

MINUTES
SENATE RESOURCES & ENVIRONMENT COMMITTEE

DATE: Monday, January 13, 2020

TIME: 1:30 P.M.

PLACE: Room WW55

MEMBERS PRESENT: Chairman Heider, Vice Chairman Brackett, Senators Bair, Johnson, Mortimer, Patrick, Guthrie, Stennett, and Jordan

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 of the Senate Resources and Environment Committee (Committee) to order at 1:30 p.m.

PASSED THE GAVEL: **Chairman Heider** explained that he was turning the gavel over to Vice Chairman Brackett to facilitate the rules discussions. **Vice Chairman Brackett** stated that the omnibus rules would be discussed first and that the Committee would set aside any rules that were objected to and return to them at the end of the meeting, or a later date as necessary.

DISCUSSION: **John Tippetts**, Director of the Idaho Department of Environmental Quality (DEQ) introduced himself and other DEQ staff: Deputy Director Jess Byrne, Michael McCurdy, Mary Anne Nelson, Jerri Henry, Mark Dietrich, Lisa Carlson, Paula Wilson, Ed Hagan, and Darika Barnes. He provided background information on the DEQ's efforts and procedure history regarding their rules.

DOCKET NO. 58-0000-1900F Reauthorization of existing and previously approved and codified fee rule chapters under IDAPA 58 rules of the Department of Environmental Quality.

Mr. Tippetts explained that the DEQ removed unnecessary rules, reorganized and combined rules and chapters, and made non substantive clerical fixes. No one opposed the elimination of rule chapters and the rules were unanimously approved at their board meeting.

Senators Bair, Jordan, Johnson, and Mortimer asked various clarifying questions of Mr. Tippetts. He reassured them that nothing was done to change the sense or reading of the rules, and confirmed that there were no changes to fees.

MOTION: **Senator Johnson** moved to approve **Docket No. 58-0000-1900F**. **Chairman Heider** seconded the motion. The motion carried by **voice vote**.

DOCKET NO. 58-0000-1900 Reauthorization of existing and previously approved and codified rule chapters under IDAPA 58 rules of the Department of Environmental Quality.

Mr. Tippetts discussed this docket's rules and what they covered, listing all separate rules under the docket. He also explained that these rules had already gone through the negotiating process prior to presenting this docket. He pointed out that subsection 25102 was rejected and not passed, therefore remains in force. He mentioned that the DEQ did not change the subsection for temporary rulemaking. He informed the Committee that the Association of Idaho Cities was comfortable with the proposed rules.

Senators Patrick, Guthrie, Mortimer, and Johnson asked various clarifying questions of Mr. Tippetts. After some discussion and document presentation on the screen, **Mr. Tippetts** reassured the Committee that no substantive changes were made and that certain sections of the Idaho Rules of Administrative Procedure of the Attorney General's Office were incorporated into this rule.

MOTION: **Chairman Heider** moved to approve **Docket No. 58-0000-1900**. **Senator Jordan** seconded the motion. The motion carried by **voice vote**.

DOCKET NO. 58-0102-1901 IDAPA 58.01.02, Water Quality Standards Revisions for consistency with EPA action regarding site-specific selenium criterion effective for Clean Water Act Purposes.

Mary Anne Nelson, DEQ Surface and Wastewater Division Administrator, expanded upon the background of this rule. She noted that no public hearings on this rule were requested and that no anticipated additional cost would be borne. She commented that there were no controversial issues in this rule, which is regulated by the federal government, and it is no broader in scope.

MOTION: **Chairman Heider** moved to approve **Docket No. 58-0102-1901**. **Senator Patrick** seconded the motion. The motion carried by **voice vote**.

DISCUSSION: **Mr. Tippetts** summarized the next four dockets as a group of specialized rules. He explained that Idaho Code § 39-107D applies to the DEQ and these dockets. He explained how the DEQ was required to use scientific peer review science to protect human health and the environment, and that they are required to identify and study several components of risks. The following dockets were separated out for consideration to make sure that the DEQ followed the scientific requirements. He assured the Committee that the DEQ did not adopt more stringent standards than the federal government.

