

Dear Senators LODGE, Broadsword & Werk, and  
Representatives RAYBOULD, Harwood & Elaine Smith:

The Office of the Legislative Services, Research and Legislation, has received the  
enclosed rules of the Dept. Of Environmental Quality:

IDAPA 58.01.01 - Rules for the Control of Air Pollution in Idaho

(Docket #58-0101-0703).

Pursuant to Section 67-454, Idaho Code, a meeting on the enclosed rules may be called by the cochairmen or by two (2) or more members of the subcommittee giving oral or written notice to Research and Legislation no later than fourteen (14) days after receipt of the rules' analysis from Legislative Services. The final date to call a meeting on the enclosed rules is no later than 4-16-08. If a meeting is called, the subcommittee must hold the meeting within forty-two (42) days of receipt of the rules' analysis from Legislative Services. The final date to hold a meeting on the enclosed rules is 5-7-08.

\_\_\_\_\_The germane joint subcommittee may request a statement of economic impact with respect to a proposed rule by notifying Research and Legislation. There is no time limit on requesting this statement, and it may be requested whether or not a meeting on the proposed rule is called or after a meeting has been held.

To notify Research and Legislation, call 334-2475, or send a written request to the address or FAX number indicated on the memorandum enclosed.

## MEMORANDUM

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

FROM: Research & Legislation Staff - Katharine Gerrity

DATE: March 28, 2008

SUBJECT: Department of Environmental Quality

The Department of Environmental Quality submits notice of proposed rule at IDAPA 58.01.01 - Rules for the Control of Air Pollution in Idaho. According to the Department, the rulemaking is proposed to clarify the purpose and applicability of specified sections of the rule relating to sulfur content of fuels. The Department notes that the changes are not substantive in nature. Negotiated rulemaking was conducted.

The Department also notes that the rule does not regulate an activity not regulated by the federal government, nor is it broader in scope or more stringent than federal regulations and confirms that there is no negative fiscal impact on the state general fund greater than ten thousand dollars as a result of the changes.

We have no specific comments or suggestions based on our review of this rule. The proposed rule appears to be authorized by Sections 39-105 and 39-107, Idaho Code.

cc: Department of Environmental Quality  
Paula J. Wilson  
Martin Bauer

# IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY

## 58.01.01 - RULES FOR THE CONTROL OF AIR POLLUTION IN IDAHO

DOCKET NO. 58-0101-0703

### NOTICE OF RULEMAKING - PROPOSED RULE

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

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

June 10, 2008, 3:30 p.m.

Department of Environmental Quality

Conference Room C

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 Department of Environmental Quality (DEQ) has initiated this rulemaking to ensure that the purpose and applicability of Sections 725 through 729, as they relate to sulfur content of fuels, is clear. The revisions to Sections 725 through 729 have been proposed for clarification purposes and are not substantive in nature.

Members of the regulated community who may be subject to Idaho's air quality rules as well as special interest groups, public officials, or 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 Board of Environmental Quality in October 2008 for adoption of a pending rule. The rule is expected to be final and effective upon adjournment of the 2009 legislative session if adopted by the Board and approved by the Legislature.

**NEGOTIATED RULEMAKING:** Negotiated rulemaking was conducted pursuant to Idaho Code Section 67-5220 and IDAPA 58.01.23.810-815. On October 3, 2007, the Notice of Negotiated Rulemaking was published in the Idaho Administrative Bulletin, Vol. 07-10, page 441, and a preliminary draft rule was made available for public review. One meeting was held on October 24, 2007. Several members of the public participated in this rulemaking by attending the meeting. No revisions were made to the preliminary draft rule.

**IDAHO CODE § 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.

**IDAHO CODE § 67-5221(c) 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 Martin Bauer at (208) 373-0440 or 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 June 10, 2008.

DATED this 27th day of March, 2008.

Paula J. Wilson  
Hearing Coordinator  
Department of Environmental Quality  
1410 N. Hilton  
Boise, Idaho 83706-1255  
(208)373-0418/Fax No. (208)373-0481  
pwilson@deq.idaho.gov  
Proposed Rule, Docket No. 58-0101-0703

725. Rules For Sulfur Content Of Fuels.

~~This section applies to fuel burning sources in Idaho. The purpose of Sections 725 through 729 is to prevent excessive ground level concentrations of sulfur dioxide from fuel burning sources in Idaho.~~ The reference test method for measuring fuel sulfur content shall be ASTM method, D129-95 Standard Test for Sulfur in Petroleum Products (General Bomb Method) or such comparable and equivalent method approved in accordance with Subsection 157.02.d. Test methods and procedures shall comply with Section 157.~~(4-5-00)~~(\_\_\_\_)

726. ~~Definitions As Used In Sections 727 Through 729.~~

**01. Definitions.**

**01a. ASTM.** American Society for Testing and Materials. (5-1-94)

**02b. Distillate Fuel Oil.** Any oil meeting the specifications of ASTM Grade 1 or Grade 2 fuel oils. (5-1-94)

**03c. Residual Fuel Oil.** Any oil meeting the specifications of ASTM Grade 4, Grade 5 and Grade 6 fuel oils. (5-1-94)

727. ~~Residual Fuel Oils.~~

**02. Residual Fuel Oils.**

**01. Standards for 1973.** After January, 1973, no person shall sell, distribute, use or make available for use, any residual fuel oil containing more than two and one-half percent (2.5%) sulfur by weight. (5-1-94)

**02. Standards Beginning 1974.** After January, 1974, no person shall sell, distribute, use or make available for use, any residual fuel oil containing more than one and three-fourths percent (1.75%) sulfur by weight. (5-1-94)(\_\_\_\_)

728. ~~Distillate Fuel Oil.~~

**03. Distillate Fuel Oil.** No person shall sell, distribute, use or make available for use, any distillate fuel oil containing more than the following percentages of sulfur:(\_\_\_\_) (5-1-94)

**01a. ASTM Grade 1.** ASTM Grade 1 fuel oil - zero point three percent (0.3 percent%) by weight. (5-1-94)

**02b. ASTM Grade 2.** ASTM Grade 2 fuel oil - zero point five percent (0.5 percent%) by weight. (5-1-94)

729. ~~Coal.~~

**04. Coal.** No person shall sell, distribute, use or make available for use, any coal containing greater than one percent (1.0%) sulfur by weight. (5-1-94)

~~730~~726. -- 749.(Reserved).

798. Electrical Generators.

The following requirements apply to all electrical generators used to provide electrical power to any nonmetallic mineral processing plant. The requirements apply to each site of operations. (3-15-02)

**01. Fuel Type.** Only ASTM (American Society of Testing and Materials) Grade 1 or 2 fuel oil shall be used. The sulfur content of the fuel used shall not exceed the percentages of sulfur given in Section ~~728725.(3-15-02)~~(\_\_\_\_\_).