

Dear Senators GUTHRIE, Den Hartog, Jordan, and
Representatives BOYLE, Troy, Erpelding:

The Legislative Services Office, Research and Legislation, has received the enclosed rules of the
Department of Agriculture:

IDAPA 02.03.01 - Rules Governing Pesticide Management Plans for Ground Water Protection -
Proposed Rule (Docket No. 02-0301-1901);

IDAPA 02.03.03 - Idaho Department of Agriculture Rules Governing Pesticide and Chemigation Use
and Application (Fee Rule) - Proposed Rule (Docket No. 02-0303-1901).

Pursuant to Section 67-454, Idaho Code, a meeting on the enclosed rules may be called by the
cochairmen or by two (2) or more members of the subcommittee giving oral or written notice to Research
and Legislation no later than fourteen (14) days after receipt of the rules' analysis from Legislative
Services. The final date to call a meeting on the enclosed rules is no later than 10/07/2019. If a meeting is
called, the subcommittee must hold the meeting within forty-two (42) days of receipt of the rules' analysis
from Legislative Services. The final date to hold a meeting on the enclosed rules is 11/05/2019.

The germane joint subcommittee may request a statement of economic impact with respect to a
proposed rule by notifying Research and Legislation. There is no time limit on requesting this statement,
and it may be requested whether or not a meeting on the proposed rule is called or after a meeting has
been held.

To notify Research and Legislation, call 334-4854, or send a written request to the address on the
memorandum attached below.



Eric Milstead
Director

Legislative Services Office

Idaho State Legislature

Serving Idaho's Citizen Legislature

MEMORANDUM

TO: Rules Review Subcommittee of the Senate Agricultural Affairs Committee and the House Agricultural Affairs Committee

FROM: Deputy Division Manager - Katharine Gerrity

DATE: September 18, 2019

SUBJECT: Department of Agriculture

IDAPA 02.03.01 - Rules Governing Pesticide Management Plans for Ground Water Protection - Proposed Rule (Docket No. 02-0301-1901)

IDAPA 02.03.03 - Idaho Department of Agriculture Rules Governing Pesticide and Chemigation Use and Application (Fee Rule) - Proposed Rule (Docket No. 02-0303-1901)

1. IDAPA 02.03.01 - Rules Governing Pesticide Management Plans for Ground Water Protection

Summary and Stated Reasons for the Rule

The Idaho State Department of Agriculture submits notice of proposed rule at IDAPA 02.03.01 - Rules Governing Pesticide Management Plans for Ground Water Protection. According to the department, the proposed rule adopts a previously approved and codified chapter under the department's rules. The department notes that this rule establishes a process for responding to pesticide detections in ground water. The department adds that the rule was also reviewed for amendment or repeal of non-substantive sections to comply with the Red Tape Reduction Act. The department provides a Section 22-101A statement, noting that the rule is broader in scope than federal law or regulations. In that regard, the department indicates that the rule governs pesticide management plans for ground water protection and that improper use has the potential to impact Idaho's population and environment through contamination of ground water. The department goes on to state that pesticide contamination of ground water may affect ground water users, wildlife, and domestic animals. The department adds that it uses the best available, peer reviewed studies to support and implement the provisions of the rule, including studies done by the EPA, USDA, and other professional, medical, and scientific journals. The department adds that uncertainties remain including unreported amounts of pesticides used, disposed of, as well as unreported exposure rates.

Negotiated Rulemaking / Fiscal Impact

The department states that negotiated rulemaking was not conducted because the existing chapter is being republished and reauthorized as previously promulgated and approved.

Kristin Ford, Manager
Research & Legislation

Paul Headlee, Manager
Budget & Policy Analysis

April Renfro, Manager
Legislative Audits

Glenn Harris, Manager
Information Technology

Statutory Authority

The rulemaking appears to be authorized pursuant to Sections 22-3418, 22-3419, and 22-3421, Idaho Code.

2. IDAPA 02.03.03 - Idaho Department of Agriculture Rules Governing Pesticide and Chemigation Use and Application (Fee Rule)

Summary and Stated Reasons for the Rule

The Idaho State Department of Agriculture submits notice of proposed rule at IDAPA 02.03.03 - Idaho Department of Agriculture Rules Governing Pesticide and Chemigation Use and Application. According to the department, the rule adopts a previously approved and codified chapter and regulates the use and application of pesticides, licensing of pesticide applicators, registration of pesticides, and responsibilities for chemigation in Idaho. The rule was also reviewed for compliance with the Red Tape Reduction Act. This is a fee rule which sets forth previously approved fees. The department provides a Section 22-101A statement, noting that portions of the rule are either broader in scope or more stringent than federal law or regulations or not regulated. According to the department, those sections that are broader in scope apply to private applicator licensing, licensing professional applicators and pesticide dealers, records requirements, fees, pesticide-fertilizer mix restrictions, storage of pesticide containers, pesticide use on seed crop fields, general chemigation requirements, irrigation systems, chemical injection line shut down, injection line check valve, chemical injection system, irrigation line check valve, gooseneck pipe loop, downhill and over-a-hill, vacuum relief valve or combination air and vacuum relief valve, inspection port, automatic low pressure drain and variances; those sections that are more stringent include registration and licensing requirements for use of the LPC, financial responsibility, low-flying prohibitions, wind velocity restrictions, experimental permits, restrictions to protect pollinators, non-domestic pesticides, phenoxy herbicide restrictions, and application near hazard areas; and those that are not regulated include deviations from pesticide labels and labeling, change of license status, and unusable pesticides collection and disposal.

Negotiated Rulemaking / Fiscal Impact

The department states that negotiated rulemaking was not conducted because of the need to adopt the rules as temporary, and re-authorized as previously promulgated and approved.

Statutory Authority

The rulemaking appears to be authorized pursuant to Section 22-3421, Idaho Code.

cc: Department of Agriculture
Brian J. Oakey

***** PLEASE NOTE *****

Per the Idaho Constitution, all administrative rules may be reviewed by the Legislature during the next legislative session. The Legislature has 3 options with this rulemaking docket: **1)** Approve the docket in its entirety; **2)** Reject the docket in its entirety; or **3)** Reject the docket in part.

IDAPA 02 – DEPARTMENT OF AGRICULTURE
02.03.01 – RULES GOVERNING PESTICIDE MANAGEMENT PLANS
FOR GROUND WATER PROTECTION

DOCKET NO. 02-0301-1901

NOTICE OF RULEMAKING – PROPOSED RULE

AUTHORITY: In compliance with Section 67-5220, Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 22-3418, 22-3419, and 22-3421, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 18, 2019.

The hearing site 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 a nontechnical explanation of the substance and purpose of the proposed rulemaking:

This proposed rule adopts a previously approved and codified chapter under IDAPA 02, rules of the Idaho State Department of Agriculture. This rule establishes a process for responding to pesticide detections in ground water. This rule was reviewed for amendment or repeal of non-substantive sections to comply with the Red Tape Reduction Act.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: N/A

IDAHO CODE SECTION 22-101A(1) STATEMENT: This rule is broader in scope than an activity regulated by the federal government as shown in the following table:

| | |
|------------------|------------------|
| 02.03.01.000-481 | Broader in Scope |
|------------------|------------------|

For a more detailed analysis, please see Rulemaking Record for Docket No. 02-0301-1901.

IDAHO CODE SECTION 22-101A(4) STATEMENT: Idaho Code § 22-101A(4) requires that in proposing any rule necessary to protect human health and the environment, the Director shall include a summary of information in the rulemaking record by Idaho Code § 22-101A(3). This summary of Idaho Code § 22-101A(3) information is as follows:

IDAPA 02.03.01 governs pesticide management plans for ground water protection. The improper use of pesticides has the potential to impact Idaho's population and environment through contamination of Idaho's ground water. Human and animal populations may come into contact with pesticides when pesticides leach into groundwater. Pesticide contamination of groundwater may affect Idaho's groundwater users, wildlife and domestic animals by contaminating water sources used for drinking and other uses. Studies have shown that the upper bound risks for pesticide exposure include death.

ISDA uses the best available, peer reviewed studies to support and implement IDAPA 03.02.01, including studies done by U.S. Environmental Protection Agency, USDA, and other professional, medical, and scientific journals. However, even with such data, uncertainties remain. Uncertainties include unreported amounts of pesticides used, disposed and unreported exposure rates.

To view ISDA's complete Idaho Code § 22-101A analysis and a comprehensive list of studies supporting and directly relevant to this Rule, please see the IDAPA 02.03.01 Rulemaking Record located at <https://agri.idaho.gov/main/i-need-to-see-lawsrules/rulemaking/isda-rulemaking-2019-2020/ag-resources-temporary-rulemaking-2019-2020/>.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: N/A

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 resulting from this rulemaking:

The agency does not anticipate any fiscal impact as a result of this rulemaking.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because this existing chapter of IDAPA is being re-published and re-authorized as previously promulgated and approved by the Legislature pursuant to the Idaho Administrative Procedures Act, Chapter 52, Title 67, Idaho Code; and because engaging in negotiated rulemaking for all previously existing rules would have inhibited the agency from executing its responsibilities to serve the citizens of Idaho and to protect their health, safety, and welfare.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, incorporated material may be obtained or electronically accessed as provided in the text of the proposed rule attached.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Vic Mason, Administrator – Division of Ag Resources at (208) 332-8628.

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 September 25, 2019.

DATED this 2nd day of August, 2019.

Brian Oakey
Deputy Director
Idaho Department of Agriculture
2270 Old Penitentiary Road
P.O. Box 7249
Boise, Idaho 83707
Phone: (208) 332-8550
Fax: (208) 334-2710

THE FOLLOWING IS THE PROPOSED RULE TEXT OF DOCKET NO. 02-0301-1901

Pursuant to Section 67-5221(1), Idaho Code, this docket is being published as a proposed rule.

This docket has been previously published as a temporary rule.

The original text of the temporary rule was published in the Idaho Administrative Bulletin, [Volume 19-7, July 3, 2019, pages 18 through 28.](#)

**02.03.01 – RULES GOVERNING PESTICIDE MANAGEMENT PLANS
FOR GROUND WATER PROTECTION**

000. LEGAL AUTHORITY.

This chapter is adopted under the legal authority of Sections 22-3418, 22-3419, ~~22-3420~~, and 22-3421, Idaho Code. (4-6-05)()

001. TITLE AND SCOPE.

01. Title. The title of this chapter is IDAPA 02.03.01, “Rules Governing Pesticide Management Plans for Ground Water Protection.” (4-6-05)

02. Scope. This chapter establishes a process for responding to pesticide detections in ground water. (4-6-05)

002. WRITTEN INTERPRETATIONS.

There are no written interpretations of these rules. (4-6-05)

003. ADMINISTRATIVE APPEALS.

There is no provision for administrative appeal before the Idaho Department of Agriculture under this chapter. Hearing and appeal rights are pursuant to Title 67, Chapter 52, Idaho Code. (4-6-05)

004. INCORPORATION BY REFERENCE.

The following documents are incorporated by reference into this chapter: (4-6-05)

01. Dimethyl Tetrachloroterephthalate (DCPA) Pesticide Management Plan. The June 2007 edition published by the Idaho State Department of Agriculture. Copies of this document may be obtained from the Idaho State Department of Agriculture, ~~2270 Old Penitentiary Road, P.O. Box 7249, Boise, ID 83707.~~ (3-5-08)()

~~**02. IDAPA 58.01.11, “Ground Water Quality Rule,” Subsection 200.01.a. of the Department of Environmental Quality.** Copies can be obtained from the Office of the Administrative Rules Coordinator, 650 W. State St., P.O. Box 83720, Boise, ID 83720-0306 or electronically accessed at <http://adminrules.idaho.gov/rules/current/58/0111.pdf>. (4-6-05)~~

~~**03. Idaho Agricultural Pollution Abatement Plan.** The March 2003 edition published by the Idaho Soil Conservation Commission at <https://agri.idaho.gov/main/wp-content/uploads/2018/03/Agricultural-Pollution-Abatement-Plan-2003.pdf>. (4-6-05)~~

~~**04. The 2007 Publication by the United States Department of Agriculture, Natural Resources Conservation Service, Conservation Practice Standard, Pest Management Code 595.** Copies of this document may be obtained from the Idaho State Department of Agriculture, 2270 Old Penitentiary Road, P.O. Box 7249, Boise, ID 83707. (3-5-08)~~

~~**05. The 2004 Publication by the United States Department of Agriculture, Natural Resources Conservation Service, Conservation Practice Standard, Agrichemical Mixing Facility Code 702.** Copies of this document may be obtained from the Idaho State Department of Agriculture, 2270 Old Penitentiary Road, P.O. Box 7249, Boise, ID 83707. (4-6-05)~~

~~**06. The 2006 Publication by the United States Environmental Protection Agency, Office of Water, 2006 Edition of the Drinking Water Standards and Health Advisories, EPA 822-R-06-013.** Copies can be accessed electronically at https://agri.idaho.gov/main/wp-content/uploads/2018/03/epa_drinking_water_standard_2006.pdf. (3-5-08)~~

005. ADDRESS, OFFICE HOURS, TELEPHONE, FAX NUMBERS, WEB ADDRESS.

The Idaho State Department of Agriculture central office is located at 2270 Old Penitentiary Road, Boise, ID 83712-8298. The office is open from 8 a.m. to 5 p.m., except Saturday, Sunday, and legal holidays. The mailing address is PO Box 7249, Boise, Idaho 83707. The phone number is (208) 332-8500 and the fax number is (208) 334-2170. The Department web address is <https://agri.idaho.gov/>. (4-6-05)

006. PUBLIC RECORDS ACT COMPLIANCE.

These rules are public records available for inspection and copying at the Department. (4-6-05)

007. -- 009. (RESERVED)

010. DEFINITIONS.

The Idaho Department of Agriculture adopts the definitions set forth in Section 22-3401, Idaho Code, and the following definitions: (4-6-05)

01. Aquifer. A geological unit of permeable saturated material capable of yielding economically significant quantities of water to wells and springs. (4-6-05)

02. Beneficial Uses. Current or future uses of ground water supplies including, but not limited to domestic, industrial, agricultural, aquacultural, and mining. (4-6-05)

03. Best Management Practice. A practice or combination of practices determined to be the most effective and practical means of preventing or reducing pesticide contamination to ground water and interconnected surface water from nonpoint and point sources to achieve water quality goals and protect the beneficial uses of the water. (4-6-05)

04. Constituent. Any chemical, ion, radionuclide, synthetic organic compound, microorganism, waste or other substance occurring in ground water. (4-6-05)

05. Contaminant. Any chemical, ion, radionuclide, synthetic organic compound, microorganism, waste or other substance which does not occur naturally in ground water or which naturally occurs at a lower concentration. (4-6-05)

06. Contamination. The direct or indirect introduction into ground water of any contaminant caused in whole or in part by human activities. (4-6-05)

07. Ground Water. Any water of the state which occurs beneath the surface of the earth in a saturated geological formation of rock or soil. (4-6-05)

