

DEIDRE HENDERSON Lieutenant Governor Environmental Quality
Kimberly D. Shelley

Department of

DIVISION OF AIR QUALITY Bryce C. Bird Director

Executive Director

Air Quality Board
Cassady Kristensen, Chair
Kim Frost, Vice-Chair
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Bryce C. Bird,
Executive Secretary

DAQ-087-23

UTAH AIR QUALITY BOARD MEETING FINAL AGENDA

Wednesday, November 1, 2023 - 1:30 p.m. 195 North 1950 West, Room 1015 Salt Lake City, Utah 84116

Board members may be participating electronically. Interested persons can participate telephonically by dialing 1-505-738-2229 using access code: 201-631-777#, or via the Internet at the Google's meeting access link: https://meet.google.com/sfz-jeny-tvp

- I. Call-to-Order
- II. Date of the Next Air Quality Board Meeting: December 6, 2023
- III. Approval of the Minutes for the September 12, 2023, Board Meeting.
- IV. <u>Five-Year Reviews: R307-101. General Requirements; R307-150.</u> Emission Inventories; R307-405. Permits: Major Sources in Attainment or Unclassified Areas (PSD); and R307-840. Lead-Based Paint Program Purpose, Applicability, and Definitions. Presented by Becky Close.
- V. <u>Propose for Public Comment: Amendment to R307-415.</u> Permits: Operating Permit Requirements. Presented by David Beatty
- VI. Propose for Public Comment. Amend Incorporation of Utah State Implementation Plan, Section X, Vehicle Inspection and Maintenance Program, Part A, General Requirements and Applicability; and Part B, Davis County; R307-110-31. Section X, Vehicle Inspection and Maintenance Program, Part A, General Requirements and Applicability; and R307-110-32. Section X, Vehicle Inspection and Maintenance Program, Part B, Davis County. Presented by Mat Carlile.
- VII. Discretionary Federal Funding Letter to the Governor's Office of Planning and Budget. Presented by Kevin Cromar.

VIII. Informational Items.

- A. Air Toxics. Presented by Leonard Wright.
- B. Compliance. Presented by Harold Burge, Rik Ombach, and Chad Gilgen.
- C. Monitoring. Presented by Bart Cubrich.
- D. Other Items to be Brought Before the Board.
- E. Board Meeting Follow-up Items.

In compliance with the Americans with Disabilities Act, individuals with special needs (including auxiliary communicative aids and services) should contact Larene Wyss, Office of Human Resources at (801) 503-5618, TDD (801) 536-4284 or by email at lwyss@utah.gov.

ITEM 4



Department of Environmental Quality

Kimberly D. Shelley Executive Director

DIVISION OF AIR QUALITY Bryce C. Bird Director

DAQ-081-23

MEMORANDUM

TO: Air Quality Board

THROUGH: Bryce C. Bird, Executive Secretary

FROM: Erica Pryor, Rules Coordinator

DATE: October 12, 2023

SUBJECT: Five-Year Reviews: R307-101. General Requirements; R307-150. Emission Inventories;

R307-405. Permits: Major Sources in Attainment or Unclassified Areas (PSD); and R307-840. Lead-Based Paint Program Purpose, Applicability, and Definitions.

Utah Code 63G-3-305 requires each agency to review and justify each of its rules within five years of a rule's original effective date or within five years of the filing of the last five-year review. This review process is not a time to revise or amend the rules, but only to verify that the rule is still necessary and allowed under state and federal law. As part of this process, we are required to identify any comments received since the last five-year review of each rule. This process is not the time to revisit those comments or to respond to them.

DAQ has completed a five-year review of R307-101, General Requirements; R307-150, Emission Inventories; R307-405, Permits: Major Sources in Attainment or Unclassified Areas (PSD); and R307-840, Lead-Based Paint Program Purpose, Applicability, and Definitions.

The results of these reviews are found in the attached Five-Year Notice of Review and Statement of Continuation forms.

<u>Recommendation</u>: Staff recommends that the Board continue these rules, by approving the attached forms to be filed with the Office of Administrative Rules.

State of Utah Administrative Rule Analysis

Revised May 2023

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION			
Title No Rule No.			
Rule Number: R307-101 Filing ID: Office Use Only			
Effective Date: Office Use Only			

Agency Information

	7 190111	y information	
1. Department:	Environmental Quality		
Agency:	Air Quality		
Room number:			
Building:	MASOB		
Street address:	195 N 1950 W		
City, state and zip:	Salt Lake City	Salt Lake City	
Mailing address:	PO BOX 144820		
City, state and zip:	Salt Lake City, UT 84114-4820		
Contact persons:			
Name:	Phone:	Email:	
Erica Pryor	385-499-3416	epryor1@utah.gov	
Becky Close	801-536-4013	bclose@utah.gov	
Please address	questions regarding infor	mation on this notice to the persons listed above.	

General Information

2. Rule catchline:

R307-101. General Requirements.

3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:

Subsection 19-2-104(1)(a) authorizes the Air Quality Board to make rules "...regarding the control, abatement, and prevention of air pollution from all sources..." Rule R307-101 includes definitions used throughout all the rules contained in R307 that are written under Section 19-2-104. Without these definitions, the remaining rules would be unenforceable.

4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:

No written comments have been received on this rule since the previous 5 year review in 2018.

5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:

Section R307-101-2 includes all the definitions that apply throughout all the rules contained in R307. Without them, the remaining rules would be unenforceable, so this rule should be continued. Section R307-101-3 incorporates by reference the most current version of the Code of Federal Regulations cited in many of the Air Quality Rules. In addition, R307-101 is also a component of Utah's State Implementation Plan, which has been federally approved.

Agency Authorization Information

	Agonoy Admonize	ation inionination	
To the agency: Information requested on this form is required by Section 63G-3-305. Incomplete forms will be returned to the agency for completion, possibly delaying publication in the <i>Utah State Bulletin</i> .			
Agency head or designee and title: Bryce C. Bird, Director, Division of Air Quality Date: 09/27/2023			
Reminder: Text changes cannot be made with this type of rule filing. To change any text, please file an amendment or a nonsubstantive change.			

R307. Environmental Quality, Air Quality.

R307-101. General Requirements.

R307-101-1. Foreword.

Chapter 19-2 and the rules adopted by the Air Quality Board constitute the basis for control of air pollution sources in the state. These rules apply and will be enforced throughout the state, and are recommended for adoption in local jurisdictions where environmental specialists are available to cooperate in implementing rule requirements.

National Ambient Air Quality Standards (NAAQS), National Standards of Performance for New Stationary Sources (NSPS), National Prevention of Significant Deterioration of Air Quality (PSD) standards, and the National Emission Standards for Hazardous Air Pollutants (NESHAPS) apply throughout the nation and are legally enforceable in Utah.

R307-101-2. Definitions.

Except where specified in individual rules, definitions in Section R307-101-2 are applicable to all rules adopted by the Air Quality Board.

"Actual Emissions" means the actual rate of emissions of a pollutant from an emissions unit determined as follows:

- (1) In general, actual emissions as of a particular date shall equal the average rate, in tons per year, at which the unit actually emitted the pollutant during a two-year period which precedes the particular date and which is representative of normal source operations. The director shall allow the use of a different time period upon a determination that it is more representative of normal source operation. Actual emissions shall be calculated using the unit's actual operating hours, production rates, and types of materials processed, stored, or combusted during the selected time period.
- (2) The director may presume that source-specific allowable emissions for the unit are equivalent to the actual emissions of the unit.
- (3) For any emission unit, other than an electric utility steam generating unit specified in (4), which has not begun normal operations on the particular date, actual emissions shall equal the potential to emit of the unit on that date.
- (4) For an electric utility steam generating unit (other than a new unit or the replacement of an existing unit) actual emissions of the unit following the physical or operational change shall equal the representative actual annual emissions of the unit, provided the source owner or operator maintains and submits to the director, on an annual basis for a period of 5 years from the date the unit resumes regular operation, information demonstrating that the physical or operational change did not result in an emissions increase. A longer period, not to exceed 10 years, may be required by the director if the director determines such a period to be more representative of normal source post-change operations.

"Acute Hazardous Air Pollutant" means any noncarcinogenic hazardous air pollutant for which a threshold limit value - ceiling (TLV-C) has been adopted by the American Conference of Governmental Industrial Hygienists (ACGIH) in its "Threshold Limit Values for Chemical Substances and Physical Agents and Biological Exposure Indices, (2009)."

"Air pollutant" means a substance that qualifies as an air pollutant as defined in 42 U.S.C. Sec. 7602.

"Air Pollutant Source" means private and public sources of emissions of air pollutants.

"Air Pollution" means the presence of an air pollutant in the ambient air in such quantities and duration and under conditions and circumstances, that are injurious to human health or welfare, animal or plant life, or property, or would unreasonably interfere with the enjoyment of life or use of property as determined by the standards, rules and regulations adopted by the Air Quality Board (Section 19-2-104).

"Allowable Emissions" means the emission rate of a source calculated using the maximum rated capacity of the source (unless the source is subject to enforceable limits which restrict the operating rate, or hours of operation, or both) and the emission limitation established pursuant to R307-401-8.

"Ambient Air" means that portion of the atmosphere, external to buildings, to which the general public has access. (Section 19-2-102(4)).

"Appropriate Authority" means the governing body of any city, town or county.

"Atmosphere" means the air that envelops or surrounds the earth and includes all space outside of buildings, stacks or exterior ducts.

"Authorized Local Authority" means a city, county, city-county or district health department; a city, county or combination fire department; or other local agency duly designated by appropriate authority, with approval of the state Department of Health; and other lawfully adopted ordinances, codes or regulations not in conflict therewith.

"Board" means Air Quality Board. See Section 19-2-102(8)(a).

"Breakdown" means any malfunction or procedural error, to include but not limited to any malfunction or procedural error during start-up and shutdown, which will result in the inoperability or sudden loss of performance of the control equipment or process equipment causing emissions in excess of those allowed by approval order or Title R307.

"BTU" means British Thermal Unit, the quantity of heat necessary to raise the temperature of one pound of water one degree Fahrenheit.

"Calibration Drift" means the change in the instrument meter readout over a stated period of time of normal continuous operation when the VOC concentration at the time of measurement is the same known upscale value.

"Carbon Adsorption System" means a device containing adsorbent material (e.g., activated carbon, aluminum, silica gel), an inlet and outlet for exhaust gases, and a system for the proper disposal or reuse of all VOC adsorbed.

"Carcinogenic Hazardous Air Pollutant" means any hazardous air pollutant that is classified as a known human carcinogen (A1) or suspected human carcinogen (A2) by the American Conference of Governmental Industrial Hygienists (ACGIH) in its "Threshold Limit Values for Chemical Substances and Physical Agents and Biological Exposure Indices, (2009)."

"Chargeable Pollutant" means any regulated air pollutant except the following:

(1) carbon monoxide;

- (2) any pollutant that is a regulated air pollutant solely because it is a Class I or II substance subject to a standard promulgated or established by Title VI of the Act, Stratospheric Ozone Protection; or
- (3) any pollutant that is a regulated air pollutant solely because it is subject to a standard or regulation under Section 112(r) of the Act, Prevention of Accidental Releases.

"Chronic Hazardous Air Pollutant" means any noncarcinogenic hazardous air pollutant for which a threshold limit value - time weighted average (TLV-TWA) having no threshold limit value - ceiling (TLV-C) has been adopted by the American Conference of Governmental Industrial Hygienists (ACGIH) in its "Threshold Limit Values for Chemical Substances and Physical Agents and Biological Exposure Indices, (2009)."

"Clean Air Act" means federal Clean Air Act as found in 42 U.S.C. Chapter 85.

"Clean Coal Technology" means any technology, including technologies applied at the precombustion, combustion, or post combustion stage, at a new or existing facility which will achieve significant reductions in air emissions of sulfur dioxide or oxides of nitrogen associated with the utilization of coal in the generation of electricity, or process steam which was not in widespread use as of November 15, 1990.

"Clean Coal Technology Demonstration Project" means a project using funds appropriated

under the heading "Department of Energy-Clean Coal Technology," up to a total amount of \$2,500,000,000 for commercial demonstration of clean coal technology, or similar projects funded through appropriations for the Environmental Protection Agency. The Federal contribution for a qualifying project shall be at least 20 percent of the total cost of the demonstration project.

"Clearing Index" means an indicator of the predicted rate of clearance of ground level pollutants from a given area. This number is provided by the National Weather Service.

"Coating" means a material that can be applied to a substrate and which cures to form a continuous solid film for protective, decorative, or functional purposes. Such materials include, but are not limited to, paints, varnishes, sealants, adhesives, caulks, maskants, inks, and temporary protective coatings.

"Commence" as applied to construction of a major source or major modification means that the owner or operator has all necessary pre-construction approvals or permits and either has:

- (1) begun, or caused to begin, a continuous program of actual on-site construction of the source, to be completed within a reasonable time; or
- (2) entered into binding agreements or contractual obligations, which cannot be canceled or modified without substantial loss to the owner or operator, to undertake a program of actual construction of the source to be completed within a reasonable time.

"Composite vapor pressure" means the sum of the partial pressures of the compounds defined as VOCs.

"Condensable PM2.5" means material that is vapor phase at stack conditions, but which condenses and/or reacts upon cooling and dilution in the ambient air to form solid or liquid particulate matter immediately after discharge from the stack.

"Compliance Schedule" means a schedule of events, by date, which will result in compliance with these regulations.

"Construction" means any physical change or change in the method of operation including fabrication, erection, installation, demolition, or modification of a source which would result in a change in actual emissions.

"Control Apparatus" means any device which prevents or controls the emission of any air pollutant directly or indirectly into the outdoor atmosphere.

"Department" means Utah State Department of Environmental Quality. See Section 19-1-103(1).

"Director" means the Director of the Division of Air Quality. See Section 19-1-103(1). "Division" means the Division of Air Quality.

"Electric Utility Steam Generating Unit" means any steam electric generating unit that is constructed for the purpose of supplying more than one-third of its potential electric output capacity and more than 25 MW electrical output to any utility power distribution system for sale. Any steam supplied to a steam distribution system for the purpose of providing steam to a steam-electric generator that would produce electrical energy for sale is also considered in determining the electrical energy output capacity of the affected facility.

"Emission" means the act of discharge into the atmosphere of an air pollutant or an effluent which contains or may contain an air pollutant; or the effluent so discharged into the atmosphere.

"Emissions Information" means, with reference to any source operation, equipment or control apparatus:

- (1) information necessary to determine the identity, amount, frequency, concentration, or other characteristics related to air quality of any air pollutant which has been emitted by the source operation, equipment, or control apparatus;
- (2) information necessary to determine the identity, amount, frequency, concentration, or other characteristics (to the extent related to air quality) of any air pollutant which, under an applicable standard or limitation, the source operation was authorized to emit (including, to the

extent necessary for such purposes, a description of the manner or rate of operation of the source operation), or any combination of the foregoing; and

(3) A general description of the location and/or nature of the source operation to the extent necessary to identify the source operation and to distinguish it from other source operations (including, to the extent necessary for such purposes, a description of the device, installation, or operation constituting the source operation).

"Emission Limitation" means a requirement established by the Board, the director or the Administrator, EPA, which limits the quantity, rate or concentration of emission of air pollutants on a continuous emission reduction including any requirement relating to the operation or maintenance of a source to assure continuous emission reduction (Section 302(k)).

"Emissions Unit" means any part of a stationary source which emits or would have the potential to emit any pollutant subject to regulation under the Clean Air Act.

"Enforceable" means all limitations and conditions which are enforceable by the Administrator, including those requirements developed pursuant to 40 CFR Parts 60 and 61, requirements within the State Implementation Plan and R307, any permit requirements established pursuant to 40 CFR 52.21 or R307-401.

"EPA" means Environmental Protection Agency.

"EPA Method 9" means 40 CFR Part 60, Appendix A, Method 9, "Visual Determination of Opacity of Emissions from Stationary Sources," and Alternate 1, "Determination of the opacity of emissions from stationary sources remotely by LIDAR."

"Executive Director" means the Executive Director of the Utah Department of Environmental Quality. See Subsection 19-1-103(2).

"Existing Installation" means an installation, construction of which began prior to the effective date of any regulation having application to it.

"Filterable PM2.5" means particles with an aerodynamic diameter equal to or less than 2.5 micrometers that are directly emitted by a source as a solid or liquid at stack or release conditions and can be captured on the filter of a stack test train.

"Fireplace" means all devices both masonry or factory built units (free standing fireplaces) with a hearth, fire chamber or similarly prepared device connected to a chimney which provides the operator with little control of combustion air, leaving its fire chamber fully or at least partially open to the room. Fireplaces include those devices with circulating systems, heat exchangers, or draft reducing doors with a net thermal efficiency of no greater than twenty percent and are used for aesthetic purposes.

"Fugitive Dust" means particulate, composed of soil and/or industrial particulates such as ash, coal, minerals, etc., which becomes airborne because of wind or mechanical disturbance of surfaces. Natural sources of dust and fugitive emissions are not fugitive dust within the meaning of this definition.

"Fugitive Emissions" means emissions from an installation or facility which are neither passed through an air cleaning device nor vented through a stack or could not reasonably pass through a stack, chimney, vent, or other functionally equivalent opening.

"Garbage" means all putrescible animal and vegetable matter resulting from the handling, preparation, cooking and consumption of food, including wastes attendant thereto.

"Gasoline" means any petroleum distillate, used as a fuel for internal combustion engines, having a Reid vapor pressure of 4 pounds or greater.

"Hazardous Air Pollutant (HAP)" means any pollutant listed by the EPA as a hazardous air pollutant in conformance with Section 112(b) of the Clean Air Act. A list of these pollutants is available at the Division of Air Quality.

"Household Waste" means any solid or liquid material normally generated by the family in a residence in the course of ordinary day-to-day living, including but not limited to garbage, paper

products, rags, leaves and garden trash.

"Incinerator" means a combustion apparatus designed for high temperature operation in which solid, semisolid, liquid, or gaseous combustible wastes are ignited and burned efficiently and from which the solid and gaseous residues contain little or no combustible material.

"Installation" means a discrete process with identifiable emissions which may be part of a larger industrial plant. Pollution equipment shall not be considered a separate installation or installations.

"LPG" means liquified petroleum gas such as propane or butane.

"Maintenance Area" means an area that is subject to the provisions of a maintenance plan that is included in the Utah state implementation plan, and that has been redesignated by EPA from nonattainment to attainment of any National Ambient Air Quality Standard.

- (a) The following areas are considered maintenance areas for ozone:
- (i) Salt Lake County, effective August 18, 1997; and
- (ii) Davis County, effective August 18, 1997.
- (b) The following areas are considered maintenance areas for carbon monoxide:
- (i) Salt Lake City, effective March 22, 1999;
- (ii) Ogden City, effective May 8, 2001; and
- (iii) Provo City, effective January 3, 2006.
- (c) The following areas are considered maintenance areas for PM10:
- (i) Salt Lake County, effective on the date that EPA approves the maintenance plan that was adopted by the Board on December 2, 2015;
- (ii) Utah County, effective on the date that EPA approves the maintenance plan that was adopted by the Board on December 2, 2015; and
- (iii) Ogden City, effective on the date that EPA approves the maintenance plan that was adopted by the Board on December 2, 2015.
- (d) The following area is considered a maintenance area for sulfur dioxide: all of Salt Lake County and the eastern portion of Tooele County above 5600 feet, effective on the date that EPA approves the maintenance plan that was adopted by the Board on January 5, 2005.
 - (e) The following areas are considered maintenance areas for PM_{2.5}:
- (i) the Salt Lake City, Utah 24-hr PM_{2.5} nonattainment area, as defined in the July 1, 2019 version of 40 CFR 81.345, effective on the date that EPA redesignates the area to attainment for PM_{2.5};
- (ii) the Provo, Utah 24-hr $PM_{2.5}$ nonattainment area, as defined in the July 1, 2019 version of 40 CFR 81.345, effective on the date that EPA redesignates the area to attainment for $PM_{2.5}$; and
- (iii) the Utah portion of the Logan, Utah-Idaho 24-hr $PM_{2.5}$ nonattainment area, as defined in the July 1, 2019 version of 40 CFR 81.345, effective on the date that EPA redesignates the area to attainment for $PM_{2.5}$.

"Major Modification" means any physical change in or change in the method of operation of a major source that would result in a significant net emissions increase of any pollutant. A net emissions increase that is significant for volatile organic compounds shall be considered significant for ozone. Within Salt Lake and Davis Counties or any nonattainment area for ozone, a net emissions increase that is significant for nitrogen oxides shall be considered significant for ozone. Within areas of nonattainment for PM10, a significant net emission increase for any PM10 precursor is also a significant net emission increase for PM10. A physical change or change in the method of operation shall not include:

- (1) routine maintenance, repair and replacement;
- (2) use of an alternative fuel or raw material by reason of an order under section 2(a) and (b) of the Energy Supply and Environmental Coordination Act of 1974, or by reason of a natural gas

curtailment plan pursuant to the Federal Power Act;

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- (3) use of an alternative fuel by reason of an order or rule under section 125 of the federal Clean Air Act;
- (4) use of an alternative fuel at a steam generating unit to the extent that the fuel is generated from municipal solid waste;
 - (5) use of an alternative fuel or raw material by a source:
- (a) which the source was capable of accommodating before January 6, 1975, unless such change would be prohibited under any enforceable permit condition; or
 - (b) which the source is otherwise approved to use;
- (6) an increase in the hours of operation or in the production rate unless such change would be prohibited under any enforceable permit condition;
 - (7) any change in ownership at a source;
- (8) the addition, replacement or use of a pollution control project at an existing electric utility steam generating unit, unless the director determines that such addition, replacement, or use renders the unit less environmentally beneficial, or except:
- (a) when the director has reason to believe that the pollution control project would result in a significant net increase in representative actual annual emissions of any criteria pollutant over levels used for that source in the most recent air quality impact analysis in the area conducted for the purpose of Title I of the Clean Air Act, if any, and
- (b) the director determines that the increase will cause or contribute to a violation of any national ambient air quality standard or PSD increment, or visibility limitation.
- (9) the installation, operation, cessation, or removal of a temporary clean coal technology demonstration project, provided that the project complies with:
 - (a) the Utah State Implementation Plan; and
- (b) other requirements necessary to attain and maintain the national ambient air quality standards during the project and after it is terminated.
- "Major Source" means, to the extent provided by the federal Clean Air Act as applicable to Title R307:
- (1) any stationary source of air pollutants which emits, or has the potential to emit, one hundred tons per year or more of any pollutant subject to regulation under the Clean Air Act; or
- (a) any source located in a nonattainment area for carbon monoxide which emits, or has the potential to emit, carbon monoxide in the amounts outlined in Section 187 of the federal Clean Air Act with respect to the severity of the nonattainment area as outlined in Section 187 of the federal Clean Air Act; or
- (b) any source located in Salt Lake or Davis Counties or in a nonattainment area for ozone which emits, or has the potential to emit, VOC or nitrogen oxides in the amounts outlined in Section 182 of the federal Clean Air Act with respect to the severity of the nonattainment area as outlined in Section 182 of the federal Clean Air Act; or
- (c) any source located in a nonattainment area for PM10 which emits, or has the potential to emit, PM10 or any PM10 precursor in the amounts outlined in Section 189 of the federal Clean Air Act with respect to the severity of the nonattainment area as outlined in Section 189 of the federal Clean Air Act.
- (2) any physical change that would occur at a source not qualifying under subpart 1 as a major source, if the change would constitute a major source by itself;
- (3) the fugitive emissions and fugitive dust of a stationary source shall not be included in determining for any of the purposes of these R307 rules whether it is a major stationary source, unless the source belongs to one of the following categories of stationary sources:
 - (a) Coal cleaning plants (with thermal dryers);
 - (b) Kraft pulp mills;

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- 1 (c) Portland cement plants;
- 2 (d) Primary zinc smelters;
- 3 (e) Iron and steel mills;

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- 4 (f) Primary aluminum or reduction plants;
- 5 (g) Primary copper smelters;
 - (h) Municipal incinerators capable of charging more than 250 tons of refuse per day;
 - (i) Hydrofluoric, sulfuric, or nitric acid plants;
 - (j) Petroleum refineries;
 - (k) Lime plants;
 - (l) Phosphate rock processing plants;
- 11 (m) Coke oven batteries;
 - (n) Sulfur recovery plants;
 - (o) Carbon black plants (furnace process);
 - (p) Primary lead smelters;
 - (q) Fuel conversion plants;
 - (r) Sintering plants;
 - (s) Secondary metal production plants;
 - (t) Chemical process plants;
 - (u) Fossil-fuel boilers (or combination thereof) totaling more than 250 million British Thermal Units per hour heat input;
 - (v) Petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels;
 - (w) Taconite ore processing plants;
 - (x) Glass fiber processing plants;
 - (y) Charcoal production plants;
 - (z) Fossil fuel-fired steam electric plants of more than 250 million British Thermal Units per hour heat input; or
 - (aa) Any other stationary source category which, as of August 7, 1980, is being regulated under section 111 or 112 of the federal Clean Air Act.

"Modification" means any planned change in a source which results in a potential increase of emission.

"National Ambient Air Quality Standards (NAAQS)" means the allowable concentrations of air pollutants in the ambient air specified by the Federal Government (Title 40, Code of Federal Regulations, Part 50).

"Net Emissions Increase" means the amount by which the sum of the following exceeds zero:

- (1) any increase in actual emissions from a particular physical change or change in method of operation at a source; and
- (2) any other increases and decreases in actual emissions at the source that are contemporaneous with the particular change and are otherwise creditable. For purposes of determining a "net emissions increase":
- (a) An increase or decrease in actual emissions is contemporaneous with the increase from the particular change only if it occurs between the date five years before construction on the particular change commences; and the date that the increase from the particular change occurs.
- (b) An increase or decrease in actual emissions is creditable only if it has not been relied on in issuing a prior approval for the source which approval is in effect when the increase in actual emissions for the particular change occurs.
- (c) An increase or decrease in actual emission of sulfur dioxide, nitrogen oxides or particulate matter which occurs before an applicable minor source baseline date is creditable only if

it is required to be considered in calculating the amount of maximum allowable increases remaining available. With respect to particulate matter, only PM10 emissions will be used to evaluate this increase or decrease.

- (d) An increase in actual emissions is creditable only to the extent that the new level of actual emissions exceeds the old level.
 - (e) A decrease in actual emissions is creditable only to the extent that:

- (i) The old level of actual emissions or the old level of allowable emissions, whichever is lower, exceeds the new level of actual emissions;
- (ii) It is enforceable at and after the time that actual construction on the particular change begins; and
- (iii) It has approximately the same qualitative significance for public health and welfare as that attributed to the increase from the particular change.
- (iv) It has not been relied on in issuing any permit under R307-401 nor has it been relied on in demonstrating attainment or reasonable further progress.
- (f) An increase that results from a physical change at a source occurs when the emissions unit on which construction occurred becomes operational and begins to emit a particular pollutant. Any replacement unit that requires shakedown becomes operational only after a reasonable shakedown period, not to exceed 180 days.

"New Installation" means an installation, construction of which began after the effective date of any regulation having application to it.

"Nonattainment Area" means an area designated by the Environmental Protection Agency as nonattainment under Section 107, Clean Air Act for any National Ambient Air Quality Standard. The designations for Utah are listed in 40 CFR 81.345.

"Offset" means an amount of emission reduction, by a source, greater than the emission limitation imposed on such source by these regulations and/or the State Implementation Plan.

"Opacity" means the capacity to obstruct the transmission of light, expressed as percent.

"Open Burning" means any burning of combustible materials resulting in emission of products of combustion into ambient air without passage through a chimney or stack.

"Owner or Operator" means any person who owns, leases, controls, operates or supervises a facility, an emission source, or air pollution control equipment.

"PSD" Area means an area designated as attainment or unclassifiable under section 107(d)(1)(D) or (E) of the federal Clean Air Act.

"PM2.5" means particulate matter with an aerodynamic diameter less than or equal to a nominal 2.5 micrometers as measured by an EPA reference or equivalent method.

"PM2.5 Precursor" means any chemical compound or substance which, after it has been emitted into the atmosphere, undergoes chemical or physical changes that convert it into particulate matter, specifically PM2.5.

- (1) Specifically, Sulfur dioxide, Nitrogen oxides, Volatile organic compounds and Ammonia are precursors to PM2.5 in any PM2.5 nonattainment area, except where the Administrator of the EPA has approved a demonstration satisfying 40 CFR 51.1006(a)(3) which has, for a particular PM2.5 nonattainment area, determined otherwise.
- (2) The following subparagraphs denote specific nonattainment areas (as defined in the July 1, 2017 version of 40 CFR 81.345), within which certain pollutants identified in paragraph (1) are exempted from the definition of PM2.5 precursor for the purposes of 40 CFR 51.165
 - (a) In the Logan UT-ID PM2.5 nonattainment area Ammonia is exempted.

"PM10" means particulate matter with an aerodynamic diameter less than or equal to a nominal 10 micrometers as measured by an EPA reference or equivalent method.

"PM10 Precursor" means any chemical compound or substance which, after it has been emitted into the atmosphere, undergoes chemical or physical changes that convert it into particulate

matter, specifically PM10.

"Part 70 Source" means any source subject to the permitting requirements of R307-415.

"Person" means an individual, trust, firm, estate, company, corporation, partnership, association, state, state or federal agency or entity, municipality, commission, or political subdivision of a state. (Subsection 19-2-103(4)).

"Pollution Control Project" means any activity or project at an existing electric utility steam generating unit for purposes of reducing emissions from such unit. Such activities or projects are limited to:

- (1) the installation of conventional or innovative pollution control technology, including but not limited to advanced flue gas desulfurization, sorbent injection for sulfur dioxide and nitrogen oxides controls and electrostatic precipitators;
- (2) an activity or project to accommodate switching to a fuel which is less polluting than the fuel used prior to the activity or project, including, but not limited to natural gas or coal reburning, or the cofiring of natural gas and other fuels for the purpose of controlling emissions;
- (3) a permanent clean coal technology demonstration project conducted under Title II, sec. 101(d) of the Further Continuing Appropriations Act of 1985 (sec. 5903(d) of title 42 of the United States Code), or subsequent appropriations, up to a total amount of \$2,500,000,000 for commercial demonstration of clean coal technology, or similar projects funded through appropriations for the Environmental Protection Agency; or
- (4) a permanent clean coal technology demonstration project that constitutes a repowering project.

"Potential to Emit" means the maximum capacity of a source to emit a pollutant under its physical and operational design. Any physical or operational limitation on the capacity of the source to emit a pollutant including air pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored, or processed shall be treated as part of its design if the limitation or the effect it would have on emissions is enforceable. Secondary emissions do not count in determining the potential to emit of a stationary source.

"Primary PM2.5" means the sum of filterable PM2.5 and condensable PM2.5.

"Process Level" means the operation of a source, specific to the kind or type of fuel, input material, or mode of operation.

"Process Rate" means the quantity per unit of time of any raw material or process intermediate consumed, or product generated, through the use of any equipment, source operation, or control apparatus. For a stationary internal combustion unit or any other fuel burning equipment, this term may be expressed as the quantity of fuel burned per unit of time.

"Reactivation of a Very Clean Coal-Fired Electric Utility Steam Generating Unit" means any physical change or change in the method of operation associated with the commencement of commercial operations by a coal-fired utility unit after a period of discontinued operation where the unit:

- (1) has not been in operation for the two-year period prior to the enactment of the Clean Air Act Amendments of 1990, and the emissions from such unit continue to be carried in the emission inventory at the time of enactment;
- (2) was equipped prior to shutdown with a continuous system of emissions control that achieves a removal efficiency for sulfur dioxide of no less than 85 percent and a removal efficiency for particulates of no less than 98 percent;
- (3) is equipped with low-NOx burners prior to the time of commencement of operations following reactivation; and
 - (4) is otherwise in compliance with the requirements of the Clean Air Act.

