

Idaho State Department of Agriculture
02.04.14 Rules Governing Dairy Byproduct
October 2, 2018, 11:00 a.m.
Dr. Scott Leibsle, Facilitator

Present: Marv Patten, Milk Producers of Idaho; Russ Hendricks, Idaho Farm Bureau Federation; Cameron Mulrony, Idaho Cattle Association; Steve Maggard, Simplot; Rick Naerebout, Idaho Dairymen's Association; W. Dallas Burkhalter, Office of Attorney General – ISDA; Katy DeVries, Office of Attorney General – ISDA; Mitch Vermeer, ISDA; Scott Leibsle, ISDA; Janis Perry, ISDA.

AGENDA ITEMS

WELCOME

Dr. Scott Leibsle convened the meeting at 10:15 a.m. He explained that this is a continuation of a public negotiated rulemaking meeting for IDAPA 02.04.14 Rules Governing Dairy Byproduct. He indicated that the goal was to review the first draft of the Idaho Dairy Nutrient Standard. He stated that stakeholders had been sent a draft copy. He plans to invite other stakeholders to the next meeting on November 13. He reminded the group that the director has authority to implement a modified Nutrient Management Standard. He and Mitch Vermeer put the draft together to hopefully answer questions that producers may have. He would like to review the draft page by page.

Dr. Leibsle stated that page one is the same as the Natural Resources Conservation Service (NRCS) in the first section. On page two, Table 1 is the same as the 2013 NRCS regarding the frequency of soil sampling. Rick Naerebout asked if it is still balanced to the phosphorus based standard. Dr. Leibsle responded affirmatively. Then Mr. Naerebout asked if we need a nine month frequency, or rather a twelve month frequency.

Regarding page three, Dr. Leibsle asked the group if we should have a zero out. Mr. Naerebout responded that he felt we should tackle the margin of error over several years. He asked if Dr. Adikari had looked at studies on the margin of error. Dr. Leibsle responded that scientifically the margin of error was more related to the variability of the field location rather than the variability of the test. Mr. Naerebout stated that Idaho Dairymen's Association had looked for sampling guidelines and sent samples to four different labs. He could not reveal the results but encouraged ISDA to run a similar test. Dr. Leibsle indicated that there did not appear to be any literature on this, but that he would be open to experiment to see what variability in lab testing there is. Marv Patton suggested that the department could look at the range on meeting a certain criteria. Dr. Leibsle asked if the department could do proficient testing since they do not currently do soil sample testing. He stated that the department is hesitant to compete with private industry. Mr. Naerebout stated that the cost is bigger than you think. Other states tax fertilizer to subsidize testing. Dr. Leibsle commented that four main private labs do the testing and with every dairy and beef operation testing annually that is a big time commitment. Mr. Patton responded that there are 275,000 dairy owned acres in Idaho. He proposed that ISDA do a regulatory check on the soil sample testing. He thought there would be historical data to show the cost as the testing program ended in 2007-2008. Dr. Leibsle responded that he has no problem looking into

what would be needed for regulatory oversight and the fiscal impact involved. Mr. Naerebout felt that having the department do enforcement samples to see if the tests are accurate would be helpful. Dr. Leibsle asked if industry would support sending samples to various labs. Mr. Patton responded that it certainly should. Dr. Leibsle asked Mr. Naerebout how many samples they did. Mr. Naerebout responded five in the field of forty and five in the field of eighty. Dr. Leibsle felt that the department could do that with our soil scientist's help.

On page four, Mr. Naerebout questioned using U of I fertilizer uptake guidelines since they had not been updated for ten years. Dr. Leibsle responded that the default would be to the national standard or determine Idaho specific values.

On page five under the "recommended mitigating practices," Mr. Naerebout suggested adding the Best Management Practices for phosphorus indexing to the list. Under Nutrient Application Timing, Mr. Patton and Mr. Naerebout felt that seven days of favorable weather was too long. They suggested one to two days. Mr. Naerebout recommended combining bullets six and seven with a reference for evaluating soil saturation. Mr. Patton commented that in different locales soil saturation would be different.

Page six brought a similar comment from Mr. Naerebout that vulnerable sites should be evaluated with site specific criteria or some such analysis since the Magic Valley and all of Eastern Idaho are vulnerable. Dr. Leibsle stated that producers had an option to do their own manure sampling and lab analyses to produce their own value if the trend is stable over a three year period. Mr. Patton questioned what book values are fair, objective, and affordable. Russ Hendricks pointed out an error on page 6, bottom of left column where it should read "less than 10% solids (not moisture) will be classified as a liquid."

On page seven, Mr. Naerebout suggested that instead of recommending the Nitrogen Leaching Index producers could complete the nitrogen balancing worksheet in the phosphorus indexing instead. Dr. Leibsle adjourned the meeting at 2:15 pm.

Mr. Naerebout commented that we are trying to write a threshold standard that is not as complex as the index standard. He felt that this is just as complex. His suggestion to simplify was to put up front in the document what is required and then follow with the considerations. Mr. Patton was concerned that this guidance document not become regulatory. Dr. Leibsle responded that it did not have to include suggestions. Mr. Hendricks recommended using "suggestions" or "options," rather than considerations. He also thought that having a one to two page document of standards followed by Appendices with additional information that referenced the standard would be helpful. Dr. Leibsle stated that he could see a desire to simplify the regulations and he thought the department could take a stab at that. He indicated that the department had some work to do.

Mr. Naerebout asked if Agricultural Research Service (ARS) would be involved. He felt that having a scientist say that "this stands up," and finding a balance would be useful. He also suggested that moving the NMP components that must be included be moved to page one of the document. Dr. Leibsle indicated that he would reach out to ARS and schedule a meeting in Kimberly.

Cameron Mulrony asked about the ground water concern on page four. Mr. Naerebout explained that only nitrogen moves down, not phosphorus, so this would apply in areas that are farther from surface water supplies.

Dr. Leibsle asked if there were concerns now that lagoons are empty. Mr. Naerebout responded that most dialog is about inspecting lagoon liners. Dr. Leibsle indicated that there is no requirement yet for maintenance of lagoons. At a recent national roundtable he heard about water balance testing. Mr. Patton asked if this involved infiltration rates. He suggested that a decision regarding lagoon maintenance be made sooner rather than later. Dr. Leibsle reiterated that no decisions have been made and that he is interested in all possibilities to certify the integrity of lagoon liners for maintenance certification. He indicated that the department is trying to shore up all regulatory processes. Mr. Patton stated that it would be great if we had some guidance on the regulations.

Next meeting: November 13, 2018 at 10:00 am.

Respectfully submitted by Janis Perry