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| <p><b>Docket Number:</b> <u>58-0101-0901</u><br/> <b>Effective Date:</b> <u>2010 Sine die</u><br/> <b>Rules Title:</b> <u>Rules for the Control of Air Pollution in Idaho</u><br/> <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> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No<br/> <b>Locations and Dates:</b> Boise – July 14, 2009<br/> <b>Written Comment Deadline:</b> July 14, 2009</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
| <p><b>Descriptive Summary of Rule as Initially Proposed:</b><br/> The purpose of this rulemaking is to implement Idaho Code § 39-116B, which requires the Department of Environmental Quality (DEQ) to enter into rulemaking to establish the minimum requirements for a vehicle emissions testing program when ambient air quality concentrations are at or above 85% of a national ambient air quality standard and motor vehicle emissions constitute one of the two top contributing sources to the concentrations. These minimum requirements will assist affected local entities in determining whether to (1) enter into a joint exercise of powers agreement to implement the vehicle emissions testing program or (2) establish an alternative program in lieu of vehicle emissions testing. If local entities do not choose either one of the two options, DEQ must implement the vehicle emissions program.</p> <p>DEQ recommends that the Board adopt the rule, as presented in the final proposal, as a pending rule with the final 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> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>The text of the proposed rule has been drafted based on discussions held and concerns raised during negotiations conducted pursuant to Idaho Code Section 67-5220 and IDAPA 58.01.23.810-815. On January 7, 2009, the Notice of Negotiated Rulemaking was published in the Idaho Administrative Bulletin, Vol. 09-1, page 450. On March 2, 2009, a preliminary draft negotiated rule was made available for public review. Meetings were held on February 3, 2009 and March 17, 2009. 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> There should be a minimal cost to DEQ for startup of a vehicle emissions testing program in counties other than Ada (which has this program already). However if local entities enter into a joint powers agreement, as allowed under Idaho Code § 39-116B, the local entities will incur the start up costs, not DEQ. All on-going costs are to be funded by the fees required in Idaho Code § 39-116B, regardless of which entity runs the program.</p> <p><b>Costs To the Regulated Community:</b> Idaho Code § 39-116B, requires a fee for emissions testing which shall not exceed \$20 per vehicle every other year.</p> <p><b>Relevant Statutes:</b> Sections 39-105, 39-107, and 39-116B, 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> |

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

Docket Number: 58-0101-0901

| Section | Section Title                                                                       | Summary of Rule Changes Based on Public Comment                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
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| 517     | <b>Motor Vehicle Inspection and Maintenance Program</b>                             | This section has not been changed. See attached Response to Comments.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
| 518     | <b>Requirements for Licensing Authorized Inspection Stations or Retest Stations</b> | Sections 518 and 519 have not been revised in response to public comments received; however, these sections have been revised to remove the license fee requirements set out in Subsections 518.03 and 519.02. At the time the proposed rule was published, it was not yet determined whether DEQ or the counties and cities listed in Subsection 517.02 would be the governing authority responsible for the development and implementation of the motor vehicle inspection and maintenance program. Since that time, it has been determined that DEQ will be the governing authority for at least some of the entities listed in Subsection 517.02. The license fee requirements have been removed because Idaho Code § 39-116B does not authorize DEQ to impose a license fee. |
| 519     | <b>Requirements for Licensing Authorized Emissions Technicians</b>                  |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
| 520     | <b>Inspection Frequency</b>                                                         | This section has not been changed. See attached Response to Comments.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
| 521     | <b>Test Procedure Requirements</b>                                                  | This section has not been changed. See attached Response to Comments.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
| 522     | <b>Test Standards</b>                                                               | This section has not been changed. See attached Response to Comments.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
| 523     | <b>Test Equipment</b>                                                               | This section has not been changed. See attached Response to Comments.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
| 524     | <b>Inspection Fee</b>                                                               | This section has not been changed. See attached Response to Comments.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |

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| Section                            | Section Title          | Summary of Rule Changes Based on Public Comment                       |
| 525                                | <b>Public Outreach</b> | This section has not been changed. See attached Response to Comments. |
| 526                                | <b>Waivers</b>         | This section has not been changed. See attached Response to Comments. |

**IDAHO CODE SECTION 39-107D STATEMENT:** This proposed rule does not regulate an activity not regulated by the federal government nor is it more stringent than federal regulations. The Clean Air Act requires, in marginal ozone nonattainment areas, a vehicle inspection and maintenance program. This proposed rule is broader in scope than the federal law as it applies to sources in an area not yet designated nonattainment. In addition, promulgation of this rule is required by Idaho Code § 39-116B.

