

Dear Senators HARTGEN, Nichols, Semmelroth, and
Representatives ANDRUS, Raymond, Mathias:

The Legislative Services Office, Research and Legislation, has received the enclosed rules of the
Department of Agriculture:

IDAPA 02.06.10 - Rules Governing the Growing of Potatoes (ZBR Chapter Rewrite) - Proposed
Rule (Docket No. 02-0610-2301);

IDAPA 02.06.16 - Rules Governing Honey Standards (ZBR Chapter Rewrite) - Proposed Rule
(Docket No. 02-0616-2301);

IDAPA 02.04.32 - Rules Governing Poultry Operations (ZBR Chapter Rewrite, Fee Rule) - Proposed
Rule (Docket No. 02-0432-2301).

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 12/07/2023. 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 01/04/2024.

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.



Terri Kondeff
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 14, 2023
SUBJECT: Department of Agriculture

IDAPA 02.06.10 - Rules Governing the Growing of Potatoes (ZBR Chapter Rewrite) - Proposed Rule (Docket No. 02-0610-2301)

IDAPA 02.06.16 - Rules Governing Honey Standards (ZBR Chapter Rewrite) - Proposed Rule (Docket No. 02-0616-2301)

IDAPA 02.04.32 - Rules Governing Poultry Operations (ZBR Chapter Rewrite, Fee Rule) - Proposed Rule (Docket No. 02-0432-2301)

1. IDAPA 02.06.10 - Rules Governing the Growing of Potatoes

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. According to the department, the rulemaking is being conducted in compliance with the Governor's Zero-Based Regulation Executive Order. The department states that redundant language that is verbatim in statute has been removed. The department notes that the rules govern the procedures for all potato management within Seed Potato Crop Management Areas and establishes procedures of identifying, handling, and testing uncertified seed potatoes to be planted in Idaho. The department states that the 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. There are no fees included in the rule. In compliance with requirements set forth in Section 22-101A, Idaho Code, the department indicates that the entire rule, with the exception of Subchapter A, regulates activity not otherwise regulated by the federal government.

Negotiated Rulemaking / Fiscal Impact

Negotiated rulemaking was conducted and the department states that there is no fiscal impact as a result of the rulemaking.

Paul Headlee, Deputy Director Matt Drake, Manager Keith Bybee, Manager April Renfro, Manager Norma Clark, Manager
Legislative Services Office Research & Legislation Budget & Policy Analysis Legislative Audits Information Technology

Statehouse, P.O. Box 83720
Boise, Idaho 83720-0054

Tel: 208-334-2475
legislature.idaho.gov

Statutory Authority

The rulemaking appears to be authorized pursuant to Sections 22-505, 22-1907, 22-2004, 22-2006, and 22-2013, Idaho Code.

2. IDAPA 02.06.16 - Rules Governing Honey Standards

Summary and Stated Reasons for the Rule

The Idaho State Department of Agriculture submits notice of proposed rule at IDAPA 02.06.16 - Rules Governing Honey Standards. According to the department, the rulemaking is being conducted in compliance with the Governor's Zero-Based Regulation Executive Order. The department states that redundant language that is verbatim in statute has been removed. The department states that the rules apply to all honey produced by honey bees and to incorporate by reference the United States Standards for Grades of Extracted Honey as a quality control program. There are no fees associated with the rule. In compliance with Section 22-101A, Idaho Code, the department notes that the federal government sets a standard for the definition of "honey," but does not provide for application of that standard at the state level.

Negotiated Rulemaking / Fiscal Impact

Negotiated rulemaking was conducted and according to the department, there is no fiscal impact as a result of the rulemaking.

Statutory Authority

The rulemaking appears to be authorized pursuant to Section 22-2808, Idaho Code.

3. IDAPA 02.04.32 - Rules Governing Poultry Operations

Summary and Stated Reasons for the Rule

The Idaho State Department of Agriculture submits notice of proposed rule at IDAPA 02.04.32 - Rules Governing Poultry Operations. According to the department, the rulemaking is being conducted in compliance with the Governor's Zero-Based Regulation Executive Order. The department states that redundant language that is verbatim in statute has been removed. The department states that the rules govern the management practices of waste systems on poultry concentrated animal feeding operations. The department states that no changes to fees were included in the rulemaking and that fees in the current rule include an assessment for each poultry permittee of no more than \$0.03 per square foot of containment area. In compliance with requirements set forth in Section 22-101A, Idaho Code, the department indicates the rule regulates activity and provides requirements beyond those required by the federal government, per the direction and authorization of Idaho Code.

Negotiated Rulemaking / Fiscal Impact

Negotiated rulemaking was conducted and the department states that there will be no fiscal impact as a result of the rulemaking.

Statutory Authority

The rulemaking appears to be authorized pursuant to Section 25-4012, Idaho Code.

cc: Department of Agriculture
Lloyd Knight

***** PLEASE NOTE *****

Per the Idaho Constitution, all administrative rules may be reviewed by the Legislature during the next legislative session. The Legislature has 3 options with this rulemaking docket: **1)** Approve the docket in its entirety; **2)** Reject the docket in its entirety; or **3)** Reject the docket in part.

IDAPA 02 – DEPARTMENT OF AGRICULTURE
02.04.32 – RULES GOVERNING POULTRY OPERATIONS
DOCKET NO. 02-0432-2301 (ZBR CHAPTER REWRITE, 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 25-4012, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 18, 2023.

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:

This rule is being presented for authorization as part of the ISDA's plan to review each rule every 5 years. Redundant language that is verbatim in statute has been removed, consistent with the Governor's [Zero-Based Regulation Executive Order](#).

The rule was reviewed over the course of two negotiated rulemaking meetings, and that review benefited from the participation of program stakeholders. No negative comments were submitted as part of this rulemaking process.

These rules govern the management practices of waste systems on poultry concentrated animal feeding operations.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased:

No changes to fees were included in this rulemaking. Fees in the current rule include an assessment for each poultry permittee of no more than (\$0.03) per square foot of containment area.

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 fiscal impact as a result of this rulemaking.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the May 3, 2023 Idaho Administrative Bulletin, [Vol. 23-5, Page 11](#).

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:

The Nutrient Management Standard (2007 Publication) is incorporated by reference to serve as a standard for nutrient management planning required by the rule.

IDAHO CODE SECTION 22-101A STATEMENT: Pursuant to 22-101A(1), for any rule promulgated or adopted by the director which is broader in scope or more stringent than federal law or regulations, or which regulates an activity not regulated by the federal government, the director shall identify the portions of the adopted rule that are broader in scope or more stringent than federal law or rules, or which regulate an activity not regulated by the federal government. The following sections of the rule are broader in scope, more stringent than federal law or regulations, or regulate an activity not regulated by the federal government:

This rule regulates activity and provides requirements beyond those required by the federal government, per the direction and authorization of Idaho Code.

The detailed 22-101A analysis can be found on the agency's website at www.agri.idaho.gov.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Lloyd B. Knight, Deputy Director, at (208)332-8615.

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 October 25, 2023.

DATED this 4th day of October, 2023.

