

IN THE SENATE

SENATE BILL NO. 1098, As Amended

BY RESOURCES AND ENVIRONMENT COMMITTEE

AN ACT

1 RELATING TO ENVIRONMENTAL QUALITY; AMENDING SECTION 39-105, IDAHO CODE,
2 TO AUTHORIZE THE DIRECTOR OF THE DEPARTMENT OF ENVIRONMENTAL QUALITY
3 TO ENTER INTO CERTAIN VOLUNTARY CONTRACTS AND AGREEMENTS AND TO MAKE
4 TECHNICAL CORRECTIONS; AND DECLARING AN EMERGENCY AND PROVIDING AN EF-
5 FECTIVE DATE.
6

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

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

10 39-105. POWERS AND DUTIES OF THE DIRECTOR. The director shall have the
11 following powers and duties:

12 (1) All of the rights, powers and duties regarding environmental pro-
13 tection functions vested in the department of health and welfare, and its
14 director, administered by the division of environmental quality, including,
15 but not limited to, those provided by chapters 1, 4, 30, 36, 44, 58, 65, 66,
16 70, 71, 72 and 74, title 39, Idaho Code. The director shall have all such
17 powers and duties as described in this section as may have been or could have
18 been exercised by his predecessors in law, and shall be the successor in law
19 to all contractual obligations entered into by predecessors in law. All
20 hearings of the director shall be governed by the provisions of chapter 52,
21 title 67, Idaho Code.

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

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

39 (a) The issuance of licenses and permits as prescribed by law and by the
40 rules of the board promulgated hereunder. For each air quality oper-
41 ating permit issued under title V of the federal clean air act and its
42 implementing regulations, the director shall, consistent with the fed-

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

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

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

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

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

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

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

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

46 (ii) Provide review and approval regarding the design of solid
47 waste disposal facilities and ground water monitoring systems and
48 approval of all applications for flexible standards as provided in
49 40 CFR 258, in accordance with the provisions of chapter 74, title
50 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 con-
 46 tracts and agreements with any public agencies or municipal corpora-
 47 tions 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 vol-
7 untary contracts and agreements with public agencies, municipal corpo-
8 rations, and private parties for funding or reimbursement of staff and
9 consultant costs necessary for the director to discharge his duties as
10 provided by state statute and administrative rule. Such contracts and
11 agreements shall be limited to a five (5) year term, however they can be
12 renewed upon agreement of all parties. Moneys received through these
13 contracts and agreements shall be expended pursuant to appropriation.

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

20 SECTION 2. An emergency existing therefor, which emergency is hereby
21 declared to exist, this act shall be in full force and effect on and after
22 July 1, 2023.