



STATE OF IDAHO
DEPARTMENT OF ENVIRONMENTAL QUALITY
Board of Environmental Quality

1410 North Hilton, Boise, ID 83706-1255, (208) 373-0502

Dirk Kempthorne, Governor
C. Stephen Allred, Director

IDAHO BOARD OF ENVIRONMENTAL QUALITY

MINUTES

JUNE 14, 2001

The Board of Environmental Quality convened at 10:00 a.m. at:

Templins Best Western Hotel
Conference Center
414 East 1st Avenue
Post Falls, Idaho

ROLL CALL

BOARD MEMBERS PRESENT:

Donald J. Chisholm, Chairman
Paul C. Agidius, Vice chairman
Marti Calabretta, Secretary
Dr. Joan Cloonan, Member
Dr. J. Randy MacMillan, Member
Nick Purdy, Member

BOARD MEMBERS ABSENT:

Senator Marguerite McLaughlin, Member

DEPARTMENT OF ENVIRONMENTAL QUALITY STAFF PRESENT:

C. Stephen Allred, Director
Jon Sandoval, Chief of Staff
Debra L. Cline, Administrative Assistant to the Board
Doug Conde, Deputy Attorney General, DEQ
Susan Burke, Water Quality Program
Jess Byrne, Staff Resource Officer
Paula Gradwohl, Paralegal, Administrative Rules Coordinator
Orville Green, Administrator State Waste & Remediation
Kate Kelly, Administrator, Air Quality Program
Bill Rogers, Technical Services
Alan Stanford, Loan Programs
Roger Tinkey, DEQ, Coeur d'Alene

OTHERS PRESENT:

Kevin Beaton, Stoel Rives for Idaho Assoc. of Commerce & Industry
Sara Bigger, Senator Crapo's Office
Bret Bowers, Community Leaders for EPA Accountability Now (CLEAN)
Carrie Ga, Coeur d'Alene Association of Realtors
Jane Gorsuch, Intermountain Forest Association
Daryl Holling, Wastewater Treatment Plant Operator, City of Post Falls
Holly Houston, Mining Information Center
Sholen Johnson, Congressman Butch Otter's Office
A. J. Martinez, Congressman Butch Otter's Office
Bill Madigan, City of Post Falls, Division of Public Works
Corey Miuaro, Wallace, ID
Dick Panabaker, Kootenai County Commissioner
Joe Peak, Shoshone Natural Resource Science Committee (SNRSC)
Bob Potts, Nelson Construction
Ron Roizen, Ph.D., SNRSC
Doug Stiles, Hecla Mining Co.
Kathy Zanetti, Shoshone National Resource Coalition (SNRC)

PUBLIC COMMENT PERIOD – THE BOARD ALLOWS UP TO 30 MINUTES FOR THE PUBLIC TO ADDRESS THE BOARD ON ISSUES NOT SPECIFICALLY SHOWN AS AGENDA ITEMS.

Bill Madigan, Director of Public Works, city of Post Falls, expressed concern that the city is not being fully informed on possible listings or actions taken by federal and state agencies. Representatives of the city attend many meetings regarding the Coeur d'Alene Basin clean up, but feel they have not been given clear information by federal and state officials regarding the river and possible listings. The outfall from the wastewater treatment plant is west of the dam. It has not been made clear whether anything is going to happen that they should be made aware of in advance. The city is the recipient of everything that is discharged or dumped into the river and the lake. Chairman Chisholm asked Director Steve Allred if he could provide information regarding the city's concerns. Director Allred advised DEQ is currently working with EPA to design a remedial program. He stated at this point in time, he was not aware of any actions being contemplated, other than some management practices, which would require the city of Post Falls to take any action as part of the Superfund Program.

Ron Roizen, Ph.D., Wallace resident and member of the SNRSC, expressed the concerns of the committee about the quality of the science of the Human Health Risk Assessment (HHRA) completed last year for the Coeur d'Alene River Basin. The SNRSC meets weekly and reviews many EPA documents. They are concerned that the blood lead standard the EPA imposes is far too inclusive. Dr. Roizen distributed copies of his comments to the EPA Science Meeting on April 12, 2001 (ATTACHMENT 1). He asked DEQ to embrace their concerns. They hope to explore the possibility of the creation of a neutral scientific panel similar to one used in another Superfund site in 1993. It is essential that the science not be biased.

Steve Allred noted that the state of Idaho made a commitment to the local people that it will not require or force blood testing. With such a commitment, it is very difficult to get an unbiased, random sample. Blood testing has been done on a voluntary basis. When decisions have to be made, you have to use the best information available. Director Allred felt the delay in taking action is having severe impacts on the local people's ability to develop the economy and get on with their lives. This consequently affects public health by lowering the standard of living and causing a greater health impact than anything seen from contaminants. He stressed the need to make a decision and get on with resolving the issues.

Dr. Roizen noted the most recent survey of blood leads in the valley found that school age children had a median below detection, and no children even reached six micrograms per deciliter. The EPA standard is ten. The SNRSC feels the information in the HHRA is not the best information and borders on worthless. They take strong issue with EPA's tone and its presentation of that science. He strongly reiterated the SNRSC's request for an impartial review.

Bret Bowers, Coeur d'Alene Chamber of Commerce and Community Leaders for EPA Accountability Now (CLEAN) addressed the Board regarding their concerns over EPA efforts to expand the Superfund site. CLEAN was formed a few years ago in response to that effort. The group is made up of chamber members; local, city, county, and state representatives; elected officials; business organizations; and realtors. They have educated themselves on the Superfund matter and have learned from their neighbors in Shoshone County. Mr. Bowers discussed the strong economical and tourism statistics in the Coeur d'Alene area. Kootenai County leads the state with 55% growth in the last ten years. Unfortunately Shoshone County is at the other end – they lead the state in people leaving. They feel the expansion is an attempt by EPA to take control of their lives. He asked the Board to support them by formally opposing the EPA's position on the 9th Circuit Court of Appeals ruling stating that they have the authority to expand the 21 square mile "box." Mr. Bowers also urged DEQ and the Board to support the efforts of the Shoshone Natural Resource Coalition and other groups bringing forth ideas about using the best science and alternative methods to the Superfund. He expressed concern over recent proposals made by EPA to dredge Lake Coeur d'Alene and use it for a repository for dredge spoils. He asked the Board's support to retain the lifeblood of the Silver Valley when it takes action later this year on the site-specific rules. The mines are asking for variances in the TMDL.

Bret Bowers discussed the Lake Management Plan and stressed the importance of keeping it under state and local control. Idaho's Congressmen are opposing EPA's attempts to take control of the plan, and he urged DEQ and the Board to do the same. He noted that recent correspondence and reports from the EPA referred to the Bunker Hill Superfund site as the "Coeur d'Alene National Priorities List Facility." They have fought very hard to keep Coeur d'Alene's name out of the basin legislation because they do not want the stigma. He urged the Board and DEQ to help them hold the ground against the federal agency and protect their communities from the devastation of a Superfund listing.

