



State of Idaho
DEPARTMENT OF ENVIRONMENTAL QUALITY
BOARD OF ENVIRONMENTAL QUALITY

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John H. Tippetts, Director

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IDAHO BOARD OF ENVIRONMENTAL QUALITY

MINUTES

November 14 and 15, 2018

The Idaho Board of Environmental Quality convened on November 14, 2018, 9:00 a.m.
at

**Idaho Department of Environmental Quality
Conference Room A and B
1410 N. Hilton
Boise, Idaho**

BOARD MEMBERS PRESENT

Kevin Boling, Chair
Beth Elroy, Vice-Chair
Kermit Kiebert, Secretary (by conference phone)
Dr. John R. "Randy" MacMillan, Member
Nick Purdy, Member
Carol Mascareñas, Member
Mark Bowen, Member

DEPARTMENT OF ENVIRONMENTAL QUALITY STAFF PRESENT

John H. Tippetts, Director
Lisa Carlson, Deputy Attorney General
Paula Wilson, Administrative Rules Coordinator
Rosie Alonzo, Director's Management Assistant, Assistant to the Board
Jess Byrne, Deputy Director
Michael McCurdy, Waste Management and Remediation Division Administrator
Barry Burnell, Water Quality Division Administrator
Tiffany Floyd, Air Quality Division Administrator
Don Carpenter, Mine Waste Program Scientist
Jason Pappani, Water Quality Standards Lead
Brian Reese, Water Quality Standards Analyst
Dr. Mary Anne Nelson, IPDES Program Manager
Darrin Pampaian, Air Quality Permit Program Coordinator
Carl Brown, Air Quality Rules Coordinator
Mary Anderson, Mobile and Area Source Program Manager
Matt Alvarado, Hazardous Waste Regulation and Policy Coordinator
Eric Traynor, Brownfields Response Program Manager
Natalie Creed, Hazardous Waste Unit Manager
Mark Cecchini-Beaver, Deputy Attorney General
Michelle Dale, Water Quality Standards Scientist
Dana Swift, Environmental Cleanup Unit Manager

Aislinn Johns, Airshed Management Analyst
Lisa O'Hara, Deputy Attorney General
Dr. Norka Paden, Toxicologist/Risk Assessor
Dean Ehlert, Assessment and Compliance Unit Manager
Mike Simon, Stationary Source Program Manager
Susan Hamlin, Deputy Attorney General

OTHERS PRESENT:

Laurelei McVey, City of Meridian
Sam Routson, Idahoan Foods
Shelley Roberts, Idaho Rural Water Association
A.J. Gray, Idaho Rural Water Association
Lynn Tominaga, Idaho Ground Water Association
Johanna Bell, Association of Idaho Cities
Cyndi Grafe, US Environmental Protection Agency
Paul Woods, Woods Consulting Group
Braden Jensen, Idaho Farm Bureau
Jim Werntz, US Environmental Protection Agency
Jonathan Oppenheimer, Idaho Conservation League

- ❖ All referenced attachments are permanent to the minutes on file at the Idaho Department of Environmental Quality.

CALL TO ORDER, INTRODUCTION OF NEWEST BOARD MEMBER AND ROLL CALL

Chairman Kevin Boling called the meeting of the Idaho Board of Environmental Quality (Board) to order at 9:00 a.m. He introduced Mr. Mark Bowen, newly appointed board member replacing Mr. John McCreedy and expressed his appreciation for Mr. McCreedy's contribution to the Board.

Roll call was taken with six members present. Mr. Kermit Kiebert joined by conference phone shortly after roll call was taken, making it seven members present.

PUBLIC COMMENT PERIOD

The chairman opened the floor to members of the public to address the Board on issues not on the agenda. There were no comments.

DIRECTOR'S REPORT

Director John Tippetts welcomed all the board members and expressed gratitude to Mr. McCreedy for his service to the Board. Director Tippetts reported briefly on the following:

▪ **Idaho Pollutant Discharge Elimination System Program Implementation**

DEQ assumed primacy for municipal permits and inspections on July 1, 2018. Former EPA administrator Scott Pruitt attended the June signing ceremony to approve the IPDES Program. Director Tippetts thanked Barry Burnell, Mary Anne Nelson, and others who contributed to DEQ's success. He reported the Idaho Conservation League filed a "Petition for Review" with the Ninth Circuit Court of Appeals to review EPA's granting approval for Idaho to administer the NPDES program in three areas: (1) "gross negligence" standard; (2) length of the statute of limitations; and, (3) Idaho Department of Agriculture's agreement to administer the program for beef, dairy, and poultry operations.