This proposed rule constitutes 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 a vehicle inspection and maintenance program is an important control measure to implement for ozone reduction.

**Rules for the Control of Air Pollution in Idaho  
Docket No. 58-0101-0901**

**Response to Public Comments**

| Commenter                                                                                                                        | Comment                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | DEQ Response                                                                                         |
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| <p>Sara Cohn<br/>Community<br/>Conservation Associate<br/>Idaho Conservation<br/>League<br/>P.O. Box 844<br/>Boise, ID 83701</p> | <p>Thank you for the opportunity to comment on the proposed rule, Docket No. 58-0101-0901, Vehicle Inspection Maintenance Program. 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. As Idaho's largest state-based conservation organization we represent over 9,500 members, almost 4,000 members in the Treasure Valley area, many of whom have a deep personal interest in protecting air quality.</p> <p>The Idaho Conservation League has been pleased to take part in the negotiated rule process to design minimum standards for a vehicle emissions testing program in Idaho. These standards follow the direction of Idaho Code, Section 39-11B. According to Idaho Code, counties and cities may decide to develop an alternative emissions reduction program rather than implement a vehicle emissions testing program. However, it is unclear how an alternative program may meet the goals of the emissions testing program. As Canyon County officials evaluate the options for vehicle emissions reductions within their jurisdiction, we encourage DEQ to follow the original intent of the legislation and thoroughly examine the applicability of any potential alternative program.</p> <p>Pollution related to vehicle emissions is a threat to public health and has been linked to childhood asthma. A vehicle emissions testing program is essential to protect public health, to preserve the economic viability of our region, and to prevent non-attainment status. Any alternative programs proposed by Canyon County must meet appropriate standards, including a numerical reduction goal for volatile organic compounds and nitrous oxides emissions.</p> <p>I look forward to working with DEQ through throughout implementation of this legislation and any subsequent rules. Please do not hesitate to contact me with any questions or comments at (208) 345-6933 ex 23 or <a href="mailto:scohn@wildidaho.org">scohn@wildidaho.org</a>.</p> | <p>This comment is in support of the rule and requires no response. DEQ appreciates the support.</p> |

| Commenter                                                         | Comment                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   | DEQ Response                                                                                         |
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| <p>Greg Daggett<br/>13292 W. Telemark St.<br/>Boise, ID 83713</p> | <p>Just wanted to let you know that I am concerned about the air quality in Boise and wholeheartedly support vehicle emission testing to ensure that only the cleanest cars are allowed to operate in Idaho.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          | <p>This comment is in support of the rule and requires no response. DEQ appreciates the support.</p> |
| <p>Elaine French<br/>114 Wall St.<br/>Ketchum, ID</p>             | <p>Clean air is important for public health and for attracting businesses to the Treasure Valley. Let's avoid having federal regulations required to control ozone levels.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | <p>This comment is in support of the rule and requires no response. DEQ appreciates the support.</p> |
| <p>Perry Brown<br/>perry.brown@fmridaho.org</p>                   | <p>I am writing you today to ask you to support a widespread and stringent vehicle emissions testing program. As a pediatrician and associate director of our state's cystic fibrosis center, I can assure you that air quality is critical to health, especially the health of those with already impaired lung function. The Treasure Valley already has documented high levels of ozone during the summer. We need to act now to reduce ozone levels. If we do not, then people will suffer and the Environmental Protection Agency will likely require the state to reduce ozone levels next year. If federal regulations are required to control ozone levels, we can expect 20 years of such requirements for the region—this would not be ideal for our valley in terms of attracting business and growing the economy.</p> <p>A vehicle emissions testing program is critical to controlling ozone levels in the valley. I urge you and the DEQ to do what you can to ensure that such a program is implemented and enforced.</p> | <p>This comment is in support of the rule and requires no response. DEQ appreciates the support.</p> |
| <p>Brian Ellsworth<br/>brian@ekcconstruction.com</p>              | <p>Please keep a watchful eye on our air quality here in the treasure valley. Canyon County is a bastion of libertarian thinking. I respect their opinion that the government should stay out of most things. Air quality is not one of them. Make them adhere to the air quality requirements.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       | <p>This comment is in support of the rule and requires no response. DEQ appreciates the support.</p> |