"Reasonable Further Progress" means annual incremental reductions in emission of an air pollutant which are sufficient to provide for attainment of the NAAQS by the date identified in the

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State Implementation Plan.

"Refuse" means solid wastes, such as garbage and trash.

"Regulated air pollutant" means any of the following:

- (a) nitrogen oxides or any volatile organic compound;
- (b) any pollutant for which a national ambient air quality standard has been promulgated;
- (c) any pollutant that is subject to any standard promulgated under Section 111 of the Act, Standards of Performance for New Stationary Sources;
- (d) any Class I or II substance subject to a standard promulgated under or established by Title VI of the Act, Stratospheric Ozone Protection; or
- (e) any pollutant subject to a standard promulgated under Section 112, Hazardous Air Pollutants, or other requirements established under Section 112 of the Act, including Sections 112(g), (j), and (r) of the Act, including any of the following:
- (i) Any pollutant subject to requirements under Section 112(j) of the Act, Equivalent Emission Limitation by Permit. If the Administrator fails to promulgate a standard by the date established pursuant to Section 112(e) of the Act, any pollutant for which a subject source would be major shall be considered to be regulated on the date 18 months after the applicable date established pursuant to Section 112(e) of the Act;
- (ii) Any pollutant for which the requirements of Section 112(g)(2) of the Act (Construction, Reconstruction and Modification) have been met, but only with respect to the individual source subject to Section 112(g)(2) requirement.

"Repowering" means replacement of an existing coal-fired boiler with one of the following clean coal technologies: atmospheric or pressurized fluidized bed combustion, integrated gasification combined cycle, magnetohydrodynamics, direct and indirect coal-fired turbines, integrated gasification fuel cells, or as determined by the Administrator, in consultation with the Secretary of Energy, a derivative of one or more of these technologies, and any other technology capable of controlling multiple combustion emissions simultaneously with improved boiler or generation efficiency and with significantly greater waste reduction relative to the performance of technology in widespread commercial use as of November 15, 1990.

- (1) Repowering shall also include any oil and/or gas-fired unit which has been awarded clean coal technology demonstration funding as of January 1, 1991, by the Department of Energy.
- (2) The director shall give expedited consideration to permit applications for any source that satisfies the requirements of this definition and is granted an extension under section 409 of the Clean Air Act.

"Representative Actual Annual Emissions" means the average rate, in tons per year, at which the source is projected to emit a pollutant for the two-year period after a physical change or change in the method of operation of unit, (or a different consecutive two-year period within 10 years after that change, where the director determines that such period is more representative of source operations), considering the effect any such change will have on increasing or decreasing the hourly emissions rate and on projected capacity utilization. In projecting future emissions the director shall:

- (1) Consider all relevant information, including but not limited to, historical operational data, the company's own representations, filings with the State of Federal regulatory authorities, and compliance plans under title IV of the Clean Air Act; and
- (2) Exclude, in calculating any increase in emissions that results from the particular physical change or change in the method of operation at an electric utility steam generating unit, that portion of the unit's emissions following the change that could have been accommodated during the representative baseline period and is attributable to an increase in projected capacity utilization at the unit that is unrelated to the particular change, including any increased utilization due to the rate of electricity demand growth for the utility system as a whole.

"Residence" means a dwelling in which people live, including all ancillary buildings.

"Residential Solid Fuel Burning" device means any residential burning device except a fireplace connected to a chimney that burns solid fuel and is capable of, and intended for use as a space heater, domestic water heater, or indoor cooking appliance, and has an air-to-fuel ratio less than 35-to-1 as determined by the test procedures prescribed in 40 CFR 60.534. It must also have a useable firebox volume of less than 6.10 cubic meters or 20 cubic feet, a minimum burn rate less than 5 kilograms per hour or 11 pounds per hour as determined by test procedures prescribed in 40 CFR 60.534, and weigh less than 800 kilograms or 362.9 pounds. Appliances that are described as prefabricated fireplaces and are designed to accommodate doors or other accessories that would create the air starved operating conditions of a residential solid fuel burning device shall be considered as such. Fireplaces are not included in this definition for solid fuel burning devices.

"Road" means any public or private road.

"Salvage Operation" means any business, trade or industry engaged in whole or in part in salvaging or reclaiming any product or material, including but not limited to metals, chemicals, shipping containers or drums.

"Secondary Emissions" means emissions which would occur as a result of the construction or operation of a major source or major modification, but do not come from the major source or major modification itself.

Secondary emissions must be specific, well defined, quantifiable, and impact the same general area as the source or modification which causes the secondary emissions. Secondary emissions include emissions from any off-site support facility which would not be constructed or increase its emissions except as a result of the construction or operation of the major source or major modification. Secondary emissions do not include any emissions which come directly from a mobile source such as emissions from the tailpipe of a motor vehicle, from a train, or from a vessel.

Fugitive emissions and fugitive dust from the source or modification are not considered secondary emissions.

"Secondary PM2.5" means particles that form or grow in mass through chemical reactions in the ambient air well after dilution and condensation have occurred. Secondary PM2.5 is usually formed at some distance downwind from the source.

"Significant" means:

(1) In reference to a net emissions increase or the potential of a source to emit any of the following pollutants, a rate of emissions that would equal or exceed any of the following rates:

Carbon monoxide: 100 ton per year (tpy);

Nitrogen oxides: 40 tpy; Sulfur dioxide: 40 tpy; PM10: 15 tpy; PM2.5: 10 tpy; Particulate matter: 25 tpy;

Ozone: 40 tpy of volatile organic compounds;

Lead: 0.6 tpy.

"Solid Fuel" means wood, coal, and other similar organic material or combination of these materials.

"Solvent" means organic materials which are liquid at standard conditions (Standard Temperature and Pressure) and which are used as dissolvers, viscosity reducers, or cleaning agents.

"Source" means any structure, building, facility, or installation which emits or may emit any air pollutant subject to regulation under the Clean Air Act and which is located on one or more continuous or adjacent properties and which is under the control of the same person or persons under common control. A building, structure, facility, or installation means all of the pollutant-emitting activities which belong to the same industrial grouping. Pollutant-emitting activities shall

be considered as part of the same industrial grouping if they belong to the same "Major Group" (i.e. which have the same two-digit code) as described in the Standard Industrial Classification Manual, 1972, as amended by the 1977 Supplement (US Government Printing Office stock numbers 4101-0065 and 003-005-00176-0, respectively).

"Stack" means any point in a source designed to emit solids, liquids, or gases into the air, including a pipe or duct but not including flares.

"Standards of Performance for New Stationary Sources" means the Federally established requirements for performance and record keeping (Title 40 Code of Federal Regulations, Part 60).

"State" means Utah State.

"Temporary" means not more than 180 calendar days.

"Temporary Clean Coal Technology Demonstration Project" means a clean coal technology demonstration project that is operated for a period of 5 years or less, and which complies with the Utah State Implementation Plan and other requirements necessary to attain and maintain the national ambient air quality standards during the project and after it is terminated.

"Threshold Limit Value - Ceiling (TLV-C)" means the airborne concentration of a substance which may not be exceeded, as adopted by the American Conference of Governmental Industrial Hygienists in its "Threshold Limit Values for Chemical Substances and Physical Agents and Biological Exposure Indices, (2009)."

"Threshold Limit Value - Time Weighted Average (TLV-TWA)" means the time-weighted airborne concentration of a substance adopted by the American Conference of Governmental Industrial Hygienists in its "Threshold Limit Values for Chemical Substances and Physical Agents and Biological Exposure Indices, (2009)."

"Total Suspended Particulate (TSP)" means minute separate particles of matter, collected by high volume sampler.

"Toxic Screening Level" means an ambient concentration of an air pollutant equal to a threshold limit value - ceiling (TLV- C) or threshold limit value -time weighted average (TLV-TWA) divided by a safety factor.

"Trash" means solids not considered to be highly flammable or explosive including, but not limited to clothing, rags, leather, plastic, rubber, floor coverings, excelsior, tree leaves, yard trimmings and other similar materials.

"VOC content" means the weight of VOC per volume of material and is calculated by the following equation in gram/liter (or alternately in pound/gallon, or pound/pound):

Grams of VOC per Liter of Material = Ws - Ww - Wes / Vm

Where:

Ws = weight of volatile organic compounds

Ww = weight of water

Wes = weight of exempt compounds

Vm = volume of material

"Volatile Organic Compound (VOC)" means VOC as defined in 40 CFR 51.100(s), effective as of the date referenced in R307-101-3, is hereby adopted and incorporated by reference.

"Waste" means all solid, liquid or gaseous material, including, but not limited to, garbage, trash, household refuse, construction or demolition debris, or other refuse including that resulting from the prosecution of any business, trade or industry.

"Zero Drift" means the change in the instrument meter readout over a stated period of time of normal continuous operation when the VOC concentration at the time of measurement is zero.

R307-101-3. Version of Code of Federal Regulations Incorporated by Reference.

Except as specifically identified in an individual rule, the version of the Code of Federal Regulations (CFR) incorporated throughout Title R307 is dated July 1, 2020.

2 KEY: air pollution, definitions

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- 3 Date of Enactment or Last Substantive Amendment: May 6, 2021
- 4 Notice of Continuation: November 13, 2018
- 5 Authorizing, and Implemented or Interpreted Law: 19-2-104(1)(a)

State of Utah Administrative Rule Analysis

Revised May 2023

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION			
Title No Rule No.			
Rule Number: R307-150 Filing ID: Office Use Only			
Effective Date: Office Use Only			

Agency Information

		y internation	
1. Department:	Environmental Quality		
Agency:	Air Quality		
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Please address	questions regarding infor	mation on this notice to the persons listed above.	

General Information

2. Rule catchline:

R307-150. Emission Inventories.

3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:

Subsection 19-2-104(1)(c) allows the Air Quality Board to make rules "...requiring persons engaged in operations which result in air pollution to ...file periodic reports containing information relating to the rate, period of emission, and composition of the air contaminant..." Rule R307-150 implements that statute by specifying the sources that must submit information, the information that must be submitted, and the due date for submissions. Rule R307-150 meets the requirements of the federal Consolidated Emissions Reporting Rule, 40 CFR 51.30(e) (67 FR 39602).

4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:

No written comments have been received on this rule since its previous 5 year review in 2018.

5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:

The State of Utah is required under the federal Consolidated Emissions Reporting Rule (CERR), 40 CFR 51.30(e), to submit inventories of emissions from a variety of sources to the federal Environmental Protection Agency on a schedule specified in the federal rule. Rule R307-150 specifies the kinds of sources that must submit inventory information to the state in order for the state to meet its responsibilities under the CERR. In addition, the inventory information is required in order to determine the fees paid by sources subject to 40 CFR Part 70 and Rule R307-415, the Operating Permit Program, and for determining where emission reductions can be achieved if needed for Utah to remain in attainment of the federal health standards for air quality. Therefore, the rule should be continued.

Agency Authorization Information

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To the agency: Information requested on this form is required by Section 63G-3-305. Incomplete forms will be returned to the agency for completion, possibly delaying publication in the <i>Utah State Bulletin</i> .			
Agency head or designee and title: Bryce C. Bird, Director, Division of Air Quality Date: 09/27/2023			
Reminder: Text changes cannot be made with this type of rule filing. To change any text, please file an amendment or a nonsubstantive change.			

R307. Environmental Quality, Air Quality.

R307-150. Emission Inventories.

R307-150-1. Purpose and General Requirements.

- (1) The purpose of Rule R307-150 is:
- (a) to establish by rule the time frame, pollutants, and information that sources must include in inventory submittals; and
- (b) to establish consistent reporting requirements for stationary sources in Utah to determine whether sulfur dioxide emissions remain below the sulfur dioxide milestones established in the State Implementation Plan for Regional Haze, section XX.E.1.a, incorporated by reference in Section R307-110-28.
- (2) The requirements of Rule R307-150 replace any annual inventory reporting requirements in approval orders or operating permits issued prior to December 4, 2003.
- (3) Emission inventories shall be submitted on or before April 15 of each year following the calendar year for which an inventory is required. The inventory shall be submitted in a format specified by the Division of Air Quality following consultation with each source.
- (4) The executive secretary may require at any time a full or partial year inventory upon reasonable notice to affected sources when it is determined that the inventory is necessary to develop a state implementation plan, to assess whether there is a threat to public health or safety or the environment, or to determine whether the source is in compliance with Title R307.
 - (5) Recordkeeping Requirements.
- (a) Each owner or operator of a stationary source subject to this rule shall maintain a copy of the emission inventory submitted to the Division of Air Quality and records indicating how the information submitted in the inventory was determined, including any calculations, data, measurements, and estimates used. The records under Section R307-150-4 shall be kept for ten years. Other records shall be kept for a period of at least five years from the due date of each inventory.
- (b) The owner or operator of the stationary source shall make these records available for inspection by any representative of the Division of Air Quality during normal business hours.

R307-150-2. Definitions.

The following additional definitions apply to Rule R307-150, and all references to the "Threshold Limit Values for chemical Substances and Physical Agents and Biological Exposure Indices" adopted by the American Conference of Governmental Industrial Hygienists refers to the 2003 version, which is hereby incorporated by reference.

"Acute pollutant" means any noncarcinogenic air pollutant for which a threshold limit value - ceiling (TLV-C) has been adopted by the American Conference of Governmental Industrial Hygienists in its "Threshold Limit Values for Chemical Substances and Physical Agents and Biological Exposure Indices," 2003 edition.

"Carcinogenic pollutant" means any air pollutant that is classified as a known human carcinogen (A1) or suspected human carcinogen (A2) by the American Conference of Governmental Industrial Hygienists in its "Threshold Limit Values for Chemical Substances and Physical Agents and Biological Exposure Indices," 2003 edition.

"Chronic Pollutant" means any noncarcinogenic air pollutant for which a threshold limit value - time weighted average (TLV-TWA) having no threshold limit value - ceiling (TLV-C) has been adopted by the American Conference of Governmental Industrial Hygienists in its "Threshold Limit Values for Chemical Substances and Physical Agents and Biological Exposure Indices," 2003 edition.

"Dioxins" and "Furans" mean total tetra- through octachlorinated dibenzo-p-dioxins and dibenzofurans.

"Emissions unit" means emissions unit as defined in Section R307-415-3.

"Large Major Source" means a major source that emits or has the potential to emit 2500 tons or more per year of oxides of sulfur, oxides of nitrogen, or carbon monoxide, or that emits or has the potential to emit 250 tons or more per year of PM_{10} , $PM_{2.5}$, volatile organic compounds, or ammonia.

"Lead" means elemental lead and the portion of its compounds measured as elemental lead. "Major Source" means major source as defined in Section R307-415-3.

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R307-150-3. Applicability.

- (1) Section R307-150-4 applies to stationary sources with actual emissions of 100 tons or more per year of sulfur dioxide in calendar year 2000 or any subsequent year unless exempted in Subsection R307-150-3(1)(a). Sources subject to Subsection R307-150-4 may be subject to other sections of Rule R307-150.
- (a) A stationary source that meets the requirements of Subsection R307-150-3(1) that has permanently ceased operation is exempt from the requirements of Section R307-150-4 for the years during which the source did not operate at any time during the year.
- (b) Notwithstanding Subsection R307-150-3(1)(a), beginning with 2016 emissions, the Division of Air Quality will include emissions of 8,005 tons per year of sulfur dioxide for the Carbon Power Plant in the annual regional sulfur dioxide milestone report required as part of the Regional Haze State Implementation Plan.
- (c) Except as provided in Subsection R307-150-3(1)(a), any source that meets the criteria of Subsection R307-150-3(1) and that emits less than 100 tons per year of sulfur dioxide in any subsequent year shall remain subject to the requirements of Section R307-150-4 until 2018 or until the first control period under the Western Backstop Sulfur Dioxide Trading Program as established in Subsection R307-250-12(1)(a), whichever is earlier.
 - (2) Section R307-150-5 applies to large major sources.
 - (3) Section R307-150-6 applies to:
 - (a) each major source that is not a large major source;
 - (b) each source with the potential to emit 5 tons or more per year of lead;
- (c) each source not included in Subsections R307-150-3(2), R307-150-3(3)(a), or R307-150-3(3)(b) that is located in Davis, Salt Lake, Utah, or Weber Counties and that has the potential to emit 25 tons or more per year of any combination of oxides of nitrogen, oxides of sulfur and PM_{10} , or the potential to emit 10 tons or more per year of volatile organic compounds; and
- (d) each Part 70 source not included in Subsections R307-150-3(2), R307-150-3(3)(a), R307-150-3(3)(b), or R307-150-3(3)(c).
- (4) Section R307-150-8 applies to sources with Standard Industrial Classification codes in the major group 13 that have uncontrolled actual emissions greater than one ton per year for a single pollutant of PM₁₀, PM_{2.5}, oxides of nitrogen, oxides of sulfur, carbon monoxide or volatile organic compounds. These sources include, but are not limited to, industries involved in oil and natural gas exploration, production, and transmission operations; well production facilities; natural gas compressor stations; and natural gas processing plants and commercial oil and gas disposal wells, and ponds.
- (a) Sources that require inventory submittals under Subsections R307-150-3(1) through R307-150-3(3) are excluded from the requirements of Section R307-150-8.
- (5) Section R307-150-9 applies to stationary sources located in a designated ozone nonattainment area that have the potential to emit oxides of nitrogen or volatile organic compounds greater than 25 tons per year.

R307-150-4. Sulfur Dioxide Milestone Inventory Requirements.

(1) Annual Sulfur Dioxide Emission Report.

- (a) Sources identified in Subsection R307-150-3(1) shall submit an annual inventory of sulfur dioxide emissions beginning with calendar year 2003 for emissions units including fugitive emissions.
- (b) The inventory shall include the rate and period of emissions, excess or breakdown emissions, startup and shut down emissions, the specific emissions unit that is the source of the air pollution, type and efficiency of the air pollution control equipment, percent of sulfur content in fuel and how the percent is calculated, and other information necessary to quantify operation and emissions and to evaluate pollution control efficiency. The emissions of a pollutant shall be calculated using the source's actual operating hours, production rates, and types of materials processed, stored, or combusted during the inventoried time period.
- (2) Each source subject to Section R307-150-4 that is also subject to 40 CFR Part 75 reporting requirements shall submit a summary report of annual sulfur dioxide emissions that were reported to the Environmental Protection Agency under 40 CFR Part 75 in lieu of the reporting requirements in (1) above.
- (3) Changes in Emission Measurement Techniques. Each source subject to Section R307-150-4 that uses a different emission monitoring or calculation method than was used to report their sulfur dioxide emissions in 2006 under Rule R307-150 or 40 CFR Part 75 shall adjust their reported emissions to be comparable to the emission monitoring or calculation method that was used in 2006. The calculations that are used to make this adjustment shall be included with the annual emission report.

R307-150-5. Sources Identified in R307-150-3(2), Large Major Source Inventory Requirements.

- (1) Each large major source shall submit an emission inventory annually beginning with calendar year 2002. The inventory shall include PM₁₀, PM_{2.5}, oxides of sulfur, oxides of nitrogen, carbon monoxide, volatile organic compounds, and ammonia for emissions units including fugitive emissions.
- (2) For every third year beginning with 2005, the inventory shall also include all other chargeable pollutants and hazardous air pollutants not exempted in Section R307-150-7.
- (3) For each pollutant specified in (1) or (2) above, the inventory shall include the rate and period of emissions, excess or breakdown emissions, startup and shut down emissions, the specific emissions unit that is the source of the air pollution, composition of air pollutant, type and efficiency of the air pollution control equipment, and other information necessary to quantify operation and emissions and to evaluate pollution control efficiency. The emissions of a pollutant shall be calculated using the source's actual operating hours, production rates, and types of materials processed, stored, or combusted during the inventoried time period.

R307-150-6. Sources Identified in R307-150-3(3).

- (1) Each source identified in Subsection R307-150-3(3) shall submit an inventory every third year beginning with calendar year 2002 for emissions units including fugitive emissions.
- (a) The inventory shall include PM_{10} , $PM_{2.5}$, oxides of sulfur, oxides of nitrogen, carbon monoxide, volatile organic compounds, ammonia, other chargeable pollutants, and hazardous air pollutants not exempted in Section R307-150-7.
- (b) For each pollutant, the inventory shall include the rate and period of emissions, excess or breakdown emissions, startup and shut down emissions, the specific emissions unit which is the source of the air pollution, composition of air pollutant, type and efficiency of the air pollution control equipment, and other information necessary to quantify operation and emissions and to

evaluate pollution control efficiency. The emissions of a pollutant shall be calculated using the source's actual operating hours, production rates, and types of materials processed, stored, or combusted during the inventoried time period.

(2) Sources identified in Subsection R307-150-3(3) shall submit an inventory for each year after 2002 in which the total amount of PM10, oxides of sulfur, oxides of nitrogen, carbon monoxide, or volatile organic compounds increases or decreases by 40 tons or more per year from the most recently submitted inventory. For each pollutant, the inventory shall meet the requirements of Subsections R307-150-6(1)(a) and R307-150-6(1)(b).

R307-150-7. Exempted Hazardous Air Pollutants.

(1) The following air pollutants are exempt from this rule if they are emitted in an amount less than that listed in Table 1.

TABLE 1

16	POLLUTANT	Pounds/year
17	Arsenic	0.21
18	Benzene	33.90
19	Beryllium	0.04
20	Ethylene oxide	38.23
21	Formaldehyde	5.83

- (2) Hazardous air pollutants, except for dioxins or furans, are exempt from being reported if they are emitted in an amount less than the smaller of the following:
 - (a) 500 pounds per year; or
- (b) for acute pollutants, the applicable TLV-C expressed in milligrams per cubic meter and multiplied by 15.81 to obtain the pounds-per-year threshold; or
- (c) for chronic pollutants, the applicable TLV-TWA expressed in milligrams per cubic meter and multiplied by 21.22 to obtain the pounds-per-year threshold; or
- (d) for carcinogenic pollutants, the applicable TLV-C or TLV-TWA expressed in milligrams per cubic meter and multiplied by 7.07 to obtain the pounds-per-year threshold.

R307-150-8. Crude Oil and Natural Gas Source Category.

- (1) Sources identified in Subsection R307-150-3(4) shall submit an inventory every third year beginning with the 2017 calendar year for emission units.
- (a) The inventory shall include the total emissions for PM₁₀, PM_{2.5}, oxides of sulfur, oxides of nitrogen, carbon monoxide and volatile organic compounds for each emission unit at the source. The emissions of a pollutant shall be calculated using the emission unit's actual operating hours, product rates, and types of materials processed, stored, or combusted during the inventoried time period.
 - (b) The inventory shall include the type and efficiency of air pollution control equipment.
- (c) The inventory shall be submitted in an electronic format determined by the Director specific to this source category.

R307-150-9. Annual Ozone Emission Statement.

(1) Beginning in the year 2021, sources identified in Subsection R307-150-3(5) shall submit an ozone emission statement to the Division of Air Quality annually by April 15 of each year for the previous year's emissions.

- 1 (2) A source required to submit an emission statement shall provide the following minimum information:
 - (a) a certification that the information contained in the statement is accurate to the best knowledge of the individual certifying the statement;
 - (b) the physical location where actual emissions occurred;
 - (c) the name and address of person or entity operating or owning the source;
 - (d) the nature of the source; and
 - (e) the total actual emissions of oxides of nitrogen and volatile organic compounds in tons per year for each emission unit.
 - (3) Emission statements shall be submitted in an electronic format determined by the Director.

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- 13 KEY: air pollution, reports, inventories
- Date of Enactment or Last Substantive Amendment: September 3, 2020
- 15 Notice of Continuation: November 13, 2018
- Authorizing, and Implemented or Interpreted Law: 19-2-104(1)(c)

State of Utah Administrative Rule Analysis

Revised May 2023

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION			
Title No Rule No.			
Rule Number: R307-405 Filing ID: Office Use Only			
Effective Date: Office Use Only			

Agency Information

	Agend	y information	
1. Department:	Environmental C	Environmental Quality	
Agency:	Air Quality		
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Please address	questions regarding infor	mation on this notice to the persons listed above.	

General Information

2. Rule catchline:

R307-405. Permits: Major Sources in Attainment or Unclassified Areas (PSD)

3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:

Section 19-2-108 states that, "Notice shall be given to the director by any person planning to construct a new installation which will or might reasonably be expected to be a source or indirect source of air pollution or to make modifications to an existing installation which will or might reasonably be expected to increase the amount of or change the character or effect of air contaminants discharged..." Rule R307-405 implements the federal Prevention of Significant Deterioration (PSD) permitting program for major sources and major modifications in attainment areas and maintenance areas as required by 40 CFR 51.166. Subsection 19-2-104(3)(q) states that the Air Quality Board may meet the requirements of federal laws. Rule R307-405 is also required by Section VIII, Prevention of Significant Deterioration of the State Implementation Plan. This plan is required under Clean Air Act (CAA), 42 U.S.C. 7410 and 40 CFR 51.166.

4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:

No written comments have been received on this rule since its previous 5 year review in 2018.

5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:

Rule R307-405 is required by Section 19-2-108. Rule R307-405 is also required by Section VIII, Prevention of Significant Deterioration of the State Implementation Plan, which is incorporated by reference under Rule R307-110. This plan is required under the CAA, 42 U.S.C. 7410 and 40 CFR 51.166. Without this plan, the Environmental Protection Agency would be required to impose a federal implementation plan.

Agency Authorization Information

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To the agency: Information requested on this form is required by Section 63G-3-305. Incomplete forms will be returned to the agency for completion, possibly delaying publication in the <i>Utah State Bulletin</i> .			
Agency head or designee and title: Bryce C. Bird, Director, Division of Air Quality Date: 09/27/2023			
Reminder: Text changes cannot be made with this type of rule filing. To change any text, please file an amendment or a nonsubstantive change.			

R307. Environmental Quality, Air Quality.

R307-405. Permits: Major Sources in Attainment or Unclassified Areas (PSD).

R307-405-1. Purpose.

This rule implements the federal Prevention of Significant Deterioration (PSD) permitting program for major sources and major modifications in attainment areas and maintenance areas as required by 40 CFR 51.166. This rule does not include the routine maintenance, repair and replacement provisions that were vacated by the DC Circuit Court of Appeals on March 17, 2006. This rule supplements, but does not replace, the permitting requirements of R307-401.

R307-405-2. Applicability.

- (1) The provisions of 40 CFR 52.21(a)(2) are hereby incorporated by reference.
- (2) Notwithstanding the exemptions in R307-401, any source that is subject to R307-405 is subject to the requirement to obtain an approval order in Sections R307-401-5 through 8.

R307-405-3. Definitions.

- (1) Except as provided in (2) and (9) below, the definitions contained in 40 CFR 52.21(b) are hereby incorporated by reference.
- (2)(a) In the definition of "baseline area" in 40 CFR 52.21(b)(15)(ii)(b) insert the words "or R307-405" after "Is subject to 40 CFR 52.21".
 - (b) "Reviewing Authority" means the director.
- (c)(i) The term "Administrator" shall be changed to "director" throughout R307-405, except as provided in (ii).
- (ii) The term "Administrator" shall be changed to "EPA Administrator" in the following incorporated sections:
 - (A) 40 CFR 52.21(b)(17),
 - (B) 40 CFR 52.21(b)(37)(i),
 - (C) 40 CFR 52.21(b)(43),
 - (D) 40 CFR 52.21(b)(48)(ii)(c),
 - (E) 40 CFR 52.21(b)(50)(i),
 - (F) 40 CFR 52.21(1)(2),
 - (G) 40 CFR 52.21(p)(2), and
 - (H) 40 CFR 51.166(q)(2)(iv).
- (d) The following definitions or portions of definitions that apply to the equipment repair and replacement provisions are not incorporated because these provisions were vacated by the DC Circuit Court of Appeals on March 17, 2006:
- (i) in the definition major modification in 40 CFR 52.21(b)(2), the second sentence in subparagraph (iii)(a),
 - (ii) the definition of "process unit" in 40 CFR 52.21(b)(55),
 - (iii) the definition of "functionally equivalent component" in 40 CFR 52.21(b)(56),
 - (iv) the definition of "fixed capital cost" in 40 CFR 52.21 (b)(57), and
 - (v) the definition of "total capital investment" in 40 CFR 52.21(b)(58).
- (e) In the definition of "Regulated NSR pollutant" in 40 CFR 52.21(b)(50), subparagraph (iv) shall be changed to read, "Any pollutant that otherwise is subject to regulation under the Act." A new subparagraph (v) shall be added that reads, "The term regulated NSR pollutant shall not include any or all hazardous air pollutants either listed in section 112 of the federal Clean Air Act, or added to the list pursuant to section 112(b)(2) of the federal Clean Air Act, and which have not been delisted pursuant to section 112(b)(3) of the federal Clean Air Act, unless the listed hazardous air pollutant is also regulated as a constituent or precursor of a general pollutant listed under section 108 of the federal Clean Air Act."

- (3) "Air Quality Related Values," as used in analyses under 40 CFR 52.21 (p) that is incorporated by reference in R307-405-17, means those special attributes of a Class I area, assigned by a federal land manager, that are adversely affected by air quality.
- (4) "Heat input" means heat input as defined in 40 CFR 52.01(g), that is hereby incorporated by reference.
- (5) "Title V permit" means any permit or group of permits covering a Part 70 source that is issued, renewed, amended, or revised pursuant to R307-415.
 - (6) "Title V Operating Permit Program" means R307-415.

- (7) The definition of "Good Engineering Practice (GEP) Stack Height" as defined in R307-410 shall apply in this rule.
- (8) The definition of "Dispersion Technique" as defined in R307-410 shall apply in this rule.
- (9) "Subject to regulation" means, for any air pollutant, that the pollutant is subject to either a provision in the federal Clean Air Act, or a nationally-applicable regulation codified by the Administrator in subchapter C of 40 CFR Chapter I, that requires actual control of the quantity of emissions of that pollutant, and that such a control requirement has taken effect and is operative to control, limit or restrict the quantity of emissions of that pollutant released from the regulated activity. Except that:
- (a) "Greenhouse gases (GHGs)," the air pollutant defined in 40 CFR 86.1818-12(a) (Federal Register, Vol. 75, Page 25686) as the aggregate group of six greenhouse gases: carbon dioxide, nitrous oxide, methane, hydrofluorocarbons, perfluorocarbons, and sulfur hexafluoride, shall not be subject to regulation except as provided in paragraph (d) of this section.
- (b) For purposes of paragraphs (c) through (d) of this section, the term "tons per year (tpy) CO2 equivalent emissions (CO2e)" shall represent an amount of GHGs emitted, and shall be computed as follows:
- (i) Multiplying the mass amount of emissions (tpy), for each of the six greenhouse gases in the pollutant GHGs, by the gas's associated global warming potential published at Table A-1 to subpart A of 40 CFR Part 98 Global Warming Potentials, that is hereby incorporated by reference (Federal Register, Vol. 74, Pages 56395-96).
- (ii) Sum the resultant value from paragraph (b)(i) of this section for each gas to compute a tpy CO2e.
- (c) The term "emissions increase" as used in paragraph (d) of this section shall mean that both a significant emissions increase (as calculated using the procedures in 40 CFR 52.21 (a)(2)(iv) that is incorporated by reference in R307-405-2) and a significant net emissions increase (as defined in paragraphs 40 CFR 52.21(b)(3) and (b)(23) that is incorporated by reference in R307-405-3) occur. For the pollutant GHGs, an emissions increase shall be based on tpy CO2e, and shall be calculated assuming the pollutant GHGs is a regulated NSR pollutant, and "significant" is defined as 75,000 tpy CO2e instead of applying the value in paragraph 40 CFR 52.21(b)(23)(ii).
 - (d) Beginning January 2, 2011, the pollutant GHGs is subject to regulation if:
- (i) The stationary source is a new major stationary source for a regulated NSR pollutant that is not GHGs, and also will emit or will have the potential to emit 75,000 tpy CO2e or more; or
- (ii) The stationary source is an existing major stationary source for a regulated NSR pollutant that is not GHGs, and also will have an emissions increase of a regulated NSR pollutant, and an emissions increase of 75,000 tpy CO2e or more.

