

IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY

58.01.01 - RULES FOR THE CONTROL OF AIR POLLUTION IN IDAHO

DOCKET NO. 58-0101-1202

NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The temporary rule is effective June 6, 2012.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226(1), Idaho Code, notice is hereby given that the Board of Environmental Quality has adopted a temporary rule and the Department of Environmental Quality has initiated proposed rulemaking. This action is authorized by Sections 39-105, 39-107, and 39-116B, Idaho Code.

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

Tuesday, July 10, 2012, 3:30 p.m.

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

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made no later than five (5) days prior to the hearing. For arrangements, contact the undersigned at (208) 373-0418.

DESCRIPTIVE SUMMARY: The purpose of this rulemaking is to revise the minimum standards for the motor vehicle inspection and maintenance program. The temporary/proposed rule includes a provision allowing the governing authority to grant extensions for meeting emission testing requirements and eliminating the test and repair restrictions on licensed inspection stations.

Citizens of cities and counties subject to the vehicle emission testing requirements 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 Board of Environmental Quality in October 2012 for adoption of a pending rule. The pending rule is expected to become final and effective upon adjournment of the 2013 legislative session if adopted by the Board and approved by the Legislature.

TEMPORARY RULE JUSTIFICATION: Pursuant to Section 67-5226(1)(c), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate in that the rule confers a benefit to the citizens of the state of Idaho. The temporary rule includes a provision allowing the governing authority to grant extensions for meeting emission testing requirements and eliminating the test and repair restrictions on licensed inspection stations.

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: Not applicable.

NEGOTIATED RULEMAKING: Negotiated rulemaking was not conducted. DEQ determined that negotiated rulemaking was not feasible due to the simple nature of this rulemaking.

IDAHO CODE § 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.

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 when the pending rule will become effective: Not applicable.

ASSISTANCE ON TECHNICAL QUESTIONS AND SUBMISSION OF WRITTEN COMMENTS: For assistance on questions concerning the negotiated rulemaking, contact Martin Bauer at (208)373-0440, martin.bauer@deq.idaho.gov.

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 July 10, 2012.

DATED this 4th day of May, 2012.

Paula J. Wilson
Hearing Coordinator
Department of Environmental Quality
1410 N. Hilton/Boise, Idaho 83706-1255
(208)373-0418/Fax No. (208)373-0481
paula.wilson@deq.idaho.gov

**THE FOLLOWING IS THE TEXT OF THE TEMPORARY AND PROPOSED RULE
FOR DOCKET NO. 58-0101-1202**

517. MOTOR VEHICLE INSPECTION AND MAINTENANCE PROGRAM.

01. Purpose. The purpose of Sections 517 through 526~~7~~ is to set forth the minimum standards for a motor vehicle inspection and maintenance program, established pursuant to Section 39-116B, Idaho Code, for registered motor vehicles as defined in Section 49-123, Idaho Code. This program is designed to follow the basic inspection and maintenance program defined in 40 CFR 51.352. ~~(3-29-10)~~(6-6-12)T

02. Applicability. Sections 517 through 526~~7~~ apply only to the counties of Ada and Canyon and the cities of Boise, Eagle, Garden City, Meridian, Kuna, Star, Caldwell, Greenleaf, Melba, Middleton, Nampa, Notus, Parma, and Wilder. ~~(3-29-10)~~(6-6-12)T

03. Options. (3-29-10)

a. Section 39-116B, Idaho Code, provides the counties and cities listed in Subsection 517.02 with the following implementation options. The counties and cities may: (3-29-10)

i. Enter into a joint exercise of powers agreement with the Director to implement a motor vehicle inspection and maintenance program; or (3-29-10)

ii. Obtain Department approval to implement an alternative motor vehicle emissions control strategy that will result in emissions reductions equivalent to that of a motor vehicle inspection and maintenance program. (3-29-10)

b. If neither of the options listed in Subsection 517.03.a. are selected, the Department shall implement the motor vehicle inspection and maintenance program. (3-29-10)

04. Governing Authority. For the purpose of Sections 517 through 526~~7~~, governing authority means the governing entity responsible for the development and implementation of the motor vehicle inspection and

maintenance program. The governing entity may be the counties and cities listed in Subsection 517.02 or the Department. The governing authority shall adopt Sections 517 through 526~~7~~ of these rules. ~~(3-29-10)~~(6-6-12)T