08. Health Advisory Level. Guidance for the maximum allowable or acceptable daily concentration of a pesticide in drinking water in the absence of or prior to a MCL being set. (4-6-05)

09. Maximum Contaminant Level. Maximum allowable or acceptable daily concentration of a pesticide in drinking water that may be consumed over a lifetime. (4-6-05)

10. Pesticide Management Standard. The United States Department of Agriculture Natural Resource Conservation Service Conservation Practice Standard, Idaho Pesticide Management Code 595, or the Idaho Agricultural Pollution Abatement Plan -- Pesticide Management Standard Component Practice. (4-6-05)

11. Pesticide Use. The mixing, application, handling, transport, storage, display, distribution, and disposal of pesticides and their containers. (4-6-05)

12. Projected Future Beneficial Uses. Various uses of ground water, such as drinking water, aquaculture, industrial, mining or agriculture, that are practical and achievable in the future based on hydrogeologic conditions, water quality, future land use activities and social/economic considerations. (4-6-05)

13. Reference Dose. Allowable or acceptable dose of a pesticide in terms of mg pesticide/kg body

weight that can be ingested in one day (acute reference dose) or on a daily basis over a lifetime (chronic reference dose). (4-6-05)

14. Reference Point. Numerical indicators of the toxicity of a substance based on test data and other reliable health effects information. (4-6-05)

15. Susceptibility. A method of describing the flow of water to, and through, the ground water resource based on physical factors such as hydraulic conductivity, porosity, hydraulic gradients, recharge, interactions with surface water, and transport through the unsaturated zone without considering specific natural or anthropogenic sources of contamination. (4-6-05)

16. Vulnerability. Ground water characterized by a potential for contaminants to enter and be transported within the flow system. Determinations of ground water vulnerability will include consideration of land use practices and aquifer characteristics. (4-6-05)

011. ABBREVIATIONS.

- 01. APAP.** Agricultural Pollution Abatement Plan. (4-6-05)
- 02. BMP.** Best Management Practice. (4-6-05)
- 03. DCPA.** Dimethyl Tetrachloroterephthalate. (3-5-08)
- 04. DEQ.** Department of Environmental Quality. (4-6-05)
- 05. EPA.** Environmental Protection Agency. (4-6-05)
- 06. HAL.** Health Advisory Level. (4-6-05)
- 07. MCL.** Maximum Contaminant Level. (4-6-05)
- 08. NRCS.** Natural Resources Conservation Service. (4-6-05)
- 09. PMP.** Pesticide Management Plan. (4-6-05)
- 10. QAPP.** Quality Assurance Project Plan. (4-6-05)
- 11. QMP.** Quality Management Plan. (4-6-05)
- 12. RfD.** Reference Dose. (4-6-05)
- 13. SCC.** Soil Conservation Commission. (4-6-05)
- 14. USDA.** United States Department of Agriculture. (4-6-05)

012. -- 049. (RESERVED)

050. CHEMICAL SPECIFIC PMPS.

01. Creating PMPs. The Director shall develop and implement chemical specific PMPs (Section 200) for certain pesticides in geographical areas as determined in Section 400 when: (4-6-05)

a. The level of a pesticide found in ground water is equal to or greater than fifty percent (50%) of the reference point and is scientifically validated; (4-6-05)

b. EPA restricts the sale or use of a pesticide in the state, or otherwise initiates action against a pesticide because of ground water concerns for a pesticide, unless such PMP is not deemed necessary by the Director;

- (4-6-05)
- c. EPA's action, restriction, or prohibition will be implemented unless the state develops an adequate PMP; or (4-6-05)
- d. A pesticide is conditionally registered by EPA because of ground water concerns. (4-6-05)
- 02. PMP Compliance.** No person shall use a pesticide in a manner inconsistent with the chemical specific PMP within a designated geographical area. (4-6-05)

051. -- 099. (RESERVED)

100. CONTENTS OF A CHEMICAL SPECIFIC PMP.

- 01. Required Elements of a PMP.** (4-6-05)
- a. Actions to prevent pesticide contamination that are based on beneficial uses and vulnerability that address applicable aspects of the pesticide use; and (4-6-05)
- b. Actions to prevent or minimize further presence of the pesticide in ground water and to provide protection for the present and projected future beneficial use of the ground water. (4-6-05)
- 02. Elements That May Be Included in a PMP.** A PMP may include but is not limited to the following elements: (4-6-05)
- a. Identification of geographical areas where a pesticide may be used; (4-6-05)
- b. Pesticide, soil, hydrogeological, and meteorological characteristics; (4-6-05)
- c. BMPs; (4-6-05)
- d. Identification of ground water areas with pesticide detection(s); (4-6-05)
- e. Certification, licensing, training, and education requirements for persons using the pesticide; (4-6-05)
- f. Identification and establishment of an area of pesticide restriction requiring preventative measures; (4-6-05)
- g. Pesticide application rates and timing and related use criteria; (4-6-05)
- h. Integrated pest management information; (4-6-05)
- i. Other requirements for pesticides, as set forth in the Idaho Pesticide and Chemigation Law (Title 22, Chapter 34, Idaho Code), and IDAPA 02.03.03, "Rules Governing Pesticide and Chemigation Use and Application"; or (4-6-05)
- j. Other requirements as listed by the EPA in rule or guidance. (4-6-05)

101. MANAGEMENT PLANS ADOPTED BY RULEMAKING AND REVIEW.

- 01. Adoption Through Rulemaking.** The Director shall adopt chemical specific PMPs through rulemaking. (4-6-05)
- 02. PMP Review.** The Director shall review chemical specific PMPs every two (2) years to determine if the requirements contained in the plans need to be modified based on new scientific data and information. (4-6-05)

102. -- 149. (RESERVED)

150. GROUND WATER QUALITY REFERENCE POINTS.

01. **Reference Points.** The Director will use reference points for pesticides in ground water, based on the following order of availability: (4-6-05)

a. Idaho rules of DEQ, IDAPA 58.01.11, "Ground Water Quality," Subsection 200.01.a. specific to pesticide primary constituent standards which were adopted from EPA MCLs; or (4-6-05)

b. EPA Health Advisory Levels (HALs) identified in the 2006 Edition of the EPA Drinking Water Standards and Health Advisories, EPA 822-R-06-013; or (3-5-08)

c. EPA Reference Dose (RfD) identified in the 2006 Edition of the EPA Drinking Water Standards and Health Advisories, EPA 822-R-06-013; or (3-5-08)

d. A reference point based on: (4-6-05)

i. Best scientific information currently available on adverse effects of the contaminant(s); and (4-6-05)

ii. Protection of a beneficial use(s); and (4-6-05)

iii. Practical quantitation levels for the pesticides, if they exceed the levels identified in IDAPA 58.01.11, "Ground Water Quality Rule," Subsection 200.01.a. (4-6-05)

02. **HAL and RfD Guide.** The Director shall use the EPA's HAL and RfD number associated with the effects on a person weighing seventy (70) kilograms and drinking two (2) liters of water per day over a lifetime. (4-6-05)

151. -- 199. (RESERVED)

200. RESPONSE TO A PESTICIDE DETECTION.

This section describes the four (4) response levels for responding to pesticide detections in ground water. (4-6-05)

01. **Level One Response.** When a pesticide or its metabolite(s) is detected at or above the detection limit yet below twenty percent (20%) of the reference point: ()

a. The Director shall: (4-6-05)()

~~a.i.~~ ~~Shall~~ notify well users or well owners of pesticide(s) detection; (4-6-05)()

~~b.ii.~~ ~~Shall~~ entinue ground water monitoring; (4-6-05)()

b. The Director may: ()

~~e.i.~~ ~~May~~ provide additional information to pesticide applicators within vulnerable areas; (4-6-05)()

~~d.ii.~~ ~~May~~ review use practices, soils, hydrogeology, and vulnerability within the area of pesticide detection(s); (4-6-05)()

~~e.iii.~~ ~~May~~ review state records for previous point source or potential violations in accordance with the Idaho Pesticide and Chemigation Law (Title 22, Chapter 34, Idaho Code); (4-6-05)()

~~f.iv.~~ ~~May~~ review existing monitoring data within area to check for previous detections; (4-6-05)()

- ~~g.v.~~ ~~May e~~C Conduct outreach in local area applicable to relevant data and information; and (4-6-05)()
- ~~h.vi.~~ ~~May e~~E Encourage voluntary BMPs consistent with the APAP. (4-6-05)()
- 02. Level Two Response.** When a pesticide or its metabolite(s) is detected at twenty percent (20%) to less than fifty percent (50%) of the reference point: ()
- a.** The Director shall: (4-6-05)()
- ~~a.i.~~ ~~Shall i~~I Implement actions in Subsection 200.01 in the area of pesticide detection; (4-6-05)()
- ~~b.ii.~~ ~~Shall e~~E Establish area of pesticide concern, in accordance with Section 400, within area of pesticide detection; (4-6-05)()
- ~~e.iii.~~ ~~Shall d~~D Develop a monitoring plan and monitor to determine trends and fluctuations in pesticide concentrations; (4-6-05)()
- ~~d.iv.~~ ~~Shall d~~D Determine likely source(s) while notifying and working with the appropriate parties including but not limited to: pesticide registrant(s), dealer(s), applicator(s) and producer(s) to determine likely source(s); (4-6-05)()
- ~~e.v.~~ ~~Shall d~~D Determine if pesticide detection(s) is from point or nonpoint source; (4-6-05)()
- ~~f.vi.~~ ~~Shall p~~P Promote voluntary BMPs or other measures; evaluate BMP effectiveness, and change BMPs if needed; (4-6-05)()
- ~~g.vii.~~ ~~Shall r~~R Require the utilization of the Idaho NRCS Conservation Practice Standard, Pesticide Management Code 595. (4-6-05)()
- b.** The Director may: ()
- ~~h.i.~~ ~~May d~~D Develop a chemical specific PMP per pesticide, unless already mandated through EPA Rule to do so; (4-6-05)()
- ~~i.ii.~~ ~~May m~~M Monitor additional domestic wells in the hydrogeological up gradient and down gradient area; and (4-6-05)()
- ~~j.iii.~~ ~~May e~~C Conduct site specific pesticide use inspections within the area of detection(s). (4-6-05)()
- 03. Level Three Response.** When a pesticide or its metabolite(s) is detected at fifty percent (50%) to less than one hundred percent (100%) of the reference point, the Director shall: (4-6-05)
- a.** Implement actions in Subsections 200.02.a. through 200.02.e., and 200.02.g. through 200.02.j. in the area of pesticide detection; (4-6-05)
- b.** Establish an area of pesticide restriction, in accordance with Section 400 and Section 22-3419, Idaho Code, when the Director determines ground water contamination resulted from the application of a pesticide in accordance with the label; (4-6-05)
- c.** Restrict the use of the pesticide according to Section 22-3418, Idaho Code; (4-6-05)
- d.** Install monitoring wells as soon as possible, if the Director determines installation to be necessary based on severity of risk, to evaluate ground water quality, flow direction, and the effectiveness of preventative measures; (4-6-05)
- e.** Assist well users or well owners within the area of pesticide restriction with health information and

alternative water source information; and (4-6-05)

f. Inspect the pesticide applicator records within the restricted area. (4-6-05)

04. Level Four Response. When a pesticide or its metabolite(s) is detected at or above one hundred percent (100%) of the reference point, the Director shall: (4-6-05)

a. Implement actions in Subsection 200.03 in the area of pesticide detection; (4-6-05)

b. Establish an area of pesticide prohibition, in accordance with Section 400 of this rule and Section 22-3418, Idaho Code, when the Director has determined ground water contamination resulted from the application of a pesticide in accordance with the label; (4-6-05)

c. Implement use prohibition area(s); (4-6-05)

d. Assist persons within the use prohibition area with health and alternative water source information; (4-6-05)

e. Determine effectiveness of regulatory actions. (4-6-05)

05. Mixing and Loading Prohibited. No person shall mix or load the prohibited pesticide product in an identified pesticide prohibition area unless the mixing and loading is conducted over a spill containment surface which complies with the Idaho NRCS Conservation Practice Standard, Agrichemical Mixing Facility Code 702. (4-6-05)

06. Prohibition Areas. No person shall apply a prohibited pesticide within the corresponding pesticide area boundaries of the area of pesticide prohibition as identified in Section 400. (4-6-05)

201. -- 299. (RESERVED)

300. GROUND WATER MONITORING PROGRAMS.

01. Monitoring Programs. The Director shall conduct monitoring programs to: (4-6-05)

a. Determine whether residues of pesticides are present in ground water; (4-6-05)

b. Refine vulnerability mapping products or other assessment tools; (4-6-05)

c. Determine the effectiveness of BMPs; and (4-6-05)

d. Determine the effectiveness of regulatory approaches. (4-6-05)

02. Conduct Monitoring Programs. The Director shall conduct monitoring programs in compliance with the Department's EPA approved QMP and applicable QAPPs. (4-6-05)

03. Evaluation. The Director shall evaluate ground water pesticide(s) data from sources other than the Department for use in implementing this rule. (4-6-05)

301. -- 399. (RESERVED)

400. DETERMINING PESTICIDE AREA BOUNDARIES.

Section 400 describes the methods for determining the pesticide area boundaries for the response levels in Section 200. (4-6-05)

01. Pesticide Area Boundary Factors. In determining the area of pesticide concern, restricted area, or prohibition area the Director shall implement Section 200 and may consider but not be limited to the following factors: (4-6-05)

- a. Pesticide detections from reliable ground water test samples; (4-6-05)
- b. Number and frequency of detections; (4-6-05)
- c. Statistical trends of detections; (4-6-05)
- d. Location of detections; (4-6-05)
- e. Hydrogeology of the aquifer; (4-6-05)
- f. Well depth and construction; (4-6-05)
- g. Aquifer vulnerability and susceptibility; (4-6-05)
- h. Pesticide physical and chemical characteristics; (4-6-05)
- i. Pesticide use; or (4-6-05)
- j. Other scientifically defensible information. (4-6-05)

02. Determining Boundaries. An area of pesticide concern, restricted area, or a prohibition area may encompass land areas which, in the Director's judgment, are susceptible to pesticide contamination of ground water based on the factors identified in Subsection 400.01. The boundaries of an area of pesticide concern, restricted area, or a prohibition area shall be sufficient to meet Section 200 requirements. The boundaries may include any of the following: (4-6-05)

- a. Mapped boundaries between soil types or other hydrogeologic features; (4-6-05)
- b. Ground water or surface water divides such as watershed boundaries; (4-6-05)
- c. Legal land description boundaries; (4-6-05)
- d. Public roads; or (4-6-05)
- e. Other recognizable boundaries. (4-6-05)

401. -- 409. (RESERVED)

