

## IDAPA 02 – DEPARTMENT OF AGRICULTURE

### 02.03.03 – RULES GOVERNING PESTICIDE AND CHEMIGATION USE AND APPLICATION

DOCKET NO. 02-0303-2402

#### NOTICE OF RULEMAKING – TEMPORARY AND PROPOSED RULE

**EFFECTIVE DATE:** The effective date of the temporary rule is July 1, 2024.

**AUTHORITY:** In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed regular rulemaking procedures have been initiated. The action is authorized pursuant to Section 22-3421, Idaho Code.

**PUBLIC HEARING SCHEDULE:** A public hearing concerning this rulemaking will be held as follows:

<b>Thursday, July 11, 2024 8:30 a.m. to 11:30 a.m. (MT)</b>
<i>In-person participation is available at:</i> <b>Idaho State Department of Agriculture 2270 Old Penitentiary Road Boise, ID 83712 Conference Rooms 1 and 2</b>

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

**DESCRIPTIVE SUMMARY:** The following is the required finding and concise statement of its supporting reasons for adopting a temporary rule and a nontechnical explanation of the substance and purpose of the proposed rulemaking:

This rule is being presented to be in compliance with H.549, which was passed by the Idaho Legislature in the 2024 session and signed into law by the Governor on March 18, 2024. The legislation amended how licenses for chemigation applicators are categorized by separating those licenses from the federal FIFRA categories. This rule proposes a simplified process for the acquiring and maintenance of those licenses.

**TEMPORARY RULE JUSTIFICATION:** Pursuant to Section(s) 67-5226(1)(b) and (c), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons:

H.549 included an emergency clause, meaning the changes went into effect immediately with the Governor's signature. A temporary rule is necessary to ensure that the rule is in compliance with the amended statute as the department begins issuing licenses for the 2024 season.

**FEE SUMMARY:** Pursuant to Section 67-5226(2), the Governor has found that the fee or charge being imposed or increased is justified and necessary to avoid immediate danger and the fee is described herein:

There are no changes to fees in the rule, except for breaking the chemigation license fees out from the other license categories. The amended statute does not identify changes in fees.

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state General Fund greater than ten thousand dollars (\$10,000) during the fiscal year:

There is no negative fiscal impact on the state General Fund greater than ten thousand dollars (\$10,000) during the fiscal year.

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because HB 549 was passed by the Idaho Legislature and signed into law by the Governor on March 18, 2024. This rule proposes a simplified process that meets the legislation requirements that were passed.

**INCORPORATION BY REFERENCE:** Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule:

U.S. Code of Federal Regulations (CFR) Title 40, Part 165, Subpart E. “Standards for Pesticide Containment Structures,” Sections 165.80 through 165.97: As a delegated authority that implements the requirements and regulations of the U.S. Environmental Protection Agency, it is important that the federal regulations are incorporated into this rule.

U.S. Code of Federal Regulations (CFR) Title 40, Chapter 1, Part 171. “Certification of Pesticide Applicators”: As a delegated authority that implements the requirements and regulations of the U.S. Environmental Protection Agency, it is important that the federal regulations are incorporated into this rule.

Restrictions For Use Of The Livestock Protection Collars (Compound 1080). The incorporation of this document is important because it provides the guidelines for the use of Livestock Protection Collars and the restriction governing that use.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the temporary and proposed rule, contact Lloyd B. Knight, Deputy Director, at (208)332-8615.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before July 24, 2024.

DATED this 3rd day of July, 2024.

Lloyd B. Knight  
Deputy Director  
Idaho State Department of Agriculture  
2270 Old Penitentiary Road  
P.O. Box 7249  
Boise, ID 83707  
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**THE FOLLOWING IS THE TEMPORARY RULE AND THE PROPOSED TEXT**  
**OF DOCKET NO. 02-0303-2402**  
**(Only Those Sections With Amendments Are Shown.)**

**02.03.03 – RULES GOVERNING PESTICIDE AND CHEMIGATION USE AND APPLICATION**

**000. LEGAL AUTHORITY.**

~~This chapter is adopted under the legal authority of~~ Section 22-3421, Idaho Code.

~~(7-1-24)~~(7-1-24)T

**001. ~~TITLE AND SCOPE.~~**

~~**01. Title.** The title of this chapter is IDAPA 02.03.03, “Rules Governing Pesticide and Chemigation Use and Application.”~~

~~(7-1-24)~~

~~**02. Scope.** This chapter governs the use and application of pesticides; licensing of pesticide applicators; registration of pesticides; and responsibilities for chemigation in Idaho.~~

~~(7-1-24)~~(7-1-24)T

**002. – 003. (RESERVED)**

**004. INCORPORATION BY REFERENCE.**

The following documents are incorporated by reference:

(7-1-24)

**01. U.S. Code of Federal Regulations (CFR) Title 40, Part 165, Subpart E.** “Standards for Pesticide Containment Structures,” Sections 165.80 through 165.97 that may be viewed at [https://www.govregs.com/regulations/title40\\_chapter1\\_part165\\_subpartE](https://www.govregs.com/regulations/title40_chapter1_part165_subpartE). ~~[71 FR 47422, Aug. 16, 2006, as amended at 73 FR 64228, Oct. 29, 2008]~~

~~(7-1-24)~~(7-1-24)T

**02. U.S. Code of Federal Regulations (CFR) Title 40, Chapter 1, Part 171.** “Certification of Pesticide Applicators” that may be viewed at [https://www.govregs.com/regulations/title40\\_chapter1\\_part171](https://www.govregs.com/regulations/title40_chapter1_part171). ~~[82 FR 1028, Jan. 4, 2017]~~

~~(7-1-24)~~(7-1-24)T

**03. Restrictions For Use Of The Livestock Protection Collars (Compound 1080).** <https://agri.idaho.gov/main/wp-content/uploads/2020/06/LPC-RESTRICTIONS.pdf>. ~~[82 FR 1042, Jan. 4, 2017]~~

~~(7-1-24)~~(7-1-24)T

**005. -- 009. (RESERVED)**

**010. DEFINITIONS.**

~~The Idaho Department of Agriculture adopts the definitions set forth in~~ In addition to Section 22-3401, Idaho Code, and the following are defined as definitions:

