

**Zero-Based Regulation  
Prospective Analysis**

- **Fill out entire form to the best of your ability, unless submitting a Notice to Negotiate only fill out 1, 2, and 5**

**Agency Name:**

**Rule Docket Number:**

**1. What is the specific legal authority for this proposed rule?**

Statute Section (include direct link)	Is the authority mandatory or discretionary?
<input style="width: 400px; height: 20px;" type="text"/>	<input style="width: 400px; height: 20px;" type="text"/>
<input style="width: 400px; height: 20px;" type="text"/>	<input style="width: 400px; height: 20px;" type="text"/>

**2. Define the specific problem that the proposed rule is attempting to solve? Can the problem be addressed by non-regulatory measures?**

**3. How have other jurisdictions approached the problem this proposed rule intends to address?**

**a. Is this proposed rule related to any existing federal law?**

<b>Federal citation</b>	<b>Summary of Law (include direct link)</b>	<b>How is the proposed Idaho rule more stringent? (if applicable)</b>

**b. How does this proposed rule compare to other state laws?**

<b>State</b>	<b>Summary of Law (include direct link)</b>	<b>How is the proposed Idaho rule more stringent? (if applicable)</b>
Washington		
Oregon		
Nevada		
Utah		
Wyoming		
Montana		
Alaska		
South Dakota		

**c. If the Idaho proposed rule has a more stringent requirement than the federal government or the reviewed states, describe the evidence base or unique circumstances that justifies the enhanced requirement:**

--

**4. What evidence is there that the rule, as proposed, will solve the problem?**

**5. What is the anticipated impact of the proposed rule on various stakeholders? Include, how will you involve them in the negotiated rulemaking process?**

Category	Potential Impact
Fiscal impact to the state General Fund, any dedicated fund, or federal fund	
Impact to Idaho businesses, with special consideration for small businesses	
Impact to any local government in Idaho	

**6. What cumulative regulatory volume does this proposed rule add?**

Category	Impact
Net change in word count	
Net change in restrictive word count	

## Zero-Based Regulation Prospective Analysis

### IDAPA 02.03.03 Rules Governing Pesticide and Chemigation Use and Application

#### 3b. How does this proposed rule compare to other state laws?

Similar to other state laws which also regulate pesticides and pesticide application.

#### How is the proposed Idaho rule more stringent (if applicable)?

States must meet or exceed FIFRA requirements to obtain and maintain state primary enforcement authority. Certain provisions may be more or less stringent than Idaho's proposed rule, but must meet the same FIFRA requirements. All the comparison states, except Wyoming, have state primary enforcement authority under FIFRA.

#### Washington

Washington State Department of Agriculture – Pesticides Laws & Rules

<https://agr.wa.gov/washington-agriculture/laws-and-rules/pesticides#rcw>

Washington Pesticide Control Act

<https://apps.leg.wa.gov/RCW/default.aspx?cite=15.58>

Washington Pesticide Application Act

<https://apps.leg.wa.gov/RCW/default.aspx?cite=17.21>

General penalty for violations of statutes or rules is a misdemeanor, second or subsequent violation is a gross misdemeanor

<https://app.leg.wa.gov/RCW/default.aspx?cite=17.21.310>

Civil penalty for violations of statutes or rules is up to \$7,500 for each violation

<https://app.leg.wa.gov/RCW/default.aspx?cite=17.21.315>

#### 7 Chapters of Rules

Chapter 16-202 WAC Application of Pesticides and Plant Nutrients through Irrigation Systems <https://apps.leg.wa.gov/wac/default.aspx?cite=16-202&full=true>

Chapter 16-228 WAC General Pesticide Rules

<https://apps.leg.wa.gov/WAC/default.aspx?cite=16-228&full=true>

Chapter 16-229 WAC Secondary and Operational Area Containment for Bulk Pesticides

<https://apps.leg.wa.gov/wac/default.aspx?cite=16-229&full=true>

Chapter 16-230 WAC Use of Chemicals and Chemically Treated Materials in Certain Counties <https://apps.leg.wa.gov/wac/default.aspx?cite=16-230&full=true>

Chapter 16-231 WAC Use Restricted Herbicides  
<https://apps.leg.wa.gov/WAC/default.aspx?cite=16-231&full=true>

Chapter 16-232 WAC Use Restricted Herbicides in Certain Counties  
<https://apps.leg.wa.gov/wac/default.aspx?cite=16-232&full=true>

Chapter 16-233 WAC Worker Protection Standards  
<https://apps.leg.wa.gov/wac/default.aspx?cite=16-233&full=true>

## Oregon

Oregon Department of Agriculture  
<https://www.oregon.gov/ODA/programs/Pesticides/Pages/default.aspx>

State Pesticide Control Act [https://www.oregonlegislature.gov/bills\\_laws/ors/ors634.html](https://www.oregonlegislature.gov/bills_laws/ors/ors634.html)

634.900 Civil penalty for first violation not to exceed \$2,000; each subsequent violation not to exceed \$4,000; and if the violation is the result of negligence or willful misconduct not to exceed \$10,000.

