

MINUTES
SENATE AGRICULTURAL AFFAIRS COMMITTEE

DATE: Tuesday, January 17, 2017

TIME: 8:00 A.M.

PLACE: Room WW53

MEMBERS PRESENT: Chairman Rice, Vice Chairman Den Hartog, Senators Patrick, Bayer, Guthrie, Johnson, Thayn, Foreman, and Jordan

ABSENT/ EXCUSED: None

NOTE: The sign-in sheet, testimonies and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

CONVENED: **Chairman Rice** called the meeting to order at 8:00 a.m.

INTRODUCTION: **Chairman Rice** introduced Bryon Beams, Agricultural Affairs Committee Page.

PASSED THE GAVEL: Chairman Rice passed the gavel to Vice Chairman Den Hartog.

DOCKET NO.

02-0214-1601

Rules for Weights and Measures. Stacie Ybarra, Agriculture Program Specialist, Idaho State Department of Agriculture (ISDA), explained this rule edits the text to reference the 2017 edition of Handbook 44. The Weights and Measures Program's primary purpose is to inspect and test commercial weighing and measuring devices such as grocery store, truck and livestock scales along with gas pumps and LPG meters. Once these devices are inspected they receive a sticker.

It is important to the Weights and Measures Program that the reference document, "Handbook 44", be the most current date specific edition. Maintaining a current Handbook is important to Weights and Measures officials and the service industry that repair commercial weighing or measuring devices. The Handbook update promotes uniformity in keeping codes current with updated technology and surrounding states.

Chairman Rice asked if there were any substantive changes between the 2016 and 2017 handbooks. **Ms. Ybarra** explained there were numerous changes in the editorial which affected the service agencies and manufacturing of scales and devices. There is a list of the changes that occurred in this years Handbook and she will provide the Committee with those changes.

MOTION: **Senator Guthrie** moved to approve **Docket No. 02-0214-1601**. Seconded by **Senator Thayn**. The motion carried by **voice vote**.

DOCKET NO.
02-0414-1601

Rules Governing Dairy Waste. Dr. Scott Leibsle, Deputy State Veterinarian, Idaho State Department of Agriculture, indicated that there are extensive changes to this rule. There were three goals of the rulemaking: 1) amend the rule to coincide with statutory amendment that was made in 2016 with the passage of S 1260 of the Dairy Environmental Control Act; 2) designate and clarify the authority of the Department of Environmental Quality (DEQ). There is a portion of the rule that pertains to the Idaho Pollutant Elimination Distribution System (IPDES) program which is a specific area of the rule that by statute DEQ is the designated authority and amended language has been added to clarify their role; and 3) negotiate rule language that will address the use of pastures on dairy farms.

The rules governing dairy waste will change to the new terminology dairy by-product. The scope of the rule has been clarified to designate ISDA as the agency which reviews/approves the construction and management of the Dairy Environmental Management Plans and grants authority to DEQ over the IPDES Program.

The majority of the changes to the rule are in the definition section as listed under the subsections in the rule.

The section defining permits and certification was originally included in the rule because penalties for violation were tied to a facility's milk permit. This was changed to include a penalties section in the rule that specifically ties a dollar amount, up to \$10,000 per incident, rather than revoke a facility's milk permit. Section two of the dairy nutrient management plan was added to clarify ISDA's and DEQ's authority over a dairy's plan. Most of the negotiated rulemaking was conducted on pasturing of dairy cattle. A new section has been added on the requirements for dairy pastures and testing is incorporated in this rule to specify how they are tested. Pastures that are utilized for grazing dairy animals will be evaluated on soil testing, surface water access, land application, and confinement areas. There is new terminology for discharge which is unauthorized discharge and unauthorized release. If a dairy farm releases pollutants into waters of the United States that would be viewed as an unauthorized discharge and will be immediately assigned to DEQ to enforce. Unauthorized release of pollutants into waters of the state would fall under the ISDA's authority to enforce.

Senator Guthrie observed that in this rule dairy farmers have two agencies that they must comply with: DEQ and ISDA. **Dr. Leibsle** clarified that the DEQ's authority would only come into play if there is a discharge of pollutants into the waters of the United States.

Bob Naerebout, Executive Director, Idaho Dairyman's Association, addressed Senator Guthrie's question stating that the dairy industry serves three masters: 1) ISDA; 2) DEQ; and 3) EPA. National Pollutant Discharge Elimination System (NPDES) is a federal permit and the changes in this rule have come about to align the dairies with EPA's requirements for state primacy. The idea behind the IPDES was to have a memorandum letter existing between DEQ and our promulgated culture when they work together.

Senator Johnson said that Section 27 on unauthorized discharge refers to a discharge of pollutants and Section 28 references a release of dairy by-products. He asked what the difference is between these two pollutants. **Dan Steenson**, attorney, representing the Idaho Dairyman's Association explained that in these rules they chose not to define pollutants because they are defined under the Clean Water Act and under state water quality standards. Dairy by-product is defined in this rule and it states that a dairy by-product may or may not constitute a pollutant. The determination would be left to DEQ's authority under separate rules.

