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**IDAPA 02
TITLE 04
CHAPTER 14**

02.04.14 - RULES OF THE DEPARTMENT OF AGRICULTURE GOVERNING DAIRY WASTE

000. LEGAL AUTHORITY.

This chapter is adopted under the legal authority of Title 37, Chapter 4, Idaho Code. (3-20-97)

001. TITLE AND SCOPE.

01. Title. The title of this chapter is "Rules of the Department of Agriculture Governing Dairy Waste." (3-20-97)

02. Scope. This chapter has the following scope: These rules shall govern the design, function and management practices of dairy waste systems. The official citation of this chapter is IDAPA 02.04.14.000 et seq. For example, this section's citation is IDAPA 02.04.14.001. (3-20-97)

002. WRITTEN INTERPRETATIONS.

There are no written interpretations of these rules. (3-20-97)

003. ADMINISTRATIVE APPEAL.

Hearing and appeal rights are set forth in Title 67, Chapter 52, Idaho Code. There is no provision for administrative appeal before the Department of Agriculture under these rules. (3-20-97)

004. DEFINITIONS.

The following definitions shall apply in the interpretation and enforcement of this chapter: (3-20-97)

01. Certified Planner. A person who has completed nutrient management certification in accordance with the Nutrient Management Standard and is approved by the department. (4-5-00)

02. Dairy Farm. A place or premise where one (1) or more milking cows, sheep, or goats are kept, and from which all or a portion of the milk produced thereon is delivered, sold or offered for sale. (3-20-97)

03. Department. The Idaho Department of Agriculture. (3-20-97)

04. Director. The Director of the Idaho Department of Agriculture. (3-20-97)

05. Discharge Violation. A practice or facility condition which has caused an unauthorized release of livestock waste into surface, ground water, or beyond the dairy farm's property boundaries or beyond the property boundary of any facility operated by the producer. Contract manure haulers, producers and other persons who haul livestock waste beyond the producer's property boundaries are responsible for releases of livestock waste between the property boundaries of the producer and the property boundaries at the point of application. (3-19-99)

06. Farm Certification. A permit issued by the Department allowing the sale of manufacture grade milk. (3-20-97)

07. Fieldman. An individual qualified and approved by the Department to perform dairy farm inspections. (3-20-97)

08. Idaho Waste Management Guidelines for Confined Feeding Operations. A 1993 publication as amended in 1997 by the Idaho Department of Health and Welfare, Division of Environmental Quality which is hereby incorporated by reference. Copies of the guidelines are available at the Idaho Department of Agriculture, 2270 Old Penitentiary Road, Boise, Idaho 83712. (4-5-00)

09. Inspector. A qualified, trained person employed by the Department to perform dairy farm inspections. (3-20-97)

10. Livestock. For the purposes of these rules the term livestock shall include bovidae, suidae, equidae and other animals that are kept on or contiguous to a dairy farm and are owned or controlled by a dairy farm. (3-19-99)

11. Livestock Waste. Manure that may also contain bedding, spilled feed, water or soil. It also includes wastes not particularly associated with manure, such as milking center or washing wastes or milk, or livestock carcasses or parts thereof. (4-5-00)

12. Manufacture Grade Milk. Milk produced for processing into dairy products for human consumption but not subject to Grade A requirements. (3-20-97)

13. Memorandum of Understanding. The October 1995 Idaho Dairy Pollution Prevention Initiative Memorandum of Understanding between the Environmental Protection Agency, Division of Environmental Quality, Idaho Department of Agriculture and the Idaho Dairymen's Association. The memorandum is hereby incorporated by reference and copies of the memorandum are available at the Idaho Department of Agriculture, 2270 Old Penitentiary Road, Boise, Idaho 83712 and through the Department of Administration, Office of Administrative Rules, located at 650 West State Street, Room 100, Boise, Idaho 83720. (4-5-00)

14. Non-Compliance. A practice or facility condition which will cause a discharge violation if left uncorrected or a condition on a dairy farm that does not meet the requirements of the Idaho Waste Management Guidelines for Confined Feeding Operations, the Nutrient Management Plan, Nutrient Management Standard, and Appendix 10D. (4-5-00)

15. Natural Resource Conservation Service Agricultural Waste Management Field Handbook Appendix 10D (Appendix 10D). A 1997 publication by USDA, NRCS which is hereby incorporated by reference. Copies of this publication are available at the Idaho Department of Agriculture, 2270 Old Penitentiary Road, Boise, Idaho 83712 and through the Idaho State Law Library, Supreme Court Building, 451 West State Street, Boise, Idaho 83720. (4-5-00)

16. Nutrient Management Plan (NMP). A plan prepared in conformance with the nutrient management standard or other equally protective standard approved by the department for managing the amount, source, placement, form, and timing of the land application of nutrients and soil amendments for plant production, and for minimizing the potential for environmental degradation, particularly impairment of water quality. (4-5-00)