410. REPEALING SPECIFIC PESTICIDE AREAS.

01. Repealing an Area of Pesticide Concern. The Director may repeal or reduce the size of an area of pesticide concern in response to pesticide contamination in ground water if all the conditions in Subsection 410.01 are met: (4-6-05)

a. Tests on at least three (3) consecutive ground water samples, drawn from each well site in the area of pesticide concern at which the concentration of a pesticide and its metabolites previously were found at twenty percent (20%) to fifty percent (50%) of the reference point, show that the concentration at the well sites has fallen to and remains less than twenty percent (20%) of the reference point. The three (3) consecutive samples shall be collected at each well site at intervals of at least six (6) months, with the first sample being collected at least six (6) months after the effective date of the area of pesticide concern designation. A monitoring well approved by the Director may be substituted for any well site which is no longer available for testing. (4-6-05)

b. Tests conducted at other well sites in the area of pesticide concern during the same retesting period, if any, reveal no other concentrations of the pesticide or its metabolites that exceed twenty percent (20%) of the reference point; and (4-6-05)

c. The Director determines, based on credible scientific evidence, that use of a pesticide product in the area of pesticide concern is not likely to cause a renewed detection between twenty percent (20%) to fifty percent (50%) of the reference point. (4-6-05)

02. Repealing an Area of Pesticide Restriction. The Director may repeal or reduce the size of an area of pesticide restriction in response to ground water pesticide contamination if all the conditions in Subsection 410.02 are met: (4-6-05)

a. Tests on at least three (3) consecutive ground water samples, drawn from each well site in the area of pesticide restriction at which the concentration of a pesticide and its metabolites previously were found at fifty percent (50%) to less than one hundred percent (100%) of the reference point, show that the concentration at the well sites has fallen to and remains less than fifty percent (50%) of the reference point. The three (3) consecutive samples shall be collected at each well site at intervals of at least six (6) months, with the first sample being collected at least six (6) months after the effective date of the area of the pesticide restriction designation. A monitoring well approved by the Director may be substituted for any well site which is no longer available for testing. As areas of pesticide restriction are repealed, the area automatically becomes an area of pesticide concern; (4-6-05)

b. Tests conducted at other well sites in the area of pesticide restriction during the same retesting period, if any, reveal no other concentrations of the pesticide or its metabolites that exceed fifty percent (50%) of the reference point; and (4-6-05)

c. The Director determines, based on credible scientific evidence, that use of a pesticide product in the area of pesticide restriction is not likely to cause a renewed exceedance of fifty percent (50%) of the reference point. (4-6-05)

03. Repealing an Area of Pesticide Use Prohibition. The Director may repeal or reduce the size of an area of pesticide use prohibition in response to ground water pesticide contamination if all the conditions in Subsection 410.03 are met: (4-6-05)

a. Tests on at least three (3) consecutive ground water samples, drawn from each well site in the prohibition area at which the concentration of a pesticide and its metabolites previously attained or exceeded the reference point, show that the concentration at that well site has fallen to and remains less than fifty percent (50%) of the reference point. The three (3) consecutive samples shall be collected at each well site at intervals of at least six (6) months, with the first sample being collected at least six (6) months after the effective date of the pesticide use prohibition designation. A monitoring well approved by the Director may be substituted for any well site which is no longer available for testing. As areas of pesticide prohibition are repealed, the area automatically becomes an area of pesticide concern; (4-6-05)

b. Tests conducted at other well sites in the area of pesticide prohibition during the same retesting period, if any, reveal no other concentrations of the pesticide and its metabolites that exceed fifty percent (50%) of the reference point; and (4-6-05)

c. The Director determines, based on credible scientific evidence, that renewed use of a pesticide product in the area of pesticide prohibition is not likely to cause a renewed violation of the reference point. (4-6-05)

411. -- 419. (RESERVED)

420. ADVISORY COMMITTEE.

When pesticide management practices are needed under Section 200, the Director's advisory committee, as established pursuant to Section 22-103, Idaho Code, shall provide appropriate guidance on this rule. This advisory committee shall include but is not limited to: applicators from the area of pesticide detection; pesticide, water user, and commodity groups; University of Idaho Extension staff and specialists; and staff from the USDA, NRCS, SCC, DEQ, and the Department. The duties of the advisory committee include but are not limited to the following: (4-6-05)

01. Review Existing Information. Review the existing information related to the area of pesticide detection and develop pesticide management practices options; (4-6-05)

02. Recommendations. Make recommendations to the Director for approval of pesticide management practices prior to implementation at the voluntary and regulatory levels; (4-6-05)

03. Research. Evaluate the potential for gaining government or private research or cost share funding; and (4-6-05)

04. Evaluate Effectiveness. Review information related to pesticide management practices effectiveness and make recommendations for changing and improving pesticide management practices. (4-6-05)

421. PESTICIDE USE AND RECORD KEEPING REQUIREMENTS.

Pursuant to Title 22, Chapter 34, Idaho Code, and IDAPA 02.03.03, "Rules Governing Pesticide and Chemigation Use and Application," the Director shall inspect pesticide records to meet the need as described in Section 200. (4-6-05)

~~422. -- 449. (RESERVED)~~

~~**450. RESEARCH.**~~

~~The Director shall authorize cooperative pesticide and ground water quality protection research programs with state agencies, university systems and associated agricultural experiment stations, federal agencies, and other appropriate organizations and persons. (4-6-05)~~

~~451. -- 459. (RESERVED)~~

~~**460. EDUCATIONAL PROGRAMS.**~~

~~The Department, in cooperation with the University of Idaho Extension Service, shall develop and conduct appropriate educational programs. (4-6-05)~~

~~461. -- 469. (RESERVED)~~

~~**470. EXEMPTIONS.**~~

~~Notwithstanding any provision of this chapter, the Director may authorize the use of a pesticide for bona fide research purposes. A person seeking a research exemption shall apply to the Director in writing. The application shall describe the proposed research, and the amounts and locations of proposed pesticide applications. The Director may require an applicant to file other information which the Director considers necessary for review of the application. (4-6-05)~~

~~471. -- 479. (RESERVED)~~

~~**480. PENALTIES.**~~

~~Any person who violates or fails to comply with any provision of these rules shall be subject to penalties listed under Section 22-3423, Idaho Code. (4-6-05)~~

~~481. -- 999. (RESERVED)~~

IDAPA 02 – DEPARTMENT OF AGRICULTURE

02.03.03 – IDAHO DEPARTMENT OF AGRICULTURE RULES GOVERNING PESTICIDE AND CHEMIGATION USE AND APPLICATION

DOCKET NO. 02-0303-1901 (FEE RULE)

NOTICE OF RULEMAKING – PROPOSED RULE

AUTHORITY: In compliance with Section 67-5220, Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 22-3421, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 18, 2019.

The hearing site 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 a nontechnical explanation of the substance and purpose of the proposed rulemaking:

This proposed rule adopts a previously approved and codified chapter under IDAPA 02, rules of the Idaho State Department of Agriculture. This rule regulates the use and application of pesticides, licensing of pesticide applicators, registration of pesticides, and responsibilities for chemigation in Idaho. This rule was reviewed for amendment or repeal of non-substantive sections to comply with the Red Tape Reduction Act.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased:

This proposed rule sets the following previously approved fees: Pesticide Registration (\$160 per product), Professional Applicator's License (\$120 for 14 months or more, \$60 for 13 months or less), Pesticide Dealer's License (\$100 for 14 months or more, \$50 for 13 months or less), Private Applicator's License (\$10 for Restricted Use, \$20 for Chemigation, \$30 for both), and Examination Fee per Category (\$10).

IDAHO CODE SECTION 22-101A(1) STATEMENT: This rule is either broader in scope, more stringent than federal regulation or regulates an activity not regulated by the federal government as shown in the following table:

| | |
|--------------|------------------|
| 02.03.03.050 | Broader in Scope |
| 02.03.03.100 | Broader in Scope |
| 02.03.03.101 | More Stringent |
| 02.03.03.102 | More Stringent |
| 02.03.03.150 | Broader in Scope |
| 02.03.03.200 | Broader in Scope |
| 02.03.03.250 | More Stringent |
| 02.03.03.300 | Not regulated |
| 02.03.03.310 | More Stringent |
| 02.03.03.320 | More Stringent |
| 02.03.03.321 | Not regulated |
| 02.03.03.323 | Broader in Scope |
| 02.03.03.324 | More Stringent |
| 02.03.03.400 | More Stringent |
| 02.03.03.450 | Broader in Scope |

| | |
|------------------|------------------|
| 02.03.03.500 | More stringent |
| 02.03.03.550 | More stringent |
| 02.03.03.600 | More stringent |
| 02.03.03.601 | More stringent |
| 02.03.03.800 | Broader in Scope |
| 02.03.03.850 | Not regulated |
| 02.03.03.961-971 | Broader in Scope |

For a more detailed analysis, please see Rulemaking Record for IDAPA 02-0303-1901.

IDAHO CODE SECTION 22-101A(4) STATEMENT: Idaho Code § 22-101A(4) requires that in proposing any rule necessary to protect human health and the environment, the Director shall include a summary of information in the rulemaking record by Idaho Code § 22-101A(3). This summary of Idaho Code § 22-101A(3) information is as follows:

IDAPA 02.03.03 governs the use and application of pesticides; licensing of pesticide applicators; chemigation and the registration of pesticides in Idaho. The general public, professional applicators, pesticide handlers, agricultural workers, people who live near agricultural land and consumers of agricultural commodities may be exposed to pesticides in a number of ways. Unintended pesticide exposure is associated with the upper, central and lower bound risks of pesticide use. The upper bound risk associated with pesticides is death from acute pesticide exposure; however, other central and lower bound risks include sickness in humans, contaminated soil, contaminated commodities or damage to water sources, among other things.

ISDA uses the best available, peer reviewed studies to support and implement IDAPA 02.02.03 including studies done by U.S. Environmental Protection Agency, and other professional, medical, and scientific journals. However, even with such data, uncertainties remain. Uncertainties include unreported amounts of pesticides used, unreported pesticide disposal, and unreported exposure rates.

To view ISDA's complete Idaho Code § 22-101A analysis and a comprehensive list of studies supporting and directly relevant to this Rule, please see the IDAPA 02.03.03 Rulemaking Record located at <https://agri.idaho.gov/main/i-need-to-see-lawsrules/rulemaking/isda-rulemaking-2019-2020/ag-resources-temporary-rulemaking-2019-2020/>.

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 resulting from this rulemaking:

The agency does not anticipate any fiscal impact as a result of this rulemaking.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because of the need to adopt the rules as temporary, and and re-authorized as previously promulgated and approved by the Legislature pursuant to the Idaho Administrative Procedures Act, Chapter 52, Title 67, Idaho Code; and because engaging in negotiated rulemaking for all previously existing rules would have inhibited the agency from executing its responsibilities to serve the citizens of Idaho and to protect their health, safety, and welfare.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, incorporated material may be obtained or electronically accessed as provided in the text of the proposed rule attached.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Vic Mason, Administrator – Division of Ag Resources at (208) 332-8628.

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 September 25, 2019.

DATED this 2nd day of August, 2019.

Brian Oakey
Deputy Director
Idaho Department of Agriculture
2270 Old Penitentiary Road
P.O. Box 7249
Boise, Idaho 83707
Phone: (208) 332-8550
Fax: (208) 334-2710

THE FOLLOWING IS THE PROPOSED RULE TEXT OF DOCKET NO. 02-0303-1901

Pursuant to Section 67-5221(1), Idaho Code, this docket is being published as a proposed rule.

This docket has been previously published as a temporary rule.

The original text of the temporary rule was published in the Idaho Administrative Bulletin,
Volume 19-7, July 3, 2019, pages 29 through 58.

**02.03.03 – ~~IDAHO DEPARTMENT OF AGRICULTURE~~ 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. (3-23-98)

001. TITLE AND SCOPE.

01. Title. The title of this chapter is IDAPA 02.03.03, "~~Idaho Department of Agriculture~~ Rules Governing Pesticide and Chemigation Use and Application." (4-5-00)()

02. Scope. This chapter ~~has the following scope: to~~ governs the use and application of pesticides; licensing of pesticide applicators; ~~and~~ registration of pesticides; ~~and responsibilities for chemigation for use in~~ Idaho; ~~registration and licensing requirements for use of the Livestock Protection Collar; testing and recertification of licensees; record keeping requirements; financial responsibilities; aerial applications of pesticides; wind restrictions; pesticide/fertilizer mix restrictions; experimental use permits; restrictions to protect pollinators; storage of pesticide containers; non-domestic pesticides; phenoxy herbicide restrictions; application of pesticides near hazard areas; microencapsulated methyl parathion restrictions; daminozide (Alar) restrictions; pesticide use on alfalfa, carrot, onion, radish, or clover seed; unusable pesticides collection and disposal; and to govern licensing and responsibilities for chemigation; signage for chemical usage; shut down requirements; pressure switch, chemical injection, metering pump, system interlock requirements, and wind speed precautions; irrigation system connections; flood, basin, furrow, border chemigation; sprinkler, drip chemigation; anti-pollution devices; irrigation line check valve model certification; use of Anhydrous Ammonia; and to include variances.~~ (4-5-00)()

002. WRITTEN INTERPRETATIONS.

There are no written interpretations of these rules. (3-20-97)

003. ADMINISTRATIVE APPEAL.

There is no provision for administrative appeal before the Idaho Department of Agriculture under this chapter.

Hearing and appeal rights are pursuant to Title 67, Chapter 52, Idaho Code.

