

MINUTES

HOUSE ENVIRONMENT, ENERGY & TECHNOLOGY COMMITTEE

DATE: Tuesday, March 12, 2019

TIME: 1:30 P.M.

PLACE: Room EW41

MEMBERS: Chairman Vander Woude, Vice Chairman Amador, Representatives Anderson, Anderst, Horman, Moon, Scott, Ehardt, Armstrong, Furniss, Hartgen, Lickley, Raybould, Young, Smith(Nye), Chew, Ellis, Mason

**ABSENT/
EXCUSED:** Representatives Ehardt, Furniss, Young

GUESTS: Patrick Grace, Division of Building Safety, Region 2 Manager, Mary Anderson, Mobile and Area Source Program Manager, Department of Environmental Quality, Tiffany Floyd, Air Quality Division Administrator, Department of Environmental Quality, Carl Brown, Air Quality Rules Coordinator, Department of Environmental Quality.

Chairman Vander Woude called the meeting to order at 1:31 p.m.

RS 27074: **Rep. Amador** presented **RS 27074** House Concurrent Resolution rejecting IDAPA rule related to: Surface Water Quality Criteria for Recreation Use Designations, **Docket No: 58-0102-1802**, Section: 251., Subsection 02. Topic reference to fecal indicators.

MOTION: **Rep. Lickely** made a **motion** to introduce **RS 27074**.

Chairman Vander Woude stated it may be possible to introduce **RS 27074** and send to Second Reading Calendar, due to the timing being late in this session.

MOTION WITHDRAWN: **Rep. Lickely** agreed and withdrew her motion under unanimous consent.

MOTION: **Rep. Lickely** made a motion to introduce **RS 27074** and recommend it be sent directly to the Second Reading Calendar. **Motion carried by voice vote.** **Rep. Amador** will sponsor the bill on the floor.

Chairman Vander Woude turned the gavel over to **Vice Chairman Amador** for Administrative Rule review.

DOCKET NO. 58-0101-1803: **Tiffany Floyd**, Air Quality Division Administrator, DEQ, stated **Docket No. 58-0101-1803** is a pending rule relating to when the burn fee in the crop residue program is paid. Ms. Floyd stated before the proposed rule change IDAPA Section 620, stated a burn fee shall be paid in its entirety at least seven days prior to the proposed burn date. In addition, Idaho Code 39-114, stated anyone planning to burn crop residue is to pay a fee in the amount of \$2.00 (two dollars and no cents) per acre to the department also prior to burning. Both citations required the growers to estimate acreage they expected to burn and pay a fee without knowing air quality or weather conditions that would affect burning. This resulted in growers sometimes overpaying for the actual acres burned and also caused difficulties for DEQ in managing repayments or credits to grower fee payment accounts. Consequently, DEQ determined a more precise payment structure was needed to eliminate these situations and proposed changing the timing of collecting fees paid, to an annual invoice for actual acres burned. DEQ met with the Crop Residue Burning Advisory Committee and discussed this approach, the committee agreed with the assessment and recommended rule making along with the corresponding statute change.

As a result, the DEQ drafted the legislation and changed the timing of when burn fees are paid in Idaho Code Section 39-114. For the rule making, DEQ held one negotiated rule making meeting, to develop the proposed rule language before the committee. Participants included the Idaho Grain Producers, Nez Perce Prairie Grass Growers, Idaho Conservation League, and Department of Lands all of which were supportive of these changes. They received one public comment about the length of time taking too long, DEQ responded by providing a summary of the rules citation outlining the negotiated rule making process and requirements. **Ms. Floyd** acknowledged that registering for a permit to burn and paying a fee are separate matters. Also, the timing was changed from 7 days to within 30 days following the receipt of an annual invoice which will outline the actual acres burned that year and what the fee will be. DEQ will track the acres throughout the year with computer software.

During the negotiated rule making meeting, the DEQ was asked what would happen if there were delinquent fees. In response to the question, DEQ added the word "delinquent" and clarified the DEQ shall not accept or process a registration for a permit to burn for any person having delinquent burn fees in full, or in part.

Ms. Floyd, recommends the committee approve **Docket No. 58-0101-1803**.

In response to committee questions about charging the \$2.00 per acre burn fee and how the fee is handled by the DEQ department, **Ms. Floyd** responded, the DEQ remits the fee to the state Treasurer's office to be deposited in the General Fund to administer the program. The DEQ program started in 2007-2008.

MOTION: **Rep. Raybould** made motion to approve **Docket No. 58-0101-1803**. **Motion carried by voice vote.**

Vice Chairman Amador turned the gavel over to **Chairman Vander Woude**.

MOTION: **Rep. Scott** made a motion to consider **S 1011** without a Legislative sponsor. **Motion carried by voice vote.**

Chairman Vander Woude reminded the presenter of **S 1011** and the committee at the beginning of the session that bills coming from different divisions of the government must have a Legislative sponsor prior to coming into committee. The contact person for **S 1011** confirmed he was aware of the need for a sponsor. In moving forward there are 18 members on the committee and the contact person for a bill will be expected to contact a member of this committee and have the sponsor in place before a hearing in the committee.

S 1011: **Patrick Grace**, Regional Manager, Division of Building Safety, stated **S 1011** relates to the states underground facilities damage prevention program. The program requires calling 811 for dig line or password prior to digging under ground to determine if there are any underground facilities in the area where the excavation will take place. Mr. Grace gave a brief background of the protection of underground facilities which has been codified in Title 55; Chapter 22 since the 1990's, however, in 2016 the Chapter Code went through significant revisions, in part brought by industry as a bill in 2016 to meet federal requirements which allow the state to administer its own damage prevention program in lieu of the federal program. Several important pieces were added at that time. A robust education and training outreach program to establish responsibilities for all the stakeholders. There are several areas in the statutory scheme that require some adjustment to provide clarity, **S 1011** represents one of those adjustments that the board and division decided to make. Mr. Grace outlined what the proposal accomplishes in **S 1011**.

In response to committee questions regarding things not found and things unidentifiable underground and consequences for individuals who have lost things underground and safety hazards to the community, **Mr. Grace** stated in the statutory scheme there are no consequences. The redress in the law requires they have to use the best information available and try to locate things underground as accurately as possible.

MOTION: **Rep. Scott** made a motion to send **S 1011** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote.** **Rep. Moon** will sponsor the bill on the floor.

ADJOURN: There being no further business to come before the committee, the meeting was adjourned at 1:58 p.m.

Representative Vander Woude
Chair

Kristen Weitz
Secretary