

Idaho State Department of Agriculture

02.04.14 Rules Governing Dairy Waste

02.04.16 Rules Governing Agriculture Odor Management

02.04.18 Rules Governing CAFO Site Advisory Team

02.04.30 Rules Governing Nutrient Management

02.04.31 Rules Governing the Stockpiling of Agricultural Waste

02.04.32 Rules Governing Poultry Operations

August 2, 2016

Dr. Scott Leibsle, Facilitator

Present: Bob Naerebout, Idaho Dairyman's Association; Rick Naerebout, Idaho Dairyman's Association; Dan Steenson, Idaho Dairyman's Association; Brent Olmstead, Milk Producers of Idaho; Mary Anne Nelson, Department of Environmental Quality; Braden Jensen, Idaho Farm Bureau; Dennis Tanikuni, Idaho Farm Bureau; Britany Hurst, Idaho Cattle Association; Marv Patten, ISDA; Mitch Vermeer, ISDA; Scott Leibsle, ISDA; Brian Oakey, ISDA; James Stoll, ISDA; Owen Moroney, ISDA; Janis Perry, ISDA.

AGENDA ITEMS

WELCOME

Dr. Scott Leibsle convened the meeting at 1:02 pm. After each participant introduced themselves, Dr. Leibsle began with a change to the Rules for Importation of Animals. In Section 200 Importation of Cattle into Idaho, all cattle must have a certificate of veterinary inspection. In Section 202.01 When Permits Are Required for Cattle, all dairy cattle and beef cattle are required to be identified (not just those 365 days of age or older). In Section 203.01, beef cattle eighteen months or older must have a permit and all dairy cattle must have one.

Then Dr. Leibsle began discussion on 02.04.14 Rules Governing Dairy Waste. Mr. Steenson suggested that the title of the rule be "Dairy Environmental Management Systems." He recommended that 001.01 strike "Idaho State Department of Agriculture" and "IDAPA 02.04.14." He also recommended that 001.02 Scope read "these rules shall review, approve and enforce dairy environmental management plans to ensure that dairy environmental management systems are constructed, operated and maintained in a manner that protects the natural resources of the state," as referenced in Idaho Code section 37-602. These suggestions seemed to be a consensus.

There were no comments on the definition for Agricultural Stormwater Discharge. Dr. Leibsle suggested that the definition for Dairy Animal needed to be more specific. Rick Naerebout indicated that the intent was to not include replacement animals. Mr. Patten asked how an NMP can be written if animals are co-mingled on a farm and if pastured animals have the same pastured area as other animals. He indicated that this was an original concern of the Farm Bureau. Mr. Jensen stated that both operations had concern with access to open water as an organic issue. Mr. Oakey suggested that we apply the most restrictive situation in the rules. Rick Naerebout stated he was not concerned about beef and Bob Naerebout indicated that the required amount of land would be 750 pounds of animal to one acre of land. Mr. Patten stated that they could not have access to dairy. Bob Naerebout said all are beef.

Dr. Leibsle wondered if we needed a more expansive definition of dairy animal. Mr. Oakey indicated that replacement animals are not considered dairy animals. Mr. Patten said that we are trying to allow organic pasturing. Rick Naerebout stated that they were not looking to exclude animals in the NMP and that this is a separate issue from the pasture issue. Bob Naerebout asked for flexibility for smaller facilities. Mr. Oakey suggested it needed to be science based. Bob Naerebout said have both questions. Rick Naerebout said what if we include lactating, dry and replacement animals especially excluding if not offering milk for sale, since dairy animal definition is not linked to pasturing.

Mr. Steenson pointed out that Director should be capitalized in the definition of Dairy Environmental Management Plan and the spelling of "soil" be corrected in the definition of Land Application. He also suggested that in the definition of Modification the word "system" and "waste system" be replaced by the word "facility." In the definition of Non-Compliance strike "system before plan. After Nutrient Management Standard, add (NMS).

Mr. Steenson indicated that the definition of Pasture came from Glanbia and involved something the cow is going to eat. He felt that the definition leaves direction for ISDA for growth. Rick Naerebout stated that if there isn't growth, the crop should not be on the lateral. Mr. Oakey explained it as "actively growing crop." Rick Naerebout expects the rooted system to prevent erosion. Mr. Patten asked when would the animals have to leave. Rick Naerebout stated after the forage crop was no longer growing. Mr. Tanikuni indicated that he had a member whose beef cattle were separate from dairy but that he was still subject to the more stringent rules. Mr. Patten asked what permit covers the situation. He said "Horses in the beef feedlot had access to the creek, but if corralled it could be an issue."