17. Nutrient Management Standard (NMS). The 1999 publication by the United States Department of Agriculture (USDA) Natural Resource Conservation Service (NRCS) Conservation Practice Standard, Nutrient Management Code 590, or the 1999 Idaho Agricultural Pollution Abatement Plan - Nutrient Management Standard Component Practice, which are hereby incorporated by reference. Copies of these publications are available at the Idaho Department of Agriculture, 2270 Old Penitentiary Road, Boise, Idaho 83712 and through the Idaho State Law Library, Supreme Court Building, 451 West State Street, Boise, Idaho 83720. (4-5-00)

18. Permit. A permit issued by the Department allowing the sale of Grade A milk. (3-20-97)

19. Person. Any individual, partnership, association, corporation, or any organized group of persons whether incorporated or not. (3-20-97)

20. Producer. The person who exercises control over the production of milk delivered to a plant, and who receives payment for this product. (3-20-97)

005. FINDINGS.

The Department finds that pursuant to Section 67-5226(1), Idaho Code, these rules are necessary to protect the public health, safety, and welfare of Idaho, enhance Idaho water quality and preserve the integrity of the Idaho dairy industry. These rules establish design, construction, operation, location, and inspection criteria for dairy waste systems on Idaho dairy farms and enable the department to implement the 1999 NRCS nutrient management standards on dairy farms to appropriately manage livestock waste. These rules also provide penalty provisions. (4-5-00)

006. -- 009. (RESERVED).

010. PERMITS AND CERTIFICATION.

No producer shall offer for sale or sell milk unless the producing dairy farm has been issued a Grade A permit or a Farm Certification from the Department. (3-20-97)

01. Grade A Permit. A permit issued by the Department if the dairy farm complies with the requirements of the Pasteurized Milk Ordinance and has in place and operates a dairy waste system consistent with the Idaho Waste Management Guidelines for Confined Feeding Operations, NMP, NMS and Appendix 10D. (4-5-00)

02. Farm Certification. A certification issued by the Department if the dairy farm complies with the requirements of IDAPA 02.04.05, "Rules Governing Manufacture Grade Milk," and has in place and operates a dairy waste system consistent with the Idaho Waste Management Guidelines for Confined Feeding Operations, NMP, NMS, and Appendix 10D. (4-5-00)

011. WASTE SYSTEM APPROVAL.

The Department is authorized to approve the design, construction, operation, and location of dairy waste systems. These systems must conform to the Idaho Waste Management Guidelines for Confined Feeding Operations, NMP, NMS, and Appendix 10D. (4-5-00)

012. INSPECTIONS.

Each dairy farm shall be inspected by an inspector or fieldman at least annually or at intervals sufficient to determine that dairy waste has been managed to prevent an unauthorized discharge or contamination of surface and ground water. An official inspection report form as described in Section 013 will be completed at the time of inspection. (4-5-00)

013. INSPECTION REPORT FORMS.

An inspection report form shall be established by the Department based on parameters established in the Idaho Waste Management Guidelines for Confined Feeding Operations, NMP, NMS, and Appendix 10D. Each inspection item on the form shall indicate compliance and non-compliance. (4-5-00)

014. COMPLIANCE SCHEDULES.

01. Non-Compliance or Discharge Violations Identified. When the Director identifies items of non-compliance or discharge violations, the deficiencies will be noted and discussed with the producer. Appropriate corrective actions will be identified and scheduled informally. The Director may develop a formal compliance schedule in the following cases: (4-5-00)

- a.** When corrective actions cannot be completed within thirty (30) days; (4-5-00)
- b.** When corrective actions require significant capital investment; (4-5-00)
- c.** When informal schedules have not been complied with. (4-5-00)

02. Re-Inspection. Re-inspection of the dairy farm will be conducted as appropriate, to ensure compliance. A discharge violation shall be corrected immediately, when at all possible. (4-5-00)

015. PENALTIES.

The Director may suspend the producer's permit or farm certification authorizing the producer to sell milk until such time that the dairy farm is in compliance. Repeat non-compliance violations on significant items, discharge violations, or violation of formal compliance schedule also may cause a dairy farm to lose authorization to sell milk. (3-20-97)

016. REINSTATEMENT.

Whenever a producer has lost authorization to sell milk for human consumption under the provisions of Section 015, the producer may apply for reinspection. A reinspection, conducted by an inspector or fieldman, will be made; if corrections have been made, the producer will be reinstated. (3-20-97)

017. DURATION.

These rules will no longer be in effect if or when the Memorandum of Understanding defined in Subsection 004.13 is revoked or expires. (4-5-00)

018. -- 999. (RESERVED).

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