(3-20-97)

0074. INCORPORATION BY REFERENCE.

01. Incorporated Document. IDAPA 02.03.03 incorporates by reference 40 CFR Part 165 Subpart E - Standards For Pesticide Containment Structures, Sections 165.80 through 165.97 as published in the Federal Register, Volume 71, Number 158, on August 16, 2006. (5-8-09)

~~**02. Availability of Documents.** Copies of these documents may be viewed at the Idaho State Department of Agriculture, 2270 Old Penitentiary Road, P.O. Box 7249, Boise, ID 83707 or through the U.S. Government Printing Office at <https://www.federalregister.gov/documents/2006/08/16/06-6856/pesticide-management-and-disposal-standards-for-pesticide-containers-and-containment>. (5-8-09)()~~

0065. ADDRESS, OFFICE HOURS, TELEPHONE, FAX NUMBERS, WEB ADDRESS.

The Idaho State Department of Agriculture central office is located at 2270 Old Penitentiary Road, Boise, ID 83712-8298. The office is open from 8 a.m. to 5 p.m., except Saturday, Sunday, and legal holidays. The mailing address is PO Box 7249, Boise, Idaho 83707. The phone number is (208) 332-8500 and the fax number is (208) 334-2170. The Department web address is <https://agri.idaho.gov/>. (3-30-01)

006. PUBLIC RECORDS ACT COMPLIANCE.

These rules are public records available for inspection and copying at the Department. ()

007. -- 009. (RESERVED)

00410. DEFINITIONS.

The Idaho Department of Agriculture adopts the definitions set forth in Section 22-3401, Idaho Code, and the following definitions: (3-20-97)

01. Air Gap. A physical separation between the free flowing discharge end of a domestic water supply system pipeline and an open or non-pressure receiving vessel. (4-5-00)

02. Basin Irrigation. Irrigation by flooding areas of level land surrounded by dikes. (4-5-00)

03. Border Irrigation. Irrigation by flooding strips of land, rectangular in shape and cross leveled, bordered by dikes. (4-5-00)

04. 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. (3-20-97)

05. Check Valve. A certified valve designed and constructed to close a water supply pipeline, chemical injection line, or other conduit in a chemigation system to prevent reverse flow in that line. (4-5-00)

06. Chemigator. Any person engaged in the application of chemicals through any type of irrigation system. (4-5-00)

07. Cross-Connection. Any connection that may have chemical injected or introduced into the domestic water supply system and has the potential of or is connected to the domestic water supply system. (4-5-00)

08. Demonstration and Research. The use of restricted use pesticides to demonstrate the action of the pesticide or conduct research. (3-20-97)

09. Domestic Water Supply System. Any system providing water for human use. (4-5-00)

10. Drip Irrigation. A method of microirrigation wherein water is applied as drops or small streams through emitters. (4-5-00)

11. **Flood Irrigation.** Method of irrigation where water is applied to the soil surface without flow controls, such as furrows, borders or corrugations. (4-5-00)
12. **Flow Rate.** The weight or volume of flowable material per unit of time. (4-5-00)
13. **Furrow Irrigation.** Method of surface irrigation where the water is supplied to small ditches or furrows for guiding the water across the field. (4-5-00)
14. **Hazard Area.** Cities, towns, subdivisions or densely populated areas. (3-20-97)
15. **High Volatile Esters.** Formulations of 2,4-D which contain methyl, ethyl, butyl, isopropyl, octylamyl and pentyl esters. (3-20-97)
16. **Injection Pump.** A pump that uses a gear, rotary, piston or diaphragm to develop the pressures exceeding the irrigation system pressure to inject a chemical. (4-5-00)
17. **Inspection Port.** An orifice or other viewing device from which the low pressure drain and check valve may be observed. (4-5-00)
18. **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 isoctyl esters. (3-20-97)
19. **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. (3-20-97)
20. **Pressure Switch.** A device which will stop the chemical injection pump when the water pressure decreases to the point where chemical distribution is adversely affected. (4-5-00)
21. **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. (3-20-97)
22. **Reduced Pressure Principle Backflow Prevention Assembly (RP).** An assembly containing two (2) independently acting approved check valves together with a hydraulically operating, mechanically independent pressure differential relief valve located between the check valves and at the same time below the first check valve. The unit shall include properly located resilient seated test cocks and tightly closing resilient seated test cocks and tightly closing resilient seated shutoff valves at each end of the assembly. (4-5-00)
23. **Seminar.** Any Department-approved meeting or activity convened for the purpose of presenting pesticide recertification information. (3-20-97)
24. **Sprinkler Irrigation.** Method of irrigation in which the water is sprayed, or sprinkled, through the air to the ground surface. (4-5-00)
25. **System Interlock.** Safety equipment used to ensure that a chemical injection pump will stop if the irrigation pumping plant stops to prevent the entire chemical mixture from emptying from the supply tank into the irrigation pipeline. The safety equipment may also be used to shut down the irrigation system if the injection system fails. (4-5-00)
26. **Vacuum Relief Valve.** A device to automatically relieve or break a vacuum. (4-5-00)
27. **Venturi.** A differential pressure injector that operates on a pressure difference between the inlet and outlet of the injector and creates a vacuum inside the body, which results in suction through the suction port. (4-5-00)
28. **Venturi Injection System.** A chemical injection system which operates with a Venturi using the suction from the Venturi that can be used to inject and mix chemicals into the water. (4-5-00)

29. **Working Pressure.** The internal operating pressure of a vessel, tank or piping used to hold or transport liquid. (4-5-00)

30. **Waters of the State.** Any surface waters such as canals, ditches, laterals, lakes, streams, or rivers. (4-5-00)

005. FINDINGS.

These rules are promulgated pursuant to Section 67-5226, Idaho Code, in compliance with the deadlines in the governing law, Title 22, Chapter 34, Idaho Code. The rule changes are necessitated by the passage of H.B. 99 in the 1999 legislative session combining the Idaho Pesticide and Chemigation Laws. These rules will combine IDAPA 02-03-03, "Idaho Department of Agriculture Rules Governing Pesticide Use and Application," and IDAPA 02-03-04, "Rules Governing Chemigation," and name the combined rule IDAPA 02-03-03, "Idaho Department of Agriculture Rules Governing Pesticide and Chemigation Use and Application." The existing Chemigation rules (IDAPA 02-03-04, "Rules Governing Chemigation") will be repealed in their entirety. In addition, the rule adds two (2) crops to the list of non-food crops; provides for consistent licensing by issuing two (2) year Pesticide Dealer licenses so all pesticide licenses will be effective for two (2) years; revises the aquatic weed applicator category to more accurately reflect activities in this licensing category; and the livestock protection collar rule changes are incorporated pursuant to SCR 115. (4-5-00)

~~008~~11. -- 049. (RESERVED)

050. PRIVATE APPLICATOR LICENSING.

01. **Applying for a Private Applicator's License.** ~~Applicants who wish to~~To obtain a private applicator's license ~~shall:~~ (4-4-13)()

a. Fill out an application prescribed by the Department; and (4-4-13)

b. Take an examination based on the Environmental Protection Agency (EPA) core manual and score a minimum of seventy percent (70%). For the purpose of becoming licensed, examination scores ~~shall be~~ **are** valid for twelve (12) months from the date of the examination. The examination procedure ~~shall be~~ **is** the same as for professional applicators (Subsection 100.03), except private applicators ~~shall~~ **are** not ~~be~~ assessed an examination fee. (3-20-14)()

02. **License Categories.** (4-4-13)

a. Private applicators shall be **are** certified and licensed in one (1) or more of the following categories: (4-4-13)()

i. Restricted Use Pesticide (RU). For persons who use or supervise the use of restricted use pesticides to produce agricultural commodities or forest crops on land they or their employer(s) own(s) or operate(s). (3-20-97)

ii. Chemigation (CH). For persons who apply chemicals through irrigation systems on land they or their employer(s) own(s) or operate(s). (3-20-97)

iii. Soil Fumigation (SF). For persons who apply soil fumigants on land they or their employer(s) own(s) or operate(s). In order to be certified and licensed in this category, private applicators must pass both the RU examination and the SF examination. (4-4-13)

b. Non-reading applicators may be certified to purchase and apply a single restricted use pesticide when they have demonstrated their competence in the safe and proper use of such pesticide to the Director or other designated agent. (3-20-97)

03. **License Recertification.** ~~In order for a private applicator's license to be renewed, the license holder must complete the recertification provisions of this section. Beginning July 1, 1996, licenses belonging to private applicators with last names beginning with A through L, inclusive, shall expire on the last day of the month~~

~~listed on the chart in Subsection 050.03.a. in every odd-numbered year, and licenses belonging to private applicators with last names beginning with M through Z, inclusive, shall expire on the last day of the month listed on the chart in Subsection 050.03.a. in every even-numbered year.~~ The recertification period shall be concurrent with the licensing period. ~~Those persons who are currently licensed as a private applicator or chemigator on June 30, 1996, shall be reissued a private applicator license with the appropriate categories. Those persons who are currently licensed as a private applicator or chemigator on June 30, 1996, shall be grandfathered into the licensing schedule at Subsection 050.03.a.~~ Any person with less than thirteen (13) months in the initial licensing period ~~shall is not be~~ required to obtain recertification credits for the initial period. Upon issuance of the replacement license, the previous license ~~shall be is~~ null and void. ~~Any private applicator license without an expiration date shall be null and void on December 31, 1996.~~ Recertification and relicensing may be accomplished by complying with either Subsection 050.03.~~ba.~~ or 050.03.~~ec.~~ ~~(4-4-13)~~()

~~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 |

~~(3-20-97)~~

~~ba.~~ A person ~~shall~~ accumulates recertification credits by attending Department-accredited pesticide instruction seminars. ~~(3-20-97)~~()

i. A minimum of six (6) credits shall be earned during each recertification period. (3-23-98)

ii. Guidelines for obtaining recertification credits ~~shall be the same as for professional applicators, as are~~ described in Subsections 100.04.a.ii. through 100.04.a.v. Any credits accumulated beyond the required six (6) in a recertification period may not be carried over to the next recertification period. ~~(3-23-98)~~()

iii. Upon earning the recertification credits ~~as described above~~, a person ~~shall be considered by the Department to be recertified and is~~ eligible for license renewal for the next licensing period, provided that the license renewal application is submitted within twelve (12) months from the expiration date of the license. ~~(3-20-14)~~()

~~eb.~~ A person ~~shall~~ passes the Department’s private applicator recertification examination(s) for all categories in which the person intends to license with a minimum score of seventy percent (70%). ~~(3-20-97)~~()

i. Recertification examinations may be taken by a person beginning the thirteenth (13th) month of the license period. (3-20-97)

ii. The examination procedures as outlined in Subsection 100.03 shall be followed, except that ~~an~~ examination fees ~~shall are~~ not ~~be~~ assessed. ~~(3-20-97)~~()

iii. Upon passing the recertification examinations, a person ~~shall be considered by the Department to be recertified and is~~ eligible for license renewal for the next licensing period. For the purpose of becoming licensed, recertification examination scores ~~shall be are~~ valid for twelve (12) months from the date of the examination. ~~(3-20-14)~~()

051. -- 099. (RESERVED)

100. LICENSING PROFESSIONAL APPLICATORS AND PESTICIDE DEALERS.

01. Demonstration of Competence. (3-20-97)

a. Professional applicators ~~shall not~~ may only recommend the application or make ~~any~~ pesticide applications ~~of any pesticide~~ for any purpose, ~~unless for which~~ they have demonstrated competence. ~~for that purpose, which competence must be is~~ demonstrated by passing Department examinations and becoming licensed in the ~~appropriate categories listed in~~ Subsection 100.02 categories. (3-20-97)()

- b. An applicant shall demonstrate competency in the following areas: (3-20-97)
 - i. Labels and labeling, including terminology, instructions, format, warnings and symbols. (3-20-97)
 - ii. Safety factors and procedures, including protective clothing and equipment, first aid, toxicity, symptoms of poisoning, storage, handling, transportation and disposal. (3-20-97)
 - iii. Laws, rules, and regulations governing pesticides. (3-20-97)
 - iv. Environmental considerations, including the effect of climate and physical or geographical factors on pesticides, and the effects of pesticides on the environment, and the animals and plants living in it. (3-20-97)
 - v. Mixing and loading, including interpretation of labels, safety precautions, compatibility of mixtures, and protection of the environment. (3-20-97)
 - vi. Methods of use or application, including types of equipment, calibration, application techniques, and prevention of drift and other types of pesticide migration. (3-20-97)
 - vii. Pests to be controlled, including identification, damage characteristics, biology and habitat. (3-20-97)
 - viii. Types of pesticides, including formulations, mode of action, toxicity, persistence, and hazards of use. (3-20-97)
 - ix. Chemigation practices involving the application of chemicals through irrigation systems, calibration, management, and equipment requirements. (4-5-00)
 - x. For use of the Livestock Protection Collar (LPC), in addition to the requirements of Subsection 100.01.b.i. through 100.01.b.viii., professional applicators shall have training in and knowledge of the following: (3-19-99)
 - (1) Characteristics and habits of predatory animals, and particularly, coyotes. (3-19-99)
 - (2) Properties of the collars and of Sodium Fluoroacetate (Compound 1080). (3-19-99)
 - (3) Recordkeeping requirements set forth in Subsection 150.01 that will additionally include a record of each animal found poisoned or suspected of having been poisoned as a result of the use of Compound 1080, including target and non-target species. (3-19-99)
 - (4) The requirement for immediate reporting of suspected poisonings of non-target species and suspected poisonings of humans or domestic animals by the use of Compound 1080 to the United States Environmental Protection Agency (US EPA) and the Idaho State Department of Agriculture (ISDA). (3-19-99)
 - (5) How to properly dispose of animal remains, vegetation, or soil contaminated by a punctured LPC. (3-19-99)
 - (6) Practical treatment of Compound 1080 poisonings in humans and domestic animals. (3-19-99)
 - (7) Safe handling, attachment, and storage of LPC collars. (3-19-99)
 - (8) The requirement to post and maintain bilingual (English/Spanish or other second language

appropriate for the region) signs at logical points of access to areas where LPCs are in use. (3-19-99)

(9) The requirement to perform inspections once every week to ensure that collars in use are accounted for, property positioned, and intact. (3-19-99)

(10) Knowledge of alternative controls of predation. (4-5-00)

xi. For use of the LPC, in addition to the requirements of Subsections 100.01.b.i. through 100.01.b.x., professional applicators shall have training in and the ability to: (3-19-99)

(1) Recognize potential hazards to humans, domestic animals, and non-target wildlife from the use of the LPC. (3-19-99)

(2) Read and understand the labeling specific to the LPC. (3-19-99)

(3) Recognize general symptoms of poisoning by Compound 1080 in humans and domestic animals and take appropriate action. (3-19-99)

(4) Recognize where the LPC can be used safely and effectively and, conversely, where alternative methods of control would be more appropriate. (3-19-99)

(5) Assess damaged LPCs to determine which can be repaired and which must be disposed of properly. (3-19-99)

(6) Properly dispose of the LPCs. (3-19-99)

02. Certification. A person ~~shall be~~ **is** certified by passing Department examinations with a minimum of seventy percent (70%) in the applicable pesticide categories. For the purpose of becoming licensed, examination scores ~~shall be~~ **are** valid for twelve (12) months from the date of the examination. (~~3-20-14~~)()

a. Professional applicators shall be certified and licensed in one (1) or more of the following categories: (3-20-97)

i. Law and Safety (LS). This ~~shall~~ **includes** general knowledge of pesticides including proper use and disposal, product characteristics, first aid, labeling, and laws. Certification in this category is required when certifying in Subsections 100.02.a.ii. through 100.02.a.ix. (~~3-20-97~~)()

ii. Agriculture. For persons conducting field crop applications. Agriculture Herbicide (AH). Certification in this category ~~shall~~ **also certifies** a person to make herbicide applications in rights-of-way, forests, and rangelands. Agriculture Insecticide/Fungicide (AI). Certification in this category ~~shall~~ **also certifies** a person to make insecticide/fungicide applications in rights-of-way, forests, and rangelands. Soil Fumigation (SF). (~~4-5-00~~)()

iii. Forest Environment (FE). For U.S. Forest Service and Bureau of Land Management personnel, contractors, and private industry personnel who control pests in forests and on rangelands. (3-20-97)

iv. Right-of-Way Herbicide (RW). For railroads, highway departments and others, for roadside weed control, soil sterilant herbicides, and weed control on public lands (non-crop). Certification in the Agricultural Herbicide category ~~shall~~ **exempts** the applicant from the need to certify in this category. (~~3-20-97~~)()

v. Public Health Pest (PH). For abatement districts and others controlling mosquitoes and other public health pests. (3-20-97)

vi. Livestock Pest Control (LP). For persons treating livestock pests. (3-20-97)

vii. Ornamental Herbicide (OH). For persons conducting outside urban or residential herbicide applications, with the exception of soil sterilant applications (see Subsection 100.02.a.iv.). Ornamental Insecticide/