▪ **DEQ's Budget**

DEQ's total appropriation request for FY 2020 is \$67,863,100, with three additional employees requested for the IPDES Program, a 1% placeholder for pay increases, and an increase in benefit costs.

▪ **Legislative Report**

DEQ will propose two pieces of legislation—DEQ's ownership of real property and payment of fees for the Crop Residue Burning Program. A number of rule revisions will also be presented to the legislature.

▪ **EPA Submittals**

DEQ has six submittals to EPA for which action is pending:

- Human Health Criteria—submitted December 13, 2016
- Mixing Zone Policy—submitted December 22, 2016
- Hells Canyon Site-Specific Salmonid Spawning Criterion for Temperature—submitted June 8, 2012
- Thermal Treatment Requirement temporary rule—submitted July 20, 2011
- Seasonal Cold Temperature Criteria—submitted April 26, 2000
- Bull Trout Temperature Criteria—submitted May 29, 2003

DEQ will be more active in encouraging action from EPA than in the past.

▪ **Legislative Briefings**

Director John Tippets and Deputy Director Jess Byrne are holding legislative briefings at the state and regional offices. These events are especially important because 24 of the 105 legislators are new.

Director Tippets responded to questions from the Board:

AGENDA ITEM NO. 1: APPROVAL OF MEETING MINUTES

(ACTION ITEM) *Minutes of May 16 and 17, 2018, Board meeting*

- **MOTION:** Dr. Randy MacMillan moved that the Idaho Board of Environmental Quality approve the May 16 and 17 minutes with the correction of the spelling of his name.
- **SECOND:** Ms. Beth Elroy
- **VOICE VOTE:** Motion carried unanimously.

AGENDA ITEM NO. 2: HAZARDOUS WASTE EMERGENCY ACCOUNT EXPENDITURE

(ACTION ITEM) **APPROVAL - TRIUMPH MINE SITE CLEANUP**

Request for Board approval for the use of hazardous waste emergency account expenditures for tunnel rehabilitation and grouting work in response to a collapse at the Triumph Mine site

Mr. Michael McCurdy, Waste Management and Remediation Division Administrator, with Mr. Don Carpenter, Mine Waste Program Scientist, sought approval from the Board for a hazardous waste emergency account expenditure intended for tunnel rehabilitation/stabilization and grouting work in response to a tunnel collapse at the Triumph Mine site. They gave an overview of the history of the mine site, cleanup activities at the site, ongoing actions at the site, and need for this expenditure. DEQ requests the Board approve the DEQ Director's authorization of the expenditure of more than \$200,000 from the hazardous waste emergency account. Mr. McCurdy and Mr. Carpenter took questions from the Board. They were also requested to present a long-term strategy at a future Board meeting.

- **MOTION:** Dr. Randy MacMillan moved the Idaho Board of Environmental Quality approve the DEQ Director's authorization of the expenditure of more than two hundred thousand (\$200,000) from the hazardous waste emergency account for the tunnel rehabilitation/stabilization and grouting work at the Triumph Mine site. This action is based upon a finding by the Board that a greater expenditure is prudent and necessary to protect public health and the environment at the Triumph Mine site.
- **SECOND:** Mr. Nick Purdy
- **VOICE VOTE:** Motion carried unanimously.

AGENDA ITEM NO. 3: REPORT ON WATER QUALITY STANDARDS NEGOTIATED RULEMAKING, DOCKET NO. 58-0102-1801
Idaho's human health criteria for arsenic

Mr. Barry Burnell, Water Quality Division Administrator, with Mr. Jason Pappani, Water Quality Standards Lead, presented a report on the Water Quality Standards Negotiated Rulemaking, Docket No. 58-0102-1801, Idaho's human health criteria for arsenic.

Mr. Burnell and Mr. Pappani took questions from the Board and public. Ms. Johanna Bell, Association of Idaho Cities spoke in favor of DEQ's actions. No further action was required by the Board.