Lloyd B. Knight
Deputy Director
Idaho State Department of Agriculture
2270 Old Penitentiary Road
P.O. Box 7249
Boise, ID 83707
Phone: (208) 332-8615
Email: lloyd.knight@isda.idaho.gov

THE FOLLOWING IS THE PROPOSED TEXT OF FEE DOCKET NO. 02-0432-2301
(ZBR Chapter Rewrite)

02.04.32 – RULES GOVERNING POULTRY OPERATIONS

000. LEGAL AUTHORITY.

~~This chapter is adopted under the legal authority of~~ Section 25-4012, Idaho Code. (3-15-22)()

001. ~~TITLE AND SCOPE.~~

01. ~~Title.~~ The title of this chapter is IDAPA 02.04.32, "Rules Governing Poultry Operations." (3-15-22)

02. ~~Scope.~~ These rules govern the ~~design, function and~~ management practices of waste systems on poultry concentrated animal feeding operations. ~~These rules also establish the procedures and requirements for issuance of a permit to construct, operate, or expand poultry concentrated animal feeding operations.~~ (3-15-22)()

002. -- 003. (RESERVED)

004. INCORPORATION BY REFERENCE.

The following documents ~~are~~ is incorporated by reference and a copy of ~~these~~ this documents may be obtained from the Idaho State Department of Agriculture central office. (3-15-22)()

01. ~~The 2004 Code of Federal Regulations (CFR) Title 40 Part 122 Section 122.23 (b).~~ This document can be viewed online at <https://www.govinfo.gov/content/pkg/CFR-2004-title40-vol20/pdf/CFR-2004-title40-vol20-part122.pdf>. (3-15-22)

~~02. Natural Resources Conservation Service Agricultural Waste Management Field Handbook Appendix 10D (Appendix 10D) (March 2008 Edition) (USDA, NRCS). This document can be viewed online at <https://directives.sc.egov.usda.gov/OpenNonWebContent.aspx?content=17767.wba>. (3-15-22)~~

031. Nutrient Management Standard (NMS). The June 2007 publication by the United States Department of Agriculture (USDA) Idaho Natural Resources Conservation Service (NRCS) Idaho Conservation Practice Standard, Nutrient Management Code 590. This document can be viewed online at https://agri.idaho.gov/main/wp-content/uploads/2017/10/june_2007_NRCS_590.pdf. ()

~~04. Natural Resources Conservation Service (NRCS) Idaho Conservation Practice Standard Waste Storage Facility Code 313 December 2004. This document can be viewed online at https://agri.idaho.gov/main/wp-content/uploads/2017/10/nres_313_Dec_2004.pdf. (3-15-22)~~

~~05. American Society of Agricultural and Biological Engineers Specification ASAE EP393.3 Manure Storages February 2004. This document can be viewed online at <https://www.asabe.org/Publications-Standards/Standards-Development/National-Standards/Published-Standards>. (3-15-22)~~

005. -- 009. (RESERVED)

010. DEFINITIONS.

~~In addition to the definitions set forth in Section 25-4002, Idaho Code, t~~The following definitions apply: ~~in the interpretation and the enforcement of this chapter.~~ (3-15-22)()

01. Discharge. Release of process wastewater or manure from a poultry animal feeding operation, including its land application area, to waters of the state or beyond the poultry facility's property boundaries or beyond the property boundary of any facility. Contract manure haulers, producers and other persons who haul manure beyond the operator's property boundaries are responsible for releases of manure between the property boundaries of the operator and the property boundaries at the point of application. A discharge does not include aerosolized matter, or manure that has been reasonably incorporated on the land application area. ()

~~02. Idaho Pollutant Discharge Elimination System (IPDES). Idaho's program for issuing, modifying, revoking and reissuing, terminating, monitoring and enforcing permits, and imposing and enforcing pretreatment requirements, under these rules and the Clean Water Act sections 307, 402, 318, and 405. (3-15-22)~~

032. Runoff. Any precipitation that comes into contact with manure, compost, bedding, or feed on a poultry feeding operation and flows off the production area or flows off land application areas where the manure, compost, bedding, or feed has not been reasonably incorporated into the soil. ()

011. ABBREVIATIONS.

01. AFO. Animal Feeding Operation. ()

~~02. ASABE.~~ American Society of Agricultural and Biological Engineers. (3-15-22)

~~032. CAFO.~~ Concentrated Animal Feeding Operation. ()

~~04. DEQ.~~ Department of Environmental Quality. (3-15-22)

~~05. FEMA.~~ Federal Emergency Management Agency. (3-15-22)

~~06. IPDES.~~ Idaho Pollutant Discharge Elimination System. (3-15-22)

~~073. NMP.~~ Nutrient Management Plan. ()

~~08. NMS.~~ Nutrient Management Standard. (3-15-22)

~~094. NRCS.~~ United States Department of Agriculture, Natural Resources Conservation Service.

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~~405.~~ USGS. United States Geological Survey.

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012. -- 109. (RESERVED)

110. PERMIT APPLICATION.

~~01. Permit Application.~~ Every person required by Section 25-4003, Idaho Code, to obtain a permit must submit a permit application to the department. The permit application will be used to determine if the construction and operation of the poultry CAFO will be in conformance with these rules. (3-15-22)

~~02. Contents of Application.~~ Each Poultry CAFO permit applications must include, in the format set forth by the director in sufficient detail to allow the director to make necessary application review decisions concerning design and environmental protection by providing the following: all required information and be submitted on a form approved by the Administrator. (3-15-22)()

- ~~a.~~ Name, mailing address and phone number of the facility owner. (3-15-22)
- ~~b.~~ Name, mailing address and phone number of the facility operator. (3-15-22)
- ~~c.~~ Name and mailing address of the facility. (3-15-22)
- ~~d.~~ Legal description of the facility location. (3-15-22)
- ~~e.~~ The one time animal capacity, by head, of the facility. (3-15-22)
- ~~f.~~ The type of animals to be confined at the facility. (3-15-22)
- ~~g.~~ The facility's biosecurity and sanitary standards. (3-15-22)

~~02. Nutrient Management Plan.~~ Permit applications must include an NMP that was prepared in conformance with IDAPA 02.04.30, "Rules Governing Environmental and Nutrient Management," and approved by the Department. ()

~~03. Construction Plans.~~ Plans and specifications for the facility's animal waste management system that include the following information: (3-15-22)

- ~~a.~~ Vicinity map(s) prepared on one (1) or more seven and one half minute (7.5') USGS topographic quadrangle maps or a high quality reproduction(s) that includes the following: (3-15-22)
 - ~~i.~~ Layout of the facility, including buildings and animal waste management system; (3-15-22)
 - ~~ii.~~ The one hundred (100) year FEMA flood zones or other appropriate flood data for the facility site and land application sites owned or leased by the applicant; and (3-15-22)
 - ~~iii.~~ Private and community domestic water wells, irrigation wells, monitoring wells, and injection wells, irrigation conveyance and drainage structures, wetlands, streams, springs, and reservoirs that are within a one (1) mile radius of the facility. (3-15-22)
- ~~b.~~ A site plan showing: (3-15-22)
 - ~~i.~~ Building locations; (3-15-22)
 - ~~ii.~~ Waste facilities; (3-15-22)
 - ~~iii.~~ All waste conveyance systems; and (3-15-22)

