

IN THE SENATE

SENATE BILL NO. 1009

BY HEALTH AND WELFARE COMMITTEE

AN ACT

1 RELATING TO CROP RESIDUE BURNING; AMENDING SECTION 39-114, IDAHO CODE, TO
2 REVISE PROVISIONS REGARDING NATIONAL AMBIENT AIR QUALITY STANDARDS AND
3 TO MAKE TECHNICAL CORRECTIONS; REPEALING SECTION 39-114, IDAHO CODE,
4 RELATING TO THE OPEN BURNING OF CROP RESIDUE; AMENDING CHAPTER 1, TITLE
5 39, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 39-114, IDAHO CODE, TO
6 PROVIDE FOR THE OPEN BURNING OF CROP RESIDUE; DECLARING AN EMERGENCY AND
7 PROVIDING EFFECTIVE DATES.
8

9 Be It Enacted by the Legislature of the State of Idaho:

10 SECTION 1. That Section 39-114, Idaho Code, be, and the same is hereby
11 amended to read as follows:

12 39-114. OPEN BURNING OF CROP RESIDUE. (1) The open burning of crop
13 residue to develop physiological conditions conducive to increase crop
14 yields, or to control diseases, insects, pests or weed infestations, shall
15 be an allowable form of open burning, such that it is expressly authorized
16 as referenced in section 52-108, Idaho Code, ~~so~~ as long as the open burning
17 is conducted in accordance with the provisions of this section and the rules
18 promulgated pursuant to this chapter.

19 (2) Crop residue means any vegetative material remaining in the field
20 after harvest or vegetative material produced on designated conservation
21 reserve program (CRP) lands.

22 (3) The open burning of crop residue shall be conducted in the field
23 where it was generated. A burn may not take place without preapproval from
24 the department. The department shall not approve a burn if it determines
25 that ambient air quality levels:

26 (a) Are exceeding, or are expected to exceed, seventy-five percent
27 (75%) of the level of any national ambient air quality standard (NAAQS)
28 on any day, provided however, for purposes of the ozone NAAQS, the 2008
29 standard of .075 parts per million, 73 federal register 16435, 16511
30 (March 27, 2008) shall apply, and these levels are projected to continue
31 or recur over at least the next twenty-four (24) hours; or

32 (b) Have reached, or are forecasted to reach and persist at, eighty per-
33 cent (80%) of the one (1) hour action criteria for particulate matter
34 pursuant to section 556 of IDAPA 58.01.01, rules for the control of air
35 pollution in Idaho.

36 The department shall make available to the public, prior to the burn, infor-
37 mation regarding the date of the burn, location, acreage and crop type to be
38 burned. If the agricultural community desires to burn more than twenty thou-
39 sand (20,000) acres annually of bluegrass within the state, that does not in-
40 clude Indian or tribal lands within the reservation boundaries as recognized
41 by the federal clean air act, then, prior to approving the burning of the ad-

1 ditional acres, the department shall complete an air quality review analysis
2 to determine that the ambient air quality levels in this section will be met.

3 (4) A fee in an amount of two dollars (\$2.00) per acre to be burned shall
4 be paid to the department prior to burning. This fee shall not apply to
5 propane flaming, as defined in the rules promulgated pursuant to this chap-
6 ter. The department shall remit all fees quarterly to the state treasurer,
7 who shall deposit the moneys in the general fund.

8 SECTION 2. That Section 39-114, Idaho Code, be, and the same is hereby
9 repealed.

10 SECTION 3. That Chapter 1, Title 39, Idaho Code, be, and the same is
11 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
12 ignated as Section 39-114, Idaho Code, and to read as follows:

13 39-114. OPEN BURNING OF CROP RESIDUE. (1) The open burning of crop
14 residue to develop physiological conditions conducive to increase crop
15 yields, or to control diseases, insects, pests or weed infestations, shall
16 be an allowable form of open burning, such that it is expressly authorized
17 as referenced in section 52-108, Idaho Code, as long as the open burning is
18 conducted in accordance with the provisions of this section and the rules
19 promulgated pursuant to this chapter.

20 (2) Crop residue means any vegetative material remaining in the field
21 after harvest or vegetative material produced on designated conservation
22 reserve program (CRP) lands.

23 (3) The open burning of crop residue shall be conducted in the field
24 where it was generated. A burn may not take place without preapproval from
25 the department. The department shall not approve a burn if it determines
26 that ambient air quality levels:

27 (a) Are exceeding, or are expected to exceed, ninety percent (90%)
28 of the ozone national ambient air quality standard (NAAQS) and sev-
29 enty-five percent (75%) of the level of any other NAAQS on any day, and
30 these levels are projected to continue or recur over at least the next
31 twenty-four (24) hours; or

32 (b) Have reached, or are forecasted to reach and persist at, eighty per-
33 cent (80%) of the one (1) hour action criteria for particulate matter
34 pursuant to section 556 of IDAPA 58.01.01, rules for the control of air
35 pollution in Idaho.

36 The department shall make available to the public, prior to the burn, infor-
37 mation regarding the date of the burn, location, acreage and crop type to be
38 burned. If the agricultural community desires to burn more than twenty thou-
39 sand (20,000) acres annually of bluegrass within the state, that does not in-
40 clude Indian or tribal lands within the reservation boundaries as recognized
41 by the federal clean air act, then, prior to approving the burning of the ad-
42 ditional acres, the department shall complete an air quality review analysis
43 to determine that the ambient air quality levels in this section will be met.

44 (4) A fee in an amount of two dollars (\$2.00) per acre to be burned shall
45 be paid to the department prior to burning. This fee shall not apply to
46 propane flaming, as defined in the rules promulgated pursuant to this chap-
47 ter. The department shall remit all fees quarterly to the state treasurer,
48 who shall deposit the moneys in the general fund.

1 SECTION 4. An emergency existing therefor, which emergency is hereby
2 declared to exist, Section 1 of this act shall be in full force and effect on
3 and after passage and approval. Sections 2 and 3 of this act shall be in full
4 force and effect on and after February 28, 2018.