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Director

Legislative Services Office

Idaho State Legislature

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MEMORANDUM

TO: Rules Review Subcommittee of the Senate Resources & Environment Committee and the House Environment, Energy & Technology Committee

FROM: Deputy Division Manager - Katharine Gerrity

DATE: October 05, 2022

SUBJECT: Department of Environmental Quality

IDAPA 58.01.01 - Rules for the Control of Air Pollution in Idaho (ZBR Chapter Rewrite, Fee Rule) - Proposed Rule (Docket No. 58-0101-2101)

Summary and Stated Reasons for the Rule

The Idaho Department of Environmental Quality submits notice of proposed rule at IDAPA 58.01.01 - Rules for the Control of Air Pollution in Idaho. This is a chapter rewrite and a fee rule.

The department states that the rulemaking was initiated as the result of Executive Order No. 2020-01, Zero-Based Regulation. This particular chapter was up for review this year. The department adds that the goal of the rulemaking is to perform a critical and comprehensive review of the chapter in an attempt to reduce overall regulatory burden, streamline various provisions, and increase clarity and ease of use.

The department indicates that the rulemaking updates federal regulations incorporated by reference to ensure that state rules remain consistent with federal regulations. The department adds that, the Rules for the Control of Air pollution are updated annually to maintain consistency with the federal regulations implementing the Clean Air Act. Adoption of federal regulations is necessary to maintain program primacy.

The department states that there is also a revised fee structure of a Clean Air Act mandated air permitting program and that major industrial sources of air pollution are required to have a Title V operating permit. Idaho administers the Title V permitting program here. The Clean Air Act requires these industrial sources to pay on-going annual fees to cover all reasonable costs associated with the program. According to the department, in 2018, the Idaho National Laboratory decreased its emission so that it will no longer be required to have a Title V operating permit. INL has been paying a fee of roughly \$500,000. Per the department, this created a situation where it had to negotiate a revision to the current fee structure to ensure there is sufficient funding to cover the costs of administering the program.

The department notes that other than those changes described, no substantive changes were made. The department states that with the exception of the revised Title V permitting fees, this rulemaking does not impose a fee or charge, or increase a fee or charge, beyond what was previously submitted to and reviewed by the Legislature in prior rules, such as the crop residue burn fee. In addition, the department indicates that there are

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no changes to the rule that regulate an activity not regulated by the federal government, nor broader in scope or more stringent than federal regulations.

Negotiated Rulemaking / Fiscal Impact

Negotiated rulemaking was conducted and there is no fiscal impact as the result of the rulemaking.

Statutory Authority

The rulemaking appears authorized pursuant to Sections 39-105, 39-107, 39-114, and 39-115, Idaho Code.

cc: Department of Environmental Quality
Paula J. Wilson

***** PLEASE NOTE *****

Per the Idaho Constitution, all administrative rules may be reviewed by the Legislature during the next legislative session. The Legislature has 3 options with this rulemaking docket: **1)** Approve the docket in its entirety; **2)** Reject the docket in its entirety; or **3)** Reject the docket in part.