R307-405-4. Area Designations.

- (1) Pursuant to section 162(a) of the federal Clean Air Act, the following areas are designated as mandatory Class I areas:
 - (a) Arches National Park,

- (b) Bryce Canyon National Park,
- (c) Canyonlands National Park,
- (d) Capitol Reef National Park, and
- (e) Zion National Park.
- (2) Pursuant to section 162(b) of the federal Clean Air Act, all other areas in Utah are designated as Class II unless designated as nonattainment areas.
 - (3) No areas in Utah are designated as Class III.

R307-405-5. Area Redesignation.

Any person may petition the Board to change the classification of an area designated under R307-405-4, except for mandatory Class I areas designated under R307-405-4(1).

- (1) The petition shall contain a discussion of the reasons for the proposed redesignation, including a satisfactory description and analysis of the health, environmental, economic and social and energy effects of the proposed redesignation.
- (2) The petition shall contain a demonstration that the proposed redesignation meets the criteria outlined in Section VIII of the State Implementation Plan and 40 CFR 51.166(e) and (g), that is hereby incorporated by reference.

R307-405-6. Ambient Air Increments.

The provisions of 40 CFR 52.21(c) are hereby incorporated by reference.

R307-405-7. Ambient Air Ceilings.

The provisions of 40 CFR 52.21(d) are hereby incorporated by reference.

R307-405-8. Exclusions from Increment Consumption.

- (1) The following concentrations shall be excluded in determining compliance with a maximum allowable increase:
- (a) concentrations attributable to the increase in emissions from stationary sources which have converted from the use of petroleum products, natural gas, or both by reason of an order in effect under section 2(a) and (b) of the Energy Supply and Environmental Coordination Act of 1974 (or any superseding legislation) over the emissions from such sources before the effective date of such an order;
- (b) concentrations attributable to the increase in emissions from sources which have converted from using natural gas by reason of a natural gas curtailment plan in effect pursuant to the Federal Power Act over the emissions from such sources before the effective date of such plan;
- (c) concentrations of particulate matter attributable to the increase in emissions from construction or other temporary emission-related activities of new or modified sources;
- (d) the increase in concentrations attributable to new sources outside the United States over the concentrations attributable to existing sources which are included in the baseline concentration; and
- (e) concentrations attributable to the temporary increase in emissions of sulfur dioxide, particulate matter, or nitrogen dioxides from stationary sources which are affected by plan revisions approved by the EPA Administrator as meeting the criteria specified in 40 CFR 51.166(f)(4). The temporary increase shall not exceed 2 years in duration unless a longer time is approved by the EPA Administrator. This exclusion is not renewable.
- (2) No exclusion of concentration under (1)(a) or (b) above shall apply more than five years after the effective date of the order to which paragraph (1)(a) refers or the plan to which paragraph (1)(b) refers, whichever is applicable. If both such order and plan are applicable, no such exclusion shall apply more than five years after the later of such effective dates.

(3) No exclusion under (1)(e) shall apply to an emission increase from a stationary source 1 2 which would: 3 (a) impact a Class I area or an area where an applicable increment is known to be violated; 4 or (b) cause or contribute to a violation of the national ambient air quality standards. 5 6 7 R307-405-9. Stack Heights. The provisions of 40 CFR 52.21(h) are hereby incorporated by reference. 8 9

R307-405-10. Exemptions.

- (1) The provisions of 40 CFR 52.21(i)(1)(vi) through (viii) are hereby incorporated by reference.
 - (2) The provisions of 40 CFR 52.21(i)(2) through (5) are hereby incorporated by reference.

R307-405-11. Control Technology Review.

The provisions of 40 CFR 52.21(j) are hereby incorporated by reference.

R307-405-12. Source Impact Analysis.

The provisions of 40 CFR 52.21(k) are hereby incorporated by reference.

R307-405-13. Air Quality Models.

The provisions of 40 CFR 52.21(l) are hereby incorporated by reference.

R307-405-14. Air Quality Analysis.

- (1) The provisions of 40 CFR 52.21(m)(1)(i) through (iv), (vi), and (viii) are hereby incorporated by reference.
 - (2) The provisions of 40 CFR 52.21(m)(2) and (3) are hereby incorporated by reference.

R307-405-15. Source Information.

The provisions of 40 CFR 52.21(n) are hereby incorporated by reference.

R307-405-16. Additional Impact Analysis.

The provisions of 40 CFR 52.21(o) are hereby incorporated by reference.

R307-405-17. Sources Impacting Federal Class I Areas: Additional Requirements.

- (1) The provisions of 40 CFR 52.21(p) are hereby incorporated by reference.
- (2) The director will transmit to the EPA Administrator a copy of each permit application relating to a major stationary source or major modification and provide notice to the EPA Administrator of every action related to the consideration of such permit.

R307-405-18. Public Participation.

- (1) Except as provided in (2), the provisions of 40 CFR 51.166(q)(1) and (2) are hereby incorporated by reference.
- (2) The phrase "within a specified time period" in 40 CFR 51.166(q)(1) shall be replaced with the phrase "within 30 days of receipt of the PSD permit application".

R307-405-19. Source Obligation.

The provisions of 40 CFR 52.21(r) are hereby incorporated by reference.

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R307-405-20. Innovative Control Technology.

- (1) Except as provided in (2), the provisions of 40 CFR 52.21(v) are hereby incorporated by reference.
- (2)(a) The reference to "40 CFR 124.10" in 40 CFR 52.21(v)(1) shall be changed to "R307-405-18".
- (b) 40 CFR 52.21(v)(2) shall be changed to read "The director shall, with the consent of the governors of other affected states, determine that the source or modification may employ a system of innovative control technology, if:".

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R307-405-21. Actuals PALs.

- (1) Except as provided in (2), the provisions of 40 CFR 52.21(aa) are hereby incorporated by reference.
- (2) (a) The reference to "51.165(a)(3)(ii) of this chapter" in 40 CFR 52.21(aa)(4)(ii) shall be changed to "R307-403".
- (b) The reference to "51.165(a)(3)(ii) of this chapter" in 40 CFR 52.21(aa)(8)(ii)(2) shall be changed to "R307-403".
- (c) The references to "70.6(a)(3)(iii)(B) of this chapter" in 40 CFR 52.21(aa)(14)(ii) shall be changed to "R307-415-6a(3)(c)(ii)".
- (d) The date of "March 3, 2003" in 40 CFR 52.21(aa)(15)(i) and (ii) shall be changed to "June 16, 2006".

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R307-405-22. Banking of Emission Offset Credit in PSD Areas.

Banking of emission offset credits in PSD areas will be permitted. To preserve banked emission reductions the director must identify them in either the Utah SIP or an order. The director will provide a registry to identify the person, private entity, or government authority that has the right to use or allocate the banked emission reduction and to record any transfer of or lien on these rights.

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- **KEY:** air pollution, PSD, Class I area, greenhouse gases
- 30 Date of Enactment or Last Substantive Amendment: June 4, 2020
- 31 Notice of Continuation: November 13, 2018
- 32 Authorizing, and Implemented or Interpreted Law: 19-2-104

State of Utah Administrative Rule Analysis

Revised May 2023

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION			
Title No Rule No.			
Rule Number: R307-840 Filing ID: Office Use Only			
Effective Date: Office Use Only			

Agency Information

	Agene	y information	
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Leonard Wright	801-707-8032	leonardwright@utah.gov	
Please address o	uestions regarding infor	mation on this notice to the persons listed above.	

General Information

2. Rule catchline:

R307-840. Lead-Based Paint Program Purpose, Applicability, and Definitions

3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:

Rule R307-840 is one of three Air Quality rules that implements Subsection 19-2-104(1)(i) which authorizes the Air Quality Board to make rules to "implement the lead-based paint requirements for training, certification, and performance of 15 U.S.C. 2601 et seq., Toxic Substances Control Act, Subchapter IV--Lead Exposure Reduction, Sections 402 and 404."

4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:

No written comments have been received on this rule since its previous 5 year review in 2018.

5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:

Without Rule R307-840, Utah would not have authority to implement the federal requirements; implementation would be carried out by the Environmental Protection Agency. Therefore, this rule should be continued.

Agency Authorization Information

Agency Authorization information			
To the agency: Information requested on this form is required by Section 63G-3-305. Incomplete forms will be returned to the agency for completion, possibly delaying publication in the <i>Utah State Bulletin</i> .			
Agency head or designee and title:	Bryce C. Bird, Director, Division of Air Quality	Date:	09/27/2023
Reminder: Text changes cannot be made with this type of rule filing. To change any text, please file an amendment or a nonsubstantive change.			

R307. Environmental Quality, Air Quality.

R307-840. Lead-Based Paint Program Purpose, Applicability, and Definitions.

R307-840-1. Purpose and Applicability.

- (1) Rule R307-840, R307-841, and R307-842 establish procedures and requirements for the accreditation of training programs for lead-based paint activities and renovations, procedures and requirements for the certification of individuals and firms engaged in lead-based paint activities and renovations, and work practice standards for performing such activities. These rules also require that, except as outlined in R307-840-1(2), all lead-based paint activities and renovations, as defined in these rules, must be performed by certified individuals and firms.
- (2) R307-840, R307-841, and R307-842 apply to all individuals and firms who are engaged in lead-based paint activities and renovations as defined in R307-840-2, except persons who perform these activities within residential dwellings that they own, unless the residential dwelling is occupied by a person or persons other than the owner or the owner's immediate family while these activities are being performed, or a child residing in the building has been identified as having an elevated blood lead level.
- (3) R307-840, R307-841, and R307-842 identify lead-based paint hazards. The standards for lead-based paint hazards apply to target housing and child-occupied facilities.
- (4) R307-840, R307-841, and R307-842 do not require the owner of the property or properties subject to these rules to evaluate the property or properties for the presence of lead-based paint hazards or take any action to control these conditions if one or more of them is identified.
- (5) While R307-840, R307-841, and R307-842 establish specific requirements for performing lead-based paint activities and renovations should they be undertaken, these rules do not require that the owner or occupant undertake any particular lead-based paint activity or renovation.
- (6) Individuals or firms wishing to deviate from the certification, notification, work practice, or other requirements of R307-840, R307-841, and/or R307-842 may do so only after requesting and obtaining written approval from the director.

R307-840-2. Definitions.

The following definitions apply to R307-840, R307-841, and R307-842, in addition to the definitions found in R307-101-2.

"Abatement" means any measure or set of measures designed to permanently eliminate leadbased paint hazards. Abatement includes, but is not limited to:

- (1) The removal of paint and dust, the permanent enclosure or encapsulation of lead-based paint, the replacement of painted surfaces or fixtures, or the removal or permanent covering of soil, when lead-based paint hazards are present in such paint, dust, or soil; and
- (2) All preparation, cleanup, disposal, and post-abatement clearance testing activities associated with such measures.
 - (3) Specifically, abatement includes, but is not limited to:
- (a) Projects for which there is a written contract or other documentation, which provides that an individual or firm will be conducting activities in or to a residential dwelling or child-occupied facility that:
 - (i) Shall result in the permanent elimination of lead-based paint hazards; or
- (ii) Are designed to permanently eliminate lead-based paint hazards and are described in paragraphs (1) and (2) of this definition.
- (b) Projects resulting in the permanent elimination of lead-based paint hazards, conducted by firms or individuals certified in accordance with R307-842-2, unless such projects are covered by paragraph (4) of this definition;
- (c) Projects resulting in the permanent elimination of lead-based paint hazards, conducted by firms or individuals who, through their company name or promotional literature, represent,

advertise, or hold themselves out to be in the business of performing lead-based paint activities as identified and defined by this section, unless such projects are covered by paragraph (4) of this definition; or

(d) Projects resulting in the permanent elimination of lead-based paint hazards that are conducted in response to State of Utah or local abatement orders.

(4) Abatement does not include renovation, remodeling, landscaping or other activities, when such activities are not designed to permanently eliminate lead-based paint hazards, but, instead, are designed to repair, restore, or remodel a given structure or dwelling, even though these activities may incidentally result in a reduction or elimination of lead-based paint hazards. Furthermore, abatement does not include interim controls, operations and maintenance activities, or other measures and activities designed to temporarily, but not permanently, reduce lead-based paint hazards.

"Accredited Training Program" means a training program that has been accredited by the director pursuant to R307-842-1 to provide training for individuals engaged in lead-based paint activities.

"Adequate Quality Control" means a plan or design which ensures the authenticity, integrity, and accuracy of samples, including dust, soil, and paint chip or paint film samples. Adequate quality control also includes provisions for representative sampling.

"Arithmetic Mean" means the algebraic sum of data values divided by the number of data values (e.g., the sum of the concentration of lead in several soil samples divided by the number of samples).

"Business Day" means Monday through Friday with the exception of federal and State of Utah holidays.

"Certificate of Mailing" means Certificate of Mailing as defined by the United States Postal Service.

"Certified Abatement Worker" means an individual who has been trained by an accredited training program and certified by the director pursuant to R307-842-2 to perform abatements.

"Certified Dust Sampling Technician" means an individual who has been trained by an accredited training program and certified by the director pursuant to R307-841-8(1) and R307-842-2 to collect dust samples.

"Certified Firm" means a company, partnership, corporation, sole proprietorship or individual doing business, association, or other business entity; a federal, state, tribal, or local government agency; or a nonprofit organization that performs lead-based paint activities, renovations, or dust sampling to which the director has issued a certificate of approval pursuant to R307-842-2(5).

"Certified Inspector" means an individual who has been trained by an accredited training program and certified by the director pursuant to R307-842-2 to conduct inspections. A certified inspector also samples for the presence of lead in dust and soil for the purposes of abatement clearance testing.

"Certified Project Designer" means an individual who has been trained by an accredited training program and certified by the director pursuant to R307-842-2 to prepare abatement project designs, occupant protection plans, and abatement reports.

"Certified Renovator" means an individual who has been trained by an accredited training program and certified by the director pursuant to R307-841-8(1) and R307-842-2 to conduct renovations.

"Certified Risk Assessor" means an individual who has been trained by an accredited training program and certified by the director pursuant to R307-842-2 to conduct risk assessments. A risk assessor also samples for the presence of lead in dust and soil for the purposes of abatement clearance testing.

"Certified Supervisor" means an individual who has been trained by an accredited training program and certified by the director pursuant to R307-842-2 to supervise and conduct abatements, and to prepare occupant protection plans and abatement reports.

"Chewable Surface" means an interior or exterior surface painted with lead-based paint that a young child can mouth or chew. A chewable surface is the same as an "accessible surface" as defined in 42 U.S.C. 4851b(2). Hard metal substrates and other materials that can not be dented by the bite of a young child are not considered chewable.

"Child-Occupied Facility" means a building, or portion of a building, constructed prior to 1978, visited regularly by the same child, under 6 years of age, on at least two different days within any week (Sunday through Saturday period), provided that each day's visit lasts at least 3 hours and the combined weekly visits last at least 6 hours, and the combined annual visits last at least 60 hours. Child-occupied facilities may include, but are not limited to, day care centers, preschools and kindergarten classrooms. Child-occupied facilities may be located in target housing or in public or commercial buildings. With respect to common areas in public or commercial buildings that contain child-occupied facilities, the child-occupied facility encompasses only those common areas that are routinely used by children under age 6, such as restrooms and cafeterias. Common areas that children under age 6 only pass through, such as hallways, stairways, and garages are not included. In addition, with respect to exteriors of public or commercial buildings that contain child-occupied facilities, the child-occupied facility encompasses only the exterior sides of the building that are immediately adjacent to the child-occupied facility or the common areas routinely used by children under age 6.

"Cleaning Verification Card" means a card developed and distributed, or otherwise approved, by EPA for the purpose of determining, through comparison of wet and dry disposable cleaning cloths with the card, whether post-renovation cleaning has been properly completed.

"Clearance Levels" are values that indicate the amount of lead in dust on a surface following completion of an abatement activity. To achieve clearance when dust sampling is required, values below these levels must be achieved.

"Common Area" means a portion of a building that is generally accessible to all occupants. Such an area may include, but is not limited to, hallways, stairways, laundry and recreational rooms, playgrounds, community centers, garages, and boundary fences.

"Common Area Group" means a group of common areas that are similar in design, construction, and function. Common area groups include, but are not limited to hallways, stairways, and laundry rooms.

"Component or Building Component" means specific design or structural elements or fixtures of a building or residential dwelling that are distinguished from each other by form, function, and location. These include, but are not limited to, interior components such as ceilings, crown molding, walls, chair rails, doors, door trim, floors, fireplaces, radiators and other heating units, shelves, shelf supports, stair treads, stair risers, stair stringers, newel posts, railing caps, balustrades, windows and trim (including sashes, window heads, jambs, sills or stools and troughs), built in cabinets, columns, beams, bathroom vanities, counter tops, and air conditioners, and exterior components such as painted roofing, chimneys, flashing, gutters and downspouts, ceilings, soffits, fascias, rake boards, cornerboards, bulkheads, doors and door trim, fences, floors, joists, lattice work, railings and railing caps, siding, handrails, stair risers and treads, stair stringers, columns, balustrades, window sills or stools and troughs, casings, sashes and wells, and air conditioners.

"Concentration" means the relative content of a specific substance contained within a larger mass, such as the amount of lead (in micrograms per gram or parts per million by weight) in a sample of dust or soil.

"Containment" means a process to protect workers and the environment by controlling exposures to the lead-contaminated dust and debris created during an abatement.

"Course Agenda" means an outline of the key topics to be covered during a training course, including the time allotted to teach each topic.

"Course Test" means an evaluation of the overall effectiveness of the training which shall test the trainees' knowledge and retention of the topics covered during the course.

"Course Test Blue Print" means written documentation identifying the proportion of course test questions devoted to each major topic in the course curriculum.

"Deteriorated Paint" means any interior or exterior paint or other coating that is flaking, peeling, chipping, chalking, or cracking, or any other paint or coating located on an interior or exterior surface or fixture that is otherwise damaged or separated from the substrate.

"Discipline" means one of the specific types or categories of lead-based paint activities identified in this rule for which individuals may receive training from accredited programs and become certified by the director. Disciplines include Abatement Worker, Dust Sampling Technician, Inspector, Project Designer, Renovator, Risk Assessor, and Supervisor.

"Distinct Painting History" means the application history, as indicated by its visual appearance or a record of application, over time, of paint or other surface coatings to a component or room.

"Documented Methodologies" are methods or protocols used to sample for the presence of lead in paint, dust, and soil.

"Dripline" means the area within 3 feet surrounding the perimeter of the building.

"Dry Disposable Cleaning Cloth" means a commercially available dry, electrostatically charged, white disposable cloth designed to be used for cleaning hard surfaces such as uncarpeted floors or counter tops.

"Dust-lead hazard" means surface dust in a residential dwelling or child-occupied facility that contains a mass-per-area concentration of lead equal to or exceeding 10 ug/ft^2 on floors or 100 ug/ft^2 on interior window sills based on wipe samples.

"Elevated Blood Lead Level (EBL)" means an excessive absorption of lead that is a confirmed concentration of lead in whole blood of ≥5 micrograms of lead per deciliter of whole blood (ug/dl) for a single venous blood test or two capillary blood tests drawn within 12 weeks of each other.

"Emergency Renovation Operations" means renovation activities, such as operations necessitated by non-routine failures of equipment, that were not planned but result from a sudden, unexpected event that, if not immediately attended to, presents a safety or public health hazard, or threatens equipment and/or property with significant damage.

"Encapsulant" means a substance that forms a barrier between lead-based paint and the environment using a liquid-applied coating (with or without reinforcement materials) or an adhesively bonded covering material.

"Encapsulation" means the application of an encapsulant.

"Enclosure" means the use of rigid, durable construction materials that are mechanically fastened to the substrate in order to act as a barrier between lead-based paint and the environment.

"EPA" means the United States Environmental Protection Agency.

"Friction Surface" means an interior or exterior surface that is subject to abrasion or friction, including, but not limited to, certain window, floor, and stair surfaces.

"Guest Instructor" means an individual designated by the training program manager or principal instructor to provide instruction specific to the lecture, hands-on activities, or work practice components of a course.

"Hands-On Skills Assessment" means an evaluation which tests the trainees' ability to satisfactorily perform the work practices and procedures identified in R307-842-1(4), as well as any other skill taught in a training course.

"Hazardous Waste" means any waste as defined in 40 CFR 261.3.

"HEPA Vacuum" means a vacuum cleaner which has been designed with a high-efficiency particulate air (HEPA) filter as the last filtration stage. A HEPA filter is a filter that is capable of capturing particulates of 0.3 microns with 99.97% efficiency. The vacuum cleaner must be designed so that all the air drawn into the machine is expelled through the HEPA filter with none of the air leaking past it. HEPA vacuums must be operated and maintained in accordance with the manufacturer's instructions.

 "Housing for the Elderly" means retirement communities or similar types of housing reserved for households composed of one or more persons 62 years of age or more at the time of initial occupancy.

"HUD" means the United States Department of Housing and Urban Development.

"Impact Surface" means an interior or exterior surface that is subject to damage by repeated sudden force such as certain parts of door frames.

"Inspection" means a surface-by-surface investigation to determine the presence of leadbased paint and the provision of a report explaining the results of the investigation.

"Interim Certification" means the status of an individual who has successfully completed the appropriate training course in a discipline from an accredited training program, as defined by this section, but has not yet received formal certification in that discipline from the director pursuant to R307-842-2. Interim certification expires 6 months after the completion of the training course, and is equivalent to a certificate for the 6-month period.

"Interim Controls" means a set of measures designed to temporarily reduce human exposure or likely exposure to lead-based paint hazards, including specialized cleaning, repairs, maintenance, painting, temporary containment, ongoing monitoring of lead-based paint hazards or potential hazards, and the establishment and operation of management and resident education programs.

"Interior Window Sill" means the portion of the horizontal window ledge that protrudes into the interior of the room.

"Lead-Based Paint" means paint or other surface coatings that contain lead equal to or in excess of 1.0 milligrams per square centimeter or more than 0.5% by weight.

"Lead-Based Paint Activities" means, in the case of target housing and child-occupied facilities, inspection, risk assessment, and abatement.

"Lead-Based Paint Activities Courses" means initial and refresher training courses (worker, supervisor, inspector, risk assessor, project designer) provided by accredited training programs.

"Lead-Based Paint Hazard" means, for the purposes of lead-based paint activities, any condition that causes exposure to lead from lead-contaminated dust, lead-contaminated soil, or lead-contaminated paint that is deteriorated or present in accessible surfaces, friction surfaces, or impact surfaces that would result in adverse human health effects as identified by the Administrator of the EPA pursuant to TSCA Section 403, and for the purposes of renovation, means hazardous lead-based paint, dust-lead hazard, or soil-lead hazard as identified in R307-840-2.

"Lead-Hazard Screen" means a limited risk assessment activity that involves limited paint and dust sampling as described in R307-842-3(3).

"Living Area" means any area of a residential dwelling used by one or more children age 6 and under, including, but not limited to, living rooms, kitchen areas, dens, play rooms, and children's bedrooms.

"Loading" means the quantity of a specific substance present per unit of surface area, such as the amount of lead in micrograms contained in the dust collected from a certain surface area divided by the surface area in square feet or square meters.

"Local Government" means a county, city, town, borough, parish, district, association, or other public body (including an agency comprised of two or more of the foregoing entities) created under state law.

"Mid-Yard" means an area of a residential yard approximately midway between the dripline of a residential building and the nearest property boundary or between the driplines of a residential building and another building on the same property.

"Minor Repair and Maintenance Activities" are activities, including minor heating, ventilation, or air conditioning work, electrical work, and plumbing, that disrupt 6 square feet or less of painted surface per room for interior activities or 20 square feet or less of painted surface for exterior activities where none of the work practices prohibited or restricted by R307-841-5(1)(c) are used and where the work does not involve window replacement or demolition of painted surface areas. When removing painted components, or portions of painted components, the entire surface area removed is the amount of painted surface disturbed. Jobs, other than emergency renovations, performed in the same room within the same 30 days must be considered the same job for the purpose of determining whether the job is a minor repair and maintenance activity.

"Multi-Family Dwelling" means a structure that contains more than one separate residential dwelling unit which is used or occupied, or intended to be used or occupied, in whole or in part, as the home or residence of one or more persons.

"Multi-Family Housing" means a housing property consisting of more than four dwelling units.

"Nonprofit" means an entity which has demonstrated to any branch of the federal government or to a state, municipal, tribal or territorial government, that no part of its net earnings inure to the benefit of any private shareholder or individual.

"Owner" means any entity that has legal title to target housing, including but not limited to individuals, partnerships, corporations, trusts, government agencies, housing agencies, Indian tribes, and nonprofit organizations, except where a mortgagee holds legal title to property serving as collateral for a mortgage loan, in which case the owner would be the mortgagor.

"Paint In Poor Condition" means more than 10 square feet of deteriorated paint on exterior components with large surface areas, or more than 2 square feet of deteriorated paint on interior components with large surface areas (e.g., walls, ceilings, floors, doors), or more than 10% of the total surface area of the component is deteriorated on interior or exterior components with small surface areas (window sills, baseboards, soffits, trim).

"Paint-lead hazard" means any of the following:

- (a) Any lead-based paint on a friction surface that is subject to abrasion and where the lead dust levels on the nearest horizontal surface underneath the friction surface (e.g., the window sill or floor) are equal to or greater than the dust-lead hazard levels identified in the definition of "Dust-lead hazard".
- (b) Any damaged or otherwise deteriorated lead-based paint on an impact surface that is caused by impact from a related building component (such as a door knob that knocks into a wall or a door that knocks against its door frame).
 - (c) Any chewable lead-based painted surface on which there is evidence of teeth marks.
- (d) Any other deteriorated lead-based paint in any residential building or child-occupied facility or on the exterior of any residential building or child-occupied facility.

"Painted surface" means a component surface covered in whole or in part with paint or other surface coatings.

"Pamphlet" means the EPA pamphlet titled "Renovate Right: Important Lead Hazard Information for Families, Child Care Providers and Schools" developed under Section 406(a) of TSCA for use in complying with section 406(b) of TSCA. This includes reproductions of the pamphlet when copied in full and without revision or deletion of material from the pamphlet (except for the addition or revision of state or local sources of information).

"Permanently Covered Soil" means soil which has been separated from human contact by the placement of a barrier consisting of solid, relatively impermeable materials, such as pavement or concrete. Grass, mulch, and other landscaping materials are not considered permanent covering.

"Person" means any natural or judicial person including any individual, corporation, partnership, or association, any Indian tribe, state, or political subdivision thereof, any interstate body, and any department, agency, or instrumentality of the federal government.

 "Play Area" means an area of frequent soil contact by children of less than 6 years of age as indicated by, but not limited to, such factors including the presence of play equipment (e.g., sandboxes, swing sets, and sliding boards), toys, or other children's possessions, observations of play patterns, or information provided by parents, residents, care givers, or property owners.

"Principal Instructor" means the individual who has the primary responsibility for organizing and teaching a particular course.

"Recognized Laboratory" means an environmental laboratory recognized by EPA pursuant to TSCA Section 405(b) as being capable of performing an analysis for lead compounds in paint, soil, and dust.

"Recognized Test Kit" means a commercially available kit recognized by EPA under 40 CFR 745.88 as being capable of allowing a user to determine the presence of lead at levels equal to or in excess of 1.0 milligrams per square centimeter, or more than 0.5% lead by weight, in a paint chip, paint powder, or painted surface.

"Reduction" means measures designed to reduce or eliminate human exposure to lead-based paint hazards through methods including interim controls and abatement.

"Renovation" means the modification of an existing structure, or portion thereof, that results in the disturbance of painted surfaces, unless that activity is performed as part of an abatement as defined by R307-840-2. The term renovation includes, but is not limited to, the removal, modification, or repair of painted surfaces or painted components (e.g., modification of painted doors, surface restoration, window repair, surface preparation activity (such as sanding, scraping, or other such activities that may generate paint dust)), the removal of building components (e.g., walls, ceilings, plumbing, windows), weatherization projects (e.g., cutting holes in painted surfaces to install blown-in insulation or to gain access to attics, planing thresholds to install weather-stripping), and interim controls that disturb painted surfaces. A renovation performed for the purpose of converting a building, or part of a building, into target housing or a child-occupied facility is a renovation under this rule. The term renovation does not include minor repair and maintenance activities.

"Renovator" means an individual who either performs or directs workers who perform renovations.

"Residential Building" means a building containing one or more residential dwellings.

"Residential Dwelling" means (1) a detached single family dwelling unit, including attached structures such as porches and stoops; or (2) a single family dwelling unit in a structure that contains more than one separate residential dwelling unit, which is used or occupied, or intended to be used or occupied, in whole or in part, as the home or residence of one or more persons.

"Risk Assessment" means (1) an on-site investigation to determine the existence, nature, severity, and location of lead-based paint hazards, and (2) the provision of a report by the individual or firm conducting the risk assessment, explaining the results of the investigation and options for reducing lead-based paint hazards.

"Room" means a separate part of the inside of a building, such as a bedroom, living room, dining room, kitchen, bathroom, laundry room, or utility room. To be considered a separate room, the room must be separated from adjoining rooms by built-in walls or archways that extend at least 6 inches from an intersecting wall. Half walls or bookcases count as room separators if built-in.

Movable or collapsible partitions or partitions consisting solely of shelves or cabinets are not considered built-in walls. A screened in porch that is used as a living area is a room.

"Soil Sample" means a sample collected in a representative location using ASTM E1727, "Standard Practice for Field Collection of Soil Samples for Lead Determination by Atomic Spectrometry Techniques," or equivalent method.

"Soil-lead hazard" means bare soil on residential real property or on the property of a child-occupied facility that contains total lead equal to or exceeding 400 parts per million (ug/g) in a play area or average 1,200 parts per million of bare soil in the rest of the yard based on soil samples.

"Start Date" means the first day of any lead-based paint activities training course or lead-based paint abatement activity.

"Start Date Provided to the director" means the start date included in the original notification or the most recent start date provided to the director in an updated notification.

"State" means any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, the Canal Zone, American Samoa, the Northern Mariana Islands, or any other territory or possession of the United States.

"Target housing" means any housing constructed prior to 1978, except housing for the elderly or persons with disabilities (unless any one or more children age 6 years or under resides or is expected to reside in such housing for the elderly or persons with disabilities) or any 0-bedroom dwelling.

"Training curriculum" means an established set of course topics for instruction in an accredited training program for a particular discipline designed to provide specialized knowledge and skills.

"Training Hour" means at least 50 minutes of actual learning, including, but not limited to, time devoted to lecture, learning activities, small group activities, demonstrations, evaluations, and hands-on experience.

"TSCA" means the Toxic Substances Control Act, 15 U.S.C. 2601.

"Training Manager" means the individual responsible for administering a training program and monitoring the performance of principal instructors and guest instructors.

"Training Provider" means any organization or entity accredited under R307-842-1 to offer lead-based paint activities, renovator, or dust sampling technician courses.

"Vertical containment" means a vertical barrier consisting of plastic sheeting or other impermeable material over scaffolding or a rigid frame, or an equivalent system of containing the work area. Vertical containment is required for some exterior renovations but it may be used on any renovation.