Mr. Steenson asked where do you think we are at and where did the definition of Plant come from. Dr. Leibsle thought it came from the pasteurized milk ordinance. Mr. Oakey felt it could be deleted since it is not necessary in this rule. Mr. Patten indicated that it does not apply to 150 small farm facilities, but does apply to Grade B or Grade A farms.

In the definition of Unauthorized Discharge, Ms. Nelson indicated we should not add IPDES since that application has not been approved yet. No changes to Abbreviations.

Mr. Steenson asked what was the significance of Section 020, Permits and Certification in this rule. He thought that perhaps they should be in the Definition section. Mr. Oakey suggested that they could be a hold-over from tying permitting to penalties. He suggested that when the law changed in 2014, moving to monetary penalties, it no longer applies.

Mr. Steenson recommended that a statement regarding confidentiality be added to the introductory paragraph of 030 reflective of statute 37-606(2). He also suggested that the word "Criteria" be added to 030.01. Also, the second sentence of 030.02 should be added to Criteria in section 030.01 with DNMP.

Mr. Patten asked whether soil testing should be annual or every three years. Bob Naerebout recommended that the word annual be struck in section 030.02.a. Mr. Oakey stated that it won't define the 590 standard. He also indicated that the department needed guidance on 030.03 Pasturing a Dairy Animals, that we have a stocking density to have adequate forage growth. Mr. Patten stated that intensive grazing could allow more density. Mr. Oakey indicated that we appreciate the flexibility but

need regulated standards to provide consistency. He suggested that perhaps we could allow the opportunity to petition the agency to increase grazing. However, we need to delineate a line to apply uniformly. Rick Naerebout asked whether water quality standard or lateral integrity would be the standard. Mr. Oakey would like to encourage innovation. Mr. Steenson asked if the agency would make a stab on this issue. Bob Naerebout asked that the plan be simple for smaller producers and suggested that petitioning might be too complicated. Mr. Steenson suggested that a menu of choices might help. Mr. Oakey said it wouldn't cross the regulatory line. Mr. Patten stated that he would still want a number of animals. Mr. Steenson recommended stocking rates with different criteria. Rick Naerebout suggested requiring 2 acres per animal, but also likes the menu idea. Mr. Oakey asked the Farm Bureau if they were with us. Mr. Tanikuni asked if producers could exceed the number of animals if they had 50% forage. He also indicated that Russ would be back on Monday and would want to weigh in.

Mr. Oakey recommended a second meeting with the focus on the Pasturing section. He indicated that the agency would have a second draft ready in a week. Bob Naerebout asked if the beef/dairy case would be solved by what we are discussing. Mr. Patten explained that the creek flows through the property, the animals had a confinement area and both types of animals have access to the pasture with a bridge. Mr. Oakey stated that they would continue to pasture. Bob Naerebout stated that most producers would exceed the number of animals allowed. Mr. Steenson asked if we need a stocking density for other animals. Mr. Oakey stated that in the beef rules from the CFR it is common to have vegetation issues.

In 060.03 Penalties, what happens if pasturing is in violation?

Mr. Steenson recommended striking section 007. Findings, since it was included in the Scope.

Fifteen minute break.

Dr. Leibsle stated that since the statute did not change for the other dairy rules, not much has changed on the rules.

Nothing has changed on 02.04.18 Rules Governing CAFO Site Advisory Team.

In 02.04.30 Rules Governing Nutrient Management, Title 37 Chapter 3 and 6 are the Legal Authority. In Sections 100, 200, and 400 "Rules of the Department of Agriculture Governing Dairy Waste" becomes "Rules Governing Environmental Management Systems."

In 02.04.31 Rules Governing the Stockpiling of Agricultural Waste, Section 010.01 "Rules Governing Dairy Waste," becomes "Rules Governing Environmental Management Systems."

In 02.04.32 Rules Governing Poultry Operations, Section 004.01 is deleted. In Section 400.01, Ms. Nelson will provide comments from DEQ.

Dr. Leibsle stated that we will provide a second draft. Written comments may be sent until August 18. He adjourned the meeting at 3:12.

Next meeting: August 16 at 1 pm at ISDA.

Respectfully submitted by Janis Perry