



State of Utah

GARY R. HERBERT  
*Governor*

SPENCER J. COX  
*Lieutenant Governor*

Department of  
Environmental Quality

L. Scott Baird  
*Interim Executive Director*

DIVISION OF AIR QUALITY  
Bryce C. Bird  
*Director*

**Air Quality Board**  
Erin Mendenhall *Chair*  
Cassady Kristensen, *Vice-Chair*  
Kevin R. Cromar  
Mitra Basiri Kashanchi  
Randal S. Martin  
Alan Matheson  
John Rasband  
Arnold W. Reitze Jr.  
William C. Stringer  
Bryce C. Bird,  
*Executive Secretary*

DAQ-115-19

**UTAH AIR QUALITY BOARD MEETING**

**DRAFT AGENDA**

**Wednesday, November 20, 2019 - 1:30 p.m.**  
**195 North 1950 West, Room 1015**  
**Salt Lake City, Utah 84116**

- I. Call-to-Order
- II. Date of the Next Air Quality Board Meeting: December 4, 2019
- III. Approval of the Minutes for October 2, 2019, Board Meeting.
- IV. Propose for Final Adoption: Amend R307-405-2. Permits: Major Sources in Attainment or Unclassified Areas (PSD). Applicability; and R307-410. Permits: Emissions Impact Analysis. Presented by Liam Thrailkill.
- V. Propose for Final Adoption: Amend SIP Section IX.H.21(e). General Requirements: Control Measures for Area and Point Sources, Emission Limits and Operating Practices, Regional Haze Requirements. Presented by Jay Baker.
- VI. Propose for Final Adoption: Amend R307-110-17. Section IX, Control Measures for Area and Point Sources, Part H, Emission Limits. Presented by Liam Thrailkill.
- VII. Propose for Public Comment: R307-401. Permit: New and Modified Sources. Presented by Liam Thrailkill.
- VIII. Propose for Public Comment: Amend SIP Section X, Part B, Vehicle Inspection and Maintenance Program, Davis County; and Part E, Vehicle Inspection and Maintenance Program, Weber County. Presented by Mat Carlile.
- IX. Propose for Public Comment: Amend R307-110-32. Section X, Vehicle Inspection and Maintenance Program, Part B, Davis County; and R307-110-35. Section X, Vehicle Inspection and Maintenance Program, Part E, Weber County. Presented by Liam Thrailkill.

- X. HollyFrontier Woods Cross Refining LLC – Early Settlement Agreement.  
Presented by Harold Burge.
  
- XI. Informational Items.
  - A. Air Toxics. Presented by Leonard Wright.
  - B. Compliance. Presented by Harold Burge and Rik Ombach.
  - C. Monitoring. Presented by Bo Call.
  - 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) 536-4281, TDD (801) 536-4284 or by email at [lwyss@utah.gov](mailto:lwyss@utah.gov).

# ITEM 4



State of Utah

GARY R. HERBERT  
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Department of  
Environmental Quality

L. Scott Baird  
*Interim Executive Director*

DIVISION OF AIR QUALITY  
Bryce C. Bird  
*Director*

DAQ-114-19

**MEMORANDUM**

**TO:** Air Quality Board

**THROUGH:** Bryce C. Bird, Executive Secretary

**FROM:** Liam Thrailkill, Rules Coordinator

**DATE:** November 5, 2019

**SUBJECT:** PROPOSE FOR FINAL ADOPTION: Amend R307-405-2. Permits: Major Sources in Attainment or Unclassified Areas (PSD). Applicability; and R307-410. Permits: Emissions Impact Analysis.

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On August 7, 2019, the Board approved amendments to R307-405-2 and R307-410 for public comment. The comment period ran from September 1 to October 1. Staff did not receive any comments.

The Division of Air Quality (DAQ) worked with the Environmental Protection Agency (EPA) to develop and submit approvable infrastructure state implementation plans (ISIPs) for both the 2008 and 2015 ozone standards. As DAQ worked with EPA, they noted a deficiency in the State's rules that would prevent EPA from approving the ISIP submittals. The 40 CFR Part 51, Appendix W, Guidelines on Air Quality Models was revised by the EPA on January 17, 2017. The notice, 82 FR 5182, stated that the EPA expected the revisions to be integrated into state regulatory processes by January 17, 2018.

These rule changes update the parts of 40 CFR incorporated by reference in the rules to the July 1, 2018, versions. These changes align the state regulatory process with the changes EPA made on January 17, 2017. Adoption of these rules will also allow the Governor to submit approvable ozone ISIPs to EPA.

- Finalized enhancements to the scientific formulation of the preferred near-field (up to 50km from an emission source) dispersion model, AERMOD, to address technical concerns expressed by the stakeholder community and improve model performance in its regulatory applications.

- Streamlined resources necessary to conduct regulatory modeling with AERMOD by incorporating model algorithms from the Buoyant Line and Point Source (BLP) model and updating methods that address nitrogen dioxide chemistry.
- Replaced the model known as CALINE3 with AERMOD for refined mobile source applications, including fine particle pollution (PM<sub>2.5</sub>, PM<sub>10</sub>), and carbon monoxide (CO) hot-spot analyses. The transition period for the use of AERMOD for these refined modeling applications was extended to three years and the use of CAL3QHC for CO screening analyses was retained.
- Provided more flexibility and improved the meteorological inputs used for regulatory modeling. The EPA finalized an allowance to use projected meteorological data in AERMOD where there is no representative National Weather Service
- station and it is prohibitive or not feasible to collect adequately representative site-specific data.
- Updated modeling techniques to address the secondary chemical formation of fine particle and ozone pollution from direct, single source emissions of sulfur dioxide, oxides of nitrogen for fine particle formation, and volatile organic compounds and oxides of nitrogen for ozone formation. These compounds can react in the atmosphere to form fine particle and ozone pollution.
- In conjunction with the final Guideline, issued guidance on single-source modeling, “Guidance on the Use of Models for Assessing the Impacts of Emissions from Single Sources on the Secondarily Formed Pollutants: Ozone and PM<sub>2.5</sub>.”
- For long-range (beyond 50km from an emissions source) air quality assessments, removed CALPUFF as a preferred model and considering it as a screening technique, along with other Lagrangian models, to be used in consultation with the appropriate reviewing authority.

Final adoption will allow for the Governor to submit them in concert with the ozone ISIPs for EPA approval.

Recommendation: Staff recommends that the Board adopt revisions to R307-405-2: Permits: Major Sources in Attainment or Unclassified Areas (PSD) Applicability; and R307-410: Permits: Emissions Impact Analysis as amended.

1 **Appendix 1: Regulatory Impact Summary Table\***

<b>Fiscal Costs</b>	FY 2020	FY 2021	FY 2022
State Government	\$0	\$0	\$0
Local Government	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Person	\$0	\$0	\$0
<b>Total Fiscal Costs:</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Fiscal Benefits</b>			
State Government	\$0	\$0	\$0
Local Government	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Benefits:</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Net Fiscal Benefits:</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

10  
 11 \*This table only includes fiscal impacts that could be measured. If there are inestimable  
 12 fiscal impacts, they will not be included in this table. Inestimable impacts for State  
 13 Government, Local Government, Small Businesses and Other Persons are described in the  
 14 narrative. Inestimable impacts for Non-Small Businesses are described in Appendix 2.

15  
 16 **Appendix 2: Regulatory Impact to Non-Small Businesses**

17  
 18 No non-small businesses are expected to be impacted by this rulemaking because the rule  
 19 is being updated to match already-existing federal requirements.

20  
 21 The Interim Executive Director of the Department of Environmental Quality, L. Scott Baird,  
 22 has reviewed and approved this fiscal analysis.

23  
 24 **R307. Environmental Quality, Air Quality.**

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

27 **R307-405-2. Applicability.**

28 (1) All references to 40 CFR in R307-405 shall mean the version  
 29 that is in effect on July 1, 2018.

30 (2) The provisions of 40 CFR 52.21(a)(2) are hereby incorporated  
 31 by reference.

32 (3) Notwithstanding the exemptions in R307-401, any source that  
 33 is subject to R307-405 is subject to the requirement to obtain an  
 34 approval order in R307-401-5 through 8.

35  
 36

- 1 **KEY: air pollution, PSD, Class I area, greenhouse gases**
- 2 **Date of Enactment or Last Substantive Amendment: November 20, 2019**
- 3 **Notice of Continuation: November 13, 2018**
- 4 **Authorizing, and Implemented or Interpreted Law: 19-2-104**

1 **Appendix 1: Regulatory Impact Summary Table\***

2

<b>Fiscal Costs</b>	FY 2020	FY 2021	FY 2022
State Government	\$0	\$0	\$0
Local Government	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Person	\$0	\$0	\$0
<b>Total Fiscal Costs:</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Fiscal Benefits</b>			
State Government	\$0	\$0	\$0
Local Government	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Benefits:</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
Net Fiscal Benefits:	\$0	\$0	\$0

3  
4 **\*This table only includes fiscal impacts that could be measured. If there are inestimable**  
5 **fiscal impacts, they will not be included in this table. Inestimable impacts for State**  
6 **Government, Local Government, Small Businesses and Other Persons are described in the**  
7 **narrative. Inestimable impacts for Non-Small Businesses are described in Appendix 2.**

8  
9 **Appendix 2: Regulatory Impact to Non-Small Businesses**

10  
11 No non-small businesses are expected to be impacted by this rulemaking because it is simply  
12 updating the rule to already-existing federal requirements.

13  
14 The Interim Executive Director of the Department of Environmental Quality, L. Scott Baird,  
15 has reviewed and approved this fiscal analysis.

16  
17 **R307. Environmental Quality, Air Quality.**  
18 **R307-410. Permits: Emissions Impact Analysis.**

19 ...

20  
21 **R307-410-3. Use of Dispersion Models.**

22 All estimates of ambient concentrations derived in meeting the  
23 requirements of R307 shall be based on appropriate air quality models,  
24 data bases, and other requirements specified in 40 CFR Part 51, Appendix  
25 W, (Guideline on Air Quality Models), effective July 1, 2018, which  
26 is hereby incorporated by reference. Where an air quality model  
27 specified in the Guideline on Air Quality Models or other EPA approved  
28 guidance documents is inappropriate, the director may authorize the  
29 modification of the model or substitution of another model. In meeting  
30 the requirements of federal law, any modification or substitution will  
31 be made only with the written approval of the Administrator, EPA.  
32

1 ...

2

3 **R307-410-5. Documentation of Ambient Air Impacts for Hazardous Air**  
4 **Pollutants.**

5 (1) Prior to receiving an approval order under R307-401, a  
6 source shall provide documentation of increases in emissions of  
7 hazardous air pollutants as required under (c) below for all  
8 installations not exempt under (a) below.

9 (a) Exempted Installations.

10 (i) The requirements of R307-410-5 do not apply to installations  
11 which are subject to or are scheduled to be subject to an emission  
12 standard promulgated under 42 U.S.C. 7412 at the time a notice of intent  
13 is submitted, except as defined in (ii) below. This exemption does  
14 not affect requirements otherwise applicable to the source, including  
15 requirements under R307-401.

16 (ii) The director may, upon making a written determination that  
17 the delay in the implementation of an emission standard under  
18 R307-214-2, that incorporates 40 CFR Part 63, might reasonably be  
19 expected to pose an unacceptable risk to public health, require, on  
20 a case-by-case basis, notice of intent documentation of emissions  
21 consistent with (c) below.

22 (A) The director will notify the source in writing of the  
23 preliminary decision to require some or all of the documentation as  
24 listed in (c) below.

25 (B) The source may respond in writing within thirty days of  
26 receipt of the notice, or such longer period as the director approves.

27 (C) In making a final determination, the director will document  
28 objective bases for the determination, which may include public  
29 information and studies, documented public comment, the applicant's  
30 written response, the physical and chemical properties of emissions,  
31 and ambient monitoring data.

32 (b) Lead Compounds Exemption. The requirements of R307-410-5  
33 do not apply to emissions of lead compounds. Lead compounds shall be  
34 evaluated pursuant to requirements of R307-410-4.

35 (c) Submittal Requirements.

36 (i) Each applicant's notice of intent shall include:

37 (A) the estimated maximum pounds per hour emission rate increase  
38 from each affected installation,

39 (B) the type of release, whether the release flow is vertically  
40 restricted or unrestricted, the maximum release duration in minutes  
41 per hour, the release height measured from the ground, the height of  
42 any adjacent building or structure, the shortest distance between the  
43 release point and any area defined as "ambient air" under 40 CFR  
44 50.1(e), effective July 1, 2018, which is hereby incorporated by  
45 reference for each installation for which the source proposes an  
46 emissions increase,

47 (C) the emission threshold value, calculated to be the  
48 applicable threshold limit value - time weighted average (TLV-TWA)  
49 or the threshold limit value - ceiling (TLV-C) multiplied by the  
50 appropriate emission threshold factor listed in Table 2, except in  
51 the case of arsenic, benzene, beryllium, and ethylene oxide which shall

1 be calculated using chronic emission threshold factors, and  
 2 formaldehyde, which shall be calculated using an acute emission  
 3 threshold factor. For acute hazardous air pollutant releases having  
 4 a duration period less than one hour, this maximum pounds per hour  
 5 emission rate shall be consistent with an identical operating process  
 6 having a continuous release for a one-hour period.

TABLE 2

9 EMISSION THRESHOLD FACTORS FOR HAZARDOUS AIR POLLUTANTS  
 10 (cubic meter pounds per milligram hour)

11  
 12 VERTICALLY-RESTRICTED AND FUGITIVE EMISSION RELEASE POINTS

14 DISTANCE TO			
15 PROPERTY BOUNDARY	ACUTE	CHRONIC	CARCINOGENIC
16 20 Meters or less	0.038	0.051	0.017
17 21 - 50 Meters	0.051	0.066	0.022
18 51 - 100 Meters	0.092	0.123	0.041
19 Beyond 100 Meters	0.180	0.269	0.090

20  
 21 VERTICALLY-UNRESTRICTED EMISSION RELEASE POINTS

23 DISTANCE TO			
24 PROPERTY BOUNDARY	ACUTE	CHRONIC	CARCINOGENIC
25 50 Meters or less	0.154	0.198	0.066
26 51 - 100 Meters	0.224	0.244	0.081
27 Beyond 100 Meters	0.310	0.368	0.123

28  
 29 (ii) A source with a proposed maximum pounds per hour emissions  
 30 increase equal to or greater than the emissions threshold value shall  
 31 include documentation of a comparison of the estimated ambient  
 32 concentration of the proposed emissions with the applicable toxic  
 33 screening level specified in (d) below.

34 (iii) A source with an estimated ambient concentration equal  
 35 to or greater than the toxic screening level shall provide additional  
 36 documentation regarding the impact of the proposed emissions. The  
 37 director may require such documentation to include, but not be limited  
 38 to:

39 (A) a description of symptoms and adverse health effects that  
 40 can be caused by the hazardous air pollutant,

41 (B) the exposure conditions or dose that is sufficient to cause  
 42 the adverse health effects,

43 (C) a description of the human population or other biological  
 44 species which could be exposed to the estimated concentration,

45 (D) an evaluation of land use for the impacted areas,

46 (E) the environmental fate and persistency.

47 (d) Toxic Screening Levels and Averaging Periods.