AGENDA ITEM NO. 4: WATER QUALITY STANDARDS, DOCKET NO. 58-0102-1703
(ACTION ITEM) *Designate domestic water supply as a beneficial use*

Mr. Burnell and Mr. Pappani continued with the Water Quality Standards, Docket No. 58-0102-1703. This rulemaking was initiated to designate domestic water supply as a beneficial use in 27 water bodies where the Safe Drinking Water Information System indicates active surface water intake or ground water under direct influence of surface water and where domestic water supply is not currently designated.

In sections 110 through 160, Domestic Water Supply (DWS) designations will be added to the "Other" column for 27 water body units where DWS is an existing use. Section 100.03.a. will be revised to clarify that the DWS is appropriate for use as untreated raw water for public drinking water supplies. Section 252.01 will be revised by deleting section 252.01.a, which is redundant with the "Idaho Rules for Public Drinking Water Systems" (IDAPA 58.01.08). Section 252.01.b. will be revised for clarification purposes. Two changes will be made to the turbidity table in section 252.01.b.ii. Mr. Pappani gave a detailed explanation of the changes.

A replacement sheet (page 7) and a revised motion were handed out. Mr. Burnell and Mr. Pappani proposed adoption and responded to questions from the Board. There were no comments from the public.

- **MOTION:** Mr. Nick Purdy moved that the Idaho Board of Environmental Quality adopt as pending rules the Water Quality Standards as presented in the final proposal under Docket No. 58-0102-1703, and revised as presented to the Board in the Revisions to Proposed Rule dated November 14, 2018, with the rules becoming final and effective, if approved by the Legislature, upon the adjournment sine die of the First Regular Session of the Sixty-Fifth Idaho Legislature.
- **SECOND:** Ms. Carol Mascareñas
- **VOICE VOTE:** Motion carried unanimously.

AGENDA ITEM NO. 5: WATER QUALITY STANDARDS, DOCKET NO. 58-0102-1802
(ACTION ITEM) *Revise recreational use criteria and aquatic life criteria for three toxins*

Mr. Burnell and Mr. Pappani continued with the Water Quality Standards, Docket No. 58-0102-1802. This rulemaking was initiated to complete revisions identified as high priority in the 2017 triennial review of Idaho's water quality standards and to consider EPA's §304(a) recommended criteria (40 CFR 131.20).

Changes to this rule include (1) adopt aquatic life criteria for acrolein, carbaryl, and diazinon according to EPA's current §304(a) recommended criteria, (2) adopt EPA's current §304(a) recommended criteria for bacteria, and (3) clarify the definition of recreational use.

The rulemaking clarifies the definition of recreational use, recognizing that waters designated for primary contact recreation also include recreational activities associated with secondary contact recreation.

As EPA recommended in 2012, enterococci criteria must be included in §304(a) to comply with federal requirements (40 CFR 131.20). Enterococci criteria are more directly related to incidences of gastrointestinal illnesses than *E. coli* criteria. Rapid analytical techniques for enterococci are currently being developed. By adopting enterococci criteria, Idaho can easily integrate any advances to improve sampling logistics (e.g., extended holding times and field preservation to allow monitoring and assessing more remote waters and rapidly notifying affected swimming beaches and recreational facilities). This addition allows dischargers the option to request an alternative fecal indicator bacteria for monitoring compliance with water quality standards.

Mr. Pappani provided a presentation to further explain this rulemaking. Mr. Burnell and Mr. Pappani proposed adoption and responded to questions from the Board.

Public comments were given by Mr. Lynn Tominaga, Executive Director of Idaho Ground Water Appropriators. He voiced concerns about small municipalities as permit holders with the recreational use designation as part of this rule. Ms. Johanna Bell, Association of Idaho Cities, provided comments relating to the 90-day geometric mean versus a 30-day geometric mean. Neither Mr. Tominaga nor Ms. Bell opposed the rule. Mr. Burnell responded to additional questions from the Board.

- **MOTION:** Ms. Carol Mascareñas moved that the Idaho Board of Environmental Quality adopt as pending rules the water quality standards as presented in the final proposal under Docket No. 58-0102-1802, with the rules becoming final and effective, if approved by the legislature, upon the adjournment sine die of the First Regular Session of the Sixty-Fifth Idaho Legislature.
- **SECOND:** Mr. Mark Bowen and Dr. Randy MacMillan
- **VOICE VOTE:** Motion carried unanimously.

