

Waste Management and Radiation Control Board Meeting
Utah Department of Environmental Quality
195 North 1950 West (Conference Room #1015) SLC, Utah
February 9, 2017
1:30 p.m.

Board Members Present: Brett Mickelson (Chair), Richard Codell, , Mark Franc, Alan Matheson, Steve McIff, Shawn Milne, Nathan Rich, Vern Rogers and Shane Whitney

Board Members Absent: Dennis Riding (Vice Chair), Danielle Endres, Jeremy Hawk

Staff Members Present: Scott Anderson, Brent Everett, Craig Anderson, Gary Astin, Therron Blatter, Phil Goble, Doug Hansen, Laura Lockhart, Bret Randall, Arlene Lovato, Rusty Lundberg, Deborah Ng, Jerry Rogers, Elisa Smith, David Wilson and Raymond Wixom

Others Present: Linda Ebert and Dan Shrum

I. Call to Order.

Brett Mickelson (Chair) welcomed all in attendance and called the meeting to order at 1:30 p.m. Dennis Riding (Vice Chair), Danielle Endres and Jeremy Hawk were excused from the meeting.

II. Introduction of Bret Randall, new Assistant Attorney General.

Scott Anderson introduced Bret Randall. Mr. Randall is replacing Laura Lockhart in the Attorney General's Office. Mr. Randall graduated from BYU Law School and worked private practice for the law firm Durham, Jones and Pinegar. Mr. Randall also served as a UDEQ Administrative Law Judge.

III. Laura Lockhart Retirement.

Scott Anderson announced that Laura Lockhart, Attorney General's Office, will soon be retiring. Mr. Anderson expressed his appreciation to Ms. Lockhart for her many years of dedicated service to two Boards and for her commitment to the environment and all the work that she accomplished at UDEQ.

Ms. Lockhart stated that although she has not spent a lot of time with the new Board, as she had with the Board that preceded the current Board, she has enjoyed working with all the Boards and admires the time the Board members put into serving and thanked them for their efforts.

Brett Mickelson, Board Chairman, presented Ms. Lockhart with a plaque in recognition for her service in behalf of the Board.

Richard Codell, speaking as a former member of the Radiation Control Board, stated that the previous Radiation Board and former colleagues at NRC really appreciated Ms. Lockhart and all her dedicated efforts.

Craig Anderson, Attorney General's Office, also thanked Ms. Lockhart for her many years of dedicated service.

IV. Approval of Meeting Minutes for the January 12, 2017 Board Meeting (**Board Action Item**).

It was moved by Richard Codell and seconded by Shane Whitney and UNANIMOUSLY CARRIED to approve the January 12, 2017 Board meeting minutes.

V. Underground Storage Tanks Update.

Brent Everett, Director of the Division of Environmental Response and Remediation (DERR), informed the Board that the cash balance of the Petroleum Storage Tank (PST) Trust Fund at the end of December 2016 was \$16,969,043.00. The preliminary estimate for the cash balance of the PST Trust Fund for the end of January 2017 is \$15,608,438.00. The cash balance of the PST Trust Fund is watched closely to ensure sufficient funds are available in the PST Trust Fund. There were no questions regarding the PST Trust Fund update.

Mr. Everett informed the Board that Representative Eliason's Petroleum Vapor Recovery bill has passed the House and was delivered to the Senate for consideration. This bill requires operators of a gasoline cargo tank to meet certain requirements to control emission of gasoline vapors during loading and unloading of the cargo tank. If the bill passes, the implementation of the bill would be handled by the Division of Air Quality.

VI. Underground Storage Tanks Rules.

- A. Approval to file Five-Year review notices for Underground Storage Tank Rules: R311-200, R311-201, R311-202, R311-203, R311-204, R311-205, R311-206, R311-207, R311-208, R311-209, R311-210, R311-211, and R311-212 (**Board Action Item**).

Gary Astin, DERR Rules Coordinator for the UST Program, requested Board approval to submit the Five-Year Review of the UST Rules. The rules include R311-200, R311-201, R311-202, R311-203, R311-204, R311-205, R311-206, R311-207, R311-208, R311-209, R311-210, R311-211 and R311-212. A review of the rules is required every five years. The agency considers comments received in the past five years on the existing rules and then decides if the rules should continue, end, be reviewed or be repealed.

Mark Franc asked if any changes will be brought before the Board. Mr. Astin explained that a substantive rule change would come before the Board. If the change is non-substantive, it does not come before the Board for approval. No changes are being proposed at this time. The DERR is only requesting permission to submit the Five-Year Review.

It was moved by Steve McIff and seconded by Shawn Milne and UNANIMOUSLY CARRIED for the DERR to submit the Five Year Review of the Underground Storage Tank Rules R311-200, R311-201, R311-202, R311-203, R311-204, R311-205, R311-206, R311-207, R311-208, R311-209, R311-210, R311-211 and R311-212.

