



State of Utah

SPENCER J. COX
Governor

DEIDRE HENDERSON
Lieutenant Governor

Department of Environmental Quality

Tim Davis
Executive Director

DIVISION OF AIR QUALITY
Bryce C. Bird
Director

Air Quality Board

Kim Frost, *Chair*
Michelle Bujdoso, *Vice-Chair*
Tim Davis
Seth Lyman
Colton Norman
Sonja Norton
John Rasband
Jeff Silvestrini
Dave Spence
Bryce C. Bird,
Executive Secretary

DAQ-066-25

UTAH AIR QUALITY BOARD WORKING MEETING

August 6, 2025 – 11:00 a.m.

195 North 1950 West, Room 1019 A/B
Salt Lake City, Utah 84116

FINAL MINUTES

I. Welcome

Bryce Bird started the meeting at 11:05 a.m.

Board members present: Tim Davis, Seth Lyman, Colton Norman, Sonja Norton, Jeff Silvestrini, Dave Spence

Excused: Kim Frost, Michelle Bujdoso, John Rasband

Executive Secretary: Bryce Bird

All attendees, Board members and division staff, briefly introduced themselves.

II. Annual Open and Public Meeting Act Training. Presented by Marina Thomas and Braden Asper.

Marina Thomas, Assistant Attorney General, conducted the annual board training and update which included the board organization, board powers, duties of members, and the Ethics Act Prohibitions. Braden Asper, Assistant Attorney General, conducted the annual board training on the Open Public Meetings Act and the Government Records Access and Management Act. Ms. Thomas and Mr. Asper answered questions throughout their presentations from Board members.

[See handout of presentation.]

III. Rulemaking Process Information Presentation. Presented by Jazmine Lopez.

Jazmine Lopez, Rules Coordinator, gave a summary of the rulemaking process and the 2025-2026 rulemaking calendar, listing major projects and rules currently in progress. Ms. Lopez answered questions from Board members.

[See handout of presentation.]

IV. Additional Item

Mr. Bird states that the Board holds seats on two Wasatch Front Regional Council committees. Please be aware that a Board member may receive a call to see if they are available to attend one of these meetings, when needed.

Meeting ended at 1:15 p.m.

Minutes approved: September 15, 2025



2025 Air Quality Board Training

Marina V. Thomas, Assistant Attorney General

Braden W. Asper, Assistant Attorney General

August 6, 2025



Topics Covered

- Board Organization (2025 amendments)
- Board Powers
 - Settlements Review
- Duties of Board Members
 - Attendance
 - Conflict of Interest (Ethics Act and R305-9)
- Ethics Act Prohibitions
- Open Public Meetings Act
- GRAMA



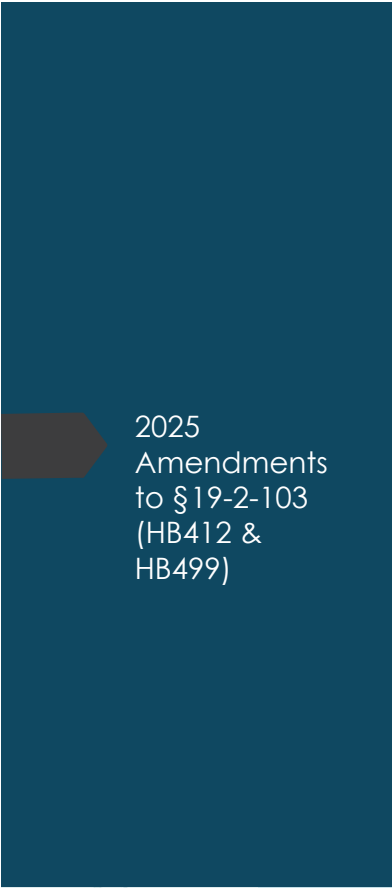
Board Organization Utah Code §19-2-103

9-member Board

5 members constitute a quorum

Knowledgeable about air pollution matters;
resident of Utah

The Executive Director of DEQ is a non-voting
member (only votes in the event of a tie)



