



State of Utah

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DEIDRE HENDERSON
Lieutenant Governor

Department of Environmental Quality

Kimberly D. Shelley
Executive Director

DIVISION OF AIR QUALITY
Bryce C. Bird
Director

Air Quality Board
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Kim Frost, *Vice-Chair*
Michelle Bujdoso
Kevin R. Cromar
Randal S. Martin
Sonja Norton
John Rasband
Kimberly D. Shelley
Jeff Silvestrini
Bryce C. Bird,
Executive Secretary

DAQ-067-24

UTAH AIR QUALITY BOARD MEETING July 9, 2024 – 10:00 a.m. 195 North 1950 West, Room 1015 Salt Lake City, Utah 84116

FINAL MINUTES

I. Call-to-Order

Bryce Bird called the meeting to order at 10:01 a.m. and conducted a roll call.

Board members present: Michelle Bujdoso (attended electronically), Kevin Cromar, Randal Martin, Sonja Norton (attended electronically), John Rasband (attended electronically), Kimberly Shelley, Jeff Silvestrini (attended electronically)

Excused: Cassady Kristensen, Kim Frost

Executive Secretary: Bryce Bird

Mr. Bird accepts nominations for a Chair Pro Tem to act as presiding officer for this meeting.

- Randal Martin nominates Jeff Silvestrini and Kevin Cromar seconds. No other nominations are made. The motion that Jeff Silvestrini act as Chair Pro Tem carries unanimously.

II. Date of the Next Air Quality Board Meeting: August 7, 2024

III. Approval of the Minutes for the May 1, 2024, and June 5, 2024, Board Meetings.

- Sonja Norton motioned to approve both sets of minutes. Randal Martin seconded. The motion carries unanimously.

IV. Propose for Public Comment: Amendment to R307-110-13. General Requirements: State Implementation Plan. Incorporation of Utah State Implementation Plan, 2015 Ozone NAAQS Northern Wasatch Front Moderate Nonattainment Area, Section IX.D.11. Presented by Ryan Bares.

Ryan Bares, Environmental Scientist at DAQ, presented. On August 3, 2018, the U.S. Environmental Protection Agency (EPA) designated Utah's Northern Wasatch Front (NWF) as a marginal nonattainment area (NAA) for the 2015 national ambient air quality standard (NAAQS) for 8-hour ozone concentrations (83 FR 25776). On October 7, 2022, EPA finalized the reclassification of the NWF NAA from marginal to moderate status (87 FR 60897) since the area failed to attain the standard by the attainment date of August 3, 2021. The reclassification to moderate status became effective on November 7, 2022. As a result of this designation, under Section 182(b) of the Clean Air Act (CAA), the state of Utah was required to submit a revision to Utah's State Implementation Plan (SIP) outlining specific provisions implemented in order for the NWF NAA to attain the NAAQS as expeditiously as practicable.

On September 12, 2023, the Utah Air Quality Board adopted amendments to the SIP titled Section IX.D.11: 2015 Ozone NAAQS Northern Wasatch Front Moderate Nonattainment Area, which aimed to fulfill the CAA requirements for a moderate NAA. While this SIP revision demonstrated compliance with a number of CAA requirements, it failed to fully implement reasonable further progress (RFP) requirements as required under CAA Section 182(b)(1)(A)(i). Specifically, the RFP requirements for a moderate NAA requires a 15% reduction in VOC emissions. However, the 2015 ozone implementation rule states that a moderate NAA that has implemented federally enforceable VOC emission reductions equal to or greater than the current 15% requirement as part of a previous ozone SIP revision, shall be granted the opportunity to substitute a comparable amount of NO_x emission reductions, if those reductions deliver an equivalent improvement in air quality (83 FR 63004).

The proposed amendments to Section R307-110-13 results in the incorporation of revisions to Chapter 7 of the NWF moderate ozone SIP which demonstrate compliance with RFP requirement through the substitution of NO_x emission reductions in place of the VOC emission reduction requirement. Additionally, these amendments provide the analysis necessary to demonstrate the NO_x emission reductions achieved as part of the moderate SIP revision demonstrate an equal or greater improvement to air. The ability to pursue compliance through the use of NO_x substitutions is possible due to the substantial past VOC emission reductions achieved throughout the NWF NAA as part of the state's efforts to reduce fine particulate matter (PM_{2.5}) pollution.

Staff recommends the Board approve the amendment to Section R307-110-13, Incorporation of Utah State Implementation Plan, 2015 Ozone NAAQS Northern Wasatch Front Moderate Nonattainment Area, Section IX.D.11, for a 30-day public comment period.