Joe Peak, SNRSC member and local businessman, distributed copies of the projected "Rails to Trails" map, the proposed trailhead, and a letter to the editor of the Spokesman Review published on June 12, 2001. Mr. Peak stressed the need for economic recovery in the area. It was hoped that the proposed Trail of the Coeur d'Alene would provide a boost to the local economy. The DEQ, State Parks & Recreation, EPA, and the Coeur d'Alene Tribe have been remediating the old Union

Pacific Mullan to Plummer branch to create a 72-mile trail. The trail was supposed to open two years ago, at a cost of \$12 million. The project has been delayed several times, but may be completed this year. The cost has grown to possibly \$50 million. Mr. Peak is a strong proponent of the project and expressed his outrage at the 16 – 20 warning signs proposed for the trail. Mr. Peak complained that the local businessmen didn't have time to run their businesses because they had to fight the EPA every day. Director Steve Allred noted the sign is still in draft form and was put out for public comment. He has directed staff to work with local people to address their concerns. Director Allred felt the current draft sign did not fit the situation. Over 150 million dollars has been spent remediating the areas where the signs are to be placed. It doesn't make sense to say they are still contaminated. Law requires that signs be placed in areas which have not been cleaned up, but there is no reason why those signs can't be informative and still meet the needs of the local people. Director Allred has instructed staff to meet with Nick Zilka to intervene in this issue and develop signs, particularly in the urban areas, that recognize the fact that these areas have been cleaned up. DEQ is committed to developing a sign that promotes the trail and still meets the requirements of the law and protects the public health.

Kathy Zanetti, Shoshone National Resource Coalition and fifth generation resident of the Silver Valley, expressed her concern for the economic devastation and stigma caused by the Superfund designation. She urged the Board to adopt a resolution recently passed by the SNRC (Attachment 2) requesting the Governor of Idaho, DEQ and EPA to table and remove the issue of human health and yard remediation from any clean-up efforts until a human health issue can either be demonstrated or disconfirmed by adequate scientific evidence. As a small business owner, Ms. Zanetti loses hundreds of dollars every month attending meetings trying to impress upon the state and federal agencies the magnitude of what their community is facing.

Steve Allred commented on the tremendous job the local people have done in gaining consensus and direction and improving the impact the local people have on the process. He complimented them on their efforts to bring the concerns of the community to the federal agencies.

Director Allred asked Ms. Zanetti if the community would support including provisions about human health issues in a ROD if it caused a delay, or if they would prefer to move forward (without addressing human health issues) as quickly as possible to get the EPA process completed. Ms. Zanetti expressed concern that if sound science is not used in producing the ROD, there will be so much damage caused that the community will not survive. Out-of-state newspapers attack them daily and the survival rate of the community is declining. If sound science is not used to drive the ROD and it is proven to be flawed sometime down the road, it won't matter because there will be no community left. Director Allred recognized the frustrations and concerns of the community and stressed the need to move forward with the process without additional delays. He felt the lack of a decision contributed to the attacks.

Kathy Zanetti pointed out that her home sits on the Blue Wing Mining dump in Nine Mile Canyon. Five generations of her family have grown up at that site. They all have their blood tested periodically and none of them has high blood lead levels. They raise gardens and have their own water system – if anyone in the area has high blood lead levels, it should be them. She stressed that the documentation being circulated does not accurately represent the community. If the scientific proof cannot be truth and accountability, decisions can't be made and the ROD cannot be finished.

Chairman Don Chisholm thanked everyone for their comments. He stressed the Board's appreciation for the concerns of the community. The Board has been impressed with the quality of the DEQ staff and the caring and effort they have put into developing local solutions. The spirit of the Board is to do what it can to help resolve the situation as quickly as possible.

AGENDA ITEM NO. 1: ADOPTION OF THE MINUTES OF THE APRIL 19, 2001 BOARD MEETING

➤ **MOTION:** Dr. Randy MacMillan moved the minutes of the April 19, 2001 Board meeting be adopted as prepared.

SECOND: Dr. Joan Cloonan

VOICE VOTE: Motion passed. 6 ayes; 0 nays; 1 absent (Marguerite McLaughlin)

AGENDA ITEM NO. 2: DIRECTOR'S REPORT

Director Steve Allred reported on the continuing discussions with the Department of Energy (DOE) regarding the Pit 9 Agreement. The Pit 9 Agreement is a record of decision under a Superfund action that provides for investigation into and a demonstration of the ability to remove transuranic wastes from Pit 9. DOE has asked to significantly delay the implementation of the program. The EPA and the state of Idaho denied that request and they are now in a dispute resolution process. Another agreement that was subsequently signed provides that all transuranic waste above a certain level be removed from Idaho by the year 2018. The federal government and the DOE have now taken the position that they did not agree to this action and that they will only remove those materials upon a showing that there is a risk. Discussions have not been productive, and it does not appear this issue will be resolved soon. If the parties cannot come to an agreement, it will result in additional actions by the state. If that happens, the Board may be asked to take a position on the matter. Director Allred commented the state had no choice but to react to defend commitments made to the state for the removal of those wastes.

Director Allred discussed an enforcement action regarding an odor problem in the Twin Falls area. DEQ has agreed with Twin Falls County that if a solution is not found to the problem, they will join together to take legal action in district court. DEQ monitoring indicates the problem is causing atmospheric conditions that could potentially impact public health. The Department of Agriculture is working with the facility to find a solution. If DEQ is forced to join with the prosecuting attorney's office to take action, it will be the first time such an issue will be dealt with by the department in district court.

Director Allred reported that an agreement has been finalized and signed by all parties to avoid a Superfund listing in the phosphate fields in southeast Idaho.

AGENDA ITEM NO. 3: BOARD APPROVED HEARING OFFICER LIST – CONSIDERATION OF APPLICANT

Paula Gradwohl, Paralegal and Administrative Rules Coordinator for DEQ, presented a request by Peter R. Anderson to be placed on the list of approved hearing officers for the Department of Environmental Quality.

- **MOTION:** Nick Purdy moved the Board approve the addition of Peter Anderson to the hearing officer list.

SECOND: Dr. Joan Cloonan

VOICE VOTE: Motion passed. 6 ayes; 0 nays; 1 absent (Marguerite McLaughlin)

AGENDA ITEM NO. 4: RULES REGULATING SWINE AND POULTRY FACILITIES, DOCKET NO. 58-0109-0001 (PENDING RULE)

Susan Burke, Compliance Specialist for the State Water Quality Program, explained the proposed rule was promulgated as a result of the Board's request that DEQ provide consistent language for all the financial assurance mechanisms available for swine and poultry facilities. The mechanisms will ensure remediation and closure of a facility. The language has been revised for consistency and clarity. Ms. Burke recommended the Board also amend the temporary rule that was adopted in October 2000 with the same revisions that have been made to the initial proposal.

- **MOTION:** Paul Agidius moved the Board adopt, as pending rules, the Rules Regulating Swine and Poultry Facilities as presented in the final proposal under Docket No. 58-0109-0001. He further moved the Board adopt the revisions included in the final proposal as amendments to the temporary rules adopted under Docket No. 58-0109-0001, with an effective date of June 15, 2001.

SECOND: Dr. Joan Cloonan

DISCUSSION: Nick Purdy commented he was uncomfortable that no input was received from the regulated community. He questioned whether a swine or poultry facility could secure insurance or a letter of credit under this rule. Paul Agidius noted that the requirement was not too dissimilar from performance bonds required by cities and other entities for construction projects. He believed there would be entities who would issue the policies. Susan Burke noted that there were no public comments received on the rules, and a copy was specifically provided to a key facility operator.

VOICE VOTE: Motion passed. 6 ayes; 0 nays; 1 absent (Marguerite McLaughlin)

AGENDA ITEM NO. 5: RULES FOR THE CONTROL OF AIR POLLUTION IN IDAHO, DOCKET NO. 58-0101-0002 (TEMPORARY RULE)

Kate Kelly, Administrator of the Air Quality Program, presented a temporary rule designed to streamline the permitting process for portable equipment such as rock crushers and asphalt plants. It is a "permit by rule" which will allow 75 to 80% of rock crushers to register and operate within the specified parameters in lieu of obtaining an individual permit. The rule establishes the registration process and specifies the operating parameters and requirements that are normally specified in a general permit for rock crushers. This is designed as an efficiency measure for both the department and the regulated community. It is the first in what is hoped to be a series of brief rulemakings to provide for this kind of mechanism. This process has been used successfully in other states. The rule is being presented as a temporary rule to allow use during the 2001 construction season to judge how effectively it works and make necessary adjustments. A proposed rule would then be brought to the Board in November for adoption.

