

TITLE 39
HEALTH AND SAFETY

CHAPTER 67
TREASURE VALLEY AND REGIONAL AIR QUALITY COUNCIL ACT

39-6701. LEGISLATIVE STATEMENT OF FINDINGS AND INTENT. (1) The legislature finds that the air quality in certain regions of the state is threatened with deterioration. This deterioration may endanger the breathability, economic potential, public health, natural beauty, recreational use and livability in various regions of the state. It is the intent of the legislature in establishing this chapter to preserve and protect the air quality of the entire state.

(2) The legislature declares that it is necessary to embark upon a program of air quality protection for future generations of Idahoans. This chapter establishes a treasure valley air quality council and also allows for the creation of regional air quality councils as necessary to protect, preserve and, where necessary, improve the quality of air in a specified geographical area while accommodating private, public and commercial activities. The plan developed by an air quality council as set forth in this chapter shall require a working partnership of state and local agencies of government as well as the private sector.

[39-6701, added 2005, ch. 206, sec. 1, p. 616.]

39-6702. ESTABLISHMENT OF THE TREASURE VALLEY AIR QUALITY COUNCIL. There is hereby established a Treasure Valley air quality council within the Idaho department of environmental quality. It shall be the responsibility of the council to develop a plan and carry out the duties established by this chapter. The council shall be assisted in its work by the department of environmental quality and other appropriate state and local agencies as needed.

[39-6702, added 2005, ch. 206, sec. 1, p. 616.]

39-6703. ESTABLISHMENT OF A REGIONAL AIR QUALITY COUNCIL -- PETITION. (1) There is hereby authorized the establishment of regional air quality councils within the Idaho department of environmental quality.

(2) Any ten (10) persons living within the boundaries of a geographical area proposed for the establishment of a regional air quality council may file a petition with the board of environmental quality within the department of environmental quality requesting a regional air quality council be established. The petition shall set forth:

- (a) The proposed name of the regional air quality council;
- (b) The needs, in the interest of the public health, safety and welfare, for such a council;
- (c) The geographical boundaries of the territory proposed for development of a plan by a council; and
- (d) A request that the board duly define the geographic boundaries for a council.

(3) Within thirty (30) days after such petition has been filed with the board, it shall cause due notice to be given of a proposed hearing upon the petition. After such hearing, if the board determines upon the facts presented at the hearing and upon such other relevant facts and information as may be available, that there is need in the interest of the public health,

safety and welfare, for the establishment of a regional air quality council, it shall approve the petition and shall make and record such approval. The board shall immediately as practicable notify the governor by forwarding a copy of the board's approval to the governor. Within a reasonable time, but not to exceed ninety (90) days, the governor shall appoint members to that regional air quality council in accordance with the provisions of section 39-6708, Idaho Code.

(4) It shall be the responsibility of any council established under this chapter to develop a plan and carry out the duties established by this chapter. The council shall be assisted in its work by the department of environmental quality and other appropriate state and local agencies as needed.

[39-6703, added 2005, ch. 206, sec. 1, p. 616.]

39-6704. ESTABLISHMENT OF A CITIZENS COMMITTEE. Each council established under the provisions of this chapter shall create a citizens committee comprised of citizens who express an interest in the council's purpose and work. Citizens performing volunteer services in support of the work of a council shall automatically be members of the citizens committee. Members of the citizens committee may meet with the council with full right to attend all proceedings and discussions and submit comments, except that citizen committee members shall not be voting members.

[39-6704, added 2005, ch. 206, sec. 1, p. 617.]

39-6705. DEFINITIONS. Whenever used in this chapter:

(1) "Air pollution" means air pollution as defined in section 39-103, Idaho Code.

(2) "Air quality plan" means the comprehensive, air quality management plan for a specified regional area as developed and modified by a regional air quality council.

(3) "Citizens committee" means the committee consisting of members of the public created pursuant to section 39-6704, Idaho Code, by an air quality council established under the provisions of this chapter.

