

MINUTES

HOUSE ENVIRONMENT, ENERGY, & TECHNOLOGY COMMITTEE

DATE: Thursday, February 04, 2016

TIME: 1:30 P.M.

PLACE: Room EW41

MEMBERS: Chairman Thompson, Vice Chairman Anderst, Representatives Raybould, Hartgen (Hartgen), Vander Woude, Nielsen, Anderson, Mendive, Trujillo, Beyeler, Chaney, Nate, Scott, Smith, Rusche, Jordan, Rubel

**ABSENT/
EXCUSED:** Rep. Anderson

GUESTS: John Chatburn, Office of Energy Resources (OER); Ken Miller, Snake River Alliance; David Monsees; Matt Wiggs, OER; Barry Burnell, Idaho Department of Environmental Quality (IDEQ); Tana Cory, Idaho Bureau of Occupational Licenses (IBOL); Tiffany Floyd, IDEQ; John Lee (IBOL); Joan Cloonan, Board of Drinking Water and Wastewater Professionals; Carl Brown, IDEQ; John Carstensen, Idaho Power; Brad Hunt, OARC; Lisa Carlson, IDEQ; John Tippets, IDEQ; Shelley Roberts, Idaho Rural Water Association; Zack Waterman, Sierra Club

Chairman Thompson called the meeting to order at 1:30. He explained that the committee would consider **Docket No. 24-0501-1501**, and then hear the presentation of Clean Power Plants.

DOCKET NO. 24-0501-1501: **Roger Hales**, Board Chairman of the Bureau of Occupational Licenses, presented **Docket No. 24-0501-1501**. He introduced the Chairman of the Board, **Barry Burnell**, Idaho Department of Environmental Quality, **Dr. Joan Cloonan**, Vice Chair of the Board of Drinking Water and Wastewater Professionals and public member of the board, and **John Lee**, the Licensed Operator of the Bureau of Occupational Licenses. This Board regulates the profession of drinking water and wastewater operators and backflow assembly testers (BAT) in Idaho. This docket accomplishes two things: It clarifies the experience required for Class III and Class IV operators, and it adds a code of ethics and standards of conduct for backflow assembly testers. The purpose of this rule is to protect public health by setting minimum requirements and standards for licensed backflow assembly testers in Idaho who inspect and field test backflow assemblies, backflow prevention devices, and air gaps that protect public water systems.

The Board's charge is to protect the public health, safety, and welfare, and it does this through the licensing of competent operators and backflow assembly testers, and enforcing the Act and rules approved by the Legislature. Backflow assembly testers are responsible for testing backflow assembly devices to ensure they are operating appropriately. Backflow assembly devices are commonly found at residences, and they are associated with irrigation systems and prevent potentially contaminated water from backflowing into the drinking water system.

The experience requirements for Class III and Class IV operator licenses are being clarified to eliminate confusion on the acceptable experience. The applicant must document four years of acceptable relevant on-site operating experience, two years of responsible charge of a major segment of a system in the same or next lower class, and pass the relevant examination. The Board has been working on a code of ethics and standards of conduct for the last two years. All backflow assembly testers were sent a postcard early on in the process advising them of this work.

Mr. Hales answered questions from the committee, saying there are four classes of operators, drinking water operators, and wastewater operators, with Class 4 being the highest. **Mr. Burnell** answered a question for Mr. Hales. Mr. Burnell is confident the pollution of drinking water that occurred in Flint, Michigan, would not happen in Idaho due to the standards in place that monitor water quality. Mr. Hales continued to answer questions, stating if there were violations of the code of ethics, they would be subject to discipline by the board, ranging from a fine, to a suspension, to revocation of licensure. If there is a question of violation, the board reviews the incident. There is a process to appeal decisions.

There are currently 3,687 water operator licensees in total connected with municipalities, and 548 private backflow assembly testers. The code of ethics does not raise the standard on license holders but makes them responsible to comply with requirements of operation.

Joan Cloonan, Vice Chair of the Board of Drinking Water and Wastewater Professionals, testified **in support** of this rule. Many backflow assembly testers are in private practice in direct contact with the public. The goal is to protect the public by providing accountability. All backflow assembly testers should be operating under the same basic rules. The rules were drafted by the BAT members of the board.

Mr. Hales answered more questions from the committee, saying the code of ethics is needed because there is not a national association that regulates backflow operators, which is why it needs to be regulated through licensing. Any time an operator does a backflow check, the requestor should always ask to see a license to insure the work is competent. The backflow assembly tester not only reports to the requestor but to the owner or operator of the water system as well. There is a separate licensure level that deals with Class 3 and 4 licenses; they operate water and wastewater plants. An operator may hold multiple types of licenses to perform numerous functions.

MOTION:

Rep. Rusche made a motion to approve **Docket No. 24-0501-1501. Motion carried by voice vote.**

John Chatburn, Administrator, Idaho Governor's Office of Energy Resources (OER), made a presentation of EPA's Clean Power Plan. He introduced **Director John Tippets**, IDEQ, and **Commissioner Paul Kjellander**, Idaho PUC.

