



STATE OF IDAHO  
DEPARTMENT OF  
ENVIRONMENTAL QUALITY

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C.L. "Butch" Otter, Governor  
John H. Tippetts, Director

August 18, 2016

Brian Oakey  
Idaho State Department of Agriculture  
PO Box 790 Statehouse Mail  
Boise, ID 83701  
Submitted via email: [Brian.Oakey@ISDA.idaho.gov](mailto:Brian.Oakey@ISDA.idaho.gov)

RE: 02.04.14 Rules Governing Beef Cattle Feeding Operations

Dear Mr. Oakey:

DEQ appreciates the opportunity to work with ISDA and provide comments on the draft text for 02.04.15 – Rules Governing Beef Cattle Feeding Operations. As you are aware, DEQ is pursuing delegated authority for the NPDES program in Idaho and as such is dedicated to coordinating efforts between our two agencies for the smooth implementation of both ISDA and DEQ rules regarding concentrated animal feeding operations.

DEQ respectfully submits the following comments for your consideration.

DEQ believes the addition of language from Idaho Code 22-4903 is necessary to ensure clarity regarding the facilities that these rules apply to.

**001 TITLE AND SCOPE**

**01. Title.** The title of this chapter is "Rules Governing Beef Cattle Animal Feeding Operations." (4-6-05)

**02. Scope.** These rules shall govern the design, function, and management practices of waste systems on beef cattle animal feeding operations. The official citation of this chapter is IDAPA 02.04.15.000 et seq. For example this section's citation is IDAPA 02.04.15.001. "Nothing in this rule affects the authority of the department of environmental quality to administer and enforce an IPDES permit for beef cattle animal feeding operations that discharge pollutants to waters of the U.S., including without limitation, the authority to issue permits, access records, conduct inspections and take enforcement actions. The provisions of this rule do not alter the requirements, liabilities, and authorities with respect to or established by the IPDES program."

DEQ requests that the reference to NPDES or IPDES permits be removed from this section. Idaho Code section 22-4907(1) was modified in the last legislative session to remove the references to CWA permits from the agency's inspection authority.

#### **050 AUTHORITY TO INSPECT**

The Director is authorized to inspect any animal feeding operation that confines slaughter or feeder cattle in accordance with Title 22, Chapter 49, Idaho Code, to ensure compliance with these rules. The Director shall comply with the operation's biosecurity protocol so long as the protocol does not inhibit reasonable access to: (4-6-05)

**01. Entry.** Enter and inspect at reasonable times the premises or land application site(s) of a beef cattle animal feeding operation. (4-6-05)

**02. Access to Records.** Review or copy any records that must be kept in accordance with these rules.

**03. Sample or Monitor.** Sample or monitor at reasonable times, substances or parameters directly related to compliance with these rules or an NPDES or IPDES permit.

DEQ proposes that new subsections be added to the beef cattle rules. This new section addresses compliance with IPDES rules will greatly help to reduce confusion regarding the overlap between the ISDA programs and the IPDES program. The language is taken from the dairy environmental control act.

#### **052. COMPLIANCE WITH IDAHO POLLUTANT DISCHARGE ELIMINATION SYSTEM RULES**

**01. Discharges to Waters of the U.S.** The department of environmental quality shall be solely responsible and authorized to determine whether the discharge of pollutants from a Beef Cattle Feeding Operation to waters of the US is required to be authorized by an IPDES permit. The provisions of this rule do not define when a Beef Cattle Feeding Operation is required to obtain a permit for a discharge, do not exempt a Beef Cattle Feeding Operation from permitting requirements for such discharges or alter the authority of DEQ with respect to such discharges.

**02. Upset Conditions.** An upset condition does not excuse a person from the obligation to obtain an IPDES permit for the discharge of pollutants from a Beef Cattle Feeding Operation to waters of the United States.

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Thank you for the opportunity to provide comments on this important matter. Please feel free to contact Mary Anne Nelson at 208-373-0291 or [Mary.Anne.Nelson@deq.idaho.gov](mailto:Mary.Anne.Nelson@deq.idaho.gov) if you have any questions regarding these comments.

Sincerely,



Barry N. Burnell.  
Water Division Administrator

BNB:MN:dls