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**IDAPA 02
TITLE 04
CHAPTER 15**

02.04.15 - RULES GOVERNING BEEF CATTLE ANIMAL FEEDING OPERATIONS

000. LEGAL AUTHORITY.

This chapter is adopted under the legal authority of Title 22, Chapter 1 and 49, Idaho Code. (3-16-01)

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 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. (3-29-17)

002. WRITTEN INTERPRETATIONS.

There are no written interpretations of these rules. (3-16-01)

003. ADMINISTRATIVE APPEAL.

Persons may be entitled to appeal agency actions authorized under these rules pursuant to Title 67, Chapter 52, Idaho Code. (3-15-02)

004. INCORPORATION BY REFERENCE.

Copies of these documents may be obtained from the Idaho State Department of Agriculture, 2270 Old Penitentiary Road, PO Box 790, Boise, Idaho 83701. IDAPA 02.04.15 incorporates by reference: (3-16-01)

01. The 1997 United States Department of Agriculture Natural Resources Conservation Service Agricultural Waste Management Field Handbook, Appendix 10 D. This document can be viewed online at <http://directives.sc.egov.usda.gov/OpenNonWebContent.aspx?content=17767.wba>. (3-16-01)

02. Society of Agricultural and Biological Engineers Specification ASAE EP393.3 Manure Storages February 2004. This document is part of a copyrighted publication and is available for viewing at the ISDA offices or a copy may be purchased online at <http://www.asabe.org/>. (3-29-17)

03. The 1999 Publication by the United States Department of Agriculture, Natural Resource Conservation Service, Conservation Practice Standard, Nutrient Management Code 590. This can be viewed online at http://www.agri.idaho.gov/AGRI/Categories/Animals/Documents/nutrient_Management_code_590.PDF. (3-16-01)

005. IDAHO PUBLIC RECORDS ACT.

These rules are public records and are available for inspection and copying at the Department. (3-16-01)

006. ADDRESS, OFFICE HOURS, TELEPHONE AND FAX NUMBERS.

01. Physical Address. The central office of the Idaho State Department of Agriculture is located at 2270 Old Penitentiary Road, Boise, Idaho 83712-0790. (3-16-01)

02. Office Hours. Office hours are 8 a.m. to 5 p.m., Mountain Time, Monday through Friday, except holidays designated by the state of Idaho. (3-16-01)

03. Mailing Address. The mailing address for the central office is Idaho State Department of

Agriculture, P. O. Box 790, Boise, Idaho 83701. (3-16-01)

04. Telephone Number. The telephone number of the central office is (208) 332-8540. (3-16-01)

05. Fax Number. The fax number of the central office is (208) 334-4062. (3-16-01)

007. -- 009. (RESERVED)

010. DEFINITIONS.

The following definitions shall apply in the interpretation and enforcement of this chapter. (3-16-01)

01. Administrator. The administrator of the Idaho State Department of Agriculture, Division of Animal Industries or his designee. (4-6-05)

02. Animal. Bovidae, ovidae, suidae, equidae, captive cervidae, captive antilocapridae, camelidae, and ratitidae. (3-16-01)

03. Animal Feeding Operation. A lot or facility where slaughter and feeder cattle or dairy heifers are confined and fed for a total of forty-five (45) days or more during any twelve-month (12) period and crops, vegetation forage growth, or post harvest residues are not sustained in the normal growing season over any portion of the lot or facility. (4-6-05)

04. Beef Cattle Animal Feeding Operation. An animal feeding operation that confines slaughter and feeder cattle or dairy heifers. (3-29-17)

05. Best Management Practices. As defined in Title 22, Chapter 49, Idaho Code, practices, techniques, or measures that are determined to be reasonable precautions, are a cost-effective and practicable means of preventing or reducing pollutants from point or non-point sources to a level compatible with state environmental goals, including water quality goals and standards for water of the state. Best management practices for water quality shall be adopted pursuant to the state water quality management plan, the Idaho ground water quality plan or Title 22, Chapter 49, Idaho Code. (3-29-17)

06. Compost. A biologically stable material derived from the biological decomposition of organic matter. (3-16-01)

07. Concentrated Animal Feeding Operation. An AFO that is defined as a large CAFO or as a medium CAFO by the terms of this section and designated by the Director. Two (2) or more AFOs under common ownership are considered to be a single AFO for the purposes of determining the number of animals at an operation, if they adjoin each other or if they use a common area or system for the disposal of wastes. (3-29-17)