MOTION: **Senator Foreman** moved to approve **Docket No. 02-0414-1601**. Seconded by **Senator Patrick**. The motion carried by **voice vote**

DOCKET NO. 02-0416-1601 **Rules Governing Agriculture Odor Management.** **Dr. Leibsle** said the changes to this rule are limited to exchanging new terminology for old and correcting references to other related rules. The amendments to the language are found under the following subsections: Beef cattle, dairy waste is now by-product; Beef cattle feeding operations, a correction of the rule name; large swine and poultry operations, name correction; accepted agricultural practices, dairy waste to by-product; and applicability swine and poultry, clarified the rule.

MOTION: **Senator Bayer** moved to approve **Docket No. 02-0416-1601**. Seconded by **Senator Guthrie**. The motion carried by **voice vote**

**DOCKET NO.
02-0432-1601**

Rules Governing Poultry Operations. **Dr. Leibsle** stated this rule was changed to reflect the changes in the IPDES Program that affected beef and dairy Confined Animal Feeding Operation (CAFO) along with poultry CAFO's. The amendment to the rule is found in the definition section where IPDES Program is defined, identifying DEQ's authority.

Senator Johnson observed that the definition for unauthorized discharge differs significantly from the rules governing dairy waste. **Dr. Leibsle** replied that the governing statute for poultry operations is Idaho Code § 25-4001, which is a different statute from dairy waste. The definition of unauthorized discharge in the statute remains the same it just needed to be clarified NPDES versus IPDES. The relation of these programs for dairy, beef, and poultry is that they all have CAFO operations and that portion of the IPDES Program is assigned to DEQ's authority.

MOTION:

Senator Patrick moved to approve **Docket No. 02-0432-1601**. Seconded by **Senator Bayer**. The motion carried by **voice vote**

**PASSED THE
GAVEL:**

Vice Chairman Den Hartog passed the gavel to Chairman Rice.

PRESENTATION:

Idaho Association of Soil Conservation. **Steve Becker**, Treasurer, Idaho Association of Soil Conservation Districts (ISCC), commenced the presentation with a brief history of ISCC explaining the organization was created in the 1930's following the Dust Bowl Era. ISCC consists of 50 districts in the State of Idaho covering every acre of property in the State. Some of the powers of the conservation districts are to assist landowners in conserving soil resources to prevent erosion and flooding. ISCC enter into agreements developing comprehensive plans to assist with related conservation, flood and erosion prevention. Each relationship is buying into the effectiveness of keeping Idaho's farms and ranches active, healthy and sustainable. Conservation districts provide leadership at the county level to address critical management resource issues. Along with developing partnerships ISCC educates the public through outreach education in schools and communities to develop awareness for the value of protecting the state's scarce natural resources. ISCC provides the avenue for districts to reach above the local level to develop state and federal partners which bring more financial and technical resources to the local districts. The ISCC's philosophy is that conservation decisions should be made by the local districts to apply funding assistance from federal, state and local governments (see attachment 1).

Last year ISCC was involved in a pilot project for a wildfire restoration in Central Idaho. The Wildfire Restoration Group was formed in 2015 in North Central Idaho to create a comprehensive plan for restoration work after the wildfires in the Clearwater Complex. The fires burned over 226,000 acres, and of that 60,000 acres was private property. Many agencies (see attachment 2) collaborated to assess the area to bring forth project proposals. The assessments have been completed and proposed projects have been ranked and implementation has started. One of the projects located in Idaho County was three miles of road restoration and tree planting on 300 acres. Lewis Soil Water Conservation District was awarded a culvert replacement project. The Clearwater Soil Water Conservation District project was weed eradication, fire repair, and revegetation. Nez Perce Soil Water Conservation District requested a study on the Peck water system to remove the intake at Big Canyon Creek to return more water to the creek for critical steelhead and salmon spawning. Another grant was awarded for a flood plain restoration project, again for the steelhead and salmon spawning. Thier final project was a fire report development survey.

Next steps for conservation improvements will be some pilot projects in other locations in the State. A critical study ISCC is conducting is the assessment of preparedness and reducing the affects of wild fires before they happen. Some of the preliminary investigations of the wildfire in Central Idaho have shown that many of the fire fighting efforts were hindered because the firefighters did not know the roads in the area.

Senator Thayne asked for explanation of ISCC's approval process in ranking these projects for funding. **Mr. Becker** explained that projects are proposed by the SWCD's in conjunction with their local emergency management coordinators and their county commissioners. The SWCD's collaborate and choose the projects that are most needed for the local area. In the case of the collaborative effort on the wildfire restoration area, five county conservation districts proposed the restoration projects in North Central Idaho.

Senator Johnson indicated interest in the protection process for these investments that have been made in the landscape of these natural resources. **Mr. Becker** answered that the five county area that was hit by the catastrophic wild fire in 2015 their SWCD's have spent upwards of \$15 million on restoration of fish habitat in the waters of this area. After a wild fire goes through an area there are many acres of critical habitat that is affected by the erodible slopes that are exposed from the fire. The projects need to be completed quickly to protect that restoration investment.

Senator Foreman asked if these projects come to ISCC on a voluntary basis. What if a property owner disagrees with ISCC's plans to make improvements on a specific project. **Mr. Becker** emphasized that all of the projects that ISCC works on are voluntary. For a landowner to participate in ISCC's programs the landowner must contact the ISCC to request a project.

ADJOURNED: There being no further business, **Chairman Rice** adjourned the meeting at 8:58 a.m.

Senator Rice
Chair

Carol Deis
Secretary