| Commenter                                         | Comment                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        | DEQ Response                                                                                         |
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| <p>Cynthia Billings<br/>cynbillings@yahoo.com</p> | <p>Yesterday I was road biking up Bogus Basin road at 6 a.m. The cool air felt wonderful against my skin and the radiance of a sun just about to clear the ridge tops was invigorating. As I gazed out across the valley at the Owyhees, I couldn't help but be reminded of why I left the Los Angeles area nearly 20 years ago--unhealthful air quality.</p> <p>As a healthcare professional, I'm always encouraging people to get proper exercise and relieve stress by going outdoors and enjoying what our beautiful state and valley have to offer. But when we have so many days of unhealthful air quality, it's discouraging and frightening to imagine where that can lead us: allergies, lung diseases, and decreased quality of life are just a few of the issues.</p> <p>I frequently commute by bicycle but with so many unhealthful air quality days, sometimes I'm forced to be part of the problem instead of the solution.</p> <p>I very much support measures that will force people to have cleaner running vehicles. Until people are willing to curb the birth rate, we'll continue to have growth on this planet which means here in the Treasure Valley. People need to take responsibility at some level and I would imagine cleaner running cars is much more attainable than decreasing the population.</p> <p>Education is another important issue. Many people don't get out and above the pollution to realize how bad it is...and I realize a lot of the most damaging parts are what's NOT visible. I believe a campaign to educate people WHY we need to have cleaner running vehicles and factories is imperative in any program introduced to reduce emissions.</p> <p>Thanks for taking the time to review my comments.</p> | <p>This comment is in support of the rule and requires no response. DEQ appreciates the support.</p> |

| Commenter                                                      | Comment                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  | DEQ Response                                                                                         |
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| <p>Brian Lundquist<br/>brianl@<br/>whitewatermarketing.com</p> | <p>I'm writing to you because our family supports expanded vehicle emissions testing. Having lived and worked in Chicago before moving to Idaho, I know first hand the impact of pollution. In fact, one of the reasons our family moved to Boise 15 years ago was because of the clean air and healthy environment here. For our family, reducing ozone levels is important because our oldest daughter had mild asthma and we personally see the impact that higher ozone levels have on her ability to be active outdoors.</p> <p>With the expansion of bedroom communities to the west and south of Boise, it's critical to extend vehicle emissions testing to all residents of the Treasure Valley. The number of vehicles outside of Boise's testing program continues to grow each year. We need to get control of this emission stream. We all share the same air, whether we live in Eagle, Star, Kuna or southeast Boise. It doesn't make sense to have testing for only a fraction of the vehicles in our overall environment. That's why this issue needs to be addressed in a systemic manner.</p> <p>As a small business owner, I believe strongly that quality of life is critical to attracting good businesses and good employees to the Treasure Valley. Clean air is a major part of our quality of life and our appeal. If we don't take the initiative and fail to control ozone levels, we will surely see the federal regulations. These have the potential to negatively impact our ability to attract new businesses and jobs. And that would be a mistake.</p> <p>The Department of Environmental Quality has the opportunity to think long-term and benefit our children and the generations to come. I urge you to act now so that the Treasure Valley does NOT turn into the L.A. basin.</p> <p>Questions? Please let me know. Thanks.</p> | <p>This comment is in support of the rule and requires no response. DEQ appreciates the support.</p> |

