



IDAHO
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LEAGUE

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June 6, 2019

Scott R. Leibsle DVM, DABVP
Idaho State Department of Agriculture
2270 Old Penitentiary Road
Boise, ID 83712

Submitted via email: scott.leibsle@isda.idaho.gov

**RE: Idaho Conservation League's comments following May 30th 2019 meeting re:
Rules Governing Dairy Byproduct - IDAPA 02.04.14**

Dear Mr. Leibsle:

Thank you for the opportunity to provide comments following the Idaho State Department of Agriculture (ISDA or "the Department") rulemaking meeting on May 30th, 2019, discussing the Rules Governing Dairy Byproduct - IDAPA 02.04.14.

Since 1973, the Idaho Conservation League has been Idaho's leading voice for clean water, clean air and wilderness—values that are the foundation for Idaho's extraordinary quality of life. The Idaho Conservation League works to protect these values through public education, outreach, advocacy and policy development. As Idaho's largest state-based conservation organization, we represent over 25,000 supporters, many of whom are interested in ensuring that dairies in Idaho are adequately regulated so as to ensure the protection of Idaho's groundwater, surface water and air resources.

Our detailed comments follow this letter. Please contact me at 208-345-6933 ext. 23 or ahopkins@idahoconservation.org if you have any questions regarding our comments or if we can provide you with any additional information on this matter.

Sincerely,

Austin Walkins
Senior Conservation Associate

*RE: Idaho Conservation League's comments following May 30th 2019 meeting re: Rules
Governing Dairy Byproduct - IDAPA 02.04.14*

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Retaining Phosphorus Threshold as Defensible Regulatory Tool

If the phosphorus threshold method is to be retained in rule, its use should only be allowable when supported by science. According to the University of Idaho's (U of I) *Nutrient Management for Field Corn Silage and Grain*¹, additions of phosphorus should cease once soil test levels reach 15 ppm (Olsen) or 24 ppm (Bray).

Taking into consideration ISDA's soil test experiment, Field 4 (soil P: 19 ppm) from part A of the experiment provides the best comparison given similarities in soil phosphorus concentrations. ISDA's experiment showed varying analytical results across the labs that tested the soil; however, the numeric range of soil P values across all laboratories was ± 2 ppm relative to the ARS value.

In light of the U of I's fertilizer guides and ISDA's soil experiment, it seems appropriate to limit the use of the phosphorus threshold method to fields with soil phosphorus concentrations of 20 ppm or less. 20 ppm provides more than enough buffer to account for the variability in soil testing across laboratories in the state. Permitting the use of the threshold methodology above these concentrations would be incongruent with the science and would effectively be waste disposal, not nutrient supplementation. The phosphorus site index (PSI), which accounts for multiple factors rather than a single soil test, would be the appropriate management technique above a soil phosphorus concentration of 20 ppm.

Inclusion of Nitrogen Soil Sampling

We disagree with striking the requirements to conduct soil sampling and analysis for nitrogen compounds on fields that receive manure application. Nothing in the rule or statute prohibits the Department from requiring nitrogen soil sampling. In fact, the contrary appears to be true based on the following sections of Idaho Code (I.C.).

I.C. 37-602(d):

The department's authority to review, approve and enforce dairy environmental management plans should be consistent and coordinated with the department of environmental quality's authorities pursuant to title 39, Idaho Code, to protect state ground and surface waters...

I.C. 37-606 states:

DAIRY NUTRIENT MANAGEMENT PLAN. (1) Each dairy farm shall have a dairy nutrient management plan that is approved by the department and included in the dairy farm's environmental management plan. The dairy nutrient

¹ Accessed online: <http://www.extension.uidaho.edu/publishing/pdf/PNW/PNW0615.pdf>

management plan shall be implemented by the dairy farm and enforced by the department to prevent unauthorized discharges, unauthorized releases, violations of state water quality standards, contamination of ground water and surface water and endangerment to human health and the environment.

Emphasis added

These sections of code explicitly state the the Department is obligated to protect the state's natural resources, not the least of which being ground water. Removing the requirements to monitor potential leaching of nitrogen into groundwater runs counter to this obligation. This is particularly concerning given the location of numerous dairies within or adjacent to nitrate priority areas in the state, which are areas already experiencing high levels of nitrate pollution in groundwater.

In summary, the Department's *Nutrient Management Standard* document must be revised such that the requirement to test for nitrogen compounds in the soil is retained. If the Department ultimately chooses to omit this requirement, we request an explanation of how this would adhere to the obligations of the Department outlined in the sections of statute listed above.