TITLE 39
HEALTH AND SAFETY

CHAPTER 67
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 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; am. 2022, ch. 110, sec. 3, p. 365.]

39-6702. AIR QUALITY REVIEW. (1) The department of environmental quality shall annually review and determine whether the three (3) year design value equal to or above eighty-five percent (85%) of a national ambient air quality standard, as defined by the United States environmental protection agency, is met in certain regions of the state.

(2) If the three (3) year design value is equal to or above eighty-five percent (85%) of a national ambient air quality standard, the department of environmental quality shall evaluate potential further air quality deterioration and determine whether to make a recommendation to the legislature that a regional air quality advisory committee should be formed and devoted to evaluating air pollution reduction actions.

[39-6702, added 2022, ch. 110, sec. 5, p. 365.]

39-6703. ESTABLISHMENT OF REGIONAL AIR QUALITY COUNCILS. (1) The legislature, upon receipt of the air quality review and recommendation from the department of environmental quality, may form regional air quality councils as needed to evaluate air pollution reduction actions.

(2) Each regional air quality council shall be independently created by the legislature pursuant to subsection (1) of this section and, upon creation, shall be located within the Idaho department of environmental quality.

(3) The governor shall appoint members to regional air quality councils 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 2022, ch. 110, sec. 7, p. 366.]

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.

(8) "Three (3) year design value" or "design value" means the statistic that describes the air quality status of a given location relative to the level of the national ambient air quality standards. A three (3) year design value is the statistic calculated using three (3) years of ambient air quality data.

[39-6705, added 2005, ch. 206, sec. 1, p. 617; am. 2022, ch. 110, sec. 8, p. 366.]

39-6706. DECLARATION OF POLICIES AND PURPOSES. 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 specified regional area;

(2) An assessment of present and projected emissions related to the specified regional area;

(3) The completion of a comprehensive, scientifically based study of air quality in the 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 specified regional area; and

(5) The submittal of an air quality management plan to the legislature that may reject the plan in whole or in part pursuant to a concurrent resolution. Any regional air quality council established pursuant to this chap-

ter shall assist and coordinate the implementation of the accepted plan with federal, state, and local authorities for seven (7) years after acceptance, after which any regional air quality council and its committees shall disband.

[39-6706, added 2005, ch. 206, sec. 1, p. 618; am. 2022, ch. 110, sec. 9, p. 367.]

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) members 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.]

39-6710. QUORUM -- PROCEDURES. (1) A majority of the members of 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) 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; am. 2022, ch. 110, sec. 12, p. 367.]

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 coun-

cil 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.]