

MINUTES
SENATE RESOURCES & ENVIRONMENT COMMITTEE

DATE: Wednesday, January 25, 2012

TIME: 1:30 P.M.

PLACE: Room WW55

MEMBERS PRESENT: Chairman Pearce, Vice Chairman Bair, Senators Cameron, Siddoway, Brackett, Heider, Tippetts, Werk, and Stennett

ABSENT/ EXCUSED: None

NOTE: The sign-in sheet, testimonies, and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

CALL TO ORDER: **Chairman Pearce** called the meeting to order at 1:30 P.M.

The first order of business was the Committee consideration of the appointment of Alex Irby to the Outfitters and Guides Licensing Board.

MOTION: **Senator Siddoway** made the **motion** to accept the appointment of Alex Irby to the Outfitters and Guides Licensing Board. The motion was **seconded** by **Vice Chairman Bair**. The motion **passed** by unanimous voice vote. **Senator Nuxoll** will be the **sponsor**.

PASSING OF GAVEL: **Chairman Pearce** passed the gavel to **Vice Chairman Bair**, Rules Chairman.

VOTE ON RULES: **Vice Chairman Bair** said there are four Rules to consider and vote on, prior to hearing more Rules.

DOCKET NO. 37-0302-1101 *Beneficial Use Examination Rules.* **Senator Tippetts moved, seconded by Senator Brackett**, that the Committee **adopt Rule No. 37-0302-1101**. The motion carried by voice vote.

DOCKET NO. 58-0102-1101 *Water Quality Standards.* **Senator Siddoway moved, seconded by Senator Tippetts**, that the Committee **adopt Rule No. 58-0102-1101**. The motion carried by voice vote.

DOCKET NO. 58-0102-1102 *Water Quality Standards.* **Senator Brackett moved, seconded by Senator Heider**, that the Committee **adopt Rule No. 58-0102-1102**. The motion carried by voice vote.

DOCKET NO. 58-0102-1103 *Water Quality Standards.* **Senator Heider moved, seconded by Senator Siddoway**, that the Committee **adopt Rule No. 58-0102-1103**. The motion carried by voice vote.

The Vice Chairman indicated that the voting is over and will now proceed to hear more Rules. He then called on **Mr. Barry Burnell, Water Quality Division Administer for DEQ**.

DOCKET NO. 58-0109-1101 *Rules Regulating Swine and Poultry Facilities.* **Mr. Burnell** said that the purpose of this rule is to implement H 206, passed in 2011, wherein the Idaho Legislature placed the responsibility and oversight of current and future poultry operations with the Idaho State Department of Agriculture. The proposed rule will remove references to poultry facilities from DEQ's "Rules Regulating Swine and Poultry Facilities." He stated that there was no controversy or comments regarding this issue.

**DOCKET NO.
58-0110-1101**

Rules Regulating the Disposal of Radioactive Materials Not Regulated Under the Atomic Energy Act of 1954, As Amended). It was presented by **Mr. Orville Green, Administrator of Waste Management for DEQ**. The purpose is to implement H 93, passed in 2011, wherein the Idaho Legislature revised the definition of "restricted hazardous waste". It also updates the federal regulations, incorporated by reference, to include those revised as of January 1, 2011. House bill 93 addresses the new definition of "by-product material" enacted as part of the Federal Energy Policy Act of 2005 and to clarify that certain materials now included in this new definition could continue to be disposed of at a commercial hazardous waste disposal facility located in Idaho. This change in definition at the federal level would prohibit disposal of this material at a commercial hazardous waste disposal facility under the existing definitions of "restricted hazardous waste." The amendment specifically clarifies that a facility could continue taking this waste, consistent with the Federal Energy Policy Act of 2005, which states that commercial hazardous waste facilities are authorized to continue accepting such waste.

Mr. Green said that no public hearing was requested or held on this Rule and no written comments were received from the public. There are no increased costs to the Department.

**DOCKET NO.
58-0124-1101**

Standards and Procedures For Application of Risk Based Corrective Action at Petroleum Release Sites. **Mr. Green** presented this Rule also. It requires that DEQ develop a guidance document to aid in implementation of the rule. During work group meetings for guidance development, the work group identified that the current state of the science regarding the methodologies describing how the toxicity data is used to calculate risk, particularly for inhalation exposures, had changed. The work group also concluded that the procedures and screening levels for risk evaluation of the vapor intrusion pathway, as delineated in the existing rule, did not meet current industry practice by omitting the use of soil vapor measurements. This rulemaking has been initiated to update portions of the rule that are pertinent to evaluation of petroleum release sites in order to promote consistent corrective action decision-making at those sites.

Vice Chairman Bair said that **Mr. Eric Wilson, Minerals Resource Manager, Idaho Department of Lands**, would present the Oil and Gas Rule.

**DOCKET NO.
20-0702-1102**

Conservation of Crude Oil and Natural Gas in the State of Idaho. **Mr. Wilson** stated that the Department is the administrative agency for the Idaho Oil and Gas Conservation Commission. The Commission's duty under Idaho Code 47-3 is to prevent waste during the exploration and development of oil and gas resources, protect the correlative rights of mineral owners, and protect fresh waters during oil and gas development on all federal, state, and private lands in Idaho.

On May 17, 2011, the Oil and Gas Conservation Commission directed the Department to enter into rulemaking to revise IDAPA 20.07.02. These rules govern the drilling, completing, and plugging of oil and gas wells. The rules have not been revised since 1989. Since that time, the technology used by the oil and gas industry has continued to advance, and expectations for ground water protection and regulatory oversight have increased.

The initial reason to open this rulemaking process was to address well treatments and hydraulic fracturing. A temporary rule to cover these activities was approved by the Commission in April, 2011, but a more thorough rule was needed. In addition, the Department identified several other gaps in the existing rules that needed to be addressed in order to better implement the Oil and Gas Conservation Act.

Mr. Wilson provided a summary of the proposed changes and they include the following: Expanded well drilling permit requirements; addition of a public comment period on applications; application, operating, and reporting requirements for well treatments, including hydraulic fracturing; increased bond amounts and additional bonding requirements; basic surface owner protections; modified well drilling rules to better prevent waste and protect fresh waters; new pit construction requirements; definitions of active and inactive wells and incentives for proper well abandonment; periodic testing of well integrity to prevent waste and protect fresh waters; basic emergency response requirements; removal of Class II injection well permitting under this rule; improved plugging to better protect fresh waters; new surface reclamation standards; and revised geophysical permitting requirements.

With no oil and gas activity in Idaho, our regulations have not kept pace with the industry, noted Mr. Wilson. He said the issue that precipitated this rulemaking, hydraulic fracturing, is a good example of how regulations need to keep pace with advances in industry. While this practice has been around since the 1950's, the scale and amount of hydraulic fracturing used in specific types of oil and gas development has greatly expanded in the last few years. As some problems with these large well treatments have become apparent, many states have been revising their rules to address these problems.

In closing, Mr. Wilson said that these proposed changes will provide a consistent regulatory framework for oil and gas development and will further the mission of the Oil and Gas Conservation Commission. In particular, the proposed changes provide significantly better protection for Idaho's fresh water resources. (A copy of Mr. Wilson's full testimony is on file.)

**PASSING OF
GAVEL:**

Vice Chairman Bair announced that due to time constraints, the hearing on this Rule would be continued. He then passed the gavel to the Chairman.

ADJOURN:

Chairman Pearce adjourned the meeting at 3 P.M.

Senator Pearce
Chairman

Juanita Budell
Secretary