48 (i) The toxic screening level for an acute hazardous air  
 49 pollutant is 1/10th the value of the TLV-C, and the applicable averaging  
 50 period shall be:

51 (A) one hour for emissions releases having a duration period

1 of one hour or greater,

2 (B) one hour for emission releases having a duration period less  
3 than one hour if the emission rate used in the model is consistent  
4 with an identical operating process having a continuous release for  
5 a one-hour period or more, or

6 (C) the dispersion model's shortest averaging period when using  
7 an applicable model capable of estimating ambient concentrations for  
8 periods of less than one hour.

9 (ii) The toxic screening level for a chronic hazardous air  
10 pollutant is 1/30th the value of the TLV- TWA, and the applicable  
11 averaging period shall be 24 hours.

12 (iii) The toxic screening level for all carcinogenic hazardous  
13 air pollutants is 1/90 the value of the TLV-TWA, and the applicable  
14 averaging period shall be 24 hours, except in the case of formaldehyde  
15 which shall be evaluated consistent with (d)(i) above and arsenic,  
16 benzene, beryllium, and ethylene oxide which shall be evaluated  
17 consistent with (d)(ii) above.

18

19 ...

20

21 **KEY: air pollution, modeling, hazardous air pollutant, stack height**

22 **Date of Enactment or Last Substantive Amendment: 2019**

23 **Notice of Continuation: May 15, 2017**

24 **Authorizing, and Implemented or Interpreted Law: 19-2-104**

# ITEM 5



State of Utah

GARY R. HERBERT  
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Department of  
Environmental Quality

L. Scott Baird  
*Interim Executive Director*

DIVISION OF AIR QUALITY  
Bryce C. Bird  
*Director*

DAQ-120-19

**MEMORANDUM**

**TO:** Air Quality Board

**THROUGH:** Bryce C. Bird, Executive Secretary

**FROM:** Jay Baker, Environmental Scientist

**DATE:** November 5, 2019

**SUBJECT:** PROPOSE FOR FINAL ADOPTION: Amend SIP Section IX.H.21(e). General Requirements: Control Measures for Area and Point Sources, Emission Limits and Operating Practices, Regional Haze Requirements.

---

On September 4, 2019, the Board approved amended State Implementation Plan (SIP) Section IX.H.21 for public comment. During the comment period, no comments were received.

This SIP revision addresses the reporting requirements for Hunter and Huntington Power plants. Under the current language, they are only required to report exceedances of PM<sub>10</sub> emissions limits if those exceedances are due to a breakdown. The revised language requires them to report any exceedances of permitted PM<sub>10</sub> limits, regardless of the cause.

Recommendation: Staff recommends that the Board adopt revisions to SIP Section IX, Part H.21(e) as proposed.

# **Utah State Implementation Plan**

## **Emission Limits and Operating Practices**

### **Section IX, Part H**

Adopted by the Air Quality Board [Insert Date]

1     **H.21. General Requirements: Control Measures for Area and Point**  
2           **Sources, Emission Limits and Operating Practices, Regional Haze**  
3           **Requirements**

4           a. Except as otherwise outlined in individual conditions of this Subsection IX.H.21 listed  
5               below, the terms and conditions of this Subsection IX.H.21 shall apply to all sources  
6               subsequently addressed in Subsection IX.H.22. Should any inconsistencies exist  
7               between these two subsections, the source specific conditions listed in IX.H.22 shall  
8               take precedence.

9           b. The definitions contained in R307-101-2, Definitions and R307-170-4, Definitions,  
10            apply to Section IX, Part H. In addition, the following definition also applies to  
11            Section IX, Part H.21 and 22:

12               *Boiler operating day* means a 24-hour period between 12 midnight and the following  
13               midnight during which any fuel is combusted at any time in the boiler. It is not  
14               necessary for fuel to be combusted for the entire 24-hour period.

15           c. The terms and conditions of R307-107-1 and R307-107-2 shall apply to all  
16            sources subsequently addressed in Subsection IX.H.22.

17           d. Any information used to determine compliance shall be recorded for all periods when  
18               the source is in operation, and such records shall be kept for a minimum of five years.  
19               All records required by IX.H.21.c shall be kept for a minimum of five years. Any or all  
20               of these records shall be made available to the Director upon request.

21           e. All emission limitations listed in Subsections IX.H.22 shall apply at all times, unless  
22               otherwise specified in the source specific conditions listed in IX.H.22. Each source shall  
23               submit a report of any deviation from the applicable requirements of Subsection IX.H,  
24               including those attributable to upset conditions, the probable cause of such deviations,  
25               and any corrective actions or preventive measures taken. The report shall be submitted  
26               to the Director no later than 24-months following the deviation, or earlier, as specified  
27               by an underlying applicable requirement. Deviations due to breakdowns shall be  
28               reported according to the breakdown provisions of R307-107.

29           f. Stack Testing:

30               i. As applicable, stack testing to show compliance with the emission limitations for the  
31                sources in Subsection IX.H.22 shall be performed in accordance with the following:

32                   A. Sample Location: The testing point shall be designed to conform to the  
33                    requirements of 40 CFR 60, Appendix A, Method 1, or the most recent version of  
34                    the EPA-approved test method if approved by the Director.

35                   B. Volumetric Flow Rate: 40 CFR 60, Appendix A, Method 2, or the most recent  
36                    version of the EPA-approved test method if approved by the Director.

- 1 C. Particulate (PM): 40 CFR 60, Appendix A, Method 5B, or the most recent version  
2 of the EPA-approved test method if approved by the Director. A test shall consist  
3 of three runs, with each run at least 120 minutes in duration and each run  
4 collecting a minimum sample of 60 dry standard cubic feet. The back half  
5 condensables shall also be tested using Method 202. The back half condensables  
6 shall not be used for compliance demonstration but shall be used for inventory  
7 purposes.
- 8 D. Calculations: To determine mass emission rates (lb/hr, etc.) the pollutant  
9 concentration as determined by the appropriate methods above shall be  
10 multiplied by the volumetric flow rate and any necessary conversion factors to  
11 give the results in the specified units of the emission limitation.
- 12 E. A stack test protocol shall be provided at least 30 days prior to the test. A  
13 pretest conference shall be held if directed by the Director.
- 14 g. Continuous Emission and Opacity Monitoring.
- 15 i. For all continuous monitoring devices, the following shall apply:
- 16 A. Except for system breakdown, repairs, calibration checks, and zero and span  
17 adjustments required under paragraph (d) 40 CFR 60.13, the owner/operator of  
18 an affected source shall continuously operate all required continuous monitoring  
19 systems and shall meet minimum frequency of operation requirements as  
20 outlined in R307-170 and 40 CFR 60.13.
- 21 B. The monitoring system shall comply with all applicable sections of R307-170;  
22 40 CFR 13; and 40 CFR 60, Appendix B – Performance Specifications.
- 23 C. For any hour in which fuel is combusted in the unit, the owner/operator of  
24 each unit shall calculate the hourly average NO<sub>x</sub> concentration in lb/MMBtu.
- 25 D. At the end of each boiler operating day, the owner/operator shall calculate and  
26 record a new 30-day rolling average emission rate in lb/MMBtu from the  
27 arithmetic average of all valid hourly emission rates from the CEMS for the  
28 current boiler operating day and the previous 29 successive boiler operating  
29 days.
- 30 E. An hourly average NO<sub>x</sub> emission rate in lb/MMBtu is valid only if the minimum  
31 number of data points, as specified in R307-170, is acquired by the  
32 owner/operator for both the pollutant concentration monitor (NO<sub>x</sub>) and the  
33 diluent monitor (O<sub>2</sub> or CO<sub>2</sub>).

# ITEM 6



State of Utah

GARY R. HERBERT  
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*Lieutenant Governor*

Department of  
Environmental Quality

L. Scott Baird  
*Interim Executive Director*

DIVISION OF AIR QUALITY  
Bryce C. Bird  
*Director*

DAQ-117-19

**MEMORANDUM**

**TO:** Air Quality Board

**THROUGH:** Bryce C. Bird, Executive Secretary

**FROM:** Liam Thrailkill, Rules Coordinator

**DATE:** November 5, 2019

**SUBJECT:** PROPOSE FOR FINAL ADOPTION: Amend R307-110-17. Section IX, Control Measures for Area and Point Sources, Part H, Emission Limits.

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When sections of the State Implementation Plan (SIP) are amended by the Board, those sections must be incorporated into the Air Quality Rules. On September 4, 2019, the Board proposed the amended R307-110-17 to incorporate the changes made to Section IX, Control Measures for Area and Point Sources, Part H, Emission Limits, into the Air Quality Rules.

A public comment period was held from October 1 to October 31, 2019. No comments were received and no public hearing was requested.

Recommendation: Staff recommends the Board adopt R307-110-17 as proposed.

1 **Appendix 1: Regulatory Impact Summary Table**

<b>Fiscal Costs</b>	<b>FY 2020</b>	<b>FY 2021</b>	<b>FY 2022</b>
State Government	\$0	\$0	\$0
Local Government	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Person	\$0	\$0	\$0
<b>Total Fiscal Costs:</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Fiscal Benefits</b>			
State Government	\$0	\$0	\$0
Local Government	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Benefits:</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Net Fiscal Benefits:</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

2  
3 \*This table only includes fiscal impacts that could be measured. If there are inestimable  
4 fiscal impacts, they will not be included in this table. Inestimable impacts for State  
5 Government, Local Government, Small Businesses and Other Persons are described in the  
6 narrative. Inestimable impacts for Non-Small Businesses are described in Appendix 2.

7  
8 **Appendix 2: Regulatory Impact to Non-Small Businesses**

9 This rule change is not expected to have any fiscal impacts on non-small businesses revenues  
10 or expenditures because the requirements added to the State Implementation Plan (SIP) being  
11 incorporated into the rule are already found in the existing permit conditions.

12 The Interim Executive Director of the Department of Environmental Quality, Scott Baird,  
13 has reviewed and approved this fiscal analysis.

14  
15 \*\*\*"Non-small business" means a business employing 50 or more persons; "small business" means  
16 a business employing fewer than 50 persons.

17  
18  
19 **R307. Environmental Quality, Air Quality.**20 **R307-110. General Requirements: State Implementation Plan.**

21 ...

22 **R307-110-17. Section IX, Control Measures for Area and Point Sources, Part  
23 H, Emission Limits.**

24 The Utah State Implementation Plan, Section IX, Control Measures for  
25 Area and Point Sources, Part H, Emission Limits and Operating Practices, as  
26 most recently amended by the Utah Air Quality Board on [~~December 4~~]November  
27 20, 2019, pursuant to Section 19-2-104, is hereby incorporated by reference  
28 and made a part of these rules.

29  
30 **KEY: air pollution, PM10, PM2.5, ozone**

31 **Date of Enactment or Last Substantive Amendment: 2019**

32 **Notice of Continuation: January 27, 2017**

33 **Authorizing, and Implemented or Interpreted Law: 19-2-104**

# ITEM 7



State of Utah

GARY R. HERBERT  
*Governor*

SPENCER J. COX  
*Lieutenant Governor*

Department of  
Environmental Quality

L. Scott Baird  
*Interim Executive Director*

DIVISION OF AIR QUALITY  
Bryce C. Bird  
*Director*

DAQ-123-19

**MEMORANDUM**

**TO:** Air Quality Board

**THROUGH:** Bryce C. Bird, Executive Secretary

**FROM:** Alan Humpherys, Minor New Source Review Section Manager

**DATE:** November 7, 2019

**SUBJECT:** PROPOSE FOR PUBLIC COMMENT: Amend R307-401. Permit: New and Modified Sources.

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On August 7, 2019, the Air Quality Board (Board) proposed for public comment amendments to Utah Administrative Code R307-401 related to soil vapor extraction (SVE), air stripper systems, and sub-slab vapor mitigation systems. The public comment period was held from September 1 to 31, 2019, and staff received three comments regarding definitions and organization of the rule. The comments can be found as an attachment to this memo. Staff generally agreed with the comments related to definitions and revised the rule accordingly. Staff also made changes in response to comments received from the Board on August 7, 2019.

However, due to the Office of Administrative Rules moving to a new system for online filings, staff is unable to submit a Change in Proposed Rule. For that reason, staff has decided to allow the original filing to lapse and create a new filing which incorporates the changes from the first filing along with the changes mentioned below. The proposed changes to Utah Administrative Code R307-401 will require another public comment period. The public comment period will run from December 15, 2019, to January 14, 2020.

The original public comment period was held from September 1 to 31, 2019.

## **Background and Summary of Changes**

Utah Administrative Codes R307-401-15 and -16 apply to SVE or air stripper systems and soil aeration projects. These rules exempt an owner or operator of a soil or groundwater remediation site from the new source review (NSR) permitting process as long as volatile organic compound (VOC) emissions are under five tons per year and hazardous air pollutants are less than their threshold values in R307-410-5(1)(c)(i)(c). The rules require the owner or operator to test to demonstrate compliance with the exemption levels.

R307-401 was proposed for amendments to include new and updated definitions and updated testing requirements. In addition, staff added an exemption for sub-slab vapor mitigation systems, which are systems designed to mitigate vapor intrusion into an occupied or occupiable structure. These systems are not designed to remediate contaminated soil or groundwater. The amended rule exempts these systems from the NSR permitting process and from the requirements of R307-401-15. This exemption is included in R307-401-10(7).

## **Additional Information**

In addition to the public comments received, staff has also prepared responses to questions posed by the Board on August 7, 2019, when this rule was proposed for public comment. Specifically, the Board requested additional information on the testing requirements and on the impact of SVE and air stripper systems in the Wasatch Front Ozone Nonattainment Area.

### Testing Requirements

The rule was updated to allow sources to discontinue testing after three years of operation if testing demonstrates the emissions have remained below exemption levels. The option to discontinue testing is included in R307-401-15(3)(e).

The basis for this change is that the majority of contamination is removed during the few months of operation of SVE and air stripper systems and mass removal rates typically decline over time. The intent of this update is to give owners/operators the option to discontinue sampling if the owner/operator can demonstrate that emissions from these systems have remained below the exemption levels since the beginning of the project.

The Board asked if there is a threshold for determining when sampling can be discontinued. DAQ believes that the exemption levels in R307-401-15(1)(a) and (b) should be the threshold when making this determination. However, DAQ also recognizes that there are several other factors that could affect the emissions from these systems, such as contaminant concentrations, plume migration, soil properties, system design, etc. Because of these potential uncertainties, DAQ proposed to do a case-by-case evaluation to determine if sampling can be discontinued. The case-by-case evaluation will include coordination with other regulatory agencies involved in the remediation project, such as Division of Environmental Response and Remediation or Division of Waste Management and Radiation Control. DAQ will seek input from these agencies on factors that could affect emissions prior to approving a request to discontinue sampling.

Impact to Airshed

The Board asked staff about the impact of SVE and air stripper systems on the airshed, specifically in the Wasatch Front Ozone Nonattainment Area.

In response to this comment, staff assessed the SVE and air stripper systems in the Wasatch Front Ozone Nonattainment area. There are currently eight active remediation projects in Salt Lake County and eight active remediation projects in Davis County. If each project has the potential to emit 5 tons per year of VOCs, the total potential contribution to the Wasatch Front Ozone Nonattainment Area could be up to 80 tons per year. This potential contribution accounts for approximately 2.5% of the total VOC emissions from point sources in Salt Lake and Davis counties, based on the 2017 emission inventory. It should be noted that this is a conservative estimate. Actual VOC emissions reported from these projects range from <0.1 tons/year to 1.1 tons/year, significantly lower than the 5 tons/year threshold in this rule. Therefore, staff does not anticipate that these systems will be a significant source of VOC emissions in the Wasatch Front Ozone Nonattainment Area.

Recommendation: Staff recommends that the Board propose the amended R307-401 for public comment.



