

**UTAH AIR QUALITY BOARD MEETING**  
**December 2, 2009 – 1:30 p.m.**  
**168 North 1950 West, Room 101**  
**Salt Lake City, Utah 84116**

**FINAL MINUTES**

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**I. Call-to-Order**

Ernie Wessman called the meeting to order at 1:31 p.m.

Board members present: Ernie Wessman, Nan Bunker, Kathy Van Dame, Craig Petersen, Steve Sands, Joel Elstein, Brent Bradford, Kerry Kelly, and Amanda Smith

Excused: Robert Paine and Darrell Smith

Executive Secretary: Cheryl Heying

**II. Date of the Next Air Quality Board Meeting:** January 6, 2010.

**III. Approval of the Minutes for November 4, 2009, Board Meeting.**

Ms. Van Dame made a correction to the last sentence on page one, “There is also a new flexible permitting rule that became effective November 5, 2009,...” The words “that became effective” should be changed to “which is effective.”

- Kathy Van Dame moved to approve the minutes with the correction. Brent Bradford seconded. The Board approved in favor with Amanda Smith absent.

**IV. Final Adoption: Amend R307-101-2. General Requirements. Definitions. Presented by Kimberly Kreykes.**

Kimberly Kreykes, Environmental Planning Consultant at DAQ, stated on September 2, 2009, the Air Quality Board proposed for comment amendments to R307-101-2 General Requirements, Definitions. The proposed rule change recommended the addition of “PM2.5” to the definitions contained in R307-101-2. A public comment period was held October 1 through November 2, 2009. No comments were received. DAQ staff recommends that R307-101-2 be adopted as proposed.

- Steve Sands moved to adopt R307-101-2 as described. Nan Bunker seconded. The Board approved in favor with Amanda Smith absent.

**V. Propose for Public Comment: Amend R307-101-3. General Requirements. Version of Code of Federal Regulations Incorporated by Reference. Presented by Kimberly Kreykes.**

Kimberly Kreykes, Environmental Planning Consultant at DAQ, stated R307-101-3 incorporates by reference the version of the Code of Federal Regulations (CFR) used in a majority of rules adopted by the Air Quality Board. This allows rules that reference R307-101-3 to update the incorporation date with only one rule amendment. The most

current version of the CFR for environmental regulations has been updated from July 1, 2008, to July 1, 2009. Therefore, it is necessary to update R307-101-3. In the Board packet is a summary table of changes to 40 CFR from July 1, 2008, to July 1, 2009, that affect rules which reference R307-101-3. DAQ staff recommends that the Board propose the amended R307-101-3 for public comment.

In response to the Board's questions, it was stated that there did not appear to be any substantive changes to this amendment and that it would not require a rule change. DAQ staff are working on proposing more substantive changes to be presented to the Board after the new version of the CFR is published on January 1<sup>st</sup>. The Board also commented on the importance of DAQ staff submitting to the Board, tables that highlight federal rule changes and the impact of those changes to state rules.

- Nan Bunker moved to propose for public comment R307-101-3. Kerry Kelly seconded. The Board approved in favor with Amanda Smith absent.

## **VI. Informational Items.**

### **A. Final Area Designations for 2006 24-Hour Fine Particle (PM<sub>2.5</sub>) Standards. Presented by Bryce Bird.**

Bryce Bird, Planning Branch Manager at DAQ, stated that on November 13, 2009, the EPA published in the Federal Register the final designations for the 2006 PM<sub>2.5</sub> National Ambient Air Quality Standards (NAAQS). EPA had already announced its intention concerning these areas in a letter to the Governor in October 2009. The Federal Register notice includes an effective date of December 14, 2009, for the area designation. Mr. Bird then explained significant deadlines that will be measured from the effective date.

In discussion with the Board, Mr. Bird explained that coordination efforts between Utah DAQ and Idaho's environmental agency started about three years ago regarding the nonattainment area in portions of Franklin County, Idaho and Logan, Utah. Both agencies have been working on monitoring information as control strategies are developed. Idaho has also developed a plan with EPA Region 10 on future State Implementation Plan (SIP) submittals, which DAQ would like to develop with Region 8. The plan would allow DAQ to have buy-in from EPA Region 8 or to have a mechanism to resolve disputes before DAQ submits the final SIP work before it gets to EPA's only option is to disapprove the entire process and wait years after the fact to point out deficiencies.

