

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 269

BY WAYS AND MEANS COMMITTEE

AN ACT

1 RELATING TO DAIRIES; AMENDING SECTION 37-401, IDAHO CODE, TO PROVIDE THAT
2 NUTRIENT MANAGEMENT PLANS AND ALL INFORMATION GENERATED BY DAIRIES AS
3 A RESULT OF SUCH PLANS SHALL BE DEEMED TO BE TRADE SECRETS, PRODUCTION
4 RECORDS OR OTHER PROPRIETARY INFORMATION AND SHALL BE CONFIDENTIAL AND
5 EXEMPT FROM DISCLOSURE PURSUANT TO SPECIFIED LAW AND TO MAKE TECHNICAL
6 CORRECTIONS; AND DECLARING AN EMERGENCY.
7

8 Be It Enacted by the Legislature of the State of Idaho:

9 SECTION 1. That Section 37-401, Idaho Code, be, and the same is hereby
10 amended to read as follows:

11 37-401. INSPECTIONS, EXAMINATIONS AND TESTS BY DEPARTMENT OF AGRICUL-
12 TURE -- DAIRY FARMS -- NUTRIENT MANAGEMENT PLANS REQUIRED -- CERTAIN EVI-
13 DENCE REQUIRED. (1) The director of the department of agriculture is hereby
14 authorized and directed to designate any agent to inspect, examine and test
15 any or all dairy products in accordance with rules as the department may pre-
16 scribe; and to ascertain and certify the grade, classification, quality or
17 sanitary condition thereof and other pertinent facts as the department may
18 require. The director or agent of the department of agriculture of the state
19 of Idaho shall make sanitary inspection of milk, cream, butter and dairy
20 products of any kind whatsoever, intended for human consumption, and of con-
21 tainers, utensils, equipment, buildings, premises or anything whatsoever
22 employed in the production, handling, storing, processing or manufacturing
23 of dairy products or that would affect the purity of the products. Inspec-
24 tions, examinations and tests shall be made to meet the requirements of the
25 laws of the state and of the United States for the sale of the products or
26 their transportation in both intrastate and interstate commerce. Any agent
27 designated by the director to make inspections shall have the right for that
28 purpose to enter any premises and buildings where milk, cream, butter or
29 dairy products shall be produced, stored, processed or manufactured.

30 (2) Acting in accord with rules of the department, the director or agent
31 of the department shall review plans and specifications for construction of
32 new, modified or expanded waste systems and inspect any dairy farm to ascer-
33 tain and certify sanitary conditions, waste systems and milk quality.

34 (23) The director or agent shall issue a permit authorizing the sale of
35 milk for human consumption to all dairy farms that meet the requirements of
36 this chapter, and rules promulgated pursuant to this chapter.

37 (34) All dairy farms shall have a nutrient management plan approved by
38 the department. The nutrient management plan shall cover the dairy farm site
39 and other land owned and operated by the dairy farm owner or operator. Nu-
40 trient management plans submitted to the department by the dairy farm shall
41 include the names and addresses of each recipient of that dairy farm's live-
42 stock waste, the number of acres to which the livestock waste is applied and

1 the amount of such livestock waste received by each recipient. The infor-
 2 mation provided in this subsection shall be available to the county in which
 3 the dairy farm, or the land upon which the livestock waste is applied, is lo-
 4 cated. If livestock waste is converted to compost before it leaves the dairy
 5 farm, only the first recipient of the compost must be listed in the nutrient
 6 management plan as a recipient of livestock waste from the dairy farm. Ex-
 7 isting dairy farms shall submit a nutrient management plan to the department
 8 on or before July 1, 2001.

9 (45) Any new dairy farms or dairy farms that change owners or operators
 10 shall have an approved nutrient management plan on file with the department
 11 prior to the issuance of the milk permit for that dairy. The nutrient manage-
 12 ment plan shall be implemented upon approval of the plan by the department.

13 (46) The director or his agent may issue a permit to sell milk for human
 14 consumption to a new or expanding dairy farm only upon presentation to the
 15 director by the new or expanding dairy farm of:

16 (a) A certified letter, supplied by the board of county commissioners,
 17 certifying the new or expanding dairy farm's compliance with applicable
 18 county livestock ordinances; and

19 (b) Evidence that a valid water right exists to supply adequate water
 20 for the new or expanding dairy farm; or

21 (c) A copy of an application for a permit to appropriate water that has
 22 been filed with the Idaho department of water resources and which, if
 23 approved, will supply adequate water for the dairy farm; or

24 (d) A copy of an application to change the point of diversion, place,
 25 period and nature of use of an existing water right that has been filed
 26 with the Idaho department of water resources and which, if approved,
 27 will supply adequate water for the dairy farm.

28 (57) As used in this section:

29 (a) "Animal units" shall be as defined in rule by the director.

30 (b) "Expanding dairy farm" means an existing, legally permitted dairy
 31 farm that increases, or applies to increase, its existing animal units
 32 beyond the number for which it is permitted under applicable county
 33 livestock ordinances or increases, or applies to increase, the waste
 34 containment system.

35 (c) "New dairy farm" means a dairy farm constructed after the effective
 36 date of this act.

37 (8) The nutrient management plan, and all information generated by the
 38 dairy as a result of such plan, shall be deemed to be trade secrets, produc-
 39 tion records or other proprietary information, shall be kept confidential
 40 and shall be exempt from disclosure pursuant to section 9-340D, Idaho Code.

41 SECTION 2. An emergency existing therefor, which emergency is hereby
 42 declared to exist, this act shall be in full force and effect on and after its
 43 passage and approval.