2025
Amendments
to §19-2-103
(HB412 &
HB499)

- Removed the majority political party requirement: not more than 5 members could be members of the same political party (HB412)
- Changes to member requirements: (HB499)
 - Only one health care professional (physician or trained/experienced in health)
 - Ensures there is always one engineer or scientist not connected with industry
 - Diversifies the requirement for government representatives to include large (1st and 2nd class) and small (the rest) counties
 - Removes requirement for a public member to be from an environmental organization (can be any nongovernment organization)



Board Organization

Utah Code §19-2-103

- 4-year terms
- Could serve more than one term
- Annual selection of chair and vice-chair
- Meet at least quarterly
- Power to hold special meetings (chair, director, or by request of three members): three-day notice to the board members

Rulemaking board (not management board)



Air
Quality
Board
Powers

Established by statute (Title 19, Chapter 2 – Utah Air Conservation Act) defines board powers and duties

Powers

- Rulemaking (with limitations in the statute)
- **NEW 2025 Amendment** limitation on rulemaking: no requirement for asbestos inspections for residences with four or fewer units if construction was completed after January 1, 1981
- Hearing (but not special adjudicative proceeding – NOV or Permit challenge)
- Recommendations to the Director (issue/enforce order, judicial proceedings, cooperation with other agencies)
- Review and approve/disapprove a settlement over \$25,000

Settlements Review

- 19-2-115 Civil Penalties
 - Violations subject to a penalty in a civil judicial proceeding not to exceed \$10,000 per day for each violation.
- Utah Admin. Code R 307-130 General Penalty Policy
 - Negotiated administrative penalties for consent agreements to resolve noncompliance



Penalty Policy Application

- Step 1: Determine the violation category to determine the range of the daily penalty amount

Categories: A (\$7,000 - \$10,000)

B (\$2,000 - \$7,000)

C (up to \$2,000)

D (up to \$299)

- Step 2: Determine the exact amount within range based on gravity criteria: emissions, knowledge, cooperation, and return to compliance



Penalty Policy Application

- **Step 3:** Determine duration
- Length can vary from a one-time violation to a multi-day violation
- Usually, in settlements, we cap duration at Utah SOL (2 years) and count monthly vs. daily
- Have discretion to add economic benefit and penalties for repeat violations
- Try to stay consistent with prior settlements

Powers



No authority to issue/amend/revoke permits, licenses, registrations, certifications, and any other administrative authorizations issued by the Director



An individual member cannot speak for the board unless: the board authorized by the majority/quorum in a board meeting

Board Member Duties R305-8 Attendance

- Utah Administrative Code R305-8 (attendance requirements)
- Regularly attend board meetings
- Ask the Board Chair 2 business days before the meeting to be excused
- Noncompliant if:
 - 2 unexcused absences within one year
 - Misses three consecutive meetings
 - Misses 1/3 of the meetings in a year



Board Member Duties R305-9 & Ethics Act Conflicts of Interest

- Conflict of Interest laws for Board Members:
 - Utah Public Officers' and Employees' Ethics Act (Ethics Act) (Utah Code, Title 67, Chapter 16)
 - DEQ Conflict of Interest Rules adopted under Utah Code § 19-1-201(1)(d)(i)(B): Utah Admin. Code R305-9
- By statute, board members are representatives of various interests and groups (conflict is inherent)



Ethics Act – Conflict of Interest

- Disclosure is required when a Board member is an officer, director, or employee; or has a substantial interest in a business regulated by DEQ
- Must file a form provided by the Department
- Must disclose the position held and the precise nature and value of the interest (n/a if the value is less than \$2,000)

Ethics Act – Conflict of Interest Cont'd

A “substantial interest” is:

- Ownership (legal or equitable) of at least:
 - 10% of the outstanding capital stock of a corporation, or
 - 10% interest in any other business entity
- By an individual, individual's spouse, or minor children
- New conflict: new disclosure form must be filed

- Actual vs. Potential Conflict: DEQ rules in R305-9 draw a distinction

- Actual: prohibited by the Ethics Act (previous slide)

- Potential: R305-9-104

- When participation may be prohibited under the Ethics Act or
- Participation will result in due process violation