- ~~iv. All irrigation systems used for land application, including details of approved water supply protection devices; (3-15-22)~~
- ~~e. Building plans showing; (3-15-22)~~
- ~~i. All wastewater collection systems in housed units; (3-15-22)~~
- ~~ii. All freshwater supply systems, including details of approved water supply protection devices; (3-15-22)~~
- ~~iii. Detailed drawings of wastewater collection and conveyance systems and containment construction. (3-15-22)~~
- ~~d. If a CAFO Site Advisory Team suitability determination was not conducted for the facility, the following additional information must be provided: (3-15-22)~~
 - ~~i. Idaho DEQ delineated source water assessment areas within a one (1) mile radius of the facility and land application area; (3-15-22)~~
 - ~~ii. Idaho DEQ delineated nitrate priority areas that intersect the facility or land application area; (3-15-22)~~
 - ~~iii. Soil characteristics from NRCS; and (3-15-22)~~
 - ~~iv. Well logs associated with wells listed in Subsection 110.04.a.iii. (3-15-22)~~
- ~~e. All construction plans will specify how the facility will meet the engineering standards outlined in the Natural Resources Conservation Service Agricultural Waste Management Field Handbook Appendix 10D (Appendix 10D) (March 2008 Edition) (USDA, NRCS), Natural Resources Conservation Service (NRCS) Idaho Conservation Practice Standard Waste Storage Facility Code 313 December 2004, or American Society of Agricultural and Biological Engineers Specification ASAE EP393.3 Manure Storages February 2004. (3-15-22)~~

~~**04. Nutrient Management Plan.** NMPs must be prepared in conformance with the Nutrient Management Standard or other equally protective standard for managing the amount, source, placement, form and timing of the land application of nutrients or soil amendments. (3-15-22)~~

~~**03. Wastewater Storage and Containment Facilities.** For a poultry CAFO permit to be granted or renewed, all permitted facilities shall have a wastewater storage and containment facility included in the NMP that are designed, constructed, operated, and maintained pursuant to IDAPA 02.04.30, "Rules Governing Environmental and Nutrient Management." ()~~

111. -- 129. (RESERVED)

130. PERMIT CONDITIONS.
The following conditions will apply to all permittees: ()

~~**01. Compliance Required.** The permittee must comply with all conditions of the permit. The permit must not relieve the permittee of the responsibility of complying with all applicable local, state, and federal laws. (3-15-22)~~

~~**021. Construction, Operation, and Maintenance of the Facility.** The permittee must ensure that construction, operation, and maintenance of the facility proceed is according to the construction plans and specifications and the approved nutrient management plans NMP, and comply with the following: (3-15-22)()~~

- ~~**a.** Within thirty (30) days of construction completion, submit as-built construction plans. (3-15-22)~~

- ~~b. Apply best management practices as approved by the director. (3-15-22)~~
- ~~e. The facility or operations associated with the facility must not adversely affect waters of the state or create nuisance conditions including odor. (3-15-22)~~
- ~~d. The removal of animal waste from an impoundment or storage structure must be performed in a manner not to damage the integrity of the liner. (3-15-22)~~
- ~~e. Dead animals must be handled in accordance with IDAPA 02.04.17, "Rules Governing Dead Animal Movement and Disposal." (3-15-22)~~
- ~~f. Nutrient management plans must be amended in accordance with IDAPA 02.04.30.000 et seq. "Rules Governing Environmental and Nutrient Management." (3-15-22)~~
- ~~a. Provisions of approved NMPs must be adhered to and amended in accordance with IDAPA 02.04.30.000 et seq. "Rules Governing Environmental and Nutrient Management." ()~~
- ~~g. Soil tests must be conducted annually on all land application sites owned or leased by the permittee to determine compliance with the NMP and NMS. The director may require more frequent soil tests if he deems it necessary. (3-15-22)~~
- ~~03. **Information to be Provided.** The permittee must furnish to the director, within a reasonable time, any information which the director may reasonably require to determine whether causes exists to modify or revoke the permit, or to determine compliance with the permit or applicable rules. (3-15-22)~~
- ~~04. **Entry and Access.** The permittee must allow the director entry and access in accordance with Section 25-4008, Idaho Code. (3-15-22)~~
- ~~05. **Reporting.** Permittees must report discharges or noncompliance issues within the following time frames: (3-15-22)~~
 - ~~a. Within twenty four (24) hours of the time the permittee knows or should have known of a discharge or unauthorized discharge, the permittee must verbally report the discharge. (3-15-22)~~
 - ~~b. Within five (5) working days from the time a permittee knows or reasonably should have known of any event which has resulted or which may result in noncompliance with these rules, the permittee must file a written report with the director containing: (3-15-22)~~
 - ~~i. A description of the event and its cause or if the cause is not known, steps taken to investigate and determine the cause; (3-15-22)~~
 - ~~ii. The period of the event including, to the extent possible, times and dates; (3-15-22)~~
 - ~~iii. Measures taken to mitigate or eliminate the event; and (3-15-22)~~
 - ~~iv. Steps taken to prevent recurrence of the event. (3-15-22)~~
 - ~~e. Immediately, whenever the permittee knows or learns or should reasonably know of material relevant acts not submitted or incorrect information submitted in a permit application or any report or notice to the director. (3-15-22)~~
- ~~06. **Construction Commencement.** If a permittee fails to begin construction or expansion of a facility within five (5) years of the effective date of the permit, the director may void the permit and require a new permit application. ()~~
- ~~07. **Permit Renewal.** If a permittee intends to continue operation of the permitted facility after expiration of an existing permit, the permittee must apply for a new permit at least one hundred eighty (180) days~~

prior to the expiration of the permit. ()

~~08. **Specific Permit Conditions.** The director may establish specific permit conditions on a case-by-case basis. Specific conditions will be established in consideration of facility's specific characteristics and will be designed to protect the state's water resources. (3-15-22)~~

131. -- 139. (RESERVED)

140. FEES AND ASSESSMENTS.

01. **Annual Fees or Assessments.** The director may establish annual fees or assessments for each permittee of no more than three cents (\$0.03) per square foot of containment area. ()

02. **Payment of Annual Fees or Assessments.** Annual fees or assessments are due annually by January 20th of the next calendar year. ()

141. -- 149. (RESERVED)

150. PERMIT MODIFICATION.

01. ~~**Minor Modifications.** Minor pPermit modifications are those which do not have a potential effect on the state's water resources. Such modifications will be made by the director, and are generally limited to: that are not limited to the correction of errors, transfer of ownership or operational control, or minor changes in operational conditions that do not affect state water resources, must be submitted to the Department as a new permit application. (3-15-22)()~~

~~a. The correction of typographical or clerical errors; (3-15-22)~~

~~b. Transfer of ownership or operational control in accordance with Section 160; or (3-15-22)~~