| Commenter                                                     | Comment                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 | DEQ Response                                                                                         |
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| <p>Aimee Moran, Boise<br/>amoran@wildidaho.org</p>            | <p>Please keep Treasure Valley air clean by making sure auto's are required to have low levels of emissions in order to operate.</p> <p>Clean air is important to me and my family. It is one reason why we made Idaho home.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        | <p>This comment is in support of the rule and requires no response. DEQ appreciates the support.</p> |
| <p>Chris Johnson<br/>1405 N. 17th St.<br/>Boise, ID 83702</p> | <p>I am sending this short note to voice my support for cleaner air in the Treasure Valley. I strongly support efforts to minimize vehicle miles, including mass transportation. I would like to see vehicle emissions testing programs in all counties that contribute to our air pollution problems in the Treasure Valley airshed - Ada, Boise, Canyon, Elmore, and Gem. I would like vehicle emissions testing to include diesel vehicles, which substantially degrade air quality through particulate matter pollution. I also think more could be done to control fugitive dust created during construction. Thank you for considering my comments. Note that I do my part by bicycle commuting or walking to work every day.</p> | <p>This comment is in support of the rule and requires no response. DEQ appreciates the support.</p> |
| <p>Lou Landry<br/>loulandry@cableone.net</p>                  | <p>Clean air is critical to personal health (obviously) and critical to the economic health of the Valley. I am doing my part. I have decreased my vehicle trips by riding my bicycle for more and more of my in town errands. I purchased a Prius. NOW . . . I think it is important that we exercise collective responsibility by demanding DEQ get a strong emissions control program and begin other regulatory measures to ensure cleaning up our air.</p>                                                                                                                                                                                                                                                                         | <p>This comment is in support of the rule and requires no response. DEQ appreciates the support.</p> |

| Commenter                                                              | Comment                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        | DEQ Response                                                                                         |
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| <p>Kahle Becker<br/>8721 W. Ringbill Ct.<br/>Garden City, ID 83714</p> | <p>I moved to the Treasure Valley over three years ago from Pittsburgh, PA. I love the outdoor activities the area has to offer and the ability to get outside after work and enjoy a day on the slopes, a raft trip, or a mountain bike ride. I have now opened my own business in downtown Boise and help employ 3 individuals.</p> <p>Pittsburgh was once known for its filthy air. In fact, it was the Donora Smog (named for a small town just out of Pittsburgh) &amp; the resulting deaths that gave rise to the enactment of the Clean Air Act. <a href="http://en.wikipedia.org/wiki/Donora_Smog_of_1948">http://en.wikipedia.org/wiki/Donora_Smog_of_1948</a></p> <p>I had no idea that I would move to a state as wild as Idaho only to find worse air quality than a grungy mid western steel town. I live along the greenbelt and regularly commute to work on my bike. I must admit that there are days in July and August that I question whether I should just jump in my car for the commute in order to avoid the ill effects of strenuous exercise in poor air quality. Obviously, adding an additional car to the roads only exacerbates the problem so I usually tough it out.</p> <p>I have found Idaho's response to this problem to be as unpalatable as the air on a red alert day. I am astounded that our legislature lacks the political will to get out in front of a problem that will inevitably come to be managed by the federal government if no action is taken. Not only will federal oversight harm existing businesses, it will also serve as a deterrent to those looking to relocate to the Treasure Valley. Furthermore, I find it appalling that our legislature can sit by idly as our area residents breathe this horrible air and suffer the ill health affects of doing so. It would seem like a no brainer to get out ahead of this problem but perhaps I am expecting too much.</p> <p>In addition to requiring vehicle emissions testing for Canyon County residents and reducing industrial emissions, I believe the state should take a more active role in securing clean renewable energy such as wind, solar, and nuclear. Idaho is perfectly situated for all three. Furthermore, I believe the legislature should allow counties to enact local option taxes to build mass transit systems and expand bicycle commuting opportunities.</p> <p>Thank you for the opportunity to comment on this issue. I hope that the powers that be will make the right decision.</p> | <p>This comment is in support of the rule and requires no response. DEQ appreciates the support.</p> |