

MINUTES
SENATE RESOURCES & ENVIRONMENT COMMITTEE

DATE: Monday, January 19, 2026

TIME: 1:30 P.M.

PLACE: Room WW55

MEMBERS PRESENT: Vice Chairman Hart, Senators Guthrie, Harris, Okuniewicz, Cook, VanOrden, Kohl, and Taylor

ABSENT/ EXCUSED: Chairman Burtenshaw

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: **Vice Chairman Hart** called the meeting of the Senate Resources and Environment Committee (Committee) to order at 1:31 p.m.

DOCKET NO. 58-0102-2501 **Water Quality Standards - Pending Rule, p. 235. Mary Anne Nelson**, Surface and Wastewater Division Administrator, Idaho Department of Environmental Quality (DEQ) , explained this Docket updated rules regarding Idaho's Water Quality Standards to ensure consistency with final actions taken by the U.S. Environmental Protection Agency (EPA). She referred the Committee to the 2026 Senate Resources and Environment Committee Pending Rules Review Book, starting on page 235.

This rulemaking removed outdated or inapplicable content from the rule and aligned Idaho's Water Quality Standards with final EPA actions under the Clean Water Act. It addressed outcomes from three prior dockets; 58-0102-2201, 58-0102-1101, and 58-0102-1803. It removed arsenic from the table on page 248 to reflect that the arsenic criteria was not dependent on water hardness. The EPA approved Docket 58-0102-2201, which had to do with Idaho's arsenic criteria, except for the provision related to calculating arsenic criterion, so this was removed from the rule (page 251). The remaining changes addressed thermal limits noted in Section 401.01 on pages 253-254. EPA disapproved DEQ's proposed removal of statewide thermal treatment limits for point source dischargers in Docket 58-0102-1101, approved by the legislature in 2012, so this rulemaking restored those provisions to how they appeared in the 2011 Idaho Administrative Code. EPA disapproved DEQ proposed changes to the de minimis temperature allowance in Docket 58-0102-1803, approved by the legislature in 2018, so this rulemaking removed the DEQ proposed changes and replaced them with the EPA approved version.

DISCUSSION: **Vice Chairman Hart** asked if there were public hearings held for **Docket No. 58-0102-2501** or **Docket No. 58-0116-2501**. **Ms. Nelson** responded that they did not conduct negotiated rulemaking for **Docket No. 58-0102-2501**, as DEQ was only aligning rules to reflect EPA disapproval actions, but they did hold hearings for **Docket No. 58-0116-2501**. **Senator Okuniewicz** asked what DEQ wanted to achieve in the prior rulemaking that the EPA did not like. **Ms. Nelson** responded DEQ wanted some flexibility with calling waters impaired by temperature, but the EPA wanted to keep strict criteria.

MOTION: **Senator Okuniewicz** moved to approve **Docket No. 58-0102-2501**. **Senator Harris** seconded the motion. The motion carried by **voice vote**.

**DOCKET NO.
58-0116-2501**

Wastewater Rules (ZBR Chapter Rewrite) - Pending Rule, p. 420. **Ms. Nelson** referred the Committee to the 2026 Senate Resources and Environment Committee Pending Rules Review Book, starting on page 420. She explained the purpose of these rules was to ensure wastewater systems were planned and built in a manner that protected public health, safeguarded surface and groundwater quality, and ensured long-term system reliability and safety. These rules provided the framework for DEQ review and approval of engineering plans and specifications, established when licensed operators were required, and set performance expectations for both municipal and non-municipal wastewater systems.

Ms. Nelson explained that DEQ initiated this rulemaking in compliance with Executive Order 2020-01, Zero-Based Regulation. She reviewed the rulemaking process for this Docket, which included meetings with stakeholders and public comment. The primary concern raised in public comment was that revisions to the Wastewater Rules did not inadvertently apply municipal wastewater system requirements to aquaculture facilities, and that the rules continued to clearly distinguish fish production water use from waste treatment systems. In response to this public comment, DEQ:

- added the 1997 Idaho Waste Management Guidelines for Aquaculture Operations as a referenced material
- revised gray water language in the definitions section
- restored the definition of "pollutant" based on stakeholder input
- updated Section 401 to clearly specify which aquaculture components require plan review, consistent with Idaho Code § 39-118(5)

In addition, DEQ used incorporation by reference to update the rule language to reflect the 2020 Edition of the Idaho Standards for Public Works Construction. This was last updated in 2007. The only resulting change was a change to the formula for calculating allowable leakage in installed pressure pipe.