Bob Potts, Nelson Construction, testified in support of the proposed temporary rule. Mr. Potts has worked with the permitting process for the last 15 years and is co-chairman of the AGC Rock Crusher Workgroup. The workgroup is in complete agreement with the temporary rule being proposed. They estimate about 90% of the rock crushers would be able to use the permit by rule and would benefit by the expedited process in both time and money. Mr. Potts urged the Board to adopt the rule as proposed.

Kate Kelly summarized the revisions. Three substantive wording changes were made to the rule:

- 1) Section 001.03 (the definition of non-metallic mineral processing plant) – After the word including, add equipment located.
- 2) Section 796.02 (title permit option) - Delete the words ~~empty with~~ from the last line.
- 3) Section 798 (electrical generators) – At the end of the first sentence, add the words to any non-metallic processing plant.

Additional non-substantive corrections were made to the numbering.

- **MOTION:** Dr. Joan Cloonan moved the Board adopt, as temporary rules, the Rules for the Control of Air Pollution in Idaho as presented and with amendments under Docket No. 58-0101-0002, with an effective date of June 15, 2001.

SECOND: Paul Agidius

VOICE VOTE: Motion passed. 6 ayes; 0 nays; 1 absent (Marguerite McLaughlin)

AGENDA ITEM NO. 6: RULES OF ADMINISTRATIVE PROCEDURE BEFORE THE BOARD OF ENVIRONMENTAL QUALITY, DOCKET NO. 58-0123-0001 (PENDING RULE)

Doug Conde, Deputy Attorney General, reviewed the changes made to the rules as a result of public comment and the May Board meeting.

Kevin Beaton, Attorney with the firm of Stoel Rives, provided testimony on behalf of his client, the Idaho Association of Commerce and Industry (IACI). Mr. Beaton thanked the Board and the Director for the opportunity to take part in the negotiated rulemaking. He also recognized Doug Conde for his cooperative and professional assistance and interaction in developing the rules. IACI is very concerned that the rules be fairly administered in a way that results in just and speedy resolution of contested cases and declaratory rulings. The most important issue to IACI is the discovery process. There are two options for the discovery process: 1) to default to the Idaho Rules of Civil Procedure, and 2) a process that allows a simple exchange of information between parties. If the information does not serve the purpose of any of the parties, they may then go to the hearing officer and seek permission to conduct additional discovery. IACI supports the second alternative and asked to Board to adopt it as part of the rules.

IACI also suggested a change regarding the issue of intervention. Mr. Beaton observed that under rule 08 and 352, it appears the permittee would have to decide to participate in an appeal before

DEQ even answered the petition. He suggested staggering the time period so that the intervenor/permittee must decide whether or not to intervene 28 days after the petition is filed.

IACI also recommended the Board consider making it mandatory that the hearing officer (the person appointed by the Board to assist them in handling summary judgments, motions, and evidentiary matters) be an attorney. The rules are complex and many legal questions are raised during the administration of the rules on summary judgment motions, weighing evidence, determining whether there is a material issue of fact, etc. Typically, a lawyer is better equipped to deal with these issues. Also, in instances when you have a hearing officer and a presiding officer, the hearing officer may also be acting as legal advisor to the Board or presiding officer. Therefore, IACI feels it would be logical and prudent for it to be a mandatory requirement that the hearing officer be an attorney.

Rule 510 sets a time limit of 180 days to resolve a matter. IACI previously sent a letter to Board members suggesting the time limit be shortened. Kevin Beaton stated these are the Board's rules and IACI understands that 180 days may be an appropriate time given all the other procedures involved. They are willing to deal with that timeframe, but asked that the 180-day time period be more of a mandate than a suggestion. It would be more appropriate for it to be a mandate, unless good cause can be shown. This would ensure just and speedy resolution of a matter.

Kevin Beaton felt the language under section 540.01.d. regarding discovery was too broad. It currently reads "A list of all persons with knowledge regarding the matter" He felt this language could potentially open the door to unlimited discovery and requested the Board consider alternative, more confining language.

Doug Conde discussed the two alternatives for conducting discovery. He felt either alternative would work appropriately and did not recommend one over the other. The Board and the Department currently function under alternative one; however, he felt alternative two provided a good process and could work very well. He suggested section 540.01.d be changed to read: "a list of all persons with specific knowledge regarding disputed issues of material fact asserted in the petition or the response to the petition."

Don Chisholm suggested the rules (sections 008 and 352) regarding the timeframe for filing petitions to intervene be amended to allow 21 days for filing a petition to intervene. He felt this was a fair compromise. The Board members agreed unanimously to the suggested change.

The Board discussed the 180-day time limit for resolving a case. Doug Conde stated he was not comfortable with limiting the discretion of a presiding officer and felt it was better if the 180-day time limit was a guideline rather than a mandatory time limit. Don Chisholm felt the proposed language was adequate. He noted that the Board could also use the contract with the hearing officers to encourage the timely resolution of cases.

Doug Conde discussed the request that the rules require the hearing officer to be an attorney. He noted that the guidelines for qualifications for hearing officers required five years legal experience and a certain level of experience with this type of proceeding. Don Chisholm felt the rules should stay as proposed to provide more flexibility.

- **MOTION:** Paul Agidius moved the Board adopt, as pending rules, the Rules of Administrative Procedure Before the Board of Environmental Quality as presented in the final proposal under Docket No. 58-0123-0001 as amended in Sections 352.02 and 540.01.d.; selecting alternative No. 2 for Subsection 510.01.a. and b., and alternative No. 2 for Section 540.

SECOND: Marti Calabretta

VOICE VOTE: Motion passed. 6 ayes; 0 nays; 1 absent (Marguerite McLaughlin)

Doug Conde clarified for the record that the amendments included changing the timeframe from 14 to 21 days in Section 008, Filing and Service of Documents.

- **MOTION:** Randy MacMillian moved the Board make a technical correction to the previous motion approving the Rules for Administrative Procedure Before the Board of Environmental Quality, Docket No. 58-0123-0001 to clarify that Section 008 be amended to allow the permit holder twenty-one (21) days after the date of service of the petition to intervene in the proceeding.

SECOND: Marti Calabretta

VOICE VOTE: Motion passed. 6 ayes; 0 nays; 1 absent (Marguerite McLaughlin)

AGENDA ITEM NO. 7: NON-SUBSTANTIVE CHANGES AFFECTING ADMINISTRATIVE RULES OF THE DEQ, DOCKET NO. 58-0100-0002 (PENDING RULE)

Doug Conde explained the purpose of this docket is to update all administrative rules of DEQ so that the rules refer to the proposed Rules of Administrative Procedure Before the Board of Environmental Quality, Docket No. 58-0123-0001, and the Rules Governing the Protection and Disclosure of Records in the Possession of the Department of Environmental Quality, IDAPA 58.01.21; rather than the Department of Health and Welfare's rules for administrative procedure and confidentiality of records. It also makes corrections to provisions that are inconsistent with the administrative procedures set out in the proposed Rules of Administrative procedure Before the Board of Environmental Quality.

Mr. Conde discussed additional changes that need to be made to the hazardous waste rules so that appeals go to the Board and not the Director of DEQ. These changes were discussed with IACI at previous Board meetings. DEQ has agreed to the change and it will be brought to the Board for its consideration at the November 7 and 8, 2001 Board meeting in Boise.

- **MOTION:** Dr. Randy MacMillan moved that the Board adopt, as pending rules, the changes to DEQ administrative rules as presented in the final proposal under Docket No. 58-0100-0002.

