

UTAH AIR QUALITY BOARD MEETING
December 1, 2010 – 1:30 p.m.
195 North 1950 West, Room 1015
Salt Lake City, Utah 84116

FINAL MINUTES

I. Call-to-Order

Ernie Wessman called the meeting to order at 1:30 p.m.

Board members present: Ernie Wessman, Kathy Van Dame, Darrell Smith, Steve Sands, Joel Elstein, Kerry Kelly, Robert Paine, Amanda Smith, and Craig Petersen (attendance by phone)

Excused: Nan Bunker and Brent Bradford

Executive Secretary: Cheryl Heying

II. Date of the Next Air Quality Board Meeting: January 5, 2011

III. Approval of the Minutes for November 3, 2010, Board Meeting.

- Darrell Smith moved to approve the minutes as submitted to the Board. Kerry Kelly seconded. The Board approved unanimously.

IV. Final Adoption – Incorporate the EPA Greenhouse Gas (GHG) Tailoring Rule. Amend R307-401-9. Permit: New and Modified Sources. Small Source Exemption; R307-405-3. Permits: Major Sources in Attainment or Unclassified Areas (PSD). Definitions; and R307-415-3. Permits: Operating Permit Requirements. Definitions. Presented by Regg Olsen.

Regg Olsen, Permitting Branch Manager at DAQ, stated that on September 1, 2010, the Board proposed for public review and comment three rules that addressed how Utah was going to deal with the recently approved Greenhouse Gas Tailoring Rule. DAQ received no comments during the comment period. A public hearing was held on October 7, 2010, and no comments were received at that hearing. However, DAQ did receive a comment after the comment period and DAQ feels there may be some merit in that comment which will be addressed in the next agenda item. Staff recommends the Board approve R307-401-9, R307-405-3, and R307-415-3 to be adopted as proposed in order to meet the January 2011, effective date established by the federal rules.

In answer to questions from the Board, Mr. Olsen stated that they don't see any impact on the state budget. The main impact will be that the time it will take to process a permit may increase. At this point, DAQ is already dealing with sources they routinely deal with and are currently working on a training program and coordinating with other states and the EPA so that we are prepared and to reduce interruptions in the process. There is not a formal review in place to review how the process will function on a yearly basis or to review of the consequences of our approach. But if we feel there is a degradation occurring then establishing a formal process is an option. DAQ shares the concern that

one of the biggest complaints local governments hear is delays to the private sector. The Division will coordinate with other states, EPA, and sources on how best to train the parties on this issue.

- Kathy Van Dame moved to approve final adoption of the Greenhouse Gas Tailoring Rule amend R307-401-9, R307-405-3, and R307-415-3. Joel Elstein seconded. The Board approved unanimously.

V. Propose for Public Comment – Amend R307-401-9. Permit: New and Modified Sources. Small Source Exemption; R307-405-3. Permits: Major Sources in Attainment or Unclassified Areas (PSD). Definitions; and R307-415-3. Permits: Operating Permit Requirements. Definitions. Presented by Regg Olsen.

Mr. Olsen stated that DAQ received comments from Air Permitting Forum after the comment period ended on the tailoring rule that was just presented to the Board as agenda Item IV. We reviewed the comments and felt that there may be some merit to the suggestion in the comments. Air Permitting Forum comments suggest building in the Utah rule a provision that conditions the changes that were just approved on the continued validity of the federal rules. DAQ worked with the Attorney General's Office on the language and staff recommends that the Board propose these amendments for public comment.

Mr. Olsen then answered several questions from the Board. It was explained that although there is process in place, in the past, comments have been accepted after the comment period ended. During the comment period we try to gather as much information as we can and if needed we will extend the comment period. The intent of this proposal is that if there is a change that alters the federal regulation then that similar piece in our rules would follow suit. This change would have been a substantive change had it been received during the comment period and the rule would have had to go back through the process. So that we can meet the January 2011 deadline we chose to handle it this way. Also, if this language change is not in the rule and GHG is ruled that it cannot be regulated then it would still be in our state rules and we would likely return to the Board and request a rule change and the package would have to go to EPA as well.

Denise Chancellor of the Attorney General's Office and counsel to the Board explained that the critical language is whether GHG's are not subject to regulation under Title V. We have the authority to implement the federal programs. When you consider the number of lawsuits against EPA on this specific rule the Division thought it was appropriate to go out for additional public comment to see if there should be this sunset provision.

It was also noted that Ms. Van Dame had concerns about this coming to the Board for a vote today and would like to the Board to review additional documents so that they would have an opportunity to make a more considered decision about whether to modify a rule based on potential litigation.

