



State of Idaho
DEPARTMENT OF ENVIRONMENTAL QUALITY
BOARD OF ENVIRONMENTAL QUALITY

1410 North Hilton, Boise, ID 83706-1255, (208) 373-0502

C. L. "Butch" Otter, Governor
John H. Tippets, Director

MEMBERS OF THE BOARD

John McCreedy
Chairman
1951 S. Saturn Way
Ste. 100
Boise, ID 83709

Kevin C. Boling
Vice-Chairman
5881 N. Ferdinand Court
Coeur d'Alene, ID 83814

Beth Elroy
Secretary
P.O. Box 6
Mail Stop 01-602
Boise, ID 83707

L. Nicholas "Nick" Purdy
Box 686
Highway 20
Picabo, ID 83348

Dr. John R. MacMillan
P.O. Box 712
Buhl, ID 83316

Kermit V. Kiebert
P.O. Box 970
Ponderay, ID 83852

Carol Mascareñas
5000 Baltimore Circle
Idaho Falls, ID 83401

LEGAL COUNSEL

Douglas M. Conde

BOARD ASSISTANT

Rosie Alonzo
(208) 373-0240

IDAHO BOARD OF ENVIRONMENTAL QUALITY

MINUTES

October 13, 2016

The Idaho Board of Environmental Quality convened on October 13, 2016, at 9:00 a.m. at:

**Idaho Department of Environmental Quality
Conference Room A & B
1410 N. Hilton
Boise, Idaho**

BOARD MEMBERS PRESENT

John McCreedy, Chairman
Kevin Boling, Vice-Chairman
Beth Elroy, Secretary
Nick Purdy, Member
Dr. John R. "Randy" MacMillan, Member
Kermit Kiebert, Member
Carol Mascareñas, Member

DEPARTMENT OF ENVIRONMENTAL QUALITY STAFF PRESENT

John H. Tippets, Director
Douglas Conde, Senior Deputy Attorney General
Paula Wilson, Administrative Rules Coordinator
Rosie Alonzo, Management Assistant, Assistant to the Board
Jess Byrne, Deputy Director
Barry Burnell, Water Quality Division Administrator
Tiffany Floyd, Air Quality Division Administrator
Carl Brown, Air Quality Rules Coordinator
Mary Anderson, Mobile and Area Source Program Manager
Orville Green, Waste Management and Remediation Division Administrator
Kristi Lowder, UST/LUST Program Manager
Matt Alvarado, Hazardous Waste Regulation and Policy Coordinator
Kari Kostka, Policy Analyst
Tami Aslett, South Idaho Smoke Coordinator
Michael McCurdy, State Response Program Manager
Pascale Warren, Airshed Management Analyst

OTHERS PRESENT:

Amber Christofferson, Division of Financial Management
Benn Brocksome, Office of the Governor
Brenda Tominaga, Idaho Rural Water Association, Idaho Water Policy Group (IWPG)
Austin Hopkins, Idaho Conservation League
Bracley Jensen, Idaho Farm Bureau
Suzanne Budge, SBS Associates LLC

- ❖ All attachments referenced in these minutes are permanent attachments to the minutes on file at the Idaho Department of Environmental Quality.

CALL TO ORDER AND ROLL CALL

Chairman John McCreedy called the meeting of the Idaho Board of Environmental Quality (Board) to order at 9:00 a.m. Roll call was taken with all seven members present.

PUBLIC COMMENT PERIOD

The chairman opened the floor to members of the public who wanted to address the Board on issues not shown on the agenda. No issues were presented.

AGENDA ITEM NO. 1: DIRECTOR'S REPORT

Director John Tippetts reported on the following successes and impending events:

IPDES Primacy Application—DEQ submitted the Idaho Pollutant Discharge Elimination System (IPDES) primacy application to EPA. The director acknowledged and thanked the staff who played a major role in this submittal.