~~c. Certain minor changes in monitoring or operational conditions. (3-15-22)~~

~~02. **Major Modifications.** All permit modifications not considered minor will be deemed major. The procedure for making major modifications is the same as that used for a new permit under these rules. (3-15-22)~~

151. -- 159. (RESERVED)

160. TRANSFER OF PERMITS.

01. **Transfer Application.** A new owner or operator of a facility must submit a transfer application to the ~~director~~ Department on an approved form that includes ~~at least the following~~ all required information and any change of conditions at the facility resulting from the permit transfer. (3-15-22)()

~~a. The relevant information required by Subsection 110.03; and (3-15-22)~~

~~b. Any change of conditions at the facility resulting from the ownership or operation transfer. (3-15-22)~~

02. **Transfer Application Review.** ~~The director will review the transfer application and either approve or deny the application within sixty (60) days of its receipt. (3-15-22)~~

~~a. An approved transfer will be considered a minor modification pursuant to Subsection 150.01 as long as there are no major changes of conditions at the facility. Major changes of conditions at the facility are subject to Subsection 150.02. (3-15-22)~~

~~b. If the ~~director denies the~~ transfer application is denied, the applicant will be provided, he will set forth the specific reasons for the denial, the steps necessary to meet the requirements for a permit transfer, and the~~

opportunity to request a hearing.

(3-15-22)()

161. -- 199. (RESERVED)

200. WASTE STORAGE AND CONTAINMENT FACILITIES.

~~01. Wastewater Storage and Containment Facilities. Construction, operation, and maintenance shall be in accordance with IDAPA 02.04.30, "Rules Governing Environmental and Nutrient Management." All poultry AFOs where process wastewater leaves the confinement area and has the potential to impact water of the state or be in violation of state water quality standards or ground water quality standards must have wastewater storage and containment facilities designed, constructed, operated, and maintained sufficient to contain:~~ (3-15-22)()

- ~~a. All process wastewater generated on the facility during the non-land application season; (3-15-22)~~
- ~~b. The runoff from a twenty-five (25) year, twenty-four (24) hour rainfall event; and (3-15-22)~~
- ~~e. Either three (3) inches of runoff from the accumulation of winter precipitation or the amount of runoff from the accumulation of precipitation from a one-in-five (1 in 5) year winter. (3-15-22)~~

~~02. All Substances Entering Wastewater Storage and Containment Facilities. All substances entering wastewater storage and containment facilities must be composed of manure and process wastewater from the operation of the poultry AFO. The disposal of any other materials into a wastewater storage and containment facility, including, but not limited to, human waste, is prohibited. (3-15-22)~~

~~03. Waste Storage. Storage areas for poultry waste including compost and solid manure storage areas must be located on approved soils and appropriately protected to prevent run on and run off. (3-15-22)~~

~~04. Waste and Wastewater System Maintenance. Waste and wastewater storage and containment systems must be maintained in a condition that allows the producer to regularly inspect the integrity of the systems. (3-15-22)~~

~~05. Additional Ground Water Protection Requirements. The permittee must construct and maintain all waste containment structures within the parameters of this rule, including the Natural Resources Conservation Service Agricultural Waste Management Field Handbook Appendix 10D (Appendix 10D) (March 2008 Edition) (USDA, NRCS), Natural Resources Conservation Service (NRCS) Idaho Conservation Practice Standard Waste Storage Facility Code 313 December 2004, or American Society of Agricultural and Biological Engineers Specification ASAE EP393.3 Manure Storages February 2004 (see Section 004, Incorporation by Reference). After inspection, if the Department has information that the waste containment structure(s) has been compromised severely enough to no longer meet the requirements of this rule, the Department may require an evaluation to be conducted by a licensed professional engineer. The engineer will make recommendations on steps needed to bring the facility into compliance with this rule. The permittee is responsible for engineering and reconstruction costs. If the permittee has a repeat waste containment compromise, as determined by the department, the Director may require ground water monitoring by the permittee. (3-15-22)~~

201. -- 249. (RESERVED)

250. NUTRIENT MANAGEMENT.

~~Each poultry CAFO must submit an NMP for land owned or controlled by the operator to the director for approval. The NMP must conform to the NMS and address odors generated in excess of odors normally associated with raising poultry in Idaho. (3-15-22)~~

~~01. Designated Poultry CAFOs. Any poultry AFO which is designated as a CAFO by the Department in accordance with Section 400 must submit an NMP within forty-five (45) days of designation. ()~~

~~02. NMP Approval. The director will respond to or approve an NMP in writing within forty-five (45) days of submission. (3-15-22)~~

~~03. NMP Updates or Amendments. Nutrient management plans must be updated as needed to accurately reflect the facility and its nutrient management system. (3-15-22)~~

251. NUTRIENT MANAGEMENT PLAN RETENTION.

All NMPs which have been approved by the department and returned to the CAFO records must be maintained on site at by the CAFO permittee for a minimum of five (5) years and made available to the Department upon request. The department will retain a copy of the NMP. (3-15-22)()

252. NUTRIENT MANAGEMENT RECORDS:

~~01. Required Nutrient Management Records. The CAFO operator must keep complete and accurate records of: (3-15-22)~~

~~a. Land application records, consisting of, at a minimum: (3-15-22)~~

~~i. The dates, methods and approximate amounts of any manure or process wastewater applied on land owned or controlled by the operator. (3-15-22)~~

~~ii. Weather conditions and soil moisture at the time of application. (3-15-22)~~

~~iii. The lapsed time to manure incorporation, rainfall or irrigation event. (3-15-22)~~

~~iv. Documentation of the actual rate at which nutrients were applied. When the actual rate used differs from the recommended and planned rates, nutrient management records must indicate the rationale for the difference. (3-15-22)~~

~~b. The name and address of any third party receiving manure or process wastewater from the facility, including the dates of the transfer and the amount of manure or process wastewater transferred. (3-15-22)~~

~~c. Nutrient Application. The quantities, analyses and sources of nutrients applied. (3-15-22)~~

~~d. Soil Analysis. Complete soil analysis to create nutrient budget. (3-15-22)~~

~~e. Crops. Crops planted, planting and harvest dates, yields and crop residues removed. (3-15-22)~~

~~f. Record Review. Dates of annual review, person performing the review, and recommendations determined from the review. (3-15-22)~~

~~02. Records Retention. All nutrient management records must be maintained for a period of five (5) years and provided to the department upon request. (3-15-22)~~

253. NMP VIOLATIONS.

The failure to implement an approved NMP, failure to retain and maintain an NMP at the CAFO, or failure to retain nutrient management records is a violation of these rules. (3-15-22)

254. -- 259. (RESERVED)

260. GROUND WATER QUALITY MONITORING.

At least annually, the department will sample and test the facility's production well water for nitrogen. ()

261. -- 299. (RESERVED)

300. PROHIBITED DISCHARGES.

Discharges or unauthorized discharges of manure or process wastewater from poultry CAFO or land application sites owned or controlled by a poultry CAFO are prohibited. ()

301. -- 309. (RESERVED)