"Visual Inspection for Clearance Testing" means the visual examination of a residential dwelling or a child-occupied facility following abatement to determine whether or not the abatement has been successfully completed.

"Visual Inspection for Risk Assessment" means the visual examination of a residential dwelling or a child-occupied facility to determine the existence of deteriorated lead-based paint or other potential sources of lead-based paint hazards.

"Weighted Arithmetic Mean" means the arithmetic mean of sample results weighted by the number of subsamples in each sample. Its purpose is to give influence to a sample relative to the surface area it represents. A single surface sample is comprised of a single subsample. A composite sample may contain from two to four subsamples of the same area as each other and of each single surface sample in the composite. The weighted arithmetic mean is obtained by summing, for all samples, the product of the sample's result multiplied by the number of subsamples in the sample, and dividing the sum by the total number of subsamples contained in all samples. For example, the weighted arithmetic mean of a single surface sample containing 60 ug/ft², a composite sample (3 subsamples) containing 100 ug/ft², and a composite sample (4 subsamples)

containing 110 ug/ft² is 100 ug/ft². This result is based on the equation (60+(3*100)+(4*110))/(1+3+4).

"Wet Disposable Cleaning Cloth" means a commercially available, pre-moistened white disposable cloth designed to be used for cleaning hard surfaces such as uncarpeted floors or counter tops.

"Wet Mopping System" means a device with the following characteristics: A long handle, a mop head designed to be used with disposable absorbent cleaning pads, a reservoir for cleaning solution, and a built-in mechanism for distributing or spraying the cleaning solution onto a floor, or a method of equivalent efficacy.

"Window Trough" means, for a typical double-hung window, the portion of the exterior window sill between the interior window sill (or stool) and the frame of the storm window. If there is no storm window, the window trough is the area that receives both the upper and lower window sashes when they are both lowered. The window trough is sometimes referred to as the window "well."

"Wipe Sample" means a sample collected by wiping a representative surface of known area, as determined by ASTM E1728, "Standard Practice for Field Collection of Settled Dust Samples Using Wipe Sampling Methods for Lead Determination by Atomic Spectrometry Techniques", or equivalent method, with an acceptable wipe material as defined in ASTM E1792, "Standard Specification for Wipe Sampling Materials for Lead in Surface Dust."

"Work Area" means the area that the certified renovator establishes to contain the dust and debris generated by a renovation.

"0-Bedroom Dwelling" means any residential dwelling in which the living area is not separated from the sleeping area. The term includes efficiencies, studio apartments, dormitory housing, military barracks, and rentals of individual rooms in residential dwellings.

- KEY: definitions, paint, lead-based paint
- 27 Date of Last Change: September 1, 2021
- Notice of Continuation: November 13, 2018
- 29 Authorizing, and Implemented or Interpreted Law: 19-2-104(1)(i)

ITEM 5



Department of Environmental Quality

Kimberly D. Shelley Executive Director

DIVISION OF AIR QUALITY Bryce C. Bird Director

DAQ-080-23

MEMORANDUM

TO: Air Quality Board

THROUGH: Bryce C. Bird, Executive Secretary

THROUGH: Erica Pryor, Rules Coordinator

FROM: David Beatty, Operating Permits Section Manager

DATE: October 12, 2023

SUBJECT: PROPOSE FOR PUBLIC COMMENT: Amendment to R307-415. Permits: Operating

Permit Requirements.

The Environmental Protection Agency modified 40 CFR 70, published in the Federal Register / Vol. 88, No. 139 / Friday, July 21, 2023 / Rules and Regulations, with a rule effective date of August 21, 2023. The rule change removed Section 40 CFR 70.6(g). Emergency provision.

Subsection R307-415-6(g) was established under 40 CFR 70, and therefore to continue to be in alignment with the federal rule, the Division of Air Quality (DAQ) is proposing to remove Subsection R307-415-6(g) from Rule R307-415.

Additionally, these provisions are included in Section I of each issued Title V permit; however, the amended rule allows for the individual permits to be changed over time as each permit is modified or renewed. After this rule amendment becomes effective, the DAQ will remove Subsection 6(g) from each issued Title V permit going forward.

<u>Recommendation</u>: Staff recommends that the Board approve the proposed amendment to R307-415 for public comment.

State of Utah Administrative Rule Analysis

Revised May 2023

	NOTICE OF PROPOSED RU	ILE
TYPE OF FILING: Amendment		
	Title No Rule No Section	No.
Dula an Ocation Nonelean	D007 445	Filian ID. Office Hee Only
Rule or Section Number:	R307-415	Filing ID: Office Use Only

Agency Information

	Age	nicy information		
1. Department:	Environmental Quality			
Agency:	Air Quality	Air Quality		
Room number:				
Building:	MASOB	MASOB		
Street address:	195 N 1950 W	195 N 1950 W		
City, state and zip:	Salt Lake City, l	Salt Lake City, UT 84116		
Mailing address:	PO BOX 144820			
City, state and zip:	Salt Lake City, UT 84114-4820			
Contact persons:				
Name:	Phone:	Email:		
David Beatty	385-306-6532	dbeatty@utah.gov		
Erica Pryor	385-499-3416	epryor1@utah.gov		
Please addres	s guestions regarding inf	ormation on this notice to the persons listed above.		

General Information

2. Rule or section catchline:

R307-415. Permits: Operating Permit Requirements.

3. Purpose of the new rule or reason for the change:

The Environmental Protection Agency modified 40 CFR 70, published in the Federal Register / Vol. 88, No. 139 / Friday, July 21, 2023/ Rules and Regulations, with a rule effective date of August 21, 2023. The rule change removed Section 40 CFR 70.6(g). Emergency provision. Subsection R307-415-6(g) was established under 40 CFR 70, and therefore to continue to be in alignment with the federal rule, the Division of Air Quality is proposing to remove Subsection R307-415-6(g). from Rule R307-415. Additionally, these provisions are included in Section I of each issued Title V permit; however, the new rule allows for the individual permits to be changed over time as each permit is modified or renewed. After this rule change becomes effective UDAQ will remove Subsection 6(g) from each issued Title V permit going forward.

4. Summary of the new rule or change:

The Division of Air Quality is proposing to amend Rule R307-415 by removing Subsection R307-415-6(g) to align with the federal rule Section 40 CFR 70.6(g).

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:

A) State budget:

There are no anticipated costs or savings to the state budget as this rule will have no impact on the Department of Environmental Quality or any potentially involved parties.

B) Local governments:

This proposed rule change is not expected to have a fiscal impact on local government revenues or expenditures.

C) Small businesses ("small business" means a business employing 1-49 persons):

This proposed rule change is not expected to have a fiscal impact on small businesses.

D) Non-small businesses ("non-small business" means a business employing 50 or more persons):

This proposed rule change does not have a fiscal impact on non-small businesses.

E) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an *agency*):

This proposed rule change does not have a fiscal impact on persons other than small businesses, non-small businesses, state, or local government entities.

F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?):

There are no direct compliance costs for affected persons.

G) Regulatory Impact Summary Table (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)

Regulatory Impact Table			
Fiscal Cost	FY2024	FY2025	FY2026
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Cost	\$0	\$0	\$0
Fiscal Benefits	FY2024	FY2025	FY2026
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits	\$0	\$0	\$0
Net Fiscal Benefits	\$0	\$0	\$0

H) Department head comments on fiscal impact and approval of regulatory impact analysis:

The Executive Director of Environmental Quality, Kim C. Shelley, has reviewed and approved this regulatory impact analysis.

Citation Information

6. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:			
Utah Code Section 19-2-109.1.	40 CFR 70.6(g).		

Incorporations by Reference Information

7. Incorporations by Reference (if this rule incorporates	more than two items by reference	, please include additional tables):

A) This rule adds, updates, or removes the following title of materials incorporated by references (a copy of materials incorporated by reference must be submitted to the Office of Administrative Rules; *if none, leave blank*):

Official Title of Materials Incorporated (from title page)	
Publisher	
Issue Date	
Issue or Version	

B) This rule adds, updates, or removes the following title of materials incorporated by references (a copy of materials incorporated by reference must be submitted to the Office of Administrative Rules; *if none, leave blank*):

Official Title of Materials Incorporated (from title page)	
Publisher	

	Issue Date				
	Issue or Version				
		Public Notice	Information		
				in box 1. (The public may also request a nd Rule R15-1 for more information.)	
A) Comments will be	e accepted until:		1	12/15/2023	
B) A public hearing	(optional) will be hel	d:			
Date (mm/dd/yyyy):		Time (hh:mm AM/PM):		Place (physical address or URL):	
To the agency: If mo	•		or URL, refer read	ders to Box 4 in General Information. If more	
9. This rule change	MAY become effective	ve on:	02/07/2024		
NOTE: The date above	e is the date the agen	cy anticipates making	g the rule or its cl	hanges effective. It is NOT the effective date.	
		Agency Authoriza	tion Information	1	
	s will be returned to the	e agency for comple	•	3-301, 63G-3-302, 63G-3-303, and 63G-3-aying publication in the <i>Utah State Bulletin</i>	
Agency head or designee and title:			Date:	10/02/2023	

R307. Environmental Quality, Air Quality.

R307-415. Permits: Operating Permit Requirements.

R307-415-1. Purpose.

Title V of the Clean Air Act (the Act) requires states to develop and implement a comprehensive air quality permitting program. Title V of the Act does not impose new substantive requirements. Title V does require that sources subject to R307-415 pay a fee and obtain a renewable operating permit that clarifies, in a single document, which requirements apply to a source and assures the source's compliance with those requirements. The purpose of R307-415 is to establish the procedures and elements of such a program.

R307-415-2. Authority.

- (1) R307-415 is required by Title V of the Act and 40 Code of Federal Regulations (CFR) Part 70, and is adopted under the authority of Section 19-2-104.
- (2) All references to 40 CFR in R307-415, except when otherwise specified, are effective as of the date referenced in R307-101-3.

R307-415-3. Definitions.

- (1) The definitions contained in R307-101-2 apply throughout R307-415, except as specifically provided in (2).
 - (2) The following additional definitions apply to R307-415.
 - "Act" means the Clean Air Act, as amended, 42 U.S.C. 7401, et seq.
 - "Administrator" means the Administrator of EPA or his or her designee.
 - "Affected States" are all states:
 - (a) Whose air quality may be affected and that are contiguous to Utah; or
 - (b) That are within 50 miles of the permitted source.
- "Applicable requirement" means all of the following as they apply to emissions units in a Part 70 source, including requirements that have been promulgated or approved by the Board or by the EPA through rulemaking at the time of permit issuance but have future-effective compliance dates:
 - (a) Any standard or other requirement provided for in the State Implementation Plan;
 - (b) Any term or condition of any approval order issued under R307-401;
- (c) Any standard or other requirement under Section 111 of the Act, Standards of Performance for New Stationary Sources, including Section 111(d);
- (d) Any standard or other requirement under Section 112 of the Act, Hazardous Air Pollutants, including any requirement concerning accident prevention under Section 112(r)(7) of the Act;
- (e) Any standard or other requirement of the Acid Rain Program under Title IV of the Act or the regulations promulgated thereunder;
- (f) Any requirements established pursuant to Section 504(b) of the Act, Monitoring and Analysis, or Section 114(a)(3) of the Act, Enhanced Monitoring and Compliance Certification;
- (g) Any standard or other requirement governing solid waste incineration, under Section 129 of the Act;
- (h) Any standard or other requirement for consumer and commercial products, under Section 183(e) of the Act;
- (i) Any standard or other requirement of the regulations promulgated to protect stratospheric ozone under Title VI of the Act, unless the Administrator has determined that such requirements need not be contained in an operating permit;
- (j) Any national ambient air quality standard or increment or visibility requirement under part C of Title I of the Act, but only as it would apply to temporary sources permitted pursuant to Section 504(e) of the Act;
 - (k) Any standard or other requirement under rules adopted by the Board.
 - "Area source" means any stationary source that is not a major source.
- "Designated representative" shall have the meaning given to it in Section 402 of the Act and in 40 CFR Section 72.2, and applies only to Title IV affected sources.
- "Draft permit" means the version of a permit for which the director offers public participation under R307-415-7i or affected State review under R307-415-8(2).
 - "Emissions allowable under the permit" means a federally-enforceable permit term or condition

determined at issuance to be required by an applicable requirement that establishes an emissions limit, including a work practice standard, or a federally-enforceable emissions cap that the source has assumed to avoid an applicable requirement to which the source would otherwise be subject.

"Emissions unit" means any part or activity of a stationary source that emits or has the potential to emit any regulated air pollutant or any hazardous air pollutant. This term is not meant to alter or affect the definition of the term "unit" for purposes of Title IV of the Act, Acid Deposition Control.

"Final permit" means the version of an operating permit issued by the director that has completed all review procedures required by R307-415-7a through 7i and R307-415-8.

"General permit" means an operating permit that meets the requirements of R307-415-6d.

"Hazardous Air Pollutant" means any pollutant listed by the Administrator as a hazardous air pollutant under Section 112(b) of the Act.

"Major source" means any stationary source (or any group of stationary sources that are located on one or more contiguous or adjacent properties, and are under common control of the same person (or persons under common control)) belonging to a single major industrial grouping and that are described in paragraphs (a), (b), or (c) of this definition. For the purposes of defining "major source," a stationary source or group of stationary sources shall be considered part of a single industrial grouping if all of the pollutant emitting activities at such source or group of sources on contiguous or adjacent properties belong to the same Major Group (all have the same two-digit code) as described in the Standard Industrial Classification Manual, 1987. Emissions resulting directly from an internal combustion engine for transportation purposes or from a non-road vehicle shall not be considered in determining whether a stationary source is a major source under this definition.

- (a) A major source under Section 112 of the Act, Hazardous Air Pollutants, which is defined as: for pollutants other than radionuclides, any stationary source or group of stationary sources located within a contiguous area and under common control that emits or has the potential to emit, in the aggregate, ten tons per year or more of any hazardous air pollutant or 25 tons per year or more of any combination of such hazardous air pollutants. Notwithstanding the preceding sentence, emissions from any oil or gas exploration or production well, with its associated equipment, and emissions from any pipeline compressor or pump station shall not be aggregated with emissions from other similar units, whether or not such units are in a contiguous area or under common control, to determine whether such units or stations are major sources.
- (b) A major stationary source of air pollutants, as defined in Section 302 of the Act, that directly emits or has the potential to emit, 100 tons per year or more of any air pollutant including any major source of fugitive emissions or fugitive dust of any such pollutant as determined by rule by the Administrator. The fugitive emissions or fugitive dust of a stationary source shall not be considered in determining whether it is a major stationary source for the purposes of Section 302(j) of the Act, unless the source belongs to any one of the following categories of stationary source:
 - (i) Coal cleaning plants with thermal dryers;
 - (ii) Kraft pulp mills;

- (iii) Portland cement plants;
- (iv) Primary zinc smelters;
- (v) Iron and steel mills;
- (vi) Primary aluminum ore reduction plants;
- (vii) Primary copper smelters;
- (viii) Municipal incinerators capable of charging more than 250 tons of refuse per day;
- (ix) Hydrofluoric, sulfuric, or nitric acid plants;
- (x) Petroleum refineries;
 - (xi) Lime plants;
 - (xii) Phosphate rock processing plants;
- (xiii) Coke oven batteries;
- 49 (xiv) Sulfur recovery plants;
- 50 (xv) Carbon black plants, furnace process;
- 51 (xvi) Primary lead smelters;
- 52 (xvii) Fuel conversion plants;
- 53 (xviii) Sintering plants;
- 54 (xix) Secondary metal production plants;

(xx) Chemical process plants;

- (xxi) Fossil-fuel boilers, or combination thereof, totaling more than 250 million British thermal units per hour heat input;
 - (xxii) Petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels;
 - (xxiii) Taconite ore processing plants;
 - (xxiv) Glass fiber processing plants;
 - (xxv) Charcoal production plants;
- (xxvi) Fossil-fuel-fired steam electric plants of more than 250 million British thermal units per hour heat input;
- (xxvii) Any other stationary source category, which as of August 7, 1980 is being regulated under Section 111 or Section 112 of the Act.
- (c) A major stationary source as defined in part D of Title I of the Act, Plan Requirements for Nonattainment Areas, including:
- (i) For ozone nonattainment areas, sources with the potential to emit 100 tons per year or more of volatile organic compounds or oxides of nitrogen in areas classified as "marginal" or "moderate," 50 tons per year or more in areas classified as "serious," 25 tons per year or more in areas classified as "severe," and 10 tons per year or more in areas classified as "extreme"; except that the references in this paragraph to 100, 50, 25, and 10 tons per year of nitrogen oxides shall not apply with respect to any source for which the Administrator has made a finding, under Section 182(f)(1) or (2) of the Act, that requirements under Section 182(f) of the Act do not apply;
- (ii) For ozone transport regions established pursuant to Section 184 of the Act, sources with the potential to emit 50 tons per year or more of volatile organic compounds;
- (iii) For carbon monoxide nonattainment areas that are classified as "serious" and in which stationary sources contribute significantly to carbon monoxide levels as determined under rules issued by the Administrator, sources with the potential to emit 50 tons per year or more of carbon monoxide;
- (iv) For PM-10 particulate matter nonattainment areas classified as "serious," sources with the potential to emit 70 tons per year or more of PM-10 particulate matter.

"Non-Road Vehicle" means a vehicle that is powered by an internal combustion engine (including the fuel system), that is not a self-propelled vehicle designed for transporting persons or property on a street or highway or a vehicle used solely for competition, and is not subject to standards promulgated under Section 111 of the Act (New Source Performance Standards) or Section 202 of the Act (Motor Vehicle Emission Standards).

"Operating permit" or "permit," unless the context suggests otherwise, means any permit or group of permits covering a Part 70 source that is issued, renewed, amended, or revised pursuant to these rules.

"Part 70 Source" means any source subject to the permitting requirements of R307-415, as provided in R307-415-4.

"Permit modification" means a revision to an operating permit that meets the requirements of R307-415-7f.

"Permit revision" means any permit modification or administrative permit amendment.

"Permit shield" means the permit shield as described in R307-415-6f.

"Proposed permit" means the version of a permit that the director proposes to issue and forwards to EPA for review in compliance with R307-415-8.

"Renewal" means the process by which a permit is reissued at the end of its term.

"Responsible official" means one of the following:

- (a) For a corporation: a president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation, or a duly authorized representative of such person if the representative is responsible for the overall operation of one or more manufacturing, production, or operating facilities applying for or subject to a permit and either:
- (i) the operating facilities employ more than 250 persons or have gross annual sales or expenditures exceeding \$25 million in second quarter 1980 dollars; or
 - (ii) the delegation of authority to such representative is approved in advance by the director;
 - (b) For a partnership or sole proprietorship: a general partner or the proprietor, respectively;
 - (c) For a municipality, State, Federal, or other public agency: either a principal executive officer or

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ranking elected official. For the purposes of R307-415, a principal executive officer of a Federal agency includes the chief executive officer having responsibility for the overall operations of a principal geographic unit of the agency;

- (d) For Title IV affected sources:
- (i) The designated representative in so far as actions, standards, requirements, or prohibitions under Title IV of the Act, Acid Deposition Control, or the regulations promulgated thereunder are concerned;
 - (ii) The responsible official as defined above for any other purposes under R307-415.

"Stationary source" means any building, structure, facility, or installation that emits or may emit any regulated air pollutant or any hazardous air pollutant.

"Title IV Affected source" means a source that contains one or more affected units as defined in Section 402 of the Act and in 40 CFR, Part 72.

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R307-415-4. Applicability.

- (1) Part 70 sources. All of the following sources are subject to the permitting requirements of R307-415, and unless exempted under (2) below are required to submit an application for an operating permit:
 - (a) Any major source;
- (b) Any source, including an area source, subject to a standard, limitation, or other requirement under Section 111 of the Act, Standards of Performance for New Stationary Sources;
- (c) Any source, including an area source, subject to a standard or other requirement under Section 112 of the Act, Hazardous Air Pollutants, except that a source is not required to obtain a permit solely because it is subject to regulations or requirements under Section 112(r) of the Act, Prevention of Accidental Releases;
 - (d) Any Title IV affected source.
 - (2) Exemptions.
- (a) All source categories that would be required to obtain an operating permit solely because they are subject to 40 CFR Part 60, Subpart AAA Standards of Performance for New Residential Wood Heaters, are exempted from the requirement to obtain a permit.
- (b) All source categories that would be required to obtain an operating permit solely because they are subject to 40 CFR Part 61, Subpart M National Emission Standard for Hazardous Air Pollutants for Asbestos, Section 61.145, Standard for Demolition and Renovation, are exempted from the requirement to obtain a permit. For Part 70 sources, demolition and renovation activities within the source under 40 CFR 61.145 shall be treated as a separate source for the purpose of R307-415.
- (c) An area source subject to a regulation under Section 111 or 112 of the Act (42 U.S.C. 7411 or 7412) promulgated after July 21, 1992 is exempt from the obligation to obtain a Part 70 permit if:
- (i) the regulation specifically exempts the area source category from the obligation to obtain a Part 70 permit, and
- (ii) the source is not required to obtain a permit under R307-415-4(1) for a reason other than its status as an area source under the Section 111 or 112 regulation containing the exemption.
 - (3) Emissions units and Part 70 sources.
- (a) For major sources, the director shall include in the permit all applicable requirements for all relevant emissions units in the major source.
- (b) For any area source subject to the operating permit program under R307-415-4(1), the director shall include in the permit all applicable requirements applicable to emissions units that cause the source to be subject to the operating permit program.
- (4) Fugitive emissions. Fugitive emissions and fugitive dust from a Part 70 source shall be included in the permit application and the operating permit in the same manner as stack emissions, regardless of whether the source category in question is included in the list of source categories contained in the definition of major source.
- (5) Control requirements. R307-415 does not establish any new control requirements beyond those established by applicable requirements, but may establish new monitoring, recordkeeping, and reporting requirements.
- (6) Synthetic minors. An existing source that wishes to avoid designation as a major Part 70 source under R307-415, must obtain federally-enforceable conditions which reduce the potential to emit, as defined in R307-101-2, to less than the level established for a major Part 70 source. Such federally-enforceable

conditions may be obtained by applying for and receiving an approval order under R307-401. The approval order shall contain periodic monitoring, recordkeeping, and reporting requirements sufficient to verify continuing compliance with the conditions which would reduce the source's potential to emit.

R307-415-5a. Permit Applications: Duty to Apply.

For each Part 70 source, the owner or operator shall submit a timely and complete permit application. A pre-application conference may be held at the request of a Part 70 source or the director to assist a source in submitting a complete application.

- (1) Timely application.
- (a) Except as provided in the transition plan under (3) below, a timely application for a source applying for an operating permit for the first time is one that is submitted within 12 months after the source becomes subject to the permit program.
- (b) Except as provided in the transition plan under (3) below, any Part 70 source required to meet the requirements under Section 112(g) of the Act, Hazardous Air Pollutant Modifications, or required to receive an approval order to construct a new source or modify an existing source under R307-401, shall file a complete application to obtain an operating permit or permit revision within 12 months after commencing operation of the newly constructed or modified source. Where an existing operating permit would prohibit such construction or change in operation, the source must obtain a permit revision before commencing operation.
- (c) For purposes of permit renewal, a timely application is one that is submitted by the renewal date established in the permit. The director shall establish a renewal date for each permit that is at least six months and not greater than 18 months prior to the date of permit expiration. A source may submit a permit application early for any reason, including timing of other application requirements.
 - (2) Complete application.
- (a) To be deemed complete, an application must provide all information sufficient to evaluate the subject source and its application and to determine all applicable requirements pursuant to R307-415-5c. Applications for permit revision need supply such information only if it is related to the proposed change. A responsible official shall certify the submitted information consistent with R307-415-5d.
- (b) Unless the director notifies the source in writing within 60 days of receipt of the application that an application is not complete, such application shall be deemed to be complete. A completeness determination shall not be required for minor permit modifications. If, while processing an application that has been determined or deemed to be complete, the director determines that additional information is necessary to evaluate or take final action on that application, the director may request such information in writing and set a reasonable deadline for a response. The source's ability to operate without a permit, as set forth in R307-415-7b(2), shall be in effect from the date the application is determined or deemed to be complete until the final permit is issued, provided that the applicant submits any requested additional information by the deadline specified in writing by the director.
- (3) Transition Plan. A timely application under the transition plan is an application that is submitted according to the following schedule:
- (a) All Title IV affected sources shall submit an operating permit application as well as an acid rain permit application in accordance with the date required by 40 CFR Part 72 effective April 11, 1995, Subpart C-Acid Rain Permit Applications;
- (b) All major Part 70 sources operating as of July 10, 1995, except those described in (a) above, and all solid waste incineration units operating as of July 10, 1995, that are required to obtain an operating permit pursuant to 42 U.S.C. Sec. 7429(e) shall submit a permit application by October 10, 1995.
 - (c) Area sources.
- (i) Except as provided in (c)(ii) and (c)(iii) below, each Part 70 source that is not a major source, a Title IV affected source, or a solid waste incineration unit required to obtain a permit pursuant to section 129(e) (42 U.S.C. 7429), is deferred from the obligation to submit an application until 12 months after the Administrator completes a rulemaking to determine how the program should be structured for area sources and the appropriateness of any permanent exemptions in addition to those provided in R307-415-4(2).
 - (ii) General Permits.
 - (A) The director shall develop general permits and application forms for area source categories.
 - (B) After a general permit has been issued for a source category, the director shall establish a due

date for permit applications from all area sources in that source category.

- (C) The director shall provide at least six months notice that the application is due for a source category.
 - (iii) Regulation-specific Requirements.
- (A) If a regulation promulgated under Section 111 or 112 (42 U.S.C. 7411 or 7412) requires an area source category to submit an application for a Part 70 permit, each area source covered by the requirement must submit an application in accordance with the regulation.
- (d) Extensions. The owner or operator of any Part 70 source may petition the director for an extension of the application due date for good cause. The due date for major Part 70 sources shall not be extended beyond July 10, 1996. The due date for an area source shall not be extended beyond twelve months after the due date in (c)(i) above.
- (e) Application shield. If a source submits a timely and complete application under this transition plan, the application shield under R307-415-7b(2) shall apply to the source. If a source submits a timely application and is making sufficient progress toward correcting an application determined to be incomplete, the director may extend the application shield under R307-415-7b(2) to the source when the application is determined complete. The application shield shall not be extended to any major source that has not submitted a complete application by July 10, 1996, or to any area source that has not submitted a complete application within twelve months after the due date in (c)(i) above.
- (4) Confidential information. Claims of confidentiality on information submitted to EPA may be made pursuant to applicable federal requirements. Claims of confidentiality on information submitted to the Department shall be made and governed according to Section 19-1-306. In the case where a source has submitted information to the Department under a claim of confidentiality that also must be submitted to the EPA, the director shall either submit the information to the EPA under Section 19-1-306, or require the source to submit a copy of such information directly to EPA.
- (5) Late applications. An application submitted after the deadlines established in R307-415-5a shall be accepted for processing, but shall not be considered a timely application. Submitting an application shall not relieve a source of any enforcement actions resulting from submitting a late application.

R307-415-5b. Permit Applications: Duty to Supplement or Correct Application.

Any applicant who fails to submit any relevant facts or who has submitted incorrect information in a permit application shall, upon becoming aware of such failure or incorrect submittal, promptly submit such supplementary facts or corrected information. In addition, an applicant shall provide additional information as necessary to address any requirements that become applicable to the source after the date it filed a complete application but prior to release of a draft permit.

R307-415-5c. Permit Applications: Standard Requirements.

Information as described below for each emissions unit at a Part 70 source shall be included in the application except for insignificant activities and emissions levels under R307-415-5e. The operating permit application shall include the elements specified below:

- (1) Identifying information, including company name, company address, plant name and address if different from the company name and address, owner's name and agent, and telephone number and names of plant site manager or contact.
- (2) A description of the source's processes and products by Standard Industrial Classification Code, including any associated with each alternate scenario identified by the source.
 - (3) The following emissions-related information:
- (a) A permit application shall describe the potential to emit of all air pollutants for which the source is major, and the potential to emit of all regulated air pollutants and hazardous air pollutants from any emissions unit, except for insignificant activities and emissions under R307-415-5e. For emissions of hazardous air pollutants under 1,000 pounds per year, the following ranges may be used in the application: 1-10 pounds per year, 11-499 pounds per year, 500-999 pounds per year. The mid-point of the range shall be used to calculate the emission fee under R307-415-9 for hazardous air pollutants reported as a range.
- (b) Identification and description of all points of emissions described in (a) above in sufficient detail to establish the basis for fees and applicability of applicable requirements.
 - (c) Emissions rates in tons per year and in such terms as are necessary to establish compliance with

- applicable requirements consistent with the applicable standard reference test method.
- (d) The following information to the extent it is needed to determine or regulate emissions: fuels, fuel use, raw materials, production rates, and operating schedules.
- (e) Identification and description of air pollution control equipment and compliance monitoring devices or activities.
- (f) Limitations on source operation affecting emissions or any work practice standards, where applicable, for all regulated air pollutants and hazardous air pollutants at the Part 70 source.
- (g) Other information required by any applicable requirement, including information related to stack height limitations developed pursuant to Section 123 of the Act.
 - (h) Calculations on which the information in items (a) through (g) above is based.
 - (4) The following air pollution control requirements:
 - (a) Citation and description of all applicable requirements, and
- (b) Description of or reference to any applicable test method for determining compliance with each applicable requirement.
- (5) Other specific information that may be necessary to implement and enforce applicable requirements or to determine the applicability of such requirements.
 - (6) An explanation of any proposed exemptions from otherwise applicable requirements.
- (7) Additional information as determined to be necessary by the director to define alternative operating scenarios identified by the source pursuant to R307-415-6a(9) or to define permit terms and conditions implementing emission trading under R307-415-7d(1)(c) or R307-415-6a(10).
 - (8) A compliance plan for all Part 70 sources that contains all of the following:
 - (a) A description of the compliance status of the source with respect to all applicable requirements.
 - (b) A description as follows:

- (i) For applicable requirements with which the source is in compliance, a statement that the source will continue to comply with such requirements.
- (ii) For applicable requirements that will become effective during the permit term, a statement that the source will meet such requirements on a timely basis.
- (iii) For requirements for which the source is not in compliance at the time of permit issuance, a narrative description of how the source will achieve compliance with such requirements.
 - (c) A compliance schedule as follows:
- (i) For applicable requirements with which the source is in compliance, a statement that the source will continue to comply with such requirements.
- (ii) For applicable requirements that will become effective during the permit term, a statement that the source will meet such requirements on a timely basis. A statement that the source will meet in a timely manner applicable requirements that become effective during the permit term shall satisfy this provision, unless a more detailed schedule is expressly required by the applicable requirement.
- (iii) A schedule of compliance for sources that are not in compliance with all applicable requirements at the time of permit issuance. Such a schedule shall include a schedule of remedial measures, including an enforceable sequence of actions with milestones, leading to compliance with any applicable requirements for which the source will be in noncompliance at the time of permit issuance. This compliance schedule shall resemble and be at least as stringent as that contained in any judicial consent decree or administrative order to which the source is subject. Any such schedule of compliance shall be supplemental to, and shall not sanction noncompliance with, the applicable requirements on which it is based.
- (d) A schedule for submission of certified progress reports every six months, or more frequently if specified by the underlying applicable requirement or by the director, for sources required to have a schedule of compliance to remedy a violation.
- (e) The compliance plan content requirements specified in this paragraph shall apply and be included in the acid rain portion of a compliance plan for a Title IV affected source, except as specifically superseded by regulations promulgated under Title IV of the Act, Acid Deposition Control, with regard to the schedule and methods the source will use to achieve compliance with the acid rain emissions limitations.
 - (9) Requirements for compliance certification, including all of the following:
- (a) A certification of compliance with all applicable requirements by a responsible official consistent with R307-415-5d and Section 114(a)(3) of the Act, Enhanced Monitoring and Compliance Certification.
 - (b) A statement of methods used for determining compliance, including a description of monitoring,

recordkeeping, and reporting requirements and test method.

