

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 100

BY AGRICULTURAL AFFAIRS COMMITTEE

AN ACT

RELATING TO THE DEPARTMENT OF AGRICULTURE; AMENDING SECTION 22-101A, IDAHO CODE, TO REVISE PROVISIONS REGARDING RULEMAKING AND TO MAKE TECHNICAL CORRECTIONS.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Section 22-101A, Idaho Code, be, and the same is hereby amended to read as follows:

22-101A. RULES OF THE DIRECTOR. (1) The legislature directs that any rule proposed by the director ~~which~~ that is broader in scope or more stringent than federal law or regulations, or proposes to regulate an activity not regulated by the federal government, is subject to the following additional requirements: the notice of proposed rulemaking and rulemaking record requirements under chapter 52, title 67, Idaho Code, must clearly specify that the proposed rule, or portions of the proposed rule, are broader in scope or more stringent than federal law or regulations, or regulate an activity not regulated by the federal government, and must delineate which portions of the proposed rule are broader in scope or more stringent than federal law or regulations, or regulate an activity not regulated by the federal government.

(2) (a) In proposing any rule or portions of any rule pursuant to chapter 49, title 22, Idaho Code, chapter 38, title 25, Idaho Code, or chapters 4 and 6, title 37, Idaho Code, the director shall utilize:

~~(a) The~~ (i) Consider the best available peer reviewed science and supporting studies conducted in accordance with sound and objective scientific practices; and

~~(b) Data~~ (ii) Utilize, consider, and explain, data collected by accepted methods, or best available methods, if the reliability of the method and the nature of the decision justify use of the data;

(iii) Make reasonable efforts to ensure that any requirements imposed on agricultural operations are cost-effective and economically feasible; and

(iv) Consider and explain how the rules are consistent with applicable legislative findings, policy, and intent.

(b) For purposes of this subsection, "economically feasible" means that the requirements, when viewed singularly and cumulatively with other requirements, and the costs and burden of implementation of the same, on agricultural operations are reasonably achievable and attainable within the physical, operational, economic, and other constraints that affect such agricultural operations and their local communities. The highest cost or most modern management practices should not be the sole basis for rulemaking.

1 (3) Any proposed rule subject to this section ~~which~~ that proposes a  
2 standard necessary to protect human health and the environment shall also  
3 include in the rulemaking record requirements under chapter 52, title 67,  
4 Idaho Code, the following additional information:

5 (a) Identification of each population or receptor addressed by an esti-  
6 mate of public health effects or environmental effects; ~~and~~

7 (b) Identification of the expected risk or central estimate of risk for  
8 the specific population or receptor; ~~and~~

9 (c) Identification of each appropriate upper bound or lower bound esti-  
10 mate of risk; ~~and~~

11 (d) Identification of each significant uncertainty identified in the  
12 process of the assessment of public health effects or environmental ef-  
13 fects and any studies that would assist in resolving the uncertainty;  
14 and

15 (e) Identification of studies known to the director that support, are  
16 directly relevant to, or fail to support any estimate of public health  
17 effects or environmental effects and the methodology used to reconcile  
18 inconsistencies in the data.

19 (4) The director shall also include a summary of the information re-  
20 quired by subsection (3) of this section in the notice of rulemaking required  
21 by chapter 52, title 67, Idaho Code.

22 (5) Any rule promulgated or adopted by the director ~~which~~ that is  
23 broader in scope or more stringent than federal law or regulations, or ~~which~~  
24 that regulates an activity not regulated by the federal government, sub-  
25 mitted to the standing committee of the legislature pursuant to section  
26 67-5291, Idaho Code, shall include a notice by the director identifying the  
27 portions of the adopted rule that are broader in scope or more stringent than  
28 federal law or rules, ~~or which~~ that regulate an activity not regulated by the  
29 federal government.

30 (6) Nothing provided herein is intended to alter the scope or effect of  
31 any other provision of state law ~~which~~ that limits or prohibits agency action  
32 or rulemaking that is broader in scope or more stringent than federal law or  
33 regulations.

34 (7) The provisions of this section place conditions on the director's  
35 rulemaking authority, which authority is authorized pursuant to provisions  
36 other than those set forth in chapter 1, title 22, Idaho Code. Nothing pro-  
37 vided in this section is intended to grant the director additional rulemak-  
38 ing authority.

39 (8) The requirements of this section shall apply to the director's pro-  
40 mulgation of new rules as well as the amendment, extension, or renewal of  
41 rules in effect on the effective date of this act.