

<p><b>Docket Number:</b> <u>58-0101-1904</u>  <b>Effective Date:</b> <u>2020 Sine die</u>  <b>Rules Title:</b> <u>IDAPA 58.01.01, Rules for the Control of Air Pollution in Idaho</u>  <b>Agency Contact and Phone:</b> <u>Tiffany Floyd (208)373-0552</u></p>	<p style="text-align: center;"><b><u>Public Participation</u></b></p> <p><b>Negotiated Rule Making?</b> [ ] Yes [X] No</p> <p><b>Proposed Rule:</b> 9/4/19 Idaho Administrative Bulletin</p> <p><b>Public Hearings?</b> [ ] Yes [X] No  <b>Locations and Dates:</b> N/A</p> <p><b>Written Comment Deadline:</b> 9/25/19</p> <p><b>Public Comments Received?</b> [ ] Yes [X] No</p>
<p><b><u>Overview of Rulemaking</u></b></p> <p>This rulemaking adopts and re-publishes the following existing and previously approved and codified rule chapter under IDAPA 58 rules of the Department of Environmental Quality:  <a href="#">IDAPA 58.01.01, Rules for the Control of Air Pollution in Idaho</a></p> <p>These rules were adopted by the Board as temporary on May 16, 2019, effective on June 30, 2019, and published in the Idaho Administrative Bulletin on July 3, 2019. The rules were published as proposed in the Idaho Administrative Bulletin on September 4, 2019.</p>	<p><b><u>Interim Legislative Review of Proposed Rule Pursuant to Idaho Code § 67-5223</u></b></p> <p><b>Meetings Held?</b> [ ] Yes [X] No  <b>Objections Filed?</b> [ ] Yes [X] No</p> <p><b>Documentation from Legislative Services Office (LSO) attached:</b>  10/3/19 Memo from LSO to Germane Joint Subcommittees  10/23/19 Letter from LSO to DEQ</p>
<p><b><u>DEQ's Recommendation for Adoption</u></b></p> <p>DEQ recommends that the Board adopt the rule, as presented in the final proposal, as a pending rule.</p>	<p><b><u>Costs To the Agency:</u></b> No additional costs to the agency.</p> <p><b><u>Costs To the Regulated Community:</u></b> No additional costs to the regulated community.</p>



Eric Milstead  
Director

# Legislative Services Office

## Idaho State Legislature

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### MEMORANDUM

**TO:** Rules Review Subcommittee of the Senate Health & Welfare Committee and the House Environment, Energy & Technology Committee

**FROM:** Deputy Division Manager - Katharine Gerrity

**DATE:** October 03, 2019

**SUBJECT:** Department of Environmental Quality

IDAPA 58.01.01 - Rules for the Control of Air Pollution in Idaho (Fee Rule) - Proposed Rule (Docket No. 58-0101-1904)

#### Summary and Stated Reasons for the Rule

The Idaho Department of Environmental Quality submits notice of proposed rule at IDAPA 58.01.01 - Rules for the Control of Air Pollution in Idaho. This is a fee rule. According to the department, the rule adopts and republishes a previously approved and codified fee rule. The department notes that a temporary rule was adopted effective June 30, 2019. The department states that the fees or charges imposed by this rulemaking include a crop residue burn fee, an application fee for industrial or commercial air pollution source permits, and a motor vehicle inspection fee. The department indicates that the rulemaking does not impose a fee or charge beyond what was previously approved and codified in the prior rules.

The department has provided a Section 39-107D, Idaho Code, statement.

The department indicates that IDAPA 58.01.01.161, 210, 585, and 586 regulate toxic air pollutants in Idaho. The department states that the rules were developed to complement the federal National Emission Standards for Hazardous Air Pollutants, and thus the rules are not more stringent than federal law. According to the department, the rules do regulate an activity not regulated by the federal government and are unique to Idaho to address air toxic emissions. The department also states that it initially developed a policy but that Idaho industry requested that the policy be implemented in rule to provide greater certainty and transparency for industry. The department indicates that following many discussions with industry and the public, a rule was developed that was responsibly protective of environmental quality while being reasonably permissive of industrial activity.

The department also states that IDAPA 58.01.01.577, 750, and 751 regulate fluoride emissions that can deposit near the emission source that result in fluoride content in feed and forage above certain concentrations known to be harmful to cattle. The department indicates that there are no federal rules that specifically control the fluoride content in forage and thus, the rule, while regulating an activity that is not regulated by the federal government, does not propose a more stringent standard than the EPA.

### **Negotiated Rulemaking / Fiscal Impact**

The department states that negotiated rulemaking was not conducted based on the need to adopt the rules as temporary and because these existing chapters are being republished and reauthorized. The department adds that the rules form the regulatory framework of the laws of the state and have been previously promulgated and reviewed by the legislature.

### **Statutory Authority**

The rulemaking appears to be authorized pursuant to Sections 39-105, 39-107, 39-114, 39-115, and 39-116B, Idaho Code.

cc: Department of Environmental Quality  
Paula J. Wilson

### **\*\*\* PLEASE NOTE \*\*\***

Per the Idaho Constitution, all administrative rules may be reviewed by the Legislature during the next legislative session. The Legislature has 3 options with this rulemaking docket: **1)** Approve the docket in its entirety; **2)** Reject the docket in its entirety; or **3)** Reject the docket in part.



# Legislative Services Office Idaho State Legislature

Eric Milstead  
Director

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October 23, 2019

Paula J. Wilson  
Hearing Coordinator  
Department of Environmental Quality - Air Quality  
1410 N. Hilton  
Boise, Id 83706-1255

Dear Paula J. Wilson:

The Senate and House Subcommittees for review of administrative rules have reviewed the proposed changes to the Department of Environmental Quality - Air Quality rules:

**IDAPA 58.01.01 - Rules for the Control of Air Pollution in Idaho (Fee Rule) - Proposed Rule - Docket No. 58-0101-1904**

No meeting will be held, and we are pleased to report that no objections will be filed.

Sincerely yours,

Katharine Gerrity  
Deputy Division Manager

KAG/jk

cc:

Kristin Ford, Manager  
Research & Legislation

Paul Headlee, Manager  
Budget & Policy Analysis

April Renfro, Manager  
Legislative Audits

Glenn Harris, Manager  
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