~~(7-1-24)~~(7-1-24)T

**01. Antimicrobial Pesticides.** Substances or mixture of substances used to destroy or suppress the growth of harmful microorganisms such as bacteria, viruses, or fungi on inanimate objects and surfaces. (7-1-24)

**02. Certification.** Passing one (1) or more examinations, to initially demonstrate an applicant’s competence, as required by the licensing provisions of this act, in order to use or distribute pesticides, or to act as a pesticide consultant. (7-1-24)

**03. Chemigator.** Any person engaged in the application of chemicals through any type of irrigation system. (7-1-24)

**04. Hazard Area.** Cities, towns, subdivisions, schools, hospitals, or densely populated areas. (7-1-24)

**05. High Volatile Esters.** Formulations of 2,4-D which contain methyl, ethyl, butyl, isopropyl, octylamyl and pentyl esters. (7-1-24)

**06. Janitorial Services.** Surface cleaning or surface sanitation operations that use pesticides. Janitorial services extend to households and buildings and may include, but are not limited to; bathroom, food storage/

processing, food service, retail sales, office, maintenance, educational, government and other like facilities. (7-1-24)

**07. Limited Supervision.** The supervision of a professional commercial apprentice by a supervising applicator licensed in the categories necessary for the pesticide application. The supervising applicator is limited to supervision of two (2) professional commercial apprentice applicators at one (1) time and must maintain immediate communications (voice, radio, cellular telephone, or similar) with the supervised applicators for the duration of all pesticide applications. (7-1-24)

**08. Low Volatile Esters.** Formulations of 2,4-D; 2,4-DP; MCPA and MCPB which contain butoxyethanol, propylene glycol, tetrahydrofurfuryl, propylene glycol butyl ether, butoxy propyl, ethylhexyl and isooctyl esters. (7-1-24)

**09. Mixer-Loader.** Any person who works under the supervision of a professional applicator in the mixing and loading of pesticides to prepare for, but not actually make, applications. (7-1-24)

**10. On-Site Supervision.** A noncertified applicator may apply general use and restricted use pesticides under on-site supervision by a professional applicator with the required license categories. The supervising pesticide applicator must be physically at the site of application, must have visual contact with the pesticide applicator, and must be able to direct the actions of the noncertified pesticide applicator. The supervising applicator may not supervise more than two (2) noncertified pesticide applicators at one (1) time. (7-1-24)

**11. Pesticide Drift.** 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. (7-1-24)

**12. Recertification.** The requalification of a certified person through seminar attendance over a set period of time, or taking an examination at the end of a set period of time, to ensure that the person continues to meet the requirements of changing technology and maintains competence. (7-1-24)

**13. Seminar.** Any Department-approved meeting or activity convened for the purpose of presenting pesticide recertification information. (7-1-24)

**14. Sprinkler Irrigation.** Method of irrigation in which the water is sprayed, or sprinkled, through the air to the ground surface. (7-1-24)

**15. Waters of the State.** Any surface waters such as canals, ditches, laterals, lakes, streams, or rivers. (7-1-24)

**011. -- 099. (RESERVED)**

#### **SUBCHAPTER A – LICENSING OF APPLICATORS AND DEALERS**

##### **100. PROFESSIONAL APPLICATOR LICENSING.**

To obtain a professional applicator's license an applicant must: (7-1-24)

**01. Submit Application.** Submit an application prescribed by the Department with applicable fee (Section 280). (7-1-24)

**02. Demonstrate Competence.** (7-1-24)

**a.** All professional applicators must pass the Applicator Core Competency exam in addition to any other category. Professional applicators may only ~~chemigate~~, make pesticide recommendations, or make pesticide applications for any purpose for which they have demonstrated competence. Competence is demonstrated by passing Department examinations and becoming licensed in categories described in Subsection 100.04. ~~(7-1-24)~~~~(7-1-24)~~~~T~~

**b.** An applicant will demonstrate core competency in all standards outlined in 40 CFR 171.103(c). (7-1-24)

**03. Certification and Department Examination Procedures.** Be certified by passing Department examinations with a minimum score of seventy percent (70%) in the applicable pesticide categories (Subsection 100.04). Examinations shall adhere to standards outlined in 40 CFR 171.103(a)(2). In addition, examinations are:

(7-1-24)

- a. Proctored by ISDA staff or by an authorized agent following approved Department procedures. (7-1-24)
- b. Retaken after a minimum waiting period of one (1) day. (7-1-24)
- c. Scores valid for twelve (12) months from the date of the examination. (7-1-24)
- d. It is prohibited to: (7-1-24)
  - i. Attempt to cheat, or otherwise obtain an unfair advantage on the exam(s). (7-1-24)
  - ii. Remove or attempt to remove any test questions or responses or any notes from a testing session. (7-1-24)
  - iii. At any time, improperly access or attempt to improperly access the test site, the test (or any part of the test), an answer key, or any information about the test. (7-1-24)
  - iv. Engage in any way in: (7-1-24)
    - (1) Theft or attempted theft of test content through platform intrusion. (7-1-24)
    - (2) Post-exam manipulation of test content, responses, or test administration data. (7-1-24)
    - (3) Attempting to adversely impact the exam proctor, test center, or testing platforms through any means including cybersecurity means. (7-1-24)
  - v. Attempt to give or receive assistance, including by copying or through the use of an answer key. (7-1-24)
  - vi. Record or copy information during the testing session including questions, answers, identifying information about the version or form of a test, or any other information that compromises the security of the test. (7-1-24)
  - vii. Communicate with other test takers or other individuals in any form while testing is in session. (7-1-24)
  - viii. Allow anyone to see your test questions or answers or attempt to see or copy others' test questions or answers. (7-1-24)
  - ix. Consult notes, other people, electronic devices, textbooks, or any other resources during the test or during breaks. (7-1-24)
  - x. Have subject-related information on your clothing, shoes, or body. (7-1-24)
  - xi. Use or access any prohibited items including devices or aids such as, but not limited to, mobile phones, smartwatches, fitness trackers, other oral or written communication devices or wearable technology, cameras, notes, and reference books, etc., during or in connection with the test, including during breaks. (7-1-24)
  - xii. Fail to turn in or store away a mobile/smartphone in accordance with the test site's collection process. (7-1-24)
  - xiii. Use a prohibited calculator. (7-1-24)

xiv. Deliberately attempt to and/or take the test for someone else or attempt to have someone else impersonate you to take the test. (7-1-24)