Identifying
Conflicts:
Actual v.
Potential



Conflict Procedures

- R305-9-103 Actual Conflict - Recusal
 - Shall be recused from voting
 - May be recused from participating in discussion (Board can decide)
- R305-9-105 Potential Conflict
 - Board member may recuse himself/herself from discussion and vote, or
 - Disclose the potential conflict and seek a determination by the Board about how to proceed



Conflict Procedures Cont'd

- R305-9-106 Decision of the Board
 - Nature of the matter before the board
 - Nature of the potential conflict
 - Intent that the board reflect balanced viewpoints
 - Recuse from voting and discussion or recuse from voting but let participate in the discussion

Consequences from Non-Compliance

- May void or rescind any action taken by the Board in a particular matter (UCA 67-16-14)
- May result in the removal of the offending Board member (UCA 67-16-12)
- A knowing or intentional violation may also result in criminal penalties (UCA 67-16-12):
 - Second-degree felony – compensation, conflict of interest, or assistance exceeds \$1000
 - Third-degree felony - more than \$250 but less than \$1000 (or two prior smaller convictions)
 - Class A misdemeanor – more than \$100 but less than \$250
 - Class B misdemeanor - \$100 or less

Ethics Act - Prohibitions

- § 67-16-4 Improperly disclosing or using controlled information; using position to secure privileges
- § 67-16-5 Accepting gift, compensation or loan
 - UAC R477-9-3 DHRM Rule
- § 67-16-5.3 & 5.6 Requiring or offering donation, payment or service to agency in exchange for approval
- § 67-16-6 Receiving compensation for assistance in transaction involving agency

Open and Public Meetings Act

Utah Code Title 52, Chapter 4

- Purpose: Utah State business is deliberated and conducted openly
- "...the legislature finds and declares that the state, its agencies and political subdivisions, exist to aid in the conduct of the people's business. It is the intent of the law that their actions and their deliberations be conducted openly."

What Is the Meeting

Sections 201-206

- **Meeting Definition:** a gathering (including electronic meetings, workshops, and executive sessions) of a public body with a quorum, properly convened for matters over which the Board has jurisdiction or advisory power for the purpose of
 - Receiving public comment;
 - Deliberating;
 - Taking action.
- **Notice:** An agenda must be posted at least 24 hours before a meeting, stating the date, time, and place of the meeting
- **Closed Meeting (limited):**
 - Character/professional competence, health of a person
 - Collective bargaining strategies
 - Pending or imminent litigation
 - Price of property
 - Security personnel or devices
 - Criminal misconduct
- Written minutes and a recording

Open Public Meetings Act Electronic Meetings

- § 52-4-207(2)(a) ...must be a rule governing the use of electronic meetings
- § 52-4-207(2)(c) ...anchor location required (exception for special findings by Chair)
 - MASOB
- Still requires notice – 24 hrs
- DEQ adopted a rule for electronic meetings at Utah Code R305-2

Open Public Meetings Act Electronic Meetings

- § 52-4-207(5)– no anchor location
- The Chair is required to:
 - Make a written determination regarding risk associated with an anchor location which must be included in meeting notice
 - The determination must be read at beginning of meeting
 - The public notice/agenda must provide information regarding how public can access, observe and make comments

Open Public Meetings Act Electronic Meetings R305-2-3

- Quorum: Any member appearing electronically is counted for purposes of quorum
- Vote Counting: Votes by members not present at the physical location must be confirmed (on the record) by the chair
- Roll Call: Requires votes taken in an electronic meeting to be taken by a roll call vote except for a unanimous vote

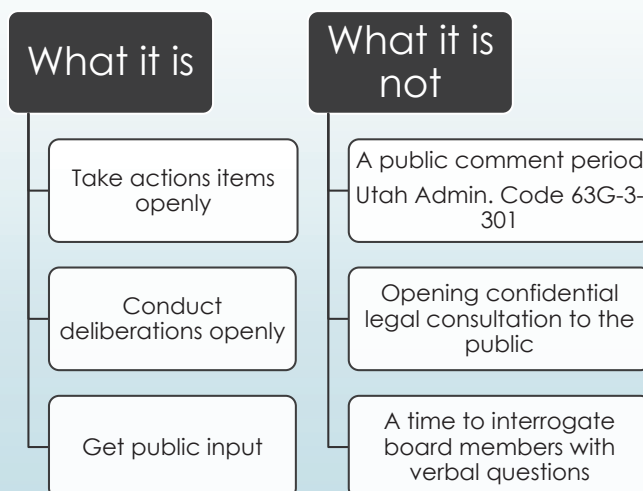
Open Public Meetings Act Penalties & Remedies

