



LEGISLATURE OF THE STATE OF IDAHO



Sixty-seventh Legislature

First Regular Session - 2023

IN THE \_\_\_\_\_

BILL NO. \_\_\_\_\_

BY \_\_\_\_\_

AN ACT

RELATING TO ENVIRONMENTAL QUALITY; AMENDING SECTION 39-105, IDAHO CODE, TO AUTHORIZE THE DIRECTOR OF THE DEPARTMENT OF ENVIRONMENTAL QUALITY TO ENTER INTO CERTAIN VOLUNTARY CONTRACTS AND AGREEMENTS AND TO MAKE TECHNICAL CORRECTIONS.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Section 39-105, Idaho Code, be, and the same is hereby amended to read as follows:

39-105. POWERS AND DUTIES OF THE DIRECTOR. The director shall have the following powers and duties:

(1) All of the rights, powers and duties regarding environmental protection functions vested in the department of health and welfare, and its director, administered by the division of environmental quality, including, but not limited to, those provided by chapters 1, 4, 30, 36, 44, 58, 65, 66, 70, 71, 72 and 74, title 39, Idaho Code. The director shall have all such powers and duties as described in this section as may have been or could have been exercised by his predecessors in law and shall be the successor in law to all contractual obligations entered into by predecessors in law. All hearings of the director shall be governed by the provisions of chapter 52, title 67, Idaho Code.

(2) The director shall, pursuant and subject to the provisions of the Idaho Code and the provisions of this act, formulate and recommend to the board rules as may be necessary to deal with problems related to water pollution, air pollution, solid waste disposal, and licensure and certification requirements pertinent thereto, which shall, upon adoption by the board, have the force of the law relating to any purpose which may be necessary and feasible for enforcing the provisions of this act, including, but not limited to, the prevention, control or abatement of environmental pollution or degradation including radionuclides and risks to public health related to any of the powers and duties described in this section. Any such rule may be of general application throughout the state or may be limited as to times, places, circumstances or conditions in order to make due allowance for variations therein.

(3) The director, under the rules adopted by the board, shall have the general supervision of the promotion and protection of the environment of this state. The powers and duties of the director shall include, but not be limited to, the following:

(a) The issuance of licenses and permits as prescribed by law and by the rules of the board promulgated hereunder. For each air quality operating permit issued under title V of the federal clean air act and its implementing regulations, the director shall, consistent with the federal clean air act and its implementing regulations, expressly include



1 a provision stating that compliance with the conditions of the permit  
2 shall be deemed compliance with the applicable requirements of the fed-  
3 eral clean air act and the title V implementing regulations. The di-  
4 rector may develop and issue general permits covering numerous similar  
5 sources, as authorized by 40 CFR 70.6(d), as ~~may be~~ amended, and as ap-  
6 propriate.

7 (b) The enforcement of rules relating to public water supplies and ~~to~~  
8 ~~administer~~ administration of the drinking water loan fund pursuant to  
9 chapter 76, title 39, Idaho Code, including making loans to eligible  
10 public drinking water systems as defined in the federal safe drinking  
11 water act, as amended, and to comply with all requirements of the act, 42  
12 U.S.C. 300f et seq., and regulations promulgated pursuant to the act.  
13 This includes, but is not limited to: the development of and imple-  
14 mentation of a capacity development strategy to ensure public drinking  
15 water systems have the technical, managerial and financial capability  
16 to comply with the national primary drinking water regulations; and the  
17 enhancement of protection of source waters for public drinking water  
18 systems.

19 (c) The establishment of liaison with other governmental departments,  
20 agencies and boards in order to effectively assist other governmental  
21 entities with ~~the~~ planning for the control of or abatement of environ-  
22 mental pollution. All of the rules adopted by the board hereunder shall  
23 apply to state institutions.

24 (d) The supervision and administration of a system to safeguard air  
25 quality and ~~for limiting and controlling~~ to limit and control the emis-  
26 sion of air contaminants.

27 (e) The supervision and administration of a system to safeguard the  
28 quality of the waters of this state, including, but not limited to, the  
29 enforcement of rules relating to the discharge of effluent into the  
30 waters of this state and the storage, handling and transportation of  
31 solids, liquids, and gases that may cause or contribute to water pollu-  
32 tion. For purposes of complying with the clean water act, the director  
33 may provide an exemption from additional reductions for those nonpoint  
34 sources that meet the applicable reductions set forth in an approved  
35 TMDL as defined in chapter 36, title 39, Idaho Code.

