

CHAPTER 4-35.1 CHEMIGATION REGULATION

4-35.1-01. Definitions. As used in this chapter:

1. "Chemigation" means any process by which chemicals, including pesticides and fertilizers, are applied to land or crops through an irrigation system.
2. "Commissioner" means the agriculture commissioner.
3. "Fertilizer" means any fertilizer as defined by section 19-20.1-02.
4. "Pesticide" means that term defined in section 4-35-05.
5. "State engineer" means the state engineer appointed by the state water commission under section 61-03-01.

4-35.1-02. Statement of compliance. For the purposes of this chapter, farm irrigation systems used for chemigation which are designed, constructed, and operated as specified in the administrative rules adopted under this chapter so as to minimize the possibility of ground or surface water contamination, are considered to be in compliance with this chapter.

4-35.1-03. Rules - Standards for application through irrigation system, installation, maintenance, and modifications. The agriculture commissioner shall adopt rules regulating chemigation through irrigation systems in this state to minimize the possibility of chemical, pesticide, fertilizer, or other contamination of irrigation water supply and other rules as necessary to implement this chapter. The commissioner may establish by rule standards for application of pesticides and fertilizers through irrigation systems; for installation and maintenance of all equipment and devices used for chemigation purposes; for modifications or changes in design, technology, or irrigation practices; or for other purposes relating to the use or placement of equipment or devices. The commissioner may adopt rules requiring periodic calibration and inspection of equipment and system operation during periods of chemigation.

4-35.1-04. Inspections. The state engineer shall cooperate with the commissioner in the inspection of any irrigation system using chemigation. The state engineer shall inform the commissioner of any violation of this chapter that is discovered in the course of the state engineer's regular inspections of irrigation systems using chemigation.

4-35.1-05. Enforcement.

1. The commissioner shall enforce this chapter and any rules adopted under this chapter.
2. The commissioner may seek an injunction in the district court in the county in which the violation occurs or may issue a cease and desist order to any person for any alleged violation of this chapter or any rules adopted under this chapter.
3. For the purpose of carrying out the provisions of this chapter, the commissioner and the state engineer may enter upon any public or private premises at reasonable times in order to:
 - a. Have access for the purpose of inspecting any equipment subject to this chapter and the premises on which the equipment is stored or used.
 - b. Inspect or sample lands actually, or reported to be, exposed to pesticides or fertilizers through chemigation.
 - c. Inspect storage or disposal areas.

- d. Inspect or investigate complaints of injury to humans or animals.
- e. Sample pesticides and fertilizers and pesticide or fertilizer mixes being applied or to be applied.
- f. Observe the use and application of a pesticide or fertilizer through chemigation.
- g. Have access for the purpose of inspecting a premise or other place where equipment or devices used for chemigation are held for distribution, sale, or for use.

4-35.1-06. Penalties.

- 1. Any person who violates the provisions of this chapter or any rules adopted under this chapter is guilty of a class A misdemeanor.
- 2. When construing and enforcing the provisions of this chapter or any rules adopted under this chapter, the act, omission, or failure of any officer, agent, or other person acting for or employed by any person must in every case be also deemed to be the act, omission, or failure of such person as well as that of the person employed.
- 3. Any person found to have violated the provisions of this chapter or rules adopted under this chapter is subject to a civil penalty not to exceed five thousand dollars for each violation. The civil penalty may be imposed by a court in a civil proceeding or by the commissioner through an administrative hearing under chapter 28-32.