VII. Used Oil Program.

- A. Final adoption of changes to Used Oil Rules, R315-5-13 (**Board Action Item**).

Rusty Lundberg, Deputy Director, Division of Waste Management and Radiation Control, reminded the Board that during the October 14, 2016 meeting, the Board approved for publication in the Utah State Bulletin and commencement of a 30-day public comment period, proposed changes to the Used Oil Rules in Section R315-15-13, Registration and Permitting of Used Oil Handlers.

Subsection R315-15-13.4(f) allows generators of used oil to transport quantities exceeding 55 gallons under a permit by rule. The permit-by-rule exemption is limited to facilities that fall within certain

North American Industry Classification System (NAIC) codes (currently Utah only has three facilities in this category). The Division was approached by Rocky Mountain Power asking if the utilities sector code could be added to the list in the rule. Rocky Mountain Power generates large amounts of used oil, some of which is located in remote locations where it is difficult or impossible to get a used oil transporter to pick up the oil. This change would allow any utility to transport its own oil under a permit by rule. The change also updates reference to the current version of the North American Industry Classification System (NAIC). The proposed rule change was published in the November 1, 2016 edition of the Utah State Bulletin (a copy was included in the February 9, 2017 Board packet).

The public comment period began on November 1, 2016 and concluded on December 1, 2016. No comments were received.

The Division Director recommended that the Board approve for final adoption the proposed changes to Subsection R315-15-13.4(f) of the Used Oil Rules, as published in the Utah State Bulletin on November 1, 2016 and set an effective date before March 1, 2017.

It was moved by Mark Franc and seconded by Nathan Rich and UNANIMOUSLY CARRIED to approve for final adoption the proposed changes to Used Oil Rules, R315-5-13 and set the effective date of February 10, 2017.

VIII. Legislative Update.

Scott Anderson provided an update on legislation from the 2017 General Session of the Legislature that impacts the Division of Waste Management and Radiation Control.

SCR003, sponsored by Senator Hinkins, is a resolution requesting the Department of Energy (DOE) to adequately fund the Uranium Mill Tailings Remedial Action Project at Atlas Minerals in Moab, Utah. This bill is currently on the House 2nd Reading Calendar.

HB115, sponsored by Representative McKell, changes the way the solid waste fees are determined and assessed. Currently, fees from the disposal of solid waste are paid by a certain number of facilities and fund the solid waste program. This bill will increase the number of facilities who will be subject to the fees. The bill directs the agency to establish a fair and equitable fee to cover program costs. It moves the fee from a statutory provision to the fee schedule that the DEQ puts together every year as part of its budget request. Having the fees in the fee schedule allows a little more flexibility to address changes in program costs. This bill is expected to be considered by the House Business and Labor Standing Committee.

HB272, sponsored by Representative Wilson, requires agencies to do a quantitative analysis of the regulatory impacts on businesses and residents before submitting any new administrative rules. This bill is currently on the House 1st Reading Calendar.

SB79, sponsored by Senator Stuart Adams, addresses compatibility concerns raised by the Nuclear Regulatory Commission (NRC) regarding financial assurance for low-level radioactive waste management facilities (*EnergySolutions*). This bill will correct issues that NRC identified. This bill is currently on the Senate 2nd Reading Calendar. However, the bill has been circled awaiting NRC's input on the bill before moving forward.

HB33, sponsored by Representative Perry, extends the sunset date for the Mercury Switch Removal Act. This act has been reauthorized for ten more years. This bill has passed both houses and is awaiting the Governor's signature.

HB296, sponsored by Representative Wilson, modifies financial assurance requirements for perpetual care at radioactive waste disposal facilities. This bill removes the requirement for the adequacy report for commercial hazardous waste and radioactive waste management facilities, unless triggered by certain criteria. This bill also eliminates the annual 400K payment by EnergySolutions into the perpetual care fund and directs the State Treasurer to invest the current balance of the fund and provides a target for him to reach in the year 2141. This bill is currently on the House 1st Reading Calendar.

IX. Other Business.

A. Misc. Information Items.

Scott Anderson informed the Board that the terms of Danielle Endres, Mark Franc, Steve McIff, Shawn Milne and Dennis Riding will be expiring on August 31, 2017. Due to the fact that the process to re-appoint/appoint Board members is lengthy, Mr. Anderson requested these individual contact him to discuss their interest in continuing to serve. Those Board members requesting to be reappointed along with any others who have applied to serve will be submitted and a recommendation will be made to the Governor. The Governor then submits his nominations to the Senate for their consideration and consent. (An email will be sent out reminding the Board members of this matter.)

B. Scheduling of next Board meeting.

The next Board meeting is scheduled for April 13, 2017 at 1:30 p.m. at the Utah Department of Environmental Quality, 195 North 1950 West, Salt Lake City, Utah.

X. Adjourn.

The meeting adjourned at 2:00 p.m.