

MINUTES
SENATE RESOURCES & ENVIRONMENT COMMITTEE

DATE: Wednesday, January 28, 2026

TIME: 1:30 P.M.

PLACE: Room WW55

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

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

GUBERNATORIAL APPOINTMENT VOTE: **Committee Vote on the Gubernatorial Appointment of Carl Rey of Boise, Idaho to the Outfitters and Guides Licensing Board** to serve a term commencing May 12, 2025 and expiring April 20, 2027.

MOTION: **Senator Harris** moved to send the Gubernatorial appointment of Carl Rey of Boise, Idaho to the Outfitters and Guides Licensing Board to the floor with the recommendation that he be confirmed by the Senate. **Senator Guthrie** seconded the motion. The motion carried by **voice vote**.

GUBERNATORIAL APPOINTMENT VOTE: **Committee Vote on the Gubernatorial Appointment of Kenneth Long of Horseshoe Bend, Idaho to the Outfitters and Guides Licensing Board** to serve a term commencing May 12, 2025 and expiring April 20, 2027.

MOTION: **Vice Chairman Hart** moved to send the Gubernatorial appointment of Kenneth Long of Horseshoe Bend, Idaho to the Outfitters and Guides Licensing Board to the floor with the recommendation that he be confirmed by the Senate. **Senator Taylor** seconded the motion. The motion carried by **voice vote**.

RS 33113 **Joint Memorial, Depredation Claims.** **Senator Lakey** explained this was the same memorial sent to print by this Committee earlier (**RS 32844**) regarding depredation, except that in the second whereas, "land owned by the United States" was changed to "managed by the United States", which was more constitutionally accurate and philosophically correct. This Memorial continued to call upon the federal government to adopt rules to ensure that filing depredation claims could not be used as a basis to negatively modify or revise a federal grazing permit or lease.

MOTION: **Senator Harris** moved that **RS 33113** be sent to print. **Senator Cook** seconded the motion. The motion carried by **voice vote**.

RS 32927C1 **Relating to Fish and Game.** **Senator Foreman** stated this legislation required Idaho Fish and Game (IDFG) to provide a 30 day public comment period when the Idaho Fish and Game Commission adopted, repealed, or amended notices of proposed proclamations on season-setting proposals. He explained that this proposed legislation had been fully coordinated with IDFG management.

MOTION: **Senator Guthrie** moved that **RS 32927C1** be sent to print. **Senator Harris** seconded the motion. The motion carried by **voice vote**.

RS 33054,
RS 33053,
RS 33052,
RS 33051

Relating to Idaho Water Resource Board (IWRB) District 1, Relating to Idaho Water Resource Board (IWRB) District 2, Relating to Idaho Water Resource Board (IWRB) District 3, and Relating to Idaho Water Resource Board (IWRB) District 4. Representative Raybould presented these four RS together, as they were related to each other and she believed it was helpful for the Committee to discuss these as a group.

Representative Raybould explained these were four resolutions that specifically identified and supported the continuation of water infrastructure projects in each of four designated water board districts in Idaho. District 1 covered North Idaho and the Panhandle, District 2 covered the Treasure Valley, District 3 covered the Magic Valley, and District 4 covered East Idaho. Each resolution identified the water projects that were essential to that region's stability and affirmed the Legislature's commitment to support funding for these projects, while also considering the water infrastructure investment of Idaho as a whole.

MOTION:

Senator Okuniewicz moved that **RS 33051, RS 33052, RS 33053, and RS 33054** be sent to print. **Senator Cook** seconded the motion. The motion carried by **voice vote**.

PASSED THE GAVEL:

Chairman Burtenshaw passed the gavel to Vice Chairman Hart.

DOCKET NO. 58-0116-2501

Wastewater Rules (ZBR Chapter Rewrite) - Pending Rule, p. 420. Vice Chairman Hart stated a vote on this Docket was held from a prior meeting as someone signed up to testify that could not be heard, but that person had now declined to testify.

MOTION:

Senator Harris moved to approve **Docket No. 58-0116-2501**. **Senator Cook** seconded the motion. The motion carried by **voice vote**.

DOCKET NO. 58-0113-2501

Rules for Ore Processing by Cyanidation - Temporary and Pending Rule, p. 396. Michael McCurdy, Waste Management and Remediation Division Administrator, Idaho Department of Environmental Quality (DEQ), explained this Docket was both temporary, covering from sine die to July 1, 2026, when the pending rule was effective. He referred the Committee to the 2026 Senate Resources and Environment Committee Temporary and Pending Rules Review Books starting on page 3 and page 396, respectively. This Docket established procedures and requirements for issuance and maintenance of a permit to construct, operate, and close a cyanidation facility.

