

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 16, 2016

Dr. Scott Leibsle, Facilitator

Present: Rick Naerebout, Idaho Dairyman's Association; Dan Steenson, Idaho Dairyman's Association; Mary Anne Nelson, Department of Environmental Quality; Russ Hendricks, Idaho Farm Bureau; Austin Hopkins, Idaho Conservation League; Marv Patten, ISDA; Mitch Vermeer, ISDA; Scott Leibsle, ISDA; Bill Barton, 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 explained that the second draft that was posted incorporated both written and verbal comments. That second draft is what we are looking at today.

Dr. Leibsle suggested that the title of the rule be "Rules Governing Dairy Byproduct." No one disagreed. Mr. Naerebout suggested that the title would make his father smile.

Dr. Leibsle stated that ISDA needed guidance for pasture access, since it would be difficult for investigators to count cattle. He recommended adding the word "mechanical" to the definition of Land Application. This would mean that defecating animals would not be included. It is difficult to calculate on an animal by animal basis. This way grazing animals would not be regulated. Mr. Hendricks commented that he felt there was no better way to describe land application. Mr. Patten asked if spreading commercial fertilizer would be included and thus included in NMPs. The consensus was that commercial fertilizer would be included.

On Section 030.03 Pasturing of Animals, Mr. Oakey indicated that we are still quite a way off and need more descriptive explanation for the rule. Mr. Steenson distributed a handout with suggestions for that section and others. He proposed wording for Pasturing of Dairy Animals that said "Pasturing dairy animals within a pasture be incorporated in and subject to the DNMP if dairy animals will be pastured under any of the following circumstances: a. dairy animals are pastured in excess of seven hundred and fifty (750) pounds per acre within a pasture; or b. land application will occur within the pasture; or c. there is access to surface water within the pasture. If there is access to surface water within the pasture, the DNMP may include one or more of the following management practices:" Mr. Oakey asked what restrictions are required. The practices are left open. Mr. Oakey stated that annual soil tests would then be required. Mr. Patten stated that there is value for the pasture in NMPs. He said that the crop yield on

an annual basis would be calculated and ISDA would be looking at acres per animal for the growing season. The phosphorus level in the soil sample would be important. Mr. Oakey indicated that soil samples would be in trade for access to surface water using the DEQ surface water quality standards. Dr. Leibsle stated that a producer would reduce stocking density if soil samples showed high phosphorus. If pasturing was only part of the year, the proportion could be calculated allowing for higher intensity grazing for a portion of the year. Mr. Oakey indicated that we could probably delete the word mechanical in land application since these examples would suffice. He also stated that confinement areas and pasture areas would need to be separate.

Mr. Steenson suggested the definition of Pasture be “For purposes of these rules, a pasture is an irrigated or dryland field that has forage plant growth covering a minimum of 50% of the field.” He also stated that the definition of land application does not include pasturing dairy animals as defined in these rules. He recommended leaving mechanical in the land application definition. He suggested removing Section 030.01(e) since it was duplicated later. He suggested defining Dairy Animal as “Animals owned, leased or otherwise under the control of a producer.” Mr. Hendricks recommended keeping a dairy related entity separate from non-dairy. He would add to the definition of Dairy Farm to be “Land owned or operated by a person as an integral component of a Department-permitted grade A or manufacture grade facility...” Mr. Patten suggested that we add “provided that nutrient are not exported...” Mr. Oakey stated that a Dairy Farm does not include those lands that are owned and operated by a person that receives or imports byproduct. Mr. Naerebout suggested that we may have to change the CAFO Site Team Rule. Mr. Patten indicated that that rule involves evaluation of the site itself, not how it is operated.\

Mr. Hendricks stated that he felt the new definition of Dairy Animal was too broad. Mr. Steenson agreed and suggested we leave the Dairy Animal definition as is. He recommended that the definition of Pasturing include “...allowing dairy animals and other animals owned by a Producer to graze in the same pasture...” Mr. Oakey indicated that the issue will be the stocking rate. Mr. Naerebout stated that if pasturing was at a low density, the producer may not have to soil test.

Mr. Steenson suggested that Section 030.02(d) be changed to 030.03 with (a), (b), and (c) as explained on the handout. Mr. Oakey stated that regulated pasture or not, record keeping may be problematic. Mr. Patten recommended that every third year the soil test be done on a pasture, rather than every year. Thus, we should strike (a) in Pasturing.

Mr. Hendricks asked if under DNMP a certified planner was required. Dr. Leibsle explained that a certified planner was required but that a producer could become a certified planner through ISDA.

Mr. Oakey stated that we would try to get the changes to the rule out today since the comment period ends on Thursday, August 18. He indicated that comments can also be made after the proposed rule is published. Mr. Naerebout asked about the management practices. Mr. Oakey stated that he wants a rule to train the ISDA staff on regulatory issues and so we have a cleaner rule. He asked what Best Management Practices the group had in mind for riparian areas. Mr. Patten suggested that we may be required to implement established standards to minimize the impact on riparian areas. Mr. Steenson suggested referring to a source of practices.

Mr. Steenson recommended other changes: Deleting the definition of Farm Certification since we had removed certification from the rule; Adding “or manufacture grade facility” to the definition of Permit; and changing the definition of Producer to “the person who exercises control over the permitted dairy farm.”

Mr. Hendricks recommended adding “are mechanically applied” to the end of the second sentence on Section 030.02. He suggested adding “dairy animal” to livestock carcasses in the definition of Dairy Byproducts. Mr. Steenson said that livestock is defined so that may not be necessary. Mr. Oakey suggested deleting carcasses in all references. Mr. Steenson recommended taking the definition of livestock out of the rule. He added that Mr. Hendricks could comment on that change.

Mr. Hopkins suggested adding “and pollutants infiltrating into ground water” at the end of 030.01(d). Mr. Oakey indicated that that change may have other consequences since it would be much broader than originally proposed. He thought we might need to tackle that later. Mr. Steenson stated that he felt the issue was already addressed in 004.01 and 004.03 as incorporated references regarding containment areas.

Ms. Nelson recommended deleting the phrase “for unauthorized discharge” in Section 060.03. She also asked that the Scope reflect the wording in the statute regarding that “nothing in the rule shall prohibit the DEQ...” She also suggested that the same be included in the Beef Rule.

De. Leibsle stated that he would send out a clean copy of today’s changes to all stakeholders soon.

Dr. Scott Leibsle adjourned the meeting at 2:45 pm.

Respectfully submitted by Janis Perry