Dr. Martin commented that it appears that a lot of the modifications were not targeted to the EPA as much as non-scientific people. He would also like to put it on record that he is generally against, as the EPA outlines, prescriptive amounts of reduction of VOCs, when we do not know that 15 tons per day would do us any good.

Dr. Martin commented that in the SIP, page 120, line 12, it talks about VOC emissions being the driver of daytime ozone formation chemistry, and they are not. They are the accelerator, an enhancer. On the same page, line 19, the equation is shortcircuiting the argument that NOx reductions are really important and this should be emphasized more. In discussion with staff, a language

change was suggested and making the equation on line 19 into two separate equations would show that NOx is the bigger part of the picture.

Dr. Martin voiced his concern that the two-stroke option is in not in the SIP. Mr. Bares replied that the two-stroke language is still maintained in Section 7.6.5 and the RACM chapter.

Mr. Cromar commented that Chapter 7 could be better written and he suggests that staff make some edits prior to going out for public comment. He states that the issue at hand is the EPA's interpretation of the 15% VOC reduction. We want EPA's interpretation tied back to the CAA language, which is essentially that the 15% VOC reduction is a one-time requirement and that the 3% per year is the ongoing requirement; this would be binding. A new interpretation in the implementation rule is not binding. Therefore, if we can articulate in Chapter 7 that we have met that one-time requirement then it shouldn't be difficult for EPA to approve.

The biggest correction Mr. Cromar suggests before going out for public comment is that we need to show that our previous VOC reductions meets that requirement in 182(b). In Section 7.5.1 the table needs to be two separate tables. It needs to be a clear six-year period and needs to be anchored to one of the baseline years. Every time there is a new ozone NAAQS they set a new baseline year. So, we need to choose a year that works best.

Mr. Bird commented that staff can make some of the suggested amendments before July 15th so that the amendments can be included in the copy that will go out to public comment based on direction from the Board, if that can be made as part of the motion that will be voted on. He also noted that any interested parties can provide language, recommendations, or ask questions of staff during the public comment period and as part of the final review process that would come back to the Board for final adoption.

Mr. Cromar added that in the RFP section of the CAA it is somewhat unique where Congress actually specified what the goal of the RFP program is. So, if you can ever point to what the goal of the program is and the means to accomplish that goal, you're on really stable ground. The goals of the program always state that it is VOC and NOx reductions that are needed to meet the NAAQS. We can show that really clear with our analysis.

The Board discussed how to circulate the suggested changes to the text so that they could be made prior to review for the public comment period. Marina Thomas, Assistant Attorney General at UDEQ, responded to the Board's questions on the wording of the motion to put it out for public comment with amendments. If Board members had concerns with the amendments a special meeting would be held.

Ms. Bujdoso asked what happens if the EPA does not approve this SIP, and will the state have a chance to revise the SIP prior to sanction or negative impacts being implemented. Mr. Bares responded that initially we will withdraw the original submittal and submit this one in its place. That would give the EPA about one year under their statutory obligations to act on the SIP with the amendments that we are submitting. If the EPA does disapprove that, it would be just like if it disapproved our current SIP, triggering the conformity freezes as well as the start of the clock for new source review offsetting. As for sanctions, they will always be triggered upon the finalization of a disapproval. The goal is to work closely with EPA and resolve any of the issues prior to disapproval of any section of the SIP.

- Kevin Cromar motioned that the Board submit the SIP for public comment pending the technical and text changes requested by Board members. If two Board members object to the circulated changes, the Board will call a special meeting prior to sending it out for public comment. Sonja Norton seconded. The motion carries unanimously.

V. Propose for Public Comment: Amend R307-202. Emission Standards: General Burning. Presented by Erica Pryor and Rachel Chamberlain.

Erica Pryor, Rules Coordinator at DAQ, stated on March 12, 2024, Governor Cox signed into law House Bill 567 (HB567), Fire Regulation Amendments. This bill has an effective date of May 1, 2024. The proposed amendments to R307-202 result in several changes to permitted open burning in the state to align with HB567. The bill changes the areas of the state that have different permit burning windows, the time frame of the burning windows, and the clearing index values at which burns are allowed to occur.

The bill relies on attainment area definitions to distinguish between the open burning permit criteria. The rule currently allows areas to receive burn permits when the clearing index value is at or over 500 from March 30th through May 30th and when the state forester approves burning from September 15th through October 30th. Ten southern counties were also allowed to perform permitted burns from March 1st through March 30th with a longer fall window between September 15th and November 15th.

The amendments eliminate the southern counties' criteria by shifting the rule to distinguish burning window and clearing index eligibility by nonattainment, maintenance, and attainment areas. HB567 allows for open permitted burning within attainment areas when the clearing index value is over 250 from November 1st through March 31st, in addition to portions of the previously approved burning windows (March 30th through May 30th) at a clearing index of 500 and (September 15th through October 30th) when approved by the state forester. Additionally, the division is proposing to update the previously approved burning windows to include the first and last day of each month for ease of implementation and further alignment with other Utah Code (Section 65A-8-211).