EPA proposes to regulate carbon emissions from existing power plants utilizing Section 111(d) of the Clean Air Act. The regulation only applies to coal-powered Electric Generating Units (EGUs) that meet certain criteria. Idaho only has two EGUs, Langley Gulch near New Plymouth and Lancaster in the Rathdrum area. However, over 30% of Idaho's electricity is imported from EGUs in neighboring states.

On June 2, 2014, the EPA released the proposed Clean Air Act rule and requested comment. OER worked with the DEQ, PUC, and stakeholders to develop the following comments. Idaho should not be subject to the rule. EPA must reconsider compliance targets for Idaho. Idaho should not be required to acquire additional renewable energy. EPA needs to make adjustments for hydro-heavy states and states with new natural gas. States need more time to comply.

EPA released the final Clean Power Plan rule on August 3, 2015. EPA adjusted the hydroelectric data to present a more accurate average than the former plan. EPA significantly changed Idaho's goal, making compliance with the final rule more attainable. EPA adjusted the deadline for final plan submittal from 2016 to 2018, and changed the compliance start date from 2020 to 2022. The final goal date remains the same at 2030. While Idaho considers hydro power a renewable energy, EPA does not because of its environmental impacts, which makes it less desirable than solar power or wind power.

States must submit their final state plan or a non-binding "initial plan submittal and request for extension" no later than September 6, 2016. The initial submittal must identify the final plan approach or approaches under consideration, explain why the state needs additional time, and demonstrate the state's public outreach process to assure meaningful engagement during development of the initial submittal and for development of the final plan.

States that are granted an extension will have until September 2018 to submit a final state plan. Any statutory or rule changes necessary to implement a state plan would be brought to the Legislature during the 2017 or 2018 sessions. States must choose one of two Compliance Pathways for their state – mass based or rate based. States may potentially trade credits with other states that are on the same compliance pathway to accomplish compliance more efficiently. States that do not submit state plans will fall under a federal plan enforced directly by EPA. The state of Idaho is in good shape as far as trading energy; it needs to monitor surrounding states so they do not become detrimental to the ratepayers in Idaho.

There are two model rules: the mass-based plan and the rate-based plan. Under the mass-based plan, EPA allocates states with a set amount of allowances for states to distribute to EGUs. EGUs must have allowances to cover every ton of CO₂ emitted. EGUs may sell and purchase allowances from other states. EPA will distribute allowances for states under the federal plan.

The rate-based plan is more complicated. Under the rate-based plan, EGUs must adhere to a prescribed "Emission Rate," or how many tons of CO₂ they can emit per megawatt-hour of production. EGUs may procure Emission Rate Credits (ERCs) to reduce their emission rates. ERCs can be produced by renewable energy, energy efficiency, or generation shifting. EGUs and independent power producers may sell and purchase ERCs from other states. Every EGU must meet a prescribed emissions rate, either actually or after ERCs are added to generation. A state that has chosen a rate-based plan cannot trade energy with a state that has chosen the mass-based option. OER maintains EPA needs to develop criteria to allow trading between the two.

OER, DEQ, and the PUC are engaging with the other states, utilities, and various other stakeholders throughout the Western Interconnection. The OER is participating with 12 other states in discussions facilitated by Governor Ritter's Center for the New Energy Economy, participating with the Western Interstate Energy Board in exploring additional compliance options, and meeting with other states to discuss compliance pathways and potential trading scenarios. States must submit their final state plan no later than September 6, 2018, or EPA will finalize the federal plan for that state.

In conclusion, OER, DEQ, and the PUC are still exploring which compliance pathway will work best for Idaho, its utilities, and ratepayers. OER needs to continue discussions with neighboring states to identify the best compliance pathways. All options that will lessen any "rate shock" for consumers must be explored. Idaho should request a non-binding extension until September 6, 2018 to give additional time to work with surrounding states.

Mr. Chatburn answered questions from the committee, stating the path decision to be mass-based or rate-based can be changed. If, for example, Idaho decided the rate-based plan was best, but the surrounding states decided on the mass-based plan, Idaho could change plans, allowing it to trade energy. The cost for complying is still being studied. Idaho has a year-long grace period; then EPA's plan would be enforced. To clarify, the rule would be enforced not on the state of Idaho but on Idaho's EGUs. If EPA does not like Idaho's plan, it must send it back to Idaho to be modified, or Idaho could use the federal plan. EPA may choose to use the mass-based plan, which is easier to measure and easier to monitor.

MOTION: Rep. Smith made a motion to approve the minutes of February 2, 2016. **Motion carried by voice vote.**

ADJOURN: There being no further business to come before the committee, the meeting adjourned at 2:34 p.m.

Representative Thompson
Chair

Diana Seba
Secretary