(4) "Council" means a regional air quality council established pursuant to this chapter.

(5) "Local governing agency" means a county or city government agency.

(6) "Specified regional area" means a county or counties, or a defined geographical area where air quality is threatened.

(7) "Study" means the comprehensive, scientifically-based study of air quality in a specified regional area including the study of air quality in the Treasure Valley.

(8) "Treasure Valley" means the geographic boundaries encompassed by Ada and Canyon counties.

(9) "Treasure Valley air quality council" means the regional air quality council established in section 39-6702, Idaho Code.

(10) "Treasure Valley air quality plan" means the comprehensive, air quality management plan for Ada and Canyon counties as developed and modified by the Treasure Valley air quality council.

[39-6705, added 2005, ch. 206, sec. 1, p. 617.]

39-6706. DECLARATION OF POLICIES AND PURPOSES. The Treasure Valley air quality council, and any regional air quality council established pursuant to this chapter, shall develop and implement an air quality plan

in accordance with the environmental protection and health act, sections 39-101 through 39-130, Idaho Code, that includes:

- (1) The compilation of all historical data on air quality studies in the Treasure Valley, or in a specified regional area;
- (2) An assessment of present and projected emissions related to the Treasure Valley, or related to a specified regional area;
- (3) The completion of a comprehensive, scientifically-based study of air quality in the Treasure Valley, or in a specified regional area;
- (4) A description of actions to be taken by governmental agencies and nongovernmental entities to protect, preserve and, when necessary, improve the air quality in the Treasure Valley, or in a specified regional area; and
- (5) The submittal of an air quality management plan to the legislature which may reject the plan in whole or in part pursuant to a concurrent resolution. The Treasure Valley air quality council, and any regional air quality council established pursuant to this chapter, shall assist and coordinate the implementation of the accepted plan with federal, state and local authorities for seven (7) years after acceptance, after which the Treasure Valley air quality council, or any regional air quality council, and its committees shall disband.

[39-6706, added 2005, ch. 206, sec. 1, p. 618.]

39-6707. MEMBERSHIP OF THE TREASURE VALLEY AIR QUALITY COUNCIL. (1) The Treasure Valley air quality council shall consist of fourteen (14) members appointed by the governor. The governor shall appoint one (1) member who shall be an Ada county commissioner; one (1) member who shall be a Canyon county commissioner; one (1) member who is an elected member of a city government in Ada county; one (1) member who is an elected member of a city government in Canyon county; two (2) members who represent agricultural interests in the Treasure Valley; two (2) members who represent commercial interests in the Treasure Valley; two (2) members from manufacturing or food processing industries located in the Treasure Valley; two (2) members from recognized Idaho environmental organizations; and two (2) members at large who are full-time residents of Ada or Canyon county.

(2) The terms of the members shall be three (3) years with the initial term to be staggered in terms of one (1), two (2), and three (3) years by the governor when he makes the original appointment.

(3) The governor shall designate one (1) member to serve as chair of the Treasure Valley air quality council.

(4) Vacancies shall be filled by appointment of the governor.

(5) All members of the Treasure Valley council shall maintain their primary residence in either Ada or Canyon county during the term of the member's appointment.

[39-6707, added 2005, ch. 206, sec. 1, p. 618.]

39-6708. MEMBERSHIP OF A REGIONAL AIR QUALITY COUNCIL. (1) A council shall consist of fourteen (14) members appointed by the governor. The governor shall appoint two (2) members from each of the following categories: two (2) members who are county commissioners within the specified regional area; two (2) members who are at the time of appointment, elected members of a city government in the specified regional area; two (2) members who represent agricultural interests in the specified regional area; two (2) members who represent commercial interests in the specified regional area; two (2) members from industries located in the specified regional area; two (2) mem-

bers from recognized Idaho environmental organizations; and two (2) members at large who are full-time residents of the specified regional area.