**04. Categories.** All professional applicators must be certified in Applicator Core Competency in one (1) or more of the following categories:

Category Name	Category Description
Applicator Core Competency (CO)	Includes general knowledge of pesticides including proper use and disposal, product characteristics, first aid, labeling and laws. An applicant will demonstrate competency standards outlined in 40 CFR 171.103(c). This category is required for all Idaho Professional Pesticide Applicator Licenses
Agricultural Crop Pest Control (AC)	This category applies to <del>commercial</del> <u>professional</u> applicators who use or supervise the use of pesticides in production of agricultural commodities including grasslands, and non-crop agricultural lands. An applicant will demonstrate competency standards outlined in 40 CFR 171.103(d)(1)(i).
Aerial Pest Control (AA)	For application of pesticides to all application sites by operating or flying fixed-wing or rotary aircraft. An applicant will demonstrate competency standards outlined in 40 CFR 171.103(d)(15).
Anti-Fouling Coatings (FC)	For applicators who use or supervise the use of anti-fouling coatings to control fouling organisms on aquatic vessels, underwater structures, and other similar structures. An applicant will demonstrate practical knowledge of problems caused by fouling organisms, methods of control using fouling organisms using through anti-fouling coatings, characteristics of antifouling coatings, alternative active ingredients other than copper-based paints, and best management practices for application and removal of anti-fouling coatings.
Agricultural Livestock Pest Control (LP)	For professional applicators who use or supervise the use of pesticides on animals or to places on or in which animals are confined. Certification in this category alone is not sufficient to authorize the purchase, use, or supervision of use of products for predator control listed in the General Vertebrate category or outlined in 40 CFR 171.101(k)(l). An applicant will demonstrate competency standards outlined in 40 CFR 171.103(d)(1)(ii).
Aquatic Weed and Pest Control (AP)	For professional applicators who use or supervise the use of any pesticide purposefully applied to standing or running water, excluding applicators engaged in public health related activities included in as specified in the Public Health (PH) category. An applicant will demonstrate competency standards outlined in 40 CFR 171.103(d)(5).
<del>Chemigation (CH)</del>	<del>For professional applicators who apply chemicals through an irrigation system, excluding applications made to control aquatic organisms. The application of pesticides through a chemigation system will require additional relevant professional applicator categories. An applicant will demonstrate practical knowledge of chemigation including backflow prevention, minimizing risks related to chemigation, and approved chemigation equipment.</del>

Category Name	Category Description
Consultant and Research (CR)	For consultations or recommendations to supply technical advice concerning the use of agricultural pesticides and for the application or supervision of the use of restricted use pesticides (RUPs) for no compensation, to demonstrate the action of the pesticide or conduct research with restricted use pesticides. For all demonstration additional relevant professional applicator categories will be required. An applicant will demonstrate competency standards outlined in 40 CFR 171.103(d)(10).
Forest Pest Control (FP)	For professional applicators who use or supervise the use of pesticides in forests, forest nurseries and forest seed production. An applicant will demonstrate competency standards outlined in 40 CFR 171.103(d)(2).
General Vertebrate Control (GV)	For controlling vertebrate pests such as large and small predators, rodents, and birds by Wildlife Services (WS) personnel of the United States Department of Agriculture-Animal and Plant Health Inspection Service (APHIS). This category applies to professional applicators who use or supervise the use of sodium cyanide and sodium fluoroacetate to control regulated predators. An applicant will demonstrate competency standards outlined in 40 CFR 171.103(d)(11-12).
Industrial, Institutional, and Structural Pest Control – Commodity (CP)	For professional applicators who use or supervise the use of pesticides on manufactured products or commodities in the following: Food handling establishments, packing houses, and food-processing facilities; and industrial establishments, including commodity storage facilities, grain elevators, and any other similar areas, public or private, for the protection of stored, processed, manufactured products, or commodities. Applicators must demonstrate a practical knowledge of pests associated with manufactured products or commodities, including recognizing those pests and signs of their presence, their habitats, their life cycles, biology, and behavior as it may be relevant to problem identification and control. Applicators must demonstrate practical knowledge of types of formulations appropriate for control of pests associated with manufactured products or commodities, and methods of application that avoid contamination of food, minimize damage to and contamination of areas treated, minimize acute and chronic exposure of people and pets, and minimize environmental impacts.
Industrial, Institutional, and Structural Pest Control – Non-Commodity (IP)	For professional applicators who use or supervise the use of <del>restricted use</del> pesticides in, on, or around the following: food handling establishments, packing houses, and food-processing facilities; human dwellings; cooling towers; air washers; evaporative condensers; swimming pools; pulp and paper mills; sewer treatment; residential and commercial building; institutions, such as schools, hospitals, and prisons; and industrial establishments, including manufacturing facilities, warehouses, and any other structures and adjacent areas, public or private, for the protection of health, dwellings, structures, and stored, processed, or manufactured products. An applicant will demonstrate competency standards outlined in 40 CFR 171.103(d)(7).
Non-Soil Fumigation (NS)	For professional applicators who use or supervise the use of a pesticide to fumigate anything other than soil. An applicant will demonstrate competency standards outlined in 40 CFR 171.103(d)(14).
Ornamental Pest (OP)	For professional applicators who use or supervise the use of pesticides to control pests in the maintenance and production of ornamental plants and turf. An applicant will demonstrate competency standards outlined in 40 CFR 171.103(d)(3).