- Violations of the Act (Utah Code § 52-4-303)
 - may be set aside on judicial review
 - costs and attorneys fees to a successful plaintiff
- § 52-4-304 release of minutes or record of a closed meeting
- § 52-4-305 criminal penalties for knowing or intentional violation

Key Points

- Do not call an informal gathering to quickly resolve issues. Only take actions during noticed Board meetings (or other duly called meetings) , and if a meeting needs to be closed, discuss the need to close it in advance.
- Do not conduct Board business at social gatherings or during site visits. Wait until you convene at the next Board meeting to discuss and vote on potential action items.
- Allowing public attendance is essential, but the Board can remove individuals who disrupt the meeting such that the conduct of the Board is seriously compromised.
- Take votes by roll call whenever holding an electronic meeting: it makes recording the votes easier.

Final Thoughts on Open Public Meetings Act



Government Records Access and Management Act (GRAMA)

Utah Code Title 63G, Chapter 2

Open and Public Meetings Act Section 210

Transmitting electronic messages b/w Board members is not a meeting and is permitted

Policy Behind GRAMA:

- The public's right of access to information concerning the conduct of the public's business; and
- The public's right of privacy in relation to personal data gathered by governmental entities.

Records Subject to Disclosure under GRAMA

- Governmental Entities Subject to GRAMA: Boards and Commissions funded or established by the government to carry out the public's business.
- Record: A book, letter, document, paper, map, plan, photograph, film, card, tape recording, electronic data, or other documentary material, regardless of physical form or characteristics:
 - That is prepared, owned, received, or retained by a governmental entity or political subdivision; and
 - Where all the information in the original is reproducible by photocopy or other mechanical or electronic means.

Records NOT Subject to Disclosure under GRAMA

- Personal note or personal communication prepared by or received by an employee or officer of a governmental entity in the employee's or officer's private capacity.
- A temporary draft or similar material prepared for the originator's personal use or prepared by the originator for the personal use of an individual for whom the originator is working.
- A daily calendar or other personal note prepared by the originator for the originator's personal use or for the personal use of an individual for whom the originator is working.

Board GRAMA Requirements



Communications of board members with the agency, legal counsel, and each other regarding public business may be records subject to GRAMA



Board members may be required to search email addresses used for public business



Final Thoughts on GRAMA

Do not write or record anything in an email, voice mail, text message, or elsewhere concerning Board business that will make you uncomfortable if it appears in the press.

Presume that all recordable communications will reach the media/social media.

GRAMA applies to both personal and work communication devices. The substance of the communication triggers GRAMA, not the ownership of the device.



Questions

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Rulemaking: Process and Timeframes

Jazmine Lopez
Rules Coordinator



Rulemaking Process

The process in which:

- An agency drafts rule text and completes a rule analysis.
- An agency files the draft and analysis with the Office of Administrative Rules (OAR).
- OAR and Governor's Office review the filing.
- The filing is published in the Utah State Bulletin and is up for public viewing or comment.
- An agency reviews each comment, makes necessary changes, and makes the rule effective.
- DAQ has two Board meetings per rule. One to propose the rule for public comment, and one to make the rule effective.

[See Utah Code 63G-3-301](#)

Parts of the Board Packet

- Air Quality Board Memorandum
- OAR Rules Analysis Form (RAF)
- Attachments, Responses to Public Comments, SIP Text, etc.