Overall, the rulemaking focused on clarity and modernization. Key improvements included replacing "shall" with "must" or "will" for enforceability and clarity, removing outdated and duplicative sections, streamlining and clarifying definitions, aligning wastewater rules with recently updated drinking water rules, consolidating setback requirements into a single section, clarifying lagoon construction requirements, and improving clarity around sludge disposal and utilization. These changes did not expand DEQ's statutory authority or create any new permit programs.

DISCUSSION:

Vice Chairman Hart asked if these rules applied to the wastewater treatment plant for the Bunker Hill groundwater in Legislative District 2. **Ms. Nelson** responded that they do.

Vice Chairman Hart requested a motion to hold the vote on this Docket, as the Committee was unable to hear from someone registered to testify remotely due to technical difficulties.

MOTION:

Senator Harris moved to hold **Docket No. 58-0116-2501** subject to call of the Chair. **Senator Guthrie** seconded the motion. The motion carried by **voice vote**.

**DOCKET NO.
58-0105-2501**

Rules and Standards for Hazardous Waste - Pending Rule, p. 255. **Michael McCurdy**, Waste Management and Remediation Division Administrator, DEQ, explained this Docket represented the annual incorporation by reference of federal regulations into the State's Rules and Standards for Hazardous Waste. These rules regulated the generation, transportation, treatment, storage, and disposal of hazardous waste. He referred the Committee to the 2026 Senate Resources and Environment Committee Pending Rules Review Book, starting on page 255.

This rulemaking included the adoption by reference of final federal hazardous waste regulations through July 1, 2025. It also added Part 271 to the Code of Federal Regulations Title 40 sections the DEQ Hazardous Waste Program incorporates by reference. Part 271 related to the authorization of state programs to implement hazardous waste regulations in lieu of the EPA. This was an oversight and should have been included previously in the incorporated provisions. Negotiated rulemaking meetings were not held as they were only aligning rules with the EPA. There was opportunity for public comment, but no comments were received. He referred the Committee to a summary of the Code of Federal Regulations sections the DEQ Hazardous Waste Program incorporates by reference, which could be accessed via the link at the top of page 255; LSO Rules Analysis Memo.

DISCUSSION:

Vice Chairman Hart asked if there were any substantive changes in the federal regulations. **Mr. McCurdy** responded that a portion of the e-Manifest system was the only thing new for the past year.

MOTION:

Senator Guthrie moved to approve **Docket No. 58-0105-2501**. **Senator Harris** seconded the motion. The motion carried by **voice vote**.

**DOCKET NO.
58-0106-2501**

Solid Waste Management Rules (ZBR Chapter Rewrite) - Pending Rule, p. 258. **Mr. McCurdy** explained rulemaking for this Docket was initiated in 2025 in response to Executive Order 2020-01, commonly known as Zero Based Regulation (or ZBR). He referred the Committee to the 2026 Senate Resources and Environment Committee Pending Rules Review Book, starting on page 258.

Mr. McCurdy reviewed the rulemaking process for this Docket and a few of the more substantive changes, which were:

- New Section 001.01, Wastes Not Regulated Under These Rules, pages 260-261. There were corrections or updates to several subparts, including several based on changes to other rule chapters.
- Section 004, Applicability, page 262. There was a global change of groundwater from two words to one word, which was the more commonly accepted version, and some corrections to subsection citations.
- Section 005, Definitions, page 262. Definitions identified in statute or referred to within the rule were removed.
- Section 007, Incorporation by Reference, pages 267-268. Unnecessary language was deleted and language was added to reference federal regulations.
- Section 010.01.a.i., Below Regulatory Concern Facilities, page 270. This Section was rewritten based on the inclusion of a definition in Section 005. Unnecessary tag lines were deleted from multiple subsections. Similar revisions were made to Sections 011., 012., and 013.
- Section 060, Violations, page 291. This section was deleted as it was already covered under section 39-108.

