

MINUTES
HOUSE ENVIRONMENT, ENERGY, & TECHNOLOGY COMMITTEE
HARWOOD SUBCOMMITTEE
Air Quality and Waste Management

DATE: Thursday, January 26, 2012
TIME: 1:30 P.M.
PLACE: Room EW41
MEMBERS: Chairman Harwood, Representatives Eskridge, Simpson, Schaefer, DeMordaunt, Smith(30), Cronin
**ABSENT/
EXCUSED:** None.
GUESTS: Christine Riggs, Office of Attorney General; Toni Hardesty, Director, Department of Environmental Quality (DEQ); Martin Baur, Orville Green and Bruce Wicherski, DEQ; Stephen McGary, James Williamson and Bret Rocks, Brigham Young University-IDAHO; Jeri DeLange, City of Hayden

Chairman Harwood called the meeting to order at 1:38 p.m.

DOCKET NO. 58-0101-1001: **Martin Baur**, Department of Environmental Quality (DEQ), presented **Docket No. 58-0101-1001**. He explained that the rule was an amendment to the Crop Residue Burning Rules and that it streamlined the burning permit process for propane flaming and small spot or broken baled burns. He stated that the spot or baled burn permits were valid for an entire calendar year, were allowed only on DEQ designated burn days, and cost \$20.00 dollars per year. In addition, the permits were valid for 10 acres annually but not more than one acre per day. Mr. Baur noted that the rule did not regulate an activity not regulated by the federal government, nor was it broader in scope or more stringent than federal regulations; and, like the rule adopted in 2008, the rule could only be implemented upon legislative approval and upon additional approval of the Environmental Protection Agency (EPA).

In response to committee questions, **Mr. Baur** stated that the farmer, after being trained, determined what constitutes a spot burn and that record keeping protected farmers from false accusations. He explained that the DEQ worked in conjunction with the Highway Department to manage burning permits adjacent to roadways and that examples of "sensitive populations" could be persons confined to hospitals and/or schools in session. He also stated that the burning permit was not just a piece of paper and that record keeping was part of compliance, which was reviewed annually by DEQ.

ORIGINAL MOTION: **Rep. Eskridge** made a motion to recommend approval of **Docket No. 58-0101-1001** to the full committee.

SUBSTITUTE MOTION: **Rep. DeMordaunt** made a substitute motion to approve **Docket No. 58-0101-1001** to the full committee, with the exception of Section .05, Record Keeping. He stated that record keeping imposed an additional and unwarranted burden on the farmer. **Motion failed by show of hands.**

Chairman Harwood asked for a vote on the original motion to recommend approval of **Docket No. 58-0101-1001** to the full committee. **Motion carried by a 4 AYE and 3 NAY hand vote. Voting in favor** to the motion: **Reps. Eskridge, Schaefer, Smith(30), and Cronin. Voting in opposition** to the motion: **Reps. Harwood, DeMordaunt and Simpson.**

DOCKET NO. 58-0101-1003: **Martin Baur**, DEQ, presented **Docket No. 58-0101-1003**. He said that the existing Kraft Pulp Mill Sections in DEQ Air Quality Rules were promulgated as far back as 1972. Since then, federal rules and regulations had been passed that made some existing State Administrative Rules obsolete and confusing. Since the federal Kraft Pulp Mill Rules had been incorporated into **IDAPA 50.01.01.107**, the proposed rule change would cancel the obsolete and confusing rules. In addition, the rule would set forth requirements for the recovery boiler at the Clearwater facility in Lewiston, Idaho.

In a response to a committee question, **Mr. Baur** indicated that TSR was an acronym for Total Reduced Sulfur.

MOTION: **Rep. Simpson** made a motion to approve **Docket No. 58-0101-1003** to the full committee. **Motion carried by voice vote.**

DOCKET NO. 58-0101-1101: **Martin Baur** DEQ, presented **Docket No. 58-0101-1101**. He said that DEQ did an annual incorporation, by reference, to update citations and federal rules that had been delegated to the Idaho DEQ. **Docket No. 58-0101-1101** would incorporate those rules encompassed in the Federal Prevention of Significant Deterioration implementation rule for particulate matter 2.5 (PM2.5) micrometers or less. He indicated that the rule applied to industrial facilities that emit large quantities of PM2.5 and addressed how permits are to be written and analyzed.