Types of Rulemaking

- New Rule
- Amendment
- Change in Proposed Rule (CPR)
- 5-Year Review

Parts of the Board Packet

Board Memorandum

- Summary of the rule, history, who the rule affects, summary of comments, etc.
- Summary of new changes being made and why they're being made.
 - New State / Federal Legislation
 - Public Request
 - Internal Review
 - Can be as simple as adding clarifying language to an already existing rule
- Recommendation statement to the Board
 - Approve for proposal for public comment, approve for final adoption

Parts of the Board Packet

Rules Analysis Form

- Required by Office of Administrative Rules to make changes
- General Information of Rule
 - History and specific reason for change / description of change
 - Incorporation by Reference updates or additions
 - Anticipated costs or savings to affected parties
 - Citation Information / Statutory Authority
 - Public Notice / Hearing Information
 - Anticipated Effective Date
 - Rule Text (with strikethroughs and underlines to show changes)

See Utah Code 63G-3-301, 303

Utah Rule Writing Manual Standards

[Utah Rule Writing Manual](#)

Issues	Do	Don't	Tips	Manual Reference
Using the word "above" to reference a location in rule	Except for requirements listed in Subsection R15-1-1(3)	Except for requirements listed above...	Use "Ctrl+F" and search for the word "above." Check if it is ever being used to reference to a rule location.	Pg. 43 when citing the administrative code, an agency should also cite the specific designation
Using the word "all" when "each," "any," or some other article is more accurate		"The director shall review all submissions" vs. "The director shall review each submission"	Use "Ctrl+F" and search for "all." Review each instance of the word to determine if it is necessary.	Pg. 35 of the rulewriting manual explains how using "all" incorrectly can introduce ambiguity and offers alternatives.
"and/or" in rule text	for a performance or payment bond"	for a performance bond and/or payment bond"	Use "Ctrl+F" and search for "and/or." If found, choose to use either "and" or "or"	Pg. 35 Never use "and/or." The rulewriter should be able to determine which term is correct."
Using the word "below" to reference a location in rule	Except for the requirements listed in Subsection R15-1-1(3)"	Except for the requirements listed below..."	Use "Ctrl+F" and search for the word "below." Check if it is ever being used to reference to a rule location.	Pg. 43 when citing the administrative code, an agency should also cite the specific designation
Using abbreviations such as: etc., e.g., and i.e.	Including a drivers license or identification card"	"Drivers license, identification card, etc."	Use "Ctrl+F" and search for abbreviations	Pg. 33 "Avoid most abbreviations except to cite other laws like federal or state statutes and to indicate the time of day"
Including "for the purpose of" when not necessary.	"To distribute funds..."	"For the purpose of distributing funds..."	Use "Ctrl+F" and search for "the purpose of"	Pg. 73 "for the purpose of" can often be replaced with "to" and have the same meaning.
Gendered language in rule	"After interviewing the offender, the board shall determine if the offender..."	"After interviewing the offender, the board shall determine if he"	Use "Ctrl+F" to search for "he," "she," "he/she," "his," "her," "his/her," "herself," "himself"	Pg. 13 of the rulewriting manual states gender neutral language should be used in rule and provides information on alternatives.
Using the phrase "in order to" when unnecessary	"To accomplish net zero..."	"In order to accomplish net zero..."	Use "Ctrl+F" and search for the phrase "in order to"	Pg. 73 of the rulewriting manual states the phrase "in order to" can generally be replaced with "to" and have the same meaning
Using any variation of the phrase "but not limited to"	"including cows, sheep, and chickens"	"including, but not limited to, cows, sheep, and chickens"	Use "Ctrl+F" and search for the phrase "limited to"	Pg. 32 states this phrase is generally unnecessary and can be replaced with "including."
Referring to a specific time with "oclock" or "o'clock"	"Facilities shall close at 5 p.m."	"Facilities shall close at 5 o'clock p.m."	Use "Ctrl+F" and search for "oclock" and "o'clock"	Pg. 28 states that when referring to a specific time, an agency should only use either "a.m." or "p.m."
Using the phrase "provisions of" or "provision of" before a citation	"...shall adhere to Section 63G-3-401"	"...shall adhere to the provisions of Section 63G-3-401"	Use "Ctrl+F" to search for "provisions of" and "provision of"	Pg. 36 of the rulewriting manual states including this phrase before a citation is unnecessary

Publication

- Utah State Bulletin is published on the 1st and 15th of every month.
- Filing deadlines are 2 weeks prior to publishing.
- Only filings that have gone through the OAR and Governor's Office checks and have been approved are published.
- First possible effective date, thus codification, determined by publication date. DAQ effective dates are also determined by Board meeting dates because we have two meetings for each rule.
- Rules can be made effective no more than 120 days after publication in the Utah State Bulletin! If a CPR is required, the 120 days is reset.