310. NOTIFICATION OF DISCHARGE.

Within twenty-four (24) hours of learning of a discharge ~~or unauthorized discharge~~, the operator of a poultry CAFO must ~~verbally~~ notify the ~~Department of the discharge or unauthorized discharge~~. (3-15-22)()

~~311.—499. (RESERVED)~~

500. INSPECTIONS.

Pursuant to Title 25, Chapter 40, Idaho Code, the director or his designee is authorized to inspect any poultry AFO, and to have access to and copy any facility records deemed necessary to ensure compliance with Title 25, Chapter 40, Idaho Code, and these rules. (3-15-22)

~~01. Frequency. All poultry CAFOs will be inspected at least annually, or at intervals sufficient to determine that waste has been managed to prevent an unauthorized discharge or contamination of waters of the state. (3-15-22)~~

~~02. Inspection Methods. Inspections may include, but are not limited to, evaluating effectiveness of best management practices, collecting samples, taking photographs, video recording or collecting other information as necessary. (3-15-22)~~

~~501.—549. (RESERVED)~~

550. VIOLATIONS.

~~01. Failure to Comply. Failure by a permittee to comply with the provisions of these rules or with any permit condition is a violation of these rules. (3-15-22)~~

~~02. Falsification of Statements and Records. It is a violation of these rules for any person to knowingly make a false statement, representation, or certification in any application, report, document, or record developed, maintained, or submitted pursuant to these rules or the conditions of a permit. (3-15-22)~~

~~03. Discharge. Any discharge or unauthorized discharge from a facility is a violation of these rules. (3-15-22)~~

~~551~~311. -- 999. (RESERVED)

IDAPA 02 – DEPARTMENT OF AGRICULTURE
02.06.10 – RULES GOVERNING THE GROWING OF POTATOES
DOCKET NO. 02-0610-2301 (ZBR CHAPTER REWRITE)
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: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 18, 2023.

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:

This rule is being presented for authorization as part of the ISDA’s plan to review each rule every 5 years. Redundant language that is verbatim in statute has been removed, consistent with the Governor’s [Zero-Based Regulation Executive Order](#).

The rule was reviewed over the course of two negotiated rulemaking meetings, and that review benefited from the participation of program stakeholders. No negative comments were submitted as part of this rulemaking process.

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.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased:

There are no fees included in this rule.

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 fiscal impact as a result of this rulemaking.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the May 3, 2023 Idaho Administrative Bulletin, [Vol. 23-5, Page 11](#).

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:

The documents incorporated by reference in this rule are federal regulations and manuals related to Pale Cyst Nematode. These documents are important to include so as to ensure that any activities are consistent with the federal regulation.

IDAHO CODE SECTION 22-101A STATEMENT: Pursuant to 22-101A(1), for any rule promulgated or adopted by the director which is broader in scope or more stringent than federal law or regulations, or which regulates an activity not regulated by the federal government, the director shall identify the portions of the adopted rule that are broader in scope or more stringent than federal law or rules, or which regulate an activity not regulated by the federal government. The following sections of the rule are broader in scope, more stringent than federal law or regulations, or regulate an activity not regulated by the federal government:

The entire rule – except for Subchapter A – regulates activity not otherwise regulated by the federal government.

The detailed 22-101A analysis can be found on the agency’s website at www.agri.idaho.gov.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Lloyd B. Knight, Deputy Director, at (208)332-8615.

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 October 25, 2023.

DATED this 4th day of October, 2023.

Lloyd B. Knight
Deputy Director
Idaho State Department of Agriculture
2270 Old Penitentiary Road
P.O. Box 7249
Boise, ID 83707
Phone: (208) 332-8615
Email: lloyd.knight@isda.idaho.gov

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 02-0610-2301
(ZBR Chapter Rewrite)

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. (3-15-22)()

001. ~~TITLE AND SCOPE.~~

01. ~~Title.~~ The title of this chapter is IDAPA 02.06.10, “Rules Governing the Growing of Potatoes.” (3-15-22)

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. (3-15-22)()

002. -- 103. (RESERVED)

SUBCHAPTER A – PALE CYST NEMO~~A~~TODE

104. INCORPORATION BY REFERENCE.

The following documents are incorporated by reference into this Subchapter A ~~only~~: (3-15-22)()

01. 7 CFR Part 301 SubPart S - 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 as amended under docket No. APHIS-2018-0041 published in the Federal Register Vol. 85, No. 249, Tuesday, December 29, 2020, and except as amended below in Subchapter A of this rule.

(3-15-22)()

02. USDA APHIS PPQ Treatment Manual Schedule T406-d, ~~Revision 10, September 2006~~ https://www.aphis.usda.gov/import_export/plants/manuals/ports/downloads/treatment.pdf.

(3-15-22)()

03. 7 CFR Part 305 - Phytosanitary Treatments, as revised ~~September 12, 2007~~ January 1, 2022.

(3-15-22)()

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 [Idaho State Department of Agriculture \(ISDA\)](#), [Animal and Plant Health Inspection Service \(APHIS\)](#), the [U.S. United States](#) Department of Agriculture ([USDA](#)), or other person authorized by the USDA APHIS Administrator or ISDA Director to perform the duties required under Subchapter A.

(3-15-22)()

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. (3-15-22)~~

~~02. ISDA. Idaho State Department of Agriculture. (3-15-22)~~

~~03. PCN. Pale Cyst Nematode. (3-15-22)~~

~~04. PPQ. Plant Protection and Quarantine. (3-15-22)~~

~~05. USDA. United States Department of Agriculture. (3-15-22)~~

~~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.

(3-15-22)()

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~~ ISDA eradication program. (3-15-22)()

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,~~ the federal regulations, as incorporated by reference in Section 104 in Subchapter A ~~of this rule.~~ (3-15-22)()

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. (3-15-22)~~

~~**2121. -- 219. (RESERVED)**~~

220. SEED POTATO CROP MANAGEMENT AREAS.

Area boundary maps as published on ISDA website: <https://agri.idaho.gov/main/plants/potatoes/> for the following Seed Potato Crop Management Areas: All of Teton, Caribou and Franklin Counties; Portions of Fremont and Madison County; and areas known as: Lost River, Almo Valley Bridge, Ririe Reservoir, Picabo, Little Camas, and Hog Hollow. ()

~~**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.~~ (3-15-22)

~~**02. Teton And Portions Of Madison County Seed Potato Crop Management Area.** (3-15-22)~~

~~**a.** All of Teton County, Idaho; (3-15-22)~~

~~**b.** That portion of Madison County, Idaho, located in Township 6 North and Township 7 North lying East of Canyon Creek; and (3-15-22)~~

~~**e.** 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. (3-15-22)~~

~~**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. (3-15-22)~~

~~**04. Caribou and Franklin County Seed Potato Crop Management Area.** All of Caribou County, Idaho and all of Franklin County, Idaho. (3-15-22)~~

~~**05. Almo Valley Bridge Seed Potato Crop Management Area.** (3-15-22)~~

~~**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; (3-15-22)~~

~~**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; (3-15-22)~~

~~**e.** That portion of Cassia County, Idaho located in Township 14 South, Range 24 East, which includes all of Section 36; (3-15-22)~~