MOTION: **Rep. Simpson** made a motion to approve **Docket No. 58-0101-1101** to the full committee. **Motion carried by voice vote.**

DOCKET NO. 58-0101-1102: **Martin Baur**, DEQ, presented **Docket No. 58-0101-1102**. He explained that the rule repeals the electric generating unit construction prohibition that was adopted in 2007. He noted that the 2006 Legislature, prompted by a company's desire to build a coal-fired power plant in the Magic Valley, imposed a two year moratorium on the construction. At the same time the EPA and the states were incorporating new federal rules for the control of mercury emissions from electric generating units in the United States. EPA developed the Clean Air Mercury Rule, which required states to either opt-into or opt-out of a mercury cap and trade rule for electric generating units. Since Idaho opted-out, a program was required to regulate coal-fired power generation to maintain Idaho's mercury emissions. The 2011 Legislature approved the Idaho DEQ rule which set mercury emissions at zero for coal-fired power plants. As a result of that action, the electric generating unit construction prohibition is no longer needed.

MOTION: **Rep. Eskridge** made a motion to approve **Docket No. 58-0101-1102** to the full committee. **Motion carried by voice vote.**

DOCKET NO. 58-0101-1103: **Martin Baur**, DEQ, presented **Docket No. 58-0101-1103**. He said the rule incorporated federal changes made between July 1, 2010 and July 1, 2011 and was needed to ensure that Idaho's Air Quality Program maintained consistency with the federal regulations.

MOTION: **Rep. DeMordaunt** made a motion to approve **Docket No. 58-0101-1103** to the full committee. **Motion carried by voice vote.**

DOCKET NO. 58-0105-1101: **Orville Green**, DEQ, presented **Docket No. 58-0105-1101**. He said that in the time frame between July 1, 2010 and June 30, 2011, there were two final federal hazardous waste regulations published in the Federal Register that were proposed for adoption. Mr. Green remarked that none of the regulations would have significant impacts to Idaho. One of the rules involved removing saccharin and its salts from the lists of hazardous constituents and commercial chemical products which are hazardous when discarded. The other regulation contained technical corrections to the existing federal Academic Labs Rule which was previously promulgated in 2008.

MOTION: **Rep. Smith** made a motion to approve **Docket No. 58-0105-1101** to the full committee. **Motion carried by voice vote.**

DOCKET NO. 58-0110-1101: **Orville Green**, DEQ, presented **Docket No. 58-0110-1101**. He testified that the rule was necessary to comply with **H 93**, which was approved by the Legislature and signed by the Governor in 2011. **H 93** was enacted to address the new definition of by-product material contained in the Federal Energy Act of 2005 and its intent is to clarify that certain materials now included in this new definition would continue to be disposed of at a commercial hazardous waste disposal facility located in Idaho.

MOTION: **Rep. Cronin** made a motion to approve **Docket No. 58-0110-1101** to the full committee. **Motion carried by voice vote.**

DOCKET NO. 58-0124-1101: **Orville Green**, DEQ, presented **Docket No. 58-0124-1101**. He stated that the rule change corrected chemical toxicity values, updated the Screening Level values for soil and ground water, added Screening Levels for soil vapor measurements, and incorporated the use of soil vapor into the risk evaluation process. He noted that the proposed changes to the rule occurred as a result of information provided during the development of guidance required by the rule and that guidance was developed in collaboration with the Petroleum Storage Tank Fund, the Idaho Petroleum Marketers, the Convenience Store Association, plus consultants involved in cleanups of contaminated petroleum sites.

MOTION: **Rep. DeMordaunt** made a motion to approve **Docket No. 58-0124-1101** to the full committee. **Motion carried by voice vote.**

ADJOURN: There being no further business to come before the committee, the meeting adjourned at 3:35 p.m.

Representative R. Harwood
Chair

Jean Vance
Secretary