

Waste Management and Radiation Control Board Meeting  
Utah Department of Environmental Quality  
195 North 1950 West (Board Conference Room #1015), SLC  
January 11, 2018  
1:30 p.m.

**Board Members Present:** Brett Mickelson (Chair), Dennis Riding (Vice-Chair), Richard Codell, Danielle Endres, Marc Franc, Jeremy Hawk, Alan Matheson, Steve McIff, Shawn Milne, Nathan Rich, Vern Rogers and Shane Whitney

**Staff Members Present:** Scott Anderson, Brent Everett, Thomas Ball, Ed Costomiris, Arlene Lovato, Rusty Lundberg, Kaci McNeil, Deborah Ng, Rick Page, Bret Randall, Elisa Smith, Don Verbica and Otis Willoughby

**Others Present:** Jessica Reiner

I. Call to Order.

Brett Mickelson (Chair) welcomed all in attendance and called the meeting to order at 1:30 p.m.

II. Approval of the Meeting Minutes for the November 9, 2017 Board Meeting (**Board Action Item**).

**It was moved by Shane Whitney and seconded by Shawn Milne and UNANIMOUSLY CARRIED to approve the November 9, 2017 Board Meeting minutes.**

III. Underground Storage Tanks Update.

Brent Everett, Director of the Division of Environmental Response and Remediation (DERR), informed the Board that the asset balance of the Petroleum Storage Tank (PST) Trust Fund at the end of November 2017 was \$15,059,729.00. The preliminary estimate for the cash balance of the PST Trust Fund for the end of December 2017 is \$14,493,396.00. The PST Trust Fund is managed on a cash balance basis and is watched closely to ensure sufficient coverage for covered releases.

Mr. Everett reported that due to significant changes to the Federal underground storage tank (UST) regulations in 2015, the U.S. Environmental Protection Agency (EPA) is requiring all states that have previously been granted state program approval (SPA) to reapply for approval by October 2018. The UST staff has been working over the last two years to put together the required documentation. The submission package has been completed and preliminarily reviewed by the EPA. The document is rather large and the EPA has requested hardcopy documents so the document has been sent to the printer and is expected to be submitted to the EPA for final review and approval later this month.

Mr. Everett reported that Representative Steve Eliason has sponsored House Bill 27, UST Act Amendments. The bill passed out of the Natural Resources, Agriculture, and Environmental Quality Appropriations Subcommittee as a committee bill on November 15, 2017. This bill reauthorizes the UST Act for a period of 10 years and modifies the amounts for which loans can be made out of the PST Trust Fund for UST system replacement.

IV. Administrative Rules.

- A. Approval to file Five-Year review notices for Solid Waste Rules R315-301, 302, 303, 304, 305, 306, 307, 308, 309, 310, 311, 312, 313, 314, 315, 316, 317, 318 and 320 (**Board Action Item**).

Tom Ball, Planning and Technical Support Section Manager, reviewed the request for approval from the Board to file Five Year Review notices for Solid Waste Rules R315-301, 302, 303, 304, 305, 306, 307, 308, 309, 310, 311, 312, 313, 314, 315, 316, 317, 318 and 320. If these rules are to continue, a Notice of Continuation (Five-Year Review) must be filed prior to the anniversary of the last five-year review.

The Utah Administrative Rulemaking Act (Utah Code Annotated (UCA) §63G-3-305) requires state agencies to review each of their administrative rules within five years of the rule's original effective date or the last five-year review. The purpose of the review is to provide agencies with an opportunity to assess whether the rules should be continued. In performing a five-year review, an agency may consider the need to amend or repeal rules that are archaic in form, are no longer used, are not based on existing statutory authority or are otherwise unnecessary.

The Solid and Hazardous Waste Act authorizes the Waste Management and Radiation Control Board to make rules (UCA §19-6-105 and §19-6-104). Because the Administrative Rulemaking Act's definition of "agency" includes each state board authorized or required by law to make rules, it is appropriate that the Board approve the five-year review of a rule. To retain a rule as part of the Utah Administrative Code, a "Five-Year Notice of Review and Statement of Continuation" must be filed with the Office of Administrative Rules, before the rule's five-year anniversary date. A filing form with the following information must be provided: (1) A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize the rule; (2) A summary of written comments received during and since the last five-year review of the rule from interested persons supporting or opposing the rule; and, (3) A reasoned justification for continuation of the rule, including reasons why the agency disagrees with comments in opposition to the rule, if any. Completing the form provided by the Office of Administrative Rules and filing it before the five-year review date satisfies the provisions of the Administrative Rulemaking Act with respect to a five-year review.

