

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

FINAL MINUTES

I. Call-to-Order

Steve Sands called the meeting to order at 1:30 p.m.

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

Executive Secretary: Bryce Bird

Ernie Wessman was recognized and presented with a plaque for his dedication and longstanding service on the Air Quality Board after serving two consecutive terms.

II. Date of the Next Air Quality Board Meeting: July 6, 2011

III. Approval of the Executive Secretary. Presented by Steve Sands.

Mr. Sands stated that Amanda Smith appoints each Division Director and historically the Division Director and the Executive Secretary is the same person. With Bryce Bird's recent announcement as the Air Quality Division Director, it is requested that the Board approve his appointment as the Executive Secretary to the Air Quality Board.

- Kerry Kelly moved that the Board approve Bryce Bird as the Executive Secretary. Joel Elstein seconded. The Board approved unanimously.

IV. Election of Chair and Vice-Chair. Presented by Steve Sands.

Mr. Sands opened the floor for nominations for Chair of the Air Quality Board for the next year. Ms. Bunker nominates Steve Sands. Nominations ceased and no further discussion.

- Nan Bunker nominates Steve Sands as Chair of the Air Quality Board. Darrell Smith seconds. The Board approved unanimously that Steve Sands serve as Chair of the Air Quality Board for the next year.

Mr. Sands opened the floor for nominations for Vice-Chair of the Air Quality Board for the next year. Ms. Bunker nominates Joel Elstein. Ms. Van Dame nominates herself. Mr. Paine nominates Kerry Kelly. Nomination cease and the Board votes on each nominee.

- By a majority vote, the Board approves Kerry Kelly as Vice-Chair of the Air Quality Board for the next year.

V. Approval of the Minutes for May 4, 2011, Board Meeting.

In answer to the Board's inquiry of the availability of a transcript of the May 2011 meeting, staff responds that Board meetings are not transcribed but that an audio recording of the meetings are available for those wishing an audio of the whole meeting.

- Darrell Smith moved to approve the minutes. Nan Bunker seconded. The Board approved unanimously.

VI. Final Adoption: Amend R307-214. National Emission Standards for Hazardous Air Pollutants. Presented by Robert Ford.

Robert Ford, Air Toxic, Lead, Asbestos Section Manager at DAQ, stated this is the final adoption of updates to Utah Admin. Code R307-214 National Emission Standards for Hazardous Air Pollutants. These updates will bring R307-214 current with changes in 40 CFR Part 61 and Part 63 that occurred during July 1, 2009, to June 30, 2010. This includes any changes to the existing Maximum Achievable Control Technology (MACT) standards previously adopted by the Board as well as the addition of five new MACT standards for area sources. A public comment period was held from March 1 to March 31, 2011. No hearing was requested and no comments were received. Staff recommends that R307-214 be adopted as proposed.

- Robert Paine moved to amend R307-214 National Emission Standards for Hazardous Air Pollutants. Nan Bunker seconded. The Board approved unanimously.

VII. Informational Items.

A. Unavoidable Breakdown Rule State Implementation Plan Call. Presented by Joel Karmazyn.

Joel Karmazyn, Environmental Scientist at DAQ, stated that DAQ conducted a stakeholder meeting on May 9, 2011, to explain EPA's findings of the Unavoidable Breakdown Rule State Implementation Plan (SIP) Call in the Federal Register notice. All major industrial and environmental groups and their membership were invited, as well as the League of Women's Voters to represent the general public. A discussion of the ruling by policy and its importance to all states was summarized in an options analysis table which included the pros', the cons', and the stakeholder's response of each option. Mr. Karmazyn summarized that there is no advantage to taking no action and it was not supported by stakeholders. Challenging the SIP call preserves our position on ruling by policy instead of the rule-making process, but a legal challenge adversely impacts our working relationship with EPA and would be a resource drain. Some stakeholders felt we should not challenge EPA. If DAQ chooses to challenge EPA on this ruling, it must be done by June 17, 2011. Withdrawing the current rule is a viable option since we already have enforcement discretion, although stakeholders were uniformly uncomfortable with this option for a variety of reasons. Revising the rule drafted in 2005 that was rejected by EPA is not supported by DAQ staff or the stakeholders. The rule is unnecessarily lengthy and difficult to follow. Finally, the current rule could be replaced with a new rule using the enforcement discretion approach modeled after Wyoming's rule that was approved by EPA. This approach focuses on our enforcement discretion. There was no objection from stakeholders on this approach but they would like to see some rule modifications and wording

changes. In addition, Mr. Karmazyn stated that in discussion with stakeholders it was agreed the two hour exemption would be eliminated.

B. Petition for Greenhouse Gas Rule. Presented by Denise Chancellor.

Denise Chancellor of the Attorney General's Office and Counsel to the Board stated that a petition for rule change to adopt a greenhouse gas (GHG) reduction plan was received by the Board on May 4, 2011. Ms. Chancellor then went over the legal standards and procedures applicable to a rulemaking petition. Any interested person may petition an agency to request a change in a rule or to make a new rule. A statement must accompany the rule and it must be appropriate to the powers of the agency. The Board has met the 45 day deadline by placing the rulemaking petition on today's agenda. To meet the 80 day deadline of July 25, 2011, the Board must either deny the petition in writing stating the reasons for denial or initiate rulemaking proceedings.

Ms. Chancellor responded to questions from the Board and stated that this does fall under the constraint of the Board being restricted under the ability to develop rules more stringent than national standards. Although there is an option that the Board may make rules more stringent than corresponding federal regulations only if it makes a written finding after public comment and hearing, this rulemaking petition restricts the Board to the 80 day statutory deadline.

In addition, Mr. Bird stated that the Board will receive more information, including DAQ's recommendation, as well as a presentation at the next Board meeting. The DAQ web site will also be updated regarding the tailoring rule being allowed to lapse as presented to the Board in April.

Mr. Sands introduced public comment from Sierra Alder, West High School student and petitioner for the GHG rule. Ms. Adler commented that in regards to climate change, it's her generation that is going to be most affected and this petition gives her the opportunity to work with government officials to adopt a plan to address climate change and to guarantee all to a livable future.

Mr. Sands introduced public comment from Jamie Pleune, one of the attorneys of the petition for the GHG rule. Ms. Pleune stated that the GHG petition is a national effort and was filed across the nation, but that this petition was specifically written for and tailored to Utah. Some state chose to go directly to court and filing of lawsuits. An initiation to adopt a rule for reducing GHGs would be an enormous undertaking and they don't expect it to be accomplished in the 80 day deadline. They are more interested in working with the agencies in a collaborative approach to address this issue. The petitioners in this case are asking for our leaders to step forward and accept responsibility for a problem that we cannot run away from. Ms. Pleune requests to be put on a Board agenda and also to meet with DAQ to discuss the possibility of initiating a rulemaking process and to consider the possibility of moving forward on this plan.

At the conclusion of the meeting, Board members and the public were invited to stay for DAQ's PM_{2.5} Stakeholder Kickoff multi-county meeting immediately following the Board meeting.

Meeting was adjourned at 2:04 p.m.

Minutes approved: July 6, 2011