Dixie Drain—The City of Boise's treatment plant is required to remove 98% of the phosphorus discharged from the facility. Removing 95% of phosphorus is cost effective, but extracting the remaining 3% can be costly. This project allows the city to extract the remaining phosphorus downstream where concentrations can be high. As a result of multiple agency cooperation, this project was successful and recognized nationally.

Human Health Criteria—DEQ will be submitting the Human Health Criteria rule to EPA before mid-December. DEQ feels good about the submittal but still foresees the possibility of disapproval from EPA, and DEQ's Attorney General's Office will defend the rule if it goes to court.

Treatment of Sodium-Bearing Waste at the Idaho National Laboratory—The US Department of Energy (DOE) missed the September 30 deadline for initiating waste treatment in the Integrated Waste Treatment Unit. DOE asked DEQ to grant an exemption to the stipulated penalties as outlined in the Fifth Modification of the Notice of Non-Compliance Consent Order. DEQ informed DOE that the exemption does not apply to work never started and imposed the stipulated penalties.

New Ozone Standard's Impact on Crop Residue Burning—EPA's decision to decrease the National Ambient Air Quality Standard (NAAQS) for ozone from 75 parts per billion (ppb) to 70 ppb could impact the crop residue burning program. DEQ's Crop Residue Burning Advisory Committee identified actions that in concept seemed acceptable to parties interested in preserving crop residue burning and to parties concerned with air quality for health reasons, however, in the end the proposal lacked broad base support. Tiffany Floyd will present a new approach later in this meeting.

EPA's Withdrawal of Approval of Idaho's Arsenic Standard—In 1999, Idaho submitted 50 micrograms per liter (mg/L) as its criterion for arsenic. By 2008, EPA had not acted on that submittal so the Idaho Conservation League filed a notice of intent to sue EPA. This notice led to negotiations that resulted in Idaho establishing a new criterion of 10 mg/L. In July 2010, EPA approved this standard allowing Idaho to use guidelines under the Safe Drinking Water Act instead of the Clean Water Act. In 2015, the Northwest Environmental Advocates filed a law suit challenging EPA's approval of Idaho's standard. The federal district judge approved a settlement requiring EPA

to reevaluate Idaho's standard. EPA recently disapproved this standard. DEQ has until 2019 to prepare a new standard.

2017 Legislative Session—DEQ will request nine additional employees for the IPDES program and one permit writer for the Air Quality Division, and will recommend one attorney for the Attorney General's Office to assist the IPDES program. DEQ's legislative packet will include a legislation establishing a dedicated account for underground petroleum storage tank fees and legislation relating to the crop residue burning program and the revised national ozone standard.

DEQ Tribal Liaison—Susan Burke accepted the responsibility of DEQ's first Tribal Liaison.

Director Tippetts responded to questions from the Board.

AGENDA ITEM NO. 2: APPROVAL OF MEETING MINUTES

May 12, 2016, Board Meeting Minutes

- **MOTION:** Dr. Randy MacMillan moved that the Idaho Board of Environmental Quality approve the above mentioned minutes as prepared.
- **SECOND:** Ms. Carol Mascareñas.
- **VOICE VOTE:** Motion carried unanimously.

AGENDA ITEM NO. 3: RULES FOR THE CONTROL OF AIR POLLUTION IN IDAHO, DOCKET NO. 58-0101-1602

Rulemaking initiated to delete Section 582, Interim Conformity Provisions for Northern Ada County Former Nonattainment Area for PM-10.

Ms. Tiffany Floyd, Air Quality Division Administrator, introduced herself and Mr. Carl Brown, Air Quality Rules Coordinator. She explained the purpose of Air Quality Docket No. 58-0101-1602 is to delete Section 582, Interim Conformity Provisions for Northern Ada County PM-10 nonattainment area. IDAPA Section 582 was promulgated as a temporary measure to develop a required maintenance plan. In 2003, the Ada County PM-10 maintenance plan was developed and approved by EPA. Section 582 is no longer applicable.