AGENDA ITEM NO. 6: WATER QUALITY STANDARDS, DOCKET NO. 58-0102-1803

(ACTION ITEM) *Allow de minimis additions of heat in waters that exceed applicable temperature criteria*

Mr. Burnell introduced Mr. Brian Reese, Water Quality Standards Analyst. Mr. Burnell presented the Water Quality Standards, Docket No. 58-0102-1803, initiated to allow de minimis additions of heat when waters exceed applicable temperature criteria. Idaho has many small point sources, and all add some heat to the waters to which they discharge. In most cases, the water bodies to which the sources discharge are warmer for a portion of each year than Idaho's numeric temperature criteria set to protect aquatic life. This rulemaking proposes to allow NPDES/IPDES-regulated human sources of heat load to cause no more than a de minimis 0.3°C increase in receiving water temperatures.

Mr. Reese explained the changes in section 401.c relating to the above natural background condition and language added in section 401.d for temperature criteria for designated aquatic life uses.

Mr. Burnell and Mr. Reese proposed adoption and responded to questions from the Board. There were no comments from the public.

- **MOTION:** Ms. Beth Elroy moved that the Idaho Board of Environmental Quality adopt as pending rules the water quality standards as presented in the final proposal under Docket No. 58-0102-1803, with the rules becoming final and effective, if approved by the legislature, upon the adjournment sine die of the First Regular Session of the Sixty-Fifth Idaho Legislature.
- **SECOND:** Dr. Randy MacMillan
- **VOICE VOTE:** Motion carried unanimously.

AGENDA ITEM NO. 7: RULES REGULATING THE IDAHO POLLUTANT DISCHARGE ELIMINATION SYSTEM PROGRAM, DOCKET NO. 58-0125-1801
(ACTION ITEM)

Correct inconsistencies relating to administrative provisions and incorporation by reference of federal regulations

Mr. Burnell and Dr. Mary Anne Nelson, IPDES Program Manager, presented updates to the Rules Regulating the Idaho Pollutant Discharge Elimination System Program, Docket No. 58-0125-1801, which corrects inconsistencies related to administrative procedures and incorporation by reference of federal regulations. During the negotiated rulemaking process in 2017, 40 CFR 403.10 (Development and Submission of NPDES State Pretreatment Programs) was added to the list of federal regulations incorporated by reference in section 003.02.y. and deleted from the list of exceptions to incorporation by reference in section 370.05. The rules governing the appeals process are provided in the IPDES rules, section 204. This temporary/proposed rule revises section 004 to clarify that the section 204 governs the IPDES permit appeals process. There was no negotiated rulemaking, and no changes were made during the public comment period. This rule is similar to the temporary rule approved by the Board in the May 2018 meeting.

Mr. Burnell and Dr. Nelson took questions from the Board. There were no questions from the Board and no comments from the public.

- **MOTION:** Dr. Randy MacMillan moved that the Idaho Board of Environmental Quality adopt as pending rules the Rules Regulating the Idaho Pollutant Discharge Elimination System Program as presented in the final proposal under Docket No. 58-0125-1801, with the rules becoming final and effective, if approved by the legislature, upon the adjournment sine die of the First Regular Session of the Sixty-Fifth Idaho Legislature.
- **SECOND:** Mr. Nick Purdy.
- **VOICE VOTE:** Motion carried unanimously.

AGENDA ITEM NO. 8: RULES FOR THE CONTROL OF AIR POLLUTION OF IDAHO, DOCKET NO. 58-0101-1801
(ACTION ITEM)

Air quality permitting sections update

Ms. Tiffany Floyd, Air Quality Division Administrator, and Mr. Darrin Pampaian, Air Quality Permit Program Coordinator, presented the Rules for the Control of Air Pollution of Idaho, Docket No. 58-0101-1801, the air quality permit section update. This rulemaking updates and clarifies certain permitting sections of the rules. The proposed revisions include minor clarifications for sources seeking air quality permits or exemptions from permitting, resolving inconsistencies in rule language, removing outdated references, adding provisions for renewing operating permits, and correcting typographical errors.