08. Director. The Director of the Idaho State Department of Agriculture or his designee. (4-6-05)

09. Discharge. Release of process wastewater or manure from a beef cattle animal feeding operation to waters of the state. (3-16-01)

10. Idaho Pollutant Discharge Elimination System (IPDES). Idaho's program for issuing, modifying, revoking and reissuing, terminating, monitoring and enforcing permits, and imposing and enforcing pretreatment requirements, under these rules and the Clean Water Act sections 307, 402, 318, and 405. (3-29-17)

11. Land Application. The spreading on, or incorporation of manure or process wastewater into the soil. (3-16-01)

12. Large Concentrated Animal Feeding Operation. An AFO is defined as a large CAFO if it stables or confines as many as or more than the numbers of cattle specified in any of the following categories: (3-29-17)

a. Seven hundred (700) mature dairy cows, whether milked or dry; (3-29-17)

- b. One thousand (1,000) veal calves; (3-29-17)
- c. One thousand (1,000) cattle other than mature dairy cows or veal calves. Cattle includes but is not limited to heifers, steers, bulls and cow/calf pairs; (3-29-17)
- 13. Manure.** Animal excrement generated on a beef cattle animal feeding operation that may also contain bedding, spilled feed, water, or soil. (3-15-02)
- 14. Medium Concentrated Animal Feeding Operation.** A medium CAFO includes any AFO that has been defined or designated as CAFO and stables or confines the number of cattle that fall within any of the following ranges: (3-29-17)
- a. Two hundred (200) to six hundred ninety-nine (699) mature dairy cows, whether milked or dry; (3-29-17)
- b. Three hundred (300) to nine hundred ninety-nine (999) veal calves; (3-29-17)
- c. Three hundred (300) to nine hundred ninety-nine (999) cattle other than mature dairy cows or veal calves. Cattle includes but is not limited to heifers, steers, bulls and cow/calf pairs; (3-29-17)
- 15. Modified.** Structural changes and alterations to the wastewater storage containment facility, which would require increased storage or containment capacity or such changes, which would alter the function of the wastewater storage or containment facility. (3-16-01)
- 16. Non-Compliance.** A practice or condition that causes an unauthorized discharge, or a practice or condition, that if left uncorrected, will cause an unauthorized discharge. (3-16-01)
- 17. Nutrient Management Plan (NMP).** A plan prepared in conformance with the nutrient management standard, provisions required by 40 CFR 122.42(e)(1), or other equally protective standard for managing the amount, placement, form, and timing of the land application of nutrients and soil amendments. (3-29-17)
- 18. Nutrient Management Standard.** The 1999 publication by the United States Department of Agriculture Natural Resources Conservation Service, Conservation Practice Standard, Nutrient Management Code 590, or other equally protective standard approved by the Director. (3-16-01)
- 19. Operate.** Confining and feeding slaughter and feeder cattle in the state of Idaho. (4-6-05)
- 20. Operator.** The person who has power or authority to manage, or direct, or has financial control of a beef cattle animal feeding operation. (3-16-01)
- 21. Person.** Any individual, association, partnership, firm, joint stock company, joint venture, trust, estate, political subdivision, public or private corporation, state, or federal governmental department, agency or instrumentality, or any legal entity, which is recognized by law as the subject of rights and duties. (3-16-01)
- 22. Process Wastewater.** Liquid containing beef cattle manure, process-generated wastewater and any precipitation which comes into direct contact with livestock manure and facility products or by-products. (4-6-05)
- 23. Runoff.** Any precipitation that comes into contact with manure, compost, bedding, or feed on a beef cattle animal feeding operation. (3-15-02)
- 24. Slaughter and Feeder Cattle.** All cattle except those cattle located on a dairy farm permitted by the Idaho State Department of Agriculture pursuant to IDAPA 02.04.14, "Rules of the Department of Agriculture Governing Dairy Waste." (4-6-05)
- 25. Small Concentrated Animal Feeding Operation.** An AFO that is designated as a CAFO and is

not a medium or large CAFO. (3-29-17)

26. Unauthorized Discharge. A discharge of process wastewater or manure from a beef cattle animal feeding operation to state surface waters that does not meet the requirements of these rules or water quality standards. (3-29-17)

27. Wastewater Storage and Containment Facility. That portion of a beef cattle animal feeding operation where manure or process wastewater is stored or collected. This may include corrals, feeding areas, waste collection systems, waste conveyance systems, waste storage ponds, waste treatment lagoons and evaporative ponds. (3-16-01)

