

MINUTES

HOUSE ENVIRONMENT, ENERGY, & TECHNOLOGY COMMITTEE

- DATE:** Wednesday, January 16, 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:** Director Curt Frandsen, Tiffany Floyd, Mike Simon, Doug Conde, Barry Burnell, and Paula Wilson, Idaho Department of Environmental Quality (IDEQ); Brenda Tominaga, Idaho Water Policy Group, Inc.; Dennis Stevenson, Administrative Rules Coordinator; John Eaton, Idaho Association of Realtors; Kent Lauer, Idaho Farm Bureau; Roxana Exenberger, Intern with Rep. Sue Chew; Dale Atkinson, citizen.
- Chairman Raybould** called the meeting to order at 1:31 p.m.
- MOTION:** **Rep. Thompson** made a motion to approve the minutes of the January 14, 2013, meeting. **Motion carried by voice vote.**
- Chairman Raybould** reminded the committee that there was a motion to approve **Docket No. 58-0108-1101** with the exception of **Section 501.04, paragraph f.** before the committee.
- VOTE ON
MOTION:** **Motion carried by voice vote.**
- DOCKET NO.
58-0101-1201:** **Tiffany Floyd**, IDEQ, presented **Docket No. 58-0101-1201** to the committee. She explained that the proposed rule included: (1) revisions to update three air quality definitions, (2) language clarifications in the Permit to Construct exemption criteria, and (3) corrections to typographical errors in the Toxic Air Pollutant Increment Rules. She said that the language supervising nonmetallic mineral processing plants, in particularly rock crushers, had been streamlined. She said that industry representatives participated during the public participation meeting. She noted that public comment was incorporated into the rulemaking and that no increased costs would be imposed upon the regulated community.
- The committee questioned the involvement of small, topsoil screening operations being subject to regulation, the myriad of rules that may provide a level of government where government need not be, and the addition of stringency.
- Ms. Floyd** said that the language was to help clarify, for the regulated community, where compliance is necessary. She deferred to **Mike Simon**, IDEQ, who explained that only fixed plants were subject to regulation. He added that if the operation was not fixed, it would still have to follow "best practices."
- Regarding additional questions from the committee, **Mr. Simon** said that agricultural operations were exempt from this rule and that if an operation was an underground mine or did not have a rock crusher nor a grinding mill, the regulation would not apply. He said that Micron, Clearwater, and Simplot were the industries mainly involved in public participation. To a question from the committee regarding the public comment received from sand and gravel companies, or the mining industry, Mr. Simon said they had received no comment.

Rep. DeMordaunt requested that in reference to **Docket No. 58-0101-1201, Section 792 paragraph 02, Facilities Not Applicable to 40 CFR, page 51 of Pending Rules**, it be recorded that **Mr. Simon**, IDEQ, said that small, portable screening operations were exempt.

Issues regarding the inability to view the federal regulations being given primacy over the paragraphs being stricken from **Docket No. 58-0101-1201**, prompted members of the committee to question the exact content of the proposed rule on which they were being asked to vote.

Director Curt Frandsen, IDEQ was called upon to clarify the definition of negotiated rulemaking and what was truly negotiable when federal rules were in place. He said that the National Environmental Protection Agency makes the rules and the courts interpret them. He explained that once the federal rule is in place, the margin for state negotiation can be very narrow. He added that trade organizations working on a national level can generate more latitude.

To a question from the committee regarding the regulation of noise from rock crushers, **Mr. Simon** said that noise is regulated at the local level.

MOTION:

Rep. Trujillo made a motion to approve **Docket No. 58-0101-1201**.

**ROLL CALL
VOTE:**

Chairman Raybould requested a roll call vote. **Motion failed by a vote of 8 AYE and 9 NAY. Voting in favor** of the motion: **Reps. Eskridge, Anderson (1), Anderson (31) Trujillo, Smith, Rusche, Woodings, and Raybould. Voting in opposition** to the motion : **Reps. Hartgen, Vander Woude, DeMordaunt, Nielsen, Thompson, Anderst, Mendive, Monks, and Morse.**

**DOCKET NO.
58-0101-1202:**

Tiffany Floyd, IDEQ, presented **Docket No. 58-0101-1202** to the committee. She explained that the rule would allow citizens to have their vehicles repaired at the same business where it was emissions tested. The rule change would also decrease the regulatory burden of the program by allowing for the issuance of extensions in appropriate circumstances such as military personnel or others temporarily outside the United States. She said IDEQ determined that a negotiated rulemaking was not feasible due to the simple nature of the rule and that there were no increased costs for the regulated community.

Concerns were raised by the committee pertaining to portable emissions testing stations becoming fraudulent repair stations; and, loss of privileges facing the noncompliant because they were not within the United States, but had left vehicles in storage.

Dennis Stevenson, Administrative Rules Coordinator, was asked to clarify for the committee the possibility of rejecting an entire rule, in addition to the proposed changes from IDEQ. He said that they could reject the entire rule.

Chair Raybould asked **Director Frandsen** (IDEQ) if he would yield for questions.

Director Curt Frandsen (IDEQ) explained that the rules before the committee represented three years of public input. He said citizens had contacted the agency to make the changes. He also explained the ability of the agency to computer check and/or audit the emissions stations and the auto garages, thus making fraudulent activity less likely. He clarified the vehicle registration extensions explaining several methods of approaching the process without incurring fines or loss of vehicle registration.

In response to a question from the committee, **Ms. Floyd** said that the docket was not necessarily a rule of the Clean Air Act.

Rep. Nielson requested the record show that emissions testing remained mandatory only in Ada and Canyon counties and that the boundaries had not changed in order to be in compliance with federal and state clean air regulations.

MOTION: **Rep. Monks** made a motion to approve **Docket No. 58-0101-1202. Motion carried by voice vote. Reps. Hartgen and Nielsen** requested to be recorded as voting **NAY**.

DOCKET NO. 58-0101-1203: **Tiffany Floyd**, IDEQ, presented **Docket No. 58-0101-1203** to the committee. She explained that the purpose of the rulemaking was the routine annual incorporation by reference citation in Section 107 to ensure rules were consistent with federal regulations revised as of July 1, 2012. In addition the rule updated the definition of Major Facility by adding the major source thresholds for greenhouse gases for consistency. She said a public comment period and hearing were held and that there was to be no increased costs for the regulated community.

Responding to questions from the committee, **Director Curt Frandsen**, said that although the state is not in noncompliance or non-attainment, it could easily change simply by a change in weather patterns.

MOTION: **Rep. Morse** made a motion to approve **Docket No. 58-0101-1203. Motion carried by voice vote.**

ADJOURN: There being no further business to come before the committee, the meeting adjourned at 3:16 p.m.

Representative Raybould
Chair

Jean Vance
Secretary