This change increases the burning window in attainment areas to include the full months of November, December, January, February, and March and lowers the allowable clearing index window to obtain a burn permit from 500 to 250 during those months. Since the burns are occurring in attainment areas, there is minimal risk of SIP backslicing. In addition, smoke impacts could be more effectively temporally dispersed and cause less of an impact to most impaired days for regional haze. Staff recommends the Board approve the amendment to R307-202, General Burning, for a 30-day public comment period.

Mr. Rasband asked if the purpose of allowing more open burns, is to spread the burns out over a longer period of time rather than a lot of burns in the same month. Rachael Chamberlain, Environmental Scientist at DAQ, responded that yes, essentially the changes to the rule are implementing what is laid out in HB567 which would temporally just disperse the burning that is already occurring.

Ms. Bujdoso asked, based on the exclusions section where it specifies that the control burning of not more than two structures by an organized and operating fire department for the purpose of training, what is considered a structure? And then if they weren't burning structures, but they were still training and using fuel, how might this rule apply? Mr. Bird explained that this rule's language is parallel to statutory language and that the understanding of what a structure is would be things

that are existing that could be burned down. He also stated that this is a solid fuel burning rule. For example, fire training that the airport conducts does not use solid fuels and so this rule would not apply. Mr. Bird agreed with Ms. Bujdoso that this rule potentially adds clarity, that it applies to solid burning and not other types of fire training.

Ms. Bujdoso asked if this rule would have to be submitted as part of the SIP revision. Becky Close, Policy Section Manager at DAQ, responded that in discussion with the EPA about this rule, they are not requiring a backsliding demonstration for this. However, it is a SIP-approved rule, and we will still need to submit it to EPA as an update.

Mr. Cromar asked staff if there were any discussions of updating the nuisance issues referenced in the bill to align with what the state legislature passed in the current rule. Staff responded that that was not an issue discussed as part of the current updates. Mr. Cromar requests that during the public comment period that staff review the relevant sections referencing a nuisance to see if any changes are needed.

Dr. Martin asked why the clearing index was lowered to 250 from 500. Mr. Bird responded that is what the bill language required.

- Kevin Cromar motioned that the Board approve the amendment to R307-202 for a 30-day public comment period. John Rasband seconded. The motion carries unanimously.

VI. Five-Year Reviews: R307-125. Clean Air Retrofit, Replacement, and Off-Road Technology Program; R307-501. Oil and Gas Industry: General Provisions; R307-502. Oil and Gas Industry: Pneumatic Controllers; R307-503. Oil and Gas Industry: Flares; and R307-504. Oil and Gas Industry: Tank Truck Loading. Presented by Erica Pryor.

Erica Pryor, Rules Coordinator at DAQ, stated that 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 R307-125, Clean Air Retrofit, Replacement, and Off-Road Technology Program; R307-501, Oil and Gas Industry, General Provisions; R307-502, Oil and Gas Industry, Pneumatic Controllers; R307-503, Oil and Gas Industry, Flares; and R307-504, Oil and Gas Industry, Tank Truck Loading. The results of these reviews are found in the attached Five-Year Notice of Review and Statement of Continuation forms. Staff recommends that the Board continue these rules, by approving the attached forms to be filed with the Office of Administrative Rules.

- Randal Martin motioned for the approval of the five-year review of R307-125, R307-501, R307-502, R307-503, and R307-504. Kevin Cromar seconded. The motion carries unanimously.

VII. Informational Items.

A. Air Toxics. Presented by Leonard Wright.

B. Compliance. Presented by Harold Burge, Rik Ombach, and Chad Gilgen.

C. Monitoring. Presented by Shauna Ward.

Shauna Ward, Environmental Scientist at DAQ, updated the Board on monitoring information. She also noted that the annual monitoring network plan completed the comment period, with no comments received and that it has been submitted to the EPA.

D. Other Items to be Brought Before the Board.

Mr. Bird gave a brief update on the legislative special session held in June and how it impacted the DAQ. House Bill 3004, Energy Security Adjustments, was acted upon. This bill is in relation to the evaluation of continued operation of the Intermountain Power Authority's power plant in Delta, Utah. Ultimately, the bill did not impact the division. The DAQ will proceed with the analysis of the impacts of the project's continued operations on the regional haze state implementation plan; and later in the process, completion of any application evaluation to the Decommissioned Asset Disposition Authority.

E. Board Meeting Follow-up Items.

Meeting adjourned at 10:59 a.m.

Minutes approved: August 7, 2024