28. Waters of the State. All accumulations of water, surface and underground, natural and artificial, public and private, or parts thereof that are wholly or partially within, that flow through or border upon the state. (3-29-17)

011. ABBREVIATIONS.

- 01. AFO.** Animal Feeding Operation. (3-29-17)
- 02. CAFO.** Concentrated Animal Feeding Operation. (3-29-17)
- 03. IPDES.** Idaho Pollutant Discharge Elimination System. (3-29-17)
- 04. NMP.** Nutrient Management Plan. (4-6-05)
- 05. NRCS.** United States Department of Agriculture, Natural Resources Conservation Service. (4-6-05)

012. PROHIBITED DISCHARGES.

Unauthorized discharges of manure or process wastewater from beef cattle animal feeding operations or land application sites owned or controlled by a beef cattle animal feeding operation are prohibited. (4-6-05)

013. NOTIFICATION OF DISCHARGE.

01. Notification Within Twenty-Four Hours of Discharge. Within twenty-four (24) hours of learning of a discharge, the operator of a beef cattle animal feeding operation shall verbally notify the Director of such a discharge. (3-16-01)

02. Written Notification Within Five Days. If the Idaho Department of Agriculture has not begun a discharge investigation within five (5) days of the verbal notification to the Director, the operator shall submit a written report to the Director which includes: (3-16-01)

- a.** A description of the discharge, a description of the flow path to the receiving water body; (3-16-01)
- b.** An estimation of the flow rate and volume discharged; (3-16-01)
- c.** The period of discharge, including dates and times, and if not already corrected, the anticipated time the discharge is expected to continue; and (3-16-01)
- d.** Steps taken to reduce, eliminate and prevent recurrence of the discharge. (3-16-01)

014. -- 019. (RESERVED)

020. WASTEWATER STORAGE AND CONTAINMENT FACILITIES.

01. Wastewater Storage and Containment Facilities. All beef cattle animal feeding operations where process wastewater leaves the confinement area and has the potential to impact surface water or be in violation of

state water quality standards shall have wastewater storage and containment facilities designed, constructed, operated, and maintained sufficient to contain: (3-16-01)

- a. All process wastewater generated on the facility during the non-land application season; and (3-16-01)
- b. The runoff from a twenty-five (25) year, twenty-four (24) hour rainfall event; and (3-16-01)
- c. Either three (3) inches of runoff from the accumulation of winter precipitation or the amount of runoff from the accumulation of precipitation from a one-in-five (1 in 5) year winter. (3-16-01)

02. All Substances Entering Wastewater Storage and Containment Facilities. All substances entering wastewater storage and containment facilities shall be composed of manure and process wastewater from the operation of the beef cattle animal feeding operation. The disposal of any other materials into a wastewater storage and containment facility, including, but not limited to, human waste, is prohibited. (3-16-01)

021. NEW OR MODIFIED BEEF CATTLE ANIMAL FEEDING OPERATIONS.

Each new or modified beef cattle animal feeding operation shall design and construct wastewater storage and containment facilities completed after July 1, 2000, in accordance with the engineering standards and specifications contained in the Natural Resources Conservation Service Agricultural Waste Management Field Handbook, Appendix 10D or the American Society of Agricultural Engineers Standard EP393.3, or other equally protective standards approved by the Director. (3-16-01)

022. -- 029. (RESERVED)

030. NUTRIENT MANAGEMENT.

Each beef cattle animal feeding operation shall submit a nutrient management plan for land owned or controlled by the operator, which conforms to the nutrient management standard and addresses odors generated in excess of odors normally associated with raising beef cattle in Idaho, to the Director for approval. Following department review and approval, the plan, and all copies of the plan, shall be returned to the operation and maintained on site. (4-6-05)

01. Existing Beef Cattle Animal Feeding Operations. Beef cattle animal feeding operations that are operating on or before July 1, 2000 shall submit a NMP to the director for approval no later than January 1, 2005. The Director shall respond to or approve such plan in writing within forty-five (45) days of submission. (4-6-05)

02. New Beef Cattle Animal Feeding Operations. Any new beef cattle animal feeding operation commencing operations after July 1, 2000, shall not operate prior to the Director's approval of a NMP. The Director shall respond to or approve such plan within forty-five (45) days of submission. (4-6-05)

03. Implementation of a Nutrient Management Plan. Failure to implement an approved NMP is a violation of these rules. (4-6-05)

