

<p><b>Docket Number:</b> <u>58-0101-0702</u>  <b>Effective Date:</b> <u>4/1/09 (temporary rule) 2001 Sine die (pending rule)</u>  <b>Rules Title:</b> <u>Rules for the Control of Air Pollution in Idaho</u>  <b>Agency Contact and Phone:</b> <u>Martin Bauer, 373-0440</u></p>	<p style="text-align: center;"><b>Public Notice</b></p> <p><b>Hearings:</b> <span style="float: right;"><input checked="" type="checkbox"/>Yes <input type="checkbox"/> No</span>  <b>Locations and Dates:</b> Boise – December 9, 2008  <b>Written Comment Deadline:</b> December 9, 2008</p>
<p><b>Descriptive Summary of Rule as Initially Proposed:</b>  The Treasure Valley is now, and has been for several years, experiencing high concentrations of ozone in the ambient air. The federal government lowered the national ambient air quality standard for ozone this year. Installation and operation of Stage 1 vapor collection equipment will reduce volatile organic compound (VOC) emissions by over 1,000 tons per year. Because VOCs are the major contributor to ozone formation, such a reduction should reduce ozone in the ambient air and potentially lower concentrations such that ozone nonattainment may be avoided.</p> <p>Additionally, the Treasure Valley Air Quality Plan, as developed by the Treasure Valley Air Quality Council and accepted by the Idaho Legislature, requires the Department of Environmental Quality (DEQ) to develop a rule requiring Stage 1 vapor collection in Ada and Canyon Counties. Treasure Valley Air Quality Plan, February 27, 2007 at page 95.</p> <p>DEQ has received approval from the Governor's office for temporary adoption of this rule in an effort to reduce VOC emissions and potentially avoid an ozone nonattainment designation by the U.S. Environmental Protection Agency. The sooner the vapor collection systems are installed, the greater chance the area has to avoid nonattainment designation. It is particularly important to have a rule effective by spring 2009 so that the regulated community will have time to install the necessary vapor collection equipment before the hot summer weather sets in, which is when ozone is formed.</p> <p>DEQ recommends that the Board adopt the rule, as presented in the final proposal, as temporary and pending with a temporary rule effective date of April 1, 2009 and the final rule effective date coinciding with the adjournment <i>sine die</i> of the Second Regular Session of the Sixtieth Idaho Legislature. The rule is subject to review by the Legislature before becoming final and effective.</p>	<p><b>Negotiated Rule Making:</b> <span style="float: right;"><input checked="" type="checkbox"/> Yes <input checked="" type="checkbox"/> No</span></p> <p>On September 5, 2007, the Notice of Negotiated Rulemaking was published in the Idaho Administrative Bulletin, Vol. 07-9, page 309. On August 1, 2008, a preliminary draft rule was made available for public review. Meetings were held on September 27, 2007; October 18, 2007; December 6, 2007; February 6, 2008; August 13, 2008; and August 26, 2008. Several members of the public participated in this negotiated rulemaking process by attending the meetings and by submitting written comments.</p> <p><b>Costs To the Agency:</b> No additional costs to the agency.</p> <p><b>Costs To the Regulated Community:</b> This rule may entail retrofit costs of up to \$5,000 per underground gasoline storage tank depending on whether the tank is already equipped for vapor collection and/or other factors such as site work.</p> <p><b>Relevant Statutes:</b> Sections 39-105 and 39-107, Idaho Code</p> <p><b>Idaho Code § 39-107D Statement:</b> See attached.</p> <p><b>Fiscal Impact Statement:</b> 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: Not applicable.</p> <p><b>Temporary Rule Justification:</b> Pursuant to Sections 67-5226(1)(a), Idaho Code, the Governor has found that temporary adoption of this rule is necessary to protect the public health.</p>

Temporary Rule       Necessary to protect public health, safety or welfare  
 Compliance with deadlines in amendments to governing law or federal programs  
 Conferring a benefit