Fungicide (OI). For persons doing outside urban or residential insecticide and fungicide applications, including exterior applications to residential, urban or commercial buildings, excluding structural destroying pests (see Subsection 100.02.a.ix.). (4-5-00)

viii. General Pest Control Operations (GP). For persons controlling pests in and around residential, commercial, or other buildings, excluding structural destroying pests. (3-20-97)

ix. Structural Destroying Pest (SP). For persons involved in the control of pests which destroy wooden structures, such as bridges, houses, offices, and warehouses. (3-20-97)

x. General Vertebrate Control (GV). For Wildlife Services (WS) personnel of the United States Department of Agriculture-Animal and Plant Health Inspection Service, for controlling vertebrates such as rodents, predators, and birds. (4-5-00)

xi. Rodent Control (RC). For rodent districts and others, for the control of field rodents. Certification in the General Pest Control category shall exempt the applicant from the need to certify in this category. (3-20-97)

xii. Aquatic Weed and Pest Control (AW). For irrigation districts, canal companies and others, for weed and pest control on aquatic sites. (4-5-00)

xiii. Seed Treatment (ST). For persons doing treatments to protect seeds used for plant reproduction. (3-20-97)

xiv. Commodity Pest Control (CP). For persons controlling pests in stored commodities. (3-20-97)

xv. Potato Cellar Pest Control (PC). For persons who apply sprout inhibitors in potato cellars. (3-20-97)

xvi. Wood Preservative (WP). For persons who apply wood preservatives. (3-20-97)

xvii. Pest Control Consultant-Statewide (SW). For persons who make recommendations or supply technical advice concerning the use of any pesticide for agricultural purposes. (3-20-97)

xviii. Demonstration and Research (DR). For persons who apply or supervise the use of restricted use pesticides at no charge to demonstrate the action of the pesticide or conduct research with restricted use pesticides. A person ~~shall be~~ is eligible to license in this category by passing the Pest Control Consultant examination. ~~(3-20-97)~~()

xix. Chemigation (CH). For persons who apply chemicals through an irrigation system, excluding Aquatic Weed and Pest Control applicators (see Subsection 100.02.xii.). (4-5-00)

xx. Livestock Protection Collars (LPC). For use of Livestock Protection Collars (LPC) containing the restricted use pesticide Compound 1080 to control predatory coyotes. (3-19-99)

b. Pesticide Dealers ~~shall be~~ are certified and licensed in any category listed in Subsection 100.02 that pertains to the types of restricted use pesticides sold or distributed. ~~(3-23-98)~~()

c. ~~Persons with an active license category on June 30, 1996, shall retain said category under the rules which became effective on July 1, 1996, until the expiration of the certification period or suspension of the license by the Department.~~ ~~(3-23-98)~~

~~d. Mixer-Loaders. Effective December 31, 1998, mixer-loader licenses issued by the Department shall expire.~~ No person shall act as a mixer-loader for a professional applicator without first obtaining annual training. ~~(3-23-98)~~()

i. Training ~~shall~~ will be conducted and certified by the professional applicator who employs the mixer-loader. Certification of training shall be on a form prescribed by the Department and must include the

signatures of both the mixer-loader and the professional applicator providing the training. (3-23-98)()

ii. Training ~~shall~~ includes areas relevant to the pesticide mixing and loading operation and instruction on the interpretation of pesticide labels, safety precautions, first aid, compatibility of mixtures, and protection of the environment. (3-23-98)()

~~iii. Employers of mixer-loaders shall comply with federal and state laws related to hazardous occupations and shall provide and ensure the use of personal protective equipment required in the label directions. (3-23-98)~~

03. Department Examination Procedures. (3-20-97)

a. Examinations ~~shall be~~ are administered by a designated agent. (3-20-97)()

b. ~~To pass a Department examination,~~ Professional applicators and pesticide dealers ~~shall pass a Department examination by~~ obtaining a score of seventy percent (70%) or higher. (3-23-98)()

c. Payment of examination fees shall be received by the Idaho Department of Agriculture before examination results may be released. (3-20-97)

d. A minimum waiting period of one (1) week ~~shall be~~ is required before an applicant may retake an examination. (4-6-05)()

04. Licensing Periods and Recertification. ~~Beginning August 31, 2000, Pesticide Dealer licenses shall expire on August 31, of even numbered years and have a twenty four (24) month duration. A Pesticide Dealer License application form shall accompany each new license or license renewal request. Professional applicator licenses shall be renewed by satisfying the recertification provisions of this section. Licenses belonging to professional applicators with last names beginning with A through L, inclusive, shall expire on the last day of the year in every odd numbered year, and licenses belonging to professional applicators with last names beginning with M through Z, inclusive, shall expire on the last day of the year in every even numbered year.~~ Any professional applicator with less than thirteen (13) months in the licensing period ~~shall~~ is not ~~be~~ required to obtain recertification credits during the initial licensing period. The recertification period for professional applicators shall be concurrent with their two (2) year licensing period. Recertification requirements may be accomplished by complying with either Subsection 100.04.a. or 100.04.b. (4-5-00)()

a. A person ~~shall~~ accumulates recertification credits by attending Department-accredited pesticide instruction seminars. (3-20-97)()

i. ~~A minimum of fifteen (15) credits shall be earned by a~~ Professional applicators ~~have a fifteen (15) credit minimum for~~ during each recertification period. (3-23-98)()

ii. A completed written request for accreditation of a seminar shall be received by the Department not less than thirty (30) days prior to the scheduled seminar. ~~Such a request shall be~~ submitted on a form prescribed by the Department. Under exceptional circumstances, as described in writing by the person requesting accreditation, the thirty (30) day requirement may be waived. (3-20-97)()

iii. Credit ~~will be~~ is given only for those parts of seminars that deal with pesticide subjects as listed in Subsection 100.01.b. No credit will be given for training given to persons to prepare them for initial certification. (3-20-97)()

iv. The number of credits assigned in advance for a seminar, or a part of a seminar, ~~shall be~~ is tentative, and may be revised by the Department if it is later found that the training does not comply with Subsection 100.04.a.iii. (3-20-97)()

v. ~~Effective July 1, 1998, a~~ recertification credit ~~shall be~~ is based upon one (1) credit for each one (1) hour of instruction, as described in Subsection 100.04.a.iii. ~~Should an applicator's recertification period include credits earned prior to July 1, 1998, those credits based on one hundred fifty (150) minutes of instruction shall be~~

~~converted to three (3) credits for recertification purposes.~~

~~(3-23-98)()~~

vi. Verification of attendance at a seminar ~~shall be~~ **is** accomplished by validating the attendee's pesticide license, using a stamp, sticker, or other method approved by the Department. A designated agent ~~shall~~ **must** ensure that such attendance records are properly completed. Verification of attendance must be submitted with the license renewal application. ~~(3-20-97)()~~

vii. If a person has accumulated more than fifteen (15) credits during the recertification period, the excess credits may not be carried over to the next recertification period. (3-23-98)

viii. Upon earning the recertification credits as described above, a person ~~shall be considered by the Department to be~~ **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. ~~(3-20-14)()~~

b. A person shall pass the Department's recertification examinations for all categories in which a person intends to license. (3-20-97)

i. Recertification examinations may be taken by a professional applicator beginning the thirteenth month of the recertification period. (3-23-98)

ii. The examination procedures as outlined in Subsection 100.03 shall be followed. (3-23-98)

iii. In addition to examinations for categories listed under Subsections 100.02.a.ii. through 100.02.a.ix., a person must also pass a Law and Safety recertification examination. (3-23-98)

iv. Recertification shall not be achieved by passing an entry-level examination. (3-20-97)

v. Upon passing the recertification examination(s), a person ~~shall be~~ **is** considered by the Department to be recertified for the next recertification period. ~~(3-20-97)()~~

c. Any person who fails to accumulate the required recertification credits prior to the expiration date of their license shall be required to pass the appropriate recertification examination(s) before being licensed. (3-20-97)

05. Licensed Professional Applicator. Only a licensed professional applicator shall operate or supervise the operation of commercial application equipment by being present during the time of operation. 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. (3-29-12)

~~**06. Interim Exemption from Pesticide Dealer Licensing and Recordkeeping.** Until such time as the director promulgates specific rules pertaining to distribution of general use pesticides (GUPs), persons selling only GUPs shall not be required to obtain a pesticide dealer license or maintain distribution records of these products. (3-30-01)~~

101. REGISTRATION AND LICENSING REQUIREMENTS FOR USE OF THE LPC.

01. Registration. Use restricted to United States Department of Agriculture, Animal and Plant Health Inspection Service, wildlife services (USDA, APHIS, WS) employees, licensing, and recordkeeping requirements for the LPC. (3-19-99)

a. Only the USDA, APHIS, WS ~~shall~~ **can** register the LPC. USDA, APHIS, WS ~~shall~~ **is** hereinafter ~~be~~ known as the registrant for the purpose of these rules. ~~(3-19-99)()~~

b. The LPC shall be transferred only by the registrant and only to professional applicators who are certified in the LC category and who are current employees of USDA, APHIS, WS. (3-19-99)

c. The LPC ~~shall be~~ **is** used only by professional applicators with certification in the LC category who are current employees of the USDA, APHIS, WS. (3-19-99)()

d. Before obtaining certification and licensing, LC applicants shall receive training and demonstrate competency in the areas listed in Subsection 100.01.b.x. and 100.01.b.xi. of these rules and satisfy Section 22-3404, Idaho Code. (3-19-99)

e. Only the manufacturer or registrant is authorized to fill collars with Compound 1080. Certified professional applicators or any other person shall not fill collars or remove the pesticide from the collars. (4-5-00)

02. Use of the LPC (Compound 1080). (3-19-99)

~~a. Use of collars shall conform to all applicable federal and state regulations.~~ (3-19-99)

~~ba. Collars shall be used to take c~~Coyotes **may be taken by collar** only. (3-19-99)()

~~eb.~~ Warning signs shall be posted at all usual points of entry to the area, including any access roads, or footpath or other walking route that enters the area. When there are no usual points of entry, signs shall be posted in the corners of the area or in any other location affording maximum visibility. (3-19-99)

i. The signs shall remain visible and legible throughout the collar use. (3-19-99)

ii. All warning signs shall be posted and inspected once a week by the certified Wildlife Services employee to ensure their continued presence and legibility, and will be removed when all collars are removed and accounted for. (3-19-99)

iii. Warning signs shall be at least fourteen (14) inches by sixteen (16) inches with letters at least one (1) inch in height. (3-19-99)

iv. All warning signs shall have a background color that contrasts with red **and feature clearly legible wording**. The words “DANGER” and “PELIGRO,” plus “PESTICIDES” and “PESTICIDAS,” shall be at the top of the sign, and the words “KEEP OUT” and “NO ENTRE” shall be at the bottom of the sign. ~~Letters for all words shall be clearly legible.~~ A circle containing an upraised hand on the left and a stern face on the right shall be near the center of the sign. The inside of the circle shall be red, except that the hand and a large portion of the face shall be in a shade that contrasts with red. The length of the hand shall be at least twice the height of the smallest letters. The length of the face shall be only slightly smaller than the hand. (3-19-99)()

v. The name of the pesticide (Compound 1080) and the date collars were placed on the sheep or goats shall appear on the warning sign. (4-5-00)

~~dc.~~ If a collar is found to have been punctured by a predator attacking a collared animal, **an complete and intensive search shall be conducted for the predator that punctured the collar.** (3-19-99)()

i. Disposal of punctured or unserviceable collars and contaminated gloves, clothing, vegetation or soil shall be as prescribed by the 1080 LPC label and technical bulletin or through the ISDA pesticide disposal program. Disposal of animal remains shall be in accordance with label directions. (4-5-00)

~~ed.~~ Prior to any intended use or application of the LPCs, the professional applicator **shall is to** submit to ISDA a written notice of intended use, ~~as prescribed by the ISDA. The notice shall contain~~ **ing the following:** (3-19-99)()

i. The professional applicator’s license number issued by the ISDA; (3-19-99)

ii. A list of the names and addresses of the owners or persons in charge of the areas to be treated and a map of the geographic location of such areas; (3-19-99)

- iii. The approximate size of the area where treatment will take place; (3-19-99)
- iv. The intended period of use; and (3-19-99)
- v. The number of collars to be used. (3-19-99)
- fe.** USDA, APHIS, WS shall accurately keep and maintain the following records and reports:(3-19-99)
 - i. Records of all collars distributed; (3-19-99)
 - ii. The name and address of each professional applicator receiving the collars; and (3-19-99)
 - iii. The dates and the number of collars received by each professional applicator. (3-19-99)
 - iv. These records shall be maintained by USDA, APHIS, WS for a period of three (3) years and ~~shall~~ *be* made available to the ISDA for inspection, duplication, and verification upon request by the ISDA. ~~(3-19-99)~~()
- gf.** The professional applicator shall accurately keep and maintain the following records and reports: (3-19-99)
 - i. Any suspected poisoning of humans, threatened or endangered species, domestic animals, or non-target wild animals shall be reported within seventy-two (72) hours or less to the ISDA and US EPA; (3-19-99)
 - ii. The name and address of the person on whose property the LPC was used or, if different from the property owner, the same information for the person in charge of the area where the collars will be used; (3-19-99)
 - iii. A map of the geographic location and size of the area in which the LPCs were used; (3-19-99)
 - iv. A summary report of the date each individual collar was obtained by the professional applicator, placed on sheep, punctured or ruptured (along with apparent cause), lost or unrecovered, or removed and put in storage, or disposed of through the ISDA Pesticide Disposal Program; (3-19-99)
 - v. The species, date, and location of each animal found poisoned or suspected of having been poisoned as a result of the use of Compound 1080 in LPCs; (3-19-99)
 - vi. The dates and results of each collar inspection; and (3-19-99)
 - vii. A written description of any complete and intensive search for missing collars or poisoned animals conducted as specified in these rules. (3-19-99)
 - viii. The records required by this rule shall be maintained by the professional applicator for a period of three (3) years and ~~shall be~~ made available to the ISDA for inspection, duplication and verification upon request of the ISDA. ~~(3-19-99)~~()
 - ix. A report of the records required by Subsection 101.02.g. shall be submitted to the ISDA as an annual summary report. (4-5-00)
- hg.** Collars ~~shall~~ *may* be used only upon sheep or goats within fenced pastures no larger than two thousand five hundred sixty (2,560) acres (four (4) square miles). Fenced pastures include all pastures that are enclosed by livestock fencing. In addition to wire livestock fences, and other man-made fences, such as rock walls, natural barriers such as escarpments, lakes, or large rivers may be used as fences, as long as they will prevent escape of sheep or goats. Fenced pastures and fences as herein defined ~~shall be~~ *are* referred to elsewhere in this section as “area.” Collars shall not be used on unfenced, open range. ~~(4-5-00)~~()
- ih.** All appropriate alternative control methods must be considered before implementing use of the LPC. (4-5-00)