Liam Thrailkill &lt;lthrailkill@utah.gov&gt;

## Comments on Proposed R307-401 changes

Thu, Sep 12, 2019 at 1:25 PM

To: "lthrailkill@utah.gov" <lthrailkill@utah.gov>, "mberger@utah.gov" <mberger@utah.gov>  
Cc: Sarah Foran <sforan@utah.gov>, "martygray@utah.gov" <martygray@utah.gov>

Liam/Mark,

My apologies for sending this to both of you, but Liam's name was listed on the DAQ website as the contact and Mark's name was listed in the Board Memo, so I wanted to make sure I got it to the appropriate person.

[REDACTED] and I met with Marty Gray and Alan Humpherys on April 19, 2018 and requested vapor mitigation systems be exempted from the permitting and monitoring requirements. We very much appreciate DAQ taking this request and modifying the rule to make this exemption possible. I have some comments on the proposed rule changes and request some changes be made before the rule is finalized.

1. Our preference [REDACTED] and I submitted it this way originally) would be for a standalone section in the Rule for the VMS exemption (e.g., R307-401-20). As it is in the redline rule change it is hidden under the Air Strippers and SVE section (R307-401-15), which is not intuitive or appropriate as they are not related. I recommend a standalone section for the VMS exemption so that it is not implied that there is a connection between VMS and either air strippers or SVE.
2. The term air sparging is not defined, but it is used in two areas of the redline. I recommend a definition be added to clarify it is different than air stripping (i.e., air sparging is in situ where air stripping is ex situ).
3. I recommend the following revisions to the VMS definition to improve on its clarity.

"Vapor Mitigation System", or VMS, is a sub-slab system whose primary purpose is mitigating vapor intrusion into an occupied, or occupiable, structure and is not intended or designed for the remediation of contaminated soil or groundwater. This definition includes both ~~active and~~ passive ~~and active~~ systems. ~~Active systems use a blower or fan to extract vapors from within or beneath a structure.~~ Passive systems generally consist of a vapor barrier either below the building slab (new construction) or above (retrofit in existing structures) and a venting ~~layer~~ system installed under a structure to divert vapors from beneath the structure ~~to the sides of a structure~~ and vent the vapors outdoors, typically above the building's roofline. Active systems generally are constructed similar to passive systems, but are supplemented with a blower or fan to actively move air in the sub-slab venting system and enhance movement of the vapors away from beneath the building.

1 **Appendix 1: Regulatory Impact Summary Table\***

<b>Fiscal Costs</b>	FY 2020	FY 2021	FY 2022
State Government	\$0	\$0	\$0
Local Government	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Person	\$0	\$0	\$0
<b>Total Fiscal Costs:</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Fiscal Benefits</b>			
State Government	\$0	\$0	\$0
Local Government	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Benefits:</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
Net Fiscal Benefits:	\$0	\$0	\$0

2  
3 **\*This table only includes fiscal impacts that could be measured. If there are**  
4 **inestimable fiscal impacts, they will not be included in this table. Inestimable**  
5 **impacts for State Government, Local Government, Small Businesses and Other Persons**  
6 **are described in the narrative. Inestimable impacts for Non-Small Businesses are**  
7 **described in Appendix 2.**

8  
9 **Appendix 2: Regulatory Impact to Non-Small Businesses**

10  
11 These amendments will result in an unknown savings to non-small  
12 businesses. Information on how many instances the exemption will  
13 apply to an owner or operator of sub-slab vapor mitigation systems  
14 is not readily available. However, it is estimated that the savings  
15 will range between \$2,800 and \$3,500 per sampling event for each  
16 vent riser. Each system will have a specific vent riser count  
17 requirement. Stacks can range from four to 10 per project. As  
18 currently written, the rule requires each stack to be tested five  
19 times in the first year and twice a year after the first year for  
20 the life of the project. At a four stack site this could cost up  
21 to \$70,000 in the first year, and up to \$28,000 each subsequent year.  
22 Testing would be required for the life of the project.

23  
24 The Interim Executive Director of the Department of Environmental  
25 Quality, L. Scott Baird, has reviewed and approved this fiscal  
26 analysis.

27  
28 **\*\*\*"Non-small business" means a business employing 50 or more persons; "small**  
29 **business" means a business employing fewer than 50 persons.**

30

1 **R307. Environmental Quality, Air Quality.**

2 **R307-401. Permit: New and Modified Sources.**

3 ---

4  
5 **R307-401-2. Definitions.**

6 "Actual emissions" (a) means the actual rate of emissions of an  
7 air pollutant from an emissions unit, as determined in accordance with  
8 R307-401-2(b) through R307-401-2(d).

9 (b) In general, actual emissions as of a particular date shall  
10 equal the average rate, in tons per year, at which the unit actually  
11 emitted the air pollutant during a consecutive 24-month period which  
12 precedes the particular date and which is representative of normal  
13 source operation. The director shall allow the use of a different time  
14 period upon a determination that it is more representative of normal  
15 source operation. Actual emissions shall be calculated using the unit's  
16 actual operating hours, production rates, and types of materials  
17 processed, stored, or combusted during the selected time period.

18 (c) The director may presume that source-specific allowable  
19 emissions for the unit are equivalent to the actual emissions of the  
20 unit.

21 (d) For any emissions unit that has not begun normal operations  
22 on the particular date, actual emissions shall equal the potential  
23 to emit of the unit on that date.

24 "Best available control technology" means an emissions  
25 limitation (including a visible emissions standard) based on the  
26 maximum degree of reduction for each air pollutant which would be  
27 emitted from any proposed stationary source or modification which the  
28 director, on a case-by-case basis, taking into account energy,  
29 environmental, and economic impacts and other costs, determines is  
30 achievable for such source or modification through application of  
31 production processes or available methods, systems, and techniques,  
32 including fuel cleaning or treatment or innovative fuel combustion  
33 techniques for control of such pollutant. In no event shall  
34 application of best available control technology result in emissions  
35 of any pollutant which would exceed the emissions allowed by any  
36 applicable standard under 40 CFR parts 60 and 61. If the director  
37 determines that technological or economic limitations on the  
38 application of measurement methodology to a particular emissions unit  
39 would make the imposition of an emissions standard infeasible, a  
40 design, equipment, work practice, operational standard or combination  
41 thereof, may be prescribed instead to satisfy the requirement for the  
42 application of best available control technology. Such standard  
43 shall, to the degree possible, set forth the emissions reduction  
44 achievable by implementation of such design, equipment, work practice  
45 or operation, and shall provide for compliance by means which achieve  
46 equivalent results.

47 Air Strippers'' are systems designed to pump groundwater to the  
48 surface for treatment, usually by aeration.

49 "Building, structure, facility, or installation" means all of  
50 the pollutant-emitting activities which belong to the same industrial  
51 grouping, are located on one or more contiguous or adjacent properties,  
52 and are under the control of the same person (or persons under common

1 control) except the activities of any vessel. Pollutant-emitting  
2 activities shall be considered as part of the same industrial grouping  
3 if they belong to the same Major Group (i.e., which have the same  
4 two-digit code) as described in the Standard Industrial Classification  
5 Manual, 1972, as amended by the 1977 Supplement (U.S. Government  
6 Printing Office stock numbers 4101-0066 and 003-005-00176-0,  
7 respectively).

8 "Construction" means any physical change or change in the method  
9 of operation (including fabrication, erection, installation,  
10 demolition, or modification of an emissions unit) that would result  
11 in a change in emissions.

12 "Emissions unit" means any part of a stationary source that emits  
13 or would have the potential to emit any air pollutant.

14 "Fugitive emissions" means those emissions which could not  
15 reasonably pass through a stack, chimney, vent, or other functionally  
16 equivalent opening.

17 "Indirect source" means a building, structure, facility, or  
18 installation which attracts or may attract mobile source activity that  
19 results in emission of a pollutant for which there is a national  
20 standard.

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

30 "Secondary emissions" means emissions which occur as a result  
31 of the construction or operation of a major stationary source or major  
32 modification, but do not come from the major stationary source or major  
33 modification itself. Secondary emissions include emissions from any  
34 offsite support facility which would not be constructed or increase  
35 its emissions except as a result of the construction or operation of  
36 the major stationary source or major modification. Secondary emissions  
37 do not include any emissions which come directly from a mobile source,  
38 such as emissions from the tailpipe of a motor vehicle, from a train,  
39 or from a vessel.

40 "Soil Aeration" is an ex-situ treatment process where excavated  
41 soil from a remediation project is spread in a thin layer to encourage  
42 biodegradation of soil contamination. Biodegradation may be stimulated  
43 through aeration or the addition of minerals, nutrients, and/or  
44 moisture.

45 "Soil Vapor Extraction", or SVE, is a system designed to extract  
46 vapor phase contaminants from the subsurface. SVE systems are often  
47 combined with other technologies, such as air sparging or  
48 vacuum-enhanced recovery systems.

49 "Stationary source" means any building, structure, facility, or  
50 installation which emits or may emit an air pollutant.

51 "Vapor Mitigation System", or VMS, is a sub-slab system  
52 whose primary purpose is mitigating vapor intrusion into an occupied,

1 or occupiable, structure and is not intended or designed for the  
2 remediation of contaminated soil or groundwater. This definition  
3 includes both active and passive systems. Passive systems consist of  
4 a vapor barrier either below or above the slab of a structure and  
5 a venting system installed under a structure to divert vapor from  
6 beneath the structure to the sides or roofline of a structure. Active  
7 systems are similar to passive systems but incorporate a blower or  
8 fan to actively extract air from beneath the structure.

9  
10 **R307-401-10. Source Category Exemptions.**

11 The source categories described in R307-401-10 are exempt from  
12 the requirement to obtain an approval order found in R307-401-5 through  
13 R307-401-8. The general provisions in R307-401-4 shall apply to these  
14 sources.

15 (1) Fuel-burning equipment in which combustion takes place at  
16 no greater pressure than one inch of mercury above ambient pressure  
17 with a rated capacity of less than five million BTU per hour using  
18 no other fuel than natural gas or LPG or other mixed gas that meets  
19 the standards of gas distributed by a utility in accordance with the  
20 rules of the Public Service Commission of the State of Utah, unless  
21 there are emissions other than combustion products.

22 (2) Comfort heating equipment such as boilers, water heaters,  
23 air heaters and steam generators with a rated capacity of less than  
24 one million BTU per hour if fueled only by fuel oil numbers 1 - 6,

25 (3) Emergency heating equipment, using coal or wood for fuel,  
26 with a rated capacity less than 50,000 BTU per hour.

27 (4) Exhaust systems for controlling steam and heat that do not  
28 contain combustion products.

29 (5) A well site as defined in 40 CFR 60.5430a, including  
30 centralized tank batteries, that is not a major source as defined in  
31 R307-101-2, and is registered with the Division as required by  
32 R307-505.

33 (6) A gasoline dispensing facility as defined in 40 CFR 63.11132  
34 that is not a major source as defined in R307-101-2. These sources  
35 shall comply with the applicable requirements of R307-328 and 40 CFR  
36 63 Subpart CCCCCC: National Emission Standards for Hazardous Air  
37 Pollutants for Source Category: Gasoline Dispensing Facilities.

38 (7) A Vapor Mitigation System as defined in R307-401-2.

39  
40 **R307-401-15. Air Strippers and Soil Vapor Extraction Systems [Venting**  
41 **Projects].**

42 R307-401-15 applies to remediation systems with the potential  
43 to generate air emissions, such as air strippers and soil vapor  
44 extraction (SVE) as defined in R307-401-2.

45 (1) The owner or operator of an air stripper or SVE remediation  
46 system[soil venting system that is used to remediate contaminated  
47 groundwater or soil] is exempt from the notice of intent and approval  
48 order requirements of R307-401-5 through R307-401-8 if the following  
49 conditions are met:

50 (a) [~~the estimated total air~~ actual emissions of volatile  
51 organic compounds from a given project are less than 5 tons per year;

1 ~~and [the de minimis emissions listed in R307-401-9(1)(a), and]~~

2 (b) emission rates of [the level of any one hazardous air  
3 pollutant or any combination of] hazardous air pollutants are [is] below  
4 their respective threshold values contained [the levels listed] in  
5 R307-410-5(1)(c)(i)(C).

6 (2) The owner or operator shall submit documentation to the  
7 director that demonstrates the project meets the exemption  
8 criteria [requirements] in R307-401-15(1) [-to the director prior to  
9 beginning the remediation project]. Required documentation includes,  
10 but is not limited to:

11 (a) project summary, including location, system description,  
12 operational schedule, and schedule for construction;

13 (b) emission calculations and any laboratory sampling data used  
14 in calculations; and

15 (c) plans and specifications for the system and equipment.

16 (3) After beginning the soil remediation project, the owner ~~or~~  
17 ~~operator shall submit emissions information to the director to verify~~  
18 ~~that the emission rates of the volatile organic compounds and hazardous~~  
19 ~~air pollutants in R307-401-15(1) are not exceeded.] or operator shall~~  
20 conduct testing to demonstrate compliance with the exemption levels  
21 in R307-401-15(1)(1) and (b). Monitoring and reporting shall be  
22 conducted as follows:

23 ~~(a) [Emissions estimates of volatile organic compounds shall~~  
24 ~~be based on test data obtained in accordance with the test method in~~  
25 ~~the EPA document SW 846, Test #8260c or 8261a, or the most recent EPA~~  
26 ~~revision of either test method if approved by the director.] Emissions~~  
27 for air strippers shall be based on the following:

28 (i) influent and effluent water samples analyzed for volatile  
29 organic compounds and hazardous air pollutants using the most recent  
30 version of USEPA Test Method 8260, Method 8021, or other EPA approved  
31 testing methods acceptable to the director; and

32 (ii) design water flow rate of the system or the water flow  
33 rates measured during the sample period.

34 ~~(b) [Emissions estimates of hazardous air pollutants shall be~~  
35 ~~based on test data obtained in accordance with the test method in EPA~~  
36 ~~document SW 846, Test #8021B or the most recent EPA revision of the~~  
37 ~~test method if approved by the director.] Emissions for SVE systems~~  
38 shall be based on the following:

39 (i) Air samples collected from a sample port in the exhaust  
40 stack of the SVE system and analyzed for volatile organic compounds  
41 and hazardous air pollutants using USEPA test method TO-15, or  
42 other EPA approved testing methods acceptable to the director.

43 (ii) Design air flow rate of the system or the air flow  
44 rates measured at the outlet of the SVE system during the sample  
45 period.

46 ~~(c) [Results of the test and calculated annual quantity of~~  
47 ~~emissions of volatile organic compounds and hazardous air pollutants~~  
48 ~~shall be submitted to the director within one month of sampling.] Within~~  
49 one month of sampling, the owner or operator shall submit to the  
50 director the sample results, estimated emissions of volatile organic  
51 compounds, and estimated emission rates of hazardous air pollutants.

1           (d) ~~[The test samples shall be drawn on intervals of no less~~  
2 ~~than twenty eight days and no more than thirty one days (i.e., monthly)~~  
3 ~~for the first quarter, quarterly for the first year, and semi-annually~~  
4 ~~thereafter or as determined necessary by the director.]~~ Samples shall  
5 be collected at the following frequencies or more frequently as  
6 determined necessary by the director:

7           (i) no less than twenty-eight days and no more than thirty-one  
8 days (i.e., monthly) after startup for the first quarter;

9           (ii) quarterly for the remainder of the first year; and

10           (iii) semi-annually thereafter for the life of the project or as  
11 allowed in R307-401-15(3)(f).