The Board commented on the importance needed between the agencies involved. It was recommended that EPA Regions 8 and 10 be invited to the next Air Quality Board meeting so they can explain any coordination efforts between the Regions and further discuss the PM<sub>2.5</sub> NAAQS issue with the Board.

- Brent Bradford moved that the Air Quality Board send formal communication to EPA Regions 8 and 10 requesting they appear before the Board to indicate any coordination mechanisms they are using and how they intend to be involved in the process. Joel Elstein seconded. The Board approved in favor with Amanda Smith absent.

Mr. Bird also explained to the Board that yesterday EPA published a proposal to disapprove Utah's redesignation request submitted in 2005 for PM10. The intent of EPA is to disapprove redesignation for Salt Lake, Utah County, and Ogden City nonattainment areas. DAQ went through the SIP process by implementing controls and showing attainment with the standard for winter inversion periods and found that from EPA's proposal, backup information and other issues need to be re-examined in future preparation and coordination with Region 8.

In discussion, the Board would also like to hear comments from EPA on this proposal. Since it has been four years since the SIP was proposed, a 30-day comment period is not adequate time to reconstruct the history and make relevant comments. A request to have the comment period extended is also being asked by the Board or that an opportunity to supplement the record after the comment period be allowed.

- Ernie Wessman moved that the Air Quality Board invite EPA Region 8 to a future Board meeting to discuss the proposed disapproval of the PM10 SIP and request an extension on the comment period or the ability to supplement the record in order to provide substantive comments. Kathy Van Dame seconded. The Board approved in favor with Amanda Smith absent.

Amanda Smith enters Board meeting.

The Board inquired about the timeline on the next steps listed for the 2006 PM2.5 standard. Mr. Bird explained that it is a one year process in planning the modeling, inventory, and meteorological data to be complete so that emissions reduction strategies can be identified. The one year process will provide confidence in the modeling and the ability of the models to predict how future emissions reductions will impact the emission episodes. The PM10 SIP development process is an involved stakeholder process and any actions that DAQ will take would be a stakeholder process as well. The PM10 process is just starting and it should be understood that EPA may delay a final action and that DAQ does not have a proposed date or even a target date for when they would take a final action.

Mr. Bird further explained that some of the PM2.5 issues stated from EPA is the difference between a winter time inversion event and a wind blown dust event and also some old implementation plans in the past.

Mr. Bird concluded that a general issue and theme cited by EPA is that without the continued demonstration of compliance with the standard EPA could not approve the redesignation. When DAQ submitted a natural events exception policy, even though DAQ flagged those events, EPA had not approved the flags that all those continued exceedances were demonstrations that the plan was not adequate to meet the requirement of the Clean Air Act. To assist the Board to further understand this issue, staff will provide to the Board a brief analysis prior to EPA's visit with the Board.

**B. Request for Agency Action Regarding Approval Order for Denison Mines (USA) Corporation. Presented by Chris Stephens.**

Chris Stephens of the Attorney General's Office stated on October 26, 2009, the Executive Secretary issued an approval order to Denison Mines (USA) Corporation for an underground uranium mine. On November 24, 2009, the Executive Secretary received a request for agency action from Uranium Watch in Moab, Utah. Mr. Stephens is presenting this to the Board so the new process for adjudicating these disputes can be carried through. Under the new statute, an administrative law judge would be appointed by the Executive Director. The administrative law judge would then handle all the procedural requirements and consideration of the issues before a recommended decision would come to the Board for its final decision.

**C. Air Toxics. Presented by Robert Ford.**

**D. Compliance. Presented by Jay Morris and Harold Burge.**

**E. Monitoring. Presented by Bo Call.**

Bo Call updated the Board on the monitoring graphs submitted to the Board.

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Meeting was adjourned at 2:10 p.m.

Minutes approved: January 6, 2010