Department of Agriculture Rules  
Chapter 603 Division 57 Pesticide Control  
[https://secure.sos.state.or.us/oard/displayDivisionRules.action;JSESSIONID\\_OARD=OKuFGPaVj5\\_9ISDyRhNG\\_Sbl7WZOUigUT4fCxZ9z0miw2lhGD8Os!246034410?selectedDivision=2734](https://secure.sos.state.or.us/oard/displayDivisionRules.action;JSESSIONID_OARD=OKuFGPaVj5_9ISDyRhNG_Sbl7WZOUigUT4fCxZ9z0miw2lhGD8Os!246034410?selectedDivision=2734)

## Nevada

Nevada Department of Agriculture <http://agri.nv.gov/Plant-Industry/>

Statutes NRS Chapter 555 – Control of Insects, Pests and Noxious Weeds  
<https://www.leg.state.nv.us/NRS/NRS-555.html>

NRS 555.460 Violation is a misdemeanor; and maximum administrative fine for pesticide application violations is \$5,000 per violation.

Department of Agriculture Rules NAC Chapter 555 – Control of Insects, Pests and Noxious Weeds <https://www.leg.state.nv.us/NAC/NAC-555.html>

## Utah

Utah Department of Agriculture and Food <https://ag.utah.gov/farmers/plants-industry/pesticides/>

Utah Code Title 4 Chapter 14 Utah Pesticide Control Act  
[https://le.utah.gov/xcode/Title4/Chapter14/4-14.html?v=C4-14\\_2017050920170701](https://le.utah.gov/xcode/Title4/Chapter14/4-14.html?v=C4-14_2017050920170701)

Utah Code 4-2-304 [https://le.utah.gov/xcode/Title4/Chapter2/4-2-S304.html?v=C4-2-S304\\_2017050920170701](https://le.utah.gov/xcode/Title4/Chapter2/4-2-S304.html?v=C4-2-S304_2017050920170701) \$5,000 per violation in a civil proceeding; Class B misdemeanor in a criminal proceeding.

Utah Administrative Code Agriculture <https://rules.utah.gov/publications/utah-admin-code/#/Agriculture>

Rule R68-7 Utah Pesticide Control Rule <https://rules.utah.gov/publicat/code/r068/r068-007.htm>

## Wyoming

Wyoming Department of Agriculture <https://wyagric.state.wy.us/divisions/ts/sections-a-programs/pesticide>

Wyoming Environmental Pesticide Control Act  
<https://advance.lexis.com/container/?pdmfid=1000516&crid=33ca01fc-2d18-4af3-8171-3afc3db9bdac&func=LN.Advance.ContentView.getFullToc&nodeid=ABKAAIAAEAAD&typeofentry=Breadcrumb&config=00JAAZmQ5YjBjOC1hNDdjLTQxNGMtYmExZi0wYzZlYWlxMmM5YzcKAFBvZENhdGFsb2cJAHazmy52H3XVa9c97KcS&action=publictoc&pddocfullpath=%2Fshared%2Fdocument%2Fstatutes-legislation%2Furn%3AcontentItem%3A582D-70K1-DXC8-049K-00008-00&pdtocfullpath=%2Fshared%2Ftableofcontents%2Furn%3AcontentItem%3A8RDB-1F82-D6RV-H53G-00008-00&ecomp=3s-fkkk&prid=0d041035-33ad-45f0-bc9b-0f5b06b0199c>

W.S. 35-7-366 violation of any provision of the act or rule is a misdemeanor.

Wyoming Environmental Pesticide Control Act and Regulations  
<https://wyagric.state.wy.us/images/stories/pdf/techserv/rules/environmentalpesticidecontrolact.pdf>

## Montana

Montana Department of Agriculture <https://agr.mt.gov/PesticidePrograms>

Montana Pesticides Act [https://leg.mt.gov/bills/mca/title\\_0800/chapter\\_0080/parts\\_index.html](https://leg.mt.gov/bills/mca/title_0800/chapter_0080/parts_index.html)

MCA 80-8-306 violation of act or rules is a misdemeanor; civil penalty of not more than \$2,500 for each offense; civil penalty for significant harm to persons,

livestock or environment not to exceed \$25,000 for each offense (and a felony penalty).

Montana Rule Chapter 4:10 <http://www.mtrules.org/gateway/ChapterHome.asp?Chapter=4.10>

## Alaska

State of Alaska, Department of Environmental Conservation, Division of Environmental Health <https://dec.alaska.gov/eh/pest/>

AS 46.03.020.10.F Authority to adopt regulations for pesticide control  
<https://www.akleg.gov/basis/statutes.asp#46.03.020>

18 Alaska Administrative Code 90 Pesticide Control  
<http://www.legis.state.ak.us/basis/aac.asp#18.90>

## South Dakota

South Dakota Department of Agriculture <https://sdda.sd.gov/ag-services/pesticide-program/>

SDCL 38-20A Pesticides  
[http://sdlegislature.gov/Statutes/Codified\\_Laws/DisplayStatute.aspx?Type=Statute&Statute=38-20A](http://sdlegislature.gov/Statutes/Codified_Laws/DisplayStatute.aspx?Type=Statute&Statute=38-20A)

SDCL 38-20A-48 violation of the chapter is a misdemeanor

SDCL 38-21 Agricultural Pesticide Application  
[http://sdlegislature.gov/Statutes/Codified\\_Laws/DisplayStatute.aspx?Type=Statute&Statute=38-21](http://sdlegislature.gov/Statutes/Codified_Laws/DisplayStatute.aspx?Type=Statute&Statute=38-21)

SDCL 38-21-15 violation which causes injury to persons, vegetation, wildlife, beneficial insects, or ground or surface water subject to a civil penalty not to exceed \$5,000 per violation.

ARSD 12:56 Pesticides <https://sdlegislature.gov/Rules/DisplayRule.aspx?Rule=12:56>