~~j.~~ Each collar in use shall be inspected by the professional applicator once a week to ensure that it is properly positioned and unbroken. An inspection report on a form prescribed by the director shall be forwarded to ISDA following the conclusion of the project. (4-5-00)

i. If any collared animal is not accounted for in any two (2) consecutive checks, a complete ~~and intensive~~ search for the collared animal shall be conducted. (4-5-00)()

ii. If more than four (4) LPCs are unaccounted for during any thirty (30) day period, WS employees shall remove all LPCs from all animals and terminate their use. Use of collars shall not be resumed until WS employees have provided ISDA with a written protocol defining adequate steps they shall take to prevent any losses of LPCs. (4-5-00)

~~k.~~ Intact LPCs containing Compound 1080 shall be stored by USDA, APHIS, WS under lock and key in a dry place away from food, feed, domestic animals and corrosive chemicals, and in outbuildings or in outdoor storage areas attached to, but separate from, human living quarters. (4-5-00)

~~102. RESTRICTIONS AND PENALTIES.~~

~~Any person who violated or fails to comply with any provision of these rules, or Title 22, Chapter 34, Idaho Code, shall be subject to one (1) or more of the following actions. (3-19-99)~~

~~01. **Revocation, Suspension or Denial to Issue or Renew.** Revocation, suspension, or denial to issue or renew the license or certification of an applicant, licensee, or certificate holder in accordance with Title 22, Chapter 34, Idaho Code, Section 22-3409, Idaho Code. (3-19-99)~~

~~02. **Amendment, Suspension, or Revocation of the LPC Registration.** Amendment, suspension, or revocation of the LPC registration in accordance with Title 22, Chapter 34, Idaho Code, Section 22-3408. (3-19-99)~~

~~03. **Imposition of Civil Penalty.** Imposition of a civil penalty, in accordance with Title 22, Chapter 34, Idaho Code, Section 22-3423, Idaho Code. (3-19-99)~~

~~04. **Initiation or Pursuit of Any Other Action.** Initiation or pursuit of any other action of an enforcement nature available through Title 22, Chapter 34, Idaho Code. (3-19-99)~~

~~103.~~ -- 149. (RESERVED)

150. RECORDS REQUIREMENTS.

01. Applicator Records. Professional applicators shall maintain pesticide application records for three (3) years, ready to be inspected, duplicated, or submitted when requested by the Director. The records shall be maintained in a location designated by the professional applicator. (4-5-00)

02. Record Contents. Such records shall contain: (3-20-97)

a. The name and address of the owner or operator of each property treated; and (3-20-97)

b. The specific crop, animal, or property treated; and (3-20-97)

c. The location by the address, general legal description (township, range, and section) or latitude/longitude of the specific crop, animal, or property treated; and (3-23-98)

d. The size or amount of specific crop, animal, or property treated; and (3-23-98)

e. The trade name or brand name of the pesticide applied; and (3-23-98)

f. The total amount of pesticide applied; and (3-23-98)

- g.** The dilution applied or rate of application; and (3-23-98)
 - h.** The EPA registration number of the pesticide applied; and (3-23-98)
 - i.** The date of application; and (3-20-97)
 - j.** The time of day when the pesticide is applied; and (3-20-97)
 - k.** The approximate wind velocity; and (3-20-97)
 - l.** The approximate wind direction; and (3-23-98)
 - m.** The full name of the person recommending the pesticide application; and (3-23-98)
 - n.** The full name of the professional applicator applying the pesticide; and (3-23-98)
 - o.** The license number of the professional applicator applying the pesticide; and (3-23-98)
 - p.** Worker protection information exchange, if required by the worker protection standard, prior to pesticide application, shall be documented by: (3-30-01)
 - i.** Date of contact; and (3-23-98)
 - ii.** Time of contact; and (3-23-98)
 - iii.** Name of grower or operator contacted. (3-23-98)
- 03. Pesticide Dealer Records.** Pesticide dealers shall maintain restricted use pesticide distribution records for three (3) years, ready to be inspected, duplicated, or submitted when requested by the Director. The records shall be maintained in a location designated by the pesticide dealer. (3-30-01)
- 04. Record Contents.** Such records shall contain: (3-30-01)
- a.** The name and address of the person purchasing or receiving the restricted use pesticide (RUP); and (3-30-01)
 - b.** The certified applicator name, license number, and expiration date of the license for the person certified to use the RUP; or (3-30-01)
 - 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. (3-30-01)
 - d.** The brand name and Environmental Protection Agency (EPA) Registration Number for each RUP distributed; and (3-30-01)
 - e.** Date of the distribution of each RUP; and (3-30-01)
 - f.** The quantity and size of each RUP container distributed and the total quantity of RUP distributed; and (3-30-01)
 - g.** The pesticide dealer's name, address, and pesticide dealer license number distributing the RUP. (3-30-01)

151. -- 199. (RESERVED)

200. FEES.

- 01. Pesticide Registration.** ~~On and after July 1, 2006, o~~ne hundred sixty dollars (\$160) per product. ~~(3-30-06)~~()
- 02. Professional Applicator's License.** ~~On and after July 1, 1996, o~~ne hundred twenty dollars (\$120) per licensing period of fourteen (14) months or more, sixty dollars (\$60) per licensing period of thirteen (13) months or less. (3-20-97)
- 03. Pesticide Dealer's License.** ~~Beginning August 31, 2000, o~~ne hundred dollars (\$100) per licensing period of fourteen (14) months or more, fifty dollars (\$50) per licensing period of thirteen (13) months or less. ~~Prior to August 31, 2000, fifty dollars (\$50) for an annual license or partial year if the license is issued after August 31, 1999.~~ (4-5-00)()
- 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. (3-20-97)
- 05. Examination Fee per Examination Category.** Ten dollars (\$10). (3-20-97)
- 201. -- 249. (RESERVED)**
- 250. FINANCIAL RESPONSIBILITY.**
- 01. Proof of Financial Ability.** A professional applicator's license will not be issued by the Department until an applicant submits written proof of financial responsibility by any of the following methods: (3-20-97)
- a.** Liability insurance with an insurance company licensed to do business in Idaho and documented on a form approved by the Director; or (3-23-98)
 - b.** A bond that is approved by the Director; or (3-20-97)
 - c.** A cash certificate of deposit in escrow with a bank or trust company; or (3-20-97)
 - d.** An annuity; or (3-20-97)
 - e.** An irrevocable letter of credit. (3-20-97)
 - f.** Any certificate of deposit, annuity, or irrevocable letter of credit must be payable to the Director as trustee and shall 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 250.02, 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. (3-20-97)
 - g.** Under the provisions of this chapter, an irrevocable letter of credit shall not be acceptable unless it is issued by a national bank in Idaho or by an Idaho state-chartered bank insured by the federal deposit insurance corporation. Under the provisions of this chapter, an annuity shall not be accepted by the Department unless it is issued by an insurance company, bank or other financial institution found acceptable by the Director. (3-20-97)
 - h.** 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. (3-19-99)
- 02. Minimum Coverage Required.** (3-20-97)
- a.** Professional applicators. (3-20-97)
 - i.** Bodily injury - fifty thousand dollars (\$50,000) per person/one hundred thousand dollars (\$100,000) per occurrence. (3-23-98)

- ii. Property damage - fifty thousand dollars (\$50,000) per occurrence. (3-23-98)
- iii. Maximum deductible - five thousand dollars (\$5,000). (3-23-98)
- iv. All new professional applicator licenses issued on or after September 1, 1997, shall require financial responsibility at or exceeding the coverage limits as specified in Subsections 250.02.a.i. and 250.02.a.ii. (3-23-98)
- v. In order to maintain an existing professional applicator license the coverage limits specified in Subsections 250.02.a.i. and 250.02.a.ii. shall be met or exceeded on or before December 31, 1998. (3-23-98)

03. Target Property Not Required to Be Covered. The immediate property being treated is not required to be covered as prescribed in Subsection 250.02.a.ii. (3-19-99)

04. Cancellation or Reduction. The Department shall be notified by the applicator in writing immediately after cancellation or reduction of the financial coverage. (3-23-98)

05. Coverage Waived. Coverage waivers which have been issued prior to September 1, 1997, shall remain in effect until the first license expiration date subsequent to September 1, 1997. (3-23-98)

251. -- 299. (RESERVED)

300. 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. (3-20-97)

301. -- 309. (RESERVED)

310. LOW-FLYING PROHIBITIONS.

01. Low-Flying Prohibitions. Aircraft pilots during spray operations are prohibited from turning or low-flying: (3-20-97)

a. Over cities, towns, schools, hospitals and densely populated areas unless the pilot obtains an agreement in writing for pesticide applications from the authorized agent for the city, town, school, hospital, or densely populated area in question; or (3-23-98)

b. Directly over an occupied structure without prior notification by some effective means such as daily newspapers, radio, television, telephone, or door-to-door notice. (3-23-98)

02. Restriction. The low-flying restrictions listed in Subsection 310.01 shall only pertain to persons other than those persons whose property is to be treated. (3-20-97)

311. -- 319. (RESERVED)

320. WIND VELOCITY RESTRICTIONS.

01. Restrictions. No person shall apply any pesticide in sustained wind conditions exceeding ten (10) miles per hour or in wind conditions exceeding product label directions, except as provided in Subsection 320.04. (4-5-00)

02. Exceptions. Application of pesticides by injection into application site or by impregnated granules shall be made according to label directions. (3-23-98)

03. 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. (3-23-98)

04. Chemigation Wind Speed Precautions. Chemicals shall not be applied when wind speed favors drift beyond the area intended for treatment or when chemical distribution is adversely affected. (4-5-00)

321. CHANGE OF LICENSE STATUS.

01. Change Notification. Any person who is licensed by this act shall immediately notify the Director, in writing, of any change of status of any person or agent so named, or of any change in the business name, organization, or any other information shown in the licensing application. (3-20-97)

02. Transferable. Licenses are not transferable. (3-23-98)

322. (RESERVED)

323. PESTICIDE-FERTILIZER MIX RESTRICTIONS.

No person shall distribute, sell, offer for sale, or hold for sale any dry pesticide incorporated in a dry blended bulk fertilizer mix. (3-20-97)

324. EXPERIMENTAL PERMITS.

Any person who wishes to obtain an experimental permit to accumulate information necessary to register a pesticide for a special local need under Section 22-3402(5), Idaho Code, shall file an application with the Department which contains: (3-20-97)

01. Name. The company name. (3-20-97)

02. Applicant. The name, address, and telephone number of the applicant. (3-20-97)

03. Shipment. The proposed date of shipment or proposed shipping period not to exceed one (1) year. (3-20-97)

04. Active Ingredient. A statement listing the active ingredient. (3-20-97)

05. Quantity Statement. A statement of the approximate quantity to be tested. (3-20-97)

06. Acute Toxicity. Available data or information or reference to available data on the acute toxicity of the pesticide. (3-20-97)

07. 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. (3-20-97)

08. Temporary Tolerance. When 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. (3-20-97)

09. Proposed Labeling. Proposed labeling which must bear: (3-20-97)

a. The prominent statement “For Experimental Use Only” on the container label and any labeling that accompanies the product. (3-20-97)

b. An adequate caution or warning statement to protect those who may handle or be exposed to the experimental formulation. (3-20-97)

c. The name and address of the applicant for the permit. (3-20-97)

d. The name or designation of the formulation. (3-20-97)

- e. Directions for use. (3-20-97)
- f. A statement listing the name and percentage of each active ingredient and the total percentage of inert ingredients. (3-20-97)

10. Quantity Limit. The Director may limit the quantity of pesticide covered by the permit or make such other limitations as he may determine to be necessary for the protection of humans or the environment. (3-20-97)

11. Experimental Use. A pesticide for experimental use shall not be offered for sale unless a written permit has been obtained from the Director. (3-20-97)

325. -- 399. (RESERVED)

400. RESTRICTIONS TO PROTECT POLLINATORS.

01. 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. (3-30-01)

02. 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. (3-20-97)

03. 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. (3-20-97)

401. -- 449. (RESERVED)

450. STORAGE OF PESTICIDE CONTAINERS.

01. Protecting Humans and Environment. No person shall handle, transport, display, or distribute pesticides in such a manner as to endanger humans and their environment, or to contaminate food, feed, or any other product that may be transported, stored, displayed, or distributed with such pesticides. (3-20-97)

02. Storage by Professional Applicators or Pesticide Dealers. Storage of pesticide containers by professional applicators and pesticide dealers: (3-20-97)

a. Empty or partially full pesticide containers which contain Class 1 - highly toxic pesticides (LD50 of 50 or below) and which require the skull and crossbones insignia and the words "Danger - Poison" on the label; and Class 2 (moderately toxic) pesticides (LD50 - 500) which carry a "Warning" statement on the label; and Class 3 (slightly toxic) pesticides (LD50 of 500-5000) and which carry a "Caution" statement on the label, shall be stored in one of the following enclosures which when unattended shall be locked to prevent unauthorized persons, livestock or animals from gaining entry: (3-20-97)

- i. Closed vehicle; (3-20-97)
- ii. Closed trailer; (3-20-97)
- iii. Building or room; (3-20-97)
- iv. Fenced area with a fence at least six (6) feet high; (3-20-97)
- v. Truck or trailer with solid sideracks and secured tailgate at least six (6) feet above ground level. (3-20-97)

b. Empty or partially full pesticide containers which contain Class 4 pesticides (LD50 over 5000) shall be stored in secured storage out of the reach of children in one of the above enclosures. (3-20-97)

c. Warning notices, visible from any direction, shall be posted around all storage areas where partially full or empty containers which hold or have held pesticides required to be labeled with the signal words “Warning” or “Danger - Poison” are stored. Each warning notice shall be of such size that it is readable at a distance of twenty-five (25) feet and be substantially as follows:

“D A N G E R”

“POISON STORAGE AREA
ALL UNAUTHORIZED PERSONS
KEEP OUT”

The notice shall be repeated in an appropriate language other than English when it may be reasonably anticipated that persons who do not understand the English language will come to the enclosure. The notice shall also contain the name and telephone number of a person to contact in case of an emergency. (3-20-97)

03. **Exceptions.** The provisions of Subsection 450.02 shall not apply to drums of petroleum oils, lime sulfur, and copper sulfate. (3-20-97)

04. **Disposal.** Any person applying pesticides shall be responsible for the proper disposal of such empty containers. (3-20-97)

451. -- 499. (RESERVED)