12           (e) If an SVE or air stripper system is restarted after  
13 rehabilitation or an extended period of shutdown, the owner or operator  
14 shall recommence the sampling schedule in R307-415(3)(d), unless  
15 otherwise approved by the director.

16           (f) The owner or operator may request to discontinue sampling  
17 after three years of operation. To discontinue sampling, the owner  
18 or operator must submit to the director a request to discontinue  
19 monitoring.

20           (i) The request must include documentation demonstrating  
21 emissions have remained below the exemption levels in  
22 R307-401-15(1)(a) and (b) since startup of the system.

23           (ii) The request is subject to approval from the director upon  
24 consultation with other regulatory agencies involved in the project,  
25 such as Division of Environmental Response and Remediation or Division  
26 of Waste Management and Radiation Control.

27           (4) The following control devices do not require a notice of  
28 intent or approval order when used in relation to an air stripper or  
29 soil vapor extraction system that is ~~[venting project]~~ exempted under  
30 R307-401-15:

31           (a) thermodestruction unit with a rated input capacity of less  
32 than five million BTU per hour using no other auxiliary fuel than  
33 natural gas or LPG, or

34           (b) carbon adsorption unit.

35  
36 **R307-401-16. ~~[De minimis Emissions From]~~ Soil Aeration Projects.**

37           R307-401-16 applies to soil aeration projects used to conduct  
38 soil remediation. ~~[An owner or operator of a soil remediation project~~  
39 is not subject to the notice of intent and approval order requirements  
40 of R307 401 5 through R307 401 8 when soil aeration or land farming  
41 is used to conduct a soil remediation, if the owner or operator submits  
42 the following information to the director prior to beginning the  
43 remediation project:]

44           (1) [documentation that the estimated total air emissions of  
45 volatile organic compounds, using an appropriate sampling method, from  
46 the project are less than the de minimis emissions listed in  
47 R307 401 9(1)(a),] The owner or operator of a soil aeration project  
48 is not subject to the notice of intent and approval order requirements  
49 of R307-401-5 through R307-401-8, if the following conditions are met:

50           (a) emissions of volatile organic compounds from a given soil  
51 aeration project are less than 5 tons per year; and

1 (b) emission rates of hazardous air pollutants are below their  
2 respective threshold values contained in R307-410-(1)(c)(i)(C).

3 (2) [~~documentation that the levels of any one hazardous air~~  
4 ~~pollutant or any combination of hazardous air pollutants are less than~~  
5 ~~the levels in R307-410-5(1)(d); and]~~ The owner or operator shall submit  
6 documentation to the director demonstrating the project meets the  
7 exemption criteria in R307-401-16(1). The owner or operator shall  
8 receive approval from the director for the exemption prior to beginning  
9 the remediation project. Required documentation includes, but is not  
10 limited to:

11 (a) calculated emissions of volatile organic compounds and  
12 estimated emission rates of hazardous air pollutants from all soils  
13 to be treated from the soil aeration project.

14 (b) Emission calculations shall be based on soil samples of the  
15 soils to be remediated. Samples shall be analyzed for volatile organic  
16 compounds and hazardous air pollutants using the most recent version  
17 of USEPA Test Method 8260, Method 8021, or other EPA approved testing  
18 methods acceptable to the director.

19 (c) Location where soil aeration will occur and where the  
20 remediated material originated.

21 (3) [~~the location of the remediation and where the remediated~~  
22 ~~material originated.]~~ The owner or operator is exempt from the reporting  
23 requirements in R307-401-16(2) if excavated soils are disposed of at  
24 a disposal or treatment facility, such as a landfill, solid waste  
25 management facility, or a landfarm facility, that is owned or operated  
26 by a third party and operates under an existing approval order.

27  
28 ---

29  
30 **KEY: air pollution, permits, approval orders, greenhouse gases**

31 **Date of Enactment or Last Substantive Amendment: June 6, 2019**

32 **Notice of Continuation: May 15, 2017**

33 **Authorizing, and Implemented or Interpreted Law: 19-2-104(3)(g);**  
34 **19-2-108**

**State of Utah**  
**Administrative Rule Analysis**  
 Revised October 2019

NOTICE OF PROPOSED RULE		
<b>TYPE OF RULE:</b> New ___; Amendment <u>X</u> ; Repeal ___; Repeal and Reenact ___		
<b>Title No. - Rule No. - Section No.</b>		
<b>Utah Admin. Code Ref (R no.):</b>	<b>R307-401</b>	<b>Filing No. (Office Use Only)</b>
<b>Changed to Admin. Code Ref. (R no.):</b> R		

**Agency Information**

<b>1. Agency:</b>	Department of Environmental Quality	
<b>Room no.:</b>	Fourth Floor	
<b>Building:</b>		
<b>Street address:</b>	195 N 1950 W	
<b>City, state:</b>	Salt Lake City, UT84116-3085	
<b>Mailing address:</b>	PO Box 144820	
<b>City, state, zip:</b>	Salt Lake City, UT 84116-3085	
<b>Contact person(s):</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Liam Thrailkill	801-536-4419	lthrailkill@utah.gov
Please address questions regarding information on this notice to the agency.		

**General Information**

<b>2. Rule or section catchline:</b>
Permit: New and Modified Sources.
<b>3. Purpose of the new rule or reason for the change</b> (If this is a new rule, what is the purpose of the rule? If this is an amendment, repeal, or repeal and reenact, what is the reason for the filing?):
These amendments add and update definitions and testing requirements. These changes will allow sources to discontinue testing after three years of operation if testing demonstrates the emissions have consistently remained below exemption levels. Changes have also been made to clarify that sub-slab vapor mitigation systems are exempt from this rule's testing requirements.
<b>4. Summary of the new rule or change:</b>
Section R307-401-2 is amended to add definitions for "air strippers," "soil aeration," "soil vapor extraction," and "vapor mitigation system." R307-401-10 adds "Vapor Mitigation System" to Source Category Exemptions. Sections R307-401-15 and R307-401-16 are being amended to update testing requirements, which will allow sources to discontinue testing after three years of operation if testing demonstrates the emissions have consistently remained below exemption levels.

**Fiscal Information**

<b>5. Aggregate anticipated cost or savings to:</b>
<b>A) State budget:</b>
These rule changes are expected to have an unknown savings to the state budget as it will limit the need for Division of Air Quality staff to review testing submissions. The savings is unknown because information regarding how many of these would be submitted is unavailable.

**B) Local governments:**

These rule changes are not expected to have a fiscal impact on local governments.

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

These rule changes could result in a cost savings to small businesses who operate or own sub-slab vapor extraction systems, as this rule exempts them from certain notice of intent and approval order requirements. The aggregate savings is not possible to calculate as the number of soil vapor extractions (SVEs) operating at any given time is not readily available. However, the savings are estimated to range between \$2,800 and \$3,500 per sampling event per stack.

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

These amendments will result in an unknown savings to non-small businesses. Information on how many instances the exemption will apply to an owner or operator of sub-slab vapor mitigation systems is not readily available. However, it is estimated that the savings will range between \$2,800 and \$3,500 per sampling event for each vent riser. Each system will have a specific vent riser count requirement. Stacks can range from four to 10 per project. As currently written, the rule requires each stack to be tested five times in the first year and twice a year after the first year for the life of the project. At a four-stack site this could cost up to \$70,000 in the first year, and up to \$28,000 each subsequent year. Testing would be required for the life of the project.

**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**):

These rule changes are not expected to have a fiscal impact on persons other than small businesses, non-small businesses, state, or local government entities.

**F) Compliance costs for affected persons:**

There are no additional compliance requirements added to this rule through amendments; therefore, there are no 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 Summary Table**

<b>Fiscal Costs</b>	<b>FY 2020</b>	<b>FY 2021</b>	<b>FY 2022</b>
State Government	\$0	\$0	\$0
Local Government	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Person	\$0	\$0	\$0
<b>Total Fiscal Costs:</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Fiscal Benefits</b>			
State Government	\$0	\$0	\$0
Local Government	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Benefits:</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Net Fiscal Benefits:</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

**H) Department head sign-off on regulatory impact:**

The head of the Department of Environmental Quality, L. Scott Baird, has reviewed and approved this fiscal analysis.

**6. A) Comments by the department head on the fiscal impact this rule may have on businesses:**

These amendments will result in an unknown savings to non-small businesses, and could result in savings to small businesses. Information on how many instances the exemption will apply to an owner or operator of sub-slab vapor mitigation systems is not readily available. However, it is estimated that the savings will range between \$2,800 and \$3,500 per sampling event for each vent riser. Each system will have a specific vent riser count requirement. Stacks can range from four to 10 per project. As currently written, this rule requires each stack to be tested five times in the first year and twice a year after the first year for the life of the project. At a four-stack site this could cost up to \$70,000 in the first year, and up to \$28,000 each subsequent year. Testing would be required for the life of the project.

**B) Name and title of department head commenting on the fiscal impacts:**

L. Scott Baird, Interim Executive Director

**Citation Information**

**7. This rule change is authorized or mandated by state law, and implements or interprets the following state and federal laws. State code or constitution citations (required):**

19-2-108	19-2-104	

**Incorporations by Reference Information**

(If this rule incorporates more than two items by reference, please include additional tables)

**8. 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):**

	<b>First Incorporation</b>
<b>Official Title of Materials Incorporated (from title page)</b>	
<b>Publisher</b>	
<b>Date Issued</b>	
<b>Issue, or version</b>	

**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*):

	<b>Second Incorporation</b>
<b>Official Title of Materials Incorporated (from title page)</b>	
<b>Publisher</b>	
<b>Date Issued</b>	
<b>Issue, or version</b>	

### Public Notice Information

**9. The public may submit written or oral comments to the agency identified in box 1.** (The public may also request a hearing by submitting a written request to the agency. The agency is required to hold a hearing if it receives requests from ten interested persons or from an association having not fewer than ten members. Additionally, the request must be received by the agency not more than 15 days after the publication of this rule in the Utah State Bulletin. See Section 63G-3-302 and Rule R15-1 for more information.)

**A) Comments will be accepted until** (mm/dd/yyyy): 01/14/2020

**B) A public hearing (optional) will be held:**

<b>On</b> (mm/dd/yyyy):	<b>At</b> (hh:mm AM/PM):	<b>At</b> (place):

**10. This rule change MAY\* become effective on** (mm/dd/yyyy): 03/04/2020

\*NOTE: The date above is the date on which this rule MAY become effective. It is NOT the effective date. After the date designated in Box 10, the agency must submit a Notice of Effective Date to the Office of Administrative Rules to make this rule effective. Failure to submit a Notice of Effective Date will result in this rule lapsing and will require the agency to start the rulemaking process over.

### Agency Authorization Information

**To the agency:** Information requested on this form is required by Sections 63G-3-301, 302, 303, and 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.

<b>Agency head or designee, and title:</b>	Bryce Bird, Director	<b>Date</b> (mm/dd/yyyy):	
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# ITEM 8



State of Utah

GARY R. HERBERT  
*Governor*

SPENCER J. COX  
*Lieutenant Governor*

Department of  
Environmental Quality

L. Scott Baird  
*Interim Executive Director*

DIVISION OF AIR QUALITY  
Bryce C. Bird  
*Director*

DAQ-122-19

**MEMORANDUM**

**TO:** Air Quality Board

**THROUGH:** Bryce C. Bird, Executive Secretary

**FROM:** Mat Carlile, Environmental Planning Consultant

**DATE:** November 6, 2019

**SUBJECT:** PROPOSE FOR PUBLIC COMMENT: Amend SIP Section X, Part B, Vehicle Inspection and Maintenance Program, Davis County; and Part E, Vehicle Inspection and Maintenance Program, Weber County.

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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). Section X incorporates these county programs into the Utah State Implementation Plan (SIP). Section X, Part A summarizes I/M requirements that are common among all I/M programs. The other subparts (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 and Section X, Part E is unique to Weber County's I/M program. Amendments to both Section X, Part B and Part E were last adopted by the Board on December 5, 2012.

The Division of Air Quality is asking the Air Quality Board to propose for public comment amendments to Parts B and E of Utah SIP Section X. The amendments to both Part B and Part E update each county's ordinance/regulation to reflect the activities of the current programs, provide clarity, and ensure that the programs conform to federal requirements.

For example, Davis County moved all of its diesel emission program regulations to an appendix, made changes to its penalty schedule, and removed reference to 'director discretion' in its ordinance. Weber County amended its regulation to specify that all engine switches, regardless of the vehicle model year, will be verified and tested by the health department. Additionally, Appendix H was added to the regulation that includes the EPA's Engine Switching Fact Sheet and references to 'director discretion' were removed.

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

Recommendation: Staff recommends the Air Quality Board propose amended SIP Section X, Parts B and E for public comment.

Davis County

Part B

Attachments

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**UTAH STATE IMPLEMENTATION PLAN**

**SECTION X**

**VEHICLE INSPECTION  
AND MAINTENANCE PROGRAM**

**PART B**

**DAVIS COUNTY**

Adopted by the Utah Air Quality Board  
TBD

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**DAVIS COUNTY**  
**Appendices**

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- 1     Davis County Ordinance 10.12 Vehicle Emissions  
Inspection/Maintenance Program, [~~Ordinance 3-2012,~~] approved and  
adopted [~~May 29, 2012~~] October 1, 2019.
- 2     [~~Audit Policies and Procedures~~]Air Quality Division Operating Procedures  
10/30/19

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UTAH STATE IMPLEMENTATION PLAN  
SECTION X  
AUTOMOTIVE INSPECTION AND MAINTENANCE (I/M) PROGRAM  
PART B  
DAVIS COUNTY

7 **1. Applicability**

8 *Davis County Inspection and Maintenance (I/M) [p]Program [r]Requirements: [Davis County*  
9 *was designated nonattainment for the 1-hour ozone National Ambient Air Quality Standard*  
10 *(NAAQS) [on January 6, 1992 (56 FR 56694, November 6, 1991)] and classified as "moderate".*  
11 *Davis County was redesignated to an attainment/maintenance area for the 1-hour ozone NAAQS*  
12 *on August 18, 1997 (62 FR 38213, July 17, 1997). [The Utah Air Quality Board adopted an*  
13 *Ozone maintenance plan for Salt Lake and Davis counties on November 5, 1993, to address the*  
14 *1979 1-hour Ozone National Ambient Air Quality Standard (NAAQS). The plan was*  
15 *reorganized and adopted on January 5, 1995. Revisions to the ozone maintenance plan were*  
16 *adopted by the Board on June 5, 1996, and June 7, 1997. EPA approved the plan on July 17,*  
17 *1997 (62 FR 38213, July 17, 1997). The ozone maintenance plan required implementation of an*  
18 *improved I/M program no later than January 1, 1998. The ozone maintenance plan established a*  
19 *performance standard that was more stringent than the federal Basic I/M Performance Standard.*

20 On July 17, 1997, EPA approved the State's request to redesignate Salt Lake and Davis counties  
21 to attainment for the 1979 1-hour ozone standard. As part of that action, EPA approved the  
22 State's 1-hour ozone maintenance plan (62 FR 38213). On July 18, 1997, EPA promulgated an  
23 8-hour ozone NAAQS of 0.08 ppm (62 FR 38894). This standard was intended to replace the 1-  
24 hour ozone standard. On April 30, 2004, EPA designated areas of the United States for the 1997  
25 8-hour ozone standard (69 FR 23857). EPA designated all areas in Utah, including Salt Lake  
26 County and Davis County, as unclassifiable/attainment for the 1997 8-hour ozone NAAQS (69  
27 FR 23940).

