



**The Idaho Organization of Resource Councils**

910 Main Street, Suite #316, Boise, ID 83702

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July 21, 2020

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

**Re: Comments on IDAPA 02.03.03 Negotiated Rulemaking**

Dear Mr. Oakey,

The Idaho Organization of Resource Councils (IORC) represents farmers, ranchers, workers and concerned citizens from all across the state of Idaho. IORC is based in Boise, Idaho with three local chapters representing members in Washington, Payette, Canyon and Bannock Counties. Its mission is to empower people to improve the well-being of their communities, sustain family farms and ranches, transform local food systems, promote clean energy, and advocate for responsible stewardship of Idaho's natural resources.

IORC members ask you to restore the three sections 02.03.03.400.05 Wind Velocity Restrictions, 02.03.03.400.06 Low Flying Prohibitions, and 02.03.03.400.06 Application Near Hazard Areas from ISDA's rules. IORC objects to the actions of the Idaho State Department of Agriculture in proposing to remove the Pesticide Restrictions and in creating a new Commercial Apprentice License. These rules specifically address the issue of protecting humans from pesticide exposure such as the incident that occurred May of last year in Parma, ID where roughly 20 farm workers were exposed to drift. These changes will limit enforcement and oversight of aerial applicators regulations and instead defer this responsibility to understaffed Federal Agencies. ISDA has an opportunity to protect the safety of the public and environment by retaining these rules.

Please accept the following comments:

**02.03.03.400.05 Wind Velocity Restrictions**



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This rule creates wind velocity restrictions and sets standards to minimize drift. It creates a minimum standard for wind velocity in addition to label requirements. Applicators are required to adhere to the Idaho Administrative Code (IDAPA) even if the label allows application below a certain wind velocity. This is an important added protection for Idahoans working and living next to application sites.

### **02.03.03.400.06. Low-Flying Prohibitions-**

This rule prohibits low-flying aircraft from conducting spray operations over cities, towns, schools, hospitals, densely populated areas or over occupied structures without a written notice for when treatment to protect the public. 14 CFR § 137.51 also requires notification of low-flying aircraft, but only over congested areas. Without these standards, Idaho residents would not receive notification of spray operations by low-flying aircraft unless they lived in a congested area. ISDA proposed rules bring up several concerns for public health. This would pass off responsibility to the Federal Aviation Administration (FAA) to regulate low flying planes applying pesticides. The FAA has weaker regulations regarding low flying aircraft. If ISDA removes these rules our residents living in uncongested areas under FAA will not be notified before spraying operations in cities, towns, schools and hospitals.

### **02.03.03.400.06 Application Near Hazard Areas**

Buffer zones should be increased from one-half mile to one mile when applying pesticides by aircraft unless the wind is blowing away from the hazard area. **This buffer zone for hazard areas is important for protecting the health and safety of people who live and work in our rural communities.** The proposed rule removes any buffer all together. This is a common-sense standard that protects our communities from dangerous drift. Under FAA rules notification is not required in rural areas. Residents of Idaho should be effectively notified such as by email, certified letter, phone call or door hanger in accessible language to ensure protection of humans which is a stated objective of ISDA.

### **Commercial Applicator (CA) License**

IORC objects to the creation of the CA License that would allow inexperienced applicants who are indirectly supervised to spray pesticides unless the proposal is improvised by adding direct supervision. Allowing individuals lacking pesticide buffers training to spray pesticides is potentially harmful to human health, water quality, soil, and way of life.

### **Lack of Clear Definitions**

IORC requests ISDA to provide definitions for the following language:

- Commercial Applicator



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- Restricted use pesticides
  - Private Applicator
  - Professional Applicator
  - IORC recommends adding the U.S. Environmental Protection Agency's (EPA) definition of **drift** and language to the restrictions section. There is currently no definition of pesticide drift in the statute. The National Coalition on Drift Minimization, which includes representatives from federal (including EPA and the U. S. Department of Agriculture), state agencies and tribes, pesticide and equipment manufacturers, university scientists, and others, who have focused their attention on enhancing pesticide applicator education, application research, and regulatory initiatives to foster reductions in spray drift definition as: Pesticide drift is the movement of pesticide dust or droplets through the air at the time of application or soon after, to any site other than the area intended
  - Acceptable forms of government issued ID should be defined

**02.03.03.600 General Chemigation Requirements**

IORC opposes the removal of language of 02.03.03.600 and 02.03.03.600.04. Idaho must continue to post requirements and make them language accessible in English and Spanish to improve Access to Services for Persons with Limited English Proficiency.

**02.03.03.650.03 Irrigation Systems**

IORC recommends that the definitions for Domestic Water supply to include both surface and underground bodies of water. IORC recommends to ban the use of hoses from a domestic water supply (personal or livestock wells) to fill chemigation tanks unless backflow prevention is installed. Adding a ban on irrigation/chemigation drift and spillover from public roads and rights-of-way. We propose to add backflow prevention records onsite. Adding backflow prevention failures and incidents need to be reported to ISDA. Spill contact information and IDEQ spill contact information posted at the chemigation site in accessible language. Signage needs to include how to report backflow failures and spills for emergency cleanup to ISDA and IDEQ. If not required already, add annual inspection of chemigation tanks for expiration date and replacement.

Sincerely,

Elaine Kazakoff

Treasurer, Board of Directors and Vice-Chair, Agriculture & Food Campaign Idaho Organization of Resource Councils