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; (3-15-22)

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 $\frac{1}{4}$ of Section 33; (3-15-22)

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; (3-15-22)

g. That portion of Cassia County, Idaho located in Township 16 South, Range 26 East; and (3-15-22)

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. (3-15-22)

06. Ririe Reservoir Seed Potato Crop Management Area. (3-15-22)

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; (3-15-22)

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; (3-15-22)

e. 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 (3-15-22)

d. That portion of Bonneville County, Idaho located in Township 3 North, Range 42 East, which includes all of Sections 31, 32, and 33. (3-15-22)

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 $\frac{1}{2}$ 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 $\frac{1}{2}$ 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 $\frac{1}{2}$ of section 28, and all of sections 29, 30, 31, 32, and the NW $\frac{1}{4}$ 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 $\frac{1}{2}$ of section 3, and all of the following sections: 4, 5, 6, 7, 8, E $\frac{1}{2}$ of section 9, all of sections 17, 18, 19, 20, 21, 28, 29, 30, and 31, W $\frac{1}{2}$ and the SE $\frac{1}{2}$ of the NE $\frac{1}{4}$ 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. (3-15-22)

08. Little Camas Ranch Seed Potato Crop Management Area. (3-15-22)

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 (3-15-22)

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 (3-15-22)

e. 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 ½ SW ¼, 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. (3-15-22)~~

~~**09. Hog Hollow Seed Potato Crop Management Area. (3-15-22)**~~

~~**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 ¾ 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 N1/2 NE1/4 of Section 30, Township 7 North, Range 43 East and then northwesterly out of the N1/2 NE1/4 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 SW1/4 SW1/4 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 SE1/4 SE1/4 of Section 16, Township 7 North, Range 42 East to the southern border of said Section 16; Thence west approximately ¾ 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 ¼ mile along the western border of Section 9, Township 7 North, Range 42 East to the northwest corner of the SW1/4 SW1/4 of said Section 9; Thence west 1 mile along the northern border of the S1/2 S1/2 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 S1/2 S1/2 of Section 7, Township 7 North, Range 42 East to the western border of said Section 7; Thence south ¼ mile to the southeast corner of Section 12, Township 7 North, Range 41 East; Thence west approximately ¾ mile along the southern border of Section 12, Township 7 North, Range 41 East to the southwest corner of the SE1/4 SW1/4 of said Section 12; Thence north approximately ¾ mile to the northwest corner of the SE1/4 NW1/4 of Section 12, Township 7 North, Range 41 East; Thence east ¼ mile along the northern border of the S1/2 NW1/4 of Section 12, Township 7 North, Range 41 East to the southwest corner of the N1/2 NE1/4 of said Section 12; Thence north ¼ mile along the western border of the NE1/4 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 ¼ 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 ¾ 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. (3-15-22)~~

~~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. (3-15-22)~~

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 [Idaho Crop Improvement Association \(ICIA\)](#) or equivalent agency of another state or political jurisdiction in accordance with Section 22-503, Idaho Code. (3-15-22)()

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. (3-15-22)~~

~~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 **or those that have not met standards for recertification by ICIA** shall be removed from Seed Potato Crop Management Areas no later than April 15 of the year following harvest. (3-15-22)()

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 **Shipping Point** 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 **Shipping Point** Inspection Service or a recognized equivalent agency of another state or territory in accordance with Section 22-503, Idaho Code. (3-15-22)()

271. SEED DISPOSITION NOTIFICATION.

The ~~Federal/~~ State **Shipping Point** 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. (3-15-22)()

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. -- 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*). (3-15-22)

~~021. Contact Lot.~~ A seed lot produced on a farming operation using common production and handling equipment or storage facilities, or both. (3-15-22)()

~~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. (3-15-22)

~~042. 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. ()

~~053. Seed Potato Certification Process.~~ The process, timing, and requirements for the certification of seed potatoes in Idaho, as set forth in the Idaho Potato Certification Standards, as set forth by the Idaho Crop Improvement Association (ICIA). (3-15-22)()

~~064. 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. ()

~~075. Sister Lot.~~ Seed lots originating from the same lot of seed stock. ()

~~311. ABBREVIATIONS.~~

~~01. BRR.~~ Bacterial Ring Rot. (3-15-22)

~~02. Cms.~~ *Clavibacter michiganensis subsp. sepedonicus*. (3-15-22)

~~03. ISDA.~~ Idaho State Department of Agriculture. (3-15-22)

~~04. ICIA.~~ Idaho Crop Improvement Association. (3-15-22)

~~3121.~~ – 319. (RESERVED)

320. REGULATED PEST - BACTERIAL RING ROT (BRR).
Caused by a bacterium, *Clavibacter michiganensis subsp. sepedonicus* (*Cms*). (3-15-22)()

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 Cms to the Department Idaho State Department of Agriculture (ISDA) when: (3-15-22)()

a. The BRR Cms is discovered or observed in seed potato plants or tubers prior to final seed potato

certification by ICIA; and (3-15-22)()

b. The presence of ~~BRR~~ Cms is confirmed via laboratory testing; and (3-15-22)()

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~~ ISDA's trace back investigation of any alleged *Cms* contaminated potatoes will be held harmless from any civil penalties the ~~Department~~ ISDA has authority to issue. (3-15-22)()

332. TRACE BACK INVESTIGATION, SAMPLING, AND TESTING.

01. Trace Back and Investigation. ~~The department~~ ISDA, 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: (3-15-22)()

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~~ ISDA and the ~~Idaho Crop Improvement Association~~ ICIA will mutually cooperate with each other in trace back investigations where appropriate. (3-15-22)()

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 Idaho Potato Certification Standards, as set forth by the [Idaho Crop Improvement Association ICIA](#). (3-15-22)()

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~~ *Cms* 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~~ *Cms*. (3-15-22)()

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.

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 Idaho Crop Improvement Association (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. ~~(3-15-22)~~()
- 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)**

IDAPA 02 – DEPARTMENT OF AGRICULTURE

02.06.16 – RULES GOVERNING HONEY STANDARDS

DOCKET NO. 02-0616-2301 (ZBR CHAPTER REWRITE)

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 22-2808, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 18, 2023.

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:

This rule is being presented for authorization as part of the ISDA's plan to review each rule every 5 years. Redundant language that is verbatim in statute has been removed, consistent with the Governor's [Zero-Based Regulation Executive Order](#).

The rule was reviewed over the course of two negotiated rulemaking meetings, and that review benefited from the participation of program stakeholders. No negative comments were submitted as part of this rulemaking process.

These rules apply to all honey produced by honey bees and to incorporate by reference the United States Standards for Grades of Extracted Honey as a quality control program.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased:

There is no fee associated with this rule.

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 fiscal impact as a result of this rulemaking.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the May 3, 2023 Idaho Administrative Bulletin, [Vol. 23-5, Page 11](#).

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:

United States Standards for Grades of Extracted Honey, Effective Date May 23, 1985. The United States Standards for Grades of Extracted Honey adopted by the Agriculture Marketing Service, United States Department of Agriculture effective May 23, 1985 are hereby adopted for the purposes of this rule for extracted honey grades.