Mr. Pampaian described rule changes: (1) delete radionuclides from the list of pollutants with significant emission rate values making it easier for applicants to determine when a new or modified radionuclide source is exempt under Idaho rules; (2) delete the outdated screening model referenced in section 210.03.a; (3) delete the requirement in section 210.07 to check a source's uncontrolled ambient concentration of toxic air pollutant emissions against sections 585 and 586, which list the allowable ambient air concentrations and ambient air concentrations for carcinogens; (4) clarify language related to DEQ's

guidance of “no further TAPs demonstration is required for HAPs that are TAPs that are emitted by the source”; (5) add a time frame for Tier II renewal application submittals and make the language consistent with the Tier I operating permit renewal requirements in section 313.03.; (6) correct the URF, EL, and AACC for 1,3 dichloropropene because it was more restrictive than the value in EPA’s toxicological database by orders of magnitude; and (7) correct a typographical error on the chemical abstracts service (CAS) number for hydrazine.

Ms. Floyd and Mr. Pampaian proposed adoption and responded to questions from the Board.

- **MOTION:** Mr. Nick Purdy moved that the Idaho Board of Environmental Quality adopt as pending rules the Rules for the Control of Air Pollution in Idaho as presented in the final proposal under Docket No. 58-0101-1801, with the rules becoming final and effective, if approved by the legislature, upon the adjournment sine die of the First Regular Session of the Sixty-Fifth Idaho Legislature.
- **SECOND:** Ms. Carol Mascareñas
- **VOICE VOTE:** Motion carried unanimously.

AGENDA ITEM NO. 9: RULES FOR THE CONTROL OF AIR POLLUTION OF IDAHO, DOCKET NO. 58-0101-1803
(ACTION ITEM) Crop residue burn fee payment schedule

Ms. Floyd and Ms. Mary Anderson, Mobile and Area Source Program Manager, continued with the Rules for the Control of Air Pollution of Idaho, Docket No. 58-0101-1803, crop residue burning (CRB) fee payment schedule. Ms. Floyd explained when evaluating new tracking software, DEQ determined if growers pay for actual acres burned at the end of the burn season it would improve DEQ’s fiscal procedures. Last spring, DEQ held one negotiated rulemaking meeting to develop the proposed rule language. Before this rule can become effective, Idaho Code §39-114 must be revised. Ms. Floyd also covered the proposed accompanying statute change.

Ms. Floyd responded to questions from the Board. There were no comments from the public.

- **MOTION:** Ms. Beth Elroy moved the Idaho Board of Environmental Quality adopt as pending rules the Rules for the Control of Air Pollution in Idaho as presented in the final proposal under Docket No. 58-0101-1803, with the rules becoming final and effective, if approved by the legislature, upon the adjournment sine die of the First Regular Session of the Sixty-Fifth Idaho Legislature.
- **SECOND:** Mr. Mark Bowen
- **VOICE VOTE:** Motion carried unanimously.

AGENDA ITEM NO. 10: RULES FOR THE CONTROL OF AIR POLLUTION OF IDAHO, DOCKET NO. 58-0101-1804
(ACTION ITEM) Update federal regulations incorporated by reference

Ms. Floyd and Mr. Carl Brown, Air Quality Rules Coordinator, continued with the Air Quality rules, Docket No. 58-0102-1804, annual update of federal regulations incorporated by reference. Ms. Floyd highlighted some of the 17 changes relevant to Idaho.

- Several administrative rule changes deal with NAAQS implementation.
- Updates to subparts addressing air quality permitting requirements affecting Idaho pulp mills and phosphate fertilizer plants. EPA determined no need to update the rule based on health risks; however, updates to compliance and electronic reporting requirements are needed.
- EPA made opacity monitoring requirements more stringent.

- EPA provided additional time for facilities to comply with emissions limits and monitoring requirements. In Idaho, that would relate to phosphate fertilizer plants. Flexibility in determining liquid-to-gas ratios and gas flow rates was added. Stringency of the rule did not change.

DEQ did not conduct a negotiated rulemaking for this rule docket; however, a public comment period and hearing was held. No comments were received.

Mr. Floyd and Mr. Brown proposed adoption and responded to questions from the Board.

- **MOTION:** Ms. Carol Mascareñas moved that the Idaho Board of Environmental Quality adopt as pending rules the Rules for the Control of Air Pollution in Idaho as presented in the final proposal under Docket No. 58-0101-1804, with the rules becoming final and effective, if approved by the legislature, upon the adjournment sine die of the First Regular Session of the Sixty-Fifth Idaho Legislature.
- **SECOND:** Mr. Mark Bowen
- **VOICE VOTE:** Motion carried unanimously.

