

IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY

58.01.01 - RULES FOR THE CONTROL OF AIR POLLUTION IN IDAHO

DOCKET NO. 58-0101-1402

NOTICE OF INTENT TO PROMULGATE - NEGOTIATED RULEMAKING

AUTHORITY: In compliance with Section 67-5220, Idaho Code, and IDAPA 58.01.23, Rules of Administrative Procedure Before the Board of Environmental Quality, Sections 810 through 815, notice is hereby given that this agency intends to promulgate a rule and desires public participation before publishing a proposed rule. This rulemaking action is authorized by Sections 39-105 and 39-107, Idaho Code.

METHOD OF PARTICIPATION: Those interested in participating in the negotiated rulemaking process are encouraged to attend the following meeting. For those who cannot participate by attending the meeting, information for submitting written comments is provided at the end of this notice.

MEETING SCHEDULE: The negotiated rulemaking meeting will be held as follows. Additional meetings may be scheduled if necessary. For information regarding participation by telephone and web conferencing or scheduling of additional meetings, contact the undersigned. Requests to participate by telephone must be made by June 19, 2014.

Thursday, June 26, 2014, 9:00 a.m. to 12:30 p.m. (MDT)

**Department of Environmental Quality
Conference Room A
1410 N. Hilton, Boise, Idaho**

PRELIMINARY DRAFT: By June 4, 2014, a preliminary draft of the rule can be obtained at www.deq.idaho.gov/58-0101-1402 or by contacting Paula Wilson at Paula.Wilson@deq.idaho.gov, (208)373-0418.

DESCRIPTIVE SUMMARY: This rulemaking contains three main objectives. The first objective is to acknowledge feedback received from the U.S. Environmental Protection Agency regarding necessary changes to the Rules for the Control of Air Pollution in Idaho (Idaho's rules) for inclusion into Idaho's State Implementation Plan (SIP). Including Idaho's rules in the SIP will provide certainty to the regulated community that their permits fulfill all state and federal requirements. These changes include minor clarifications to the following rules: Facility Emission Cap, Sulfur Content in Fuels Alternative, and Nonmetallic Mineral Processing Plants.

Facility Emission Cap (FEC) rule: Two changes have to be made: 1) Language will be added to strengthen the prohibition against new major facilities from using the FEC rule and thus circumventing PSD/NSR review. 2) Language is being added to ensure that the air quality modelling parameters will be consistent throughout the 5 year term of the FEC permit. These changes are consistent with the original intent of the rule and will not change how it is currently being implemented.

Sulfur in Fuels: The original rule provides an option for facilities to use higher sulfur content fuel as long as there is no increase in air emissions. The rule does not explicitly state how DEQ will implement this option. The added language states that it will be implemented through an air permitting action from DEQ. This change is consistent with the original intent of this rule.

Nonmetallic mineral processing: Clarifying language that the Permit by Rule option is only available to non-major sources is being added. This change should have no effect on how the industry is using this rule and is consistent with the original intent of this rule.

The next objective is to add references to PM_{2.5} in order to capture updated federal requirements. Idaho DEQ is currently treating PM_{2.5} as a criteria pollutant but has not yet updated all references to PM_{2.5} in the rules. These changes are needed for clarification and consistency.

The last objective is to update a source test reporting deadline to more realistically reflect existing practices. Currently there is a deadline that facilities submit a source test to Idaho DEQ within 30 days in certain situations. This deadline has proven impractical and DEQ is proposing to increase the deadline to 60 days.

Upon conclusion of negotiations, DEQ intends to publish a proposed rule for public comment in the summer of 2014 and then present the final proposal to the Idaho Board of Environmental Quality for adoption of a pending rule in the fall of 2014. If adopted by the Board, the rule will be reviewed by the 2015 Idaho Legislature.

ASSISTANCE ON TECHNICAL QUESTIONS AND SUBMISSION OF WRITTEN COMMENTS: For assistance on questions concerning this rulemaking, contact Tiffany Floyd at tiffany.floyd@deq.idaho.gov or (208) 373-0440.

For those who cannot participate by attending the scheduled meeting, written comments may be submitted by mail, fax or email at the address below. Written comments on the preliminary draft rule must be received by July 3, 2014. For information regarding submission of written comments on subsequent drafts of the negotiated rule, to receive copies of submitted written comments, and to receive the most recent version of the draft negotiated rule, contact the undersigned.

Dated this 9th day of May, 2014.

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