

**IDAHO DEPARTMENT OF AGRICULTURE**

**2270 Old Penitentiary Road  
PO Box 7249  
Boise, ID 83707**

**Negotiated Rulemaking for IDAPA 02.02.03  
Minutes of June 29, 2023, Meeting**

**Department staff:** Ryan Ward  
Brian Slabaugh  
Mike Watson  
Blaine Sterling  
Hillarie Gray  
Elizabeth Palmateer  
Chanel Tewalt  
Lloyd Knight  
Dallas Burkhalter

**Stakeholders:** Mitch Whitmill-Jefferson County/IAWCS  
Ann Bates-INLA  
Ben Miller-Simplot/IPMA  
Pat Sherer-Simplot/IPMA  
Elizabeth Criner – Far West Agribusiness Association  
Patxi Larrocea-Phillips-AMG/ID Noxious Weed Control Association  
Craig Nuthak-Locust Ag, IPMA  
Adam Schroeder-Ada County  
Alan Martinson-INWA  
Austin Walters-Weed Man  
Will Tiedeman-ICL  
Kirk Dean-Barrier/IPMA

Meeting started at 8:40am-Lloyd shared additional comments that came in last minute, as well as previous meeting minutes and where to find them and comment periods. Went over the overall proposed rule changes so far: removal of the chemigation definitions, addition of new

definitions, category updates and definitions, cheating language, record keeping requirements, credits and recertification.

### **Credits and Certification**

Ryan- started on licensing changes: number of credits required, broke down the minutes per year comparison with other states. Went over the 3 options previously proposed and what the consensus was from industry from last meeting. Went over new language. Addressed a comment submitted by INWCA for support of the proposed change.

Lloyd- asked for consensus from the group from 60 minutes to 50 minutes and the move from 15 credits to 16 credits.

Patxi-stated the NWCA is in support with the 16 credit, 50 minutes version. It aligns us with surrounding states.

Ben-stated he thinks IPMA is in support of this too, wants to make sure the private applicator will be rolled into the additional credit requirement.

Ryan-stated that yes, the private applicator would go from 6 to 7 credits.

Mitch-stated he had a consensus from coworkers and other superintendents, and they would support the 50-minute change. They have concerns about finding qualified people to hold the category specific seminars if that is the way ISDA will have to go. Proposed an alternative way to obtain credits, from work experience by working under the guidance of a more experienced applicator. A way to receive credits according to hours worked for each season.

### **Categories and Category Specific Training**

Lloyd-asked if the language on the category specific credits was in current document.

Ryan-responded it is not included in this draft because there was no consensus on implementation of category specific credits from the previous meeting.

Ryan-responded to Mitch's comment, that some companies will already seek credit for 'field training' that they give their employees, more like hands on training. It still needs to be pre-approved with an agenda similar to a regular seminar.

Patxi-stated INWCA would prefer not to go to a category specific type of recertification due to the burden on applicators, private entities, and agency.

Ben-thinks the category specific training will be forced on us from EPA eventually. Our group is on board with category specific since that is what we will be forced to do.

Adam- stated, as far as Ada County goes, if EPA does not have a requirement yet, we should not implement that until EPA has more guidance on how to establish it

Pat-agrees that we do not need to do CS credits if it is not required but would be good to prepare for it later down the line.

Craig-in agreeance that we should table the CS, how would the barcode reader work on CS meetings?

Ryan-it will be a big lift to change to it and will be a lot of things to discuss and think about and plan for.

Ben-is this an area in the CT plan, is this why Idaho's is not approved?

Ryan-it was brought up in CT plan, but not reason why Idaho's was not approved, it is more in line with CFR reference and definitions and getting language right with categories certification standards.

Lloyd-incorporation by reference also allows for clean language. Is it fair to say that the consensus of the group that we will NOT move forward with category specific at this time? Anyone disagree?

No disagreement, consensus to not address in rule change at this time.

Moved to seminar submission and applications.

### **Seminar Submission and Approval**

Lloyd read over the updated language and asked if there were any questions or objections.

Consensus was agreeable to the language.

### **Categories**

Ryan-the language was changed in the Consultant & Research category definition, to add CFR reference to include application specific certification and the commodity pest subcategory was added.

Lloyd-asked if there were any questions.

Craig-asked why would we need the demonstration and the category specific to application.

Ryan- the additional application category is only for doing demonstrations and not for consulting.

Ben-there could be someone who needs both IIHS categories, would that cause any problems or confusion for them to have both? could a turf farm, tree farm, and nursery be considered an ag commodity?