SECOND: Nick Purdy

VOICE VOTE: Motion passed. 6 ayes; 0 nays; 1 absent (Marguerite McLaughlin)

AGENDA ITEM NO. 8: DRINKING WATER STATE REVOLVING FUND (SRF) PRIORITY AND FUNDABLE LISTS FOR FISCAL YEAR 2002

AGENDA ITEM NO. 9: DRINKING WATER PLANNING GRANT PROJECT PRIORITY LIST FOR FISCAL YEAR 2002

AGENDA ITEM NO. 10: WASTEWATER STATE REVOLVING FUND (SRF) PRIORITY AND FUNDABLE LISTS FOR FISCAL YEAR 2002

AGENDA ITEM NO. 11: WASTEWATER PLANNING GRANT PROJECT PRIORITY LIST FOR FISCAL YEAR 2002

Alan Stanford, Senior Water Quality Analyst for the Grant and Loan Programs for the Drinking Water and Wastewater Programs at DEQ, presented Agenda items 8 through 11 for the Board's adoption. He reviewed and explained each list. The grant money is only available for the planning portion of projects, and the loan programs are used for construction. EPA and DEQ made commitments many years ago to help communities with problems related to their sewer systems and drinking water. A process is used to determine the priority of the projects according to need. The draft priority lists are put out for public comment, changes are made as needed, and then presented to the Board for approval.

Some changes have been made to the process this year to make sure all eligible entities are able to take part in the programs. A letter of interest form was developed and distributed to all eligible entities so they could let DEQ know what their needs are and to describe and certify their projects. The process was successful and resulted in the department receiving numerous letters of interest. In addition, some entities were placed on the list even though they had not submitted a letter of interest because DEQ was aware of a need. It is hoped this will result in action being taken before a notice of violation (NOV) or other action is needed.

As the result of Senate Bill 1535, the eligibility for wastewater loan projects has been expanded to include various nonpoint source projects such as agricultural runoff, storm water control, wetlands restoration, etc. Project management is also being revised to tighten up deadlines.

Mr. Stanford distributed revised lists that had been updated to include projects that were recently received. Doug Conde questioned whether the revised lists also needed to go out for public comment. Mr. Stanford responded it was common to make changes to the lists as a result of public comment and then proceed with the revised lists for adoption. Many entities submit projects after the deadline for inclusion in public comment, and it is hard to know where to draw the line. The Department has always felt it was in the best interest of the public to add the projects, as long as they are received before adoption by the Board. He noted that the added projects did not affect the priority of fundable projects. Doug Conde reviewed the rules and advised that the intent of the public comment provision was to allow for exactly this kind of addition and revision.

Nick Purdy advised he would abstain from voting on the priority lists due to a possible conflict of interest.

- **MOTION:** Nick Purdy moved the Board approve the Drinking Water State Revolving Fund (SRF) Priority and Fundable Lists for Fiscal Year 2002, the Drinking Water Planning Grant Project Priority List for Fiscal Year 2002, the Wastewater State Revolving Fund (SRF) Priority and Fundable Lists for Fiscal Year 2002, and the Wastewater Planning Grant Project Priority List for Fiscal Year 2002 as presented by the Department of Environmental Quality on June 14, 2001.

SECOND: Dr. Randy MacMillan

VOICE VOTE: Motion passed. 5 ayes; 0 nays; 1 abstain (Nick Purdy); 1 absent (Marguerite McLaughlin)

Nick Purdy discussed the problems small communities have dealing with the requirements for the grant and loan programs. The Picabo water system, which he is affiliated with, recently withdrew its application to the loan program. The application process and requirements were overwhelming for the small system and made it more expensive than using traditional financing. The rural communities who do not have staff and cannot afford to hire the engineers, lawyers, and accountants needed to complete the loan/grant application process need additional assistance or a short form of some kind to allow them to take part in the programs. Small rural systems need these programs to foster rural development. Alan Stanford noted that many small communities are able to get assistance with the process from the Council of Government.

Chairman Don Chisholm asked if these were federal requirements and if there was anything DEQ could do to make the programs easier to work with. Jon Sandoval, DEQ Chief of Staff, recently worked with Senator Crapo and testified before a Senate subcommittee regarding the impacts of wastewater and drinking water loan programs on small communities. One of the major concerns shared by the western states is that the EPA defines small communities as those with less than 2,000 people. They proposed that EPA change the definition to communities of 1,000 or less. He agreed that many small communities don't have the staff or resources to put the financing packages together. It is a national problem that warrants attention.

Director Steve Allred explained that the programs were primarily funded with federal money and carried federal requirements. DEQ will continue to look for innovative ways to help clients work with the programs. The Idaho Department of Water Resources has grant and loan programs that are very simple to work with; however, they are limited to fairly small amounts. The Economic Development Association also has grants and DEQ coordinates with them to assist as many communities as possible. Director Allred stated he was concerned that many small systems were at risk of being abandoned due of all of the demands put upon them by federal requirements for drinking water.

Debra Cline, Administrative Assistant to the Board, noted that the Idaho Water Resource Board has requested a joint meeting with the DEQ Board to discuss developing a uniform application form that could be used with all the different agencies who have loan and grant programs. Since it is very common for a water system to use funding from several sources to complete a project, they feel it would greatly reduce the paperwork burden if they could complete only one application. The Board is scheduled to meet with the Idaho Water Resource Board in October in Idaho Falls.

Steve Allred stated the Board might want to discuss the possibility of issuing bonds at a future meeting. There is currently \$120 million in DEQ's wastewater fund. If Congress implements the proposed budget regarding these funds, there will be a significant decrease in available funding. Issuing bonds would be an alternative way to provide money for the fund. There is an existing mechanism in the law that would allow this, but it may need to be amended. The legislature recently passed a new bond bank provision that created a consolidated bonding program for the state.

AGENDA ITEM NO. 12 **LOCAL REPORTS AND ITEMS BOARD MEMBERS MAY WISH TO PRESENT**

Marti Calabretta expressed her appreciation to the members of the community who addressed the Board with their concerns. There is an expectation that the state should, and the Board will, work and act in the community's best interest. There are a number of groups of 20 to 40 people each who meet weekly or monthly out of concern for their community and the process it's going through (the Citizen's Advisory Committee, CLEAN, the Shoshone Natural Resources Coalition, Save Our River, Citizens Against Rails to Trails, Kootenai Environmental Alliance, Lands Council, Benewah Cattlemen's Association, Coeur d'Alene Tribe, Lake Property Owner's Association, Spokane River Property Owner's Assn., Soil Conservation District, St. Joe River Advisory Committee). Ms. Calabretta summarized the concerns she heard expressed by some of the representatives of these groups earlier in the meeting: 1) support our industries, specifically the Board's future action on the site-specific criteria; 2) concern about listing – that there is no scientific basis for listing the entire basin; 3) there is no public health risk– the data is insufficient and an independent review of the health risk assessment document needs to be done; and 4) Board involvement is requested including joining a lawsuit (the Board would have to ask why, also no lawsuit is pending at this time). It was also requested the Board support the resolution submitted by Kathy Zanetti which requests the human health risk document and yard remediation be tabled and removed from any clean-up plan until the human health issue can be demonstrated and confirmed.

Through Director Allred's efforts, the state has been working very hard to develop an acceptable process. Ms. Calabretta commented that the reality for the community is that they suddenly have a state plan that is site-specific and deals with a variety of possible activities that could go on for 30 years, now reflected in an EPA proposed plan (that is believed to be a legal EPA document) which has some weight of federal presence over a century or longer and has legal weight not anticipated by the community. This has triggered concern in the communities from Post Falls through Shoshone County.