28 On April 30, 2004, EPA revoked the 1979 1-hour ozone NAAQS (69 FR 23951, 23996; 40 CFR  
29 50.9(b). As part of that rulemaking, EPA established certain requirements to prevent backsliding  
30 in the areas that were redesignated to "attainment" but subject to a maintenance plan, as is the  
31 case for Salt Lake County and Davis County. These requirements are codified at 40 CFR 51.905.  
32 In the case of Utah, one of these requirements was to submit a maintenance plan for the 1997 8-  
33 hour ozone standard. On March 22, 2007, the Governor of Utah submitted a maintenance plan  
34 for the 1997 8-hour ozone standard for Salt Lake County and Davis County, and associated rule  
35 revisions, which included an I/M program as a control measure. This plan was approved by EPA  
36 on September 26, 2013 (78 FR 59242). Davis County was designated as a 'marginal'  
37 nonattainment area for the 2015 8-hour ozone standard effective August 3, 2018(83 FR 25776),  
38 June 4, 2018). An I/M program is not required in marginal nonattainment areas; however, if the

1 Davis County is redesignated to a ‘moderate’ nonattainment area, an I/M program would be  
2 required by the Clean Air Act (CAA).

3 Utah was previously required by Sections 182 and 187 of the [~~Clean Air Act~~]CAA to implement  
4 and maintain an [~~Inspection and Maintenance~~-(I/M)] program in Davis County that met the  
5 minimum requirements of 40 CFR Part 51 Subpart S and that was at least as effective as the  
6 EPA's Basic Performance Standard as specified in 40 CFR 51.352. However, the Basic  
7 Performance Standard requirement is no longer applicable as the nonattainment area in Davis  
8 County has~~[ve]~~ been redesignated to attainment / maintenance for the 1979~~[97]~~ 1-hour ozone  
9 NAAQS. Parts A and B of Section X, together with the referenced appendices, continue to  
10 demonstrate compliance with the 40 CFR Part 51 provisions for [~~Inspection and~~  
11 ~~Maintenance~~]I/M Program Requirements for Davis County and produce mobile source emission  
12 reductions that are sufficient to demonstrate continued maintenance of the 1997~~[4]~~8-hour ozone  
13 NAAQS. In addition, the Davis County I/M program is a control measure [~~to attain and maintain~~  
14 ~~EPA's particulate NAAQS in Davis County.~~]included in the Salt Lake City 24-hour particulate  
15 Serious SIP submitted to EPA on February 15, 2019.

## 16 **2. Summary of Davis County I/M Program**

17  
18 Below is a summary of Davis County’s I/M program. Section X, Part D Appendices 1 – 2  
19 contain the essential documents for Davis County’s I/M program.

20  
21 *Network Type:* Davis County’s I/M program is a decentralized, test-and-repair network.

22  
23 *Test Convenience:* There are approximately 140 permitted I/M stations within Davis  
24 County. Specific operating hours are not specified by the county. Some stations that test  
25 and/or service only one type of vehicle are permitted. There are also government and  
26 private fleet permitted stations that are not open to the public.

27  
28 *Subject [f]Fleet:* All model year 1968 and newer vehicles registered or principally-  
29 operated in Davis County are subject to the I/M program except for exempt vehicles.

30  
31 *Test [f]frequency:* Vehicles less than two years old as of January 1 on any given year are  
32 exempt from an emissions inspection. Vehicles two years old and less than six years old  
33 as of January 1 on any given year are inspected every other year as per Utah Code 41-6a-  
34 1642(6). All vehicles six years old and older as of January 1 on any given year are  
35 inspected annually.

36  
37 *Station/[i]Inspector Audits:* Davis County’s I/M program will regularly audit all  
38 permitted I/M inspectors and stations to ensure compliance with county I/M ordinance  
39

1 and policies. Particular attention will be given to identifying and correcting any fraud or  
2 incompetence with respect to vehicle emissions inspections. Compliance with  
3 recordkeeping, document security, analyzer maintenance, and program security  
4 requirements will be scrutinized. Davis County I/M program will have an active covert  
5 compliance program to minimize potential fraudulent testing. Davis County audit  
6 procedures are provided in Appendix 2 of this part of Section X.

7  
8 *Waivers:* Davis County's I/M program may issue waivers under limited circumstances.  
9 The waiver procedure can be found in Davis County's I/M ordinance provided in  
10 Appendix 1. Davis County will take corrective action as needed to maintain a maximum  
11 waiver rate of 1% of the initially failed vehicles, or the Utah Air Quality Board will  
12 revise the SIP and emission reductions claimed based on the actual waiver rate. The  
13 conditions for issuing waivers are specified in Davis County's I/M ordinance and meet  
14 the minimum waiver issuance criteria specified in 40 CFR Subparts 51.360.

15  
16 *Test Equipment:* Specifications for Davis County's emission analyzer and its I/M test  
17 procedures, standards and analyzers are provided in Davis County's I/M ordinance  
18 provided in Appendix 1. Test equipment and procedure were developed according to  
19 good engineering practices to ensure test accuracy. Analyzer calibration specifications  
20 and emissions test procedures meet the minimum standards established in Appendix A of  
21 the EPA's I/M Guidance Program Requirements, 40 CFR Part 51 Subpart S.

22  
23 *Test Procedures:*

- 24
- 25 • The following vehicles are subject to an OBD II inspection:
    - 26 ○ 1996 and newer light duty vehicles<sup>1</sup>, and
    - 27 ○ 2008 and newer medium duty vehicles<sup>2</sup>
  - 28 • The following vehicles are subject to a two-speed idle test that is compatible with  
29 Section VI (Preconditioned Two Speed Idle Test) in Appendix B of the EPA I/M  
30 Guidance Program Requirements, 40 CFR 51, Subpart S:
    - 31 ○ 1995 and older vehicles,
    - 32 ○ 1996 to 2007 medium and heavy duty vehicles<sup>3</sup>, and
    - 33 ○ 2008 and newer heavy duty vehicles.
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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 **3. I/M SIP Implementation**

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The I/M program ordinance, policies, procedures, and activities specified in this I/M SIP revision have been implemented and shall continue until a maintenance plan without an I/M program is approved by EPA in accordance with Section 175 of the Clean Air Act as amended.

**Appendix 1: Davis County Vehicle  
Emissions Inspection/Maintenance  
Program Ordinance**

**DAVIS COUNTY  
VEHICLE EMISSIONS  
INSPECTION/MAINTENANCE  
PROGRAM ORDINANCE**

**September 2019**



**Davis**  

---

**C O U N T Y**

**DAVIS COUNTY  
ORDINANCE NO. 10.12**

**DAVIS COUNTY VEHICLE EMISSIONS  
INSPECTION/MAINTENANCE PROGRAM ORDINANCE**

**AN ORDINANCE AMENDING SECTION 10.12 - OF THE DAVIS COUNTY CODE  
RELATING TO THE VEHICLE INSPECTION AND MAINTENANCE PROGRAM FOR  
DAVIS COUNTY**

The Board of County Commissioners of Davis County, Utah, in a regular meeting, lawful notice of which has been given, finds that:

**WHEREAS** it is in the best interests of Davis County residents to have clean, safe and breathable air; and

**WHEREAS** adoption and implementation of a vehicle Inspection and maintenance program is likely to promote the values of clean, safe and breathable air in Davis County, and

**WHEREAS** it is in the best interest of the County that this Ordinance be adopted.

**THEREFORE**, the Board of County Commissioners of Davis County, Utah, hereby adopts the following Ordinance:

**BE IT ORDAINED THAT**

Section 10.12 of the Davis County Code is amended and enacted to read:

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## **10.12.010      Adopted**

The Davis County Vehicle Emissions Inspection/Maintenance Program Ordinance compiled in book form and bearing the date of October 31, 2014, three (3) copies of which book are on file in the office of the Davis County Clerk, and one (1) copy which is on file in the office of the Davis County Health Department, is adopted as the Davis County Vehicle Emissions Inspection/Maintenance Program Ordinance and is incorporated into this chapter.

## **10.12.020      Definitions**

For the purpose of this Chapter, the following terms, phrases and words shall have the following meanings, unless otherwise defined:

1.     **Accuracy:** the degree by which an analyzer is able to determine the concentration of pollutants of interest (see Appendix A).
2.     **AIR (Air Injection Reaction) System:** a system for providing supplementary air into a vehicle's exhaust system to promote catalytic reaction.
3.     **Air Intake Systems:** systems that allow for the induction of ambient air, including when applicable, preheated air into the engine combustion chamber for the purpose of mixing with a fuel for combustion.
4.     **ASE:** the National Institute for Automotive Service Excellence.
5.     **Audit:** a periodic quality assurance check performed by the Division on equipment and personnel regulated under this Chapter; includes Covert and Overt Audits.
6.     **Auditor:** an employee of the Division who performs audits.
7.     **Automotive Imports (imported vehicles):** vehicles manufactured for use outside of the United States that may not meet U.S.E.P.A. Emissions requirements for the year manufactured.
8.     **BAR 97:** refers to California Bureau of Automotive Repair Analyzer Specifications which became effective in 1997.
9.     **Basic I/M Inspection or Test:** testing as approved by the Division applicable to Motor Vehicles of Model Years and vehicle weight classifications specified by this Chapter and the Division.
10.    **Calibration:** the process of establishing or verifying the Accuracy of an analyzer or other test equipment using precisely known values/concentrations.
11.    **Calibration Gases:** gases of accurately known concentrations that are used as references for establishing or verifying the Calibration curve and Accuracy of an analyzer.
12.    **C.A.R.B.:** the California Air Resource Board.
13.    **Carbon Monoxide (CO):** a colorless, odorless, asphyxiating gas produced by the incomplete burning of fuels.
14.    **Catalytic Converter:** a post-combustion device that uses a catalyst to reduce the toxicity of Emissions from an internal combustion engine.
15.    **Certificate or Certificate of Compliance:** a document used in the Vehicle Emissions Inspection/Maintenance Program to certify that the vehicle has met the requirements of this Chapter.
16.    **Certification:** assurance by an authorized source, whether it be the Federal Government, a laboratory, the manufacturer, the State, or the Division, that a specific product or statement is in fact true and meets all applicable requirements.
17.    **Certified Basic Test Station (Test Station):** a stationary business Permitted by the Division and operated as required by this Chapter to perform I/M Inspections.
18.    **Certified Emissions Repair Station (Repair Station):** a stationary business Permitted by the Division which engages in Emissions Related Repairs to vehicles, and which meets the requirements of this Chapter to perform I/M Inspections.

19. Certified Emissions Repair Technician: a person currently Permitted by the Division who diagnoses Emissions related faults, and supervises Emissions Related Repairs and adjustments to bring vehicles into compliance with the requirements of this Chapter. The Repair Technician also performs Emissions tests.
20. Certified Emissions Tester: a person currently Permitted by the Division who inspects vehicles in a Division Permitted I/M Program Station to determine their compliance with vehicle Emissions Standards, also referred to as an Inspector.
21. CO: Carbon Monoxide gas.
22. CO<sub>2</sub>: Carbon Dioxide gas.
23. Compliance Assurance List: a list of vehicles required to be presented to the Testing Center for a challenge, Referee or other type of official emission Inspection.
24. Compressed Natural Gas (CNG) Vehicles: Motor Vehicles which are propelled by a compression-ignited engine using Compressed Natural Gas fuels.
25. Consent Agreement: a monetary penalty paid to the Division in lieu of Suspending a Permit.
26. County: Davis County, Utah.
27. Covert Audit: an Audit that is conducted without the Station and/or Inspector knowing that an Audit is being conducted at the time of the Audit.
28. Curb Idle: the manufacturer's specified idle speed.
29. Cut Points: See Emissions Standards.
30. Davis County Testing Center: the Certified Basic Test Station operated by the Division or a Division Representative.
31. Dedicated Printer: the printer on the approved Emissions Inspection Analyzer (EIA) which is used solely to print Certificates, VIRs, and other official Division required documents.
32. Diesel Particulate Filter System (D.P.F.): an exhaust after-treatment device that significantly reduces Emissions from diesel fueled vehicles by capturing particulate matter.
33. Diesel Powered Motor Vehicle: vehicles which are propelled by a compression-ignited engine using diesel fuels.
34. Director: the Director of the Environmental Health Division of the Davis County Health Department or a Division Representative.
35. Division: the Davis County Environmental Health Division.
36. Division Representative: a person or entity that has been granted the authority to represent or act on behalf of the Division or the Director in enforcing or ensuring the provisions of this Chapter are met; this may include an employee of the Division, a contractor employed by the Division, a permitted station, or a permitted technician.
37. Dynamometer: a vehicle power absorption device which has the ability to approximate or simulate actual on-road operation of Motor Vehicles through the application of variable loading.
38. Electronic/Mechanical Tampering: addition of any electronic or mechanical device that would alter the original manufacturers design or would alter the performance of the vehicle; C.A.R.B and U.S.E.P.A. certified components are exempt.
39. Emissions: substances expelled into the atmosphere from any opening down-stream of the exhaust valve of a Motor Vehicle, particularly air contaminants produced by combustion and/or incomplete combustion as well as hydrocarbon evaporation from the fuel system and the crankcase.
40. Emissions Control Device: a design element or device installed on a Motor Vehicle by the manufacturer to comply with the standards of the Clean Air Act, 42 USC, Section 7521, including but not limited to the Oxygen Sensor, Catalytic Converter and the Fuel Inlet Restrictor; and devices integral to the Exhaust Gas Recirculation (EGR) System, the Evaporative Emissions Control System, the Positive Crankcase Ventilation (PCV) System, the Air Injection System, the Fuel Metering System and the Ignition System.

41. Emissions Inspection Analyzer (EIA): an analyzer approved by the Division for use in the areas of Utah requiring Inspections as specified in Section 41-6a-1642 and 41-6a-1644, Utah Code Annotated, 1953, as amended. An instrument that is capable of measuring the concentrations of certain air contaminants in the exhaust gas emanating from a Motor Vehicle which is approved by the Division for this use in accordance with this Chapter as an official test instrument.
42. Emissions Related Repair: the Inspection, adjustment, repair or replacement of Motor Vehicle engine systems, subsystems or components necessary to bring a vehicle into compliance with the Emissions Standards set forth in this Chapter.
43. Emissions Standard: the maximum allowable concentrations of Carbon Monoxide (CO) and Hydrocarbons (HC) for a given weight class and Model Year of a Motor Vehicle; or compliance to OBDII interrogation.
44. Engine Switching: a situation where one engine is removed from a vehicle and is replaced with an engine that is not identical to the original engine.
45. Evaporative Control System: an Emissions Control System that prevents the escape of fuel vapors from the fuel tank or air cleaner, and stores them to be burned in the combustion chamber.
46. Exemption Form: a document used to verify that a vehicle is exempt from the testing and repair/adjustment requirements of this Chapter.
47. Exhaust Gas Recirculation (EGR) System: an Emissions control system that recycles or recirculates a portion of the exhaust gases back to the engine combustion chambers.
48. Farm Truck: a truck Registered as a Farm Truck under the provisions of the Utah Code 41-1a-102.
49. Federal Installation: any property or facility subject to the jurisdiction of any department, agency, or instrumentality of the executive, legislative, or judicial branches of the Federal government.
50. Fleet Vehicle: a vehicle that is owned by a government entity, a business, or other organization.
51. Gas Calibration: a procedure using known concentrations of HC and CO span gases to verify the Accuracy of an analyzer in measuring HC and CO.
52. Gaseous Fuel: petroleum gases and natural gases in liquefied or gaseous forms.
53. Gross Vehicle Weight Rating (GVWR): the total vehicle weight, including load, as designated by the vehicle manufacturer.
54. Hang-up: a situation in which Hydrocarbons cling to the surface of the sampling and analyzer systems in contact with the exhaust gas sample stream resulting in errors in HC readings.
55. Heavy Duty Motor Vehicles: non-diesel trucks and vans that are 1978 and older, with a 6001 or greater GVWR rating, and 1979 and newer Model Year vehicles with over 8501 GVWR; Diesel Powered Motor Vehicles with a 14,001 pounds GVWR or greater.
56. High Altitude Specifications: tune-up specifications that have been provided by the manufacturer to the Environmental Protection Agency (E.P.A.) for vehicles operating 4,000 feet or more above sea level.
57. Hydrocarbons (HC): unburned or incompletely burned fuel.
58. Ignition Systems: parts or assemblies that are designed to initiate and time the ignition of a compressed air/fuel charge.
59. I/M Program: the Davis County Vehicle Emissions Inspection/Maintenance Program.
60. Inspection: a vehicle Emissions test performed for the purpose of determining whether a vehicle qualifies for issuance of a Certificate of Compliance.
61. Inspection Area: the area that is occupied by the Emissions Inspection Analyzer (EIA), test equipment and the vehicle being inspected.
62. Inspector: a Certified Emissions Repair Technician or Certified Emissions Tester.
63. KOEO: abbreviation of key on engine off.