It is the intent of the Idaho Honey Commission to ensure that honey sold in Idaho meets these basic standards.

IDAHO CODE SECTION 22-101A STATEMENT: Pursuant to 22-101A(1), for any rule promulgated or adopted by the director which is broader in scope or more stringent than federal law or regulations, or which regulates an activity not regulated by the federal government, the director shall identify the portions of the adopted rule that are broader in scope or more stringent than federal law or rules, or which regulate an activity not regulated by the federal government. The following sections of the rule are broader in scope, more stringent than federal law or regulations, or regulate an activity not regulated by the federal government:

The federal government sets a standard for the definition of “honey”, but does not provide for application of that standard at the state level.

The detailed 22-101A analysis can be found on the agency’s website at www.agri.idaho.gov.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Lloyd B. Knight, Deputy Director, at (208)332-8615.

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 October 25, 2023.

DATED this 4th day of October, 2023.

Lloyd B. Knight
Deputy Director
Idaho State Department of Agriculture
2270 Old Penitentiary Road
P.O. Box 7249
Boise, ID 83707
Phone: (208) 332-8615
Email: lloyd.knight@isda.idaho.gov

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 02-0616-2301
(ZBR Chapter Rewrite)

02.06.16 – RULES GOVERNING HONEY STANDARDS

000. LEGAL AUTHORITY.

This chapter is adopted under the legal authority of Section 22-2808, Idaho Code. ()

001. ~~TITLE AND SCOPE.~~

~~01. Title. The title of this chapter is IDAPA 02.06.16, “Rules Governing Honey Standards.” (3-31-22)~~

~~02. Scope. These rules apply to all honey produced by honey bees from nectar and covers all styles of honey presentation that are processed and ultimately intended for direct consumption, and to all honey packed, processed or intended for sale in bulk containers as honey that may be repacked for retail sale or for sale or use as an ingredient in other foods and to incorporate by reference the United States Standards for Grades of Extracted Honey as a quality control program. (3-31-22)()~~

002. – 003. (RESERVED)

004. INCORPORATION BY REFERENCE.

01. United States Standards for Grades of Extracted Honey, Effective Date May 23, 1985. The United States Standards for Grades of Extracted Honey adopted by the Agriculture Marketing Service, United States Department of Agriculture effective May 23, 1985 are hereby adopted for the purposes of this rule for extracted honey grades. See Section 016 of this rule. A copy of such federal standards is available at the following USDA

Website https://www.ams.usda.gov/sites/default/files/media/Extracted_Honey_Standard%5B1%5D.pdf. ()

~~005.—009.~~ (RESERVED)

010. DEFINITIONS.

The Department adopts the definitions set forth in Section 22-2803, Idaho Code. In addition, as used in this chapter, the following definitions apply: (3-31-22)

~~01. Air Bubble.~~ The small visible pockets of air in suspension that may be numerous in the honey and contribute to the lack of clarity in filtered style. (3-31-22)

~~02. Bees.~~ Honey producing insects of the genus *Apis* and includes the adults, eggs, larvae, pupae or other immature stages thereof. (3-31-22)

~~03. Comb.~~ The wax like cellular structure that bees use for retaining their brood or as storage for pollen and honey. (3-31-22)

~~04. Crystallize.~~ The spontaneous solidification of the natural glucose content from solution as the monohydrate. (3-31-22)

~~05. Floral Source.~~ The flower from which the bees gather nectar to make honey. (3-31-22)

~~06. Food.~~ (3-31-22)

~~a.~~ Articles used for food or drink, including ice, for human consumption or food for dogs and cats; (3-31-22)

~~b.~~ Chewing gum; and (3-31-22)

~~e.~~ Articles used for components of any such article. (3-31-22)

~~07. Food Additive.~~ Any substance the intended use of which results or may reasonably be expected to result, directly or indirectly, in its becoming a component of or otherwise affecting the characteristics of any food, including any substance intended for use in producing, manufacturing, packing, processing, preparing, treating, packaging, transporting, or holding food. It also includes any source of radiation intended for any such use, if such substance is not generally recognized, among experts qualified by scientific training and experience to evaluate its safety, as having been adequately shown through scientific procedures or experience based on common use in food to be safe under the conditions of its intended use. 'Food additive' does not include: (3-31-22)

~~a.~~ A pesticide chemical in or on a raw agricultural commodity; (3-31-22)

~~b.~~ A pesticide chemical to the extent that it is intended for use, or is used in the production, storage or transportation of any raw agricultural commodity; or (3-31-22)

~~e.~~ A color additive. (3-31-22)

~~08. Granulate.~~ The initial formation of crystals in honey. (3-31-22)

~~09. Honey.~~ The natural sweet substance produced by bees resulting from the harvest of plant nectar or plant secretions that has been collected and transformed by the deposition, dehydration, and storage in comb to ripen and mature. (3-31-22)

~~10. Pollen Grain.~~ The granular, dust like microspores that bees gather from flowers. Pollen grains in suspension contribute to the lack of clarity in filtered style. (3-31-22)

011. COMPLAINT PROCESS.

~~01. **Complaint Contents.** Complaints shall be directed to the department, in writing, and contain the following information: (3-31-22)~~

~~a. The name, address and contact information of the complainants; and (3-31-22)~~

~~b. The location and brand name of the product which is the subject of complaint. (3-31-22)~~

~~02. **Initial Review.** The department will forward written complaints to the commission for initial review. (3-31-22)~~

~~03. **Sampling and Analysis.** Upon review, the commission may request the department to acquire an official sample of the product, in accordance with Title 22, Chapter 28, Idaho Code, and send it to an analytical laboratory that possesses the ability to analyze honey for adulteration, or other testing deemed appropriate in accordance with the nature of the complaint. The laboratory analysis will be reviewed by the commission and the department for compliance with Title 22, Chapter 28, Idaho Code, and these rules. (3-31-22)~~

~~04. **Violations.** If, after investigation, the commission and the department find that a violation of title 22, Chapter 28, Idaho Code and/or these rules has occurred the commission and the department shall confer and agree on an appropriate course of action as authorized by Section(s) 22-2811 or 22-2812, Idaho Code. (3-31-22)~~

~~012.—014. (RESERVED)~~

~~015. **STANDARDS OF IDENTITY—HONEY.**~~

~~Honey sold as such shall not have added to it any food additives, nor any other additions be made other than honey. It shall not have begun to ferment or effervesce and no pollen or constituent unique to honey may be removed except where unavoidable in the removal of foreign matter. (3-31-22)~~

~~01. **Treatments.** Chemical or biochemical treatments shall not be used to influence honey crystallization. (3-31-22)~~

~~02. **Moisture Content.** Honey shall not have a moisture content exceeding twenty three percent (23%). (3-31-22)~~

~~03. **Sugars Content.** (3-31-22)~~

~~a. The ratio of fructose to glucose shall be greater than zero point nine (0.9). (3-31-22)~~

~~b. Fructose and glucose (Sum of Both) shall not be less than 60g/100g. (3-31-22)~~