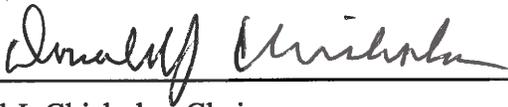
Don Chisholm asked Ms. Calabretta if she had any concerns about DEQ's response, and if she had any specific recommendations. Ms. Calabretta felt the main concern of the community was that they have moved from a state plan to a federal document. That suddenly brings the weight of a federal presence to the same plan and extends it from 30 years to several hundred years. There are some questions about the state's actions and response to that. Also, the human health risk assessment takes the state's very successful role in health intervention used in the Kellogg area and the Bunker Hill site (where they did have a very real health emergency) and rolls it into the rest of the basin (where there is no public health emergency) without the involvement and input of the community. The communities had made other suggestions. Ms. Calabretta and Director Allred have discussed ways to educate the community in public meetings about these health alternatives and why their suggestions were not considered.

Director Allred introduced Dick Panabaker, Chairman, Kootenai County Commission. He recognized the commissioner for his efforts in helping resolve the issues and getting things done. Commissioner Panabaker commented that in the past, Northern Idaho has felt somewhat ignored and left out of issues. However, in the past few years they have gotten so much more support from the state than in the past, they are now looking forward to a productive relationship. He thanked everyone for their involvement and work to develop solutions.

Director Allred discussed Superfund law, the history of the process, and funding sources. He stressed the importance of making a decision and moving forward with getting things done in the field. Intelligent decisions need to be made that are not based on philosophy or theory.

The October 17 and 18 Board meeting in Idaho Falls was discussed. A joint meeting with the Idaho Water Resource Board is planned. Chairman Chisholm directed staff to investigate the possibility of a Board tour of INEEL. The Board will also elect new officers.

The meeting adjourned at 1:30 p.m.



Donald J. Chisholm, Chairman



Marti Calabretta, Secretary



Debra L. Cline, Administrative Assistant and Recorder

Remarks, EPA Science Meeting

April 12, 2001

Ron Roizen, Ph.D.

send comments to ron@roizen.com

Slightly revised post-meeting. I thank Marc Stifelman for pointing out a mistake in the draft I presented concerning the probabilistic/nonprobabilistic character of state-level blood-lead survey data reported in *MMWR* ("Blood," 2000).

I'm going to talk a little about the draft *Human Health Risk Assessment* (or *HHRA*) completed last year for the Coeur d'Alene River Basin, specifically focusing on child blood lead levels.

The EPA has an action-initiating standard with respect to childhood blood lead -- it is: does the average child in a given community have a 5% or higher probability of possessing a blood lead level at or above 10 micrograms per deciliter? That probability standard for an *individual child* translates into an *equivalent population measure* -- namely, do 5% or more of a given community's population of children manifest blood levels at or above 10 micrograms?

I have just four points I want to make:

1. First, thoughtful students of childhood blood lead are going to disagree over whether these two standards represent good social or public health policy.

Back in the mid-1970s (according to Lynette Stokes' study), mean child blood levels were over 50 micrograms per deciliter and maximum measured blood levels were around 150 micrograms. So the area has come a long way in a quarter-century if the standard now being applied is 5% of the population at or above 10 micrograms.

The CDC lowered its blood-lead "level of concern" from 25 to 10 micrograms in 1991. The new standard was articulated in the fourth revision of a CDC document titled *Preventing Lead Poisoning in Young Children*. As it happens, that 1991 document's text actually encouraged *inaction* respecting child blood levels between 10 and 14 micrograms. I quote the three reasons the document gave:

First, particularly at low blood lead levels, laboratory measurements may have some inaccuracy and imprecision, so a blood lead level in this range may, in fact, be below 10 $\mu\text{g}/\text{dL}$. Secondly, effective environmental and medical interventions for children with blood lead levels in this range have not yet been identified and evaluated. Finally, the *sheer numbers* of children in this range would preclude effective case management and would

detract from the individualized follow up required by children who have higher blood lead levels. (CDC, 1991)

I don't know whether blood measurement and low-blood-level therapeutics have greatly improved over the past 10 years, but it is apparent from recent survey studies that the CDC document's concern about the "sheer numbers" of children at the 10+ microgram level remains almost as true today as it was in 1991.

MMWR Chart

A recent report in *MMWR* ("Blood," 2000) provided state-level survey data on the proportion of children measured at or above the 10 microgram level in 1998 (see Fig. 1).

Keeping in mind that the article's text cautions both that the measurement approach used may tend to marginally *overestimate* blood lead levels and that these data were not derived from probability samples,¹ the rates reported are nevertheless striking. Among the 19 states reporting: for the *state as a whole*, Michigan shows about 15% of children above the 10 microgram level, and Ohio and Wisconsin report about 12-13% of children above the same standard. Fully thirteen of the 19 states *as a whole* -- that's about two-thirds of the reporting states -- report that their proportions of children with 10+ micrograms meet or exceed the 5%-of-the-child-population triggering level. County-level reports in these states often exceeded the state's average level, as Fig. 1 clearly shows. Clearly, the equitable application of the EPA's "5%+ of children" standard to these data would launch remedial actions in many of the nation's states and counties. Hence, a policy standard set at the 5%+/10 microgram level is a virtual invitation to discretionary application.

2. My second point is that we don't possess a good empirical picture of the proportion of Silver Valley children at or above the 10 microgram level. The *HHRA* report notes that survey data have been generated from 4 surveys in the Basin, which collected 98 cases in 1996, 26 cases in 1997, 128 in 1998, and 272 in 1999 -- totaling 524 cases in all.

Table 6-1

Interesting and useful as these survey data may be for case-finding and follow-up purposes, their catch-as-catch-can approach to sampling renders them almost useless for the purpose of estimating the proportion of the child population at or above the 10 microgram standard.

These survey data were subject to some notable potential biases, too: for instance, self-selection by parents who were more concerned about lead risk may have brought in for testing more children with higher blood levels; the \$40 per test inducement offered in the big 1999 survey may have biased its results toward lower-income families -- and we know that child blood levels are correlated with that variable. A seasonal bias is also present, since all surveys were taken in summer.

The surveys also have a notable problem concerning repeat measures of the same children. The *HHRA* reports that 11 of the 26 cases collected in 1997 were children who were tested in the 1996 survey as well. But the report does not offer the repeater rate for the 1998 and 1999 surveys. If the high rate of

repeating in the 1997 survey were characteristic of the later surveys, then twice-measured (or even three-times or four-times measured) cases would comprise a significant segment of the 524 total N. Regardless what the repeater rate was, the fact that the *HHRA* report often employed the 524 cases in descriptive or relational analyses shows that data analysts were happy to describe and analyze *observations* rather than *unduplicated persons*. Hence projections of one or another descriptive frequency using the 524 cases are not *population rates* at all but instead rates for *observations*.

Potential biases and duplicated-person measures pale in significance, however, next to the singular fact that these data were simply not collected by means of a probability sample.

Landon

The paramount importance of probability sampling was driven home to the American public a long time ago -- in the 1936 presidential race between Alf Landon and Franklin D. Roosevelt. A catch-as-catch-can poll conducted by the *Literary Digest*, which collected responses from over two million respondents, confidently predicted that Landon would beat FDR by a substantial margin. A young George Gallup -- who employed a much, much smaller sample, but one carefully constructed to be statistically representative of the U.S. population -- predicted FDR would win. And, of course, Gallup turned out to be right, and pollsters thereafter recognized that the *size* of a sample was much less important than the sample's *probabilistic design*.

3. My third point is that the *HHRA* draft report *only appears to avoid* the weaknesses of this survey data by using a simulation model -- the IEUBK or Integrated Environmental Uptake Biokinetic model -- to estimate child blood levels in our communities. Given the problems I've mentioned above about the available survey data, we might breath a sigh of relief that a model is going to do the blood lead estimating instead.

