

IDAPA 58 – DEPARTMENT OF ENVIRONMENTAL QUALITY

58.01.01 – RULES FOR THE CONTROL OF AIR POLLUTION IN IDAHO

DOCKET NO. 58-0101-1803

NOTICE OF RULEMAKING – PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking. The action is authorized by Sections 39-105, 39-107, and 39-114, Idaho Code.

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

PUBLIC HEARING

Wednesday, September 5, 2018 - 3:00 p.m. (MDT)

**Department of Environmental Quality
1410 N. Hilton Street
Conference Rooms C
Boise, Idaho 83706**

The meeting location will be accessible to persons with disabilities, and language translators will be made available upon request. Requests for these accommodations must be made no later than five (5) days prior to the meeting date. For arrangements, contact the undersigned.

DESCRIPTIVE SUMMARY: DEQ initiated this rulemaking at the recommendation of the Crop Residue Advisory Committee to allow farmers to pay the required fees after the burn instead of prior to the burn. This rulemaking also provides DEQ a more streamlined administrative process. The fee structure will not be changed. Due to the deployment timing of DEQ's software used to implement the crop residue burning program, it is necessary to adopt a temporary rule and implement this change prior to the 2019 spring burning season to avoid interruption of the burn season. This rulemaking will not change the timing of the fee payment for the spot and bale burn permit.

Before this rule docket can become effective, it will be necessary to revise Idaho Code § 39-114. Legislation was drafted in conjunction with the negotiated rulemaking. DEQ intends to submit the proposed legislation for consideration by the 2019 Idaho Legislature. The temporary rule would become effective on the date the companion legislation becomes law. The identical companion pending rule would become final and effective upon conclusion of the legislative session.

Farmers desiring to burn crop residue, members of the regulated community who may be subject to Idaho's air quality rules, special interest groups, Idaho State Department of Agriculture, tribes, public officials, and members of the public who have an interest in the regulation of air emissions from sources in Idaho may be interested in commenting on this proposed rule. The proposed rule text is in legislative format. Language the agency proposes to add is underlined. Language the agency proposes to delete is struck out. It is these additions and deletions to which public comment should be addressed.

After consideration of public comments, DEQ intends to present the final proposal to the Idaho Board of Environmental Quality (Board) in November 2018 for adoption of a temporary/pending rule. If adopted by the Board, the temporary rule would become effective on the date the companion legislation becomes law, and the pending rule would become final and effective upon adjournment of the 2019 legislative session if approved by the Legislature. DEQ will submit the final rule to EPA.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the incorporation by reference is necessary: N/A

NEGOTIATED RULEMAKING: The text of the proposed rule was drafted based on discussions held and concerns raised during negotiations conducted pursuant to Idaho Code § 67-5220 and IDAPA 58.01.23.810-815. The Notice of Negotiated Rulemaking was published in the June 2018 issue of the Idaho Administrative Bulletin, and a preliminary draft rule was made available for public review. A meeting was held on June 21, 2018. Key information was posted on the DEQ rulemaking web page and distributed to the public. Members of the public participated in the negotiated rulemaking process by attending the meetings and by submitting written comments.

All comments received during the negotiated rulemaking process were considered by DEQ when making decisions regarding development of the rule. At the conclusion of the negotiated rulemaking process, DEQ formatted the final draft for publication as a proposed rule. DEQ is now seeking public comment on the proposed rule. The negotiated rulemaking record, which includes the negotiated rule drafts, written public comments, documents distributed during the negotiated rulemaking process, and the negotiated rulemaking summary, is available at www.deq.idaho.gov/58-0101-1803.

IDAHO CODE SECTION 39-107D STATEMENT: This proposed rule does not regulate an activity not regulated by the federal government, nor is it broader in scope or more stringent than federal regulations.

FISCAL IMPACT STATEMENT: 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: N/A

ASSISTANCE ON TECHNICAL QUESTIONS AND SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning this rulemaking, contact Carl Brown at carl.brown@deq.idaho.gov or (208) 373-0206.

Anyone may submit written comments by mail, fax or e-mail at the address below regarding this proposed rule. DEQ will consider all written comments received by the undersigned on or before September 5, 2018.

Dated this 1st day of August, 2018.

Paula J. Wilson
Hearing Coordinator
Department of Environmental Quality
1410 N. Hilton St.
Boise, Idaho 83706-1255
Phone: (208) 373-0418
Fax: (208) 373-0481
paula.wilson@deq.idaho.gov

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 58-0101-1803
(Only Those Sections With Amendments Are Shown.)

620. REGISTRATION BURN FEE.

01. Payment of Burn Fee. The ~~permit by rule registration burn~~ fee ~~set out~~ in Section 39-114, Idaho Code, shall be paid in its entirety ~~at least seven (7) within thirty (30) days prior to the proposed burn date following the receipt of the annual burn fee invoice.~~ See also Subsection 624.02.a. for registration and fee requirements for burning under a spot and baled agricultural residue burn permit. The ~~permit by rule registration form and burn~~ fee should be sent to:

Crop Residue Burning ~~Registration~~ Fees
Fiscal Office
Idaho Department of Environmental Quality
1410 N. Hilton, Boise, ID 83706-1255

(3-29-12)()

02. Effect of Delinquent Fee Payment. ~~Payment of~~ The Department shall not accept or process a registration ~~fee does not imply authorization or approval~~ for a permit by rule to burn for any person having burn fees ~~delinquent, in full or in part.~~

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