

MINUTES

HOUSE ENVIRONMENT, ENERGY, & TECHNOLOGY COMMITTEE

- DATE:** Monday, January 14, 2013
- TIME:** 1:30 P.M.
- PLACE:** Room EW41
- MEMBERS:** Chairman Raybould, Vice Chairman Eskridge, Representatives Anderson(1), Hartgen, Vander Woude, DeMordaunt, Nielsen, Thompson, Anderson(31), Anderst, Mendive, Monks, Morse, Trujillo, Smith, Rusche, Woodings
- ABSENT/
EXCUSED:** None.
- GUESTS:** Roxana Eixenburger, Intern with Rep. Sue Chew; Doug Conde, Deputy Attorney General; Curt Fransen, Director of the Idaho Department of Environmental Quality (IDEQ); Orville Green, Mike Simon, Tiffany Floyd, Barry Burnell, and Paula Wilson IDEQ; Neil Colwell, Avista Corp; Dennis Stevenson, Administrative Rules Coordinator; Natalie Stoker, Amanda Garrity, Ashley Porter, Alice Cannon, Kendall Armstrong, Kristine Fielding, Courtney Frost, Paisley Worthington, and Pamela Dell, American Heart Association, Idaho Youth Lobby
- Chairman Raybould** called the meeting to order at 1:29 p.m.
- MOTION:** **Rep. Smith** made a motion to approve the minutes of the January 8, 2013. **Motion carried by voice vote.**
- Dennis Stevenson**, Administrative Rules Coordinator, explained the process for approval and rejection of Administrative Rules. Responding to questions from the committee, Mr. Stevenson cautioned the committee on "word-smithing" or inserting alterations which may change the intent of the rule. He said it was the responsibility of the committee to approve or reject, not to change.
- Curt Frandsen**, Director of the Idaho Department of Environmental Quality, introduced the members of his staff who would introduce the changes to the rules for 2013. He said that all the changes to the rules were in compliance to federal requirements and explained the process of incorporation of rules by reference.
- DOCKET NO. 58-0123-1201:** **Doug Conde**, Deputy Attorney General and legal advisor to the Idaho Department of Environmental Quality (IDEQ), presented **Docket No. 58-0123-1201** to the committee. He explained that in the 2012 Legislative Session, the Idaho Administrative Procedures Act (APA) was changed to require all agencies to conduct negotiated rulemaking, if it was feasible to do so. He said that the APA process of rulemaking had long been followed by the IDEQ; however, the changes were made to ensure the rules were consistent to 2012 legislative law.
- Members of the committee raised questions regarding negotiated rulemaking, public notification, public comment and individual participation. **Mr. Conde** said that the new language in **Docket No. 58-0123-1201, Sections 811, 814, and 830** had not changed the level of transparency and that individuals access to the public process was the same.
- MOTION:** **Rep. Rusche** made a motion to approve **Docket No. 58-0123-1201.**
- Committee discussion continued in regard to primacy over federal law and in regard to which governmental levels were more receptive to state generated concerns. It was explained that state government cannot change federal law and that state agencies are more likely to understand the problems faced by the State of Idaho.
- VOTE ON MOTION:** **Rep. Raybould** presented the motion to the committee. **Motion carried by voice vote.**

DOCKET NO. 58-0105-1201: **Orville Green**, IDEQ, presented **Docket No. 58-0105-1201** to the committee. He explained that the rulemaking information which he would deliver was part of a routine, annual procedure that IDEQ performs to satisfy the consistency and stringency requirements of the Idaho Hazardous Waste Management Act. He also explained that the public participation process had been completed and that the rule change would generate no increased costs. Three regulations from the Federal Register were proposed for adoption by reference. They are: (1) revising the rule to include best demonstrated available technologies as additional treatment standards where numerical standards are difficult to ascertain by analysis, (2) changing the manifest form requirement from red ink to accept distinct ink color or another distinguishing method, and (3) changing a typographical error in an organic hazard waste listing.

MOTION: **Rep. Morse** made a motion to approve **Docket No. 58-0105-1201**. **Motion carried by voice vote.**

DOCKET NO. 58-0108-1101: **Barry Burnell**, IDEQ, presented **Docket No. 58-0108-1101** to the committee. He explained that the rule change complies with **S 1220**, which was passed by the 2005 Legislature, directing IDEQ to include the engineering design standards in the drinking water rules. Mr. Brunell stated that the new water treatment technologies of membrane filtration and ultra violet disinfection were also included. In addition, the rule modified the pilot testing of treatment systems and reorganized the preliminary engineering reports section.

Mr. Brunell stated that the public participation process was successful and that suggestions from the public were incorporated into the proposed rule. There was no increase or additional estimated cost to the regulated community as a result of the proposed changes. He said that the rule clarifies the drafting of preliminary engineering reports and the development of pilot studies.

Members of the committee were concerned with the time frame for repairing or replacing a failed backflow assembly and the risk to the public. **Mr. Brunell** explained that prior to the proposed rule there had been no time limit for repairs and that the 10 working-day limit for reparation may not be optimal but was far more suitable than the prior rule.

Rep. DeMordaunt declared Rule 38 stating that he was a manager of a community water system. He said that **Section 501.04, paragraph f**, entitled: Redundancy, was a concern because water systems for small communities of 15 homes or 25 people were included and may be overly impacted economically.

Mr. Brunell said that the rule was not retroactive and that redundancy was part of Idaho's public water systems. He also stated that smaller systems do not need a fire flow.

Answering additional questions from the committee regarding compliance and mechanisms for variances for naturally mineralized water pollutants in areas such as North Idaho, **Mr. Brunell** stated that of the 2,000 water systems in Idaho, 90 percent are compliant. He also stated that there were waivers for testing. He added that Twin Falls was able to solve their arsenic pollution by blending water sources and that some "under the sink" applications were successful for removal of contaminants. In response to a question referencing blue-green algae bloom, he said that it can be lethal to pets but with respect to surface water, it was managed by public water systems.

MOTION: **Rep. DeMordaunt** made a motion to approve **Docket No. 58-0108-1101** with the exception of **Section 501.04, paragraph f**. He argued that the broad application could be a difficult economic impact for small water organizations.

Rep. Anderson (1) declared Rule 38 stating that he was a director of a water district. Further committee discussion concerning the origin of the rule, it's stringency in comparison to federal law, and the true representation of smaller community water districts during the public comment.

Chairman Raybould informed the committee that the IDEQ members were scheduled in the Senate at 3:00 p.m. After verification as to the availability of **Barry Burnell** and **Tiffany Floyd**, IDEQ, for Wednesday, January 16th, Chairman Raybould informed the committee that the motion would remain before the committee on Wednesday, January 16, 2013.

ADJOURN: There being no further business to come before the committee, the meeting adjourned at 3:02 p.m.

Representative Raybould
Chair

Jean Vance
Secretary