- (c) A schedule for submission of compliance certifications during the permit term, to be submitted annually, or more frequently if specified by the underlying applicable requirement or by the director.
- (d) A statement indicating the source's compliance status with any applicable enhanced monitoring and compliance certification requirements of the Act.
- (10) Nationally-standardized forms for acid rain portions of permit applications and compliance plans, as required by regulations promulgated under Title IV of the Act, Acid Deposition Control.

R307-415-5d. Permit Applications: Certification.

Any application form, report, or compliance certification submitted pursuant to R307-415 shall contain certification by a responsible official of truth, accuracy, and completeness. This certification and any other certification required under R307-415 shall state that, based on information and belief formed after reasonable inquiry, the statements and information in the document are true, accurate, and complete.

R307-415-5e. Permit Applications: Insignificant Activities and Emissions.

An application may not omit information needed to determine the applicability of, or to impose, any applicable requirement, or to evaluate the fee amount required under R307-415-9. The following lists apply only to operating permit applications and do not affect the applicability of R307-415 to a source, do not affect the requirement that a source receive an approval order under R307-401, and do not relieve a source of the responsibility to comply with any applicable requirement.

- (1) The following insignificant activities and emission levels are not required to be included in the permit application.
- (a) Exhaust systems for controlling steam and heat that do not contain combustion products, except for systems that are subject to an emission standard under any applicable requirement.
- (b) Air pollutants that are present in process water or non-contact cooling water as drawn from the environment or from municipal sources, or air pollutants that are present in compressed air or in ambient air, which may contain air pollution, used for combustion.
- (c) Air conditioning or ventilating systems not designed to remove air pollutants generated by or released from other processes or equipment.
- (d) Disturbance of surface areas for purposes of land development, not including mining operations or the disturbance of contaminated soil.
 - (e) Brazing, soldering, or welding operations.
 - (f) Aerosol can usage.
- (g) Road and parking lot paving operations, not including asphalt, sand and gravel, and cement batch plants.
 - (h) Fire training activities that are not conducted at permanent fire training facilities.
- (i) Landscaping, janitorial, and site housekeeping activities, including fugitive emissions from landscaping activities.
 - (i) Architectural painting.
 - (k) Office emissions, including cleaning, copying, and restrooms.
 - (l) Wet wash aggregate operations that are solely dedicated to this process.
- (m) Air pollutants that are emitted from personal use by employees or other persons at the source, such as foods, drugs, or cosmetics.
- (n) Air pollutants that are emitted by a laboratory at a facility under the supervision of a technically qualified individual as defined in 40 CFR 720.3(ee); however, this exclusion does not apply to specialty chemical production, pilot plant scale operations, or activities conducted outside the laboratory.
- (o) Maintenance on petroleum liquid handling equipment such as pumps, valves, flanges, and similar pipeline devices and appurtenances when purged and isolated from normal operations.
 - (p) Portable steam cleaning equipment.
 - (q) Vents on sanitary sewer lines.
- (r) Vents on tanks containing no volatile air pollutants, e.g., any petroleum liquid, not containing Hazardous Air Pollutants, with a Reid Vapor Pressure less than 0.05 psia.
- (2) The following insignificant activities are exempted because of size or production rate and a list of such insignificant activities must be included in the application. The director may require information to

verify that the activity is insignificant.

- (a) Emergency heating equipment, using coal, wood, kerosene, fuel oil, natural gas, or LPG for fuel, with a rated capacity less than 50,000 BTU per hour.
- (b) Individual emissions units having the potential to emit less than one ton per year per pollutant of PM10 particulate matter, nitrogen oxides, sulfur dioxide, volatile organic compounds, or carbon monoxide, unless combined emissions from similar small emission units located within the same Part 70 source are greater than five tons per year of any one pollutant. This does not include emissions units that emit air pollutants other than PM10 particulate matter, nitrogen oxides, sulfur dioxide, volatile organic compounds, or carbon monoxide.
- (c) Petroleum industry flares, not associated with refineries, combusting natural gas containing no hydrogen sulfide except in amounts less than 500 parts per million by weight, and having the potential to emit less than five tons per year per air pollutant.
 - (d) Road sweeping.
 - (e) Road salting and sanding.
- (f) Unpaved public and private roads, except unpaved haul roads located within the boundaries of a stationary source. A haul road means any road normally used to transport people, livestock, product or material by any type of vehicle.
- (g) Non-commercial automotive (car and truck) service stations dispensing less than 6,750 gal. of gasoline/month
- (h) Hazardous Air Pollutants present at less than 1% concentration, or 0.1% for a carcinogen, in a mixture used at a rate of less than 50 tons per year, provided that a National Emission Standards for Hazardous Air Pollutants standard does not specify otherwise.
- (i) Fuel-burning equipment, in which combustion takes place at no greater pressure than one inch of mercury above ambient pressure, with a rated capacity of less than five million BTU per hour using no other fuel than natural gas, or LPG or other mixed gas distributed by a public utility.
- (j) Comfort heating equipment (i.e., boilers, water heaters, air heaters and steam generators) with a rated capacity of less than one million BTU per hour if fueled only by fuel oil numbers 1 6.
- (3) Any person may petition the Board to add an activity or emission to the list of Insignificant Activities and Emissions which may be excluded from an operating permit application under (1) or (2) above upon a change in the rule and approval of the rule change by EPA. The petition shall include the following information:
 - (a) A complete description of the activity or emission to be added to the list.
- (b) A complete description of all air pollutants that may be emitted by the activity or emission, including emission rate, air pollution control equipment, and calculations used to determine emissions.
- (c) An explanation of why the activity or emission should be exempted from the application requirements for an operating permit.
- (4) The director may determine on a case-by-case basis, insignificant activities and emissions for an individual Part 70 source that may be excluded from an application or that must be listed in the application, but do not require a detailed description. No activity with the potential to emit greater than two tons per year of any criteria pollutant, five tons of a combination of criteria pollutants, 500 pounds of any hazardous air pollutant or one ton of a combination of hazardous air pollutants shall be eligible to be determined an insignificant activity or emission under this subsection (4).

R307-415-6a. Permit Content: Standard Requirements.

Each permit issued under R307-415 shall include the following elements:

- (1) Emission limitations and standards, including those operational requirements and limitations that assure compliance with all applicable requirements at the time of permit issuance;
- (a) The permit shall specify and reference the origin of and authority for each term or condition, and identify any difference in form as compared to the applicable requirement upon which the term or condition is based.
- (b) The permit shall state that, where an applicable requirement is more stringent than an applicable requirement of regulations promulgated under Title IV of the Act, Acid Deposition Control, both provisions shall be incorporated into the permit.
 - (c) If the State Implementation Plan allows a determination of an alternative emission limit at a Part

70 source, equivalent to that contained in the State Implementation Plan, to be made in the permit issuance, renewal, or significant modification process, and the director elects to use such process, any permit containing such equivalency determination shall contain provisions to ensure that any resulting emissions limit has been demonstrated to be quantifiable, accountable, enforceable, and based on replicable procedures.

- (2) Permit duration. Except as provided by Section 19-2-109.1(3), the director shall issue permits for a fixed term of five years.
 - (3) Monitoring and related recordkeeping and reporting requirements.
 - (a) Each permit shall contain the following requirements with respect to monitoring:
- (i) All monitoring and analysis procedures or test methods required under applicable monitoring and testing requirements, including 40 CFR Part 64 and any other procedures and methods that may be promulgated pursuant to sections 114(a)(3) or 504(b) of the Act. If more than one monitoring or testing requirement applies, the permit may specify a streamlined set of monitoring or testing provisions provided the specified monitoring or testing is adequate to assure compliance at least to the same extent as the monitoring or testing applicable requirements that are not included in the permit as a result of such streamlining;
- (ii) Where the applicable requirement does not require periodic testing or instrumental or noninstrumental monitoring, which may consist of recordkeeping designed to serve as monitoring, periodic monitoring sufficient to yield reliable data from the relevant time period that are representative of the source's compliance with the permit, as reported pursuant to (3)(c) below. Such monitoring requirements shall assure use of terms, test methods, units, averaging periods, and other statistical conventions consistent with the applicable requirement. Recordkeeping provisions may be sufficient to meet the requirements of this paragraph;
- (iii) As necessary, requirements concerning the use, maintenance, and, where appropriate, installation of monitoring equipment or methods.
- (b) With respect to recordkeeping, the permit shall incorporate all applicable recordkeeping requirements and require, where applicable, the following:
 - (i) Records of required monitoring information that include the following:
 - (A) The date, place as defined in the permit, and time of sampling or measurements;
 - (B) The dates analyses were performed;
 - (C) The company or entity that performed the analyses;
 - (D) The analytical techniques or methods used;
 - (E) The results of such analyses;

- (F) The operating conditions as existing at the time of sampling or measurement;
- (ii) Retention of records of all required monitoring data and support information for a period of at least five years from the date of the monitoring sample, measurement, report, or application. Support information includes all calibration and maintenance records and all original strip-chart recordings for continuous monitoring instrumentation, and copies of all reports required by the permit.
- (c) With respect to reporting, the permit shall incorporate all applicable reporting requirements and require all of the following:
- (i) Submittal of reports of any required monitoring every six months, or more frequently if specified by the underlying applicable requirement or by the director. All instances of deviations from permit requirements must be clearly identified in such reports. All required reports must be certified by a responsible official consistent with R307-415-5d.
- (ii) Prompt reporting of deviations from permit requirements including those attributable to upset conditions as defined in the permit, the probable cause of such deviations, and any corrective actions or preventive measures taken. The director shall define "prompt" in relation to the degree and type of deviation likely to occur and the applicable requirements. Deviations from permit requirements due to unavoidable breakdowns shall be reported according to the unavoidable breakdown provisions of R307-107. The director may establish more stringent reporting deadlines if required by the applicable requirement.
 - (d) Claims of confidentiality shall be governed by Section 19-1-306.
- (4) Acid Rain Allowances. For Title IV affected sources, a permit condition prohibiting emissions exceeding any allowances that the source lawfully holds under Title IV of the Act or the regulations promulgated thereunder.
 - (a) No permit revision shall be required for increases in emissions that are authorized by allowances

acquired pursuant to the Acid Rain Program, provided that such increases do not require a permit revision under any other applicable requirement.

- (b) No limit shall be placed on the number of allowances held by the source. The source may not, however, use allowances as a defense to noncompliance with any other applicable requirement.
- (c) Any such allowance shall be accounted for according to the procedures established in regulations promulgated under Title IV of the Act.
- (5) A severability clause to ensure the continued validity of the various permit requirements in the event of a challenge to any portions of the permit.
 - (6) Standard provisions stating the following:

- (a) The permittee must comply with all conditions of the operating permit. Any permit noncompliance constitutes a violation of the Air Conservation Act and is grounds for any of the following: enforcement action; permit termination; revocation and reissuance; modification; denial of a permit renewal application.
- (b) Need to halt or reduce activity not a defense. It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.
- (c) The permit may be modified, revoked, reopened, and reissued, or terminated for cause. The filing of a request by the permittee for a permit modification, revocation and reissuance, or termination, or of a notification of planned changes or anticipated noncompliance does not stay any permit condition, except as provided under R307-415-7f(1) for minor permit modifications.
 - (d) The permit does not convey any property rights of any sort, or any exclusive privilege.
- (e) The permittee shall furnish to the director, within a reasonable time, any information that the director may request in writing to determine whether cause exists for modifying, revoking and reissuing, or terminating the permit or to determine compliance with the permit. Upon request, the permittee shall also furnish to the director copies of records required to be kept by the permit or, for information claimed to be confidential, the permittee may furnish such records directly to EPA along with a claim of confidentiality.
- (7) Emission fee. A provision to ensure that a Part 70 source pays fees to the director consistent with R307-415-9.
- (8) Emissions trading. A provision stating that no permit revision shall be required, under any approved economic incentives, marketable permits, emissions trading and other similar programs or processes for changes that are provided for in the permit.
- (9) Alternate operating scenarios. Terms and conditions for reasonably anticipated operating scenarios identified by the source in its application as approved by the director. Such terms and conditions:
- (a) Shall require the source, contemporaneously with making a change from one operating scenario to another, to record in a log at the permitted facility a record of the scenario under which it is operating;
- (b) Shall extend the permit shield to all terms and conditions under each such operating scenario; and
- (c) Must ensure that the terms and conditions of each such alternative scenario meet all applicable requirements and the requirements of R307-415.
- (10) Emissions trading. Terms and conditions, if the permit applicant requests them, for the trading of emissions increases and decreases in the permitted facility, to the extent that the applicable requirements provide for trading such increases and decreases without a case-by-case approval of each emissions trade. Such terms and conditions:
 - (a) Shall include all terms required under R307-415-6a and 6c to determine compliance;
- (b) Shall extend the permit shield to all terms and conditions that allow such increases and decreases in emissions; and
 - (c) Must meet all applicable requirements and requirements of R307-415.

R307-415-6b. Permit Content: Federally-Enforceable Requirements.

- (1) All terms and conditions in an operating permit, including any provisions designed to limit a source's potential to emit, are enforceable by EPA and citizens under the Act.
- (2) Notwithstanding (1) above, applicable requirements that are not required by the Act or implementing federal regulations shall be included in the permit but shall be specifically designated as being not federally enforceable under the Act and shall be designated as "state requirements." Terms and

conditions so designated are not subject to the requirements of R307-415-7a through 7i and R307-415-8 that apply to permit review by EPA and affected states. The director shall determine which conditions are "state requirements" in each operating permit.

R307-415-6c. Permit Content: Compliance Requirements.

All operating permits shall contain all of the following elements with respect to compliance:

- (1) Consistent with R307-415-6a(3), compliance certification, testing, monitoring, reporting, and recordkeeping requirements sufficient to assure compliance with the terms and conditions of the permit. Any document, including any report, required by an operating permit shall contain a certification by a responsible official that meets the requirements of R307-415-5d;
- (2) Inspection and entry requirements that require that, upon presentation of credentials and other documents as may be required by law, the permittee shall allow the director or an authorized representative to perform any of the following:
- (a) Enter upon the permittee's premises where a Part 70 source is located or emissions-related activity is conducted, or where records must be kept under the conditions of the permit;
- (b) Have access to and copy, at reasonable times, any records that must be kept under the conditions of the permit;
- (c) Inspect at reasonable times any facilities, equipment (including monitoring and air pollution control equipment), practices, or operations regulated or required under the permit;
- (d) Sample or monitor at reasonable times substances or parameters for the purpose of assuring compliance with the permit or applicable requirements;
- (e) Claims of confidentiality on the information obtained during an inspection shall be made pursuant to Section 19-1-306;
 - (3) A schedule of compliance consistent with R307-415-5c(8);
- (4) Progress reports consistent with an applicable schedule of compliance and R307-415-5c(8) to be submitted semiannually, or at a more frequent period if specified in the applicable requirement or by the director. Such progress reports shall contain all of the following:
- (a) Dates for achieving the activities, milestones, or compliance required in the schedule of compliance, and dates when such activities, milestones or compliance were achieved;
- (b) An explanation of why any dates in the schedule of compliance were not or will not be met, and any preventive or corrective measures adopted;
- (5) Requirements for compliance certification with terms and conditions contained in the permit, including emission limitations, standards, or work practices. Permits shall include all of the following:
- (a) Annual submission of compliance certification, or more frequently if specified in the applicable requirement or by the director;
- (b) In accordance with R307-415-6a(3), a means for monitoring the compliance of the source with its emissions limitations, standards, and work practices;
- (c) A requirement that the compliance certification include all of the following (provided that the identification of applicable information may reference the permit or previous reports, as applicable):
 - (i) The identification of each term or condition of the permit that is the basis of the certification;
- (ii) The identification of the methods or other means used by the owner or operator for determining the compliance status with each term and condition during the certification period. Such methods and other means shall include, at a minimum, the methods and means required under R307-415-6a(3). If necessary, the owner or operator also shall identify any other material information that must be included in the certification to comply with section 113(c)(2) of the Act, which prohibits knowingly making a false certification or omitting material information;
- (iii) The status of compliance with the terms and conditions of the permit for the period covered by the certification, including whether compliance during the period was continuous or intermittent. The certification shall be based on the method or means designated in (ii) above. The certification shall identify each deviation and take it into account in the compliance certification. The certification shall also identify as possible exceptions to compliance any periods during which compliance is required and in which an excursion or exceedance as defined under 40 CFR Part 64 occurred; and
 - (iv) Such other facts as the director may require to determine the compliance status of the source;
 - (d) A requirement that all compliance certifications be submitted to the EPA as well as to the

director;

(e) Such additional requirements as may be specified pursuant to Section 114(a)(3) of the Act, Enhanced Monitoring and Compliance Certification, and Section 504(b) of the Act, Monitoring and Analysis;

(6) Such other provisions as the director may require.

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R307-415-6d. Permit Content: General Permits.

- (1) The director may, after notice and opportunity for public participation provided under R307-415-7i, issue a general permit covering numerous similar sources. Any general permit shall comply with all requirements applicable to other operating permits and shall identify criteria by which sources may qualify for the general permit. To sources that qualify, the director shall grant the conditions and terms of the general permit. Notwithstanding the permit shield, the source shall be subject to enforcement action for operation without an operating permit if the source is later determined not to qualify for the conditions and terms of the general permit. General permits shall not be issued for Title IV affected sources under the Acid Rain Program unless otherwise provided in regulations promulgated under Title IV of the Act.
- (2) Part 70 sources that would qualify for a general permit must apply to the director for coverage under the terms of the general permit or must apply for an operating permit consistent with R307-415-5a through 5e. The director may, in the general permit, provide for applications which deviate from the requirements of R307-415-5a through 5e, provided that such applications meet the requirements of Title V of the Act, and include all information necessary to determine qualification for, and to assure compliance with, the general permit. Without repeating the public participation procedures required under R307-415-7i, the director may grant a source's request for authorization to operate under a general permit, but such a grant to a qualified source shall not be a final permit action until the requirements of R307-415-5a through 5e have been met.

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R307-415-6e. Permit Content: Temporary Sources.

The owner or operator of a permitted source may temporarily relocate the source for a period not to exceed that allowed by R307-401-7. A permit modification is required to relocate the source for a period longer than that allowed by R307-401-7. No Title IV affected source may be permitted as a temporary source. Permits for temporary sources shall include all of the following:

- (1) Conditions that will assure compliance with all applicable requirements at all authorized locations;
- (2) Requirements that the owner or operator receive approval to relocate under R307-401-7 before operating at the new location;
 - (3) Conditions that assure compliance with all other provisions of R307-415.

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R307-415-6f. Permit Content: Permit Shield.

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(1) Except as provided in R307-415, the director shall include in each operating permit a permit shield provision stating that compliance with the conditions of the permit shall be deemed compliance with any applicable requirements as of the date of permit issuance, provided that:

40 41 42 (a) Such applicable requirements are included and are specifically identified in the permit; or

(b) The director, in acting on the permit application or revision, determines in writing that other requirements specifically identified are not applicable to the source, and the permit includes the determination or a concise summary thereof.

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(2) An operating permit that does not expressly state that a permit shield exists shall be presumed not to provide such a shield.

(3) Nothing in this paragraph or in any operating permit shall alter or affect any of the following: (a) The emergency provisions of Section 19-1-202 and Section 19-2-112, and the provisions of

Section 303 of the Act, Emergency Orders, including the authority of the Administrator under that Section;

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(b) The liability of an owner or operator of a source for any violation of applicable requirements under Section 19-2-107(2)(a)(xiii) and Section 19-2-110 prior to or at the time of permit issuance; (c) The applicable requirements of the Acid Rain Program, consistent with Section 408(a) of the

52 Act; 53

(d) The ability of the director to obtain information from a source under Section 19-2-120, and the ability of EPA to obtain information from a source under Section 114 of the Act, Inspection, Monitoring, and Entry.

[R307-415-6g. Permit Content: Emergency Provision.

- (1) Emergency. An "emergency" is any situation arising from sudden and reasonably unforeseeable events beyond the control of the source, including acts of God, which situation requires immediate corrective action to restore normal operation, and that causes the source to exceed a technology based emission limitation under the permit, due to unavoidable increases in emissions attributable to the emergency. An emergency shall not include noncompliance to the extent caused by improperly designed equipment, lack of preventative maintenance, careless or improper operation, or operator error.
- (2) Effect of an emergency. An emergency constitutes an affirmative defense to an action brought for noncompliance with such technology based emission limitations if the conditions of (3) below are met.
- (3) The affirmative defense of emergency shall be demonstrated through properly signed, contemporaneous operating logs, or other relevant evidence that:
 - (a) An emergency occurred and that the permittee can identify the causes of the emergency;
 - (b) The permitted facility was at the time being properly operated;
- (c) During the period of the emergency the permittee took all reasonable steps to minimize levels of emissions that exceeded the emission standards, or other requirements in the permit; and
- (d) The permittee submitted notice of the emergency to the director within two working days of the time when emission limitations were exceeded due to the emergency. This notice fulfills the requirement of R307-415-6a(3)(c)(ii). This notice must contain a description of the emergency, any steps taken to mitigate emissions, and corrective actions taken.
- (4) In any enforcement proceeding, the permittee seeking to establish the occurrence of an emergency has the burden of proof.
- (5) This provision is in addition to any emergency or upset provision contained in any applicable requirement.

R307-415-7a. Permit Issuance: Action on Application.

- (1) A permit, permit modification, or renewal may be issued only if all of the following conditions have been met:
- (a) The director has received a complete application for a permit, permit modification, or permit renewal, except that a complete application need not be received before issuance of a general permit;
- (b) Except for modifications qualifying for minor permit modification procedures under R307-415-7f(1)and (2), the director has complied with the requirements for public participation under R307-415-7i;
- (c) The director has complied with the requirements for notifying and responding to affected States under R307-415-8(2);
- (d) The conditions of the permit provide for compliance with all applicable requirements and the requirements of R307-415;
- (e) EPA has received a copy of the proposed permit and any notices required under R307-415-8(1) and (2), and has not objected to issuance of the permit under R307-415-8(3) within the time period specified therein.
- (2) Except as provided under the initial transition plan provided for under R307-415-5a(3) or under regulations promulgated under Title IV of the Act for the permitting of Title IV affected sources under the Acid Rain Program, the director shall take final action on each permit application, including a request for permit modification or renewal, within 18 months after receiving a complete application.
- (3) The director shall promptly provide notice to the applicant of whether the application is complete. Unless the director requests additional information or otherwise notifies the applicant of incompleteness within 60 days of receipt of an application, the application shall be deemed complete. A completeness determination shall not be required for minor permit modifications.
- (4) The director shall provide a statement that sets forth the legal and factual basis for the draft permit conditions, including references to the applicable statutory or regulatory provisions. The director shall send this statement to EPA and to any other person who requests it.
- (5) The submittal of a complete application shall not affect the requirement that any source have an approval order under R307-401.

R307-415-7b. Permit Issuance: Requirement for a Permit.

- (1) Except as provided in R307-415-7d and R307-415-7f(1)(f)and 7f(2)(e), no Part 70 source may operate after the time that it is required to submit a timely and complete application, except in compliance with a permit issued under these rules.
- (2) Application shield. If a Part 70 source submits a timely and complete application for permit issuance, including for renewal, the source's failure to have an operating permit is not a violation of R307-415 until the director takes final action on the permit application. This protection shall cease to apply if, subsequent to the completeness determination made pursuant to R307-415-7a(3), and as required by R307-415-5a(2), the applicant fails to submit by the deadline specified in writing by the director any additional information identified as being needed to process the application.

R307-415-7c. Permit Renewal and Expiration.

- (1) Permits being renewed are subject to the same procedural requirements, including those for public participation, affected State and EPA review, that apply to initial permit issuance.
- (2) Permit expiration terminates the source's right to operate unless a timely and complete renewal application has been submitted consistent with R307-415-7b and R307-415-5a(1)(c).
- (3) If a timely and complete renewal application is submitted consistent with R307-415-7b and R307-415-5a(1)(c)and the director fails to issue or deny the renewal permit before the end of the term of the previous permit, then all of the terms and conditions of the permit, including the permit shield, shall remain in effect until renewal or denial.

R307-415-7d. Permit Revision: Changes That Do Not Require a Revision.

- (1) Operational Flexibility.
- (a) A Part 70 source may make changes that contravene an express permit term if all of the following conditions have been met:
- (i) The source has obtained an approval order, or has met the exemption requirements under R307-401;
- (ii) The change would not violate any applicable requirements or contravene any federally enforceable permit terms and conditions for monitoring, including test methods, recordkeeping, reporting, or compliance certification requirements;
- (iii) The changes are not modifications under any provision of Title I of the Act; and the changes do not exceed the emissions allowable under the permit, whether expressed therein as a rate of emissions or in terms of total emissions.
- (iv) For each such change, the source shall provide written notice to the director and send a copy of the notice to EPA at least seven days before implementing the proposed change. The seven-day requirement may be waived by the director in the case of an emergency. The written notification shall include a brief description of the change within the permitted facility, the date on which the change will occur, any change in emissions, and any permit term or condition that is no longer applicable as a result of the change. The permit shield shall not apply to these changes. The source, the EPA, and the director shall attach each such notice to their copy of the relevant permit.
- (b) Emission trading under the State Implementation Plan. Permitted sources may trade increases and decreases in emissions in the permitted facility, where the State Implementation Plan provides for such emissions trades, without requiring a permit revision provided the change is not a modification under any provision of Title I of the Act, the change does not exceed the emissions allowable under the permit, and the source notifies the director and the EPA at least seven days in advance of the trade. This provision is available in those cases where the permit does not already provide for such emissions trading.
- (i) The written notification required above shall include such information as may be required by the provision in the State Implementation Plan authorizing the emissions trade, including at a minimum, when the proposed change will occur, a description of each such change, any change in emissions, the permit requirements with which the source will comply using the emissions trading provisions of the State Implementation Plan, and the pollutants emitted subject to the emissions trade. The notice shall also refer to the provisions with which the source will comply in the State Implementation Plan and that provide for the emissions trade.
 - (ii) The permit shield shall not extend to any change made under this paragraph. Compliance with

the permit requirements that the source will meet using the emissions trade shall be determined according to requirements of the State Implementation Plan authorizing the emissions trade.

- (c) If a permit applicant requests it, the director shall issue permits that contain terms and conditions, including all terms required under R307-415-6a and 6c to determine compliance, allowing for the trading of emissions increases and decreases in the permitted facility solely for the purpose of complying with a federally-enforceable emissions cap that is established in the permit independent of otherwise applicable requirements. Such changes in emissions shall not be allowed if the change is a modification under any provision of Title I of the Act or the change would exceed the emissions allowable under the permit. The permit applicant shall include in its application proposed replicable procedures and permit terms that ensure the emissions trades are quantifiable and enforceable. The director shall not include in the emissions trading provisions any emissions units for which emissions are not quantifiable or for which there are no replicable procedures to enforce the emissions trades. The permit shall also require compliance with all applicable requirements, and shall require the source to notify the director and the EPA in writing at least seven days before making the emission trade.
- (i) The written notification shall state when the change will occur and shall describe the changes in emissions that will result and how these increases and decreases in emissions will comply with the terms and conditions of the permit.
- (ii) The permit shield shall extend to terms and conditions that allow such increases and decreases in emissions.
- (2) Off-permit changes. A Part 70 source may make changes that are not addressed or prohibited by the permit without a permit revision, unless such changes are subject to any requirements under Title IV of the Act or are modifications under any provision of Title I of the Act.
- (a) Each such change shall meet all applicable requirements and shall not violate any existing permit term or condition.
- (b) Sources must provide contemporaneous written notice to the director and EPA of each such change, except for changes that qualify as insignificant under R307-415-5e. Such written notice shall describe each such change, including the date, any change in emissions, pollutants emitted, and any applicable requirements that would apply as a result of the change.
 - (c) The change shall not qualify for the permit shield.
- (d) The permittee shall keep a record describing changes made at the source that result in emissions of a regulated air pollutant subject to an applicable requirement, but not otherwise regulated under the permit, and the emissions resulting from those changes.
- (e) The off-permit provisions do not affect the requirement for a source to obtain an approval order under R307-401.

R307-415-7e. Permit Revision: Administrative Amendments.

- (1) An "administrative permit amendment" is a permit revision that:
- (a) Corrects typographical errors;

- (b) Identifies a change in the name, address, or phone number of any person identified in the permit, or provides a similar minor administrative change at the source;
 - (c) Requires more frequent monitoring or reporting by the permittee;
- (d) Allows for a change in ownership or operational control of a source where the director determines that no other change in the permit is necessary, provided that a written agreement containing a specific date for transfer of permit responsibility, coverage, and liability between the current and new permittee has been submitted to the director;
- (e) Incorporates into the operating permit the requirements from an approval order issued under R307-401, provided that the procedures for issuing the approval order were substantially equivalent to the permit issuance or modification procedures of R307-415-7a through 7i and R307-415-8, and compliance requirements are substantially equivalent to those contained in R307-415-6a through 6g;
- (2) Administrative permit amendments for purposes of the acid rain portion of the permit shall be governed by regulations promulgated under Title IV of the Act.
- (3) Administrative permit amendment procedures. An administrative permit amendment may be made by the director consistent with the following:
 - (a) The director shall take no more than 60 days from receipt of a request for an administrative

permit amendment to take final action on such request, and may incorporate such changes without providing notice to the public or affected States provided that the director designates any such permit revisions as having been made pursuant to this paragraph. The director shall take final action on a request for a change in ownership or operational control of a source under (1)(d) above within 30 days of receipt of a request.

- (b) The director shall submit a copy of the revised permit to EPA.
- (c) The source may implement the changes addressed in the request for an administrative amendment immediately upon submittal of the request.
- (4) The director shall, upon taking final action granting a request for an administrative permit amendment, allow coverage by the permit shield for administrative permit amendments made pursuant to (1)(e) above which meet the relevant requirements of R307-415-6a through 6g, 7 and 8 for significant permit modifications.

R307-415-7f. Permit Revision: Modification.

The permit modification procedures described in R307-415-7f shall not affect the requirement that a source obtain an approval order under R307-401 before constructing or modifying a source of air pollution. A modification not subject to the requirements of R307-401 shall not require an approval order in addition to the permit modification as described in this section. A permit modification is any revision to an operating permit that cannot be accomplished under the program's provisions for administrative permit amendments under R307-415-7e. Any permit modification for purposes of the acid rain portion of the permit shall be governed by regulations promulgated under Title IV of the Act.