See Utah Code 63G-3-303

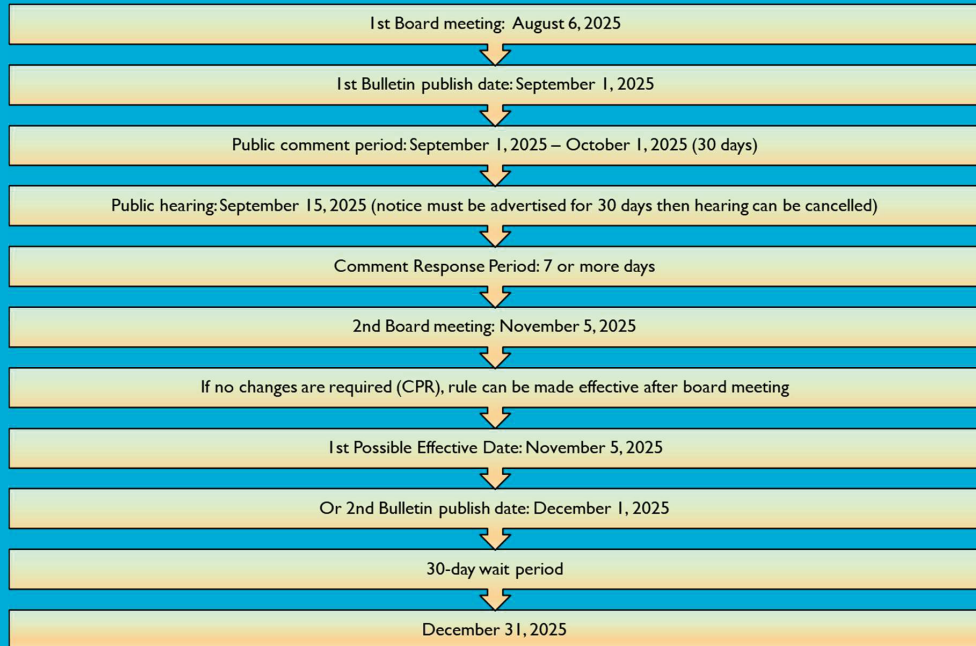
Rulemaking Steps

1. Pre-proposal Phase:
 - a. Need for a new or amended rule is identified
1. Proposal Phase and Air Quality Board Meeting 1
 - a. Memo, RAF, updated rule texts are created / presented
1. Submittal to OAR for publication in Bulletin
 - a. Bulletin is posted on the 1st and 15th of each month
 - b. Because our Board Meetings are on the first Wednesday of each month, our proposed rules will be published on the 1st of the following month
1. Public Comment Period and Public Hearing
 - a. 30-day minimum Public Comment Period
 - b. Hearing must be advertised for 30 days and then it can be cancelled if no one requests a hearing
1. Public Comment Response
 - a. Comment responses are included in the 2nd Board packet
1. Adoption Phase and AQB Meeting 2
 - a. New Memo, RAF, Comment Responses, updated rule texts are created / presented
1. Submittal to OAR for publication in Bulletin on 1st of next month
2. 30-day wait period (no public comment)
3. Rule can be made effective!

See Utah Code 63G-3-302

Example Schedule

OAR Bulletin
Schedule



2025-2026 Rulemaking Calendar

Major Projects



Regional Haze Round 2 SIP Amendments

- Regional Haze Round 2 SIP amendments
- End of 2025 for proposal



Methane Plan OOOOc Rules

- Plan due to EPA: March 2026
- Will update all Permit by Rule -500 series rules at same time (Dec. 2025)



SO2 Maintenance Plan

- 1971 NAAQS - maintenance plan and redesignation request



Rules in Progress

Rules with short and long term timelines that meet CAA requirements and get area closer to attainment.

- **Gas dispensing**
215.93 tpy II \$9k/ton
- **2-stroke yard care equipment**
1,076 tpy II \$0 - \$5k/ton
- **Refinery tank controls**
209.36 tpy II \$13.5k/ton
- **Commercial Composting**
218 - 291 tpy II \$0 - \$74.90/ton

Thank you



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