64. KOER: abbreviation of key on engine running.
65. Light Duty Motor Vehicle: any non-diesel passenger vehicle, 1978 and older Light Duty truck with a GVWR rating of 6000 pounds or less or 1979 and newer truck with a GVWR rating of 8500 pounds or less; any diesel vehicle with a GVWR of 8500 pounds or less.
66. Medium Duty Vehicle: a diesel vehicle with a GVWR between 8,501 and 14,000 pounds.
67. MIL Light (Malfunction Indicator Lamp): a warning lamp used to inform the driver that a malfunction has been detected by one or more vehicle electronic management systems.
68. Model Year: the vehicle Model Year as designated by the manufacturer.
69. Motor Vehicle: a self-propelled motorized vehicle with an internal combustion powered engine which is Registered for use on public roads and/or streets. The term “vehicle” is synonymous with Model Vehicle for the purposes of this Chapter.
70. Motorcycle: any Motor Vehicle having a saddle for the use of the rider and designed to travel with not more than three wheels in contact with the ground.
71. MSO: Manufacturer’s Statement of Origin, Manufacturer’s Certificate of Origin, or a similar document accompanying each newly manufactured vehicle provided by the new vehicle manufacturer.
72. N/A: Not applicable.
73. Non-Certified Person: any person who has not been Permitted by the Division to perform Inspections.
74. OBDII: On Board Diagnostics, second generation.
75. Occurrence: an event, incident, episode or circumstance that happens or takes place during an Inspection that does not comply with Division approved policies or procedures; the action or instance of occurring. Each violation of this Chapter that occurs is considered a separate Occurrence.
76. Off Highway Vehicle: a vehicle licensed or allowed to operate exclusively off highways.
77. On Board Diagnostics: an Emissions control diagnostics system installed on a vehicle as required by the Clean Air Act, 42 USC, Section 7521(m), which identifies deterioration or malfunction of vehicle systems and stores the information for retrieval.
78. Ordinance: the total of this document, including any appendices approved by the Davis County Commission.
79. Overt Audit: an Audit that the Station and/or Technician is aware of at the time that the Audit is being conducted.
80. PCV System (Positive Crankcase Ventilation System): an Emissions Control System which returns crankcase vapors to the combustion chamber.
81. PM 2.5: particulate matter with an aerodynamic diameter less than or equal to a nominal two and one-half (2.5) micrometers as measured by an E.P.A. reference or equivalent method.
82. Permit: a document issued by the Division to a person or facility granting them authority to perform Inspections in accordance with this Chapter.
83. Primary Residence: the place where an individual permanently resides, maintains a permanent residence more than six (6) months during a calendar year, or where an individual lives more than six (6) months during a calendar year. This may also include where a person votes, spouse resides, children attend school, is employed, identifies as an address on a driver’s license, holds a resident hunting or fishing license, etc.
84. Probation: to subject an individual or Station to a period of testing and trial to ascertain fitness for a job; Critical examination and evaluation or subjection to such examination and evaluation.
85. Prompts: instructions and/or data fields requiring data input to the Emissions Inspection Analyzer (EIA).
86. Reciprocity: a written Agreement between Davis County and any other County(s) operating a comparable Inspection program whereby the Certificate from that/those County(s) would be

- accepted for vehicle Registration in Davis County.
87. Reconstructed Vehicle: a vehicle that has been materially altered from its original construction by the removal, addition or substitution of essential parts (frame and body), new or used.
  88. Referee Inspection: an Inspection conducted by the Division or the Division Representative for the purpose of resolving disputes or gathering data.
  89. Registered or Registration: the process by which a Motor Vehicle receives a license so that it can be legally operated on public streets and highways.
  90. Remote OBDII Inspection: an Inspection that is conducted on an OBDII compliant vehicle at a site that is not associated with the Stations Permitted address using a portable EIA.
  91. Replica Vehicle: a vehicle that all components are purchased in a kit similar to a model car. A Motor Vehicle with a body that is or resembles a Model Year prior to 1975, and that may have a significant drive train or equipment upgrade that is used for occasional pleasure rides and is not used for general daily transportation. A Replica Vehicle is not a vintage vehicle or a special interest vehicle.
  92. Revoke: to formally cancel, to make null and void by withdrawing, recalling or reversing; to retract, repeal or invalidate.
  93. RPM: revolutions per minute as pertaining to engine crankshaft speed.
  94. SAE: Society of Automotive Engineers.
  95. Simulator: A device used to simulate the function and operation of a vehicles powertrain control module and is typically equipped with a data link connector.
  96. Smoking Vehicle: any vehicle emitting excessive visible Emissions as defined in Utah Code 41-6a-1626.
  97. Specially Constructed Vehicle: a Motor Vehicle requiring Registration to be operated on public highways and streets which is often a replica of a classic car type and is usually made from the chassis of an existing Motor Vehicle, a chassis made up of parts from more than one vehicle type, or a chassis made from “scratch” often with a replica body from a kit attached to the chassis. It may also be homemade without the use of a kit and they may also be factory manufactured. Those made from a kit are often called “Kit Cars.”
  98. Station: an I/M Program Station or Fleet Station, including all Station personnel, employees and owner(s).
  99. Suspend: to disallow a Permitted Station or Inspector the privilege of performing Vehicle Emissions Inspection/Maintenance Inspections for a specific period of time.
  100. Tampering: the altering or removal of Emissions Control Devices and/or Emissions-related equipment, the use of fuels other than those required by the manufacturer's specification as found in the Motor Vehicle owner’s manual, or engine modifications which may include but are not limited to, Exhaust Systems, Air Intake Systems, Ignition Systems, Internal Engine Modifications or Engine Switching, etc.; this also includes Electronic/Mechanical Tampering.
  101. Technical Bulletin: a document issued by the Division to update, clarify or establish policies and/or procedures for their implementation in the Vehicle Emissions Inspection/Maintenance Program.
  102. Testing Center: a facility operated by the Division or a Division Representative for technical or administrative support of the Vehicle Emissions Inspection/Maintenance Program.
  103. Training Program: a formal program administered, conducted or approved by the Division or Division Representative for the education of Permit holders in basic Emissions control technology, Inspection procedures, diagnosis and repair of Emissions-related problems, Vehicle Emissions Inspection/Maintenance Program policies and procedures and this Chapter.
  104. United States Environmental Protection Agency: also referred to as E.P.A. or U.S.E.P.A..
  105. Vehicle Emissions Inspection/Maintenance Program: the program established by the Division pursuant to Utah Code 41-6a-1642 through 1644.

106. Vehicle Inspection Report (VIR): a report printed by the Emissions Inspection Analyzer (EIA) at the end of the test which enumerates the results of the test. The VIR is signed by the Inspector performing the test and the person who presented the vehicle for Inspection.
107. Waiver or Certificate of Waiver: a document used to verify that a vehicle has met the repair or adjustment requirements of the I/M Program Ordinances even though specific Emissions Standards have not been met.

#### **10.12.030 Purpose**

It is the purpose of this Chapter to reduce air pollution levels by requiring Inspections of in use Motor Vehicles of all fuel types and by requiring Emissions Related Repairs/adjustments for those vehicles that fail to meet prescribed standards so as to:

- A. protect and promote public health, safety and welfare;
- B. improve air quality;
- C. reduce the aesthetic affront of visible air pollution;
- D. comply with Federal requirements contained in the Clean Air Act Amendments of 1990, PL 101-549; and
- E. comply with the law enacted by the Legislature of the State of Utah, Section 41-6a-1642 through 1644, Utah Code Annotated, 1953, as amended; and with the Utah Air Quality Board requirements under subsection 19-2-104.

#### **10.12.040 Jurisdiction of the Division**

All aspects of the Vehicle Emissions Inspection/Maintenance Program within Davis County enumerated in Section 10.12.030 shall be subject to the direction and control of the Division.

#### **10.12.050 Powers and Duties**

- A. The Division or a Division Representative shall be responsible for the enforcement and administration of this Chapter and any other powers vested in it by law and shall:
  1. require the submission of information, reports, plans and specifications from Stations, and Inspectors as necessary to implement the provisions, requirements and standards of this Chapter;
  2. issue Permits and charge fees as necessary to implement the provisions, requirements and standards of this Chapter;
  3. perform audits of I/M Program Stations, issue orders and/or notices, hold hearings, levy administrative penalties, and negotiate Consent Agreements as necessary to enforce the purposes of this Chapter;
  4. take samples and make analyses required to ensure that the provisions of this Chapter are met;
  5. develop policies and procedures necessary to ensure that the provisions and purposes of this Chapter are met and accomplished.
  6. The Division shall respond according to policies and procedures to complaints regarding the fairness and integrity of Inspections and shall provide a method that Inspection results may be challenged if there is a reason to believe them to be inaccurate.
  7. The Division or a Division Representative is responsible for performing all Inspections on Light, and Heavy Duty Motor Vehicles.
  8. The Division may perform periodic Inspections during normal business hours on any vehicle that has or will be inspected by a Station.

## **10.12.060 Scope**

It shall be unlawful for any person to fail to comply with any policy, procedure, Technical Bulletin, standard or regulation promulgated by the Federal Government, the State, or the Division, unless expressly waived by this Chapter.

## **10.12.070 General Provisions**

Subject to the exemptions in Section 10.12.070(H), individuals with their Primary Residence in Davis County must register their Motor Vehicles in Davis County and Motor Vehicles that are or will be Registered in Davis County shall be subject to an Inspection performed by any certified I/M Program Station as specified in this Chapter..

- A. It shall be unlawful for any person with a Primary Residence in Davis County to register a vehicle in any other Utah County.
- B. A Certificate of Compliance or Waiver or evidence that the Motor Vehicle is exempt from the Inspection/Maintenance Program requirements (as defined in Section 10.12.070) shall be presented to the County Assessor or the Utah State Tax Commission and the Air Pollution Control Fee paid as conditions precedent to annual Registration or annual renewal of Registration of a Motor Vehicle.
  1. All 1968 and newer Model Year Gaseous Fueled and OBDII compliant Light Duty Diesel Powered Motor Vehicles and all 2008 and newer OBDII compliant Medium Duty Vehicles shall be subject to an Inspection at any Station.
  2. All 1968 and newer Heavy Duty Diesel Powered Motor Vehicles and all 1968 through 2007 non-OBD II compliant Diesel Powered Motor Vehicles are subject to the requirements in Appendix D of this Chapter.
- C. Fleet Vehicles that are operated from a facility located within Davis County shall be subject to an Inspection at any Station.
- D. A Certificate issued to a dealer licensed with the State of Utah and issued in the dealer's name, shall be valid for Registration purposes for a period of eleven (11) months as specified in Section 41-3-303, Utah Code Annotated, 1953, as amended.
- E. A dealer issuing a temporary Registration for a vehicle Registered in Davis County must supply proof of the vehicle's compliance with this Chapter to the new owner in the form of an official Vehicle Inspection Report (VIR).
- F. Owners of publicly owned vehicles (Federal, State, County or City) shall comply with the Inspection Program requirements. Federally owned vehicles and vehicles of employees operated on a Federal Installation that do not require Registration in the State of Utah shall comply with the Vehicle Emissions Testing requirements of this Chapter, and as required by Section 118 of the Clean Air Act as amended in 1990.
- G. Reciprocity with other vehicle Emissions programs within the state will be allowed as long as Tampering, HC, CO, OBDII or other standards meet or exceed those required by this Chapter in accordance with Section 41-6a-1643, Utah Code Annotated, 1953, as amended.
- H. The following vehicles are exempt from the requirements of this Chapter:
  1. Vehicles less than two (2) Model Years old;
  2. Even-numbered Model Year vehicles in odd-numbered years and odd-numbered Model Year vehicles in even-numbered years with Model Years less than six (6) years old;
  3. All agricultural implements of husbandry and any Motor Vehicle that qualifies for an exemption as required by Section 41-1a-102 Utah Code Annotated, 1953, as amended;

- a. A vehicle Registered as a Farm Truck may obtain an Exemption Form by contacting the Division;
- 4. Any vehicle used for maintenance or construction and not designed or licensed to operate on the highway;
- 5. Any Motorcycle or motor driven cycle (including vehicles which operate with an engine normally used in a Motorcycle with a maximum of three wheels or less);
- 6. Any vehicle Registered exclusively as an Off Highway Vehicle;
- 7. Any vehicle 1967 Model Year or older;
- 8. Any new vehicle being sold for the first time that has a valid MSO (Manufacturer's Statement of Origin) form;
- 9. Any Motor Vehicle which qualifies for legislative or diplomatic exemptions;
- 10. Any vehicle that operates exclusively on electricity or battery power.
- I. A publicly owned vehicle that is issued an "EX" or "UHP" license plate by the Utah Department of Motor Vehicles must provide annual proof of Emissions compliance for each vehicle to the Division upon request.
  - 1. The Division for failure may request the revocation of the Registration through the Utah Department of Motor Vehicles for vehicles if:
    - a. the requested information is not provided; or
    - b. a valid current Emissions Certificate is not acquired.
- J. It shall be the responsibility of the Inspector to inform the owner/operator of the vehicle that the vehicle is not required to have an Inspection for vehicle Registration purposes if a vehicle is exempted from the I/M Program requirements by this Section.
- K. The fees assessed by this Chapter shall be determined according to a fee schedule adopted by the Davis County Commission. The Fee Schedule is referenced in Section 10.12.240 of this Chapter and may be amended by the Davis County Commission as the Commission deems necessary to accomplish the purposes of this Chapter.
  - 1. An Air Pollution Control (APC) Fee is hereby assessed upon every Motor Vehicle Registered in Davis County annually at the time of Registration of the vehicle, including those vehicles that are exempted from the Inspection requirements of this Chapter by Section 10.12.070(H).
  - 2. Those Stations participating in the program hereunder may charge fees for the required service.
    - a. Inspection fees will be set by each Station as specified in Section 10.12.240. If a vehicle fails the Inspection, the owner is entitled to one (1) free second Inspection if the owner returns to the Station that performed the original Inspection within fifteen (15) days. The Station shall extend the free second Inspection time to accommodate the vehicle owner if the Station is unable to schedule the retest of the vehicle within the time period. The Inspection fee shall be the same whether the vehicle passes or fails the Inspection;
    - b. Upon notification by the Division, a Station shall extend the free retest time for vehicle owners who were unable to complete Emissions repairs because of the unavailability of parts to make the necessary repairs; and
    - c. Duplicate Certificates of Compliance may be issued to a vehicle owner/operator within two (2) months of the initial Inspection. Fees for a duplicate Certificate may not exceed the amount specified in Section 10.12.240.
  - 3. These fees are subject to change and may be amended as deemed necessary by the Davis County Commission and are enumerated in Section 10.12.240 of this Chapter.
- L. All Permits and Certificates of Compliance and Certificate of Compliance numbers issued under the provisions of this Chapter remain the property of the Division. Their use is tendered on the

condition that the user complies with the requirements of this Chapter.

