

## IDAPA 02 – IDAHO DEPARTMENT OF AGRICULTURE

### Animals Division

#### 02.04.14 – Rules Governing Dairy Byproduct

##### **Who does this rule apply to?**

*All dairy farmers.*

##### **What is the purpose of this rule?**

*In order to protect the natural resources and waters of the state, this rule governs the Department's review, approval, and enforcement of dairy environmental management plans to ensure that dairy environmental management systems are constructed, operated and maintained in a manner that protects the natural resources of the state. Nothing in this rule affects the authority of the department of environmental quality to enforce an IPDES permit for dairy farms that discharge pollutants to waters of the United States, 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.*

##### **What is the legal authority for the agency to promulgate this rule?**

*This rule implements the following statutes passed by the Idaho Legislature:*

- [37-302, Idaho Code](#) – Dairies and Dairy Products: Inspections
- [37-401, Idaho Code](#) – Sanitary Inspection of Dairy Products: Nutrient Management Plans Required
- [37-603, Idaho Code](#) – Authority and Duties of Director and Agency Coordination

##### **Who do I contact for more information on this rule?**

Idaho State Department of Agriculture  
2270 Old Penitentiary Rd.  
Boise, ID 83712  
P.O. Box 7249  
Boise, ID 83707  
Phone: (208) 332-8500  
Fax: (208) 334-2170  
Email: [rulesinfo@isda.idaho.gov](mailto:rulesinfo@isda.idaho.gov)  
Webpage: <https://agri.idaho.gov/main/>

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## 02.04.14 – RULES GOVERNING DAIRY BYPRODUCT

### 000. LEGAL AUTHORITY.

This chapter is adopted under the legal authority of Title 37, Chapters 3, 4, and 6, Idaho Code. (7-1-24)

### 001. SCOPE.

These rules govern the Department's review, approval, and enforcement of dairy environmental management plans. (7-1-24)

### 002. -- 003. (RESERVED)

### 004. INCORPORATION BY REFERENCE.

The following documents are incorporated by reference into this chapter. (7-1-24)

#### 01. Nutrient Management Standard (NMS). (7-1-24)

a. Idaho NRCS Nutrient Management Standard 590. The 1999 publication by the United States Department of Agriculture (USDA) Natural Resources Conservation Service (NRCS) Idaho Conservation Practice Standard, Nutrient Management Code 590, available online at [https://agri.idaho.gov/main/wp-content/uploads/2017/08/nutrient\\_Management\\_code\\_590.pdf](https://agri.idaho.gov/main/wp-content/uploads/2017/08/nutrient_Management_code_590.pdf) or, (7-1-24)

b. The Phosphorus Site Index: A Systematic Approach to Assess the Risk of Nonpoint Source Pollution of Idaho Waters by Agricultural Phosphorus, 2023. This document is available online at <https://agri.idaho.gov/main/animals/environmental-nutrient-management/>. (7-1-24)

### 005. -- 009. (RESERVED)

### 010. DEFINITIONS.

In addition to Section 37-604, Idaho Code, the following definitions apply in the interpretation and enforcement of this chapter: (7-1-24)

01. **Dairy Animal.** Milking cows, sheep or goats. (7-1-24)

02. **Pasture, Pasturing, and Pastured.** For purposes of these rules, a pasture is an irrigated or dryland field with forage plant growth covering a minimum of fifty percent (50%) of the field. Pasturing and pastured is dairy animals and other animals owned, leased, or otherwise under the control of the producer, grazing in the same dairy farm pasture. Pastures are not considered part of a dairy storage and containment facility. (7-1-24)

03. **Permit.** A permit issued by the Department allowing the sale of Grade A milk or manufacture grade milk. (7-1-24)

04. **Phosphorus Site Index.** A method to evaluate the relative potential for off-site movement of phosphorus from a field or pasture based upon risk factors relating to surface transport, phosphorus loss potential and nutrient management practices. (7-1-24)

05. **Producer.** The person who owns or operates a permitted dairy farm. (7-1-24)

### 011. ABBREVIATIONS.

01. **IPDES.** Idaho Pollutant Distribution Elimination System. (7-1-24)

02. **NMS.** Nutrient Management Standard (7-1-24)

03. **NRCS.** Natural Resources Conservation Service. (7-1-24)

### 012. -- 029. (RESERVED)

### 030. DAIRY ENVIRONMENTAL MANAGEMENT PLAN APPROVAL.

01. **Dairy Storage and Containment Facility Criteria.** (7-1-24)

a. Dairy storage and containment facilities shall be constructed to meet a minimum of one hundred eighty (180) days of holding capacity. Construction, operation and maintenance shall be in accordance with IDAPA

02.04.30, “Rules Governing Environmental and Nutrient Management.” (7-1-24)

**02. Dairy Nutrient Management Plan (DNMP).** Each dairy farm shall have a dairy nutrient management plan that is approved by the Department that covers the dairy farm site and other land owned and operated by the dairy farm to which dairy byproducts are land applied. In addition to the requirements set forth in IDAPA 02.04.30, “Rules Governing Environmental and Nutrient Management,” a DNMP must also include the following: (7-1-24)