500. NON-DOMESTIC PESTICIDES.

01. **Home and Garden Restrictions.** The following *listed* pesticides ~~shall not be sold to home and garden users, nor shall they be applied by professional applicators around any home or garden. These pesticides shall be~~ 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. (3-20-97)()

a. Bidrin (Foliar applications). (3-20-97)

~~b. Disyston (two point one percent (2.1%) and above). (3-20-97)~~

~~c. Guthion (fifteen percent (15%) and above). (3-20-97)~~

~~d. Strychnine (one percent (1%) and above). (3-20-97)~~

~~e. Zinc Phosphide (two point one percent (2.1%) and above). (3-20-97)~~

~~f. All high volatile liquid ester formulations of 2,4 D. (3-20-97)~~

02. **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. (4-11-15)

501. -- 549. (RESERVED)

550. PHENOXY HERBICIDE RESTRICTIONS.

01. **High Volatile Ester Restrictions.** No aircraft pilot shall apply high volatile ester formulations of 2,4-D: (3-20-97)

a. In Latah, Nez Perce, and Clearwater Counties in Idaho; or (3-20-97)

b. Within five (5) miles of a susceptible crop or hazard area in any other county in Idaho. (3-20-97)

c. Waiver of the restriction is Subsections 550.01.a. and 550.01.b. may be issued on a project-by-project basis by the Director. (3-20-97)

02. Low Volatile Ester Restrictions. No aircraft pilot shall apply low volatile ester formulations of 2,4-D; MCPA and MCPB: (3-20-97)

a. 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 (3-30-01)

b. Within one (1) mile of a hazard area in any other county in Idaho. (3-20-97)

c. Waiver of the restriction in Subsection 550.02.a. may be issued on a project-by-project basis by the Director. (3-20-97)

03. Hazard Area. Aircraft pilots shall maintain the following spray distances from hazard areas when applying amine or acid formulations of 2,4-D; MCPA; MCPB; and Dicamba:

| Mean Sustained Wind Velocity | Downwind | Upwind |
|------------------------------|--------------|--------------|
| 0-3 MPH | 1/2 mile | 600 feet |
| 4-7 MPH | 1 mile | 200 feet |
| 8-10 MPH | 1 mile | 50 feet |
| Over 10 MPH | Do not apply | Do not apply |

(3-23-98)

04. Airflow and Temperature Inversion Indicators. A continuous smoke column or other device satisfactory to the Director shall 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. (3-20-97)

05. Other Spraying Equipment. If any aerial applicator wishes to use spraying equipment other than the equipment specified, such equipment must be approved by the Director prior to use. (3-20-97)

551. -- 599. (RESERVED)

600. APPLICATION NEAR HAZARD AREAS.

An aircraft pilot shall not apply any pesticide within one-half (1/2) mile of a hazard area unless there is air movement away from the hazard area. (3-20-97)

~~**601. MICROENCAPSULATED METHYL PARATHION RESTRICTION.**~~

~~An aircraft pilot shall not apply microencapsulated methyl parathion within one-half (1/2) mile of any canyon breaks or the perimeter thereof, of the Clearwater Snake River drainage within the boundaries of Latah, Lewis, Clearwater, and Nez Perce Counties in Idaho. (3-20-97)~~

~~**602.1. -- 799. (RESERVED)**~~

800. PESTICIDE USE ON SEED CROP FIELDS.

01. Nonfood and Nonfeed Site Conditions. For purposes of pesticide registration, all alfalfa seed, carrot seed, chicory seed, clover seed, collard seed, coriander/cilantro seed, dill seed, endive seed, garden beet seed, kale seed, kohlrabi seed, leek seed, lettuce seed, mustard seed, onion seed, parsnip seed, pollinator rows of hybrid canola seed, radish seed, rutabaga seed, sugar beet seed, Swiss chard seed, and turnip seed crop fields are considered

nonfood and nonfeed sites for pesticide use and the following conditions shall be met: (3-20-14)

a. No portion of the seed alfalfa, carrot seed, chicory seed, clover seed, collard seed, coriander/cilantro seed, dill seed, endive seed, garden beet seed, kale seed, kohlrabi seed, leek seed, lettuce seed, mustard seed, onion seed, parsnip seed, pollinator rows of hybrid canola seed, radish seed, rutabaga seed, sugar beet seed, Swiss chard seed, or turnip seed plant, including but not limited to seed screenings, green chop, hay, chaff, combine tailings, pellets, meal, whole seed and cracked seed, may be grazed, used, or distributed for food or feed purposes. (3-20-14)

b. The seed conditioner shall keep records of individual growers' alfalfa seed, carrot seed, chicory seed, clover seed, collard seed, coriander/cilantro seed, dill seed, endive seed, garden beet seed, kale seed, kohlrabi seed, leek seed, lettuce seed, mustard seed, onion seed, parsnip seed, pollinator rows of hybrid canola seed, radish seed, rutabaga seed, sugar beet seed, Swiss chard seed, and turnip seed dirt weight and clean weight for three (3) years and shall furnish the records to the Director forthwith upon request. (3-20-14)

c. All seed screenings shall be disposed of at a sanitary landfill, incinerator, or other equivalent disposal site or by a procedure approved by the Director. (3-23-98)

d. The seed conditioner shall keep seed screening disposal records for three (3) years from the date of disposal and shall furnish the records to the Director forthwith, upon request. Disposal records shall consist of documentation from the disposal site and shall show the total weight of disposed screenings and the date of disposal. (3-20-97)

e. All alfalfa seed, carrot seed, chicory seed, clover seed, collard seed, coriander/cilantro seed, dill seed, endive seed, garden beet seed, kale seed, kohlrabi seed, leek seed, lettuce seed, mustard seed, onion seed, parsnip seed, pollinator rows of hybrid canola seed, radish seed, rutabaga seed, sugar beet seed, Swiss chard seed, or turnip seed grown or conditioned in this state shall bear a tag or container label which forbids the use of the seed for human consumption or animal feed. (3-20-14)

f. No alfalfa seed, carrot seed, chicory seed, clover seed, collard seed, coriander/cilantro seed, dill seed, endive seed, garden beet seed, kale seed, kohlrabi seed, leek seed, lettuce seed, mustard seed, onion seed, parsnip seed, pollinator rows of hybrid canola seed, radish seed, rutabaga seed, sugar beet seed, Swiss chard seed, or turnip seed grown or conditioned in this state shall be distributed for human consumption or animal feed. (3-20-14)

g. All portions of the seed alfalfa, seed carrot, seed chicory, seed clover, seed collard, seed coriander/cilantro, seed dill, seed endive, seed of garden beet, seed onion, seed parsnip, pollinator rows of hybrid canola seed, seed radish, seed rutabaga, seed of sugar beets, seed of Swiss chard, or seed turnip plant, including but not limited to seed screenings, pellets, meal, whole seed and cracked seed may be composted. All composted material may be applied to agricultural crop land as approved by the Director. (3-20-14)

02. Exemption. Alfalfa seed, kale seed and radish seed crops grown for human consumption shall be exempt from the requirements of Subsection 800.01 provided: (3-29-10)

a. All pesticides used are labeled for use on alfalfa seed, kale seed, and radish seed crops and have established residue tolerances which allow food or feed use; and (3-29-10)

b. All producers maintain for three (3) years complete records of all pesticides applied as specified in Pesticide Use and Application Rules Subsection 150.02. These records shall be ready to be inspected, duplicated, or submitted when requested by the Director. (3-20-97)

801. -- 849. (RESERVED)

850. UNUSABLE PESTICIDES COLLECTION AND DISPOSAL.

01. Authority. The Director ~~of the Idaho Department of Agriculture~~ or designated agent may, if deemed necessary for the protection of the environment, take possession and dispose of canceled, suspended, or otherwise unusable pesticides. (3-20-97)()

~~02. **Participant Transfer of Product Ownership.** Persons interested in transferring the ownership of their unusable pesticide products to the Department shall: (3-20-97)~~

~~a. Follow all applicable United States Department of Transportation regulations in the handling, loading, securing and transporting of their products. (3-20-97)~~

~~b. Over-pack all torn or leaky containers to prevent a release of product into the environment during transport. (3-20-97)~~

~~c. Sign a release, transferring the ownership of the product to the Department. (3-20-97)~~

~~d. Comply with all applicable federal, state and local laws, regulations and ordinances. (3-20-97)~~

~~03. **Department Possession for Disposal.** In order to take possession and dispose of unusable pesticide products, the Department shall: (3-20-97)~~

~~a. Secure appropriate collection site(s) in cooperation with local government and other organizations. (3-20-97)~~

~~b. Obtain an Environmental Protection Agency identification number as a hazardous waste generator. (3-20-97)~~

~~c. Provide and ensure the use of personal protective equipment for Department employees. (3-20-97)~~

~~d. Ensure that workers unload chemicals from participant's vehicle only in an area developed to contain possible spills. (3-20-97)~~

~~e. Sign a transfer of ownership, releasing the participant of the product. (3-20-97)~~

~~f. Transfer the unusable pesticide products as hazardous waste to a hazardous waste contractor(s) for transport and disposal. (3-20-97)~~

~~g. Comply with all applicable federal, state and local laws, regulations and ordinances. (3-20-97)~~

~~04. **Contract Transport and Disposal.** The contractor(s) providing for the transport and disposal of the hazardous waste shall: (3-20-97)~~

~~a. Provide a representative to participate in the collection site evaluation and selection process. (3-20-97)~~

~~b. Prepare the selected site collection area in such a manner as to contain possible spills. (3-20-97)~~

~~c. Certify to the Department that their employees handling the hazardous waste materials meet Occupational Safety and Health Administration safety and training requirements. (3-20-97)~~

~~d. Certify to the Department that their employees handling or transporting the hazardous waste materials meet United States Department of Transportation training requirements. (3-20-97)~~

~~e. Provide and ensure the use of personal protective equipment for their employees during collection events. (3-20-97)~~

~~f. Overpack the hazardous waste materials as required by the disposal facility and the United States Department of Transportation. (3-20-97)~~

~~g. Obtain and provide the Department with written approval for hazardous waste acceptance from the treatment, storage and disposal facility prior to the collection. (3-20-97)~~

- ~~h. Provide the manifest forms, labels and markings for the overpacked containers and provide the placards for the commercial hazardous waste transport vehicles. (3-20-97)~~
- ~~i. Label, manifest, mark, and placard the load for proper transportation. (3-20-97)~~
- ~~j. Transport hazardous waste materials to the approved disposal site(s). (3-20-97)~~
- ~~k. Certify to the Department that the commercial hazardous waste transporter: (3-20-97)~~
 - ~~i. Is registered through the Environmental Protection Agency and possesses an Environmental Protection Agency identification number. (3-20-97)~~
 - ~~ii. Is registered through the Environmental Protection Agency in each state through which the hazardous waste is transported. (3-20-97)~~
 - ~~iii. Is registered with the United States Department of Transportation, Research and Special Programs Administration to transport hazardous waste. (3-20-97)~~
 - ~~iv. Has obtained an Idaho Department of Transportation hazardous waste trip permit and hazardous materials endorsement. (3-20-97)~~
 - ~~v. Has obtained a satisfactory safety rating from the United States Department of Transportation. (3-20-97)~~
 - ~~l. Perform a final cleanup in such a manner as to ensure that the collection site is returned to its original condition. (3-20-97)~~
- ~~m. Provide complete documentation of collections, transportation and disposal to the Department in a timely manner. (3-20-97)~~
- ~~n. Comply with all applicable Federal, State and local laws, regulations, and ordinances. (3-20-97)~~

851. -- 960. (RESERVED)

961. GENERAL CHEMIGATION REQUIREMENTS.

This Section prescribes equipment listing requirements, posting requirements for certain types of pesticides, use of pesticide label directions, a prohibition from chemigation over waters of the state. (4-5-00)

01. Chemigation Equipment Standards. Equipment manufacturers shall provide to the Department of Agriculture verification that the equipment meets the standards established in these rules. If the equipment meets the standards, it shall be placed on the Department's list of approved chemigation equipment. (4-5-00)

02. Posting Requirements. Labels of toxicity category I pesticide products (those with the label signal word "DANGER." allow chemigation on their label and contain posting requirements specific to chemigation) shall be posted in accordance with their label. (4-5-00)

03. Pesticides Labeled for Chemigation. The chemigator shall use only pesticides labeled for chemigation when chemigating. (4-5-00)

04. Chemigating Over Waters of the State. Chemigating over waters of the state shall be prohibited, except for variances allowed in Section 971. (4-5-00)

962. IRRIGATION SYSTEMS.

This Section prescribes the equipment required for each type of irrigation system when chemigation is to be used. (4-5-00)

01. Sprinkler or Drip Irrigation. If chemicals are being chemigated through the sprinkler or drip

irrigation system, the chemigator shall verify that the system complies with either Subsection 962.01.a. or 962.01.g. and shall include all of the additionally specified equipment for each: (4-5-00)

a. Irrigation Line Check Valve Requirement. The system shall contain a functional Irrigation Line Check Valve, (Section 966); and (4-5-00)

b. Low Pressure Drain Requirement. The system shall contain an Automatic Low Pressure Drain, (Section 970); and (4-5-00)

c. Inspection Port Requirement. The system shall contain an Inspection Port, (Section 969); and (4-5-00)

d. Vacuum Relief Valve Requirement. The system shall contain a Vacuum Relief Valve or a combination Air and Vacuum Relief Valve, (Section 968); and (4-5-00)

e. Chemical Injection System Requirement. The system shall contain a Chemical Injection System, (Section 965); and (4-5-00)

f. Chemical Injection Line Shut Down (System Interlock) Requirement. The system shall contain a Chemical Injection Line Shut Down (System Interlock), (Section 963); or (4-5-00)

g. Gooseneck Pipe Loop, Downhill and Over-A-Hill Requirement. For surface water impoundments the system may use a Gooseneck Pipe Loop, Downhill and Over-A-Hill system rather than the requirements of Subsections 962.01.a. through 962.01.f., (Section 967); and (4-5-00)

h. Chemical Injection System Requirement. The system shall contain a Chemical Injection System, (Section 965); and (4-5-00)

i. Chemical Injection Line Shut Down (System Interlock) Requirement. The system shall contain a Chemical Injection Line Shut Down (System Interlock), (Section 963). (4-5-00)

02. Flood, Basin, Furrow, or Border Irrigation. If a chemical, including anhydrous ammonia, will be applied by flood, basin, furrow, or border chemigation through a gravity flow system, the chemigator shall verify that the system complies with the following requirements: systems using a gravity flow dispensing system shall meter the chemical into the water at the head of the field and downstream of a hydraulic discontinuity such as a drop structure or weir box to decrease potential for water source contamination from backflow if water flow stops. (4-5-00)