Category Name	Category Description
Public Health Pest (PH)	For State, Tribal, Federal or other governmental employees and contractors who use or supervise the use of pesticides in government-sponsored public health programs for the management and control of pests having medical and public health importance. An applicant will demonstrate competency standards outlined in 40 CFR 171.103(d)(8).
Regulatory Pest Control (RP)	For State, Tribal, Federal, or other local governmental employees and contractors who use or supervise the use of <del>restricted use</del> pesticides in government-sponsored programs for the control of regulated pests. Certification in this category does not authorize the purchase, use, or supervision of use of products for predator control pesticides listed in the General Vertebrate category or outlined in 40 CFR 171.101(k)(l). An applicant will demonstrate competency standards outlined in 40 CFR 171.103(d)(9).
Right-of-Way Herbicide (RW)	For professional applicators who use or supervise the use of pesticides in the maintenance of roadsides, powerlines, pipelines, and railway rights-of-way, and similar areas. An applicant will demonstrate competency standards outlined in 40 CFR 171.103(d)(6).
Seed Treatment (ST)	For professional applicators using or supervising the use of pesticides on seeds in seed treatment facilities. An applicant will demonstrate competency standards outlined in 40 CFR 171.103(d)(4).
Soil Fumigation (SF)	For applying soil fumigation pesticides to agricultural fields, plant nurseries, and other similar growing media for the growing of agricultural commodities, excluding rodent control. An applicant will demonstrate competency standards outlined in 40 CFR 171.103(d)(13).

~~(7-1-24)~~(7-1-24)I

**a.** Professional Commercial Apprentice License. For conducting General Use Pesticide (GUP) applications only in situations applicable to the ~~MP CP~~, OP, AC, IP, and RW categories. To obtain a professional commercial apprentice license the applicant must pass the Applicator Core Competency exam with a minimum score of seventy percent (70%) or better, and meet the requirements as outlined in Section 100. Persons with this license may only perform pesticide applications under limited supervision of a properly certified professional applicator. Applicators with this license cannot supervise other pesticide applicators. The professional commercial apprentice license may not be reciprocated with other participating agencies. This license will expire one (1) year from the date of issuance. The professional commercial apprentice license is non-renewable. ~~(7-1-24)~~(7-1-24)I

**b.** Professional applicators who engage in janitorial services and use pesticides for cleaning, surface sanitation, and similar activities using general use pesticides with the labeled signal words Warning or Caution, are exempt from professional applicator licensing requirements as outlined in Sections 22-3404 (2)(3)(4), Idaho Code. (7-1-24)

**05. Financial Responsibility.** Submits written proof of financial responsibility by any of the following methods: (7-1-24)

**a.** Liability insurance with an insurance company licensed to do business in Idaho and documented on a form approved by the Director; (7-1-24)

**b.** A bond that is approved by the Director; (7-1-24)

**c.** A cash certificate of deposit in escrow with a bank or trust company; (7-1-24)



- d. An annuity issued by an insurance company, bank or other financial institution found acceptable to the Director; (7-1-24)
- e. An irrevocable letter of credit issued by a national bank in Idaho or by an Idaho state-chartered bank insured by the federal deposit insurance corporation. (7-1-24)
- f. Any certificate of deposit, annuity, or irrevocable letter of credit must be payable to the Director as trustee and remain on file with the Department until it is released, canceled or discharged by the Director. Any certificate of deposit, annuity, or irrevocable letter of credit must maintain a cash value equal to the requirements of Subsection 100.05.h., less any penalty for early withdrawal. Accrued interest upon a certificate of deposit or annuity shall be payable to the purchaser of the certificate or annuity. (7-1-24)
- g. Exclusions. Any exclusion to liability insurance, bond, cash certificate of deposit, annuity or irrevocable letter of credit coverage shall be listed on a form approved by the Director. (7-1-24)
- h. Minimum Coverage Required. (7-1-24)
- i. Bodily injury - fifty thousand dollars (\$50,000) per person/one hundred thousand dollars (\$100,000) per occurrence. (7-1-24)
- ii. Property damage - fifty thousand dollars (\$50,000) per occurrence. (7-1-24)
- iii. Maximum deductible - five thousand dollars (\$5,000). (7-1-24)
- i. Target Property Not Required to Be Covered. The immediate property being treated is not required to be covered. (7-1-24)
- j. Cancellation or Reduction. The applicator must notify the Department in writing immediately after cancellation or reduction below the requirements of the financial coverage. (7-1-24)(7-1-24)T

**06. Licensing Periods and Recertification.** The recertification period for professional applicators will be concurrent with their two (2) year licensing period, beginning at the license issuance, and ending upon license expiration. For a professional applicator's license to be renewed, the license holder must complete the recertification provisions of this section. Licenses belonging to professional applicators with last names beginning with A through L, expire on December 31st in every odd-numbered year, and licenses belonging to professional applicators with last names beginning with M through Z, expire on December 31st in every even-numbered year. The apprentice license may not be recertified and will expire one year from the date that it was issued. Recertification requirements may be accomplished by complying with either Subsection 100.06.a. or 100.06.b. Any professional applicator with less than thirteen (13) months in the licensing period is not required to obtain recertification credits during the initial licensing period. Any license holder who fails to accumulate the required recertification credits prior to the expiration date of their license will be required to pass the appropriate examination(s) before being licensed. (7-1-24)

- a. Continuing Education: To recertify, an applicator must accumulate sixteen (16) recertification credits during their recertification period, by attending Department-accredited pesticide seminars which meet the following criteria: (7-1-24)
- i. One (1) credit is issued for each fifty (50) minutes of instruction. (7-1-24)
- ii. To request accreditation for a seminar not provided by the Department, an applicant must submit a written request to the Department ~~not less than thirty (30) days prior to the scheduled seminar~~. Applications received prior to thirty (30) days shall receive preference for credit approval and have the ability to amend their application until the seminar is held. Applications received after ~~the~~ thirty (30) days shall be reviewed by the Department as time and workload allows. (7-1-24)(7-1-24)T
- iii. The number of credits to be given will be decided by the Department and may be revised if it is later found that the training does not comply. Credit is given only for those parts of seminars that deal with pesticide

subjects as listed in Subsection 100.02.b. No credit will be given for training given to persons to prepare them for initial certification. (7-1-24)

iv. Verification of attendance at a seminar is accomplished by validating the attendee's pesticide license, using a method approved by the Department. Verification of attendance must be submitted with the license renewal application. (7-1-24)

v. Excess credits may not be carried over to the next recertification period. (7-1-24)

vi. Upon ~~earning the recertification credits as described above, license holder is recertified for the next recertification period corresponding with the next issuance of a license, provided that the license renewal application is submitted within twelve (12) months after the expiration date of the license~~ completing all licensing requirements for recertification, the license holder is recertified for the next licensing period. Licenses may be renewed up to twelve (12) months after the expiration date of the license. (7-1-24)(7-1-24)T

