**DEQ'S RESPONSE TO COMMENTS/PROPOSED RULE**

**IDAPA 58.01.01 – RULES FOR THE CONTROL OF AIR POLLUTION IN IDAHO**

**DOCKET NO. 58-0101-2602**

| |
|---|
| 1. Idaho Association of Commerce & Industry (IACI), Alex LaBeau |
| 2. Tina DeBoer |
| 3. Idaho Materials and Construction, Marlia Harnden |
| 4. Department of Environmental Quality (DEQ, comments and responses) |

| Cmt # | Rule Section/ Subject Matter | Commenter | Comment Summary | Response |
|---|---|---|---|---|
| 1. | Letter of Support for Entire Rule | Idaho Association of Commerce & Industry (IACI) | The Idaho Association of Commerce and Industry (IACI) is the leading voice for business in the State of Idaho. The Department of Environmental Quality (Department) has proposed updated and new fees for air permits that the Department issues. As described in Docket #58-0101-2602, the Department is proposing updated fees for permit applications or for permit-by-rule registration, processing permit applications, and a new annual fee for non-Title V operating permits.<br><br>Many IACI members are required to obtain both air quality construction (permit to construct) and operating permits. Thus, this rulemaking is of direct interest to IACI and its members; we offer the following comments on this rulemaking. | DEQ appreciates IACI's support of the proposed fee updates and its recognition of the resources needed to administer the air quality permitting program. No changes were made in response to this comment. |

| | | | | |
|---|---|---|---|---|
| | | | It is very important to the business community that the Department has the expertise and resources to assist the regulated community in obtaining the air quality permits needed for operation and business expansion. This is critical for economic growth in Idaho. IACI has advocated to the legislature for a number of years for appropriate funding for the Department to support the air quality permitting work. Also, IACI recognizes that the regulated community also has a role in providing a portion of that revenue needed for the air quality program. Thus, IACI supports the proposed updated and new fees for the air quality program because it will help provide the financial support needed for the air quality permitting program.<br><br>We appreciate the Department's consideration of these comments. Please contact me if you have any questions about these comments or wish to discuss them further with us. | |
| 2. | Comment Opposing Fee Increases | Tina DeBoer | I am writing to oppose the proposed increases in Idaho DEQ air-quality permitting fees, including increases in application, registration, processing, and annual fees.<br><br>My concern goes beyond the amount of any one particular fee. It is the cumulative effect of continually increasing government fees, taxes, regulatory requirements and compliance costs on Idaho's small, independently owned businesses.<br><br>My husband is a single-owner small business operator. Over the years, we have watched the cost and administrative burden of operating a small business continue to increase. It is not just one fee or one regulation—it is permits, fees, reporting requirements, insurance, equipment costs, taxes, compliance obligations and the significant amount of time required simply to keep up with them all.<br><br>Large corporations have accounting departments, compliance personnel, administrative staff, and attorneys to absorb these | DEQ appreciates the commenter's concerns regarding the cumulative financial and administrative impacts that regulatory requirements can have on small businesses.<br><br>The proposed fee changes are intended to ensure that the Air Quality Division has sufficient resources to administer the air quality permitting program. The current fees have not been updated since they were established in 2002. Since then, costs to administer the permitting program, as with many other services, have increased due to inflation and other increases in operating costs. The proposed revisions are intended to address these costs as well as ensure sustainability of the air quality permitting program. |