But the model has its own estimation problems and its estimates fall short of compelling. Some of its drawbacks were obviously sensed by the *HHRA* author's themselves -- a fact evidenced, for example, in their close attention to sources of what they termed "uncertainties" as well as in the development and use of alternative versions of the model, which often made quite divergent predictions of blood levels in a given locale.

The scientific literature also has its concerns about the IEUBK. For example, two statisticians at the University of Texas, Houston (Carroll and Galindo, 1998) published an article in 1998 arguing that, on statistical grounds alone, the model's structure will produce better estimates of the *mean* blood levels than the *standard-exceeding 10+ and higher levels*. In 1999, two Polish epidemiologists (Biesiada and Hubicki, 1999) in effect confirmed the Texas prediction by showing that the IEUBK model performed better estimating the population mean than estimating the 10 $\mu\text{g}/\text{dL}$ fraction, where the model overestimated the 10+ proportion of the population by a factor of two. Susan Griffin and colleagues (1999) published an article in 1999 showing, in part, how sensitive was the IEUBK model's 10+ microgram estimate to variations in the value for the Geometric Standard Deviation in blood levels it employed.²

So, even with the IEUBK's help, we're not quite out of the woods yet in terms of knowing the proportion of children at or above the 10 micrograms in our communities.

4. My fourth point takes us back to the multiple predictions made by various versions of the IEUBK model -- for instance, from the DEFAULT version and the so-called BOX version. As I noted previously, these versions were quite capable of making quite divergent predictions about population child blood levels. For instance, for Mullan's children the DEFAULT version said 48% were above the 10 microgram standard and the BOX version said 18%.

How to decide which is right, or closer to right, then? When I got to subsection 6.7.5 of the HHRA report I was surprised to see that its authors appeared to have data with which to evaluate and select which model prediction was better. The text said, for example, "East of Wallace, the baseline Box Model is a better predictor of observed mean blood lead levels" (see Fig. 3). I wondered where the analysts were getting their fresh and useable data. But when I examined this text more closely I realized that the "observed" data to which it referred were nothing more or less than the original catch-as-catch-can data derived from the four case-finding surveys!

Passage from HHRA -- Section 6.7.5

What does that mean? It seems to me that we have a kind of scientific shaggy-dog story here: It took enormous labor and forbearance for the analyst-authors to complete the HHRA draft report -- with that document's elaborate description and defense of the IEUBK model and variants. Yet, in the end the arbiter employed for *selecting alternative estimates* (derived from model variants) turned out to be the same old substandard, non-probability data we began with. And so the old data, not the model, in effect *had the hammer* -- i.e., in the end determined which model variant and its predictions or estimates would be regarded as preferable. This strikes me as a kind of prediction shell game -- and I am interested to hear what comments our colleagues on the EPA side of this meeting regarding this virtual analytical or logical sleight-of-hand.

What shall we conclude and what shall we do about our condition of ignorance about child blood levels in the Silver Valley? The obvious answer, it would seem, is that we should conduct a quality probability based survey or even a full census of children. Are probability surveys difficult to do? -- yes, but they're by no means impossible. An ongoing national survey called NHANES (National Health and Nutrition Examination Surveys) collects child blood levels on a probabilistic basis from thousands of children -- and thus may offer guidelines as to how such data may be efficiently collected. Here in the Basin we have fewer than 1,200 children under 9 in total. Hence, it is by no means unrealistic to imagine that we could get a good picture of childhood blood levels -- and end our uncertainty -- by doing a defensible, probability-based survey study.

Thank you very much.

NOTES:

¹ An "Editorial Note" attached to this MMWR report includes the following paragraph describing some of the limitations of the state-level data reported:

The findings in this report are subject to at least four limitations. First, the small NHANES 1999 sample does not permit observing

risks in specific subgroups or geographic areas, but it provides a nationally representative estimate of BLLs in children. The CBLs data set provides local information but is limited to children who receive clinical or diagnostic blood lead testing. Second, because CDC guidelines recommend the use of blood lead data and census data to target screening efforts in populations at increased risk for lead exposure, the proportion of children with elevated BLLs is higher in CBLs data than would be expected in NHANES 1999. Third, the guidelines for testing children vary by state, and adherence to the guidelines varies by health-care provider. Finally, CBLs data include samples collected by fingerstick, which can slightly over-estimate the blood lead result, and venous samples and results obtained by different laboratories. Despite these differences, the temporal trends in BLLs are similar between the CBLs and NHANES data sets.

² I note in passing that though the *HHRA* draft report's bibliography runs to more than twenty pages of citations, the three somewhat critically oriented articles I've cited here do not appear therein (i.e., Carroll and Galindo [1998], Biesiada and Hubicki, [1999], & Griffin et al. [1999]).

REFERENCES:

Biesiada M, Hubicki L, "Blood lead levels in children: epidemiology vs. simulations," *Eur J Epidemiol* 15(5):485-91, (May) 1999.

"Blood Lead Levels in Young Children ---United States and Selected States, 1996--1999," *MMWR -- Morbidity and Mortality Weekly Report* 49(50):1133-7, (December 22) 2000. (Available at: <http://www.cdc.gov/mmwr/preview/mmwrhtml/mm4950a3.htm> .)

Carroll RJ, Galindo CD, "Measurement error, biases, and the validation of complex models for blood lead levels in children," *Environ Health Perspect* 106 Suppl 6:1535-9, (Dec) 1998 (abstract only available).

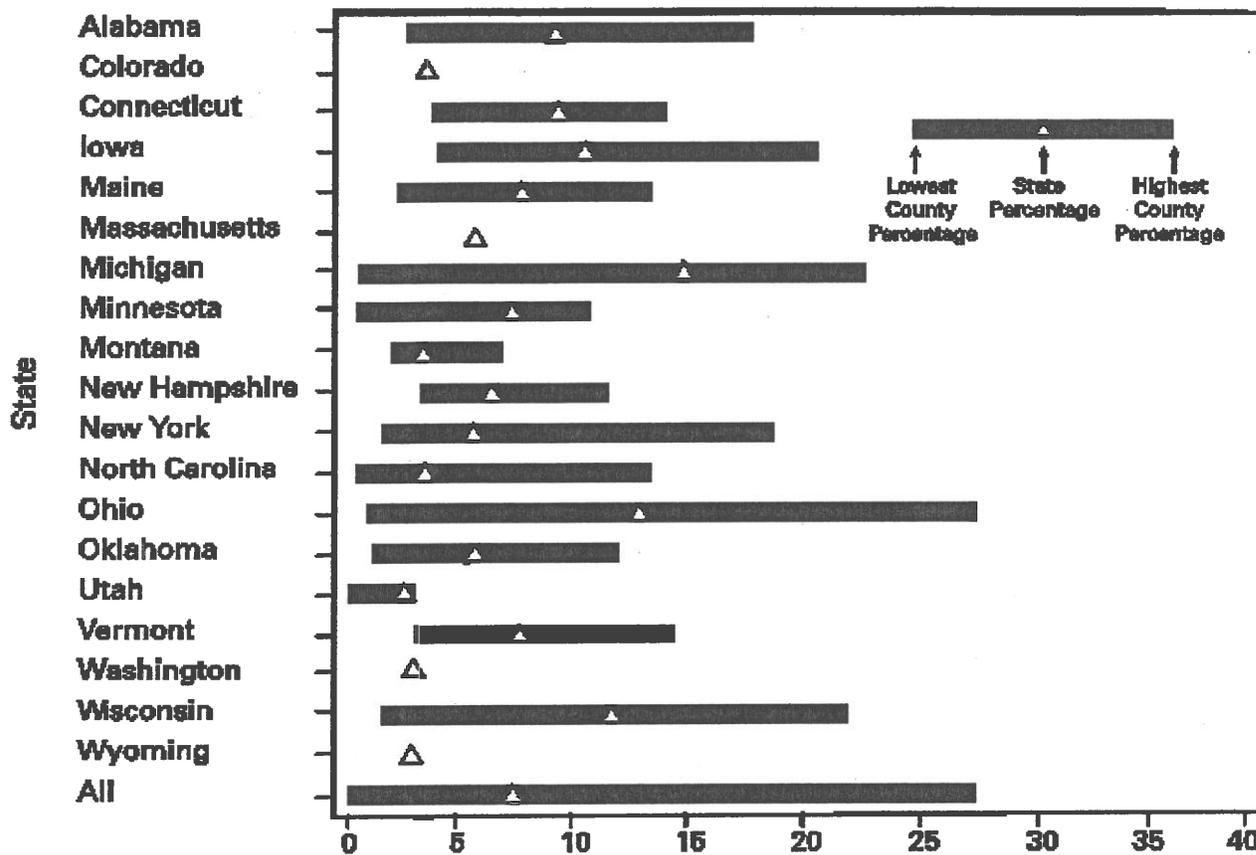
(CDC, 1991) U.S. Department of Health and Human Services, Public Health Service, Centers for Disease Control, *Preventing Lead Poisoning in Young Children*, Publication date: 10/01/1991 -- see <http://aepo-xdv-www.epo.cdc.gov/wonder/prevguid/p0000029/p0000029.asp> and search for "First, particularly".