The Division Director recommends that the Board approve filing the completed Five-Year Notice of Review and Statement of Continuation forms for Solid Waste Rules R315-301, 302, 303, 304, 305, 306, 307, 308, 309, 310, 311, 312, 313, 314, 315, 316, 317, 318 and 320 with the Office of Administrative Rules.

**It was moved by Mark Franc and seconded by Steve McIff and UNANIMOUSLY CARRIED to approve to file Five-Year review notices for Solid Waste Rules R315-301, 302, 303, 304, 305, 306, 307, 308, 309, 310, 311, 312, 313, 314, 315, 316, 317, 318 and 320 (Board Action Item).**

V. Used Oil Section.

- A. Approval to proceed with formal rulemaking and 30-day public comment period for proposed changes to R315-15, Standards for the Management of Used Oil Rules (**Board Action Item**).

Tom Ball reviewed the request for approval from the Board to proceed with formal rulemaking and 30-day public comment by filing with the Office of Administrative Rules and publishing in the Utah State Bulletin proposed changes to UAC R315-15, Standards for the Management of Used Oil Rules to fix an inadvertent wording change in the rules that causes a contradiction when a facility collecting used oil

has to be registered and to remove a requirement in the financial assurance rules for all financial documents to be signed in duplicate.

The Division was made aware of contradictory language in the used oil management rules by a constituent. Specifically, UAC R315-15-13.3(a) currently states that a person may operate a used oil aggregation point without a registration number if the aggregation point also accepts used oil from household do-it-yourselfers or other generators. UAC R315-15-13.3(b) then states if an aggregation point accepts used oil from household do-it-yourselfers it must be registered. It is the intent of the rules that all facilities that manage used oil from household do-it-yourselfers be registered. The Division was unable to determine why the contradiction exists. Previous versions of the rule do not have the contradiction and the Division was unable to find any documentation making the change. The proposed change to UAC R315-15-13.3 will remove the contradiction and return the rule to its original intent. Recently, it was discovered that facilities involved in the management of used oil have been submitting all financial assurance mechanisms signed in duplicate when only certain mechanisms actually need to be signed in duplicate, others in triplicate and some just single. Research into the issue revealed that UAC R315-15-17.1 requires all financial assurance mechanisms to be signed in duplicate. The proposed change to UAC R315-15-17.1 will remove the requirement from the rules and facilities managing used oil will follow the requirements of each mechanism regarding the number of signatures needed. Mr. Ball clarified that, at this time, all financial assurance documents are submitted as hard copies to the Division. The Division is looking into options for facilities to submit financial assurance documents electronically in the future.

The proposed changes to UAC R315-15 were included in the January 11, 2018 Board packet.

The Board is authorized under Subsection 19-6-704(1)(a) to establish by rules conditions and procedures for registration of used oil collection centers and used oil aggregation points and under Subsection 19-6-704(1)(b) to provide by rule that used oil aggregation points that do not accept do-it-yourselfer used oil are not required to be registered. The Board is authorized under Subsection 19-6-704(1) to make rules as necessary to administer the Used Oil Management Act.

**It was moved by Dennis Riding and seconded by Vern Rogers and UNANIMOUSLY CARRIED to approve to proceed with formal rulemaking and 30-day public comment period for proposed changes to R315-15, Standards for the Management of Used Oil Rules.**

VI. Low-Level Radioactive Waste Section.

A. Proposed Stipulation and Consent Order between the Board and EnergySolutions, LLC. (Information Item Only).

Otis Willoughby, Environmental Scientist, Low Level Radioactive Waste Section, reviewed the Stipulation and Consent Order (SCO) to resolve Notice of Violation No. 2017-1706012 issued to EnergySolutions on July 17, 2017 for a self-identified violation of Condition 5.a of Attachment II-10 of the state-issued Part B Hazardous Waste Permit.

On July 26, 2016, EnergySolutions notified the Director that for the previous two years, a synthetic polymer solution was not applied as a dust suppressant for exposed areas of waste, on a bi-weekly basis, during the required timeframes beginning on May 31st and ending on October 1st for each of those years. This resulted in 11 individual occurrences where application of dust suppressant was not applied. The violation has been corrected. The SCO includes a penalty of \$50,689.00.