AGENDA ITEM NO. 11: RULES AND STANDARDS FOR HAZARDOUS WASTE, DOCKET NO. 58-0105-1801
(ACTION ITEM) *Update federal regulations incorporated by reference*

Mr. Michael McCurdy and Mr. Matt Alvarado, Hazardous Waste Regulation and Policy Coordinator, presented Docket No. 58-0105-1801, the updated federal regulations incorporated by reference through June 30, 2018. Mr. McCurdy gave a brief overview of the rule that ensures the state rules remain consistent with federal regulations.

Mr. Alvarado discussed four rules changes: (1) confidentiality determinations for hazardous waste export and import documents; (2) Code of Federal Regulation identification and hazardous waste listing corrections; (3) user fees for the electronic manifest system and amendments to manifest regulations; and (4) response to vacatur of certain provisions of the solid waste definition.

Mr. McCurdy and Mr. Alvarado proposed adoption and responded to questions from the Board.

- **MOTION:** Dr. Randy MacMillan moved that the Idaho Board of Environmental Quality adopt as pending rules the Rules and Standards for Hazardous Waste as presented in the final proposal under Docket No. 58-0105-1801, with the rules becoming final and effective, if approved by the legislature, upon the adjournment sine die of the First Regular Session of the Sixty-Fifth Idaho Legislature.
- **SECOND:** Ms. Carol Mascareñas
- **VOICE VOTE:** Motion carried unanimously.

AGENDA ITEM NO. 12: STANDARDS AND PROCEDURES FOR APPLICATION OF RISK-BASED CORRECTIVE ACTION AT PETROLEUM RELEASE SITES, DOCKET NO. 58-0124-1801
(ACTION ITEM) *Updated toxicity criteria*

Mr. McCurdy and Mr. Eric Traynor, Brownfields Response Program Manager, discussed the Standards and Procedures for Application of Risk-Based Corrective Action at Petroleum Release sites, Docket No. 58-0124-1801, and the associated guidance manual, *Idaho Risk Evaluation Manual for Petroleum Releases*, which provides updated toxicity criteria established by EPA and revised screening levels for petroleum release sites. Mr. McCurdy gave an overview of the rule process and changes.

Mr. Traynor described changes to the rule. EPA made significant changes to the toxicity criteria for the mutagenic polycyclic aromatic hydrocarbons including benzo(a)pyrene, benzo(a)anthracene,

benzo(b)fluoranthene, benzo(k)fluoranthene, and chrysene. The screening levels have increased over previous levels. In the initial proposal, two tables were deleted and moved to the guidance document. Additional changes were made to the soil vapor Residential Use Screening Levels (RUSLs). To align with EPA's updated vapor intrusion guidance, DEQ updated the RUSLs for soil vapor, now referred to as Target Sub-Slab and Near-Source Soil Gas Concentrations. Appendix G was added to the guidance document, *EPA Technical Guide for Addressing Petroleum Vapor Intrusion at Leaking Underground Storage Tank Sites*.

Mr. McCurdy proposed adoption of the rule and responded to the Board's questions. Discussion centered on removing the tables from the rules and placing them in the guidance document because the guidance document is not enforceable. Mr. McCurdy stated the screening levels are not regulatory standards that would be enforced but are screening levels that give owners and operators a starting point to determine if cleanup is necessary. Mr. McCurdy stated that owners, operators, and their consultants can adopt the optional screening levels as cleanup criteria; they can perform a site-specific risk evaluation to demonstrate detected concentrations of chemicals meet or do not meet acceptable risk criteria when accounting for site- and media-specific conditions; or they can identify other risk-based cleanup criteria (e.g., use generic established state or federal health standards or calculate remedial action target levels) to demonstrate acceptable risk is being met as outlined in the rule. Ms. Elroy indicated that section 300.01.b needed to be changed as it directly references the default toxicity value table in the guidance document (*Idaho Risk Evaluation Manual for Petroleum Releases*) and because it made information in a guidance document a requirement. The Board decided to revisit Agenda Item 12 later in the meeting after the language is revised.

