

Idaho State Department of Agriculture
Rules Governing Dairy Byproduct
July 31, 2017
Scott Leibsle, Facilitator

Present: Bob Naerebout, Idaho Dairymen's Association; Rick Naerebout, Idaho Dairymen's Association; April Leytem, USDA-ARS; Stephanie Kulesza, IDA Consulting Services; Megan Satterwhite, IDA Consulting Services; Russ Hendricks, Idaho Farm Bureau; Marsha Neibling, Neibling Environmental Consulting; James Thompson; PerforMix Nutrition; Austin Hopkins, Idaho Conservation League; Marv Patten, Milk Producers of Idaho; Mitch Vermeer, ISDA; Martha Walbey, ISDA; Bill Barton, ISDA; Brian Oakey, ISDA; Dallas Burkhalter, OAG-ISDA; Owen Moroney, OAG-ISDA; Janis Perry, ISDA.

AGENDA ITEMS

WELCOME

Scott Leibsle convened the meeting at 9 am.

Brian Oakey explained that ISDA is working on a tight timeline with public comment shorter than normal since formal rule making will begin September 1 which possibly could involve a hearing officer and a court reporter. Bob Naerebout asked if there would be time for a second meeting. Brian indicated that he thought there would be time toward the end of August.

Scott Leibsle explained that the current phosphorus standard in the 590 is 40 ppm. The petitioner proposed that the threshold be eliminated. Scott proposed that the rule incorporate by reference the 2017 Idaho Phosphorus Site Index Standards, as well as the NRCS Web Soil Survey Data base and the NRCS Part 630 Hydrology National Engineering Handbook January 2009.

Scott Leibsle added a definition for Phosphorus Site Index to the Definitions section of the rule that reads: A method to evaluate the relative potential for off-site movement of phosphorus from a field or pasture based upon risk factors relating to surface transport, phosphorus loss potential and nutrient management practices.

Austin Hopkins asked if the definition included erodibility and leaching. Scott responded that yes it did, but this was at the thirty-thousand foot level.

The next changes Scott Leibsle proposed were in section 030.02.b.i and ii., where references to phosphorus threshold testing were struck. For soil testing in pastures in 030.02.d.i, the reference was also struck in order to be consistent.

The proposed Section 031, Phosphorus Site Indexing, states: All dairy farms shall utilize phosphorus site indexing (PSI) for each field where dairy byproducts and/or commercial fertilizers are land applied and pasture utilized for grazing accordance with the 2017 Idaho Phosphorus Site Index Standards. The PSI shall be calculated by a Nutrient Management Planner, certified by the Department, and be included as a

component of the DNMP in the dairy farm's Environmental Management Plan. It shall be the dairy farm's responsibility to provide updated information, including annual soil test results, to the Nutrient Management Planner for calculation of the PSI on all fields and pastures on an annual basis. Failure to abide by the nutrient application and management provisions of a field or pasture's PSI risk classification in the DNMP shall constitute a non-compliance and the producer shall be penalized.

Bob Naerebout asked how Scott sees the department enforcing compliance. Scott Leibsle responded that it is up to the dairy's record keeping. He indicated that he did not expect his staff to calculate the phosphorus indexing. Stephanie Kulesza stated that some figures could change a great deal from year to year, while others could be quite stable.

Bob Naerebout cautioned that producers need time to provide sufficient records. In response, Scott indicated that his division has different type of inspections. One is a brief look at lagoons and is not scheduled. The annual inspection is scheduled with each producer where the inspector wants to look at the records. Rick Naerebout asked if electronic records will work. Stephanie Kulesza asked if current and last phosphorus levels are enough since she is working on creating spreadsheets. Brian Oakey indicated that he would like to see a comprehensive format so all the information is available in one form.

Bob Naerebout then asked about implementation of this rule. Scott Leibsle hoped that it could be done within the year. Bob suggested that it be done on the anniversary date of the NMP. Brian Oakey stated that when material changes occurred the NMP would need to be updated in order to be in compliance. He suggested that we needed phase-in language, so that in the next five years we would actually be working with both rules. Dallas Burkhalter agreed to work on this.

Russ Hendricks asked if the department had tried to put together a cost estimate to producers of this rule. Bob Naerebout explained that the record keeping won't have changed. Scott Leibsle indicated that the lift will be for the management planner, monitoring what they should have been monitoring. Marv Patten asked what the cost to the department would be to implement the rule. He asked that the rule capture the annual review as a requirement. Dallas Burkhalter agreed to work on this.

Scott Leibsle stated that he was looking to unincorporate the portions of the 590 that pertain to phosphorus threshold. Brian Oakey indicated that three additional inspectors was a substantial investment so that an annual EMP review with each producer could be accomplished. Rick Naerebout asked if the annual review isn't already done. Brian Oakey said it had been hit or miss. Rick Naerebout asked if the three new hires were specific to the annual reviews. Bob Naerebout likes the flexibility and accountability while Rick Naerebout likes the incremental change. Bob Naerebout indicated that there is strong dairy producer support.

Scott Leibsle intended to focus on the Best Management Practices in the Phosphorus Site Index and reevaluate for the next year, what was in the producer's control. April Leytem stated the percentage was derived from research. The focus of the deduction of the BMP Coefficient can reduce the scores for the loss of Phosphorus from fields. ISDA needs to spell out in rule what the reduced scores effect will be. Dallas Burkhalter agreed to work on this. In looking at the definitions of the BMPs, Stephanie Kulesza explained that these were minimum criteria. Brian Oakey stated that if a producer does not meet the

criteria, the first step would be to go back to the planner.

Stephanie Kulesza explained that the Phosphorus Site Index was developed specific for Idaho soils. The scientists that developed it felt that the multiplicative model was best. The transport characteristics don't change much over time. The group agreed that on page 10 of the Phosphorus Site Index under Medium potential, the second sentence should be removed.

Marv Patten asked if this will meet the IPDES requirements. Bob Naerebout stated yes. Marv asked if the EPA has given their blessing and Bob responded that they have been involved in the development process.

Rick Naerebout presented a Nitrogen Management Plan Worksheet that he proposed be incorporated as part of the Phosphorus Site Index and each producer's NMP. It was incorporated into the rule as 030.02.c.vi. Nitrogen Management Plan for field and pastures receiving nutrients.

Bob Naerebout asked the group to consider a zero out point at 400. At the zero out point, BMPs could not be used to reduce the PSI score. Stephanie Kulesza would allow lots of flexibility since high salts would be sterilizing the field. She felt that a 400 is logical and defensible. Bob explained available Phosphorus versus legacy Phosphorus which would mean that some fields would increase phosphorus even though no more is applied. Marv Patten encouraged the department to get data to justify moving forward on this issue. Scott Leibsle responded that he would gather information on producers that were at the 200, 300 and approaching 400 levels.

Scott Leibsle adjourned the meeting at 12:15 pm.

Next meeting: August 17, 2017 at 10 am.

Respectfully submitted by Janis Perry