19-6-104(1)(f) of the Utah Solid and Hazardous Waste Act requires the Board to review settlements negotiated by the Director in accordance with Subsection 19-6-107(3)(a) that require a civil penalty of \$25,000 or more.

Mr. Willoughby stated no documented release of exposed waste was detected in the areas EnergySolutions tested.

The notice for public comment was published in the Salt Lake Tribune, the Deseret News and the Tooele County Transcript Bulletin. The public comment period for this SCO began on December 27, 2017 and will end on January 29, 2018. This is an informational item before the Board. The Director will provide a recommendation at the next Board meeting.

## VII. Other Business.

### A. Misc. Information Items – Live Streaming of Board meetings.

Scott Anderson inquired if Board members had concerns if live streaming of Board meetings was implemented in the future. Other municipalities, city councils, etc. are now live streaming their meetings as a courtesy to their constituents and UDEQ is now looking into options to provide this service as well.

### B. Scheduling of next Board meeting.

The next Board meeting is scheduled for February 8, 2018 at 1:30 pm at the Utah Department of Environmental Quality.

### C. Legislative Update.

Scott Anderson provided an update on legislation that may be introduced during the 2018 Legislative session.

Representative Sandall is sponsoring a bill to modify some of the reimbursement provisions of the Waste Tire Recycling Act. Currently when you purchase tires, a fee of \$1.00 is assessed at the point of sale. The money goes into the Waste Tire Restricted Account and is used to help local jurisdictions clean up their tire piles that have accumulated at their landfills and other places. Currently, there is a formula for reimbursement where the Waste Tire Restricted Account will pay 60% of the cleanup costs and the local jurisdictions are required to pay 40% of the costs. For some of the smaller counties that don't have the economic resources that the large counties have, it has been a disincentive for them. So, this bill changes the formula for certain classes of counties to 100% reimbursement, eliminating the 60/40 formula. The larger counties would remain at the 60/40 formula. This is a good bill as it will utilize the monies as they were intended to and help those jurisdictions that may need additional resources to get their tire piles cleaned up.

Senator Iwamoto is drafting a bill to address the impact of plastic bags on the environment. This bill imposes a 10 cent fee for each single-use retail bags at the point of sale. A similar bill was introduced last year. The concern is the tremendous amount of litter that arises when plastic bags get wind-blown, etc. The Division is currently providing technical input on this bill. The language presented in last year's bill had an education component, and it is anticipated that same language will be presented in this bill.

Representative Parry is working on a bill regarding solid waste fees. Last year; HB115, sponsored by Representative Mike McKell, changed the way the solid waste fees are calculated. HB115 increased the number of facilities who will be subject to the fees and directed the agency to establish a fair and equitable fee to cover program costs. It moved the fee from a statutory provision to the fee schedule that the DEQ puts together every year as part of its budget request. A fee of \$500 minimum or 21 cents a ton was proposed for treatment and disposal of waste and \$500 minimum or 11 cents a ton for transfer facilities. These fees are currently in the Department's budget request. There is a lot of interest regarding these fees and numerous individuals want to re-visit this matter. The concern for the Division is that adequate resources are available to run the program.

A bill regarding fireworks amendments, SB67, sponsored by Senator Weiler requires the Utah Fire Prevention Board to create a uniform statewide policy regarding a government entity's seizure, storage, and disposal of certain explosives, including Class A and Class B explosives. Class A and Class B wastes are reactive hazardous waste under the current definition. The Division wants to make sure that the Utah Fire Prevention Board considers the Solid and Hazardous Waste Rules as they develop criteria for seizure, storage and disposal of these materials.

D. Media Story regarding waste tires being illegally dumped.

Board members inquired about a media story regarding waste tires being illegally dumped near Lee Kay Pond in Salt Lake City. Mr. Anderson stated that the Division is aware of the situation and briefly discussed the matter as these tires are not only an eyesore, but may be impacting the wildlife (birds) surrounding the area. Mr. Anderson stated it is very difficult to find who is actually responsible for the illegally dumping of the tires as the illegal dumping may be caused by people trying to avoid paying the price for tire disposal at the nearby landfill. The Division has been in contact with representatives from the Salt Lake County Health Department and is currently working with them to handle this matter.

VIII. Adjourn.

The meeting adjourned at 1:57 pm.