03. Domestic Water Supply System Cross-Connected for Chemigation. Any irrigation system used for chemical application cross-connected to a domestic water supply system shall verify that the system complies with either Subsection 962.03.a. or 962.03.d. and shall include all other additionally specified equipment for each; (4-5-00)

a. Reduced Pressure Principle Backflow Prevention Assembly (RP). The irrigation system shall contain a functional reduced pressure backflow preventer assembly (RP); and (4-5-00)

i. The RP assembly shall be located on the irrigation pipeline between the water supply pump and the point of chemical injection, and downstream from any domestic water supply diversion point. (4-5-00)

ii. The purpose of a Reduced Pressure Principle Backflow Prevention Assembly (RP) is to keep contaminated water from flowing back into a domestic water supply system when some abnormality in the system causes pressure to be temporarily higher in the contaminated part of the system than in the domestic water supply system piping. (4-5-00)

iii. The RP assembly shall have been manufactured in full conformance with the American National Standards Institute (ANSI)/American Water Works Association (AWWA) ANSI/WWA C511 Standard for Reduced Pressure Principle Backflow Prevention Assemblies established by the AWWA; and have met completely the laboratory and field performance specifications of the Foundation for Cross-Connection Control and Hydraulic

Research of the University of Southern California (USC FCCCHR); or an equivalent, Department-approved testing facility. (4-5-00)

b. Chemical Injection System Requirement. The system shall contain a Chemical Injection System, (Section 965); and (4-5-00)

c. Chemical Injection Line Shut Down (System Interlock) Requirement. The system shall contain a Chemical Injection Line Shut Down (System Interlock), (Section 963); or (4-5-00)

d. Air Gap (AG). The water from the domestic water supply system shall be discharged into a reservoir tank prior to the chemical injection. An air gap shall be at least double the diameter of the supply pipe measured vertically above the overflow rim of the vessel – in no case less than one (1) inch. Chemical injection shall not occur upstream of the air gap; and (4-5-00)

e. Chemical Injection System Requirement. The system shall contain a Chemical Injection System, (Section 965); and (4-5-00)

f. Chemical Injection Line Shut Down (System Interlock) Requirement. The system shall contain a Chemical Injection Line Shut Down (System Interlock), (Section 963). (4-5-00)

963. CHEMICAL INJECTION LINE SHUT DOWN (SYSTEM INTERLOCK).

In every chemigation system, there shall be a functional system interlock designed and installed to shut down the chemical injection unit when chemical distribution is adversely affected. The system interlock shall connect the water supply pump and the chemical injection unit or connect the irrigation line pressure switch and the chemical injection unit if there is no water supply pump and the system is pressurized. The chemical injection line shall contain one (1) of the following options found in Subsections 963.01 through 963.05, to ensure that a chemical injection pump will stop if the irrigation pump stops to prevent the entire chemical mixture from emptying from the supply tank into the irrigation pipeline: (4-5-00)

01. Electrical Interlock. The electrical interlock shall contain one (1) of the options in Subsections 963.01.a. through 963.01.d. and shall include all of the additionally specified equipment for each: (4-5-00)

a. Electric Motor-Driven Irrigation Pump or Power Panel: (4-5-00)

i. The electrical controls for the irrigation pump panel or power panel at the pivot or linear shall be interlocked with an electric powered chemical injection pump so that if the water pump shuts off or the pressure switch shuts off power at the panel, the chemical injection pump shall shut off (it is recommended that the interlock also be provided to shut off the irrigation system if the chemical injection pump shuts off); and (4-5-00)

ii. Injection Line Check Valve, (Section 964), shall be installed; and (4-5-00)

iii. In pressurized irrigation systems, the irrigation line or water pump shall include a functional pressure switch. (4-5-00)

b. Solenoid Operated Valve. A functional automatic quick-closing check valve and a functional normally closed solenoid operated valve connected to the system interlock shall be: (4-5-00)

i. Normally closed; and (4-5-00)

ii. Located on the intake side of the injection pump; and (4-5-00)

iii. Open only when there is adequate pressure in the irrigation line to insure uniform chemical distribution; and (4-5-00)

iv. In pressurized irrigation systems, the irrigation line or water pump shall include a functional pressure switch. (4-5-00)

c. A functional automatic quick-closing check valve and a functional normally closed hydraulically operated check valve. The hydraulically operated check valve shall be connected to the main water line such that the valve only opens when the main water line is adequately pressurized. In addition, in pressurized irrigation systems, the irrigation line or water pump shall include a functional pressure switch; or (4-5-00)

d. A functional automatic quick-closing check valve and a functional vacuum relief valve located in the chemical injection line between the positive displacement chemical injection pump and the chemical check valve. This alternative is appropriate only for those chemigation systems using a positive displacement chemical injection pump and is not for use with Venturi injection systems. This valve shall be elevated at least twelve (12) inches above the highest fluid level in the chemical supply tank and shall be the highest point in the injection line. The valve shall open at six (6) inches water vacuum or less and shall be spring-loaded or otherwise constructed such that it does not leak on closing. It shall prevent leakage from the chemical supply tank on system shutdown. The valve shall be constructed of chemically resistant materials. In addition, in pressurized irrigation systems, the irrigation line or water pump shall include a functional pressure switch. (4-5-00)

02. Mechanical Interlock. The mechanical interlock shall contain one (1) of the options in Subsections 963.02.a. or 963.01.b. and shall include all of the additionally specified equipment for each: (4-5-00)

a. Irrigation pumps driven by an internal combustion engine shall be interlocked between the chemical injection pump and the irrigation pump by operating the chemical injection equipment from the engine electrical system, or an electrical generator driven by the pumping plant power unit: (4-5-00)

i. Injection Line Check Valve, (Section 964), shall be installed; and (4-5-00)

ii. In pressurized irrigation systems, the irrigation line or water pump shall include a functional pressure switch; or (4-5-00)

b. Irrigation pumps driven by an internal combustion engine shall be interlocked between the chemical injection pump and the irrigation pump by belt from the drive shaft of the irrigation pump or an accessory pulley of the engine: and (4-5-00)

i. Injection Line Check Valve, (Section 964), shall be installed; and (4-5-00)

ii. In pressurized irrigation systems, the irrigation line or water pump shall include a functional pressure switch. (4-5-00)

03. Hydraulic Interlock. Functional, normally closed, hydraulically operated check valve. The control line must be connected to the main water line such that the valve opens only when the main water line is adequately pressurized. This valve must prevent leakage from the chemical supply tank on system shutdown. The valve must be constructed of chemically resistant materials, such as a Venturi System. (4-5-00)

04. Human Interlock. (4-5-00)

a. A human interlock shall consist of human supervision on-site during the injection of a chemical into the irrigation system for one (1) hour or less to shut down the system in case of failure of the injection pump or irrigation system; and (4-5-00)

b. Injection Line Check Valve (Section 964) shall be installed; and (4-5-00)

c. In pressurized irrigation systems, the irrigation line or water pump shall include a functional pressure switch. (4-5-00)

05. Other Approved Option. Any other option approved by the Director. (4-5-00)

964. INJECTION LINE CHECK VALVE.

01. Injection Line Check Valve. A functional, spring-loaded injection line check valve with a

minimum of ten (10) pounds per square inch (psi) opening (cracking) pressure plus one (1) psi per one (1) foot of elevation between the chemical supply tank and the point of chemical injection and shall be: (4-5-00)

- a. Located between the chemical injection pump and the point of chemical injection into the irrigation line; and (4-5-00)
- b. Made of chemically resistant material; and (4-5-00)
- c. Designed to prevent irrigation water under operating pressure from entering the chemical injection line; and (4-5-00)
- d. Designed to prevent leakage from the chemical supply tank on system shut down; and (4-5-00)

02. A Substitute System. The injection line check valve shall be a substitute for both the solenoid-operated valve and the functional, automatic, quick closing check valve in the chemical injection line. (4-5-00)

965. CHEMICAL INJECTION SYSTEM.

All chemical injection systems, except for flood, basin, furrow, or border chemigation through a gravity flow system, shall use: (4-5-00)

01. Metering Pump. A metering pump such as a positive displacement injection pump effectively designed and constructed of materials that are compatible with chemicals and capable of being fitted with a system interlock; or (4-5-00)

02. Venturi System. Venturi systems including those inserted directly into the main water line, those installed in a bypass system, and those bypass systems boosted with an auxiliary water pump. Booster or auxiliary water pumps shall be connected with the system interlock such that they are automatically shut off when the main line irrigation pump stops, or in cases where there is no main line irrigation pump, when the water pressure decreases to the point where pesticide distribution is adversely affected. Venturies shall be constructed of chemically resistant materials. The line from the chemical supply tank to the Venturi shall contain a functional, automatic, quick closing check valve to prevent the flow of liquid back toward the chemical supply tank. This valve shall be located immediately adjacent to the Venturi chemical inlet. This same supply line shall also contain either a functional normally closed solenoid-operated valve connected to the system interlock or a functional normally closed hydraulically operated valve which opens only when the main water line is adequately pressurized. In bypass systems as an option to placing both valves in the line from the chemical supply tank, the check valve may be installed in the bypass immediately upstream of the Venturi water inlet and either the normally closed solenoid or hydraulically operated valve may be installed immediately downstream of the Venturi water outlet. (4-5-00)

966. IRRIGATION LINE CHECK VALVE.

- 01. Construction.** Construction shall: (4-5-00)
 - a. Consist of at least a single check valve; (4-5-00)
 - b. Be of heavy duty construction with all materials resistant to corrosion or protected to resist corrosion; (4-5-00)
 - c. Be spring-loaded with a chemically resistant and resilient seal that provides a watertight seal against reverse flow; (4-5-00)
 - d. Not consist of metal to metal seal surfaces; (4-5-00)
 - e. Be rated at a pressure equal to or greater than the system working pressure; and (4-5-00)
 - f. Be positioned and oriented according to manufacturer specifications to ensure proper functioning. (4-5-00)

- 02. Location.** The Irrigation Line Check Valve shall: (4-5-00)
- a.** Be located in the pipeline between the irrigation pump and the point of chemical injection into the irrigation pipeline, and downstream from a vacuum relief valve and automatic low pressure drain. (4-5-00)
 - b.** When installed, be on a horizontal plane and level. A deviation of not more than ten (10) degrees from horizontal is permitted. (4-5-00)
- 03. Labeling of the Check Valve or Valve Assembly.** Shall be labeled with the following: (4-5-00)
- a.** Manufacturer’s name and model; (4-5-00)
 - b.** Working pressure in pounds per square inch (psi); (4-5-00)
 - c.** Maximum flow rate in gallons per minute; and (4-5-00)
 - d.** Direction of flow. (4-5-00)
- 04. Model Certification.** The manufacturer of the irrigation line check valve shall provide verification to the director that the valve model has been tested and certified by an independent laboratory such as the Center For Irrigation Technology, Fresno, California and Great Plains Meter, Inc. Aurora, Nebraska, or other Department approved facility as meeting the following leakage test criteria: (4-5-00)

- a.** Low Pressure Drip Test. A check valve shall withstand for sixteen (16) hours without leakage at the valve seat an internal hydrostatic pressure equivalent to the head of a column of water five (5) feet (1.5m) high retained within the downstream portion of the valve body. No leakage shall occur as evidenced by wetting of paper placed beneath the valve assembly. This test is to be conducted with the valve in both the horizontal and vertical position if intended for such use. (4-5-00)
- b.** High Pressure Test. A check valve shall withstand for one (1) minute, without leakage at joints or at the valve seat, an internal hydrostatic pressure of two (2) times the rate of working pressure of the valve. (4-5-00)

967. GOOSENECK PIPE LOOP, DOWNHILL AND OVER-A-HILL.

- 01. Location.** Shall be located in the main water line immediately downstream of the irrigation water pump. (4-5-00)
- 02. Position.** The bottom side of the pipe at the loop apex shall be at least twenty-four (24) inches above the highest sprinkler or other type of water emitting device on the highest part of the field. (4-5-00)
- 03. Pipe Loop.** The loop shall contain either a vacuum relief or combination air and vacuum relief valve at the apex of the pipe loop, and if the water pump is portable and the apex is a straight, horizontal section of pipe, the pipe shall be level. (4-5-00)
- 04. Location of Chemical Injection Port.** The chemical injection port shall be located downstream of the apex of the pipe loop and at least six (6) inches below the bottom side of the pipe at the loop apex. (4-5-00)
- 05. Use Restriction.** Shall not be allowed when pumping from a groundwater source. (4-5-00)

968. VACUUM RELIEF VALVE OR COMBINATION AIR AND VACUUM RELIEF VALVE.

- 01. Location.** Shall be located on top of the horizontal irrigation pipeline on the upstream side of the check valve. (4-5-00)
- 02. Orifice Size.** Shall have a total (individually or combined) orifice size of at least three-fourths (3/4) inch diameter for a four (4) inch pipe, a one (1) inch diameter for a five (5) to eight (8) inch pipe, a two (2) inch diameter for a nine (9) to eighteen (18) inch pipe, and a three (3) inch diameter for a nineteen (19) inch and greater pipe. (4-5-00)

969. INSPECTION PORT.

01. Inspection Port. The inspection port can be combined with a mounting of a vacuum relief or combination air and vacuum relief valve and shall: (4-5-00)

a. Be located on the pipeline between the irrigation pump and the irrigation pipeline check valve directly above the low pressure drain; (4-5-00)

b. Have a minimum diameter opening of four (4) inches from which the check valves and low pressure drain shall be visible; (4-5-00)

c. Be mounted with quick disconnects, quick coupler, ring lock or flange fittings, dresser couplings or other fittings that allow for easy removal of the inspection port. Any bolts shall be located on the outside of the irrigation water pipe; and (4-5-00)

d. Be located near the irrigation line check valve to allow for inspections and check for malfunctioning of the irrigation line check valve and low pressure drain. (4-5-00)

970. AUTOMATIC LOW PRESSURE DRAIN.

01. Automatic Low Pressure Drain. Automatic low pressure drain shall: (4-5-00)

a. Be installed upstream of the irrigation line check valve at the lowest point of the horizontal water supply pipeline; (4-5-00)

b. Not extend into the horizontal pipe beyond the inside surface of the bottom of the pipe; (4-5-00)

c. Be at least three-fourths (3/4) inch in diameter with a closing pressure of not less than five (5) psi; (4-5-00)

d. If the drain is within twenty (20) feet of the water source, contain a corrosion resistant tube, pipe, hose, or similar conduit three-fourths (3/4) inch in diameter to discharge a solution at least twenty (20) feet down slope from the irrigation water source and away from any other water sources; and (4-5-00)

e. Not have any valves located on the outlet side of the drain tube. (4-5-00)

971. VARIANCES.

The Department may grant variances with such conditions and safeguards as it determines are necessary to prevent contamination or pollution of the waters of the state. Issuance of variances shall not relieve the recipient from compliance with all other responsibilities under the Pesticide and Chemigation Act and Rules. Such variances may be granted upon a request from the owner or operator of the property affected and approval by the Director. The application will state fully the grounds of the application and the facts relied upon. Upon the Department's further investigation, if certain antipollution devices otherwise required by these rules or the Pesticide and Chemigation Act, are not necessary or consequences inconsistent with the rules or act, such variances may be granted. (4-5-00)

972. -- 999. (RESERVED)