**a.** A nitrogen management plan worksheet shall be completed for all fields and pastures receiving land application of nutrients. (7-1-24)

**b.** Pasturing. All pastures utilized for grazing of dairy animals, and other animals grazing within the same pasture, shall be incorporated in to the DNMP and subject to the following requirements: (7-1-24)

**i.** Soil testing pursuant to IDAPA 02.04.30, “Rules Governing Environmental and Nutrient Management.” (7-1-24)

**ii.** Surface water access. If pastured animals have access to surface water within a pasture, the producer may be required to implement one (1) or more NRCS conservation practice standards to minimize adverse impact on surface water quality. (7-1-24)

**iii.** Land application. If land application occurs within a pasture, annual soil tests shall be conducted. (7-1-24)

**iv.** Confinement areas. Confinement areas shall not be considered part of a pasture. (7-1-24)

**031. PHOSPHORUS MANAGEMENT.**

Dairy farms shall utilize either Phosphorus Indexing (Section 031.01) in accordance with the Idaho Phosphorus Site Index, or Phosphorus Threshold (Section 031.02) pursuant to the 1999 Idaho NRCS Nutrient Management Standard 590 to manage nutrient application. (7-1-24)

**01. Phosphorus Indexing.** The dairy farm shall utilize phosphorus site indexing (PSI) for each field where dairy byproducts and/or commercial fertilizers are land applied and for each pasture utilized for grazing, in accordance with the Idaho Phosphorus Site Index Standards. The PSI shall be calculated by a Nutrient Management Planner, certified by the Department, and be included as a component of the DNMP in the dairy farm’s Environmental Management Plan. It shall be the dairy farm’s responsibility to provide updated information, including annual soil test results, to the Nutrient Management Planner for calculation of the PSI on all fields and pastures on an annual basis. Failure to abide by the nutrient application and management provisions of a field or pasture’s PSI risk classification in the DNMP shall constitute a non-compliance and the producer may be penalized as provided in these rules. (7-1-24)

**a.** Notwithstanding anything to the contrary in the Idaho Phosphorus Site Index Standards, no land application of phosphorus shall be permitted on any fields or pastures that possess a soil phosphorus level exceeding three hundred (300) parts per million, as determined by the required annual soil test (via Olsen method). Further, the dairy farm shall not receive BMP Coefficient credit for implementing any best management practice designed to reduce phosphorus loss on fields exceeding three hundred (300) parts per million, via Olsen method. (7-1-24)

**b.** The Department may award zero (0) or partial BMP Coefficient credit when a dairy farm implements a best management practice designed to reduce phosphorus loss from fields that does not fully conform to NRCS standards or the standards set forth in the Idaho Phosphorus Site Index Standards BMP definition section. (7-1-24)

**c.** Amendments to the Idaho Phosphorus Site Index Standards must be approved by three (3) scientists from research institutions identified as partner institutions of the USDA National Institute of Food and Agriculture (NIFA), as found at <https://www.nifa.usda.gov/land-grant-colleges-and-universities-partner-website-directory>. Amendments shall be based on a minimum of three (3) peer-reviewed research publications that are relevant to Idaho’s climate, soil, cropping system and irrigation. (7-1-24)

**02. Phosphorus Threshold.** If the regulatory or producer soil tests reveal that phosphorus thresholds on fields and pastures have exceeded the levels established in the 1999 Idaho NRCS Nutrient Management Standard 590, the producer shall only apply phosphorus at the appropriate phosphorus crop uptake rate. Subsequent regulatory soil test(s) on fields and pastures that were identified as exceeding the phosphorus threshold will be conducted. If two (2) out of three (3) tests reveal the phosphorus index continues to trend upward, the producer will be penalized as provided in these rules. These tests shall be taken in the top one (1) foot of soil. (7-1-24)

**032. -- 039. (RESERVED)**

**040. INSPECTIONS.**

Each dairy farm shall be inspected at intervals sufficient to determine that dairy byproducts and process water have been managed to prevent an unauthorized discharge, unauthorized release, or contamination of surface and ground water. (7-1-24)

**041. -- 049. (RESERVED)**

**050. COMPLIANCE SCHEDULES.**

**01. Non-Compliance or Unauthorized Release Violations.** Appropriate corrective actions will be identified and informally scheduled when items of non-compliance or unauthorized release violations are identified. The Director may develop a formal compliance schedule in the following cases: (7-1-24)

- a.** Failure to complete corrective actions within thirty (30) days; or (7-1-24)
- b.** Corrective actions require significant capital investment; or (7-1-24)
- c.** Informal schedules have not been followed. (7-1-24)

**02. Re-Inspection.** Re-inspection of the dairy farm will be conducted as appropriate, to ensure compliance. An unauthorized release violation shall be corrected immediately, when at all possible. (7-1-24)

**051. -- 059. (RESERVED)**

**060. UNAUTHORIZED DISCHARGES AND UNAUTHORIZED RELEASES -- PENALTIES.**

Non-compliance with requirements for dairy environmental systems, the NMS, and DNMP shall be addressed through corrective actions and compliance schedules pursuant to these rules. (7-1-24)

**061. -- 999. (RESERVED)**