

MINUTES
SENATE HEALTH & WELFARE COMMITTEE

DATE: Thursday, January 29, 2015

TIME: 3:00 P.M.

PLACE: Room WW54

MEMBERS PRESENT: Chairman Heider, Vice Chairman Martin, Senators Johnson (Lodge), Nuxoll, Hagedorn, Tippetts, Lee, Schmidt and Lacey

**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.

CONVENED: **Chairman Heider** called the meeting to order at 3:06 p.m. He welcomed family medicine residents in the audience and called on Curt Fransen for his presentation.

PRESENTATION: **Curt Fransen**, Director, Department of Environmental Quality (DEQ), introduced himself and the other presenters, all from the DEQ: Tiffany Floyd, Administrator, Air Quality Division; Orville Green, Administrator, Waste Management and Remediation Division; and Paula Wilson, Rules Coordinator.

Mr. Fransen presented an overview of DEQ's rulemaking in general and provided a sense of some of the parameters DEQ worked with in the promulgation process. He explained the relationship between the federal Environmental Protection Agency (EPA) and the State of Idaho relative to environmental programs and implementation of laws and rules by either the EPA or the states.

Mr. Fransen discussed "stringency fee" and explained why DEQ often incorporates federal regulations into state rules by reference. He reviewed the federal environmental laws, federal rules and regulations, authorization, delegation, primacy, and the benefits to state primacy laws. He said DEQ implements state programs in lieu of waiting for the EPA to implement their programs, which allows the State to have control of its own programs. He said DEQ has some flexibility to tailor programs that benefit Idaho, provided the programs are as stringent as federal regulations but no more stringent than necessary.

Mr. Fransen briefly outlined the proposed rule changes being presented at the meeting and discussed what to expect from DEQ in 2016.

Vice Chairman Martin asked Mr. Fransen where DEQ is relative to primacy of surface water. **Mr. Fransen** explained the process so far and said DEQ expects to have rules before the Legislature in 2016.

**PASSED THE
GAVEL:** Chairman Heider passed the gavel to Vice Chairman Martin for rules review.

Vice Chairman Martin recognized Tiffany Floyd for a presentation on the first three dockets.

DOCKET NO. 58-0101-1401 **Tiffany Floyd**, Air Quality Division Administrator, DEQ, addressed **Docket No. 58-0101-1401**, Rules for the Control of Air Pollution in Idaho. She explained the rule was initiated by the agricultural community and a State legislator. The purpose of the rule change is to clarify the application of Idaho fugitive dust as it pertains to agricultural activities. **Ms. Floyd** said DEQ conducted a negotiating process, held a comment period and had a public hearing. The proposed rule reflects the comments received. The Board of Environmental Quality adopted the rule in mid-November. She asked the Committee to approve **Docket No. 58-0101-1401** and stood for questions.

Senator Nuxoll asked if the rules adhere to federal regulations. **Ms. Floyd** replied this piece is not currently federally approved; it is a clarification to assist implementation of actual rules. **Senator Schmidt** asked if these rules apply to timber industries. **Ms. Floyd** said they did not. **Chairman Heider** asked for a definition of fugitive dust. **Ms. Floyd** defined it as dust created in the activity of farming. **Senator Tippetts** asked if the rules provide relief for individuals engaged in agricultural activities. **Ms. Floyd** answered affirmatively.

TESTIMONY: **Vice Chairman Martin** recognized Roger Batt, who took the podium as representative of the Idaho Heartland Coalition. **Mr. Batt** testified in support of the rules being presented, which he said came about as the result of the federal Clean Air Act. He said this set of rules is a reasonable solution to the current problem.

MOTION: **Senator Tippetts** moved to approve **Docket No. 58-0101-1401**. **Senator Schmidt** seconded the motion. The motion carried by **voice vote**.

DOCKET NO. 58-0101-1402 **Ms. Floyd** discussed rule changes in **Docket No. 58-0101-1402**, which she said adds clarification to the rule for the control of air pollution in Idaho. The rule ensures consistency with federal regulations and minimizes the burden on regulated facilities.

MOTION: **Senator Lacey** moved to approve **Docket No. 58-0101-1402**. **Senator Hagedorn** seconded the motion. The motion carried by **voice vote**. **Senator Nuxoll** asked to be recorded as voting Nay.

DOCKET NO. 58-0101-1403: **Ms. Floyd** addressed **Docket No. 58-0101-1403**, which she said is necessary to ensure that Idaho rules are consistent with federal regulations. She said the rule change is necessary to maintain program primacy and noted the types of incorporation by reference. DEQ did not conduct negotiation on rulemaking, due to the nature of the rule. Public hearings were held, and no comments were received.

Senator Nuxoll asked questions about exceptions from the federal code. **Mr. Fransen** answered that the federal regulations do provide some flexibility.

MOTION: **Chairman Heider** moved to approve **Docket No. 58-0101-1403**. **Senator Schmidt** seconded the motion. The motion passed by **voice vote**. **Senator Nuxoll** asked to be recorded as voting Nay.

Vice Chairman Martin recognized Orville Green for presentation of the next docket.

DOCKET NO. 58-0105-1401 **Orville Green**, DEQ, addressed **Docket No. 58-0105-1401**, which he said is an adoption by reference because it is required by law. He said the rules are adopted on an annual basis and incorporate the changes in the federal Hazardous Waste Rules from July 1, 2013, through June 30, 2014.

Mr. Green said the rules enable Idaho to maintain primacy over the Hazardous Waste Program in lieu of the EPA. He asked the Committee to approve **Docket No. 58-0105-1401** and stood for questions.

MOTION: **Senator Schmidt** moved to approve **Docket No. 58-0105-1401**. **Senator Tippetts** seconded the motion. The motion carried by **voice vote**.

**PASSED THE
GAVEL:**

Vice Chairman Martin passed the gavel back to Chairman Heider.

ADJOURNED:

There being no further business, Chairman Heider adjourned the meeting at 4:49 p.m.

Senator Heider
Chair

Erin Denker
Secretary

Jeanne' Clayton
Assistant