DISCUSSION: **Vice Chairman Hart** asked why the definition of solid waste was deleted from page 266. **Mr. McCurdy** responded that this definition was already included in Idaho code and was referenced at the beginning of Section 005 on page 262. **Vice Chairman Hart** asked what a Tier I facility was versus a Tier II facility. **Mr. McCurdy** explained DEQ classified non-municipal landfills as Tier I, II, or III based on the type and quantity of waste they receive, with requirements most stringent for a Tier III facility.

Senator Guthrie stated that if something was struck from the rule and moved, it would be helpful to know if it was gone for good or if it was moved to another area, and if language was new to the rule, if it was new or just something moved from somewhere else. **Senator Guthrie** asked if there was ever a concern that moving things from one chapter to another might change their meaning because they were within a different context. **Mr. McCurdy** responded that if there was a contextual issue between definitions, then DEQ would include a specific definition within the rule that went along with information and the content of that rule, specifically, because they would not want to have multiple definitions if they could avoid them.

MOTION: **Senator Harris** moved to approve **Docket No. 58-0106-2501**. **Senator Okuniewicz** seconded the motion. The motion carried by **voice vote**.

DOCKET NO. 58-0101-2501 **Rules for the Control of Air Pollution in Idaho Pending Rule, p.231**. **Michael Simon**, Air Quality Division Administrator, DEQ, referred the Committee to the 2026 Senate Resources and Environment Committee Pending Rules Review Book, starting on page 231. He explained this Docket contained the Air Quality Division's annual Incorporation by Reference of federal regulations and included federal air quality changes made to the Federal Regulations through July 1, 2025.

DEQ did not conduct negotiated rulemaking as they were only aligning to federally required rules. There was opportunity for public comment, but no comments were received. He referred the Committee to the top of Page 231, which included a link to an Incorporation by Reference synopsis.

He reviewed some significant federal actions, which were:

- EPA approved Idaho's State Implementation Plan (SIP) updating the incorporation by reference of federal regulations including updates made to DEQ's zero-based rulemaking.
- EPA approved Idaho's 2014 plan that regulated existing hospital, medical, and infectious waste incinerators.
- EPA revised the secondary Sulfur Dioxide National Ambient Air Quality Standard. DEQ determined that air quality levels throughout the state met this new standard. In the same action, the EPA decided to retain the existing secondary standards for Nitrogen Oxides and Particulate Matter.
- EPA finalized technical updates to its air quality modeling guidelines and the AERMOD modeling system.

EPA also finalized updates to several regulations under the New Source Performance Standards and National Emission Standards for Hazardous Air Pollutant programs.

- For reciprocating internal combustion engines, electronic reporting was added to streamline and improve data submittals by industry.
- For Bulk Gasoline Distribution facilities, EPA set lower emission standards for new sources. Existing sources will now comply with electronic reporting and increased monitoring of control device performance.

- For new or modified Volatile Organic Liquid storage vessels, EPA finalized lower emission standards along with new emission controls, inspection, and monitoring requirements. For existing storage tanks, additional record keeping was required to document the original date of construction or modification. In Idaho, these changes mainly affect the petroleum industry.

Two EPA rules were disapproved under the Congressional Review Act. One of these affected certain major sources of hazardous air pollutants that may reclassify to an area source status. Previously, those sources were required to keep meeting the standard, known as the Maximum Achievable Control Technology, or MACT. In June of last year, Congress overturned this rule. As a result, facilities that reduce hazardous air pollutant emissions below major source thresholds can now have their permits revised to reflect area source status and the removal of the MACT requirements.

DISCUSSION: **Vice Chairman Hart** asked where he could get a hard copy of the Code of Federal Regulations. **Mr. Simon** responded that this was generally accessed online and DEQ no longer requested hard copies.

MOTION: **Senator Guthrie** moved to approve **Docket No. 58-0101-2501**. **Senator Harris Harris** seconded the motion. The motion carried by **voice vote**.

ADJOURNED: There being no further business at this time, **Vice Chairman Hart** adjourned the meeting at 2:27 p.m.

Senator Hart
Vice Chair

Shelly Johnson
Secretary