Ryan-the definition of commodity in CFR.

Ben-suggested if should we include the definition of commodity in rule?

Lloyd-stated it is already in the CFR, but if the group feels it would be helpful, we can see about adding it in there.

Ben-thinks it tightens them up a little more to include them.

Lloyd-asked if the general consensus was that they were in agreement with the language

General consensus on category language.

Lloyd-circle back to seminar approval language, wants to address the wording with 'department discretion.'

Ann-suggested removing the word 'discretion'

Pat-suggested 'shall be reviewed by the department if time allows'

## **Recordkeeping**

Ryan-discussed the removal of Name of person recommending the application, Name and address of property owner, and what the USDA record keeping requirements are. Discussed the changes and current proposed language.

Lloyd-opened it up for comments.

Kirk-Utah only requires 2-year retention, but Idaho requires 3 years. Would be in favor of moving it to 2 years

Ryan-is not opposed to moving to 2 yrs. record requirements.

Lloyd-asked if anyone opposed to changing from 3 year to 2 years record retention.

Consensus approved on change.

Craig-if we are changing that to 2 yrs., will dealer records be changed to 2 yrs.?

Ryan-we will have to look into that.

Kirk-addressed the start and end times; did not see the USDA requirements and saw that it only referenced an ag application. Wants it removed from urban application record requirements. Did not feel 'good practices' should be written into rule.

Lloyd asked if anyone disagrees with removing start and end times for urban application?

Consensus was agreeable, no objections.

Kirk-next wants to address target pest requirements.

Ryan-this is a label requirement, it helps to identify the purpose of the application.

Kirk wants to know what the compelling reason for having the 'target pest' recorded would be.

Ryan-it provides clarity for licensure, it would put the applicator at risk if there were an investigation to not have it, and to protect the applicator.

Lloyd-clarified that it is not required by the CFR.

Ryan-it is a label requirement.

Craig-the target pest is on the label anyway.

Kirk-rate of application is confusing to him, it is already a mandate to put the total amount of product applied, shouldn't make the applicator do the math.

Brian-to help with clarity and identify compliance with label requirements. Clarity is important to be in compliance with the CFR records requirements.

Kirk-feels enough information is already on the form and any additional information can be found by doing math.

Will Tiedemann-the requirements provides checks and balances for compliance and a little bit of effort is worth the extra time to have that extra information and prudent record keeping has a benefit at the end of the day.

Lloyd-any other comments?

Kirk would like to see application records to be faster for the applicator.

Brian wanted to address a previous question about dealer record requirements, it is for 2 yrs.

### **Private Applicator**

Ryan-the changes for 6 credits to 7 credits have been reflected in the copy

Lloyd-asked if there was consensus.

Consensus is agreeable.

Lloyd-recertification language on private applicators will be updated.

Pat-suggested to match language on recertification for both pro and private.

### **Record Keeping**

Adam-wants to go back to records, and clause to send application record to landowner within 30 days.

Ryan-yes that is a federal requirement and is not just for ag.

Adam-when we make a RUP application, do we now need to send a report or just make it available to the owner?

### **Spill Prevention**

Will-wants to go to section 500 and spill prevention plan, asked if it was taken out?

Lloyd-mention that in the last meeting there was a strong response from industry that they did not want it included

Will-understands the burden to industry, but there is language in Idaho code that is prudent to having a spill plan for protecting ground water and water of the states. There is plenty of language in Idaho code that supports pollution prevention. They affect waters of the state that benefit all Idahoans and asks industry to overlook the bottom line of the industry, to protect the surface waters and ground waters of Idaho.

Ben-stated that industry wasn't exactly against it, just didn't like how it was written, and yes it will be a burden to some companies. Thinks it's going overboard with a vague rule on spill response. Would like to see more training available first.

Ryan-the FIFRA is the cradle to the grave, handling and transportation is during the life of the pesticides. This is a response from applicators having a spill and not knowing what to do. Once the pesticide hits the ground and becomes unusable it is now hazardous waste. The tank farms did have an exemption for bulk tank farms.

Craig-as far as people calling when there is a spill, ISDA can direct them to Chemtrek.

Lloyd-asked if there were any sections or topics anyone wanted to talk about? No objections. Comment deadline is end of business tomorrow June 30<sup>th</sup>. Next will come up with a proposed rule to be published on the website. Thanked everyone for their participation. Stopped recording and ended meeting. At 10:18am.