Chairman Heider asked questions of Mr. Tippetts regarding the restrictions and regulations. **Senator Guthrie** asked questions regarding the science of implantation for the standards of the time when the rules were promulgated.

DOCKET NO. 58-0103-1902 Reauthorization of existing and previously approved and codified rule chapter under IDAPA 58 rules of the Department of Environmental Quality: IDAPA 58.01.03, Individual/Subsurface Sewage Disposal Rules.

Ms. Nelson gave a description of the rule and explained the reductions made by the DEQ. The rule received no public comments nor were hearings requested. No additional costs were predicted and there were no controversial issues. These rules follow the standards of practice as were in place at the time it was enacted.

MOTION: **Chairman Heider** moved to approve **Docket No. 58-0103-1902**. **Senator Mortimer** seconded the motion. The motion carried by **voice vote**.

DOCKET NO. 58-0109-1901 Reauthorization of rules under IDAPA 58 rules of the Department of Environmental Quality: IDAPA 58.01.09, Rules Regulating Swine Facilities.

Ms. Nelson discussed the history and facts of this docket relating to swine waste control. She noted it included a permit authorization fee. She stated there are no additional costs if passed as this is a reauthorization of rules already in place. She informed the Committee that there currently are no swine facilities in Idaho that are regulated under these rules.

MOTION: **Senator Patrick** moved to approve **Docket No. 58-0109-1901**. **Chairman Heider** seconded the motion. The motion carried by **voice vote**.

**DOCKET NO.
58-0111-1901**

Reauthorization of rules under IDAPA 58 rules of the Department of Environmental Quality: IDAPA 58.01.11, Ground Water Quality Rule.

Jerri Henry, DEQ Drinking Water Protection and Finance Division Administrator, provided background about and explained the rule. She noted there were no substantive changes made, no comments were received by their department, and no hearings were requested.

MOTION:

Senator Guthrie moved to approve **Docket No. 58-0111-1901**. **Senator Mortimer** seconded the motion. The motion carried by **voice vote**.

**DOCKET NO.
58-0117-1901**

Reauthorization of rules under IDAPA 58 rules of the Department of Environmental Quality: IDAPA 58.01.17, Recycled Water Rules.

Ms. Nelson presented a summary of the rule regarding use of recycled water. She stated that no issues were broached under the public comment time frame.

MOTION:

Senator Mortimer moved to approve **Docket No. 58-0117-1901**. **Chairman Heider** seconded the motion. The motion carried by **voice vote**.

**PASSED THE
GAVEL:**

Vice Chairman Brackett turned the meeting back over to Chairman Heider.

RS 27203

Relating to cyanidation facilities, amending and making technical corrections.

Mr. Tippets explained this was a simple RS regarding cyanidation facility permits. He explained that the DEQ issues cyanidation permits based upon adequate financial assurance from the Department of Lands within a specific time limit. This RS allows for the issuing of a permit based upon getting financial assurance from the Department of Lands and avoids regulatory problems based on running out of time.

MOTION:

Vice Chairman Brackett moved to send **RS 27203** to print. **Senator Stennett** seconded the motion. The motion passed by **voice vote**.

RS 27207

Relating to water. To provide that water may be diverted, without a water right, during an emergency response.

Mr. Tippets presented information about DEQ procedures and how they affected water rights in various emergency situations. He conveyed the fact that the DEQ is technically required to have a water right to remove contaminated water from water sources. He informed the Committee that this bill requests an exemption to the requirement to obtain a water right so that the DEQ may remove the water from private lands in the case of an emergency situation. He explained there is no opposition to this piece of legislation and it is not controversial.

MOTION:

Senator Bair moved to send **RS 27207** to print. **Senator Mortimer** seconded the motion. The motion passed by **voice vote**.

ADJOURNED:

There being no further business as this time, **Chairman Heider** adjourned the meeting at 2:56 p.m.

Senator Heider
Chair

Erin Miller
Secretary