**b.** Recertification by Examination: A certified applicator who passes the Department's Applicator Core Competency (CO) examination plus examinations for all categories in which intend to license. (7-1-24)

i. Recertification examinations may be taken by a professional applicator beginning the thirteenth month of the recertification period. (7-1-24)

ii. The examination procedures as outlined in Subsection 100.03 will be followed. (7-1-24)

**c.** The Department may grant variances in the recertification of professional applicators' and dealers' licenses. Issuance of variances will not relieve the recipient from compliance with all other responsibilities under the Pesticide and Chemigation Act and Rules. The request will be on a Department-prescribed form and state fully the grounds for requesting a variance. (7-1-24)

**d.** Licenses are eligible for renewal no sooner than forty-five (45) days from the expiration date. (7-1-24)

**(BREAK IN CONTINUITY OF SECTIONS)**

**150. PRIVATE APPLICATOR LICENSING.**

To obtain a private applicator's license, an applicant must: (7-1-24)

**01. Submit Application.** Submit an application prescribed by the Department with applicable fee(s) (Section 250); (7-1-24)

**02. Demonstrate Competence.** (7-1-24)

**a.** Private applicators may only ~~chemigate or~~ make pesticide applications using RUP's in categories for which they have demonstrated competency by passing a Department examination based on a US EPA approved Core/Private Applicator manual. The examination must follow the procedures outlined in Subsection 100.03. (7-1-24)(7-1-24)T

**b.** An applicant will demonstrate competency in all standards outlined in 40 CFR 171.105(a). Demonstrate competence as outlined for Professional Applicators (Subsection 100.01). (7-1-24)

**03. Categories.** Private applicators must be certified in the Private Applicator category as a prerequisite to all other private applicator license categories:

Category Name	Category Description
Private Applicator (PA)	For use or supervision of restricted use pesticides to produce agricultural commodities on land owned or operated by applicator or applicator’s employer. Certification in this category alone is not sufficient to authorize the purchase, use, or supervision of use of products for predator control listed in the predator control categories outlined in 40 CFR 171.105(b)(c). PA is prerequisite for all Idaho Private Applicator license categories. An applicant will demonstrate competency standards outlined in 40 CFR 171.105(a).
Aerial Pest Control (AA)	For application of pesticides to all sites owned or operated by an applicator or applicator’s employer by operating or flying fixed-wing or rotary aircraft. An applicant will demonstrate competency standards outlined in 40 CFR 171.105(f).
Chemigation (CH)	<del>For application of chemicals through an irrigation system, excluding pesticides to control aquatic organisms. Chemigation of pesticides will require additional relevant private applicator categories. An applicant will demonstrate practical knowledge of chemigation including backflow prevention, minimizing risks related to chemigation, and approved chemigation equipment.</del>
Non-Soil Fumigation (NS)	For applicators who use or supervise the use of a pesticide to fumigate anything other than soil. An applicant will demonstrate competency standards outlined in 40 CFR 171.105(e).
Soil Fumigation (SF)	For applying soil fumigation pesticides to agricultural fields, plant nurseries, and other similar growing media on land owned or operated by applicator or applicator’s employer for the growing of agricultural commodities, excluding rodent control. An applicant will demonstrate competency standards outlined in 40 CFR 171.105(d).

(7-1-24)(7-1-24)T

**04. License Periods and Recertification.** The recertification period for private applicator will be concurrent with their two (2) year licensing period, beginning at the license issuance, and ending upon license expiration. Licenses belonging to private applicators with last names beginning with A through L, expire on the last day of the month listed on the chart in Subsection 150.03.a. in every odd-numbered year, and licenses belonging to private applicators with last names beginning with M through Z, shall expire on the last day of the month listed on the chart in Subsection 150.03.a., in every even-numbered year. Recertification and relicensing may be accomplished by complying with either Subsection 150.03.b. or 150.03.c. Any person with less than thirteen (13) months in the initial licensing period is not required to obtain recertification credits for the initial period. Any license holder who fails to accumulate the required recertification credits prior to the expiration date of their license will be required to pass the appropriate examination(s) before being licensed. (7-1-24)

**a. Licensing schedule.**

Last Name		Month to License
Odd Year	Even Year	
A-D	M-P	March
E-H	Q-T	July
I-L	U-Z	October

(7-1-24)

**b. Continuing Education:** To recertify, and applicator must accumulate seven (7) credits during their recertification period by attending Department-accredited pesticide seminars which meet the following criteria;