| | | | | |
|---|---|---|---|---|
| | | | requirements. Small businesses do not. In a small operation, the owner is often the person doing the work, maintaining the equipment, completing the paperwork, paying the bills, and making sure every government requirement is met.<br><br>At some point, government must consider whether continually increasing fees and regulatory costs is unintentionally eliminating the very small businesses Idaho should be working to preserve. Small family-owned businesses are increasingly being placed at a disadvantage because they simply do not have the staffing, resources or economies of scale available to large corporations.<br><br>Another government fee may appear relatively small when considered individually. But to the business owner who is already absorbing increased costs from every direction, it is one more expense that comes directly out of the ability to earn a reasonable living, reinvest in the business, maintain equipment, employ people and remain economically viable.<br><br>I also do not believe increasing fees should automatically be the solution when a government agency faces increased operating costs. Before asking Idaho businesses to pay more, I believe agencies should first demonstrate that they have thoroughly examined their own expenditures, staffing, administrative processes and opportunities for greater efficiency.<br><br>Government does not always have a revenue problem; sometimes it has an expenditure problem. Businesses and families are expected to live within budgets, prioritize spending, and find efficiencies when costs increase. Government agencies should be expected to do the same before passing additional costs on to the people and businesses they regulate.<br><br>I recognize that DEQ has responsibilities it is required to fulfill and that those responsibilities have costs. However, regulated | DEQ is continuously evaluating our processes and looking for opportunities to improve efficiency and manage program costs. For example, DEQ has developed a general minor permit proposed rule, that will streamline the permitting process for DEQ and industry for certain source categories. However, DEQ has determined that the fee increase is necessary to run the program and provide the required environmental protection.<br><br>The comment was considered as part of this rulemaking. No changes were made in response to this comment. |

| | | | | |
|---|---|---|---|---|
| | | | businesses should not automatically be expected to absorb higher fees each time agency costs increase. There must be a reasonable balance between funding government functions and maintaining an environment in which small businesses can continue to survive.<br><br>I respectfully ask DEQ to reconsider these proposed fee increases and instead look for ways to control expenditures, improve efficiency and reduce the regulatory and financial burden placed on Idaho's small businesses.<br><br>Idaho has long valued independent businesses, entrepreneurship and people willing to work hard to build something of their own. Our policies should encourage those businesses to remain here and succeed—not gradually create an environment where only large corporations have the resources necessary to comply and survive. | |
| 3. | Verbal Comment in Support of Entire Rule | Idaho Materials and Construction | The Commenter expressed support for the proposed fee updates, noting that the fees help account for the financial resources required to administer DEQ's programs and would bring Idaho more in line with neighboring states and other Idaho regulatory programs. | DEQ appreciates the support for the proposed fee updates and recognition of the resources needed to run the air quality permitting program. No changes were made in response to this comment. |
| 4. | Internal change in rule language | DEQ | DEQ is removing the words "Step 1," "Step 2," and "Step 3" from the table headings under Section 251. Permit Fee Schedule for clarity. | DEQ is removing the words "Step 1," "Step 2," and "Step 3" from the table headings under Section 251. Permit Fee Schedule. Based on questions received from the public and internal discussions, DEQ determined that the use of consecutive step numbers could imply that the fees must be paid or completed in a specific sequence. However, the fees are independent of one another and may apply in different circumstances. |

| | | | | |
|---|---|---|---|---|
| | | | | For example, an existing facility that already has a permit may not need to submit a new permit application and pay the associated application fee but is still required to pay the annual fee. DEQ has revised the table headings to remove the step numbers and clarify that the fees are independent requirements that may apply under different circumstances. |
| 5. | Internal change in rule language | DEQ | DEQ is removing "Name Change" under the proposed rule Application and Registration Fee Table in Section 251. | DEQ is removing "Name Change" from the proposed Application and Registration Fee Table in Section 251 to clarify that there is no application fee for a facility to change their name when it does not involve an ownership change. Changes in ownership would remain subject to the applicable fee specified in Section 251 when the requirements of IDAPA 58.01.01.209.05.b or 58.01.01.404.05.b are not met. |
| 6. | Correcting editorial error in rule language | DEQ | DEQ is removing subsections 0.1-0.3 under Section 224 as originally intended that were erroneously retained in the proposed rule language, | The correct language under Section 224. should only contain the following text:<br><br>**224. PERMIT TO CONSTRUCT FEE.** Fees for permits to construct and exemption concurrences, must be paid in accordance with Sections 250 through 253. |