(2) The terms of the members shall be three (3) years with the initial term to be staggered in terms of one (1), two (2), and three (3) years by the governor when he makes the original appointments.

(3) The governor shall designate one (1) member to serve as chair of the council.

(4) Vacancies shall be filled by appointment of the governor.

(5) All members of a council shall maintain their primary residence in the specified regional area during the term of the member's appointment.

[39-6708, added 2005, ch. 206, sec. 1, p. 618.]

39-6709. DUTIES OF THE TREASURE VALLEY AIR QUALITY COUNCIL AND ANY REGIONAL AIR QUALITY COUNCIL -- POWERS. (1) The Treasure Valley air quality council, and any regional council established pursuant to this chapter, shall have the following duties:

(a) To coordinate activities related to the study of air quality, the development of an air quality plan for the area, and oversee the implementation of that plan.

(b) To conduct a public awareness program to educate the general public on methods and responsibilities to protect the air shed.

(c) To examine, as the Treasure Valley or regional council deems necessary, air quality conditions in, upon and around the Treasure Valley, or in, upon and around a specified regional area. The objective shall be to obtain a scientifically-sound baseline study for planning future action by appropriate federal, state and local government, and the private sectors.

(d) To promote, until dissolution, the implementation of the Treasure Valley air quality plan, or the air quality plan of a regional council, by serving in an advisory capacity to those local, state and federal government agencies with responsibilities affecting air quality. Any council may recommend, as appropriate, the adoption of any statutes, ordinances, policies and rules needed by such governmental agencies to implement the plan.

(e) To consult with the public and keep the public informed of activities of the council through public forums and written reports.

(f) To establish a citizens committee pursuant to section 39-6704, Idaho Code.

(g) To perform its duties continuously until its dissolution.

(h) Prior to the automatic dissolution of the council and all its committees seven (7) years after the council's plan is adopted by the legislature, to assist local, state and federal agencies in the establishment of a multiagency oversight capability to succeed the council.

(2) A council shall not have any regulatory or enforcement powers.

[39-6709, added 2005, ch. 206, sec. 1, p. 619.]

39-6710. QUORUM -- PROCEDURES. (1) A majority of the members of the Treasure Valley air quality council, or a regional council, shall constitute a quorum for the transaction of business. A majority vote of the members present shall be required to take action with respect to any matter.

(2) The Treasure Valley air quality council, or a regional council, may adopt its own operating rules and procedures which shall be made available to the public.

[39-6710, added 2005, ch. 206, sec. 1, p. 619.]

39-6711. TREASURE VALLEY AIR QUALITY PLAN. (1) The Treasure Valley air quality council shall complete a draft plan by July 1, 2006. It shall make the study available to all appropriate and interested local, state and federal agencies and to any interested persons. For a period of ninety (90) days after dissemination, any interested agency or person may submit written suggestions, comments or proposals for the plan, or recommendations to the council.

(2) The council shall thereafter prepare a final Treasure Valley air quality plan which shall be completed within one hundred eighty (180) days after dissemination of the study.

(3) The council shall identify in the plan all known present and future air issues in Ada and Canyon counties.

(4) Once completed, the council shall provide copies of its plan to all agencies and persons who have indicated an interest in the study. The council shall thereupon provide for one (1) or more public hearings upon its plan and recommendations with notice given as provided in chapter 52, title 67, Idaho Code.

(5) After receiving the information obtained at the public hearing, the council shall make such changes and revisions as it deems necessary and within thirty (30) days after such public hearing, but in no event later than the next regular session of the Idaho legislature, the council shall submit the plan to the legislature.

(6) The legislature may, within the next regular session during or after which it receives the plan, reject the plan in whole or in part by concurrent resolution.

(7) Thereafter, the council shall assist in the implementation of the provisions of the plan. Before its dissolution, the council shall also assist these local, state and federal agencies to establish an ongoing, joint-agency oversight responsibility for the plan.

[39-6711, added 2005, ch. 206, sec. 1, p. 620.]

