

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 150

BY AGRICULTURAL AFFAIRS COMMITTEE

AN ACT

RELATING TO CONFINED ANIMAL FEEDING OPERATIONS; AMENDING SECTION 67-6529C, IDAHO CODE, TO REVISE THE DEFINITION OF "CAFO"; AMENDING SECTION 67-6529E, IDAHO CODE, TO PROVIDE THAT COUNTIES REQUESTING SUITABILITY DETERMINATIONS ARE TO INCLUDE THE COUNTY'S DEFINITION OF "CAFO" AS SET FORTH IN ANY APPLICABLE COUNTY ORDINANCE IN THEIR REQUEST; AND AMENDING CHAPTER 65, TITLE 67, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 67-6529H, IDAHO CODE, TO PROVIDE FOR APPLICATION FEES RELATING TO SITE SUITABILITY DETERMINATIONS, TO PROVIDE A PROCESS AND TO PROVIDE AN EXEMPTION; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 67-6529C, Idaho Code, be, and the same is hereby amended to read as follows:

67-6529C. DEFINITIONS. As used in this act, the following definitions shall apply:

(1) "CAFO," also referred to as "concentrated animal feeding operation" or "confined animal feeding operation," means, for those counties that have requested a site suitability determination, a CAFO as defined in the applicable ordinance of the county wherein the CAFO is located. If the requesting county has not defined CAFO in its ordinances, CAFO means a lot or facility where the following conditions are met:

(a) Animals have been, are, or will be stabled or confined and fed or maintained for a total of ninety (90) consecutive days or more in any twelve-month period;

(b) Crops, vegetation, forage growth or postharvest residues are not sustained in the normal growing season over any portion of the lot or facility; and

(c) The lot or facility is designed to confine or actually does confine as many as or more than the numbers of animals specified in any of the following categories: seven hundred (700) mature dairy cows, whether milked or dry; one thousand (1,000) veal calves; one thousand (1,000) cattle other than mature dairy cows or veal calves; two thousand five hundred (2,500) swine each weighing fifty-five (55) pounds or more; ten thousand (10,000) swine each weighing less than fifty-five (55) pounds; five hundred (500) horses; ten thousand (10,000) sheep or lambs; or eighty-two thousand (82,000) chickens.

Two (2) or more concentrated animal feeding operations under common ownership are considered, for the purposes of this definition, to be a single animal feeding operation if they adjoin each other or if they use a common area or system for the disposal of wastes;

(2) "CAFO site advisory team" shall mean representatives of the Idaho state department of agriculture, Idaho department of environmental quality

1 and Idaho department of water resources who review a site proposed for a  
 2 CAFO, determine environmental risks and submit a suitability determination  
 3 to a county. The department of agriculture shall serve as the lead agency for  
 4 the team;

5 (3) "Environmental risk" shall mean that risk to the environment deemed  
 6 posed by a proposed CAFO site, as determined and categorized by the CAFO site  
 7 advisory team and set forth in the site advisory team's suitability determi-  
 8 nation report;

9 (4) "Suitability determination" shall mean that document created and  
 10 submitted by the CAFO site advisory team after review and analysis of a pro-  
 11 posed CAFO site that identifies the environmental risk categories related to  
 12 a proposed CAFO site, describes the factors that contribute to the environ-  
 13 mental risks and sets forth any possible mitigation of risk.

14 SECTION 2. That Section 67-6529E, Idaho Code, be, and the same is hereby  
 15 amended to read as follows:

16 67-6529E. PROCESS FOR COUNTY REQUEST -- CONTENTS OF THE REQUEST. (1) A  
 17 board of county commissioners shall submit its request for a suitability de-  
 18 termination by a site advisory team in writing to the director of the depart-  
 19 ment of agriculture and shall support its request by the adoption of a reso-  
 20 lution.

21 (2) Information in the request shall include, but not be limited to,  
 22 the county's definition of "CAFO" as set forth in any applicable county or-  
 23 dinance, the relevant legal description and address of a proposed facility,  
 24 the actual animal capacity of the facility, the types of animals to be con-  
 25 fined at the proposed facility, all information related to water and water  
 26 rights of the facility, any relevant vicinity maps and any other informa-  
 27 tion relevant to the site that will assist the site advisory team in issuing  
 28 its suitability determination. The board of county commissioners shall also  
 29 provide the site advisory team with a copy of the odor management plan for the  
 30 CAFO, if required to be submitted by the site applicant at the time of appli-  
 31 cation.

32 SECTION 3. That Chapter 65, Title 67, Idaho Code, be, and the same is  
 33 hereby amended by the addition thereto of a NEW SECTION, to be known and des-  
 34 ignated as Section 67-6529H, Idaho Code, and to read as follows:

35 67-6529H. SITE SUITABILITY DETERMINATION -- APPLICATION FEES. (1) The  
 36 board of county commissioners shall collect a CAFO site suitability fee from  
 37 each applicant that will require a suitability determination by the site ad-  
 38 visory team. The fee shall be one thousand two hundred dollars (\$1,200) plus  
 39 mileage and per diem calculated based on distance traveled from the depart-  
 40 ment of agriculture's Boise office to the proposed CAFO site. Mileage and  
 41 per diem shall not exceed the established state rate existing at the time of  
 42 the suitability determination.

43 (a) The board of county commissioners requesting the suitability de-  
 44 termination shall forward the CAFO site suitability fee to the depart-  
 45 ment of agriculture at the time of the request;

46 (b) Whenever the cost of the suitability determination is less than  
 47 one thousand two hundred dollars (\$1,200) plus per diem and mileage,

1 the difference shall be refunded to the applicant by the department of  
2 agriculture;

3 (c) The department of agriculture shall distribute the fee to the site  
4 advisory team on a pro rata basis according to time spent by team members  
5 on the suitability determination.

6 (2) Any applicant subject to the butterfat assessment pursuant to sec-  
7 tion 37-407, Idaho Code, following the issuance of a permit is hereby exempt  
8 from paying the CAFO site suitability fee.

9 SECTION 4. An emergency existing therefor, which emergency is hereby  
10 declared to exist, this act shall be in full force and effect on and after its  
11 passage and approval.