- M. Vehicle Idling Limitation: It shall be unlawful for any owner or operator of any Heavy Duty Motor Vehicle (GVWR greater than 14,001 lbs.) to cause or Permit the same to be idled for a period in excess of fifteen (15) consecutive minutes, or for a period in excess of forty-five (45) minutes in any one-hundred-twenty (120) minute period.
  - 1. Vehicles may be exempted from the idling limitation requirements of Section 10.12.070(M) under the following conditions:
    - a. To supply power to a refrigeration unit for the purpose of cooling the contents of a trailer;
    - b. To provide heat or air conditioning to a sleeper unit of the vehicle or to occupied buses; and
    - c. Emergency response vehicles.
  - 2. Vehicles exempted from the Vehicle Idling Limitation of this Chapter shall not remain in an idling condition for a period longer than fifteen (15) consecutive minutes, or for a period in excess of forty-five (45) minutes in any one-hundred-twenty (120) minute period if located within five hundred (500) feet of any residence.
- N. Smoking Vehicles: The Division may investigate complaints on Smoking Vehicles to determine if they exceed the standards listed in Utah Code 41-6a-1626).
  - 1. A person who is found guilty of violating the provisions of section 10.12.070 (N) may be charged with a class C misdemeanor.
  - 2. The Division will establish and maintain a program to receive complaints concerning vehicles emitting excessive visible Emissions within the County.
    - a. A notice may be sent to the owner(s) of any vehicle that is reported to the Division to be emitting excessive Emissions within the County requiring them to report to the Davis County Testing Center to verify compliance with section 10.12.070(N).
      - i. Any vehicle found to be out of compliance with section 10.12.070(N) will be placed on the Division's Compliance Assurance List until it can be determined that the vehicle is in compliance with this Chapter.
      - ii. Penalties may be assessed to the owner(s) of any vehicle that is found to be out of compliance with section 10.12.070(N) on more than one (1) occasion in a two (2) year period.
      - iii. Penalties may be assessed to the owner(s) of any vehicle that fails to report to the Davis County Testing Center following the receipt of a notice.
- O. A person who is found guilty of Tampering with a Motor Vehicle may be charged with a class B misdemeanor and any penalties as described in Utah Code 19-2-115.
- P. The Division is authorized under the provisions of this Chapter to issue or deny Permits that allow persons and facilities to perform Inspections on vehicles, to issue Certificates of Compliance and to make necessary repairs.

#### **10.12.080 Standards and Specifications for Emissions Inspection Analyzers (EIA) and Span Gases for Equipment**

- A. Emissions Inspection Analyzers (EIA) Specifications are contained in Appendix A of this Chapter.
  - 1. Inspections required by this Chapter for vehicles subject to Basic I/M Inspections shall be performed using only an approved Emissions Inspection Analyzer (EIA).
  - 2. Any analyzer used by a Certified I/M Program Station shall be Registered with and approved by the Division. Analyzers used temporarily during times of breakdown or repair of the Registered analyzer shall meet all other requirements of this Section,

- including the approval of the Division before use.
- a. The Dedicated Printer shall be maintained in such a manner that the printing of the Certificate of Compliance and Vehicle Inspection Report (VIR) shall be clearly visible. If any Dedicated Printer fails to properly function, then the Certified I/M Program Station shall discontinue testing until the required repairs have been performed.
  3. Running changes: Any changes to the design characteristics or component specifications that may affect the performance of an Emissions Inspection Analyzer (EIA) to be used as an official test instrument in the Davis County I/M Program shall be approved by the Division. It shall be the instrument manufacturer's responsibility to confirm that the changes have no detrimental effect on the performance of the Emissions Inspection Analyzer (EIA).
    - a. It shall be illegal for any unauthorized person to modify the hardware or software of an approved Emissions Inspection Analyzer (EIA).
  4. Calibration/Span Gases:
    - a. General: The instrument manufacturer and/or his designated marketing vendors shall on request supply at a reasonable cost BAR 97 approved span gases to any ultimate purchaser of this unit. Each new or used instrument sold by the instrument manufacturer or marketing vendor shall have approved full span gas containers installed and operational at the time of delivery.
    - b. Span gas blends: The span gases supplied to any Certified I/M Program Station shall meet BAR 97 specifications.
  5. Documentation, logistics, and warranty requirements:
    - a. An instruction manual shall accompany each Emissions Inspection Analyzer (EIA) and shall contain at least the following information for the analyzer:
      - i. A complete technical description;
      - ii. The accessories and options that are included and/or available;
      - iii. The model number, identification marking and location;
      - iv. Operating maintenance including daily, weekly, and monthly accommodations and procedures for maintaining sample system integrity including, but not limited to leaks, Hang-up, Gas Calibration and filters. The services to be performed only by the manufacturer shall be clearly identified;
      - v. Information concerning the nearest facility where equipment can be serviced; and
      - vi. The warranty provisions for the analyzer, including a list of warranty repair facilities by name, address and telephone number.
  6. The Emissions Inspection Analyzer shall be maintained in accordance with the manufacturer's recommended maintenance schedule.
  7. If an EIA is surrendered to or repossessed by the Division or a Division Representative, the following must occur:
    - a. a final VID refresh will be conducted on the EIA; and
    - b. notification of the action will be made to the Division.

#### **10.12.090 Requirements of the Vehicle Emissions Inspection/Maintenance Program Stations**

- A. Permit Required.
  1. No person shall in any way represent any place as a Certified Emissions Repair Facility and/or Basic Test Station unless Permitted by the Division. The Permit is issued on the condition that the Permittee has knowledge of the requirements of this Chapter and agrees

- to comply with the provisions of this Chapter and any other applicable laws or standards.
2. A Permit is non-transferrable and is valid only for the original owner and/or business to which it was issued. Any changes of ownership of the Station will require the new owner to submit a new application for the appropriate Permit.
  3. The Station must post the following items in a conspicuous place on the premises within view of the public:
    - a. the Permit and Division issued signage;
    - b. Permits for all Inspectors employed by the Station;
    - c. the fees charged for an Inspection; and
    - d. the vehicle Emissions Standards promulgated under the authority of this chapter.
  4. Application for a Station Permit shall be made to the Division upon an official application form.
    - a. Unless exempted in this section, the Station must be at a permanent location which meets all applicable zoning requirements to provide for the Inspection of vehicles, as defined in this Chapter;
      - i. offsite OBDII Inspections of vehicles will be allowed by Stations if the Station has the portable equipment that has been approved by the Division.
    - b. The Station must comply with the following prior to a Permit being issued:
      - i. pass an Overt Audit as defined by this Chapter;
      - ii. employ all required certified personnel as listed in this Chapter to be available to perform Inspections during normal business hours;
      - iii. conduct all Inspections in accordance with this Chapter; and
      - iv. meet any other requirements deemed by the Division to be essential to the purpose of this Chapter.
    - c. As a condition for Permitting a Certified Emissions Repair Facility and/or Basic Test Station, the following equipment, tools and references shall be available, maintained and updated for performance of the Inspection and maintenance of Motor Vehicles:
      - i. a Division approved Emissions Inspection Analyzer (EIA) which conforms to a minimum, to the analyzer specifications of Appendix A, to be certified to perform Inspections;
      - ii. an Emissions control application manual approved by the Division that includes High Altitude Specifications;
      - iii. Division approved Calibration/span gas and equipment for performing the Gas Calibration;
      - iv. a suitable non-reactive tail pipe extender or probe adapter for inspecting vehicles with screened or baffled exhaust systems;
      - v. the analyzer manufacturer's maintenance and Calibration manual which must be retained in the Inspection Area;
      - vi. appropriate hand tools;
      - vii. shop air with regulator for analyzer zero air generator or other approved source;
      - viii. all forms, Technical Bulletins, charts and a Davis County I/M Ordinance and other information materials provided by the Division;
      - ix. an approved adaptor for testing dual-exhaust vehicles; and
      - x. all essential devices, connections and software for communications and downloads.
    - d. In addition to the requirements for a Basic Test Station, a Certified Repair Facility must have the following equipment, tools and references available for use:
      - i. Emissions diagnostic and repair information for affected Model Year vehicles, the most current of which applies to vehicles of Model Years no more than two

- (2) years older than the current calendar year. ;
    - ii. scanner capability to interrogate Onboard Diagnostics of vehicles, the most current of which applies to vehicles of Model Years no more than two (2) years older than the current calendar year;
    - iii. voltmeter with AC and DC capability;
    - iv. DC ammeter;
    - v. ohmmeter;
    - vi. fuel or hydraulic pressure gauge;
    - vii. vacuum gauge;
    - viii. vacuum pump;
    - ix. compression tester and cylinder leak down tester;
    - x. timing light with advance capability;
    - xi. tachometer;
    - xii. dwell meter or duty cycle meter; and
    - xiii. shop air with regulator.
  - 5. The Station shall be kept in good repair and in safe condition for Inspection purposes and must be in compliance with the applicable regulations found in Title 29 CFR 1910, Utah Code Annotated 34A-6 and Utah Administrative Code R-614.
  - 6. If a Station's Permit is cancelled or Revoked:
    - a. unused Certificates of Compliance numbers must be returned to the Division and may be refunded by the Division;
    - b. the official sign and Permit issued to the Station by the Division will be surrendered to the Division; and
    - c. a final VID refresh will be conducted on the EIA.
- B. Permit Duration and Renewal
- 1. The Permit for a Certified Emissions Repair Facility and/or Basic Test Station shall be issued annually and shall expire December 31 of the calendar year for which it was issued. The Permit shall become renewable sixty (60) days prior to the date of expiration.
  - 2. It shall be the responsibility of the Station owner or designee to apply for the Station's Permit renewal through the Division or a Division Representative.
  - 3. Upon approval of the completed application and payment of applicable fees, the Division or a Division Representative may renew the Stations Permit until December 31 of the subsequent calendar year.
  - 4. Station to hold Division harmless in making application for a Permit or for its renewal, such action shall constitute a declaration by the applicant that the Division or a Division Representative shall be held harmless from liability incurred due to any action or inaction of a Station, owners or their employees.
  - 5. Required Permit fees and renewal fees are listed in the Fee Schedule in Section 10.12.240 of this Chapter.
  - 6. The Division may impose a late fee on a Permit which expires prior to receipt of the application for renewal and payment of applicable fees.
  - 7. After six (6) months, an expired Permit is unredeemable and a new Permit must be applied for according to the procedures of this Chapter.
- C. Warning, Probation, Suspension, Revocation and Denial of Station Permit
- 1. The Division may give a formal warning, place on probation, Suspend, Revoke or deny renewal of a Permit under any of the following conditions:
    - a. false, inaccurate or misleading information is knowingly communicated to any person or in any Certificate, record or document regarding the Vehicle Emissions Inspection/ Maintenance Program;

- b. the Permit is obtained or attempted to be obtained fraudulently or deceptively;
  - c. an Audit failed;
  - d. evidence is exhibited that vehicles repaired by a Repair Facility under this Chapter have repeatedly failed re-Inspection; or
  - e. the owner or employees of a Station threaten, harass, stalk or assault an employee of the Division, a Division Representative or any person having a vehicle inspected or repaired subsequent to any requirement of this Chapter.
  - f. a vehicle was inspected and issued a Certificate of Compliance by Station personnel that did not, at the time of Inspection, comply with all applicable policies, procedures, Technical Bulletins, requirements and standards of this Chapter;
  - g. a Certificate of Compliance was issued to a vehicle without an approved Inspection being performed;
  - h. a vehicle was inspected and rejected by the Station when, in fact, the vehicle was determined by the Division to be in such condition that it did comply with the requirements of this Chapter;
  - i. a vehicle was inspected and was given a “passing” result for the Tampering portion of the Inspection as detailed in this Chapter that did not at the time of Inspection comply with the requirements of this Chapter;
  - j. a vehicle was inspected by an individual that did not hold a valid Permit;
  - k. the Station has violated any provision of this Chapter or Division policy properly promulgated for the operation of a Station;
  - l. the Station was not equipped as required by this Chapter;
  - m. the Station is not operating at the location specified on the Permit;
  - n. the Emissions Inspection Analyzer (EIA) has been tampered with or altered in any way contrary to the Certification and maintenance requirements of the analyzer;
  - o. the Station denied access or failed to Permit the Division or a Division Representative to conduct an Audit or other necessary business;
  - p. the Station performed unnecessary repairs not justified by the results of the Inspection;
  - q. a vehicle was tampered, altered or in any way changed from the manufacturer’s original specifications and/or certified configuration with or without an inspection being performed;
  - r. in accordance with Sections 41-6a-1642 through 1644 Utah Code Annotated, 1953, as amended, an Inspection for a Cache, Weber, Salt Lake, or Utah County resident was performed, but not as required by the Regulations/Ordinances adopted by the applicable County and/or the Emissions Inspection Analyzer (EIA) Prompts.
2. The Division may reinstate a Suspended Permit upon compliance by the facility with the requirements of this Chapter.
  3. Upon revocation of a Permit, a person shall within ten (10) business days return to the Division all materials which were issued as a result of obtaining the Permit, including any signs and documents, and remove any other materials which may lead the public to believe that the facility continues to be Permitted.
  4. A penalty schedule is listed in Section 10.12.280 of this Chapter, enumerating actions the Division may take against persons Permitted under this Chapter.
  5. Station Permits are the sole property of the Division. Only the license they represent is tendered. Permits may be Suspended or Revoked for violations of this Chapter. Station Permits obtained through fraud or misrepresentation shall be deemed to be null and void.
- D. Personnel Requirements
1. A Certified Emissions Basic Test Station shall employ and ensure that at least one (1)

- Inspector is routinely scheduled to work during the advertised operating hours of the facility.
2. A Certified Emissions Repair Facility shall ensure that only a Certified Emissions Repair Technician diagnoses Emissions related faults, and supervises or performs Emissions Related Repairs and adjustments to bring vehicles into compliance with the provisions of this Chapter.
  3. A Certified Emissions Repair Facility shall employ at least one (1) full-time Certified Emissions Repair Technician at each Certified Emissions Repair Facility location and ensure that a Certified Emissions Repair Technician is routinely scheduled to work during the advertised operating hours of the facility.
  4. A Station will assign one (1) individual the responsibility of resolving any problems or addressing any concerns that the Division or a Division Representative may identify. The selected individual or his/her representative will be at the Station and available during normal business hours.
  5. The Station will have a quality assurance plan to ensure Station and Technician compliance with the Ordinance and will keep associated records on file at the Station for review by the Department.
- E. Equipment Quality Assurance
1. For all equipment required under this Chapter, a Station shall follow the manufacturer's specifications for maintenance and Calibration, and the procedures established by the Division.
- F. Audits
1. A Station shall allow access to Division personnel to conduct audits of the facility.
    - a. Routine Audits will be conducted at random and with no prior notification.
    - b. A pre-opening Audit will be conducted at the Station prior to the Station being issued a Permit.
  2. An Audit may include equipment, Gas Calibration and compliance with personnel requirements.
  3. A Station shall not use any piece of equipment which fails an Audit until a subsequent Audit is passed.
  4. The Station shall allow further monitoring at the discretion of the Division to ensure quality control or to determine compliance with this Chapter.

