

**MEMORANDUM OF UNDERSTANDING
BETWEEN THE IDAHO STATE DEPARTMENT OF AGRICULTURE
AND THE IDAHO DEPARTMENT OF ENVIRONMENTAL QUALITY
REGARDING REGULATION OF BYPRODUCTS AND WASTEWATER FROM BEEF
CATTLE ANIMAL FEEDING OPERATIONS**

This Memorandum of Understanding (“MOU”) is between the Idaho State Department of Agriculture (“ISDA”), 2270 Old Penitentiary Rd., Boise, ID 83712, and the Idaho Department of Environmental Quality (“DEQ”), 1410 N. Hilton, Boise, ID 83706.

I. Purpose.

The purpose of this MOU is to interpret and apply the relative authorities and responsibilities of ISDA and DEQ relating to Nutrient Management from Beef Cattle Animal Feeding Operations, and to describe the circumstances under which those who are land applying Nutrients and/or Process Wastewater may do so under the terms of an approved Re-use permit from the Idaho Department of Environmental Quality under the Recycled Water Rules (IDAPA 58.01.17), in lieu of having an approved Nutrient Management Plan under the Rules Governing Beef Cattle Animal Feeding operations, IDAPA 02.04.15.

II. Definitions.

- A. Beef Cattle Animal Feeding Operation: means an animal feeding operation which confines slaughter and feeder cattle or dairy heifers as defined in 40 CFR Sections 122.23 (b)(1), (b)(2), (b)(4), (b)(6) or (b)(9).
- B. Land application: the spreading on, or incorporation of manure or process wastewater into the soil.
- C. 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.
- D. 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.
- E. Reuse: the use of recycled water for, irrigation, ground water recharge, landscape impoundments, toilet flushing in commercial buildings, dust control, and other uses.
- F. Reuse Facility: any structure or system designed or used for reuse of municipal or industrial wastewater including, but not limited to, industrial and municipal wastewater treatment facilities, pumping and storage facilities, pipeline and distribution facilities, and the property to which the recycled water is applied.

This does not include industrial in-plant processes and reuse of process waters within the plant.

- G. 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 pools.

III. Background.

ISDA and DEQ are entering into this MOU to interpret and apply their responsibilities regarding Beef Cattle Animal Feeding Operations, in order to provide clarity and consistency to the two agencies and avoid duplicative regulation particularly with regard to nutrient management, wastewater reuse and land application activities for the substances defined in Section II.

IV. ISDA Authorities.

A. **Beef Cattle Environmental Control Act.** - Under Title 22, Chapter 49, Idaho Code, ISDA has and exercises authority to:

1. Regulate Beef Cattle Feeding Operations to protect state natural resources, including surface water and ground water.
2. Enter and inspect any Beef Cattle Animal Feeding Operation, including land application site(s), and have access to or copy any facility records deemed necessary to ensure compliance.
3. Review and approve NMPs for Beef Cattle Animal Feeding Operations (I.C. § 22-4906). The plan must be prepared in compliance 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 or soil amendments.

B. **Duties.** The ISDA Director shall 'contract with any state agency, federal agency or agency of another state concerning any matter, program or cooperative effort within the scope and jurisdiction of its authority pursuant to law.' Idaho Code § 22-103(18).

V. DEQ Authorities.

A. **Recycled Water.** DEQ has the authority to issue pollution source permits pursuant to Idaho Code § 39-115, and to review plans and specifications for wastewater treatment facilities under Idaho Code § 39-118. Under those authorities, DEQ has promulgated the Recycled Water Rules (IDAPA 58.01.17.), which require, *inter alia*, that all reuse facilities obtain a reuse permit from DEQ. See generally IDAPA 58.01.17.300.

VI. Requirements for Beef Cattle Animal Feeding Operations.

ISDA and DEQ interpret and apply their authorities as follows:

A. A Beef Cattle Animal Feeding Operation meeting the following criteria will be deemed to have satisfied the requirements of IDAPA 02.04.15.030 and will not be required to submit a separate nutrient management plan for ISDA review and approval if:

1. The Beef Cattle Animal Feeding Operation possesses a permit under the Recycled Water Rules, IDAPA 58.01.17, that has been duly approved by DEQ and includes conditions relative to land application of nutrients generated by the facility;
2. The Beef Cattle Animal Feeding Operation submits the DEQ reuse permit to ISDA for review and acceptance and maintains the reuse permit on site and available to ISDA upon request;
3. ISDA makes the determination that the reuse permit is an equally protective standard for managing the amount, source, placement, form, and timing of the land application of nutrients or soil amendments as compared to the provisions required by 40 CFR 122.42(e)(1);
4. The Beef Cattle Animal Feeding Operation must otherwise comply with all other requirements of the Beef Cattle Environmental Control Act, Idaho Code § 22-1401 *et. seq.* and IDAPA 02.04.15 relating to Wastewater Storage and Containment facilities; and
5. If DEQ revokes or terminates the reuse permit for the Beef Cattle Animal Feeding Operation, then ISDA will require a separate approved nutrient management plan for operation of the facility.

VII. Contacts.

ISDA

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VIII. Effective Date, Duration, Termination.

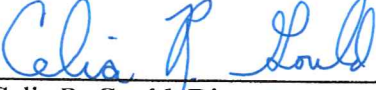
This MOU shall be effective on the date of signature by the Director of the ISDA and shall remain in effect until terminated by either Party upon thirty (30) days written notice.

IX. Amendments.

No amendment, change or modification or any term of this MOU shall be valid unless it is in writing and signed by both parties.

X. Signatures.

Idaho State Department of Agriculture



Celia R. Gould, Director

Date 3/22/17

Idaho Department of Environmental Quality



John Tippetts, Director

Date 3/22/17