

Primus Policy Group
Government Affairs

July 20, 2020

Brian Oakey
Deputy Director
Idaho State Department of Agriculture
2270 Old Penitentiary Road
Boise, ID 83712

Delivered Via Email

Dear Mr. Oakey,

Please accept this letter on behalf of my client, the Idaho Agricultural Aviation Association (IAAA), in support of the initial draft rules governing pesticide and chemigation, published by Idaho State Department of Agriculture (ISDA) on June 23, 2020.

First, we commend ISDA for updated IDAPA 02.03.03.400.05 Wind Velocity Restrictions and 02.03.03.400.06 Low-Flying Prohibitions to reflect current policies and regulations that are widely recognized best practices with our neighboring states and, in fact, throughout the United States. As science and technology continue to advance, Idaho's regulations should be designed to keep pace with current trends in application technology and the design of the chemicals and pesticides themselves.

In our view, regulatory policy should be "smart," allowing applicators to apply products based on the most current federal regulations, and the most current recommendations by the manufacturer. "Dumb" regulations, or those regulations that are static in the face of new advancements in science and technology, are a last-generation construct that may have been fine twenty-years ago but have not legitimate place in regulatory policy today.

The US Department of Agriculture's Aerial Application Technology Unit, located at Texas A&M in College Station, Texas, is a prime example of how research and development can improve the methods and practices of product application. So, with these programs in place, why would we opt to go backward and not consider the best practices the science has to offer? The answer is: we shouldn't.

In short, ISDA was correct to strike sections related to wind restrictions and hazard areas in IDAPA and, instead, rely on EPA approved label-use for chemigation and pesticides. IAAA strongly supports these edits to IDAPA and request and recommend that the edits remain in the next draft.

Concerning the low-flying plane prohibitions, the IAAA strongly supports the striking of this section from IDAPA. It is worth noting that the FAA maintains sole regulatory responsibility for the flight routes of commercial aircraft and that it is likely the state's low-flying prohibition violated the authority granted to the FAA in the Airline Deregulation Act on 1987. In fact, after a survey of state regulations relating to agricultural aviation, we were unable to find any other state that regulates the flight routes of agricultural aircraft. Instead, the FAA regulates such flight routes, included flight over congested areas, as it should.

I have attached a link to [14 CFR § 137](#), the FAA's regulations for agricultural aviation, for your review.

The IAAA supports the recommended changes to IDAPA and will actively advocate for ISDA's recommendations during the upcoming legislative session. We believe the above-referenced recommendations reflect the most current thinking and policy application for agricultural aviation, and that these policies represent the best available strategies to protect the public and to protect our food supply.

Please feel free to reach out to me if you have any additional questions. I can be reached at 208-906-0602 or david@primuspolicy.com. We look forward to the next round of discussions on ISDA's recommended rules.

Best,

A handwritten signature in black ink, reading "David Lehman". The signature is fluid and cursive, with a long horizontal stroke at the end.

David Lehman
Principal