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June 8, 2023

Lloyd Knight, Rules Review Coordinator
Idaho State Department of Agriculture
PO Box 7249
Boise, Idaho 83707

RE: ZBR Rulemaking Comments, IDAPA 02.03.03 Rules Governing Pesticide and Chemigation Use and Application

Dear Mr. Knight:

I am writing on behalf of the Idaho Conservation League (ICL) to submit comments on the on-going ZBR negotiated rulemaking process for IDAPA 02.03.03 Rules Governing Pesticide and Chemigation Use and Application (the Rules). Since 1973, the Idaho Conservation League has had a long history of involvement with water quality issues. As Idaho's largest state-based conservation organization we represent over 25,000 members and supporters who have a deep personal interest in ensuring the health of our biologic and ecological community is protected throughout the state.

We thank you for the opportunity to submit comments and ask that you please send us any response to public comments on this opportunity from Idaho Department of Environmental Quality (IDEQ). Please feel free to contact us if you have any questions or require additional information.

Sincerely,



Will Tiedemann
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Proposed Spill Prevention Language

Under the current and on-going rulemaking process for this Rule, a draft version of the updated Rules has been published (“May Strawman Draft”). Within Section 500.01 of the May Strawman Draft, rules on “General Pesticide Spill Cleanup and Containment Requirements” have been proposed. It is ICL’s understanding that the majority (if not all) regulated industry representatives are opposed to these proposed spill cleanup rules. ICL believes these proposed spill cleanup rules are prudent to include as they fulfill requirements from governing Idaho Code. In addition they are a practical and proven protection against potential biological, ecological and water-course damage.

Fulfillment of Statutory Requirements.

In reviewing Idaho Code relevant or governing to the proposed Rule, significant directives and agency abilities on spill cleanup and prevention are addressed. Per Idaho Code 22-3420:

22-3420. PROHIBITED ACTS: No person shall:

Chemigate without installing the proper chemigation equipment to protect against surface or ground water contamination.

22-3421. ADOPTION AND SCOPE OF RULES. (1) The director is authorized to adopt appropriate rules for carrying out the purpose and provisions of this act including, but not limited to, rules providing for:

(b) the safe handling, transportation, storage, display, distribution and disposal of pesticides and their containers; and

(g) antipollution devices, chemigation equipment requirements, performance standards and installation requirements; and

Given the coupling of these sections of Idaho Code, it is entirely prudent, if not required by Code to include the proposed spill cleanup language. Pesticide spills are an obvious and real threat to surface water and ground water quality. Failure to include Rule language that protects against and prevents spills would be negligent.

Practical and Proven Approach

[Spill Prevention Control and Countermeasure \(SPCC\) Plans](#) are a well established federal requirement and tool for preventing and cleaning up oil releases that threaten surface water. The proposed spill clean up language in the Rule mirrors the general purpose and requirements of SPCC Plans. Applicable industry routinely develops and implements SPCC Plans. Pesticide spills present a threat to water quality much in the same way petroleum or oil release do, thus, they should not be considered arbitrary or overly burdensome to implement by industry.

As a former environmental engineering consultant, I have prepared numerous SPCC Plans for a variety of facilities (including major hydroelectric dams and open pit mining operations). I can personally attest to their rational and practical requirements for preventing and controlling the spill of hazardous materials.

Ultimately, including the proposed spill cleanup language in the Rules not only satisfies statutory requirements with an industry proven approach, it protects the greater good and public interest. Surface water and ground water quality are critical to human health and the environment. Failure to include the proposed language would sacrifice the protection of this public and the environment need merely to save industry from unproven and undocumented “burden”.