

Department of Environmental Quality
Rules for the Control of Air Pollution in Idaho, 58.01.01
Docket No. 58-0101-1601
Negotiated Rulemaking Summary
Idaho Code § 67-5220(3)(f)

This rulemaking has been initiated to develop a more appropriate threshold number for ozone that is still protective of the ozone National Ambient Air Quality Standard (NAAQS), and also provides farmers the ability to burn while following smoke management best practices.

The Notice of Negotiated Rulemaking was published in the May 2016 issue of the Idaho Administrative Bulletin and a preliminary draft rule was made available for public review. Meetings were held on May 18, June 23, July 20, and July 27, 2016.

Key information was posted on the DEQ rulemaking web page and distributed to the public. Members of the public participated in the negotiated rulemaking process by attending the meetings and by submitting written comments. All comments received during the negotiated rulemaking process were considered by DEQ when making decisions regarding development of the rule.

The negotiated rule drafts contain revisions made based on meeting discussions. At the conclusion of the negotiated rulemaking process, DEQ formatted the final draft (Draft No. 4) for publication as a proposed rule in the Idaho Administrative Bulletin. The negotiated rulemaking record, which includes the negotiated rule drafts, written public comments, and documents distributed during the negotiated rulemaking process, is available at www.deq.idaho.gov/58-0101-1601.

DEQ elected not to revise the draft rule in response to certain comments received during the negotiated rulemaking process. Responses to those comments are provided below.

The Idaho Conservation League (ICL), the Conservation Voters for Idaho (CVI), and Patti Gora-McRavin suggested that DEQ reduce the PM_{2.5} threshold by an amount equal to DEQ's proposed increase to the ozone threshold. With a proposed ozone threshold of 90% of the NAAQS (an increase of 15%), they suggested lowering the PM_{2.5} threshold to 60% (a decrease of 15%). ICL, CVI, and Patti Gora-McRavin also suggested DEQ adopt a tiered approach submitted by U.S. EPA Region 10 Idaho Operations Office. In the proposed tiered approach, a burn decision would be based first upon the existing rule (75% threshold for all criteria pollutants), but if the 75% threshold for ozone is exceeded, the burn decision would then be based on a 90% threshold for ozone and a 60% threshold for PM_{2.5}.

Jann Hidgem suggested that DEQ either discontinue the negotiated rulemaking and retain the current rule (75% threshold for all criteria pollutants) or raise the threshold to 90% for all the criteria pollutants.

The crop residue burning program as a whole is designed to protect public health. The program uses a percent of the NAAQS requirement (threshold) as a backstop which ensures DEQ-approved crop residue burns do not cause a violation of any NAAQS. This also ensures that DEQ is not approving burns when the air quality is unhealthy for sensitive groups (i.e., when it exceeds the NAAQS). However, the current program can be difficult to manage because 75% of the current NAAQS for ozone is close to background ozone concentrations in rural Idaho. Hence, there are days when ozone concentrations have been high enough to limit crop residue burns on what would otherwise be "good" burn days.

DEQ has determined smoke from crop residue burning does not impact ozone concentrations in the same manner it impacts PM_{2.5} concentrations. Smoke has minimal impact on ozone concentrations but does increase PM_{2.5} concentrations. Because the current crop residue burning program has been protective of the PM_{2.5} NAAQS, DEQ concluded that it is not necessary to adjust the current threshold of 75% for PM_{2.5} at this time.

In addition, the rest of the requirements included in Section 621.01 of the crop residue burning rules help protect against short term impacts of PM_{2.5}, as well as protecting institutions with sensitive populations and roadways. Other requirements include:

- 1-hour PM requirement which provides for protection against short-term (24-hour) impacts;
- evaluating meteorological impacts which ensures burning is approved under acceptable smoke dispersion;
- proximity to public roadways which, in conjunction with IDAPA 58.01.01.621.02.c, provides for protection for roadway safety;
- proximity to institutions with sensitive populations which provides for extra protections for institutions such as schools and hospitals; and
- emissions and proximity of other burns which provide for protection against overloading the airshed with smoke from other burns, such as wildfires, prescribed fire, and burns regulated by other agencies.

In summary, the proposed rule change improves the overall protection of public health by allowing potentially more good dispersion burn days while still ensuring DEQ-approved crop residue burns do not cause a violation of any NAAQS.