Mr. McCurdy shared that during the 2025 Legislative Session, the Legislature passed S 1170, which repealed and replaced Idaho Code § 39-118A, which related to ore processing by cyanidation. S 1170 included direction to DEQ to bring their cyanidation rules into compliance with the provisions in Idaho Code § 39-118A. Idaho Code § 39-118A(33)(b) directed DEQ to implement a temporary rule by July 1, 2025. **Mr. McCurdy** reviewed the negotiated rulemaking process for this Docket. He explained that DEQ took a narrowly-focused approach in developing this temporary and proposed rule to ensure consistency with the cyanidation statute and more in-depth and substantive rule revisions would be conducted. He stated additional negotiated rulemaking meetings were scheduled for April 3 and May 1. Some of the more substantive changes in this Docket were:

- Section 001, Title, Scope and Intent; page 398-399. Revised to the Scope and Intent paragraph to remove redundancy and make consistent with statute.
- Section 007, Definitions; starting on page 399. Removed the definitions that were identified in statute or other rule chapters and referenced those Idaho Code sections or rule chapters. Added new definitions "application",

"as-built submittal", "component or phase", "issued for construction data package", "major modification or material modification", and "permit." Inserted "cyanidation" to designate this was related to cyanidation pollutant discharges throughout Section 007 and several other places throughout the rule. Revised language to delete unnecessary text and refer to the Idaho Department of Lands statute in Section 007.10, Permanent Closure Plan. Revised the definition of process water per written comment received and deleted unnecessary language in Section 007.14.

- Section 010, Applicability to Facilities with Existing Permits; page 401. Revised "material modifications or material expansions" to "major modifications or material modifications" throughout the rule for consistency with the terminology in Idaho Code § 39-118A.
- Section 050.01, Pre-application Conference; starting on page 401. Revised to clarify that the cost recovery agreement was required prior to the pre-application conference per written comment received. Revised Section 050.01.e and Section 050.02.e for consistency with Idaho Code § 39-118A, which required cyanidation facilities not to impair beneficial uses or degrade waters.
- Section 100.03, Contents of Application; starting on page 403. Removed rule titles and inserted hyperlinks to the rules per the Department of Financial Management. Added clarification language referencing cyanidation statute provisions per written comment received. Revised Section 100.03.r language for consistency with Idaho Code § 39-118A. Revised Section 100.03.r and Section 100.03.r.i. for clarification per written comment received.
- Section 200.02; page 406. Revised language for consistency with Idaho Code § 39-118A.
- Section 650.01; page 417. Revised language to reference correct Idaho Code.
- Section 750.04; page 418. Subsections revised for consistency with Idaho Code § 39-118A related to permit application processing procedures, public notice and comment, and final permit decision provisions.
- Section 750.05; page 418. Removed Subsection 05.c, which was duplicative of the language in Idaho Code § 39-118A(1)(l)(i)(3).

Mr. McCurdy requested that the Committee approve both temporary and pending **Docket No. 58-0113-2501** to initiate the changes to the rules without delay.

DISCUSSION:

Senator Okuniewicz asked for a summary of the two public written responses regarding this Docket that were received in July 2025. **Mr. McCurdy** responded that in general, written responses from the Idaho Mining Association and Perpetua Resources outlined how DEQ's changes to the initial temporary rule to align with statute should have been more extensive.

Senator Guthrie asked if it would be problematic to approve this rule prior to input that appeared to be forthcoming. **Mr. McCurdy** responded that there were items that still needed to be addressed. DEQ was working with facilities in the process of implementing or utilizing these rules as they went through the permitting process. If there were differences in what made these rules compliant with the provisions in Idaho Code § 39-118A, they talked through their differences and came to a consensus on what worked for both parties. In the end, if there was a difference or conflict between the statute and the rule, the statute overrode the rule.