031. NUTRIENT MANAGEMENT PLAN RETENTION.

All approved NMPs shall be maintained on site at the beef cattle animal feeding operation and available to the Administrator upon request. (4-6-05)

032. NUTRIENT MANAGEMENT RECORDS.

The operators of beef cattle animal feeding operations shall keep complete and accurate records of: (4-6-05)

01. Land Application. The dates and amounts of any manure or process wastewater applied on land owned or controlled by the operator. (4-6-05)

02. Manure Transferred to Another Person. The name and address of any third party that receives manure or process wastewater from the operation, including the dates of the transfer and the amount of manure or process wastewater transferred. (4-6-05)

03. Records Retention. All records shall be maintained for a period of five (5) years and presented to

the Administrator upon request. (4-6-05)

033. -- 039. (RESERVED)

040. DESIGNATION OF BEEF CATTLE ANIMAL FEEDING OPERATIONS.

01. Designation of Animal Feeding Operations. The Director, on a case by case basis, may designate any animal feeding operation that confines slaughter and feeder cattle as a beef cattle animal feeding operation if, after an inspection, the Director determines that the animal feeding operation is a significant contributor of pollution to waters of the state. The designation shall be provided to the operator of the animal feeding operation in writing setting forth the basis for the Director's decision. When designated, these operations shall be considered existing beef cattle animal feeding operations. The Director shall consider the following factors when making such designation: (4-6-05)

- a.** Size of the animal feeding operation and the amount of manure, process wastewater, and runoff reaching waters of the state; (3-15-02)
- b.** Location of the animal feeding operation relative to waters of the state; (3-15-02)
- c.** Means of conveyance of manure, process wastewater, and runoff into waters of the state; and (3-15-02)
- d.** Slope, vegetation, precipitation, and other factors affecting the likelihood or frequency of discharge of manure, process wastewater, or runoff into waters of the state. (3-15-02)

02. Redesignation of a Beef Cattle Animal Feeding Operation. Upon request by the operator, the Director shall redesignate a facility previously designated under Section 040, if the facility is no longer a significant contributor of pollution to waters of the state. Such redesignation shall be provided to the operator in writing. (3-15-02)

041. -- 049. (RESERVED)

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. (4-6-05)

03. Sample or Monitor. Sample or monitor at reasonable times, substances or parameters directly related to compliance with these rules or an IPDES permit. (3-29-17)

051. INSPECTIONS.

Each beef cattle animal feeding operation shall be inspected annually or at intervals sufficient to determine that the facility is being operated and managed to prevent an unauthorized discharge. Inspections may include evaluating effectiveness of best management practices, collecting samples, taking photographs, video taping facilities or collecting other information as necessary. An official inspection report form shall be completed at the time of the inspection and a copy provided to the operator. (3-16-01)

052. ADMINISTRATION OF IPDES PROGRAM.

The Director of the Department of Agriculture and the Director of the Department of Environmental Quality shall, as appropriate, establish an agreement relating to the administration of an IPDES program that recognizes the expertise of the Department of Agriculture. (3-29-17)

053. COMPLIANCE WITH IDAHO POLLUTANT DISCHARGE ELIMINATION SYSTEM RULES.

The Department of Environmental Quality shall be solely responsible and authorized to determine whether the discharge of pollutants from a beef cattle feeding operation is required to be authorized by an IPDES permit. The provisions of this rule do not define when a beef cattle feeding operations 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. (3-29-17)

054. -- 079. (RESERVED)

080. COMPLIANCE ORDERS.

When the Director identifies items of non-compliance or unauthorized discharges, the deficiencies will be noted and discussed with the operator. Unauthorized discharges shall be corrected immediately, or as soon as possible as determined by the Director. Appropriate corrective actions will be identified and scheduled informally. Formal compliance orders shall be developed, as the Director deems necessary as provided by Section 22-4909, Idaho Code. (3-16-01)

081. -- 089. (RESERVED)

090. PENALTIES.

Failure to comply with any provision of these rules or any formal compliance order of the Director shall be a violation of these rules. Such violation may subject the operator to an administrative enforcement action or a civil enforcement action in district court and a civil penalty not to exceed ten thousand dollars (\$10,000) per violation or one thousand dollars (\$1,000) for each day of a continuing violation as provided in Title 22, Chapter 49, Idaho Code. Civil penalties collected shall be deposited in the state treasury and credited to the State School Building Fund. (3-16-01)

091. -- 999. (RESERVED)

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