

**UTAH AIR QUALITY BOARD MEETING**  
**February 2, 2011 – 1:30 p.m.**  
**195 North 1950 West, Room 1015**  
**Salt Lake City, Utah 84116**

**FINAL MINUTES**

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**I. Call-to-Order**

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

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

Executive Secretary: Cheryl Heying

**II. Date of the Next Air Quality Board Meeting:** March 2, 2011

**III. Approval of the Minutes for January 5, 2011, Board Meeting.**

Ms. Van Dame made a correction to her motion of Item VI. The words “propose for public comment...” should have been included. It should read, “Kathy Van Dame moved to propose for public comment, amend Utah State Implementation Plan...”

- Kathy Van Dame moved to approve the minutes as corrected. Joel Elstein seconded. The Board approved in favor with Amanda Smith absent.

**IV. Propose for Public Comment: New Rule R305-6. Administrative Procedures for the Department of Environmental Quality. Presented by Laura Lockhart.**

Laura Lockhart of the Utah Attorney General’s Office stated this rule is being proposed because: in 2009 a new statute gave administrative law judges a role in administrative decision making; the rule will apply to all of the Department of Environmental Quality (DEQ); it makes clarification to some items; and includes some changes that were felt necessary given past experience with the rule. As examples, Ms. Lockhart briefly described changes to Sections 105 Notice and Comment and Exhaustion of Remedies, 209 Disclosures and Discovery, and 302 Declaratory Orders. In addition, because this is a department-wide rule, it needs to be proposed by all DEQ Boards. At the request of the Water Quality Board, a 60 day comment period is being suggested and there will also be a public hearing.

In response to questions from the Board, Ms. Lockhart responded that based on the initial scoping process, approximately eight advanced comments were received. Comments on this proposal were being handled differently than other proposals with the purpose to get the best possible rule to the decision makers. Comments can still be submitted during the comment period. In addition, if there needs to be modifications to the rule that will need to go through all DEQ Boards. There is some flexibility in that if there is something peculiar to DAQ then it would not need to go through all of the Boards but it would be

submitted in a slightly different way specific to DAQ. The Water Quality Board's suggestion for a 60 day comment period was due to the size of the rule and the substantial number of initial changes received. Although Ms. Lockhart did not know when the last updating took place this is the first time that all DEQ Boards are involved on the same rule.

- Kathy Van Dame moved to propose to public comment, new rule R305-6 Administrative Procedures for the Department of Environmental Quality. Steve Sands seconded. The Board approved in favor with Amanda Smith absent.

**V. Propose for Public Comment: Repeal and Reenact R307-103. Administrative Procedures; and Amend R307-120-8. General Requirements: Tax Exemption for Air Pollution Control Equipment. Appeal and Revocation. Presented by Kimberly Kreykes.**

Kimberly Kreykes, Environmental Planning Consultant at DAQ, stated that because the new rule R305-6 presented by Laura Lockhart will negate the necessity for much of the current administrative procedures rule R307-103, it is being proposed to repeal R307-103 and replace it with the new department rule R305-6. In addition, R307-120-8 has a reference to R307-103-3. With the repeal and reenactment of the administrative procedures rule R307-103, it is proposed to remove the dash three and just have it reference to administrative procedures within the Air Quality rules. Staff recommends the Board propose amendments to R307-103 and R307-120-8 for public comment.

- Brent Bradford moved to propose this item for public comment. Nan Bunker seconded. The Board approved in favor with Amanda Smith absent.

**VI. Propose for Public Comment: Amend R307-214. National Emission Standards for Hazardous Air Pollutants. Presented by Steve Packham.**

Steve Packham, Toxicologist at DAQ, stated that section R307-214 of the Utah Administrative Code deals with the maximum achievable control technology (MACT) or the national emission standards for hazardous air pollutants (NESHAPs). Updates are done on a regular basis and the administrative code in its current form references the 40 Code of Federal Regulations (CFR) dated July 1, 2009. Amendments to the code are necessary to bring R307-214 up to date with the July 2010 CFR. The table in the Board packet provides five new NESHAPs that were promulgated during the 2009-2010 cycle. There is also a table summarizing federal register citations associated with new NESHAPs and modifications to the NESHAPs that currently exist in our code. Staff recommends the Board propose for public comment amendments to R307-214 incorporating NESHAPs and the MACTs applicable to Utah as published in the July 1, 2010, 40 CFR.

In response to questions from the Board, Mr. Packham answered that there are not many sources in Utah which will be affected by the five new NESHAPs. In the summary table there are some subparts of 63 that are not incorporated by reference in the state rules because they will be promulgated later. Each is done independently as a specific action then it is referenced into our code and keyed directly to the federal CFR.

It was mentioned by the Board about the difficulty affected businesses, especially small businesses, have in trying to keep track of the NESHAP regulations and updates. In doing work in the Lean 6 Sigma meetings, it might be a good idea to incorporate a

standardized guidance for engineers and consult with these people when updates like today's rule come up. Having a listserv available for updates would also be a good idea. It was suggested to have Paul Harding of the Business Assistance program at DEQ update the Board at the next meeting on how he is currently addressing these types of issues.

- Kerry Kelly moved to propose for public comment, amend R307-214. Darrell Smith seconded. The Board approved in favor with Amanda Smith absent.

## **VII. Informational Items.**

Brent Bradford announced his resignation from the Air Quality Board and spoke briefly about his past involvement with the Board both as staff of DEQ and as a Board member. Mr. Bradford was then presented with a plaque in recognition of his service on the Air Quality Board.

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

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

Amanda Smith enters Board meeting.

**C. Monitoring. Presented by Bill Harned.**

Bill Harned updated the Board on monitoring graphs. Mr. Harned mentioned there is an ozone study in the Uintah Basin with Utah State University, which the preliminary results have not yet been received since it's ongoing through the end of February. Staff currently has an ongoing speciation study along the Wasatch Front at three sites through the network which will go through the end of February. It was requested that the Board be updated on the results of the two studies when they are available.

It was also mentioned that EPA proposes a rule to do a near road carbon monoxide monitor in the Salt Lake Valley. These monitors might also work with the West Valley corridor project of monitoring to assess the impacts of highway construction which is part of a negotiated settlement with the environmental community.

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Meeting was adjourned at 2:01 p.m.

Minutes approved: April 6, 2011