- TESTIMONY:** **Vice Chairman Hart** asked Jeri DeLange, who was signed up to testify on this Docket, if she wished to testify. She responded that she wanted to testify on a later docket.
- Ben Davenport**, Idaho Mining Association, shared his appreciation for DEQ and their efforts to propose a rule that was mandated by statutory changes made last legislative session. He stated that the Idaho Mining Association and DEQ were not necessarily aligned on **Docket No. 58-0113-2501**, but they continued to participate in negotiated rulemaking and he believed they would find a something that both the mining industry and DEQ agreed met the intent of the statute.
- DISCUSSION:** **Vice Chairman Hart** asked when Mr. Davenport expected to revisit the rulemaking process for this particular rule. **Mr. Davenport** responded they had one rulemaking meeting in early December, and there was another one scheduled for early April.
- MOTION:** **Senator Guthrie** moved to approve temporary and pending **Docket No. 58-0113-2501**. **Chairman Burtenshaw** seconded the motion. The motion carried by **voice vote**.
- DOCKET NO. 58-0108-2501** **Idaho Rules for Public Drinking Water Systems Pending Rule, p. 294.** **Jerri Henry**, Drinking Water Protection and Finance Division Administrator, DEQ, referred the Committee to the 2026 Senate Resources and Environment Committee Pending Rules Review Book starting on page 294. She explained this Docket directed what public drinking water systems must do to ensure customers were served with safe and reliable drinking water. They included drinking water quality standards or limits, requirements for monitoring, reporting, and public notices, and requirements for construction and operation. She outlined the intent of this rulemaking, described public involvement, and addressed stringency requirements. This rule docket incorporated by reference two of the Environmental Protection Agency's (EPA) final rules: the Consumer Confidence Report Rule known as the CCR and the Lead and Copper Rule Improvements Rules (or LCRI). Additionally, DEQ reorganized the chapter and made clarifications. The rules adopted in this rule docket were incorporated on page 297, Section 002.01.a.
- MOTION:** **Senator Guthrie** moved to approve **Docket No. 58-0108-2501**. **Senator Cook** seconded the motion. The motion carried by **voice vote**.
- DOCKET NO. 58-0108-2502** **Idaho Rules for Public Drinking Water Systems Pending Rule, p. 343.** **Ms. Henry** referred the Committee to the 2026 Senate Resources and Environment Committee Pending Rules Review Book starting on page 343. She explained this Docket was narrowly tailored to address the static pressure requirements for distribution systems in DEQ's operating criteria rules. She outlined the intent of this rulemaking, described public involvement, and addressed stringency requirements. This rulemaking made a technical correction to the rules. On page 346, Section 552.01.b.v, language reverted to the language for the maximum static distribution pressure that existed prior to the 2023 revision under Docket 58-0108-2301. The change in 2023 used 80 psi as the maximum static pressure, which created unintended consequences with implementation. **Ms. Henry** requested that the Committee approve **Docket No. 58-0108-2502** with an effective date of sine die to address the issue without delay.
- TESTIMONY:** **Jeri DeLange**, Idaho Rural Water Association, testified in favor of **Docket No. 58-0108-2501**. She read aloud a letter of support from the Idaho Rural Water Association (Attachment 1).
- MOTION:** **Senator Taylor** moved to approve **Docket No. 58-0108-2502** with an effective date of sine die. **Senator Guthrie** seconded the motion. The motion carried by **voice vote**.

**DOCKET NO.
58-0112-2501**

Rules for Administration of Wastewater and Drinking Water Loan Funds (ZBR Chapter Rewrite)- Pending Rule, p. 371. Ms. Henry referred the Committee to the 2026 Senate Resources and Environment Committee Pending Rules Review Book starting on page 371. She explained that DEQ had low-interest loan programs, known as the State Revolving Loan funds, or SRFs, that helped fund drinking water and wastewater infrastructure projects. This Docket directed how DEQ managed and prioritized loans, who could get a loan, how DEQ considered affordability, and how DEQ protected public money. She outlined the intent of this rulemaking, described public involvement, and addressed stringency requirements.

Major changes were:

- Section 021, Disadvantaged Loans and Affordability; pages 382 to 384. The changes created a tiering system, based upon affordability indicators to help DEQ ensure that assistance went to the communities with the greatest financial hardship first and allowed for a clearer way to distinguish levels of need. It provided a structured tie-breaker when multiple communities qualify.
- Section 050.05.d; Page 393, This section was changed to provide flexibility for smaller engineering firms. The requirement for professional liability insurance to protect the public from the engineer's negligent acts and errors and omissions remained as \$100,000, or twice the amount of the engineering fee. However, DEQ added language to allow for a reduced amount or an alternative coverage mechanism based on demonstration that public funds remained protected from project risk.

Vice Chairman Hart stated he had a conflict of interest pursuant to Senate Rule 39(H) but intended to vote.

MOTION:

Senator Guthrie moved to approve **Docket No. 58-0112-2501**. **Senator Taylor** seconded the motion. The motion carried by **voice vote**.

**PASSED THE
GAVEL:**

Vice Chairman Hart passed the gavel to Chairman Burtenshaw.

ADJOURNED:

There being no further business at this time, **Chairman Burtenshaw** adjourned the meeting at 2:40 p.m.

Senator Burtenshaw
Chair

Shelly Johnson
Secretary