Griffin S, Marcus A, Schulz T, Walker S, "Calculating the interindividual geometric standard deviation for use in the integrated exposure uptake biokinetic model for lead in children," *Environ Health Perspect* 107(6):481-7, (Jun) 1999.

Stokes, L, "Study Indicates Childhood Lead Exposure May Result in Health Effects 20 Years Later," at <http://www.atsdr.cdc.gov/HEC/hsph73-1.html>. (See also, Stokes L, Letz R, Gerr F, Kolczak M, McNeill FE, Chettle DR, Kaye WE, "Neurotoxicity in young adults 20 years after childhood exposure to lead: the Bunker Hill experience," *Occup Environ Med* 55(8):507-16, (Aug) 1998 (abstract only available).

[BACK TO REMARKS TEXT](#)

FIGURE 1. State-specific percentage of children aged <6 years tested with blood lead levels (BLLs) $\geq 10 \mu\text{g}/\text{dL}$ and highest and lowest percentage of elevated BLLs, by county — selected states, 1998*



* Only counties with ≥ 200 children tested for BLL are included. Colorado, Washington, and Wyoming had <2 counties with 200 children tested, and Massachusetts did not report county of residence.



STATE OF IDAHO
 DEPARTMENT OF ENVIRONMENTAL QUALITY
 Board of Environmental Quality

1410 North Hilton, Boise, ID 83706-1255, (208) 373-0502

Dirk Kempthorne, Governor
 C. Stephen Allred, Director

**DECLARATION OF RULEMAKING
 BY THE BOARD OF ENVIRONMENTAL QUALITY
 ADOPTION OF PENDING RULES
 DOCKET NO. 58-0100-0002**

Pursuant to the authority granted to the Board of Environmental Quality in Chapters 1, 36, 44, 58, 72, 76, Title 39, Idaho Code, and under the provisions for pending rule adoption contained in Section 67-5224, Idaho Code, I declare that the Idaho Department of Environmental Quality rule sections contained in IDAPA 58.01, Administrative Rules of DEQ, have been adopted as a pending rule as presented in the attached Final Proposal.

I hereby certify that this action has been taken in compliance with Title 67, Chapter 52, Idaho Code.

6-14-2001
 Date

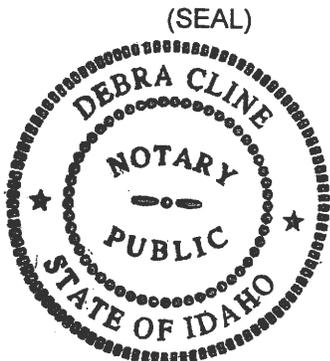
Donald J. Chisholm
 Donald J. Chisholm, Chairman

STATE OF IDAHO)
)
 County of Ada) ss.

On this 14th of June, 2001, before me, the undersigned, a Notary Public in and for said State, personally appeared Donald J. Chisholm, Chairman, known to me to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same.

IN WITNESS WHEREOF, I have set my hand and affixed my official seal the day and year in this certificate first above written.

Debra Cline
 Notary Public for Idaho
 Residing at: Caldwell, ID
 Expires: 7/26/07



LEGISLATIVE CHANGES AFFECTING ADMINISTRATIVE RULES OF THE
DEPARTMENT OF ENVIRONMENTAL QUALITY
PENDING RULE
DOCKET NO. 58-0100-0002

FINAL PROPOSAL

The Department of Environmental Quality recommends that the Board of Environmental Quality adopt the rule as initially proposed in the Idaho Administrative Bulletin, Volume 00-8, August 2, 2000, pages 131 through 147, with the addition of IDAPA 58.01.22 Sections 003 and 070.



STATE OF IDAHO
 DEPARTMENT OF ENVIRONMENTAL QUALITY
 Board of Environmental Quality

1410 North Hilton, Boise, ID 83706-1255, (208) 373-0502

Dirk Kempthorne, Governor
 C. Stephen Allred, Director

**DECLARATION OF RULEMAKING
 BY THE BOARD OF ENVIRONMENTAL QUALITY
 ADOPTION OF PENDING RULE
 DOCKET NO. 58-0123-0001**

Pursuant to the authority granted to the Board of Environmental Quality in Title 39, Chapter 1, Idaho Code, and under the provisions for pending rule adoption contained in Section 67-5224, Idaho Code, I declare that the Idaho Department of Environmental Quality rule sections contained in IDAPA 58.01.23, Rules of Administrative Procedure Before the Board of Environmental Quality are hereby adopted as a pending rule as presented in the attached Final Proposal.

I hereby certify that this action has been taken in compliance with Title 67, Chapter 52, Idaho Code.

6-14-2001
 Date

Donald J. Chisholm
 Donald J. Chisholm, Chairman

STATE OF IDAHO)
)
 County of Ada) ss.

On this 14th of June, 2001, before me, the undersigned, a Notary Public in and for said State, personally appeared Donald J. Chisholm, Chairman, known to me to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same.

IN WITNESS WHEREOF, I have set my hand and affixed my official seal the day and year in this certificate first above written.

Debra Cline
 Notary Public for Idaho
 Residing at: Caldwell, ID
 Expires: 7/26/07



RULES OF ADMINISTRATIVE PROCEDURE BEFORE THE
BOARD OF ENVIRONMENTAL QUALITY
PENDING RULE
DOCKET NO. 58-0123-0001

FINAL PROPOSAL

The initial proposal appeared in the Idaho Administrative Bulletin, Volume 00-8, August 2, 2000, pages 166 through 184. The Department of Environmental Quality recommends that the Board of Environmental Quality take the following action.