36 (f) The supervision and administration of administrative units whose  
37 responsibility shall be to assist and encourage counties, cities, other  
38 governmental units, and industries in the control ~~of~~ and ~~or~~ abatement  
39 of environmental pollution.

40 (g) The administration of solid waste disposal site and design review  
41 in accordance with the provisions of chapters 4 and 74, title 39, Idaho  
42 Code, and ~~chapter 4, title 39, Idaho Code,~~ and in particular as follows:

43 (i) The issuance of a solid waste disposal site certificate in the  
44 manner provided in chapter 74, title 39, Idaho Code.

45 (ii) Provide review and approval regarding the design of solid  
46 waste disposal facilities and ground water monitoring systems and  
47 approval of all applications for flexible standards as provided in  
48 40 CFR 258, in accordance with the provisions of chapter 74, title  
49 39, Idaho Code.



1 (iii) Cooperating and coordinating with operational monitoring  
2 of solid waste disposal sites by district health departments pur-  
3 suant to authority established in chapters 4 and 74, title 39,  
4 Idaho Code.

5 (iv) The authority granted to the director pursuant to provisions  
6 of this subsection shall be effective upon enactment of chapter  
7 74, title 39, Idaho Code, by the legislature.

8 (v) The authority to develop and propose rules as necessary to  
9 supplement details of compliance with the solid waste facilities  
10 act and applicable federal regulations, provided that such reg-  
11 ulations shall not conflict with the provisions of this act ~~nor~~  
12 ~~shall such regulations~~ or be more strict than the requirements es-  
13 tablished in federal law or in the solid waste facilities act.

14 (h) The establishment, administration and operation of:

15 (i) A network of environmental monitoring stations, independent  
16 of the United States department of energy, within and around the  
17 facilities of the Idaho national laboratory to provide authorita-  
18 tive auditing and analysis of emissions, discharges or releases of  
19 pollutants to the environment, including the air, water and soil  
20 from such facilities; and

21 (ii) Programs within the department to utilize the data obtained  
22 from such monitoring, and any other relevant data, in the enforce-  
23 ment of applicable agreements, statutes and rules pertaining to  
24 such facilities and programs to review, analyze and participate in  
25 remedial decisions and other proposed actions and projects to en-  
26 sure the protection of public health and the environment.

27 The director shall also monitor the implementation of agreements between the  
28 United States and the state of Idaho related to the operation and environ-  
29 mental protection obligations of the Idaho national laboratory and provide  
30 periodic information to the governor, the attorney general, the legislature  
31 and the people of Idaho concerning compliance with such agreements and obli-  
32 gations. The director shall have the power to enter into agreements with the  
33 United States department of energy in order to carry out the duties and au-  
34 thorities provided in this subsection.

35 (i) The enforcement of all laws, rules, regulations, codes and stan-  
36 dards relating to environmental protection and health.

37 (j) The enhancement and protection of source waters of the state pur-  
38 suant to rules of the board.

39 (4) The director, when so designated by the governor, shall have the  
40 power to apply for, receive on behalf of the state, and utilize any federal  
41 aid, grants, gifts, gratuities, or moneys made available through the federal  
42 government, including, but not limited to, the federal water pollution con-  
43 trol act, for use in or by the state of Idaho in relation to health and envi-  
44 ronmental protection.

45 (5) (a) The director shall have the power to enter into and make  
46 contracts and agreements with any public agencies or municipal corpo-  
47 rations for facilities, land, and equipment when such use will have a  
48 beneficial or recreational effect or be in the best interest in carrying  
49 out the duties imposed upon the department.

1 (b) The director shall also have the power to enter into contracts for  
2 the expenditure of state matching funds for local purposes. This sub-  
3 section will constitute the authority for public agencies or municipal  
4 corporations to enter into such contracts and expend money for the pur-  
5 poses delineated in such contracts.

6 (c) The director shall also have the power to enter into and make volun-  
7 tary contracts and agreements with any public agencies, municipal cor-  
8 porations, and private parties for funding or reimbursement of depart-  
9 ment costs necessary for the state of Idaho to engage in activities re-  
10 lated to the protection of human health and the environment.

11 (6) The director is authorized to adopt an official seal to be used on  
12 appropriate occasions, in connection with the functions of the department or  
13 the board, and such seal shall be judicially noticed. Copies of any books,  
14 records, papers ~~and~~ or other documents in the department shall be admitted  
15 in evidence equally with the originals thereof when authenticated under such  
16 seal.