

LEGISLATURE OF THE STATE OF IDAHO  
Sixty-fifth Legislature First Regular Session - 2019

IN THE \_\_\_\_\_  
\_\_\_\_\_ BILL NO. \_\_\_\_\_  
BY \_\_\_\_\_ COMMITTEE

AN ACT  
RELATING TO CROP RESIDUE BURNING; AMENDING SECTION 39-114,  
IDAHO CODE, TO REVISE PROVISIONS FOR THE OPEN BURNING  
OF CROP RESIDUE . . . .

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Section 39-114, Idaho Code, be, and the same is hereby amended to read as follows:

39-114. OPEN BURNING OF CROP RESIDUE.

(1) The open burning of crop residue to develop physiological conditions conducive to increase crop yields, or to control diseases, insects, pests or weed infestations shall be an allowable form of open burning, such that it is expressly authorized as referenced in section 52-108, Idaho Code, so long as the open burning is conducted in accordance with the provisions of this section and the rules promulgated pursuant to this chapter.

(2) Crop residue means any vegetative material remaining in the field after harvest or vegetative material produced on designated conservation reserve program (CRP) lands.

(3) The open burning of crop residue shall be conducted in the field where it was generated. A burn may not take place without preapproval from the department. The department shall not approve a burn if it determines that ambient air quality levels:

(a) Are exceeding, or are expected to exceed, ninety percent (90%) of the ozone national ambient air quality standard (NAAQS) and seventy-five percent (75%) of the level of any other NAAQS on any day, and these levels are projected to continue or recur over at least the next twenty-four (24) hours; or

(b) Have reached, or are forecasted to reach and persist at, eighty percent (80%) of the one (1) hour action criteria for particulate matter pursuant to section 556 of IDAPA 58.01.01, rules for the control of air pollution in Idaho.

The department shall make available to the public, prior to the burn, information regarding the date of the burn, location, acreage and crop type to be burned. If the agricultural community desires to burn more than twenty thousand (20,000) acres annually of bluegrass within the state, that does not include Indian or tribal lands within the reservation boundaries as recognized by the federal clean air act, then, prior to approving the burning of the additional acres, the department shall complete an air quality review analysis to determine that the ambient air quality levels in this section will be met.

(4) A fee in an amount of two dollars (\$2.00) per acre ~~to be burned shall be paid to the department prior to burning.~~ This fee shall not apply to propane flaming, as defined in the rules promulgated pursuant to this chapter. The department shall remit all fees quarterly to the state treasurer, who shall deposit the moneys in the general fund.

SECTION 2. An emergency existing therefor, which emergency is hereby declared to exist, Section 1 of this act shall be in full force and effect on and after passage and approval.

## STATEMENT OF PURPOSE

Passed in 2008, Idaho Code 39-114 requires anyone planning to burn crop residue to pay a fee in an amount of two dollars (\$2.00) per acre to the department prior to burning. This requires growers to estimate acreage they expect to burn without knowing field, soil, air quality, or weather conditions that could prevent them from burning.

To simplify the fee payment process, and at the recommendation of the Crop Residue Burning Advisory Committee, DEQ is proposing to change the timing of when fees are paid to an annual invoice structure for actual acres burned rather than a fee due when acres are registered. The change will ensure farmers do not risk paying for acres they did not burn and will remove any confusion regarding a registration fee and the actual burn approval permitting process. Additionally, it will streamline the agency's administrative processes.

## FISCAL NOTE

This legislation will have no fiscal impact to the state. The current crop residue burn fee structure of two dollars (\$2.00) per acre as outlined in 39-114(4) is not being changed. This revision will only change the timing of when fees for burning crop residue are due. The change will not impact resources used by DEQ to implement the crop residue burn program.

## CONTACT

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