IDAPA 58.01.23.000	ADOPT AS INITIALLY PROPOSED
IDAPA 58.01.23.001	ADOPT AS AMENDED
IDAPA 58.01.23.002	ADOPT AS AMENDED
IDAPA 58.01.23.003-004	ADOPT AS INITIALLY PROPOSED
IDAPA 58.01.23.005-008	ADOPT AS AMENDED
IDAPA 58.01.23.009	MOVE FROM 007 AND ADOPT AS INITIALLY PROPOSED
IDAPA 58.01.23.010-012	ADOPT AS AMENDED
IDAPA 58.01.23.013	ADOPT AS INITIALLY PROPOSED
IDAPA 58.01.23.040-042	MOVE TO 800 – 802 AND ADOPT AS AMENDED
IDAPA 58.01.23.043-102	ADOPT AS AMENDED
IDAPA 58.01.23.103	ADOPT AS INITIALLY PROPOSED
IDAPA 58.01.23.200	MOVE TO 044 AND ADOPT AS AMENDED
IDAPA 58.01.23.202	MOVE TO 045 AND ADOPT AS AMENDED
IDAPA 58.01.23.203	ADOPT AS AMENDED
IDAPA 58.01.23.204	ADOPT AS AMENDED
IDAPA 58.01.23.205	MOVE TO 048 AND ADOPT AS AMENDED
IDAPA 58.01.23.207-210	ADOPT AS AMENDED
IDAPA 58.01.23.211-213	ADOPT AS AMENDED
IDAPA 58.01.23.300	ADOPT AS INITIALLY PROPOSED
IDAPA 58.01.23.301-303	ADOPT AS AMENDED

IDAPA 58.01.23.304-351	ADOPT AS INITIALLY PROPOSED
IDAPA 58.01.23.352-354	ADOPT AS AMENDED
IDAPA 58.01.23.410-416	ADOPT AS AMENDED
IDAPA 58.01.23.417	ADOPT AS INITIALLY PROPOSED
IDAPA 58.01.23.500	ADOPT AS INITIALLY PROPOSED
IDAPA 58.01.23.501	ADOPT AS AMENDED
IDAPA 58.01.23.510	SELECT ALTERNATIVE 1 OR 2 AND ADOPT
IDAPA 58.01.23.511-512	ADOPT AS AMENDED
IDAPA 58.01.23.529-530	ADOPT AS AMENDED
IDAPA 58.01.23.540	SELECT ALTERNATIVE 1 OR 2 AND ADOPT
IDAPA 58.01.23.541-544	ADOPT AS INITIALLY PROPOSED
IDAPA 58.01.23.545	ADOPT AS AMENDED
IDAPA 58.01.23.550	ADOPT AS AMENDED
IDAPA 58.01.23.551-554	ADOPT AS INITIALLY PROPOSED
IDAPA 58.01.23.555	ADOPT AS AMENDED
IDAPA 58.01.23.556-557	ADOPT AS INITIALLY PROPOSED
IDAPA 58.01.23.558	ADOPT AS AMENDED
IDAPA 58.01.23.559-562	ADOPT AS INITIALLY PROPOSED
IDAPA 58.01.23.563	ADOPT AS AMENDED
IDAPA 58.01.23.600	ADOPT AS AMENDED
IDAPA 58.01.23.601	ADOPT AS INITIALLY PROPOSED
IDAPA 58.01.23.602	ADOPT AS AMENDED
IDAPA 58.01.23.603-605	ADOPT AS INITIALLY PROPOSED
IDAPA 58.01.23.606	ADOPT AS AMENDED
IDAPA 58.01.23.610-611	ADOPT AS INITIALLY PROPOSED

IDAPA 58.01.23.612	ADOPT AS AMENDED
IDAPA 58.01.23.613-614	ADOPT AS INITIALLY PROPOSED
IDAPA 58.01.23.650-651	ADOPT AS AMENDED
IDAPA 58.01.23.700	ADOPT AS INITIALLY PROPOSED
IDAPA 58.01.23.701	ADOPT AS AMENDED
IDAPA 58.01.23.702	ADOPT AS INITIALLY PROPOSED
IDAPA 58.01.23.710-750	ADOPT AS AMENDED
IDAPA 58.01.23.780	ADOPT AS INITIALLY PROPOSED
IDAPA 58.01.23.790-860	ADOPT AS AMENDED



STATE OF IDAHO
 DEPARTMENT OF ENVIRONMENTAL QUALITY
 Board of Environmental Quality

1410 North Hilton, Boise, ID 83706-1255, (208) 373-0502

Dirk Kempthorne, Governor
 C. Stephen Allred, Director

**DECLARATION OF RULEMAKING
 BY THE BOARD OF ENVIRONMENTAL QUALITY
 ADOPTION OF PENDING RULES
 DOCKET NO. 58-0109-0001**

Pursuant to the authority granted to the Board of Environmental Quality in Chapter 1, Title 39, Idaho Code, and under the provisions for pending rule adoption contained in Section 67-5224, Idaho Code, I declare that the Board of Environmental Quality adopted, as pending rules, the Rules Regulating Swine and Poultry Facilities as presented in the attached Final Proposal.

I hereby certify that this action has been taken in compliance with Title 67, Chapter 52, Idaho Code.

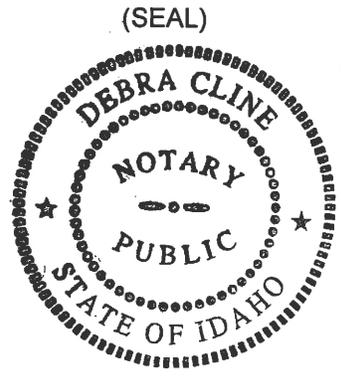
6-14-2001
 Date Donald J. Chisholm
 Donald J. Chisholm, Chairman

STATE OF IDAHO)
) ss.
 County of Ada)

On this 14th of June, 2001, before me, the undersigned, a Notary Public in and for said State, personally appeared Donald J. Chisholm, Chairman, known to me to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same.

IN WITNESS WHEREOF, I have set my hand and affixed my official seal the day and year in this certificate first above written.

Debra Cline
 Notary Public for Idaho
 Residing at: Caldwell, ID
 Expires: 7/26/07



**RULES REGULATING SWINE AND POULTRY FACILITIES
PENDING RULE
DOCKET NO. 58-0109-0001**

FINAL PROPOSAL

The initial proposal appeared in the Idaho Administrative Bulletin, Volume 12-6, December 6, 2000, pages 86 through 94. The Department of Environmental Quality recommends that the Board of Environmental Quality take the following action.

IDAPA 58.01.09.200	ADOPT AS INITIALLY PROPOSED
IDAPA 58.01.09.205	ADOPT AS AMENDED
IDAPA 58.01.09.400	ADOPT AS INITIALLY PROPOSED



STATE OF IDAHO
 DEPARTMENT OF ENVIRONMENTAL QUALITY
 Board of Environmental Quality

1410 North Hilton, Boise, ID 83706-1255, (208) 373-0502

Dirk Kempthorne, Governor
 C. Stephen Allred, Director

**DECLARATION OF RULEMAKING
 BY THE BOARD OF ENVIRONMENTAL QUALITY
 ADOPTION OF TEMPORARY RULE
 DOCKET NO. 58-0101-0002**

Pursuant to the authority granted to the Board of Environmental Quality in Title 39, Chapter 1, Idaho Code, and under the provisions for temporary rule adoption contained in Section 67-5226, Idaho Code, I declare that the Idaho Department of Environmental Quality rule sections contained in IDAPA 58.01.01, Rules for the Control of Air Pollution in Idaho, are hereby adopted temporary rules.

SECTION AFFECTED

IDAPA 58.01.01.011
 IDAPA 58.01.01.201
 IDAPA 58.01.01.790 through 799

ACTION TAKEN

ADOPTED AS PRESENTED
 ADOPTED AS PRESENTED
 ADOPTED AS PRESENTED

I hereby certify that this action has been taken in compliance with Title 67, Chapter 52, Idaho Code.

6-14-2001
 Date

Donald J. Chisholm
 Donald J. Chisholm, Chairman

STATE OF IDAHO)
)
 County of Ada) ss.

On this 14th of June, 2001, before me, the undersigned, a Notary Public in and for said State, personally appeared Donald J. Chisholm, Chairman, known to me to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same.

IN WITNESS WHEREOF, I have set my hand and affixed my official seal the day and year in this certificate first above written.

Debra Cline
 Notary Public for Idaho
 Residing at: Caldwell, ID
 Expires: 7/26/07