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Section	Section Title	Summary of Rule Changes Based on Public Comment
<b>006</b>	<b>General Definitions</b> <b>Gasoline</b> <b>Gasoline Cargo Tank</b> <b>Gasoline Dispensing Facility</b> <b>Special Fuels</b> <b>Stage 1 Vapor Collection</b>	The rule has not been revised. See attached Response to Public Comments.
<b>592</b>	<b>Stage 1 Vapor Collection</b>	
<b>593</b>	<b>Affected Equipment or Processes</b>	
<b>594</b>	<b>Compliance Dates</b>	
<b>595</b>	<b>Submerged Fill Requirements</b>	
<b>596</b>	<b>Vapor Balance Requirements</b>	
<b>597</b>	<b>Testing and Monitoring Requirements</b>	
<b>598</b>	<b>Registration, Recordkeeping, and Reporting Requirements</b>	
<b>599</b>	<b>Gasoline Cargo Tanks</b>	

**IDAHO CODE SECTION 39-107D STATEMENT:** These rules do not regulate an activity not regulated by the federal government nor are they more stringent than federal regulations. The Clean Air Act requires, in moderate ozone nonattainment areas, the use of gasoline vapor collection for facilities that sell more than 10,000 gallons of gasoline per month. These rules are broader in scope than the federal law as they apply to sources in an area not yet designated nonattainment. Additionally, the National Emission Standard for Hazardous Air Pollutants (NESHAP) requires the use of gasoline vapor collection for gasoline dispensing facilities with throughput of 100,000 gallons or more of gasoline per month. 40 CFR Part 63, Subpart CCCCCC (40 CFR 63.11118). These rules require gasoline vapor collection for gasoline storage tanks with a capacity of 10,000 gallons or more; thus, they apply to a broader class of gasoline dispensing facilities than the NESHAPs.

These rules constitute an important preemptive step for the Treasure Valley to take to attempt to avoid an ozone nonattainment designation. The ozone national ambient air quality standard is a standard designed to protect human health and the environment. It is clear under federal law that scientists have determined that vapor collection is an important control measure to implement for ozone reduction.

**Rules for the Control of Air Pollution in Idaho  
Docket No. 58-0101-0702**

**Response to Public Comments**

Commenter	Comment	DEQ Response
<p>Sara Cohn Community Conservation Associate Idaho Conservation League PO Box 844 Boise, ID 83701</p>	<p>Thank you for the opportunity to comment on the Rules for the Control of Air Pollution in Idaho – Docket No. 58-0101-0702 – related to the development of a Stage 1 Vapor Controls Program in Ada and Canyon Counties.</p> <p>Since 1973, the Idaho Conservation League has been Idaho’s voice for clean water, clean air, and wilderness—values that are the foundation to Idaho’s extraordinary quality of life. The Idaho Conservation League works to protect these values through citizen action, public education, and professional advocacy. As Idaho's largest state-based conservation organization we represent over 9,500 members, many of whom have a deep personal interest in protecting air quality.</p> <p>Stage 1 vapor recovery has the potential to remove over 1000 tons per year of volatile organic compounds (VOCs) from the Treasure Valley airshed. VOCs are major contributors to ozone, and the Treasure Valley is currently under threat of nonattainment for this air pollutant. The Idaho Conservation League is pleased that the Department of Environmental Quality is creating a Stage 1 Vapor Control program to proactively battle air pollution in the Treasure Valley and to attempt to avoid non-attainment status. In addition, Leonard Herr represented the Department well by including representatives from all interested parties and coming to acceptable compromises.</p> <p>Improving a quality in the Treasure Valley is important for the health of our communities. We look forward to following this temporary rule into next year to ensure that the rule becomes permanent through 2010 legislative approval.</p>	<p>This comment is in support of the rule and requires no response. DEQ appreciates the support.</p>