Ms. Floyd stood for questions from the Board, and none were presented.

- **MOTION:** Dr. Randy MacMillan moved that the Idaho Board of Environmental Quality adopt as pending rules the Rules for the Control of Air Pollution in Idaho as presented in the final proposal under Docket No. 58-0101-1602, with the rules becoming final and effective upon the adjournment sine die of the First Regular Session of the Sixty-fourth Idaho Legislature if approved by the Legislature.
- **SECOND:** Ms. Beth Elroy
- **VOICE VOTE:** Motion carried unanimously.

AGENDA ITEM NO. 4: RULES FOR THE CONTROL OF AIR POLLUTION IN IDAHO, DOCKET NO. 58-01-01-1603

Update of federal regulations incorporated by reference

Ms. Floyd moved to the Rules for the Control of Air Pollution in Idaho, Docket No. 58-0101-1603, which are DEQ's annual incorporation by reference of the federal rules to be the implementing authority in Idaho for the Clean Air Act. Forty-six changes were incorporated, but Ms. Floyd highlighted only changes that impact Idaho.

The ozone standard was reduced from 75 to 70 ppb. This reduction may impact the Treasure Valley, which is predicted to be close to exceeding this new standard. The new standard could also impact how the crop residue burn program is implemented. DEQ has proposed legislation that focuses on ozone and the burning program.

Updates to subparts of DEQ's operating permit program will affect source categories, such as power plants, phosphate fertilizer production, and the oil and natural gas industry.

Ms. Floyd stood for and responded to questions from the Board.

- **MOTION:** Mr. Kevin Boling moved that the Idaho Board of Environmental Quality adopt as pending rules the Rules for the Control of Air Pollution in Idaho as presented in the final proposal under Docket No. 58-0101-1603, with the rules becoming final and effective upon the adjournment sine die of the First Regular Session of the Sixty-fourth Idaho Legislature if approved by the Legislature.
- **SECOND:** Mr. Kermit Kiebert.
- **VOICE VOTE:** Motion carried unanimously.

AGENDA ITEM NO. 5: REPORT ON AIR QUALITY NEGOTIATED RULEMAKING: CROP RESIDUE BURNING

Ms. Floyd introduced Ms. Mary Anderson, Mobile and Area Source Program Manager, who has overseen the rulemaking to date. Ms. Floyd summarized the air quality negotiated rulemaking related to crop residue burning. DEQ plans to present a statutory change to the 2017 Legislature and will return to the Board in March 2017 with a detailed rulemaking presentation. The Board had no questions.

AGENDA ITEM NO. 6: RULES REGULATING UNDERGROUND STORAGE TANK SYSTEMS, DOCKET NO. 58-0107-1601

Rulemaking initiated to adopt into state rules the newly revised federal Technical Standards and Corrective Action Requirements for Owners and Operators of USTs, and to establish a fee structure.

Mr. Orville Green, Waste Management and Remediation Division Administrator, introduced himself and Ms. Kristi Lowder, UST/LUST Program Manager. The Rules Regulating Underground Storage Tank Systems, Docket No. 58-0107-1601, describe adoption by reference of the Code of Federal Regulations into state rules where appropriate. The State of Idaho must adopt the regulations to maintain primacy for the state's Underground Storage Tank program. The rulemaking establishes a fee structure consistent with legislation passed during the 2016 Legislative session.

Ms. Lowder gave an overview of the various rule changes. She recommended the Board adopt the rules as presented. She and Mr. Green responded to questions from the Board.

- **MOTION:** Ms. Carol Mascareñas moved that the Idaho Board of Environmental Quality adopt as pending rule the Rules Regulating Underground Storage Tank Systems as presented in the final proposal under Docket No. 58-0107-1601, with the pending rules becoming final and effective upon the adjournment sine die of the First Regular Session of the Sixty-fourth Idaho Legislature if approved by the Legislature.
- **SECOND:** Dr. Randy MacMillan.
- **VOICE VOTE:** Motion carried unanimously.