- (1) Minor permit modification procedures.
- (a) Criteria. Minor permit modification procedures may be used only for those permit modifications that:
 - (i) Do not violate any applicable requirement or require an approval order under R307-401;
- (ii) Do not involve significant changes to existing monitoring, reporting, or recordkeeping requirements in the permit;
- (iii) Do not require or change a case-by-case determination of an emission limitation or other standard, or a source-specific determination for temporary sources of ambient impacts, or a visibility or increment analysis;
- (iv) Do not seek to establish or change a permit term or condition for which there is no corresponding underlying applicable requirement and that the source has assumed to avoid an applicable requirement to which the source would otherwise be subject. Such term or condition would include a federally enforceable emissions cap assumed to avoid classification as a modification under any provision of Title I or an alternative emissions limit approved pursuant to regulations promulgated under Section 112(i)(5) of the Act, Early Reduction; and
 - (v) Are not modifications under any provision of Title I of the Act.
- (b) Notwithstanding (1)(a)above and (2)(a) below, minor permit modification procedures may be used for permit modifications involving the use of economic incentives, marketable permits, emissions trading, and other similar approaches, to the extent that such minor permit modification procedures are explicitly provided for in the State Implementation Plan or an applicable requirement.
- (c) Application. An application requesting the use of minor permit modification procedures shall meet the requirements of R307-415-5c and shall include all of the following:
- (i) A description of the change, the emissions resulting from the change, and any new applicable requirements that will apply if the change occurs;
 - (ii) The source's suggested draft permit;
- (iii) Certification by a responsible official, consistent with R307-415-5d, that the proposed modification meets the criteria for use of minor permit modification procedures and a request that such procedures be used;
- (iv) Completed forms for the director to use to notify EPA and affected States as required under R307-415-8.
- (d) EPA and affected State notification. Within five working days of receipt of a complete permit modification application, the director shall notify EPA and affected States of the requested permit modification. The director promptly shall send any notice required under R307-415-8(2)(b) to EPA.
 - (e) Timetable for issuance. The director may not issue a final permit modification until after EPA's

45-day review period or until EPA has notified the director that EPA will not object to issuance of the permit modification, whichever is first. Within 90 days of the director's receipt of an application under minor permit modification procedures or 15 days after the end of EPA's 45-day review period under R307-415-8(3), whichever is later, the director shall:

(i) Issue the permit modification as proposed;

- (ii) Deny the permit modification application;
- (iii) Determine that the requested modification does not meet the minor permit modification criteria and should be reviewed under the significant modification procedures; or
- (iv) Revise the draft permit modification and transmit to EPA the new proposed permit modification as required by R307-415-8(1).
- (f) Source's ability to make change. A Part 70 source may make the change proposed in its minor permit modification application immediately after it files such application if the source has received an approval order under R307-401 or has met the approval order exemption requirements under R307-413-1 through 6. After the source makes the change allowed by the preceding sentence, and until the director takes any of the actions specified in (1)(e)(i) through (iii) above, the source must comply with both the applicable requirements governing the change and the proposed permit terms and conditions. During this time period, the source need not comply with the existing permit terms and conditions it seeks to modify. However, if the source fails to comply with its proposed permit terms and conditions during this time period, the existing permit terms and conditions it seeks to modify may be enforced against it.
- (g) Permit shield. The permit shield under R307-415-6f shall not extend to minor permit modifications.
- (2) Group processing of minor permit modifications. Consistent with this paragraph, the director may modify the procedure outlined in (1) above to process groups of a source's applications for certain modifications eligible for minor permit modification processing.
 - (a) Criteria. Group processing of modifications may be used only for those permit modifications:
 - (i) That meet the criteria for minor permit modification procedures under (1)(a) above; and
- (ii) That collectively are below the following threshold level: 10 percent of the emissions allowed by the permit for the emissions unit for which the change is requested, 20 percent of the applicable definition of major source in R307-415-3, or five tons per year, whichever is least.
- (b) Application. An application requesting the use of group processing procedures shall meet the requirements of R307-415-5c and shall include the following:
- (i) A description of the change, the emissions resulting from the change, and any new applicable requirements that will apply if the change occurs.
 - (ii) The source's suggested draft permit.
- (iii) Certification by a responsible official, consistent with R307-415-5d, that the proposed modification meets the criteria for use of group processing procedures and a request that such procedures be used.
- (iv) A list of the source's other pending applications awaiting group processing, and a determination of whether the requested modification, aggregated with these other applications, equals or exceeds the threshold set under R307-415-7e(2)(a)(ii).
- (v) Certification, consistent with R307-415-5d, that the source has notified EPA of the proposed modification. Such notification need only contain a brief description of the requested modification.
- (vi) Completed forms for the director to use to notify EPA and affected States as required under R307-415-8.
- (c) EPA and affected State notification. On a quarterly basis or within five business days of receipt of an application demonstrating that the aggregate of a source's pending applications equals or exceeds the threshold level set under (2)(a)(ii) above, whichever is earlier, the director shall notify EPA and affected States of the requested permit modifications. The director shall send any notice required under R307-415-8(2)(b)to EPA.
- (d) Timetable for issuance. The provisions of (1)(e) above shall apply to modifications eligible for group processing, except that the director shall take one of the actions specified in (1)(e)(i) through (iv) above within 180 days of receipt of the application or 15 days after the end of EPA's 45-day review period under R307-415-8(3), whichever is later.
 - (e) Source's ability to make change. The provisions of (1)(f) above shall apply to modifications

eligible for group processing.

- (f) Permit shield. The provisions of (1)(g) above shall also apply to modifications eligible for group processing.
 - (3) Significant modification procedures.
- (a) Criteria. Significant modification procedures shall be used for applications requesting permit modifications that do not qualify as minor permit modifications or as administrative amendments. Every significant change in existing monitoring permit terms or conditions and every relaxation of reporting or recordkeeping permit terms or conditions shall be considered significant. Nothing herein shall be construed to preclude the permittee from making changes consistent with R307-415 that would render existing permit compliance terms and conditions irrelevant.
- (b) Significant permit modifications shall meet all requirements of R307-415, including those for applications, public participation, review by affected States, and review by EPA, as they apply to permit issuance and permit renewal. The director shall complete review on the majority of significant permit modifications within nine months after receipt of a complete application.

R307-415-7g. Permit Revision: Reopening for Cause.

- (1) Each issued permit shall include provisions specifying the conditions under which the permit will be reopened prior to the expiration of the permit. A permit shall be reopened and revised under any of the following circumstances:
- (a) New applicable requirements become applicable to a major Part 70 source with a remaining permit term of three or more years. Such a reopening shall be completed not later than 18 months after promulgation of the applicable requirement. No such reopening is required if the effective date of the requirement is later than the date on which the permit is due to expire, unless the terms and conditions of the permit have been extended pursuant to R307-415-7c(3).
- (b) Additional requirements, including excess emissions requirements, become applicable to an Title IV affected source under the Acid Rain Program. Upon approval by EPA, excess emissions offset plans shall be deemed to be incorporated into the permit.
- (c) The director or EPA determines that the permit contains a material mistake or that inaccurate statements were made in establishing the emissions standards or other terms or conditions of the permit.
- (d) EPA or the director determines that the permit must be revised or revoked to assure compliance with the applicable requirements.
- (e) Additional applicable requirements are to become effective before the renewal date of the permit and are in conflict with existing permit conditions.
- (2) Proceedings to reopen and issue a permit shall follow the same procedures as apply to initial permit issuance and shall affect only those parts of the permit for which cause to reopen exists. Such reopening shall be made as expeditiously as practicable.
- (3) Reopenings under (1) above shall not be initiated before a notice of such intent is provided to the Part 70 source by the director at least 30 days in advance of the date that the permit is to be reopened, except that the director may provide a shorter time period in the case of an emergency.

R307-415-7h. Permit Revision: Reopenings for Cause by EPA.

The director shall, within 90 days after receipt of notification that EPA finds that cause exists to terminate, modify or revoke and reissue a permit, forward to EPA a proposed determination of termination, modification, or revocation and reissuance, as appropriate. The director may request a 90-day extension if a new or revised permit application is necessary or if the director determines that the permittee must submit additional information.

R307-415-7i. Public Participation.

The director shall provide for public notice, comment and an opportunity for a hearing on initial permit issuance, significant modifications, reopenings for cause, and renewals, including the following procedures:

(1) The director shall give notice by publishing a legal notice on the public legal notice website under Subsection 42-1-101(2) and by posting the notice and the draft permit on the Division's website for the duration of the public comment period. The director shall give notice to persons on a mailing list developed

by the director, including those who request in writing to be on the list, and by other means if necessary to assure adequate notice to the affected public.

- (2) The notice shall identify:
- (a) the Part 70 source;

- (b) the name and address of the permittee;
- (c) the name and address of the director;
- (d) the activity or activities involved in the permit action;
- (e) the emissions change involved in any permit modification;
- (f) the name, address, and telephone number of a person from whom interested persons may obtain additional information, including copies of the permit draft, the application, all relevant supporting materials, including any compliance plan or compliance and monitoring certification, and all other materials available to the director that are relevant to the permit decision;
 - (g) a brief description of the comment procedures; and
- (h) the time and place of any hearing that may be held, including a statement of procedures to request a hearing, unless a hearing has already been scheduled.
- (3) The director shall provide such notice and opportunity for participation by affected States as is provided for by Section R307-415-8.
- (4) The director shall provide at least 30 days for public comment and shall give notice of any public hearing at least 30 days in advance of the hearing.
- (5) The director shall keep a record of the commenters and also of the issues raised during the public participation process, and such records shall be available to the public and to EPA.

R307-415-8. Permit Review by EPA and Affected States.

- (1) Transmission of information to EPA.
- (a) The director shall provide to EPA a copy of each permit application, including any application for permit modification, each proposed permit, and each final operating permit, unless the Administrator has waived this requirement for a category of sources, including any class, type, or size within such category. The applicant may be required by the director to provide a copy of the permit application, including the compliance plan, directly to EPA. Upon agreement with EPA, the director may submit to EPA a permit application summary form and any relevant portion of the permit application and compliance plan, in place of the complete permit application and compliance plan. To the extent practicable, the preceding information shall be provided in computer-readable format compatible with EPA's national database management system.
- (b) The director shall keep for five years such records and submit to EPA such information as EPA may reasonably require to ascertain whether the Operating Permit Program complies with the requirements of the Act or of 40 CFR Part 70.
 - (2) Review by affected States.
- (a) The director shall give notice of each draft permit to any affected State on or before the time that the director provides this notice to the public under R307-415-7i, except to the extent R307-415-7f(1) or (2) requires the timing to be different, unless the Administrator has waived this requirement for a category of sources, including any class, type, or size within such category.
- (b) The director, as part of the submittal of the proposed permit to EPA, or as soon as possible after the submittal for minor permit modification procedures allowed under R307-415-7f(1) or (2), shall notify EPA and any affected State in writing of any refusal by the director to accept all recommendations for the proposed permit that the affected State submitted during the public or affected State review period. The notice shall include the director's reasons for not accepting any such recommendation. The director is not required to accept recommendations that are not based on applicable requirements or the requirements of R307-415.
- (3) EPA objection. If EPA objects to the issuance of a permit in writing within 45 days of receipt of the proposed permit and all necessary supporting information, then the director shall not issue the permit. If the director fails, within 90 days after the date of an objection by EPA, to revise and submit a proposed permit in response to the objection, EPA may issue or deny the permit in accordance with the requirements of the Federal program promulgated under Title V of the Act.
- (4) Public petitions to EPA. If EPA does not object in writing under R307-415-8(3), any person may petition EPA under the provisions of 40 CFR 70.8(d) within 60 days after the expiration of EPA's 45-

day review period to make such objection. If EPA objects to the permit as a result of a petition, the director shall not issue the permit until EPA's objection has been resolved, except that a petition for review does not stay the effectiveness of a permit or its requirements if the permit was issued after the end of the 45-day review period and prior to an EPA objection. If the director has issued a permit prior to receipt of an EPA objection under this paragraph, EPA may modify, terminate, or revoke such permit, consistent with the procedures in 40 CFR 70.7(g) except in unusual circumstances, and the director may thereafter issue only a revised permit that satisfies EPA's objection. In any case, the source will not be in violation of the requirement to have submitted a timely and complete application.

(5) Prohibition on default issuance. The director shall not issue an operating permit, including a permit renewal or modification, until affected States and EPA have had an opportunity to review the proposed permit as required under this Section.

R307-415-9. Fees for Operating Permits.

- (1) Definitions. The following definition applies only to Subsection R307-415-9: "Allowable emissions" are emissions based on the potential to emit stated by the director in an approval order, the State Implementation Plan or an operating permit.
- (2) Applicability. As authorized by Section 19-1-201, all Part 70 sources must pay annual fees to support the operating permit program.
 - (3) Calculation of Annual Emission Fee for a Part 70 Source.
- (a) The emission fee shall be calculated for all chargeable pollutants emitted from a Part 70 source, even if only one unit or one chargeable pollutant triggers the applicability of Rule R307-415 to the source.
- (i) Fugitive emissions and fugitive dust shall be counted when determining the emission fee for a Part 70 source.
- (ii) An emission fee shall not be charged for emissions of any amount of a chargeable pollutant if the emissions are already accounted for within the emissions of another chargeable pollutant.
- (iii) An emission fee shall not be charged for emissions of any one chargeable pollutant from any one Part 70 source in excess of 4,000 tons per year.
- (iv) Emissions resulting directly from an internal combustion engine for transportation purposes or from a non-road vehicle shall not be counted when calculating chargeable emissions for a Part 70 source.
- (b) The emission fee portion of the total fee for an existing source prior to the issuance of an operating permit, shall be based on the most recent emission inventory available unless a Part 70 source elected, prior to July 1, 1992, to base the fee for one or more pollutants on allowable emissions established in an approval order or the State Implementation Plan.
- (c) The emission fee portion of the total fee after the issuance or renewal of an operating permit shall be based on the most recent emission inventory available unless a Part 70 source elects, prior to the issuance or renewal of the permit, to base the fee for one or more chargeable pollutants on allowable emissions for the entire term of the permit.
- (d) When a new Part 70 source begins operating, it shall pay the emission fee portion of the total fee for that fiscal year, prorated from the date the source begins operating plus any additional Part 70 fees. The emission fee portion of the total fee for a new Part 70 source shall be based on allowable emissions until that source has been in operation for a full calendar year, and has submitted an inventory of actual emissions. If a new Part 70 source is not billed in the first billing cycle of its operation, the emission fee plus any additional fees shall be calculated using the emissions that would have been used had the source been billed at that time. This fee shall be in addition to any subsequent emission fees.
- (e) When a Part 70 source is no longer subject to Part 70, the emission fee portion of the total fee shall be prorated to the date that the source ceased to be subject to Part 70. If the Part 70 source has already paid an emission fee that is greater than the prorated fee, the balance of the emission fee will be refunded. No other Part 70 fees shall be refunded.
- (i) If that Part 70 source again becomes subject to the emission fee requirements, it shall pay an emission fee for that fiscal year prorated from the date the source again became subject to the emission fee requirements plus any additional fees typically charged for Part 70 sources for that year. The fee shall be based on the emission inventory during the last full year of operation. The emission fee shall continue to be based on actual emissions reported for the last full calendar year of operation until that source has been in operation for a full calendar year and has submitted an updated inventory of actual emissions.

- (ii) If a Part 70 source has chosen to base the emission fee on allowable emissions, then the prorated fee shall be calculated using allowable emissions.
- (f) Modifications. The method for calculating the emission fee for a source shall not be affected by modifications at that source, unless the source demonstrates to the director that another method for calculating chargeable emissions is more representative of operations after the modification has been made.
- (g) The director may presume that potential emissions of any chargeable pollutant for the source are equivalent to the actual emissions for the source if recent inventory data are not available.
 - (4) Collection of Fees.

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- (a) The Part 70 fees are due on October 1 of each calendar year or 45 days after the source has received notice of the amount of the fee, whichever is later.
- (b) The director may require any owner or operator of the source who fails to pay the annual fees by the due date to pay interest on the fee and a penalty under Subsection 19-2-109.1(4)(a) or revoke the operating permit under Subsection 19-2-109.1(4)(b).
- (c) An owner or operator may contest a Part 70 fee assessment, or associated penalty, under 19-2-109.1(5).
- (d) To reinstate the permit revoked under Subsection 19-2-109.1(4)(b), an owner or operator shall pay the outstanding fees, a penalty of not more than 50% of outstanding fees, and interests on the outstanding fees computed at 12% annually.
- 20 KEY: air pollution, greenhouse gases, operating permit, emission fees
- 21 Date of Last Change: January 15, 2022
- Notice of Continuation: May 4, 2022
- 23 Authorizing, and Implemented or Interpreted Law: 19-2-109.1; 19-2-104

ITEM 6



Department of Environmental Quality

Kimberly D. Shelley Executive Director

DIVISION OF AIR QUALITY Bryce C. Bird Director

DAQ-085-23

MEMORANDUM

TO: Air Quality Board

THROUGH: Bryce C. Bird, Executive Secretary

THROUGH: Erica Pryor, Rules Coordinator

FROM: Mat Carlile, Environmental Planning Consultant

DATE: October 17, 2023

SUBJECT: PROPOSE FOR PUBLIC COMMENT: Amend Incorporation of Utah State

Implementation Plan, Section X, Vehicle Inspection and Maintenance Program, Part A, General Requirements and Applicability; and Part B, Davis County; R307-110-31. Section X, Vehicle Inspection and Maintenance Program, Part A, General Requirements and Applicability; and R307-110-32. Section X, Vehicle Inspection and Maintenance Program,

Part B, Davis County.

Utah Code Annotated 41-6a-1642 gives authority to each county to design and manage a vehicle inspection and maintenance (I/M) program when it is required to attain and maintain any National Ambient Air Quality Standard (NAAQS). State Implementation Plan (SIP) Section X incorporates these county programs into the SIP. Section X, Part A summarizes I/M requirements that are common among all I/M programs. Parts B through F contain the requirements for each county's unique I/M program. Section X, Part B is unique to Davis County's I/M program. Amendments to Section X, Part A was last adopted by the Board on September 4, 2019, and Section X, Part B was last adopted by the Board on March 4, 2020.

The Division of Air Quality is requesting the Air Quality Board (Board) to propose for public comment amendments to SIP Section X Parts A and B of the SIP. The amendments to Part A update the legislative changes to the I/M programs and detail how out-of-state exemptions are handled. Amendments to Part B update Davis County's ordinances/regulations to reflect the activities of the current programs, provide clarity, and ensure that the programs conform to federal requirements.

Davis County made the following changes to their I/M ordinance:

- changed the authority to administer and enforce Davis County Ordinance Chapter from the Environmental Health Division to the Davis County Health Department, giving the Health Director final authority;
- aligned its I/M program to match other programs within the state by:
 - o removing the requirement to have medium-duty diesel motor vehicles tested at the Davis County Testing Center. Any permitted I/M station is now able to test diesel vehicles less than 14,001 lbs. GVWR that are 1998 and newer;
 - o exempting heavy-duty diesel motor vehicles from a required inspection;
 - o exempting all diesel vehicles with model years 1997 and older; and
 - o allowing readiness monitors to be "not ready" under certain circumstances and still pass the inspection.
- extended the validity of inspector permits upon renewal from one year to two years;
- simplified the fee schedule as follows:
 - o added a plan review fee of \$50 for first permit, instead of an initial permit fee of \$300;
 - o changed the permit fee for stations to \$200 a year, instead of \$300 for the first year and \$60 every year after;
 - o moved inspector permit renewal times from one to two years and increased the fee from \$25 to \$50;
 - o added an exam fee of \$25;
 - o added a fee for a Referee or Waiver Inspection which would only be assessed if no charges were assessed for a test at another location;
 - removed fees for permitting station at new location, changing the name of a station, changing permit type, refresher training, study guides, duplicate certificates of compliance, and chapter copies.
- removed repair station and repair technician permits and requirements;
- simplified the "no idling" requirements; and
- moved diesel testing and inspection procedures from the appendix into the body of the rules.

Staff worked closely with Environmental Protection Agency (EPA) and Davis County to ensure that these amendments accurately reflect the current I/M programs and are approvable by the EPA.

Recommendation: Staff recommends the Board approve for public comment the amendments to incorporation of Utah State Implementation Plan, Section X, Vehicle Inspection and Maintenance Program, Part A, General Requirements and Applicability, and Part B, Davis County; and R307-110-31 and 32, Section X, Vehicle Inspection and Maintenance Program, Part A, General Requirements and Applicability, and Section X, Vehicle Inspection and Maintenance Program, Part B, Davis County.

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4	UTAH STATE IMPLEMENTATION PLAN
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6	SECTION X
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8	VEHICLE INSPECTION AND MAINTENANCE PROGRAM
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10	PART A
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12	GENERAL REQUIREMENTS AND APPLICABILITY
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40	Adopted by the Utah Air Quality Board
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UTAH STATE IMPLEMENTATION PLAN SECTION X VEHICLE INSPECTION AND MAINTENANCE PROGRAM PART A GENERAL REQUIREMENTS AND APPLICABILITY

1. General Requirements

Federal I/M Program requirements: Utah was previously required by Section 182 and Section 187 of the Clean Air Act (CAA) to implement and maintain an Inspection and Maintenance (I/M) program in Davis, Salt Lake, Utah, and Weber counties that met the minimum requirements of 40 Code of Federal Regulation (CFR) Part 51 Subpart S and was at least as effective as the Environmental Protection Agency's (EPA's) Basic Performance Standard as specified in 40 CFR 51.352. The Basic Performance Standard requirement is no longer applicable as the relevant nonattainment areas in Davis, Salt Lake, Utah, and Weber counties have been redesignated to attainment / maintenance for the carbon monoxide (CO) National Ambient Air Quality Standards (NAAQS) and the 1hour ozone NAAQS. Parts A, B, C, D, and E of Section X, together with the referenced appendices, continue to demonstrate compliance with the 40 CFR Part 51 provisions for Inspection and Maintenance Program Requirements for Davis, Salt Lake, Utah, and Weber counties and produce mobile source emission reductions that are sufficient to demonstrate continued maintenance of the applicable CO and 1-hour ozone NAAOS. In addition, the Cache, Davis, Salt Lake, Utah, and Weber counties' I/M programs are also utilized as a control measure to attain and maintain EPA's particulate NAAQS (PM_{2.5} and PM_{10}).

On-Board Diagnostics (OBD) Checks: By January 1, 2002, OBD checks and OBD-related repairs are required as a routine component of Utah I/M programs on model year 1996 and newer light-duty vehicles and light-duty trucks equipped with certified on-board diagnostic systems. The federal performance standard requires repair of malfunctions or system deterioration identified by or affecting OBD systems.

Utah I/M program history and general authority: The legal authority for Utah's I/M programs, Utah Code Annotated Section 41-6-163.6¹, was enacted during the First Special Session of the Utah Legislature in 1983. I/M programs were initially implemented by Davis and Salt Lake counties in 1984, Utah County in 1986, and Weber County in 1990.

In 1990, the Legislature enacted Section 41-6-163.7² that requires counties with I/M programs use computerized I/M testing equipment, adopt standardized emission standards, and provide for reciprocity. Those requirements were fully implemented by Davis, Salt Lake, and Utah counties on September 1, 1991, and Weber County on

¹ Renumbered and recodified in 2005 at Utah Code Annotated 41-6a-1642

² Renumbered and recodified in 2005 at Utah Code Annotated 41-6a-1643

January 1, 1992.

 Section 41-6-163.6 was again amended by the Legislature in 1992 to include vehicles owned and operated by the federal government, federal employees, and students and employees of colleges and universities. The 1992 revision of 41-6-163.6 also established more stringent restrictions for vehicles that qualify for a farm truck exemption.

Section 41-6-163.6 requires that, if identified as necessary to attain or maintain any NAAQS, a county must create an I/M program that follows the criteria outlined in Section 41-6-163.6. Once a county enacts regulations or ordinances, amendments to Section 19-2-104 in 1992 authorized the Utah Air Quality Board to formally establish those requirements for county I/M programs after obtaining agreement from the affected counties. Section 41-6-163.6 was also amended to allow the counties to subject individual motor vehicles to inspection and maintenance at times other than the annual inspection.

Section 41-6-163.6 was amended in 1994 to authorize implementation of I/M programs stricter than minimum federal requirements in counties where it is necessary to attain or maintain ambient air quality standards. Section 41-6-163.6 requires preference be given to a decentralized program to the extent that a decentralized program will attain and maintain ambient air quality standards and meet federal requirements. It also requires affected counties and the Air Quality Board to give preference to the most cost-effective means to achieve and maintain the maximum benefit for air quality standards and to meet federal air quality requirements related to motor vehicles. The Legislature indicated preference for a reasonable phase-out period for replacement of air pollution test equipment made obsolete by an I/M program in accordance with applicable federal requirements and if such a phase-out does not otherwise interfere with attainment of ambient air quality standards.

House Concurrent Resolution No. 9 of the 1994 General Session of the Legislature (H.C.R. 9) was a concurrent resolution of the Legislature and the Governor expressing opposition to the EPA's position regarding the implementation of enhanced vehicle inspection. Additionally, H.C.R. 9 urged the EPA to recognize the benefits of other vehicle inspection program options and to work with the state to develop workable plans for attaining ambient air quality standards and protecting public health.

In 1995, the Legislature amended Section 41-6-163.7 to rescind the requirement for I/M program standardization and reciprocity between counties. While advantageous, standardization and reciprocity between I/M counties is no longer required, and each I/M county is free to develop an I/M program that best meets the respective county's needs.

In 2002, the Legislature amended Section 41-6-163.7 to allow for inspection every other year for cars that are six years old or newer on January 1 each year. This provision is applicable to the extent allowed under the current state implementation plan for each area.

 In 2005, the Legislature renumbered Section 41-6-163.6 and re-codified it as Section 41-6a-1642. The Legislature also amended Section 41-6a-1642 to allow counties with an I/M program to require college students and employees who park a motor vehicle on college or university campus that is not registered in a county subject to emission inspection, to provide proof of compliance with an emission inspection.

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Section 41 6a-1642 was amended in 2008 to provide an exemption for vintage vehicles, which are defined in Section 41-21-1. Section 41 6a-1642 was again amended in 2009 to provide an exemption for custom vehicles, which are defined in Section 41-6a-1507.

In 2010, the Legislature enacted Section 41-1a-1223 that allows counties with an I/M program to impose a local emissions compliance fee of up to three dollars. This same bill amended Section 41-6a-1642 to require I/M counties that impose the fee to use revenues generated from the fee to establish and enforce an emission inspection and maintenance program.

Section 41-6a-1642 was amended in 2011 to require I/M counties' regulations and ordinances to be compliant with the analyzer design and certification requirements contained in the SIP.

 In 2012, the Legislature amended Section 41-6a-1642 to allow a motor vehicle that is less than two years old as of January 1, of any given year, to be exempt from being required to obtain an emission inspection. This provision is applicable to the extent allowed under the current SIP for each area. This bill went into effect on October 1, 2012. In addition, the Legislature also amended Section 41-1a-205 to allow a safety and emissions inspection issued for a motor vehicle during the previous 11 months may be used to satisfy the safety and emissions inspection requirements³. The effective date of this bill is January 1, 2013. The Legislature also amended Section 41-1a-1223 to allow the counties to collect a \$2.25 fee for those vehicles that are registered for a six-month period under Utah Code Annotated 41-1a-215.5. The effective date of this bill is July 1, 2013.

Section 41-6a-1642 was amended in 2013 to include the date that notice is required and the date the enactment, change, or repeal will take effect if a county legislative body enacts, changes, or repeals the local emissions compliance fee. Section 41-6a-1642 provides that for a county required to implement a new vehicle emissions inspection and maintenance program, but for which no current federally approved state implementation plan exists, a vehicle shall be tested at a frequency determined by the county legislative body, in consultation with the Air Quality Board, that is necessary to comply with federal law or attain or maintain any national ambient air quality standard and establishes procedures and notice requirements for a county legislative body to establish or change the frequency of a vehicle emissions inspection and maintenance program.

In 2017, the Legislature amended Section 41-6a-1642 to allow a county that imposes a

³ Utah Code 41-6a-1642(7) states that "the emissions inspection shall be required within the same time limit applicable to a safety inspection under Section 41-1a-205."

local emissions compliance fee to use revenue generated from the fee to promote programs to maintain a national ambient air quality standard. At that time, the Legislature also amended 41-6a-1642 to state that vehicles may not be denied registration based solely on the presence of a defeat device covered in the Volkswagen partial consent decrees or an EPA-approved vehicle modification.

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In 2020, the Legislature amended Section 41-1a-1223 to exempt electric motor vehicles from local emissions compliance fees. Section 41-6a-1642 was amended in 2022 to allow a county to investigate and determine if a vehicle owner has provided a false or an improper address to register a vehicle to avoid an emissions inspection and subsequently allows a county to impose a civil penalty. The Legislature also amended Utah Code in 2023 to add a definition for restored modified vehicle. This amendment also requires an emissions inspection as a prerequisite to registration of a restored-modified vehicle and prohibits a county emissions program from refusing to perform an emissions test based solely on the status of a vehicle as a restored-modified vehicle.

Notification of Programmatic Changes: The legislative body of a county identified in Utah Code 41-6a-1642 (1) shall consult with the Director of the Utah Division of Air Quality prior to their public comment process for any amendments to their I/M regulations or ordinances. Consultation should include a written notice describing the proposed changes to the I/M program.

2. Applicability

General Applicability: Utah Code Annotated 41-6a-1642 gives authority to each county to implement and manage an I/M program to attain and maintain any NAAQS. Davis, Salt Lake, Utah, and Weber counties were required under Section 182 and 187 of the CAA to implement an I/M program to attain and maintain the ozone and carbon monoxide NAAQS. All of Utah's ozone and carbon monoxide maintenance areas are located in Davis, Salt Lake, Utah, and Weber counties. In addition, a motor vehicle I/M program is a control measure for attaining the particulate matter NAAQS in Cache, Davis, Salt Lake, Utah, and Weber counties. Utah's SIP for I/M is applicable countywide in Cache, Davis, Salt Lake, Utah, and Weber counties.

3. General Summary

Below is a general summary of Utah's I/M programs. Part B, C, D, E and F of this section of the SIP provide a more specific summary of I/M programs for Cache, Davis, Salt Lake, Utah, and Weber counties. These parts also incorporate the individual county I/M ordinances/regulations and policies that provide for the enforceability of the respective I/M programs.

Network Type: All Utah I/M programs are comprised of a decentralized, test-and-repair network.

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I/M program funding requirements: Counties with I/M programs allocate funding as needed to comply with the relevant requirements specified in Utah's SIP, the Utah statutes, county ordinances, regulations and policies, and the federal I/M program regulation. Program budgets include funding for resources necessary to adequately manage the programs and those who conduct covert and overt audits, including:

- necessary repairs;
- assistance and education for inspectors, station owners, and the public;
- management for the analysis and reporting of data;
- ensuring program compliance by inspectors, stations, and vehicle owners; and
- evaluation and upgrades to the programs.

Funding mechanisms: Utah's I/M programs are funded through several mechanisms including, but not limited to, a fee which is collected at the time of registration by the Utah Tax Commission Division of Motor Vehicles or the county Assessor's Office. Those monies are remitted to the county where the vehicle is registered. The collection of fees for various permitting activities and the selling inspection certificates to inspection stations are the other mechanisms. A fee schedule can be found in an appendix to each county I/M ordinance or regulation.

Government fleet: Section 41-6a-1642(1)(b) of the Utah Code requires that all vehicles owned or operated in the I/M counties by federal, state, or local government entities comply with the I/M programs.

Vehicles owned by students and federal employees: Section 41-6a-1642(5) provides a provision that counties may require universities and colleges located in Utah's I/M areas to require proof of compliance with the I/M program for vehicles which are permitted to park on campus regardless of where the vehicle is registered. Vehicles operated by federal employees and operated on a federal installation located within an I/M program area are also subject to the I/M program regardless of where they are registered. Proof of compliance consists of a current vehicle registration in an I/M program area, an I/M certificate of compliance or waiver, or evidence of exempt vehicle status.

Rental vehicles: All vehicles available for rent or use in an I/M county are subject to the county I/M program. To the extent practicable, all vehicles principally operated in the county are subject to the I/M program.

Farm truck exemption: Eligibility for the farm truck exemption from the I/M programs is specified in Section 41-6a-1642(4) and must be verified in writing by county I/M program staff.