~~c. Sucrose content for honey not listed below shall not be more than 5g/100g. (3-31-22)~~

~~i. Honey from Alfalfa (*Medicago sativa*), Citrus spp., False Acacia (*Robinia pseudoacacia*), French Honeysuckle (*Hedysarum*), Menzies Banksia (*Banksia menziesii*), Red Gum (*Eucalyptus camaldulensis*), Leatherwood (*Eucryphia lucida*), and Eucryphia milligani shall have sucrose levels not to exceed 10g/100g. (3-31-22)~~

~~ii. Honey from Lavender (*Lavandula* spp.) and Borage (*Borago officinalis*) shall have sucrose levels not to exceed 15g/100g. (3-31-22)~~

~~04. **Name of the Food.** Products conforming to the standard of identity as adopted in this rule are designated "honey". Foods containing honey and any flavoring, spice, or other added ingredient or honey that is processed in such a way that materially changes the flavor, color, viscosity or other material characteristics of pure honey, shall be distinguished from honey in the food name by declaration of the food additive or modification. (3-31-22)~~

~~a. Honey may be designated according to floral or plant source if it comes predominately from that particular source and has the organoleptic and physicochemical properties corresponding with that origin. (3-31-22)~~

~~b. Where honey has been designated according to floral or plant source, as stated in Paragraph 015.04.a., then the common name or the botanical name of the floral source is used in conjunction with or joined with the word "honey". (3-31-22)~~

~~e. Honey may be designated according to the following styles, which style shall be declared on packaging: (3-31-22)~~

~~i. "Honey" — this is honey in liquid or crystalline state or a mixture of the two (2); (3-31-22)~~

~~ii. "Comb Honey" — this is honey stored by bees in the cells of freshly built brood less combs and which is sold in sealed whole combs or sections of such combs. (3-31-22)~~

~~iii. "Cut Comb in Honey," "Honey with Comb," or "Chunk Honey" — this is honey containing one (1) or more pieces of comb honey. (3-31-22)~~

016. TYPES AND STYLES OF HONEY.

~~01. **Extracted Honey.** Honey that has been separated from the comb by centrifugal force, gravity, straining, or other means. It is identified in the following types: (3-31-22)~~

~~a. **Liquid Honey.** Honey that is free of visible crystals; (3-31-22)~~

~~b. **Crystallized Honey.** Honey that is solidly granulated or crystallized, irrespective of whether candied, fondant, creamed or spread types of crystallized honey; and (3-31-22)~~

~~e. **Partially Crystallized Honey.** Honey that is a mixture of liquid honey and crystallized honey. (3-31-22)~~

~~02. **Styles.** Extracted honey styles are: (3-31-22)~~

~~a. **Filtered Honey.** Honey of any type defined in these standards that has been filtered to the extent that all or most of the fine particles, pollen grains, air bubbles, or other materials normally found in suspension, have been removed. Honey shall not be filtered to less than one point zero (1.0) micron. (3-31-22)~~

~~b. **Strained Honey.** Honey of any type defined in these standards that has been strained to the extent that most of the particles, including comb, propolis, or other defects normally found in honey, have been removed. Pollen grains, small air bubbles, and very fine particles are not normally removed from strained honey. (3-31-22)~~

~~e. **Unfiltered/Unstrained — Unfiltered/Unstrained Honey.** Honey that has not been filtered or strained by United States Standards for Grades of Extracted honey and may include extracted or non-extracted honey. (3-31-22)~~

~~d. **Raw Honey.** Honey that has not been pasteurized. (3-31-22)~~

~~017.—022. (RESERVED)~~

023. MISBRANDING.

~~Food labeled as a honey product, but not meeting the provisions of this rule may be subject to a stop sale order as authorized under Section 22-2812, Idaho Code. (3-31-22)~~

~~02405. -- 999. (RESERVED)~~

PROPOSED RULE COST/BENEFIT ANALYSIS

Section 67-5223(3), Idaho Code, requires the preparation of an economic impact statement for all proposed rules imposing or increasing fees or charges. This cost/benefit analysis, which must be filed with the proposed rule, must include the reasonably estimated costs to the agency to implement the rule and the reasonably estimated costs to be borne by citizens, or the private sector, or both.

Department or Agency: Idaho State Department of Agriculture _____

Agency Contact: Lloyd B. Knight _____ **Phone:** (208)332-8615 _____

Date: November 7, 2023 _____

IDAPA, Chapter and Title Number and Chapter Name:

[IDAPA 02.04.32 – Rules Governing Poultry Operations](#) _____

Fee Rule Status: Proposed Temporary

Rulemaking Docket Number: 02-0432-2301 (ZBR Fee Rule) _____

STATEMENT OF ECONOMIC IMPACT:

No changes to fees were included in this rulemaking. Fees in the current rule include an assessment for each poultry permittee of no more than (\$0.03) per square foot of containment area.

INCORPORATION BY REFERENCE SYNOPSIS

In compliance with Section 67-5223(4), Idaho Code, the following is a synopsis of the differences between the materials previously incorporated by reference in this rule that are currently of full force and effect and newly revised or amended versions of these same materials that are being proposed for incorporation by reference under this rulemaking.

The following agency of the state of Idaho has prepared this synopsis as part of the proposed rulemaking for the chapter cited here under the docket number specified:

IDAHO STATE DEPARTMENT OF AGRICULTURE
IDAPA 02.06.10 – Rules Governing the Growing of Potatoes
Proposed Rulemaking - Docket No. 02-0610-2301

104.02. USDA APHIS PPQ Treatment Manual Schedule T406, Second Edition Issued 2016, https://www.aphis.usda.gov/import_export/plants/manuals/ports/downloads/treatment.pdf.

Background: The new publication date is “Second Edition Issued 2016”. Per USDA, treatment recommendations can now change between edition publications so inserting the website link will allow for the most current version to be available. Revisions can and do occur at any time demarked by a black change bar in the left margin that will indicate a change appearing on a revised page with change dates noted at the bottom of each page. There is a process that occurred between the two publications to provide the public with notice and the opportunity to comment on changes to treatment schedules as published in [7 CFR 305.3](#).

104.03. 7 CFR Part 305 – Phytosanitary Treatments, as revised January 1, 2022.
<https://www.ecfr.gov/current/title-7/subtitle-B/chapter-III/part-305>

USDA amended the phytosanitary treatment regulations in 7 CFR part 305 by removing the lists of approved treatments and treatment schedules from the regulations, while retaining the general requirements for performing treatments and certifying or approving treatment facilities. Approved treatment schedules will instead be found in the USDA APHIS PPQ Treatment Manual, which is available as an Incorporated Reference at 02.06.10.104.02. Finally, harmonizing and combining the requirements for treatments on imported articles and articles moved interstate. These changes simplify and expedite processes for adding, changing, and removing treatment schedules while continuing to provide for public participation in the process. These changes also simplify presentation of treatments to the public by consolidating all treatments into one document and eliminating redundant text from federal regulations.

(Include a brief description that explains the differences between the version of the materials or documents that are currently incorporated by reference and the materials or documents that are being proposed for adoption in this rulemaking.)

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