- (7-1-24)
- i. One (1) credit is issued for each fifty (50) minutes of instruction. (7-1-24)
  - ii. To request accreditation for a seminar not provided by the Department, an applicant must submit a written request to the Department ~~not less than thirty (30) days prior to the scheduled seminar~~. Applications received prior to thirty (30) days shall receive preference for credit approval and have the ability to amend their application until the seminar is held. Applications received after the thirty (30) days shall be reviewed by the Department as workload allows. ~~(7-1-24)~~(7-1-24)T
  - iii. The number of credits to be given will be decided by the Department and may be revised if it is later found that the training does not comply. Credit is given only for those parts of seminars that deal with pesticide subjects as listed in ~~Subsection 100.02-b, 40 CFR 171.105(a)~~. No credit will be given for training given to persons to prepare them for initial certification. ~~(7-1-24)~~(7-1-24)T
  - iv. Verification of attendance at an accredited seminar is accomplished by validating the attendee's pesticide license using a method approved by the Department. Verification of attendance must be submitted with the license renewal application. (7-1-24)
  - v. Excess credits may not be carried over to the next recertification period. (7-1-24)
  - vi. ~~Upon earning the recertification credits as described above, license holder is recertified for the next recertification period corresponding with the next issuance of a license, provided that the license renewal application is submitted within twelve (12) months from the expiration date of the license completing all licensing requirements for recertification, the license holder is recertified for the next licensing period. Licenses may be renewed up to twelve (12) months after the expiration date of the license.~~ ~~(7-1-24)~~(7-1-24)T
- c. Recertification by Examination: A certified applicator passes the Department's private applicator examination(s) for all categories in which they intend to license. (7-1-24)
    - i. Examinations may be taken beginning the thirteenth (13th) month of the license period. (7-1-24)
    - ii. The examination procedures as outlined in Subsection 100.03 will be followed. (7-1-24)
    - iii. Upon passing the examinations, a person is eligible for license renewal for the next licensing period. For the purpose of becoming licensed, examination scores are valid for twelve (12) months after the date of the examination. (7-1-24)
  - d. The Department may issue variances for the requirements delineated in Subsection 150.03 in the recertification of private applicators' licenses. Issuance of variances do not relieve the recipient from compliance with all other responsibilities under the Pesticide and Chemigation Act and Rules. The request will be on a Department-prescribed form and state fully the grounds for requesting a variance. (7-1-24)
  - e. Licenses are eligible for renewal no sooner than forty-five (45) days from the expiration date. (7-1-24)

**151. CHEMIGATOR LICENSING.**

- 01. Chemigator License Required. Anyone wishing to chemigate shall apply for a license to perform chemigation per the process outlined in this section. Additional category certifications may be required.** ~~(7-1-24)T~~
- 02. Applying for a Chemigator License. Prior to chemigating a person must:** ~~(7-1-24)T~~
  - a. Submit an application prescribed by the Department with applicable fees, and** ~~(7-1-24)T~~
  - b. Demonstrate competency through one of the following methods:** ~~(7-1-24)T~~

i. Complete a Department approved chemigation training within 12 months of submitting the application. Chemigation trainings for licensure must be a minimum of one (1) hour and at a minimum address the following content: (7-1-24)T

- (1) Backflow prevention devices, methods, and injection types; (7-1-24)T
- (2) The mitigation of potential risks associated with chemigation; (7-1-24)T
- (3) Pesticide label requirements for chemigation; (7-1-24)T
- (4) Identification of approved chemigation equipment; or (7-1-24)T

ii. Pass the Chemigation examination with a minimum score of seventy percent (70%). Examination scores are valid for twelve (12) months after the date of the examination. The examination must follow the procedures outlined in Subsection 100.03; or (7-1-24)T

iii. Verify compliance through another Department approved method. (7-1-24)T

03. License Periods. The licensing period will begin at license issuance and end upon license expiration. License periods will follow the schedule outlined in Section 150.03.a of this rule. Any person with less than thirteen (13) months in the initial licensing period is not required to test or attend chemigation training for the initial period. (7-1-24)T

~~154~~2. -- 199. (RESERVED)

**(BREAK IN CONTINUITY OF SECTIONS)**

**201. RUP DEALER RECORDS REQUIREMENTS.**

**01. Records Requirements.** Maintain, in a location designated by the pesticide dealer, restricted use pesticide distribution records for ~~two~~ **three (23)** years, ready to be inspected, duplicated, or submitted when requested by the Director. Such records must include the following: (7-1-24)(7-1-24)T

- a. The name and address of the person purchasing or receiving the restricted use pesticide (RUP); and (7-1-24)
- b. The certified applicator name, license number, license issuing authority, relevant certification category, and expiration date of the license for the person certified to use the RUP; or (7-1-24)
- c. In the case of distribution of a RUP to another pesticide dealer, the name, license number, and expiration date of the license of the licensed pesticide dealer. (7-1-24)
- d. The brand name and Environmental Protection Agency (EPA) Registration Number for each RUP distributed and if applicable, include any emergency exemption or State special local need registration number; and (7-1-24)
- e. Date of the distribution of each RUP; and (7-1-24)
- f. The quantity and size of each RUP container distributed and the total quantity of RUP distributed; and (7-1-24)
- g. The pesticide dealer's name, address, and pesticide dealer license number distributing the RUP. (7-1-24)

(BREAK IN CONTINUITY OF SECTIONS)

SUBCHAPTER B – FEES

280. FEES.

01. **Pesticide Registration.** One hundred sixty dollars (\$160) per product. (7-1-24)

02. **Professional Applicator's License.** One hundred twenty dollars (\$120) per licensing period of ~~greater than fourteen~~ thirteen (13) months or more, sixty dollars (\$60) per licensing period of thirteen (13) months or less. (7-1-24)(7-1-24)T

03. **Commercial Apprentice (CA) Applicator's License.** Sixty dollars (\$60) per licensing period of twelve (12) months or less. (7-1-24)

04. **Private Applicator's License.** ~~A Restricted Use Category,~~ Ten dollars (\$10); a Chemigation Category, twenty dollars (\$20); or thirty dollars (\$30) for both categories. (7-1-24)

05. **A Chemigation License.** Twenty dollars (\$20). (7-1-24)T

056. **Pesticide Dealer's License.** One hundred dollars (\$100) per licensing period of greater than fourteen ~~thirteen~~ (13) months or more, fifty dollars (\$50) per licensing period of thirteen (13) months or less. (7-1-24)(7-1-24)T

067. **Examination Fee per Examination Category.** Ten dollars (\$10). (7-1-24)

281. -- 349. (RESERVED)

SUBCHAPTER C – REGISTRATION AND USE OF PESTICIDES

350. EXPERIMENTAL PERMITS.

Any person who wishes to obtain an experimental permit to register a pesticide under Section 22-3402(5), Idaho Code, must file an application with the Department as outlines in Section 22-3402 which includes: (7-1-24)(7-1-24)T

01. **Name.** ~~Company name.~~ (7-1-24)

02. **Applicant.** ~~Name, address, and telephone number of the applicant.~~ (7-1-24)

03. **Shipment.** ~~Proposed date of shipment or proposed shipping period not to exceed one (1) year.~~ (7-1-24)