39-6712. IMPLEMENTATION OF THE TREASURE VALLEY AIR QUALITY PLAN. To the greatest extent practicable, all Idaho state and local government agencies shall implement the plan and its recommendations. In circumstances where any state or local government agency chooses not to so incorporate and implement any element of the plan, any such agency shall provide to the council in writing the reasons why such incorporation and implementation have not been adopted.

[39-6712, added 2005, ch. 206, sec. 1, p. 620.]

39-6713. TREASURE VALLEY AIR QUALITY TRUST FUND. There is hereby created in the state treasury a dedicated fund known as the "Treasure Valley Air Quality Trust Fund" which shall be referred to as the Treasure Valley fund. Moneys in the Treasure Valley fund may come from grants, gifts, donations, use fees or such other sources as may be authorized by the legislature. Moneys in the fund shall be used exclusively for the purpose of fulfillment of the statutorily-required duties of the Treasure Valley air quality council. Moneys in the fund may only be expended as authorized by a resolution duly adopted by a majority of the council.

[39-6713, added 2005, ch. 206, sec. 1, p. 620.]

39-6714. AIR QUALITY PLAN OF A REGIONAL AIR QUALITY COUNCIL. (1) A regional air quality council shall develop and accept the study within one (1) year after establishment of the council. It shall make the study available to all appropriate and interested local, state and federal agencies and to any interested persons. For a period of ninety (90) days after dissemination, any interested agency or person may submit written suggestions, comments or proposals for the plan, or recommendations to the council.

(2) The council shall thereafter prepare a final regional air quality plan which shall be completed within one hundred eighty (180) days after dissemination of the study.

(3) The council shall identify present and future air issues in the specified regional area.

(4) Once completed, the council shall provide copies of its plan to all agencies and persons who have indicated an interest in the study. The council shall thereupon provide for one (1) or more public hearings upon its plan and recommendations with notice given as provided in chapter 52, title 67, Idaho Code.

(5) After receiving the information obtained at the public hearing, the council shall make such changes and revisions as it deems necessary and within thirty (30) days after such public hearing, but in no event later than the next regular session of the Idaho legislature, the council shall submit the plan to the legislature.

(6) The legislature shall, within the next regular session during or after which it receives the plan, accept, reject or modify the plan by concurrent resolution.

(7) Thereafter, the council shall assist in the adoption and enforcement of the provisions of the plan. Before its dissolution, the council shall also assist these local, state and federal agencies to establish an ongoing, joint-agency oversight responsibility for the plan.

[39-6714, added 2005, ch. 206, sec. 1, p. 621.]

39-6715. IMPLEMENTATION OF A REGIONAL AIR QUALITY PLAN. To the greatest extent practicable, all Idaho state and local government agencies shall incorporate and implement the plan and its recommendations. In circumstances where any state or local government agency chooses not to implement any element of the plan, any such agency shall provide to the council a written explanation of its failure to implement that portion of the plan.

[39-6715, added 2005, ch. 206, sec. 1, p. 621.]

39-6716. REGIONAL FUND. There is hereby created in the state treasury a dedicated fund known as the "Regional Air Quality Trust Fund" which shall be referred to as the regional fund. Moneys in the regional fund may come from grants, gifts, donations, use fees or such other sources as may be authorized by the legislature. Moneys in the fund shall be used exclusively for the purpose of fulfillment of the statutorily-required duties of a regional air quality council. Moneys in the fund may only be expended as authorized by a resolution duly adopted by a majority of a council.

[39-6716, added 2005, ch. 206, sec. 1, p. 621.]

39-6717. SAVINGS CLAUSE. Nothing in this chapter shall alter or affect the provisions of section 39-114, Idaho Code, on the open burning of crop residue.

[39-6717, added 2005, ch. 206, sec. 1, p. 622; am. 2008, ch. 71, sec. 5, p. 191.]

CHAPTER 68
-- [RESERVED]