AGENDA ITEM NO. 7: RULES AND STANDARDS FOR HAZARDOUS WASTE, DOCKET NO. 58-0105-1601

Update of federal regulations incorporated by reference

Mr. Orville Green introduced Mr. Matt Alvarado, RCRA Rules Analyst. The Rules and Standards for Hazardous Waste, Docket No. 58-0105-1601 were presented. This rulemaking ensures consistency with federal regulations, includes those rules revised as of July 1, 2016, and allows DEQ to maintain program primacy. This rulemaking denotes instances where emergency notifications must be made to the State Communications Center and National Response Center.

Mr. Alvarado described four changes to the hazardous waste regulations, including the definition of solid waste, a coal combustion waste rule, technical typographical corrections, and amendments to transboundary movement of hazardous waste.

Mr. Alvarado asked for adoption of this rule and stood for questions from the Board.

MOTION: Mr. Nick Purdy moved that the Idaho Board of Environmental Quality adopt as pending rules the Rules and Standards for Hazardous Waste as presented in the final proposal under Docket No. 58-0105-1601, with the pending rules becoming final and effective upon the adjournment sine die of the First Regular Session of the Sixty-fourth Idaho Legislature if approved by the Legislature.

- **SECOND:** Mr. Kermit Kiebert.
- **VOICE VOTE:** Motion carried unanimously.

AGENDA ITEM NO. 8: CONTESTED CASE AND RULE DOCKET STATUS REPORT

Ms. Paula Wilson, Administrative Rules Coordinator, reviewed the rule docket status report and reported the status of contested cases. One case withdrew, and there are no contested cases at this time. Ms. Wilson responded to questions from the Board.

AGENDA ITEM NO. 9: SETTING OF 2017 BOARD MEETING SCHEDULE

The 2017 Board meetings were set for:

- March 16 in Boise, Idaho
- May 10 and 11 in Pocatello, Idaho
- October 11 and 12 in Boise, Idaho
- November 15 and 16 in Boise, Idaho

AGENDA ITEM NO. 10: ELECTION OF OFFICERS

Chairman McCreedy opened the floor to discuss the election of officers. After some discussion, Mr. Nick Purdy made a motion.

- **MOTION:** Mr. Nick Purdy moved that the Idaho Board of Environmental Quality elect as the Board officials: Mr. Kevin Boling as Chair; Ms. Beth Elroy as Vice-Chair; and, Kermit Kiebert as Secretary for the 2017 calendar year.
- **SECOND:** Dr. Randy MacMillan.
- **VOICE VOTE:** Motion carried unanimously.

AGENDA ITEM NO. 11: LOCAL REPORTS AND ITEMS BOARD MEMBERS MAY WISH TO PRESENT

Chairman McCreedy asked Director Tippets or Mr. Doug Conde for a simple, one-page report on fish consumption toward the end of the year.

Ms. Carol Mascareñas commented on INL's on-going activities to meet the 2023 compliance milestones in spite of the delays. She mentioned Fluor Idaho is the new contractor.

Chairman McCreedy asked if DEQ is involved in permitting a solar facility around the Simco Road, Orchard, and I-84 area. Tiffany Floyd will find information relating to this facility.

Mr. Austin Hopkins, Idaho Conservation League, was allowed to make a public comment opposing DEQ's crop residue burning proposal.

There were no additional items.

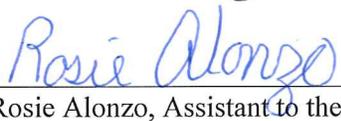
THE MEETING ADJOURNED AT 10:44 A.M.



John McCreedy, Chairman



Beth Elroy, Secretary



Rosie Alonzo, Assistant to the Board and Recorder