AGENDA ITEM NO. 13: CONTESTED CASE AND RULE DOCKET STATUS REPORT

Ms. Paula Wilson, Administrative Rules Coordinator, reported the rules on the Rule Promulgation Status Report were presented today, and there are no contested cases currently to report. There was a question on terminating Air Quality rule, Docket 58-0101-1802, which negotiates a significant rate for ammonia in PM_{2.5} nonattainment areas. Lisa Carlson, DEQ Deputy Attorney General, explained when DEQ met with the rulemaking group, they felt comfortable tabling the rule because there is no issue with ammonia in the nonattainment area at this time. DEQ will review the rule again if it does become an issue.

AGENDA ITEM NO. 14: SET 2019 BOARD MEETING SCHEDULE

The schedule for 2019 Board meeting was set as follows:

- May 15 and 16 in a location outside of Boise, Idaho. The location will be decided by the Chair.
- November 13 and 14 in Boise, Idaho.

REVISITING AGENDA ITEM NO. 12: STANDARDS AND PROCEDURES FOR APPLICATION OF RISK-BASED CORRECTIVE ACTION AT PETROLEUM RELEASE SITES, DOCKET NO. 58-0124-1801

Mr. McCurdy and Mr. Traynor returned with a proposed solution for section 300.01.b. DEQ proposes the following language change: "Toxicity information derived from appropriate sources including, but not limited to, subsection 300.01.e." Ms. Carlson suggested we add "but not limited to, those listed in subsection 300.01.e." Chairman Boling asked to move to Agenda Item No. 15, while a new motion was drafted to reflect that change.

AGENDA ITEM NO. 15: ELECTION OF OFFICERS

Chairman Boling opened the floor to discuss the election of officers. After a short discussion by the Board on past practices, Mr. Nick Purdy made a motion.

- **MOTION:** Mr. Nick Purdy moved that the Idaho Board of Environmental Quality elect as the 2019 Board officials: Ms. Beth Elroy, Chair; Mr. Kermit Kiebert, Vice-Chair; and Mr. Mark Bowen, Secretary.
- **SECOND:** Dr. Randy MacMillan
- **VOICE VOTE:** Motion carried unanimously.

AGENDA ITEM NO. 12 - MOTION: STANDARDS AND PROCEDURES FOR APPLICATION OF RISK-BASED CORRECTIVE ACTION AT PETROLEUM RELEASE SITES, DOCKET NO. 58-0124-1801

The new motion was handed-out and Chairman Boling asked for the motion to be read.

- **MOTION:** Mr. Mark Bowen moved that the Idaho Board of Environmental Quality adopt as temporary and pending rules the Standards and Procedures for Application of Risk-Based Corrective Action at Petroleum Release Sites as presented in the final proposal under Docket No. 58-0124-1801 with the additional change to section 300.01.b to state “Toxicity information derived from appropriate sources including, but not limited to, those listed in subsection 300.01.e.” The temporary rules shall become effective on December 5, 2018. The pending rules shall become final and effective, if approved by the legislature, upon the adjournment sine die of the First Regular Session of the Sixty-Fifth Idaho Legislature.
- **SECOND:** Dr. Randy MacMillan
- **VOICE VOTE:** Motion carried unanimously.

AGENDA ITEM NO. 16: LOCAL REPORTS AND ITEMS BOARD MEMBERS MAY WISH TO PRESENT

Mr. Kiebert asked if DEQ was working on municipal solid waste related to converting organic materials, and Director Tippetts proposed Mr. McCurdy contact him about this issue. Mr. Kiebert inquired about two water bodies that are noncompliant with the water temperature standards and how to come back into compliance. Mr. Burnell presented scenarios of DEQ’s approach. Mr. Kiebert inquired about the proposed smelter in eastern Washington that will affect Idaho citizens. Director Tippetts reported that DEQ has been monitoring the situation and will weigh in on the opportunity to comment to protect Idaho’s interests.

Ms. Elroy acknowledged the support of Lisa Carlson, Paula Wilson, and Rosie Alonzo, and all of DEQ’s administrators for demonstrating exceptional technical leadership skills with the volume of work they do.

ADJOURNMENT

All agenda items were covered at today’s meeting, and the meeting scheduled for November 15, 2018, was cancelled. The meeting was adjourned by Chairman Boling at 3:21 p.m.



 Kevin Boling, Chairman



 Kermit Kiebert, Secretary

Rosie Alonzo
Rosie Alonzo, Assistant to the Board and Recorder