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Mr. Brian Oakey  
Deputy Director  
Idaho State Department of Agriculture  
PO Box 7249, Boise, Idaho 83707  
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July 21, 2020

Re: ACLU Comments On The ISDA IDAPA 02.03.03 Negotiated Rulemaking

Mr. Oakey and members of the Idaho State Department of Agriculture:

The American Civil Liberties Union of Idaho asks the Idaho State Department of Agriculture (ISDA) to consider the following comments on the ISDA IDAPA 02.03.03 rules proposed this summer.

Our letter proposes recommendations to ensure farmworkers safety is the focal point of the proposed regulations. The ACLU of Idaho has a substantial interest in these rules because exposure to hazardous pesticides has a serious impact on farmworkers and their family member's health & safety, and will disproportionality impact marginalized and vulnerable populations.

We the ACLU of Idaho, we ask you to consider the following recommendations for IDAPA 02.03.03:

- 400.05 Wind Velocity Restrictions
  - Buffer zone around hazard areas — which include cities, towns, schools and hospitals — to be increased from one half mile to one mile when applying pesticides by plane unless the wind is blowing *away* from the area. This buffer zone for hazard areas is important to protecting the health and safety of people who live, work, and play in our rural communities. The proposed rule removes any buffer all together.
- 400.06-Low Flying Prohibitions
  - Under the Federal Aviation Administration (FAA) — which ISDA is deferring to — a person living in an area would not receive notification of potentially dangerous low-flying aircraft unless they lived in a congested area. This is problematic because it interferes with the peaceful use and enjoyment of one's property in rural areas, can lead to unsafe conditions due to accidental chemical exposure or



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mechanical failure of low flying crop dusters, and potentially dangerous situations when it involves the operation of pesticides by drone.

- Under the Federal Aviation Administration (FAA) notification of aerial application is not required in rural or uncongested areas. ISDA should retain the rule requiring notice for all residents when aerial applications of pesticides are being done in their area and expand it to include accessibility for both English and Spanish speakers to ensure the greatest number of Idahoans are in the know. Protection of humans is a stated objective of ISDA.

We need regulations that will give strong assurance that farmworkers and other agricultural areas are safe from the dangers of pesticide. We are deeply appreciative of the ongoing opportunities to provide comments on the proposed rules currently drafted as a part of negotiated rule making before the 2021 legislative session.

Thank you,

Ruby Mendez-Mota

Campaign Strategist

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