

MINUTES

HOUSE ENVIRONMENT, ENERGY & TECHNOLOGY COMMITTEE

DATE: Monday, February 20, 2017

TIME: 1:30 P.M.

PLACE: Room EW41

MEMBERS: Chairman Raybould, Vice Chairman Thompson, Representatives Hartgen, Vander Woude, Anderson, Anderst, Mendive, Trujillo, Chaney, Nate, Cheatham, Horman, Malek, Moon, Smith, Scott, Jordan, Rubel

**ABSENT/
EXCUSED:** Rep. Vander Woude; Rep. Malek

GUESTS: Braden Jensen, Idaho Farm Bureau; Galen Lee, Payette County Farm Bureau; Roger Batt, Idaho Easter-Oregon Seed Association; Tiffany Floyd, Department of Environmental Quality (DEQ); Mary Anderson, DEQ; Carl Brown, DEQ; Paula Wilson, DEQ; Lisa Carlson, Idaho Attorney General's Office; Karen Miller, Physician; Justin McLeod, Prairie Grass Growers; Greg Branson, Farmer; Cory Kriss, Grower/CRB Board; Brandy Kay, IWGA; Benjamin Kelly, Food Producers of Idaho; and Jonathan Oppenheimer, Idaho Conservation League

Chairman Raybould called the meeting to order at 1:30 p.m.

MOTION: **Rep. Jordan** made a motion to approve the minutes of February 14, 2017. **Motion carried by voice vote.**

S 1009 **Tiffany Floyd**, Air Quality Division Administrator, DEQ, stated DEQ's Crop Residue Burn (CRB) program goals are to protect public health by ensuring that CRB does not exceed National Ambient Air Quality Standards (NAAQS) and to provide flexibility to farmers to burn crop residue as an agricultural practice when it will not jeopardize public health. DEQ's criteria for approving a burn include proximity to sensitive groups, weather activity and pollution concentrations which cannot exceed 75% of any NAAQS. **S 1009** does not propose a new standard but a threshold to ensure that DEQ does not exceed any NAAQS.

DEQ proposes to change the threshold from 75% to 90% for ozone specifically because the Environmental Protection Agency (EPA) reduced the ozone standard and because typical ozone levels can limit CRB even when burning is not predicted to exceed air quality standards. The 2008 ozone standard was 75 parts per billion and 75% of 75 equals 56 parts per billion, and 56 becomes the threshold number that DEQ uses to evaluate whether or not to approve a CRB. DEQ is not allowed to approve a burn at or above 56 parts per billion.

In 2015, the ozone standard was reduced to 70 parts per billion and 75% of 70 equals 52 parts per billion which becomes the new threshold where DEQ is allowed or not allowed to approve burns. Ozone concentrations at Craters of the Moon, which is defined as a pristine area, can range from 30 to 70 parts per billion, which can exceed both the 56 and 52 parts per billion. This has resulted in limiting the number of burn days for farmers, which DEQ estimates can be approximately one-third to one-half of the burn days currently allowed. So by changing the 75% outlined in statute to 90%, and using the 2015 ozone standard of 70 parts per billion, the threshold would be 63 parts per billion and allows for greater flexibility in determining when burning can occur when all the other criteria are met. Changing the threshold strengthens health protections by spreading the burns out over more days when smoke dispersion is better and may lead to less burns in a single day.

The proposed threshold change will require EPA approval before the statutes can be implemented, and DEQ is recommending a temporary measure that keeps the 2008 ozone standards currently used until February 28, 2018, when EPA approval of the new standard with the 63 parts per billion threshold will become effective.

Ms. Floyd informed the committee, in response to their questions that farmers get permission for a burn directly from DEQ via a Permit by Rule, and DEQ determines if the ambient ozone quality is below 90%, utilizing their staff meteorologist to make the determination on a day-to-day basis. She affirmed at the national level the parts per billion level was lowered because of information that ozone was more harmful to human health than people thought, and it is important that DEQ consider the NAAQS and something above it as harmful to public health. DEQ worked with the Department of Health & Welfare State Toxicologist for an evaluation of an 80% threshold, which, although it kept the ozone at 56 parts per billion, still presented the management problem of a reduction in burning days without an increase of public health benefits compared to a 90% threshold.

Those speaking **in support** of **S 1009** were **Braden Jensen**, Farm Bureau; **Justin McCloud**, President, Kentucky Blue Grass Association; **Greg Branson** Nezperce, farmer; **Cory Kriss**, Power County farmer; **Benjamin Kelly**, Food Producers of Idaho; **Robert Batt**, Idaho Eastern-Oregon Seed Association; and **Galen Lee**, Payette County Farm Bureau. They have been working under the same plan for 8 years and adjusting the burning criteria would allow for a robust program to be successful and continue in the future. Failure of the legislation would have a catastrophic impact on their businesses and cause losses in the millions of dollars. Seventy percent of blue grass seed in the United States is grown in Idaho, and without the ability to burn, bluegrass farmers would not be able to survive in Idaho. CBR lowers use of pesticides in farming since tilled crop residue harbors many pests, and lack of tractor use reduces diesel fuel use and emissions. The proposed change is equivalent to a change of one penny in \$10,000 or one minute in 37 years. The EPA stated they would support a 90% ozone standard as long as it protects human health, and there have been no documented cases showing impact (hospitalizations/deaths) to human health. Under the legislation, if it is a bad day to burn, they don't have to take advantage of it but can do it another day, which also would reduce smoke.

Those speaking **in opposition** of **S 1009** were **Dr. Karen Miller**, Physician, St. Luke's Idaho Pulmonary Associates and Adult Director of St. Luke's Cystic Fibrosis of Idaho, and **Jonathan Oppenheimer**, Government Relations Director, Idaho Conservation League. They expressed concern that the legislative changes weaken levels of protection for sensitive populations such as youth, elderly, pregnant woman or individuals suffering from respiratory issues because it allows a 14% increase from current standards and is contraindicated by the best available science. **Dr. Miller** stated that many of her pulmonary patients become housebound when crop residue burning takes place, and visits from patients with lung problems increase, as well as emergency and inpatient admission and the need for more health products to counteract poor air quality. **Mr. Oppenheimer** stated the proposed changes were not reached through consensus, are not in line with the collaborative approach used to forge the initial agreement between the agricultural community, human health advocates and regulating agencies and erodes the community partnership built over the past 8 years.

In response to committee questions, **Dr. Miller** stated she is not an expert on the impact of ozone levels, nor has she done any research on whether increasing ozone level concentration in the small amounts at issue causes harmful impact to patients' health. Her patients say crop burning has exacerbated their problems and so do forest fires, and she cannot tell whether 10 farms' CRB or 1 farm's CRB makes a difference in the impact on her patients.

Ms. Floyd to close, reiterated strongly that DEQ is dedicated to protecting public health in Idaho, and the proposed threshold change is not a new standard but falls below DEQ standards.

In response to committee questions, **Ms. Floyd** indicated the legislation could increase CRB days, and they do not have any scientific research to show whether the ozone changes at this level have any impact on health.

MOTION: **Rep. Thompson** made a motion to send **S 1009** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote.** **Rep. Rubel** requested she be recorded as voting **NAY**. **Rep. Chaney** will sponsor the bill on the floor.

ADJOURN: There being no further business to come before the committee, the meeting adjourned at 2:42 p.m.

Representative Raybould
Chair

Lorrie Byerly
Secretary