- 05. Exemptions.** Sections 517 through 526~~7~~ do not apply to the following: ~~(3-29-10)~~(6-6-12)T
- a.** Electric or hybrid motor vehicles; (3-29-10)
 - b.** Motor vehicles with a model year less than five (5) years old; (3-29-10)
 - c.** Motor vehicles with a model year older than 1981; (3-29-10)
 - d.** Classic automobiles as defined by Section 49-406A, Idaho Code; (3-29-10)
 - e.** Motor vehicles with a maximum vehicle gross weight of less than fifteen hundred (1500) pounds; (3-29-10)
 - f.** Motor vehicles registered as motor homes as defined by Section 49-114, Idaho Code; (3-29-10)
 - g.** Motorized farm equipment; and (3-29-10)
 - h.** Registered motor vehicles engaged solely in the business of agriculture. (3-29-10)

518. REQUIREMENTS FOR LICENSING AUTHORIZED INSPECTION STATIONS OR RETEST STATIONS.

- 01. General.** (3-29-10)
- a.** No person or enterprise shall in any manner represent any place as an inspection station or retest station unless such station is operated under a valid license issued by the governing authority. (3-29-10)
 - b.** No license for any inspection station or retest station may be assigned, transferred or used by other than the original applicant for that specific station. (3-29-10)
- 02. Applications for License.** Applications for license as an inspection station or retest station shall be made on the forms provided by the governing authority. No license shall be issued unless the governing authority finds that the facilities, tools and equipment of the applicant comply with the requirements set forth in Subsections 518.03 or 518.04. (3-29-10)
- 03. Requirements for Licensed Inspection Stations.** In order to qualify for issuance and continuance of an inspection station license, an establishment must meet the following requirements: (3-29-10)
- a.** Must have a permanent location; (3-29-10)
 - ~~**b.** Must sign a contract pledging the station will not make any emissions related adjustments or repairs on the vehicles it emissions tests; (3-29-10)~~
 - eb.** Must ensure that at least one employee, who has been issued an emissions technician license by the governing authority, is on duty at all times of station operation; (3-29-10)
 - ec.** Must demonstrate the ability to perform the emissions test and comply with reporting and recordkeeping requirements established by the governing authority; (3-29-10)
 - ed.** Must obtain and maintain in force appropriate business liability insurance; and (3-29-10)
 - fe.** Must have the tools, equipment and supplies, as required by the governing authority, available for performance of the emissions test. (3-29-10)

04. Requirements for Licensed Retest Stations. In order to qualify for issuance and continuance of a retest station license, an establishment must meet the requirements listed in Subsection 518.03 ~~with the exception of Subsection 518.03.b.~~ ~~(3-29-10)~~ (6-6-12)T

05. Approval Procedure. (3-29-10)

a. Applications received by the governing authority will be reviewed for completeness and an inspection of the facility will be performed. An inspection report will be prepared for the governing authority's review. (3-29-10)

b. Stations which meet the requirements of Subsections 518.01 through 518.04 will be granted an inspection station license or retest station license and issued a station sign. The station sign and license shall be posted in a conspicuous place, readily visible to the public. The station sign and license shall remain the property of the governing authority. (3-29-10)

06. Revocation of Inspection Station or Retest Station License. The governing authority has the authority to issue warnings and suspend or revoke a station license upon a showing that emission tests are not being performed in accordance with these rules and any other specifications or procedures enacted by the governing authority. (3-29-10)

(BREAK IN CONTINUITY OF SECTIONS)

524. INSPECTION FEE.

The fee for a motor vehicle inspection, as established in Section 39-116B(2)(g), Idaho Code, shall not exceed twenty dollars (\$20) per vehicle. This fee is necessary to carry out the provisions of Sections 517 through 526~~7~~ and to fund an air quality public awareness and outreach program. ~~(3-29-10)~~ (6-6-12)T

(BREAK IN CONTINUITY OF SECTIONS)

527. EXTENSIONS.

The governing authority shall have the authority to grant extensions for vehicles or vehicle owners temporarily located outside of a testing area that cannot easily be returned to an area for testing. The extension shall not exceed one (1) year. For active duty military personnel and their families stationed outside the applicable testing area specified in Subsection 517.02, a time extension not to exceed the testing period is available. Military extensions shall be renewed with current military orders. (6-6-12)T

~~527~~**8.** -- 549. **(RESERVED)**