

MINUTES

## HOUSE ENVIRONMENT, ENERGY & TECHNOLOGY COMMITTEE

**DATE:** Tuesday, March 08, 2022

**TIME:** 1:30 pm or Upon Adjournment

**PLACE:** Room EW41

**MEMBERS:** Chairman Ehardt, Vice Chairman Wisniewski, Representatives Vander Woude, Horman, Scott, Amador, Armstrong, Furniss, Hartgen, Lickley, Young, Adams, Yamamoto, Chew, Necochea, Nash

**ABSENT/  
EXCUSED:** Rep. Horman, Yamamoto, Nash

**GUESTS:** The sign-in sheet will be retained in the committee secretary's office; following the end of the session the sign-in sheet will be filed with the minutes in the Legislative Library.

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

**MOTION:** **Rep. Armstrong** made a motion to approve the minutes of the February 28 and March 2, 2022, meetings. **Motion carried by voice vote.**

**S 1243:** **Jess Byrne**, Director of the Department of Environmental Quality (DEQ) presented **S 1243** which amends existing law to revise provisions regarding the composition of the board. DEQ has been demonstrating compliance of the Clean Air Act through the use of executive orders. It was determined that it would be better to have Idaho code updated with current and historic practices instead of executive orders.

In answer to committee questions, **Director Byrne** explained the board only listens to air quality permits because that is required by the Clean Air Act. The Clean Water Act has a similar provision, but the board does not hear contested cases for Clean Water Act issues, cases go to a hearing officer.

**MOTION:** **Rep. Amador** made a motion to send **S 1243** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote.** **Rep. Amador** will sponsor the bill on the floor.

**S 1264:** **Michael McCurdy**, Waste and Remediation Division Administrator for DEQ presented **S 1264** which amends existing law to revise legislative findings, to revise a definition, and to revise provisions regarding rescission. Mr. McCurdy detailed the process DEQ offers to help contaminated properties with the Voluntary Cleanup Program (VCP). He emphasized that participants enter the program voluntarily, and when the project is finished receive a Certificate of Completion and a Covenant Not to Sue, which is attached to the property and recorded with the county clerk. He noted that DEQ has on average two sites a year enter the program. This legislation would broaden the program to help others have access to VCP.

In response to committee inquiries, **Mr. McCurdy** noted petroleum releases, former pole treating sites, dry cleaner sites, and mining impacted sites, are examples of sites that use the Voluntary Cleanup Program. Usually the process begins when a property is going up for sale and a lender is requesting documentation that the property has no contamination issues. The need to sell the property that has contamination concerns is the motivation to use this program. He described the processes in the program, and clarified that all work is paid for by the interested party and not the state or DEQ. Mr. McCurdy explained the current statute has disqualified participants that owned the property when contamination occurred. This legislation would allow them access to the program.

**Mr. McCurdy**, clarified for the committee, the exception to parties paying the bills falls under the Community Reinvestment Pilot Project. This project was funded to allow ten participants to be reimbursed by the state up to 70% of the cleanup costs, with a dollar limit of \$150,000 per site. This pilot program began in 2005, and still has two remaining sites that are finishing their cleanup. He projected completion of those projects and the pilot program would happen in the next 2-5 years. Mr. McCurdy explained that one of the unfinished projects was ground water contamination, which can take a long time to remediate. The other remaining project was having some difficulties with participants that DEQ has been trying to work through. When all ten sites have completed cleanup from this pilot program, DEQ will report to the legislature and give recommendations on the project.

Committee members expressed concerns the pilot program has lasted seventeen years, and still has more years to go before completion.

In answer to committee inquiries, **Mr. McCurdy** explained that this legislation also allowed for rescission of certificates if it is proven there was falsified information. He clarified the phrase 'community benefit' was referring to DEQ's goal to help abandoned properties that have perceived or real issues with contamination. He emphasized this program helps property owners, perspective purchasers or developers. He noted in the application process it is clearly spelled out that purchasers or developers must have permission from the property owner (usually in the form of a purchase agreement) to qualify for this program. He explained that a neighbor, or former employee that files a complaint triggers DEQ's existing authority to investigate. But this legislation does not cover that aspect.

**ADJOURN:**

There being no further business to come before the committee, the meeting adjourned at 2:20 p.m.

---

Representative Ehardt  
Chair

---

Maggie Price  
Secretary