041. **Active Ingredient.** A statement listing the active ingredient. (7-1-24)

052. **Quantity Statement.** A statement of the approximate quantity to be tested. (7-1-24)

063. **Acute Toxicity.** Available data or information or reference to available data on the acute toxicity of the pesticide. (7-1-24)

074. **Statement of Scope.** A statement of the scope of the proposed experimental program, including the type of pests or organisms involved, the crops and animals for which the pesticide is to be used, the areas where the applicant proposes to conduct the program, and when requested by the Director, the results of previous tests. (7-1-24)

085. **Temporary Tolerance.** If the pesticide is to be used on food or feed, a temporary tolerance must be obtained from the EPA or evidence that the proposed experiment will not result in injury to humans or animals, or illegal residues entering the food chain. A temporary tolerance is not needed if the food, feed, or fiber crop to which the experimental pesticide is applied will be completely destroyed after the data is collected. (7-1-24)

- 096. Proposed Labeling.** Proposed labeling which must bear: (7-1-24)
- a.** The prominent statement “For Experimental Use Only” on the container label and any labeling that accompanies the product. (7-1-24)
  - b.** An adequate caution or warning statement to protect those who may handle or be exposed to the experimental formulation. (7-1-24)
  - c.** Name and address of the applicant for the permit. (7-1-24)
  - d.** Name or designation of the formulation. (7-1-24)
  - e.** Directions for use. (7-1-24)
  - f.** A statement listing the name and percentage of each active ingredient and the total percentage of inert ingredients. (7-1-24)
- 407. Quantity Limit.** The Director may limit the quantity of pesticide covered by the permit or make such other limitations as may be determined necessary for the protection of humans or the environment. (7-1-24)
- 408. Experimental Use.** A pesticide for experimental use will not be offered for sale unless a written permit has been obtained from the Director. (7-1-24)

**351. -- 399. (RESERVED)**

**400. PESTICIDE RESTRICTIONS.**

- 01. Application of Restricted Use Pesticides by Noncertified Applicators.** A noncertified applicator may apply restricted use pesticides (RUPs) under on-site supervision by a professional applicator with the required license categories of the application being supervised if: (7-1-24)
- a.** Noncertified applicator has completed the following training within twelve (12) months prior to application: (7-1-24)
    - i.** EPA approved Worker Protection Standard (WPS) certification for pesticide handler training or equivalent. (7-1-24)
    - ii.** The safe operation of any equipment they will use for mixing, loading, transferring, or applying pesticides. (7-1-24)
  - b.** The noncertified application of any pesticide is prohibited for: (7-1-24)
    - i.** Soil or non-soil fumigation; (7-1-24)
    - ii.** Aerial application. (7-1-24)
    - iii.** Professional applications conducted by a person under eighteen (18) years of age. (7-1-24)
  - c.** Maintain noncertified applicator training records for three (3) years, ready to be inspected, duplicated, or submitted when requested by the Director. Such records shall contain: (7-1-24)
    - i.** Noncertified applicator’s printed name and signature. (7-1-24)
    - ii.** Date of training. (7-1-24)
    - iii.** Full name of the person who provided the training. (7-1-24)

- iv. Trainer’s qualification to conduct training. (7-1-24)
- v. Title or a description of the training provided. (7-1-24)
- vi. If the noncertified applicator is a licensed applicator who is not certified to perform the type of application being conducted while under on-site supervision by a professional applicator, the record must include all of the following information: (7-1-24)
  - (1) Noncertified applicator’s name. (7-1-24)
  - (2) Noncertified applicator’s license number. (7-1-24)
  - (3) Expiration date of the noncertified applicator’s license. (7-1-24)
  - (4) Certifying authority that issued the license. (7-1-24)
- d. Requirements for supervisors of noncertified applicators of RUPs under on-site supervision. A certified applicator must ensure that all the following requirements are met before allowing a noncertified applicator to use a restricted use pesticide under their on-site supervision: (7-1-24)
  - i. The noncertified applicator must have access to the applicable product labeling at all times during its use. (7-1-24)
  - ii. Where the labeling of pesticide product requires that personal protective equipment be worn for mixing, loading, application, or any other use activities, the noncertified application has been provided clean, label required personal protective equipment in proper operating condition and the personal protective equipment is used correctly. (7-1-24)
  - iii. The certified applicator must provide to each noncertified applicator before use of a restricted use pesticide instructions specific to the site and pesticide used. These instructions must include labeling directions, precautions, and requirements applicable to the specific use and site, and how the characteristics of the use site and the conditions of application might increase or decrease the risk of adverse effects. (7-1-24)
  - iv. The certified applicator must ensure that before each day of use equipment used for mixing, loading, transferring, or applying pesticides is in proper operating condition as intended by the manufacturer, and can be used without risk of reasonably foreseeable adverse effects to the noncertified applicator, other persons, or the environment. (7-1-24)
  - v. The certified applicator must ensure that a means to immediately communicate with the certified applicator is available to each noncertified applicator using restricted use pesticides under their direct supervision. (7-1-24)
  - vi. The certified applicator must be physically present at the site of the use being supervised. (7-1-24)
  - vii. The certified applicator must create or verify the existence of the records required by Subsection 400.01.c. of this rule. (7-1-24)
- 02. Application of General Use Pesticides by Noncertified Applicators.** A Professional Commercial Apprentice applicator may apply general use pesticides (GUPs) under ~~MP~~ CP, OP, AC, IP, and RW categories with limited supervision by a professional applicator that has the required license categories of the application being supervised if: (7-1-24)(7-1-24)I
  - a. All of the following conditions are met: (7-1-24)
    - i. The Professional Commercial Apprentice applicator has a valid license. (7-1-24)



ii. Immediate communication requirements exist between the supervising professional applicator and the Professional Commercial Apprentice applicator. (7-1-24)

b. Applications of RUPs are prohibited under the Professional Commercial Apprentice license. (7-1-24)

