

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.