

**IDAPA 02 – DEPARTMENT OF AGRICULTURE**

**02.04.14 – RULES GOVERNING DAIRY BYPRODUCT**

**DOCKET NO. 02-0414-1801**

**(SECOND) NOTICE OF INTENT TO PROMULGATE RULES – NEGOTIATED RULEMAKING**

**AUTHORITY:** In compliance with Sections 67-5220(1) and 67-5220(2), Idaho Code, notice is hereby given that this agency intends to promulgate rules and desires public comment prior to initiating formal rulemaking procedures. This negotiated rulemaking action is authorized pursuant to Section 37-603, Idaho Code.

**MEETING SCHEDULE:** Additional public meetings on the negotiated rulemaking will be held as follows:

<b>PUBLIC MEETINGS - NEGOTIATED RULEMAKING</b>
<b>2nd Tuesday of Each Month – 10:00 a.m. (MST)</b> <i>1st meeting will occur on Tuesday, November 13 at 10:00 a.m.</i>

**Idaho State Department of Agriculture  
2270 Old Penitentiary Road  
Boise, ID 83712**

The meeting site will be accessible to persons with disabilities, if needed. Requests for accommodation must be made not later than five (5) days prior to the meeting to the agency address below.

**METHOD OF PARTICIPATION:** Persons wishing to participate in the negotiated rulemaking must do the following:

Interested members of the public who wish to participate must submit any written comments, questions, recommendations, or ideas to the Idaho State Department of Agriculture addressed to Dr. Scott Leibsle, Deputy Administrator, Division of Animal Industries. Individuals may also attend the public meeting to be conducted on the above date during which the Idaho State Department of Agriculture will allow oral comments or presentations to be made.

Upon conclusion of the negotiated rulemaking, any unresolved issues, all key issues considered, and conclusion reached during the negotiated rulemaking will be addressed in a written summary and made available on the agency website.

**DESCRIPTIVE SUMMARY AND STATEMENT OF PURPOSE:** The following is a statement in nontechnical language of the substance and purpose of the intended negotiated rulemaking and the principle issues involved:

This rule change is a result of two petitions submitted to amend this rule. The first petition, received from the Milk Producers of Idaho and Idaho Farm Bureau, seeks to remove the sunset clause from Section 004.31 and allow dairy producers the option to select either phosphorus indexing or phosphorus threshold to monitor dairy nutrient management. The second petition, received from the Idaho Dairymen’s Association, seeks for a margin of error to be provided for in the enforcement standards for phosphorus levels permitted in the soil. The margin of error is meant to compensate for the variability of currently laboratory soil testing methods. Incorporation of the NRCS Nutrient Management Code 590 reference document for phosphorus regulation will also be addressed in this negotiation.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS, OBTAINING DRAFT COPIES:** For assistance on technical questions concerning this negotiated rulemaking or to obtain a copy of the preliminary draft of the text of the proposed rule, contact Dr. Scott Leibsle, Deputy Administrator – Division of Animal Industries at (208) 332-8540. Materials pertaining to the negotiated rulemaking, including any available preliminary rule drafts, and additional meeting information can be found on the ISDA web site [www.agri.idaho.gov](http://www.agri.idaho.gov).

Anyone may submit written comments regarding this negotiated rulemaking. All written comments must be directed to Dr. Scott Leibsle.

Dated this 4th day of September, 2018.

Brian J. Oakey, Deputy Director  
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