**03. Mixer-Loaders.** No person will act as a mixer-loader for a professional applicator without first obtaining annual training. (7-1-24)

a. Training will be conducted and certified by the professional applicator who employs the mixer-loader. Training recordkeeping requirements for mixer-loaders shall be the same as for noncertified applicators of restricted use pesticides under on-site supervision (see Subsection 400.01.c. of this rule.) (7-1-24)

b. Training requirements shall be the same as for noncertified applicators of restricted use pesticides under on-site supervision (see Subsection 400.01a. of this rule.) (7-1-24)

**04. Non-Domestic Pesticides Restrictions.** (7-1-24)

a. Home and Garden Restrictions. The following pesticides are to be registered only when labeled, distributed, sold or held for sale and use other than home and garden use and are not be sold to home and garden users or applied by professional applicators around any home or garden. (7-1-24)

i. Bidrin (Foliar applications). (7-1-24)

ii. Strychnine (one percent (1%) and above). (7-1-24)

iii. Zinc Phosphide (two point one percent (2.1%) and above). (7-1-24)

b. Ester Restriction. Low volatile liquid ester formulations of herbicides shall not be applied around any home or garden at any time when ambient air temperature exceeds or is forecasted to exceed eighty (80) degrees Fahrenheit during the day of application. (7-1-24)

**05. Restrictions to Protect Pollinators.** (7-1-24)

a. Bee Restrictions. Any pesticide that is toxic to bees shall not be applied to any agricultural crop when such crop is in bloom or when bees are actively foraging on blooming weeds in the crop being sprayed except during the period beginning three (3) hours before sunset until three (3) hours after sunrise. (7-1-24)

b. Green Pea Exception. In the counties of Benewah, Bonner, Boundary, Clearwater, Idaho, Kootenai, Latah, Lewis, Nez Perce, and Shoshone: Green (white) pea crops may be sprayed or dusted at any time. (7-1-24)

c. Other Exceptions. Pesticides may be applied at any time to sweet corn for processing, hops, potatoes, and beans other than lima beans, subject to all other applicable regulations. (7-1-24)

**06. Deviations from Pesticide Labels and Labeling.** Any licensed professional or private applicator may deviate from pesticide label directions for use only as EPA or state laws, rules, and regulations permit. (7-1-24)

**07. Wind Velocity Restrictions.** No person will apply pesticides in sustained wind speeds that exceed the product label directions. If a pesticide label does not state a specific wind speed limitation, pesticides will not be applied in sustained wind conditions exceeding ten (10) miles per hour. (7-1-24)

a. Exceptions. Application of pesticides by injection into application site or by impregnated granules shall be made according to label directions. (7-1-24)

b. Approval for Use of Other Application Techniques. Other pesticide application techniques or methods may be approved by the Director or his agent on a case-by-case basis. (7-1-24)

c. Chemigation Wind Speed Precautions. Chemicals shall not be applied when wind speed favors drift beyond the area intended for treatment or when chemical label restricts the use of a pesticide for wind speed. (7-1-24)

**08. Phenoxy Herbicide Restrictions.** (7-1-24)

D: a. High Volatile Ester Restrictions. No aircraft pilot will apply high volatile ester formulations of 2,4- (7-1-24)

i. In Latah, Nez Perce, and Clearwater Counties in Idaho; or (7-1-24)

ii. Within five (5) miles of a susceptible crop or hazard area in any other county in Idaho. (7-1-24)

iii. Waiver of the restriction in Subsections 400.08.a.i. and 400.08.a.ii. may be issued on a project-by-project basis by the Director. (7-1-24)

b. Low Volatile Ester Restrictions. No aircraft pilot will apply low volatile ester formulations of 2,4-D; MCPA and MCPB: (7-1-24)

i. In Latah, Nez Perce, and Clearwater Counties in Idaho, unless ambient air temperatures are not above or expected to exceed eighty-five (85) degrees Fahrenheit within twenty-four (24) hours of the expected application time, or (7-1-24)

ii. Within one (1) mile of a hazard area in any other county in Idaho. (7-1-24)

iii. Waiver of the restriction in Subsection 400.08.b.i. may be issued on a project-by-project basis by the Director. (7-1-24)

c. A continuous smoke column or other device satisfactory to the Director will be employed to indicate to the pilot of any aircraft the direction and velocity of the airflow, and indicate a temperature inversion by layering of smoke, at the time and place of application when applying any formulation of 2,4-D; MCPA; MCPB and Dicamba. (7-1-24)

**09. Pesticide-Fertilizer Mix Restrictions.** No person will distribute, sell, offer for sale, or hold for sale any dry pesticide incorporated in a dry blended bulk fertilizer mix. (7-1-24)

**10. Pesticide Drift Prohibitions.** The application of pesticides that results in drift outside of the target area is prohibited. (7-1-24)

**(BREAK IN CONTINUITY OF SECTIONS)**

**SUBCHAPTER D – CHEMIGATION**

**600. GENERAL CHEMIGATION REQUIREMENTS.**

**01. Pesticides Labeled for Chemigation.** The chemigator will use only pesticides labeled for chemigation when chemigating. (7-1-24)

**02. Monitoring Chemigation.** Licensed professional applicators that start the application of chemicals through chemigation equipment do not have to be present during the entire application, but must return to monitor the proper application at least once every four (4) hours for the duration of the application. (7-1-24)

**03. Chemigation Equipment Standards.** Equipment will be placed on the Department’s list of approved chemigation equipment after the manufacturers provide to the Department verification that the equipment meets the standards in the Department’s chemigation protocol. Prior to chemigating, all chemigation systems must

meet the requirements outlined in the Department's chemigation protocol. Chemigation system requirements are defined by the Department's chemigation system requirements protocol and the standards established in these rules.  
(7-1-24)(7-1-24)T

**04. Chemigating Over Waters of the State.** Shall be prohibited, except for variances allowed in Section 700. (7-1-24)

**601. -- ~~649~~999. (RESERVED)**

**~~650. IRRIGATION SYSTEMS.~~**

~~Defined in the ISDA Chemigation System Requirement Protocol document located at the department website at [www.agri.idaho.gov](http://www.agri.idaho.gov).~~ (7-1-24)

**~~651. -- 999. (RESERVED)~~**