- Darrell Smith moved that the Board propose for public comment to amend R307-405-3 Permits Major Sources in Attainment or Unclassified Areas (PSD) Definitions, and R307-415-3 Permits Operating Permit Requirements Definitions. Joel Elstein seconded. The Board approves the motion by a vote of eight in favor (Wessman, D. Smith, Sands, Elstein, Kelly, Paine, A. Smith, Petersen) and one opposed (Van Dame).

VI. Informational Items.

- A. Wasatch Choices 2040. Presented by Andrew Gruber, Executive Director, Wasatch Front Regional Council.

Andrew Gruber from Wasatch Front Regional Council (WFRC) stated that the WFRC is one of three metropolitan planning organizations for the region, made up of local government officials that come together to do long range transportation and land use planning. Mr. Gruber's explained that Wasatch Choices 2040 is the vision developed for future challenges the region is facing in growth and transportation related air quality strategies. The population along the Wasatch Front is anticipated to grow and will have an impact on congestion, air quality, and land as we develop. We have to come up with growth principles that we can take to local communities to help them develop in a way that meets their local needs but also achieves the larger vision. Wasatch Choices 2040 was a collaborative approach with the medical, business, mining industry, and all of those with involved interest. Everybody has to come together as a community to say how we develop and grow for the future and still maintain the quality of life that we have.

- B. Update to the Utah Air Quality Board. Presented by Steven Tuber and Carl Daly, Environmental Protection Agency Region VIII.

Steven Tuber, Assistant Regional Administrator, and Carl Daly, Acting Air Director, at Environmental Protection Agency Region VIII, updated the Board on several issues as requested by the Board at a previous visit.

It was explained that the unavoidable breakdown rule SIP call was issued on November 19, 2010, as a result of a consent decree issued November 2009 by federal courts to the EPA and a lot of attention has been focused on potential for sanctions. There have been several discussions between EPA and DAQ on several aspects of particulate matter 2.5 nonattainment, in particular the modeling for the attainment demonstration. EPA has also concurred on the initial transportation conformity determination received from the three MPO's. EPA will continue to work with DAQ on any type of modeling demonstration with regard to the contribution to Box Elder and Tooele counties to the nonattainment area.

Mr. Tuber continued that EPA proposed disapproval of major portions of the PM10 maintenance plan and the accompanying SIP and at this point they are under a consent decree deadline to complete action by December 1, 2011. The 8-hour ozone standard is not proposed to be finalized at the end of this year and depending on where the standard is set it may impact some counties that previously had no sources or very few sources. After significant work with Utah, New Mexico, Wyoming, and Region 6 a better understanding has been reached on the 309 portion of the Regional Haze SIP, the back stop trading program for sulfur dioxide (SO₂), but the 309g portion focusing on the non-SO₂ pollutants is still undergoing review by the EPA.

Finally, there is a lot of interest focused on the Uintah Basin monitoring results and the issue of mixed jurisdiction. Currently, there are four operating monitors

but none of these are regulatory monitors. Two of the monitors in Red Wash and Ouray are operated by industry and two are operated by a contractor for the Ute tribe located in Myton and Whiterocks. As soon as cold weather and snow cover arrived last year, all four monitors started to see elevated levels of ozone. Governor Herbert has asked that an air quality forum be created of the different parties involved to discuss this monitoring issue. And EPA also expects to issue a final tribal new source review permitting program next year which would give EPA authority for the first time to be able to issue permits for minor sources of emissions.

- C. Utah's Proposed Designation Recommendations for the Revised Nitrogen Dioxide (NO₂) National Ambient Air Quality Standards. Presented by Kimberly Kreykes.

Kimberly Kreykes, Environmental Planning Consultant at DAQ, stated that the Clean Air Act requires EPA to set national ambient air quality standards for pollutants considered harmful to public health and NO₂ is one of six pollutants for which the standards exist. EPA first established the standard for NO₂ in 1971 and set the primary and secondary standard at 55 ppb averaged annually. EPA changed the NO₂ standard on January 22, 2010, and strengthened the primary standard for NO₂ in order to protect public health. They added a new one-hour NO₂ standard at 100 ppb and retained the current annual NO₂ standard at 53 ppb. In addition, changes were made to the monitoring network requirements. Utah is recommending an attainment designation for Cache, Davis, Salt Lake, Utah, and Weber Counties and an unclassifiable designation for all other areas. Ms. Kreykes then answered questions from Board members.

- D. **Air Toxics. Presented by Robert Ford.**

In answer to a question from the Board, Greg Sorensen, Environmental Scientist at DAQ, replied that school inspections for asbestos in schools are done randomly. This year's inspections have been focused on the larger school districts.

- E. **Compliance. Presented by Jay Morris and Harold Burge.**
- F. **Monitoring. Presented by Bo Call.**

Bo Call gave an update on the monitoring graphs submitted to the Board.

Meeting was adjourned at 3:13 p.m.

Minutes approved: January 5, 2011