Out-of-state exemption: Vehicles registered in an I/M county but operated out-of-state are eligible for an exemption. The owner must [complete Utah State Tax Commission form TC-810] receive a deferment from the county prior to a registration being

completed. [in order to be registered without inspection documentation]. The owner must explain why the vehicle is unavailable for inspection in Utah. Common situations include Utah citizens that are military personnel stationed outside of the state, students attending institutions of higher education elsewhere, and people serving religious assignments outside the area. If the temporary address of the owner is located within another I/M program area listed on the back of the form, the owner must submit proof of compliance with that I/M program at the time of, and as a condition precedent to, registration or renewal of registration. The vehicle owner must identify their anticipated date of return to the state and is required to have the vehicle inspected within ten days after the vehicle is back in Utah.

Motorist Compliance Enforcement Mechanism: The I/M programs are registration-enforced on a county-wide basis. A certificate of emissions inspection or a waiver or other evidence that the vehicle is exempt from the I/M program requirements must be presented at the time of, and as a condition precedent to, registration or renewal of registration of a motor vehicle as specified in Section 41-6a-1642(1)(a). Owners of vehicles operated without valid license plates or with expired license plates are subject to ticketing by peace officers at any time. Proof of compliance consists of a current vehicle registration in an I/M program area or an I/M certificate of compliance or waiver, or evidence of exempt vehicle status.

Valid registration required: A certificate of emissions inspection, a waiver, or other evidence that the vehicle is exempt from the I/M program requirements must be presented at the time of, and as a condition precedent to, registration or renewal of registration of a motor vehicle as specified in Section 41-6a-1642 and 41-1a-203([4] 2)([e]b). The I/M inspection is required within two months prior to the month the registration renewal is due as specified in Section 41-6a-1642([7]9)[and 41-1a-205(2)(a)]. Owners of vehicles operated without valid license plates or with expired license plates are subject to ticketing by peace officers at any time. Registration status is also checked on a random basis at roadblocks and in parking lots at various locations around the state. Per Section 41-1a-402, Utah license plates indicate the expiration date of the registration. Per Section 41-1a-1303.5, it is a Class C misdemeanor for a person to drive or move, or for an owner knowingly to permit to be driven or moved, upon any highway any vehicle of a type that is required to be registered in the state that is not registered in the state. Section 41-1a-1315 specifies that it is a third-degree felony to falsify evidence of title and registration.

Change of ownership: Vehicle owners are not able to avoid the I/M inspection program by changing ownership of the vehicle. Upon change of vehicle ownership, the vehicle must be re-registered by the new owner. The new owner must present an emissions certificate, waiver, or proof of exemption from the I/M program as a condition precedent to registration⁴. The new annual registration and I/M inspection dates for the vehicle will be the date of registration.

1 2

 Utah Tax Commission, and County Assessors roles: The Utah Tax Commission Motor Vehicle Division and county assessor deny applications for vehicle registration or renewal of registration without submittal of a valid certificate of compliance, waiver, or verified evidence of exemption. Altered or hand-written documents are not accepted. All certificate data is collected by county I/M program auditors and subjected to scrutiny for evidence of any improprieties.

Database quality assurance: The vehicle registration database is maintained, and quality assured by the Utah Division of Motor Vehicle (DMV). Each county I/M inspection database is maintained, and quality assured by the county I/M program staff. The county I/M program has access to the DMV database and utilizes it for quality assurance purposes. All databases are subject to regular auditing, cross-referencing, and analysis. The databases are also evaluated using data obtained during roadblocks and parking lot surveys. Evidence of program effectiveness may trigger additional joint enforcement activities.

Oversight provisions: The oversight program includes verification of exempt vehicle status through inspection, data accuracy through automatic and redundant data entry for most data elements, an audit trail for program documentation to ensure control and tracking of enforcement documents, identification, and verification of exemption-triggering changes in registration data, and regular audits of I/M inspection records, I/M program databases, and the DMV database.

Enforcement staff quality assurance: County I/M program auditors and DMV clerks involved in vehicle registration are subject to regular performance audits by their supervisors. All enforcement personnel, direct and indirect, involved in the motorist enforcement program are subject to disciplinary action, additional training, and termination for deviation from procedures. Specific provisions are outlined in the DMV procedures manual which is available upon request. The county I/M audit policy documents are provided in their respective part of this section.

Quality Control: The I/M counties maintain records regarding inspections, equipment maintenance, and the required quality assurance activities. The I/M counties analyze I/M program data and submit annual reports to the EPA and UDAQ upon request.

Analyzer data collection: Each county's I/M analyzer data collection system meets the requirements specified under 40 CFR 51.365.

Data analysis and reporting- Annual: The I/M counties analyze and submit to EPA and UDAQ an annual report for January through December of the previous year, which includes all the data elements listed in 40 CFR Subpart S 51.366 by July of each year. If a report is required earlier than annually, the counties will accommodate the request.

General enforcement provisions: The county I/M programs are responsible for enforcement action against incompetent or dishonest stations and inspectors. Each county I/M ordinance or regulation includes a penalty schedule.

1 2

General public information: The I/M counties have comprehensive public education and protection programs, including providing the following strategies for:

- public education on Utah's air quality problems;
- ways that people can reduce emissions;
- the requirements of state and federal law;
- the role of motor vehicles in the air quality problems;
- the need for and benefits of a vehicle emissions inspection program;
- ways to operate and maintain a vehicle in a low-emission conditions;
- how to find a qualified repair technician; and
- the requirements of the I/M program.

 Information is provided via county websites and direct response to inquiries for information, reports, classes, pamphlets, fairs, school presentations, workshops, news releases, posters, signs, and public meetings. Utah Department of Environmental Quality also provides information on its website about ways to operate and maintain a vehicle in a low-emission condition.

County I/M technical centers: Each I/M county operates an I/M technical center staffed with trained auditors and capable of performing emissions tests. A major function of the I/M technical centers is to serve as a referee station to resolve conflicts between permitted I/M inspectors, stations, and motorists. Auditors actively protect consumers against fraud and abuse by inspectors, mechanics, and others involved in the I/M program. Complaints received are investigated fully. Auditors advise motorists regarding emissions warranty provisions and assist the owners in obtaining warranty covered repairs for eligible vehicles. The I/M technical centers also provide motorists with information regarding the I/M program, general air pollution issues, and emissions-related vehicle repairs.

Vehicle inspection report: A Vehicle Inspection Report (VIR) will be issued to the motorist after each vehicle inspection. The VIR includes a public awareness statement about vehicle emissions and lists additional ways that the public can reduce air pollution. The test results are detailed on the VIR. Information about vehicle emissions warranties and the benefits of emissions-related repairs are printed for vehicles that failed the test. If the vehicle fails a retest, information about wavier requirements, application procedures, and the address and telephone number of the applicable I/M technical center are printed on the VIR.

Reciprocity between County I/M programs: Utah I/M programs are conducting the same test procedures and thereby agreed to recognize the validity of a certificate granted by any Utah I/M program.

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4	UTAH STATE IMPLEMENTATION PLAN
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6	SECTION X
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8	VEHICLE INSPECTION
9	AND MAINTENANCE PROGRAM
10	
11	
12	
13	PART B
14	
15	DAVIS COUNTY
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35	A doubted have the Hitch Air Overlites Decorat
36	Adopted by the Utah Air Quality Board
37	[March 4, 2020]February 7, 2024

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6	Table of Contents	
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9	1. Applicability	
10	2. Summary of Davis County I/M Program	2
11	3. I/M SIP implementation	4
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2.1		

1	SECTION X, PART B
2	DAVIS COUNTY
3	Appendices
4	
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6	
7	Davis County Ordinance 10.12.1 <u>Davis County</u> Vehicle Emissions
8	Inspection/Maintenance Program, approved and adopted [October 1,
9	2019 June 13, 2023 effective date July 1, 2023.
10	[2 Quality Division Operating Procedures 10/30/19]
11	
12	
13	

1	
2	UTAH STATE IMPLEMENTATION PLAN
3	SECTION X
4	AUTOMOTIVE INSPECTION AND MAINTENANCE (I/M) PROGRAM
5	PART B
6	DAVIS COUNTY
7	1. Applicability
8	Davis County Inspection and Maintenance (I/M) Program Requirements: The Utah Air Quality
9	Board adopted an ozone maintenance plan for Salt Lake and Davis counties on November 5,
10	1993, to address the 1979 1-hour Ozone National Ambient Air Quality Standard (NAAQS). The
11	plan was reorganized and adopted on January 5, 1995. Revisions to the ozone maintenance plan
12	were adopted by the Board on June 5, 1996, and June 7, 1997. The Environmental Protection
13	Agency (EPA) approved the plan on July 17, 1997 (62 FR 38213, July 17, 1997). The ozone
14	maintenance plan required implementation of an improved I/M program no later than January 1,
15	1998. The ozone maintenance plan established a performance standard that was more stringent
16	than the federal Basic I/M Performance Standard.
17	On July 17, 1997, EPA approved the state's request to redesignate Salt Lake and Davis counties
18	to attainment for the 1979 1-hour ozone standard. As part of that action, EPA approved the
19	state's 1-hour ozone maintenance plan (62 FR 38213). On July 18, 1997, EPA promulgated an 8
20	hour ozone NAAQS of 0.08 ppm (62 FR 38894). This standard was intended to replace the 1-
21	hour ozone standard. On April 30, 2004, EPA designated areas of the United States for the 1997
22	8-hour ozone standard (69 FR 23857). EPA designated all areas in Utah, including Salt Lake
23	County and Davis County, as unclassifiable/attainment for the 1997 8-hour ozone NAAQS (69
24	FR 23940).
25	On April 30, 2004, EPA revoked the 1979 1-hour ozone NAAQS (69 FR23951, 23996; 40 CFR
26	50.9(b). As part of that rulemaking, EPA established certain requirements to prevent backsliding
27	in the areas that were redesignated to "attainment" but subject to a maintenance plan, as is the
28	case for Salt Lake and Davis County. These requirements are codified at 40 CFR 51.905. In the
29	case of Utah, one of these requirements was to submit a maintenance plan for the 1997 8-hour
30	ozone standard. On March 22, 2007, the Governor of Utah submitted a maintenance plan for the
31	1997 8-hour ozone standard for Salt Lake and Davis County, and associated rule revisions,
32	which included an I/M program as a control measure. This plan was approved by EPA on
33	September 26, 2013 (78 FR 59242).
34	On October 26, 2015, the EPA promulgated a revision to the primary NAAQS for ground level
35	ozone (80 FR 65292), lowering the standard to 0.070 ppm for the 4 th highest daily 8-hour
36	concentration. Davis County was designated as a "marginal" nonattainment area for the 2015 8-
37	hour ozone standard effective August 3, 2018 (83 FR 25776, June 4, 2018).

- On October 7, 2022, the EPA finalized the reclassification of the Northern Wasatch Front
- 2 nonattainment area, including Davis County, from marginal to moderate status for the 2015
- standard. The reclassification to moderate status became effective on November 7, 2022 (87 FR
- 4 60897). With this redesignation to moderate nonattainment, Davis County is required Utah was
- 5 previously required by Sections 182 and 187 of the CAA to implement and maintain an I/M
- 6 program in Davis County that met the minimum requirements of 40 CFR Part 51 Subpart S and
- 7 that was at least as effective as the EPA's Basic Performance Standard as specified in 40 CFR
- 8 51.352. [However, the Basic Performance Standard requirement is no longer applicable as the
- 9 nonattainment area in Davis County has been redesignated to attainment / maintenance for the
- 10 1979 1-hour ozone NAAQS. Parts A and B of Section X, together with the referenced
- appendices, [continue to]demonstrate compliance with the CAA and 40 CFR Part 51 provisions
- for Basic I/M Performance Program Requirements for Davis County [and produce mobile source
- emission reductions that are sufficient to demonstrate continued maintenance of the 1997 8-hour
- ozone NAAQS]. In addition, the Davis County I/M program is a control measure included in the
- 15 Salt Lake City 24-hour particulate Serious SIP submitted to EPA on February 15, 2019.

2. Summary of Davis County I/M Program

16 17 18

Below is a summary of Davis County's I/M program. Section X, Part D Appendix[s]1[-2] contain the essential documents for Davis County's I/M program.

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Network Type: Davis County's I/M program is a decentralized, test-and-repair network.

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Test Convenience: There are approximately 140 permitted I/M stations within Davis County. Specific operating hours are not specified by the county. Some stations that test and/or service only one type of vehicle are permitted. There are also government and private fleet permitted stations that are not open to the public.

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Subject Fleet: All model year 1968 and newer vehicles registered or principally-operated in Davis County, are subject to the I/M program except for exempt vehicles.

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Test Frequency: Vehicles less than two years old as of January 1 on any given year are exempt from an emissions inspection. Vehicles two years old and less than six years old as of January 1 on any given year, are inspected every other year as per Utah Code 41-6a-1642(6). All vehicles six years or older as of January 1 on any given year, are inspected annually.

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Station/Inspector Audits: Davis County's I/M program will regularly audit all permitted I/M inspectors and stations to ensure compliance with county I/M ordinance and policies. Particular attention will be given to identifying and correcting any fraud or incompetence with respect to vehicle emissions inspections. Compliance with recordkeeping, document security, analyzer maintenance, and program security requirements will be scrutinized.

1 2	Davis County I/M program will have an active covert compliance program to minimize potential fraudulent testing. Davis County audit procedures are provided in Appendix 2			
3	of this part of Section X.]			
4				
5	Waivers: Davis County's I/M program may issue waivers under limited circumstances.			
6	The wavier procedure can be found in Davis County's I/M ordinance provided in			
7	Appendix 1. Davis County will take corrective action, as needed, to maintain a maximum			
8	waiver rate of 1% of the initially failed vehicles, or the Utah Air Quality Board will			
9	revise the SIP and emission reductions claimed based on the actual waiver rate. The			
10	conditions for issuing waivers are specified in Davis County's I/M ordinance and meet			
11	the minimum waiver issuance criteria specified in 40 CFR Subparts 51.360.			
12				
13	Test Equipment: Specifications for Davis County's emission analyzer and its I/M test			
14	procedures, standards, and analyzers are provided in Davis County's I/M ordinance			
15	provided in Appendix 1. Test equipment and procedures were developed according to			
16	good engineering practices to ensure test accuracy. Analyzer calibration specifications			
17	and emissions test procedures meet the minimum standards established in Appendix A of			
18	the EPA's I/M Guidance Program Requirements, 40 CFR Part 51 Subpart S.			
19				
20	Test Procedures:			
21				
22	 The following vehicles are subject to an OBD II inspection: 			
23				
24	 1996 and newer [light duty]<u>non-diesel motor</u> vehicles <<u>8501 lbs. Gross</u> 			
25	Vehicle Weight Rating (GVWR); [4, and]			
26	o 2008 and newer [medium duty] non-diesel motor vehicles between 8,501-			
27	<u>14,000 lbs. GVWR; and [2-]</u>			
28	o 1998 and newer diesel-powered motor vehicles <14,000 lbs. GVWR, if			
29	equipped with OBDII.			
30				
31	• The following vehicles are subject to a two-speed idle test that is compatible with			
32	Section VI (Preconditioned Two Speed Idle Test) in Appendix B of the EPA I/M			
33	Guidance Program Requirements, 40 CFR 51, Subpart S:			
34				
35	 1995 and older <u>non-diesel motor</u> vehicles, 			
36	→ 1996 to 2007 non-diesel motor vehicle >8,500 lbs. GVWR[medium and			
37	heavy-duty vehicles ³]; and			
38	→ [Heavy duty] 2008 and newer non-diesel motor vehicles > 14,000 lbs.			
39	GVWR. [2007 and older.			
40	o 2008 and newer heavy duty vehicles.]			
_				

^{1 [}Light duty vehicles have a Gross Vehicle Weight of 8500 lbs or less.

² Medium duty vehicles have a Gross Vehicle Weight greater than 8500 lbs but less than 14,000 lbs] [3 Heavy Duty vehicles have a Gross Vehicle Weight greater 14,000 lbs]

1	• The following vehicles are subject only to a visual inspection:
2	o 1998- 2007 diesel powered motor vehicles < 14,000 lbs. GVWR, if not
3	equipped with OBDII.
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7	3. I/M SIP Implementation
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9	The I/M program ordinance, policies, procedures, and activities specified in this I/M SIF
10	revision have been implemented and shall continue until a maintenance plan without an
11	I/M program is approved by the EPA in accordance with Section 175 of the Clean Air
12	Act as amended.

State of Utah Administrative Rule Analysis

Revised May 2023

NOTICE OF PROPOSED RULE				
TYPE OF FILING: Amendment				
Title No Rule No Section No.				
Rule or Section Number:	R307-110-31 & -32	Filing ID: Office Use Only		

Agency Information

	Age	incy information		
1. Department:	Environmental Quality			
Agency:	Air Quality	Air Quality		
Room number:				
Building:	MASOB			
Street address:	195 N 1950 W			
City, state and zip:	Salt Lake City	Salt Lake City		
Mailing address:	PO BOX 144820			
City, state and zip:	Salt Lake City, UT 84114-4820			
Contact persons:				
Name:	Phone:	Email:		
Mat Carlile	385-306-6535	mcarlile@utah.gov		
Erica Pryor	385-499-3416	epryor1@utah.gov		
Please addres	s questions regarding inf	formation on this notice to the persons listed above.		

General Information

2. Rule or section catchline:

R307-110. General Requirements: State Implementation Plan

3. Purpose of the new rule or reason for the change:

The Utah Air Quality Board (Board) has proposed for public comment amended Utah State Implementation Plan (SIP), Section X, Parts A and B. R307-110-31 and R307-110-32 incorporate SIP Section X, Parts A and B respectively, into the rule and must be amended to change the Board adoption date to the anticipated adoption date of the amended plan.

4. Summary of the new rule or change:

Section R307-110-31 incorporates Section X Part A of the Utah State Implementation Plan (SIP). Part A summarizes Inspection and Maintenance (I/M) requirements that are common among all I/M programs. Part A was modified by adding a paragraph summarizing recent legislative changes to the emissions programs. It was also modified to update the process of handling out-of-state exemptions for the emission programs. Section R307-110-32 incorporates Section X Part B of the Utah SIP. Part B contains the requirements of Davis County's I/M program. Amendments to Part B update the plan to incorporate changes to Davis County's I/M ordinance to ensure that the SIP reflects the current program. Sections R307-110-31 and 32 are amended by changing the date of the last adoption by the Air Quality Board to February 7, 2024.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:

A) State budget:

This rule change will not have any fiscal impact on the state budget because it does not enact or remove any new requirements.

B) Local governments:

This rule change will not have any fiscal impact on the local governments because it does not enact or remove any new requirements.

C) Small businesses ("small business" means a business employing 1-49 persons):

This rule change will not have any fiscal impact on small businesses because it does not enact or remove any new requirements.

D) Non-small businesses ("non-small business" means a business employing 50 or more persons):

This rule change will not have any fiscal impact on non- small businesses because it does not enact or remove any new requirements.

E) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an agency):

This rule change will have not any fiscal impact on other persons because it does not enact or remove any new requirements.

F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?):

No additional costs for affected persons are anticipated due to this rule change because it does not enact or remove any new requirements.

G) Regulatory Impact Summary Table (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)

Regulatory Impact Table			
Fiscal Cost	FY2024	FY2025	FY2026
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Cost	\$0	\$0	\$0
Fiscal Benefits	FY2024	FY2025	FY2026
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits	\$0	\$0	\$0
Net Fiscal Benefits	\$0	\$0	\$0

H) Department head comments on fiscal impact and approval of regulatory impact analysis:

The Executive Director of the Department of Environmental Quality, Kim D. Shelley, has reviewed and approved this regulatory impact analysis.

Citation Information

6. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:			
19-6a-1642	40 CFR Part 51 Subpart S Inspection and Maintenance Program Requirements		

Incorporations by Reference Information

- 7. Incorporations by Reference (if this rule incorporates more than two items by reference, please include additional tables):
- **A)** This rule adds, updates, or removes the following title of materials incorporated by references (a copy of materials incorporated by reference must be submitted to the Office of Administrative Rules; *if none, leave blank*):

Official Title of Materials Incorporated	UTAH STATE IMPLEMENTATION PLAN SECTION X VEHICLE INSPECTION AND
(from title page)	MAINTENANCE PROGRAM PART A GENERAL REQUIREMENTS AND APPLICABILITY.
	UTAH STATE IMPLEMENTATION PLAN SECTION X VEHICLE INSPECTION AND MAINTENANCE PROGRAM PART B DAVIS COUNTY

Publisher	Division of Air Quality, Utah Department of Environmental Quality
Issue Date	February 7, 2024
Issue or Version	

B) This rule adds, updates, or removes the following title of materials incorporated by references (a copy of materials incorporated by reference must be submitted to the Office of Administrative Rules; <i>if none, leave blank</i>):		
Official Title of Materials Incorporated (from title page)		
Publisher		
Issue Date		
Issue or Version		

Public Notice Information

	Public Notice informa	luon
		entified in box 1. (The public may also request a 3-302 and Rule R15-1 for more information.)
A) Comments will be accepted	d until:	12/15/2023
B) A public hearing (optional)	will be held:	
Date (mm/dd/yyyy):	Time (hh:mm AM/PM):	Place (physical address or URL):
		MASOB: DEQ Board room, 1st floor, room 1020 195 N 1950 W, Salt Lake City, UT 84116 To attend virtually through Google Meets: Public Hearing R307-110-31/32 (3pm-4pm) Tuesday, December 19 · 2:30 – 4:30pm Time zone: America/Denver Google Meet joining info Video call link: https://meet.google.com/vkh-nadu-bpb Or dial: (US) +1 929-324-9942 PIN: 529 143 528# More phone numbers: https://tel.meet/vkh-nadu-bpb?pin=4209740534480 Please note: A public hearing is scheduled for December 19, 2023. The hearing will be canceled should no request for one be made by Friday, December 15, 2023, at 10:00 AM MST. The final status of the public hearing will be posted on Friday, December 15, 2023, after 10:00 AM MST. The status of the public hearing may be checked at the following website location under the corresponding rule.
		https://deq.utah.gov/public-notices-archive/air- quality-rule-plan-changes-open-public- comment

To the agency: If more space is needed for a physical address or URL, refer readers to Box 4 in General Information. If more than two hearings will take place, continue to add rows.

9. This rule change MAY become effective on:

NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date.

02/07/2024

Agency Authorization Information

To the agency: Information requested on this form is required by Sections 63G-3-301, 63G-3-302, 63G-3-303, and 63G-3-402. Incomplete forms will be returned to the agency for completion, possibly delaying publication in the *Utah State Bulletin* and delaying the first possible effective date.

Agency head or	Bryce C. Bird, Director, Division of Air	Date:	10/12/2023
designee and title:	Quality		

1	R307. Environmental Quality, Air Quality.
2	R307-110. General Requirements: State Implementation Plan.
3	•••
4	R307-110-31. Section X, Vehicle Inspection and Maintenance Program, Part A, General
5	Requirements and Applicability.
6	The Utah State Implementation Plan, Section X, Vehicle Inspection and Maintenance
7	Program, Part A, General Requirements and Applicability, as most recently amended by the Utah
8	Air Quality Board on [September 4, 2019] February 7, 2024, pursuant to Section 19-2-104, is
9	incorporated by reference and made a part of this rule.
10	
11	R307-110-32. Section X, Vehicle Inspection and Maintenance Program, Part B, Davis
12	County.
13	The Utah State Implementation Plan, Section X, Vehicle Inspection and Maintenance
14	Program, Part B, Davis County, as most recently amended by the Utah Air Quality Board on
15	[March 4, 2020] February 7, 2024, pursuant to Section 19-2-104, is incorporated by reference and
16	made a part of this rule.
17	
18	••••
19	KEY: air pollution, PM10, PM2.5, ozone
20	Date of Last Change: July 7, 2022
21	Notice of Continuation: December 1, 2021
22	Authorizing, and Implemented or Interpreted Law: 19-2-104

ITEM 8

Air Toxics



Department of Environmental Quality

Kimberly D. Shelley Executive Director

DIVISION OF AIR QUALITY Bryce C. Bird Director

DAQA-515-23

MEMORANDUM

TO: Air Quality Board

FROM: Bryce C. Bird, Executive Secretary

DATE: September 5, 2023

SUBJECT: Air Toxics, Lead-Based Paint, and Asbestos (ATLAS) Section Compliance Activities –

August 2023

Asbestos Demolition/Renovation NESHAP Inspections	23	
Asbestos AHERA Inspections	20	
Asbestos State Rules Only Inspections	6	
Asbestos Notification Forms Accepted	216	
Asbestos Telephone Calls	382	
Asbestos Individuals Certifications Approved	85	
Asbestos Company Certifications	6	
Asbestos Alternate Work Practices Approved	4	
Lead-Based Paint (LBP) Inspections	2	
LBP Notification Forms Approved	3	
LBP Telephone Calls	49	
LBP Letters Prepared and Mailed	1	
LBP Courses Reviewed/Approved	0	
LBP Course Audits	0	
LBP Individual Certifications Approved	21	

DAQA-515-23 Page 2

LBP Firm Certifications	19
Notices of Violation Sent	0
Compliance Advisories Sent	19
Warning Letters Sent	6
Settlement Agreements Finalized	0



Department of Environmental Quality

Kimberly D. Shelley *Executive Director*

DIVISION OF AIR QUALITY Bryce C. Bird Director

DAQA-571-23

MEMORANDUM

TO: Air Quality Board

FROM: Bryce C. Bird, Executive Secretary

DATE: October 3, 2023

SUBJECT: Air Toxics, Lead-Based Paint, and Asbestos (ATLAS) Section Compliance Activities –

September 2023

Asbestos Demolition/Renovation NESHAP Inspections	32	
Asbestos AHERA Inspections	15	
Asbestos State Rules Only Inspections	3	
Asbestos Notification Forms Accepted	120	
Asbestos Telephone Calls	256	
Asbestos Individuals Certifications Approved	93	
Asbestos Company Certifications	2	
Asbestos Alternate Work Practices Approved	1	
Lead-Based Paint (LBP) Inspections	1	
LBP Notification Forms Approved	2	
LBP Telephone Calls	30	
LBP Letters Prepared and Mailed	0	
LBP Courses Reviewed/Approved	0	
LBP Course Audits	0	
LBP Individual Certifications Approved	3	
LBP Firm Certifications	2	

DAQA-571-23 Page 2

Notices of Violation Sent	0
Compliance Advisories Sent	6
Warning Letters Sent	2
Settlement Agreements Finalized	2
Penalties Agreed to:	
Grant Mackay/Bryce Christensen	5,062.50
Pure Maintenance/Brandon Adams	750.00
Total:	5,812.50

Compliance



Department of Environmental Quality

Kimberly D. Shelley Executive Director

DIVISION OF AIR QUALITY Bryce C. Bird Director

DAQC-988-23

MEMORANDUM

TO: Air Quality Board

FROM: Bryce C. Bird, Executive Secretary

DATE: September 13, 2023

SUBJECT: Compliance Activities – August 2023

ACTIVITIES:

Activity	Monthly Total	36-Month Average
Inspections	75	57
On-Site Stack Test & CEM Audits	8	4
Stack Test & RATA Report Reviews	27	33
Emission Report Reviews	18	16
Temporary Relocation Request Reviews	7	6
Fugitive Dust Control Plan Reviews	136	133
Soil Remediation Report Reviews	4	1
Open Burn Permits Issued	0	0
Miscellaneous Inspections ¹	16	18
Complaints Received	35	16
Wood Burning Complaints Received	0	1
Breakdown Reports Received	1	1
Compliance Actions Resulting from a Breakdown	0	0
VOC Inspections	0	0
Warning Letters Issued	1	2
Notices of Violation Issued	6	0
Compliance Advisories Issued	21	5
No Further Action Letters Issued	1	2
Settlement Agreements Reached	2	2
Penalties Assessed	\$22,111.00	\$114,821.92

¹Miscellaneous inspections include, e.g., surveillance, complaint, on-site training, dust patrol, smoke patrol, open burning, etc.

SETTLEMENT AGREEMENTS:

Party	Amount
Pitman Farms	\$1,116.00
Energy Fuels – White Mesa Mill	\$20.995.00

UNRESOLVED NOTICES OF VIOLATION:

Party	Date Issued
US Magnesium (in litigation)	08/27/2015
US Magnesium (in litigation)	03/02/2018
Citation Oil and Gas (in administrative litigation)	01/15/2020
Ovintiv Production Inc.	07/14/2020
Uinta Wax Operating (formerly CH4 Finley)	07/24/2020
US Magnesium (in administrative litigation)	11/16/2021
Finley Resources	09/15/2022
Paradox Midstream (claim filed with bankruptcy court)	06/06/2023
Paradox Midstream (claim filed with bankruptcy court)	08/15/2023



Department of Environmental Quality

Kimberly D. Shelley Executive Director

DIVISION OF AIR QUALITY Bryce C. Bird Director

DAQC-1095-23

MEMORANDUM

TO: Air Quality Board

FROM: Bryce C. Bird, Executive Secretary

DATE: October 6, 2023

SUBJECT: Compliance Activities – September 2023

ACTIVITIES:

Activity	Monthly Total	36-Month Average
Inspections	43	57
On-Site Stack Test & CEM Audits	5	4
Stack Test & RATA Report Reviews	71	33
Emission Report Reviews	15	16
Temporary Relocation Request Reviews	6	6
Fugitive Dust Control Plan Reviews	126	133
Soil Remediation Report Reviews	0	1
Open Burn Permits Issued	562	357
Miscellaneous Inspections ¹	9	18
Complaints Received	8	16
Wood Burning Complaints Received	4	1
Breakdown Reports Received	1	1
Compliance Actions Resulting from a Breakdown	0	0
VOC Inspections	0	0
Warning Letters Issued	3	2
Notices of Violation Issued	0	0
Compliance Advisories Issued	7	5
No Further Action Letters Issued	6	2
Settlement Agreements Reached	6	2
Penalties Assessed	\$444,523.00	\$114,821.92

¹Miscellaneous inspections include, e.g., surveillance, complaint, on-site training, dust patrol, smoke patrol, open burning, etc.

