process. The process, timing and requirements for the certification of seed potatoes in Idaho, as set forth in IDAPA 08.05.01, “Rules Governing Seed and Plant Certification” and the materials incorporated therein by reference. ()

06. Seed Stock. Seed potatoes intended for use as a planting source for certification that are “Identity Preserved” with a certification number and a North American Plant Health Certificate. ()

07. Sister Lot. Seed lots originating from the same lot of seed stock. ()

311. ABBREVIATIONS.

01. BRR. Bacterial Ring Rot. ()

02. Cms. *Clavibacter michiganensis* subsp. *sepedonicus*. ()

03. ISDA. Idaho State Department of Agriculture. ()

04. ICIA. Idaho Crop Improvement Association. ()

312. – 319. (RESERVED)

320. REGULATED PEST - BACTERIAL RING ROT.
Caused by a bacterium, *Clavibacter michiganensis* subsp. *sepedonicus* (*Cms*). ()

321. -- 329. (RESERVED)

330. REPORTING OF BRR.

01. Mandatory Reporting. It is mandatory for any person including, but not limited to, a grower, processor, shipper, laboratory staff member, field inspector, or shipping point inspector, to immediately report the presence of BRR to the Department when: ()

a. The BRR is discovered or observed in seed potato plants or tubers prior to final seed potato certification by ICIA; and ()

b. The presence of BRR is confirmed via laboratory testing; and ()

c. The positive tubers or plant parts are still in the possession of the original seed grower. ()

02. Contents. All reports shall, to the best of the reporter's ability, contain the following information: ()

a. The field, facility or other location at which *Cms* was found; ()

b. The date of discovery; ()

c. The location at which the suspect potatoes were grown; ()

d. The variety and generation of the suspect potatoes; ()

e. The laboratory submission report and test results; ()

f. The certification tags and origin of the seed potatoes used to produce the suspect crop; ()

g. North American Plant Health Certificate. ()

03. Methods of Reporting. The report shall be made by phone, in person or in writing (which may include electronic mail sent to BRR@agri.idaho.gov). ()

331. HOLD HARMLESS.

Reporting parties and those parties participating in and cooperating with the Department's trace back investigation of any alleged *Cms* contaminated potatoes will be held harmless from any civil penalties the Department has authority to issue. ()

332. TRACE BACK INVESTIGATION, SAMPLING, AND TESTING.

01. Trace Back and Investigation. The department, upon receiving a mandatory report of *Cms* infected potatoes, investigates the origin and destination of such potatoes. Trace back and investigation activities may include, but not be limited to: ()

a. A review of all inspection, certification, shipping and production records held by any person for the potatoes in question; ()

b. Inspection and sampling at the reporting operation as well as points for origin, storage and destination related to that operation; and ()

c. Laboratory testing records of any samples. ()

02. Mutual Cooperation. The Department and the Idaho Crop Improvement Association will mutually cooperate with each other in trace back investigations where appropriate. ()

03. Testing Positive for Cms. If certified seed potatoes in a lot test positive for Cms after they have left the control of the grower of that lot, ISDA's trace back investigation may include Cms testing any remaining seed from that lot that is still at the seed potato grower's facility. The testing level will be at a rate, depending on lot size, up to a maximum of four hundred (400) randomly selected tubers. ()

04. Trace Back Investigations. The public disclosure of information obtained during an investigation conducted under Subchapter C of this rule is subject to disclosure to the public only insofar as it is allowed by Title 74, Chapter 1, Idaho Code. ()

333. RESTRICTION ON THE USE OF INFECTED POTATOES.
Those potatoes found to be infected with *Cms* may not be utilized for planting as seed. ()

334. -- 349. (RESERVED)

350. TESTING FOR BRR.

01. Compliance With Certification Standards. Seed potato tubers for planting for commercial production or for seed certification in Idaho or being imported into Idaho as seed potatoes for commercial production or certification as seed for planting must comply with the Rules Governing Seed and Plant Certification as they relate to *Cms*, as incorporated in Section 304 of Subsection C of this rule. ()

02. Seed Potatoes to Be Exported Tested. Seed potato tubers being exported from Idaho to a foreign country as seed potatoes for planting must meet all ICIA requirements for certification and export tag placement, as well as all phytosanitary certification requirements of the importing country. All costs for sampling, transport and testing are borne by the exporter. ()

351. -- 359. (RESERVED)

360. HOLD ORDERS.

The Director may authorize Hold Orders restricting the movement of infested or suspect potatoes until investigation, trace back, and sample analysis are complete. Hold Orders may require verification that said potatoes will not be utilized for any purposes not authorized in writing by the Department. When potatoes from a certified seed potato lot are sampled and test positive for BRR after the seed potatoes have left the seed potato grower's facility, the department will not issue a hold order on any seed potatoes from that lot that remain on the seed potato grower's facility unless and until potatoes from the affected lot are sampled at the seed potato grower's facility and test positive for BRR. ()

361. -- 369. (RESERVED)

370. FEES.

Fees for samples for laboratory testing for *Cms* are those normally charged by the approved laboratory doing the testing. ()

371. -- 409. (RESERVED)

SUBCHAPTER D – PLANTING SEED POTATOES

410. DEFINITIONS.

In addition to the definitions found in Section 22-501, Idaho Code, the definitions found in section 410 apply in the interpretation and the enforcement of this subchapter D of this rule: ()

01. Disease. Any fungus, bacteria, virus, or other organism injurious to plant life or plant products, including the spore or any other propagative state thereof. ()

02. Pest. Any form of animal life that is or may be detrimental or injurious to plant life or plant products, including the egg, larva, pupa, or any other immature stage thereof. ()

411. -- 449. (RESERVED)

450. REQUIREMENTS FOR UNCERTIFIED SEED POTATOES ARE:

01. No More Than One Generation. No more than one (1) generation from certified parent seed potatoes. ()

02. Grown by the Farmer. Grown by the farmer and separated and graded at the storage of the farmer planting the uncertified seed potatoes. ()

03. Planting. Planted only on the farm of the farmer who produced the uncertified seed potatoes. ()

04. Disease Content. In compliance with ICIA rules of certification for seed potatoes by having a disease content that does not exceed the standard for the last generation of certified seed potatoes. ()

05. Laboratory Testing. Laboratory tested for bacterial ring rot prior to planting. ()

06. Laboratory Tested and/or Grown Out. Laboratory tested and/or grown-out for potato leaf roll virus and potato virus Y prior to planting. ()

07. Testing by Designated Agencies. Laboratory and/or grow-out tested by agencies designated by the department. ()

08. Sampling. Sampled in accordance with procedures established by the department. ()

451. -- 459. (RESERVED)

460. ENFORCEMENT.

01. Reporting – Uncertified Seed Potatoes. All growers planning to plant uncertified seed potatoes shall complete an uncertified seed potatoes report form approved by the department and submit it to the department prior to planting. ()

02. Records - Certified Seed Potatoes. All potato growers are required to keep seed potato certification records for a minimum of four years after planting. The records may be official tags or other official documentation issued by the certifying agency and representing each lot planted. These records must include the potato variety name, certification number and certifying agency. These records are to be made available to a Department representative upon request. ()

461. – 999. (RESERVED)