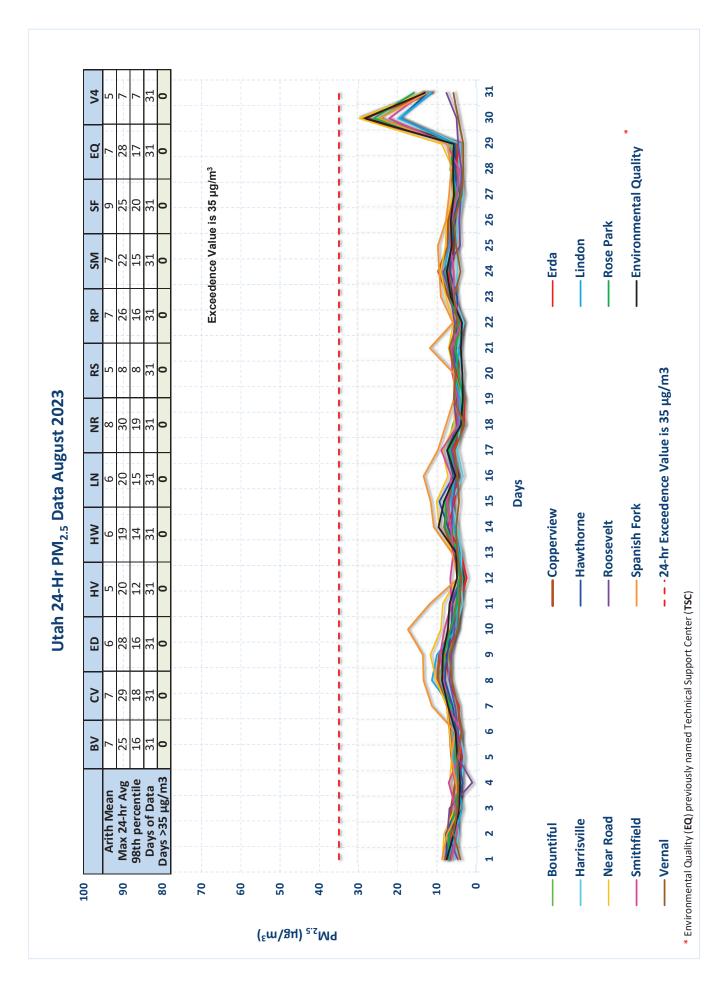
SETTLEMENT AGREEMENTS:

Party	Amount
Javelin Energy Management Partners	\$4,960.00
Javelin Energy Management Partners	\$2,800.00
Javelin Energy Management Partners	\$2,480.00
Javelin Energy Management Partners	\$2,800.00
UGC Midstream	\$583.00
US Magnesium	\$430,900.00

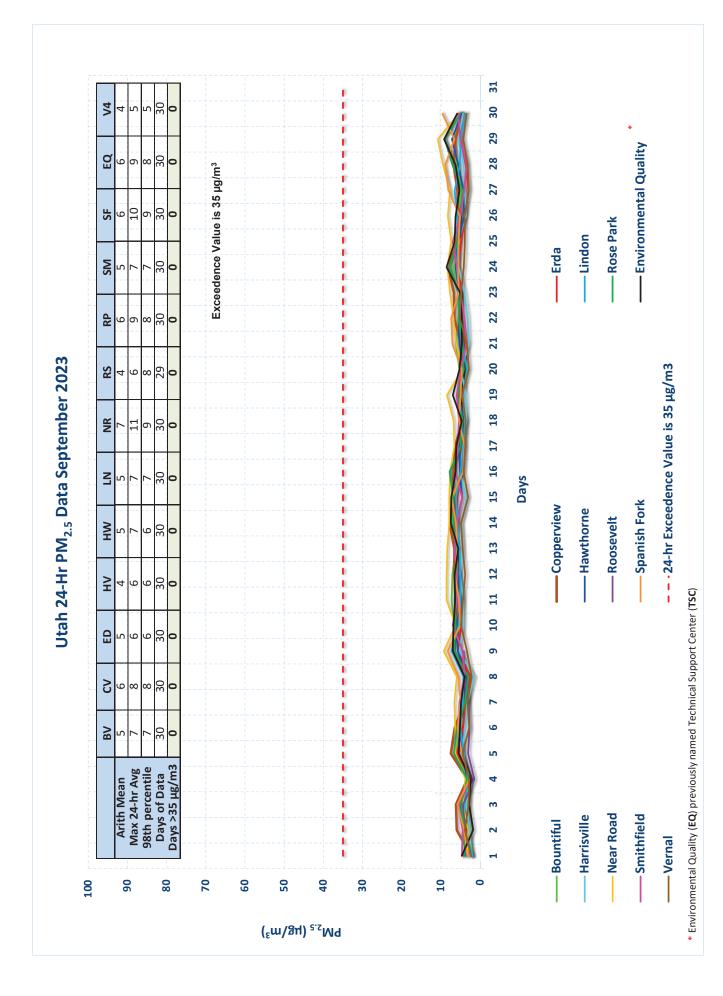
UNRESOLVED NOTICES OF VIOLATION:

Party	Date Issued
Citation Oil and Gas (in administrative litigation)	01/15/2020
Ovintiv Production Inc.	07/14/2020
Uinta Wax Operating (formerly CH4 Finley)	07/24/2020
Finley Resources	09/15/2022

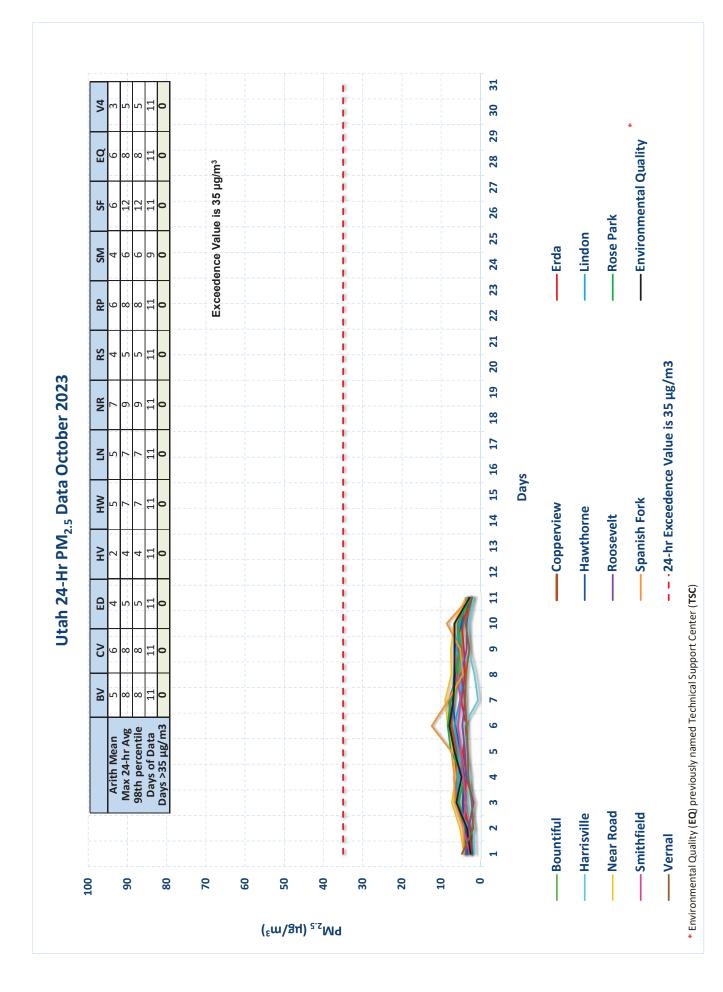
Air Monitoring



Utah Division of Air Quality

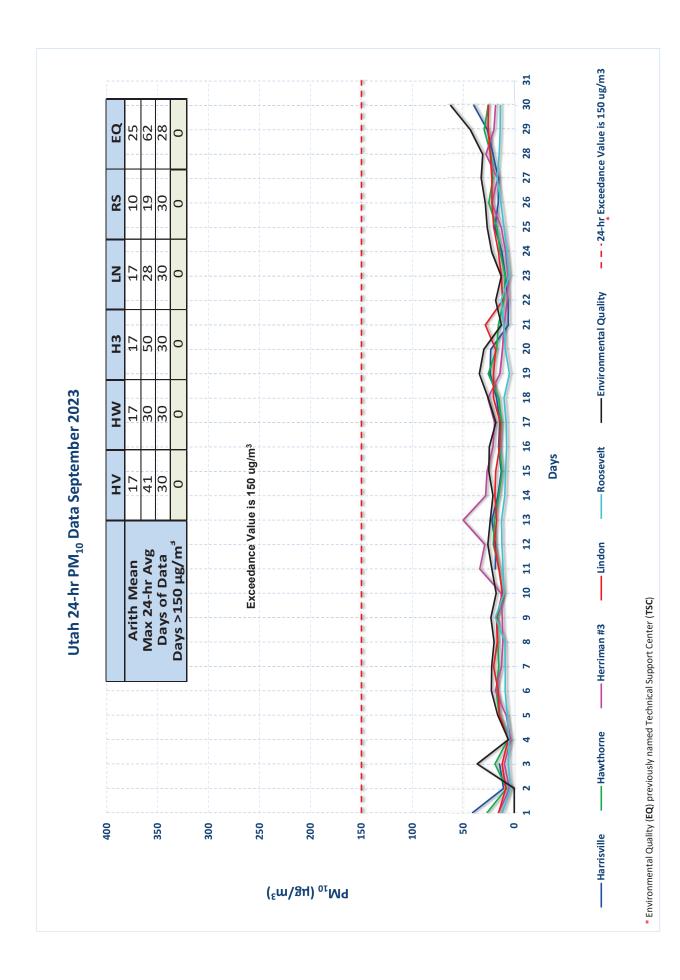


Utah Division of Air Quality

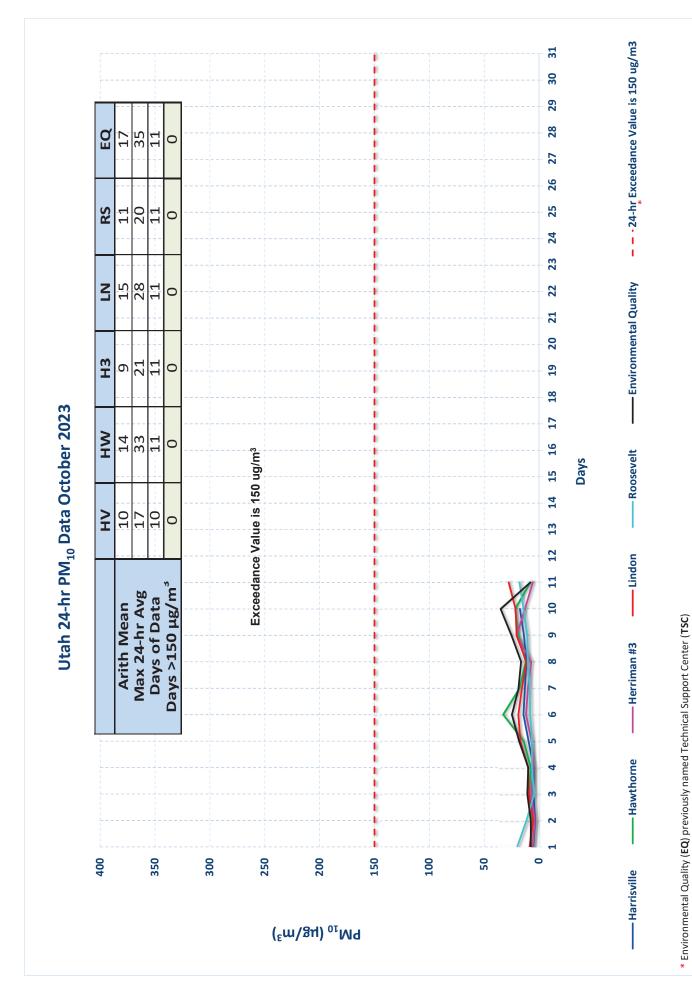


Utah Division of Air Quality

* Environmental Quality (EQ) previously named Technical Support Center (TSC)



Utah Division of Air Quality



Daily Maximum Temperature (0 C) (Hawthorne) 55.0 60.0 20.0 2.0 -5.0 0.0 31 .049 .058 3 30 29 RP. 790 31 28 .061 .073 27 31 34.3 ဖ 26 Highest 8-hr Ozone Concentration & Daily Maximum Temperature August 2023 .068 HW. 31 25 33.8 33.8 24 нv .056 .064 31 23 36.5.1 22 н3 790. 31 21 ED .054 .065 20 31 0 19 .068 cV .057 31 18 17 BV .059 .068 31 Days 16 ന 15 8 -hr. Ozone 4th Max 14 13 Days of Data Days > 0.070 Arith Mean 12 11 10 6 2 m 7 90.0 0.12 0.1 0.0 0.08 0.07 0.05 0.04 0.03 0.11 0.02 0.01 (mqq) ənozO

* Environmental Quality (EQ) previously named Technical Support Center (TSC) ** Controlling Monitor

MT - ∘ -

– - Exceed.

---- Environmental Quality

Near Road

---- Hawthorne

—— Harrisville

· Herriman #3

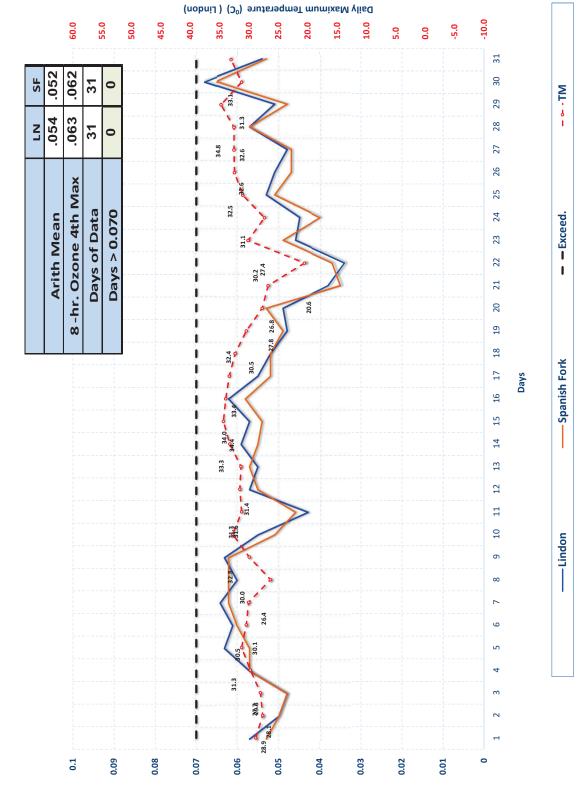
·Erda

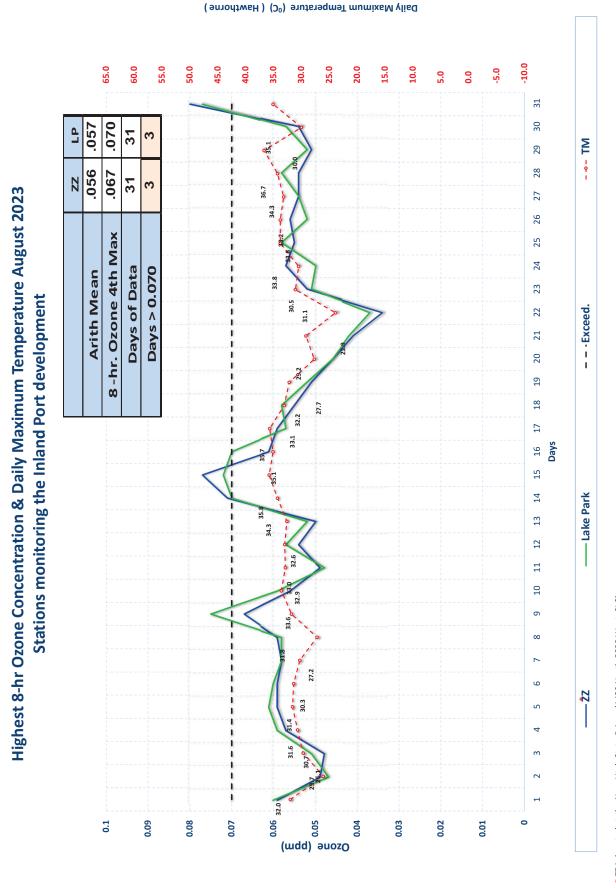
—Copperview

Bountiful

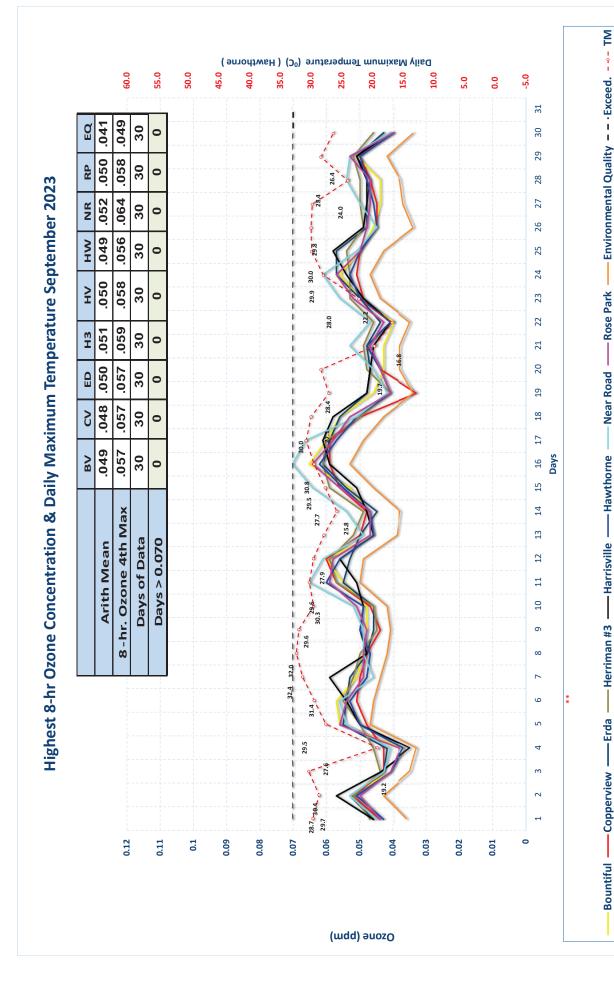
Daily Maximum Temperature (O) (Roosevelt) -10.0 10.0 60.0 55.0 50.0 45.0 35.0 25.0 20.0 -5.0 15.0 2.0 0.0 31 30 .051 .057 31 - · · TM 0 33.1, 33.4 -29 920. .051 RS 31 0 28 28.5 29.1 31.8 31.9 ---34.0 27 .054 Highest 8-hr Ozone Concentration & Daily Maximum Temperature August 2023 P2 31 26 0 25 – - Exceed. 24 8 -hr. Ozone 4th Max 28.1 27.9 23 Days of Data Days > 0.070 Arith Mean 22 21 20 19 18 ---- Vernal #4 17 16 Days 15 14 13 12 ---- Roosevelt 11 10 6 ∞ 9 2 ----- Price #2 27.5,030.1 0.12 0.08 (mqq) ənosO õ 0.04 0.02 0 0.1

Highest 8-hr Ozone Concentration & Daily Maximum Temperature August 2023





 * ZZ is located at the New Utah State Prison (1480 North 8000 West, SLC). This site was previously named IP



* Environmental Quality (EQ) previously named Technical Support Center (TSC) ** Controlling Monitor

Daily Maximum Temperature (°C) (Roosevelt) -10.0 55.0 50.0 45.0 10.0 60.0 35.0 20.0 40.0 15.0 -5.0 5.0 0.0 31 .046 .050 30 0 30 MT - - -29 .047 .051 RS 30 0 . 28.3 . 28.3 26.4 28 Highest 8-hr Ozone Concentration & Daily Maximum Temperature September 2023 P2 .044 .049 27 30 0 26 25 8 -hr. Ozone 4th Max 27.6 27.7 – - Exceed. 24 Days of Data Days > 0.070 23 **Arith Mean** 25.1 22 21 20 235 25.8 22.83.5 19 18 ---- Vernal #4 17 16 **Days** 15 14 13 12 ---- Roosevelt 11 26.9 10 ∞ 9 29.7 (mqq) ənosO S 0.1 0.04 0.02

0.09 55.0 50.0 45.0 10.0 2.0 .054 SF. 30 Highest 8-hr Ozone Concentration & Daily Maximum Temperature September 2023 .053 .047 30 Z 0 8 -hr. Ozone 4th Max 28.5 Days of Data Days > 0.070 Arith Mean 28.6 16.6 28.1 28.3 8'97 30.4 30.4 28.0 27.4 0.05 27.2 27.2 0.05 0.04 0.03 0.02 0.1 0.09 0.08 0.07 90.0

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MT. ~ -Exceed. -Spanish Fork Days —Lindon

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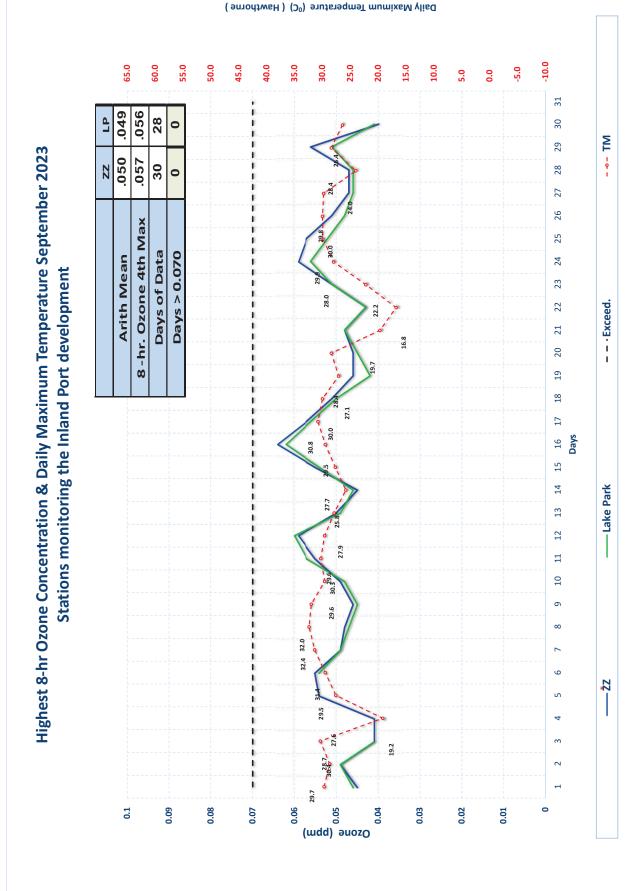
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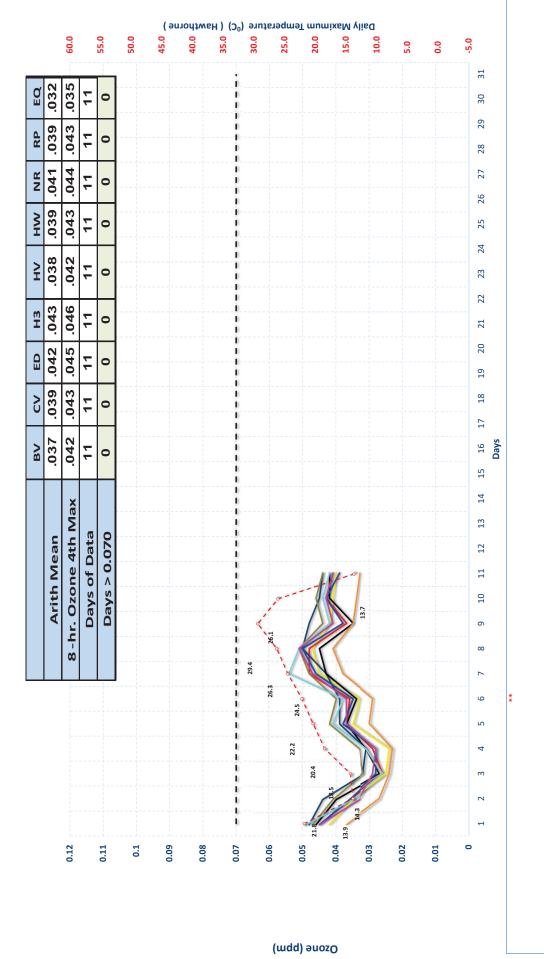
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-10.0 65.0 0.09 55.0 25.0 50.0 40.0 30.0 20.0 15.0 10.0 35.0 2.0 0.0 -5.0 31 .046 .049 Μ 30 0 30 29 Highest 8-hr Ozone Concentration & Daily Maximum Temperature September 2023 .045 .050 MT - ∘ -H 30 28 343 - - 202 - 36.8 27 .043 Z 30 0 26 25 8 -hr. Ozone 4th Max 24 - - · Exceed. 23 Days of Data Days > 0.070 **Arith Mean** 22 21 20 19 18 29.829.0 ----Moab 17 16 **Days** 15 14 30.4 13 12 — Hurricane 11 10 35.1 31.1 32.7 — Enoch (mqq) ənosO 0.1 0.09 0.04 0.02 0.01 0.08 0.07 90.0 0.03



* \mathbf{ZZ} is located at the New Utah State Prison (1480 North 8000 West, SLC). This site was previously named IP

Highest 8-hr Ozone Concentration & Daily Maximum Temperature October 2023



* Environmental Quality (EQ) previously named Technical Support Center (TSC) ** Controlling Monitor

— - TM

- Environmental Quality - - · Exceed.

---- Rose Park

Near Road

---- Hawthorne

——Harrisville

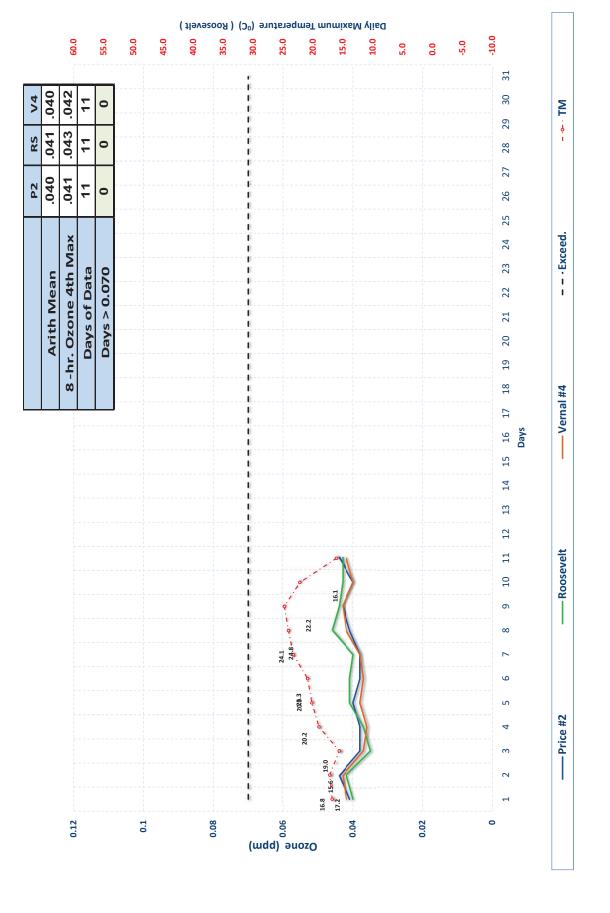
—— Herriman #3

——Erda

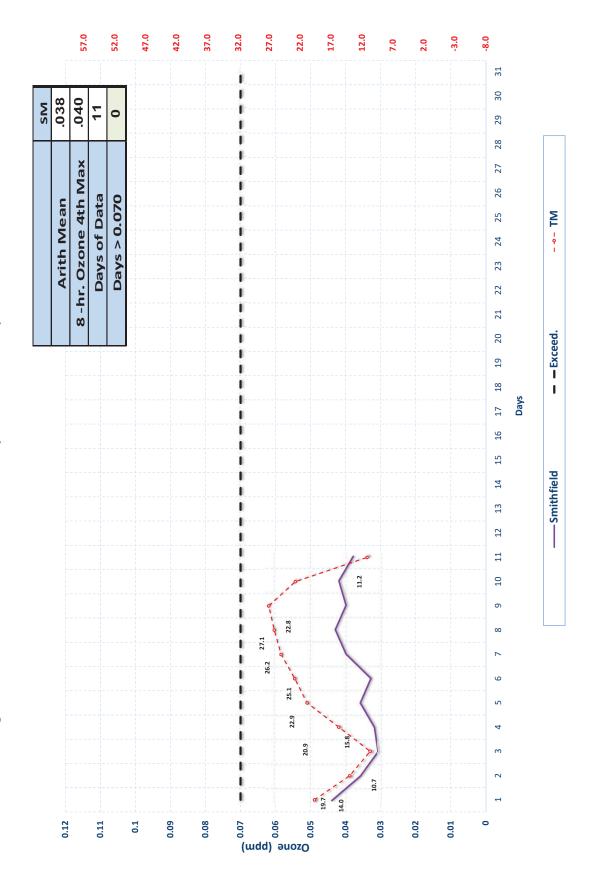
----Copperview

Bountiful

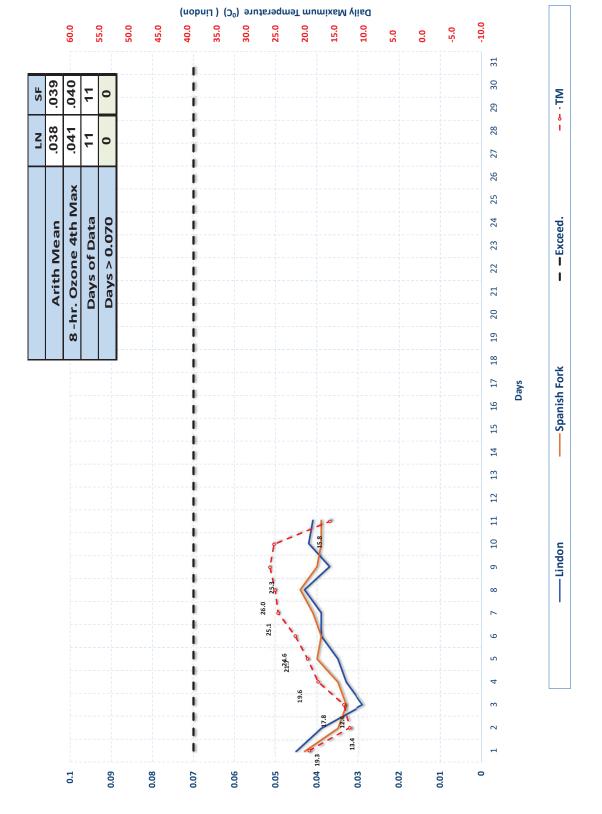
Highest 8-hr Ozone Concentration & Daily Maximum Temperature October 2023



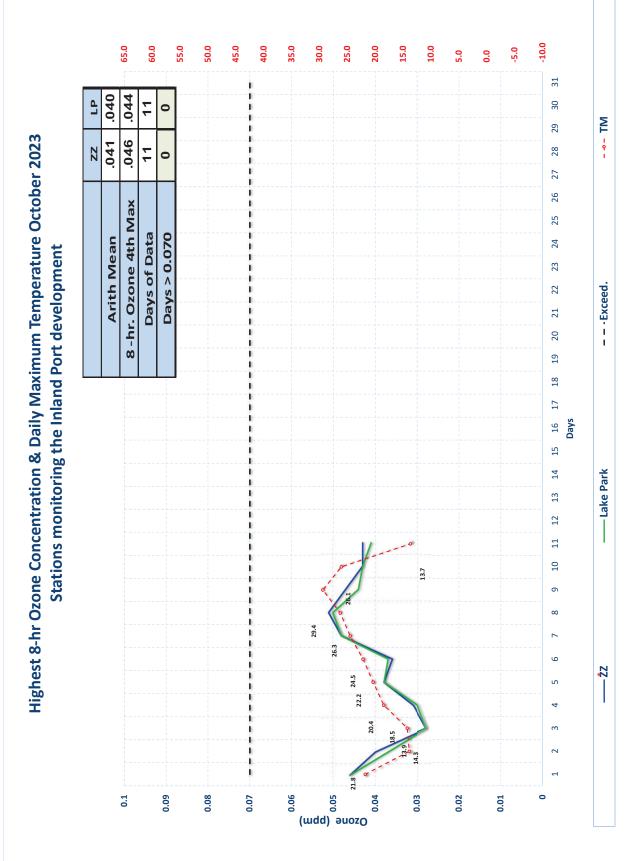
Highest 8-hr Ozone Concentration & Daily Maximum Temperature October 2023



Highest 8-hr Ozone Concentration & Daily Maximum Temperature October 2023



-10.0 65.0 0.09 55.0 50.0 40.0 35.0 30.0 25.0 20.0 15.0 10.0 -5.0 0.0 5.0 31 .043 .040 7 0 30 29 .043 .044 HC Highest 8-hr Ozone Concentration & Daily Maximum Temperature October 2023 11 28 27 .039 .041 Z 0 26 25 8 -hr. Ozone 4th Max 24 – - Exceed. 23 **Days of Data** Days > 0.070 Arith Mean 22 21 20 19 18 ---- Moab 17 16 **Days** 15 14 13 12 — Hurricane 11 10 29.8 31.0 — Enoch 27.9 0.09 0.07 (mqq) ənosO S 0.1 0.01 0.08 0.04 0.02 0.03



Daily Maximum Temperature (00) (Hawthorne)

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