### **10.12.100 Requirements of the Certified Emissions Testers and/or Repair Technicians**

- A. A Permit is required.
1. No person shall perform any part of the official Inspection for the issuance of a Certificate of Compliance unless the person possesses a valid Certified Emissions Tester and/or Repair Technician Permit issued by the Division.
  2. Application for a Certified Emissions Tester or Repair Technician Permit shall be made to the Division upon an official application form.
  3. An applicant shall comply with all of the terms stated in the Permit application and with all the requirements of this Chapter.
  4. To qualify for and obtain a Certified Emissions Tester Permit, an applicant shall pay the applicable fees as listed in section 10.12.240 and complete a Division approved training course which may include the purchase of a self-study guide, or other Division approved training, and shall demonstrate knowledge and skill concerning the performance of Emissions Inspections. Such knowledge and skill shall be shown by passing:
    - a. a written qualification test including knowledge of the following:

- i. Operation and purposes of Emissions control systems;
    - ii. Inspection procedures as outlined in this Chapter;
    - iii. Operation of an Emissions Inspection Analyzer including the performance of a Gas Calibration and leak check;
    - iv. The provisions of Section 207(b) warranty provisions of the Federal Clean Air Act;
    - v. Knowledge of the function of Onboard Diagnostics; and
    - vi. The provisions of this Chapter and other Division policies and procedures.
  - b. A performance qualification test including the following:
    - i. Visual Inspection and knowledge of the function of the required Emissions control equipment;
    - ii. Demonstration of skill in the proper use, care, maintenance, Calibration and leak checking of approved Emissions Inspection Analyzers (EIA);
    - iii. Demonstration of ability to conduct the Emissions Inspection; and
    - iv. Demonstration of ability to accurately input data.
  - c. If an applicant fails the required test twice, they may be required to complete a Division approved training course.
5. To qualify for and obtain a Certified Repair Technician Permit, an individual shall meet the following requirements:
- a. possess a Certified Emissions Tester Permit;
  - b. demonstrate five (5) years full-time employment experience as an automotive technician performing Emissions Related Repairs on on-road vehicles not powered by diesel fuel or electricity, except that a person with two (2) full years of full-time education related to the repair of on-road vehicles not powered by diesel fuel or electricity need only demonstrate four (4) years of the required employment;
  - c. possess the following current, valid ASE Certifications or Vehicle Manufacturer Specific Training:
    - i. ASE Certifications in Engine Performance (A-8) and Advanced Engine Performance Specialist (L-1); or
    - ii. Vehicle Manufacturer Specific Training (VMS): A Repair Technician must have a current Gasoline Engine Performance Certification and be employed by a dealer of the same manufacturer and will be certified for repairs of that manufacturer only.
  - d. Comply with the requirements of this Chapter; and
  - e. Meet any other requirements deemed by the Division to be essential to the purposes of this Chapter.
6. In order to retain and to qualify for renewal of the Certified Repair Technician Permit, the Certifications listed in subsection 5c must be maintained and kept current, and renewal requirements specified for the Certified Emissions Tester in this Section must be met.
7. A signed hands-on performance check sheet shall be necessary for successful completion of the performance qualification test. The hands-on performance check sheet shall be signed by an instructor or other person approved by the Division.
8. The Division may issue the applicable Certified Emissions Tester or Repair Technician Permit to an applicant upon demonstration that the individual has successfully completed the requirements of this Chapter.
9. The Certified Emissions Tester and/or Repair Technician Permit shall be valid only at the Station where the Inspector is employed, and the Permit shall be kept on the premises and readily available to the Auditor. If the Inspector is later employed at a second Station, he/she shall notify the Division of the employment change. Duplicate or additional

Permits will be issued, at the discretion of the Division, for an additional fee. A duplicate Permit will expire on the same date as the original.

10. The Certified Emissions Tester and/or Repair Technician Permit is the sole property of the Division.
- B. Requalification requirements for Certified Emissions Testers and/or Repair Technicians:
1. Recertification requirements shall meet or exceed the standards listed in 10.12.100(A)(4) and/or 10.12.100(A)(5).
  2. Certified Emissions Testers and/or Repair Technicians shall be required to attend refresher training as part of the overall Training Program every 2 years.
    - a. Failure to attend the refresher training shall result in suspension or revocation of the Permit.
- C. Permit Expiration
1. All Permits shall be issued annually and shall expire December 31 of the calendar year. A Permit shall be renewable sixty (60) days prior to the date of its expiration. If a Certified Emissions Tester and/or Repair Technician Permit is obtained on or after October 1<sup>st</sup>, then the Permit will be valid until December 31<sup>st</sup> of the following year.
  2. It is the responsibility of the Certified Emissions Tester and/or Repair Technician Permit holder to request the renewal of the Permit.
    - a. In order to qualify for renewal of a Certified Emissions Tester and/or Repair Technician Permit, the Permit holder must have paid applicable fees and completed Division required yearly updates.
- D. Warning, Probation, Suspension, Revocation and Denial of Certified Emissions Tester and/or Repair Technician Permit.
1. The Division may give a formal warning, place on probation, Suspend, Revoke, or deny the renewal of a Permit if the Certified Emissions Tester and/or Repair Technician:
    - a. knowingly communicates any false, inaccurate or misleading information to any person or in any Certificate, record or document regarding the Vehicle Emissions Inspection/Maintenance Program;
    - b. fraudulently or deceptively obtains or attempts to obtain a Permit;
    - c. conducts a fraudulent or inaccurate test;
    - d. consistently fails to properly repair failed vehicles (Repair Technician only);
    - e. threatens, coerces, harasses, offers a bribe, assaults and/or stalks a Division employee or a Division Representative pursuant to his/her duties with the Division or any person having a vehicle tested or repaired subsequent to any requirement of this Chapter;
    - f. the Inspector issued a Certificate of Compliance without performing an approved Inspection;
    - g. the Inspector denied the issuance of a Certificate of Compliance to a vehicle that at the time of the Inspection, complied with the requirements of this Chapter;
    - h. the Inspector issued a Certificate of Compliance to a vehicle that, at the time of issuance, was in such condition that it did not comply with the requirements of this Chapter;
    - i. the Inspector inspected and recorded “pass” on the Tampering Inspection for a vehicle that did not, at the time of the Inspection, comply with the Tampering requirements of the Tampering Inspection detailed in this Chapter, regardless of whether a Certificate of Compliance was issued or not;
    - j. the Inspector signed a Certificate of Compliance prior to an Inspection being performed;
    - k. the Inspector performed an Inspection, but not in accordance with applicable



- G. Data communication links shall be connected and functioning during the Inspection.
- H. All vehicles presented to a Station must receive an Inspection unless:
  - 1. the vehicle has a mechanical condition that is unsafe and/or may cause injury to Station personnel or damage to the vehicle, Station or EIA;
    - a. Such conditions may include but are not limited to fluid leaks, low fluid levels, exhaust leaks, excessive tire wear, under inflated tires, transmission problems, or any other mechanical conditions deemed unsafe by the Division, Station personnel or the Inspector.
  - 2. the Station does not have availability to conduct the Inspection in a timely manner;
  - 3. the Station does not have an available Inspector to conduct the Inspection; or
  - 4. the Station's Permit has been Suspended or Revoked.
- I. Visual Inspection
  - 1. A visual Inspection will be performed on all vehicles to visually verify that the vehicle has not been subjected to Tampering, that all Emissions related components are intact, and that the vehicle does not produce any visible Emissions.
  - 2. Vehicles that are Model Years 1968-1989 that have been subjected to Tampering may receive a Certificate of compliance if tailpipe readings are at or below the maximum allowable Cutpoints for that vehicle.
  - 3. Vehicles that are Model Years 1990 and newer must pass a visual inspection before the test may continue.
  - 4. A visual gas cap Inspection will include cap removal (if applicable) and Inspection of the sealing surface.
  - 5. Unauthorized powertrain modifications of the OEM certified configuration will be considered as Tampering and is in violation of this Chapter.
  - 6. Emission devices and components being replaced with other than OEM parts must be U.S.E.P.A./C.A.R.B. certified.
- J. Data Entry
  - 1. The Inspector shall verify the vehicle license plate and vehicle identification numbers by comparing the information on the vehicle's Registration or other documentation presented by the vehicle owner with those on the vehicle and shall accurately record them as required by the data entry process on the Emissions Inspection Analyzer (EIA), as well as any other data requirements of the Division.
  - 2. The Inspector shall enter completely and accurately all the information required as part of the data entry procedure for the Inspection on the Emissions Inspection Analyzer (EIA).
- K. All testing procedures for restart testing, second chance testing, etc, shall be followed as described in the Emissions Inspection Analyzer (EIA) specifications referenced in Appendix A.
- L. Two-Speed Idle (TSI) Inspection Procedures
  - 1. Refer to Appendix B
- M. OBDII (Onboard Diagnostics Generation II) Inspection Procedures
  - 1. Refer to Appendix C
- N. Compressed Natural Gas (CNG) Vehicle Inspection Procedures
  - 1. Refer to Appendix E
- O. A Certificate of Compliance and Vehicle Inspection Report Form (VIR) shall be issued only if a complete Inspection for the vehicle has been performed and the vehicle has passed the specific test requirements as described in this Chapter.
- P. The Certificate of Compliance, Vehicle Inspection Report Forms (VIR) and other Inspection records shall be completed accurately, signed immediately and distributed as required by the Division. The customer shall be given the appropriate copy.
- Q. Gray Market Vehicles/Automotive Imports applying for Registration in Davis County must

have, at the minimum:

1. Gaseous Fueled 1995 and older vehicles and 1996 and newer vehicles, 8501 and greater GVWR will be required to pass the tailpipe and Tampering standards for the Model Year appearing on the Registration;
  2. Gaseous Fueled 1996 and newer vehicles, 8500 pounds GVWR or less, must be equipped with a functioning OBDII system, and must pass the OBDII Test; and
  3. diesel fueled vehicles must meet the standards and requirements of their U.S. counterparts.
- R. Glider Kits, Kit Vehicles, Reconstructed Vehicles, Replica Vehicles and Specially Constructed Vehicles shall comply with Emissions Standards applicable to the Model Year of the engine of the vehicle. If the engine is 1996 or newer and the vehicle's GVWR meets light-duty standards and was intended to be OBDII compliant, the vehicle must be OBDII compliant. It is the vehicle owner's responsibility to furnish proof of the engine's Model Year.
- S. Vehicles placed on the Compliance Assurance List must be inspected at the Davis County Testing Center. The EIA will notify the Station if a vehicle presented for an Inspection is Registered on the Compliance Assurance List.
- T. The Division, Davis County Health Department, Davis County, their officials or employees shall not be held responsible for any failure of any vehicle component or system occurring during an Inspection.

#### **10.12.130 Emissions Standards for Motor Vehicles**

- A. To obtain a valid Emissions Certificate of Compliance, vehicles receiving an Inspection may not exceed the standards as adopted in Section 10.12.250 of this Chapter.

#### **10.12.140 Certificates of Compliance and Waivers**

- A. Certificates of Compliance
1. No person shall make, issue or knowingly use any imitation or counterfeit of an official Certificate of Compliance or Waiver or any other official program document.
  2. Certificates of Compliance shall be obtained only from the Division, a Division Representative or a Station.
  3. A Certificate of Compliance may be issued via electronic communication to the Utah Division of Motor Vehicles.
  4. No refund or credit shall be allowed for unused Certificate of Compliance numbers, except as provided in Section 10.12.090.
  5. Certificate of Compliance numbers:
    - a. may be purchased by a Station through a Division Representative;
    - b. shall be sold at the cost adopted by the Davis County Commission as referenced in Section 10.12.240;
    - c. shall not be sold, loaned, transferred, or given to any other Station or any unauthorized individual. The Station shall at all times account for all Certificates of Compliance or Certificate of Compliance numbers that have been purchased by the Station; and
    - d. are solely the property of the Division; only the license they represent is tendered. Certificates of Compliance or Certificate of Compliance numbers obtained through fraud, misrepresentation and/or improper testing may be deemed null and void.
    - e. shall only be processed by a Station from an Emissions Inspection Analyzer's (EIA) Dedicated Printer.
  6. A Certificate of Compliance shall only be issued to a vehicle that has successfully passed an Inspection that was conducted according to the requirements of this Chapter.

- a. Vehicles listed in the E.P.A. document E.P.A.-420-B-12-044 titled “OBD Readiness Testability issues”<sup>1</sup> that have failed an Inspection for the listed problem may be exempted following the suggested action provided in this document.
- B. Certificates of Waiver
1. A Certificate of Waiver may be issued by the Division or a Division Representative for a vehicle that has failed an Emissions Inspection if the requirements of this section have been met.
  2. To obtain a Certificate of Waiver, the following requirements must be met:
    - a. Emissions Related Repairs must be performed in attempt to correct the condition causing the Emissions related failure.
      - i. Acceptable Emissions Related Repairs refers to those expenditures and costs associated with the adjustment, maintenance and repair of the Motor Vehicle which are directly related to the reduction of exhaust Emissions necessary to comply with the applicable Emissions Standards, Cut Points and procedures.
      - ii. Only labor charges accrued for repairs that were performed by a Certified Emissions Repair Facility or the specific vehicle manufacturer will be accepted.
      - iii. The cost of parts purchased to make the necessary repairs will be accepted.
      - iv. Proof of repair costs for the vehicle must be provided in the form of a dated, itemized statement in which Emissions related parts/repairs and labor are specifically identified.
      - v. Repairs must be performed no more than 60 days prior to an official test failure, and the repairs must be appropriate to the cause of the test failure.
      - vi. The catalyst readiness monitor must be operational and set as “ready” for passenger vehicle Model Years 1996 and newer to be eligible for a Certificate of Waiver eligibility.
      - vii. The vehicle may not produce any visible Emissions.
      - viii. Emissions readings must be at or below the maximum allowable Waiver Cutpoints for the Model Year of the vehicle.
      - ix. The Inspection failure may not be due to Tampering.
    - b. The dollar amount required to be spent on Emissions Related Repairs after an initial Inspection failure are as follows:
      - i. \$450.00 for 1996 and newer Model Year vehicles;
      - ii. \$350.00 for 1981 – 1995 Model Year vehicles;
      - iii. \$250.00 for 1968 – 1980 Model Year vehicles.
    - c. The following repairs will not be counted towards the dollar amount that is required to be spent:
      - i. Repairs to correct a condition of Tampering.
      - v. Repairs performed to the vehicle's exhaust system to correct problems with excessive exhaust dilution.
    - d. Any vehicle that experiences an increase in Emissions levels shall not be eligible for a Certificate of Waiver regardless of the amount spent in attempting to repair the vehicle.
    - e. The vehicle has been subjected to Engine Switching or engine modifications that do not comply with the applicable federal, state, or local laws.
  3. A vehicle may only receive one (1) Waiver in the vehicle’s lifetime. The Division may issue additional Waivers under certain circumstances.

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<sup>1</sup> <https://nepis.epa.gov/Exe/ZyPdf.cgi?Dockey=P100EPD8.pdf>

4. Information regarding all performed repairs shall be entered into the appropriate database of the EIA prior to the vehicle being retested.
5. Gray Market Vehicles, Model Year 1995 and older, will not be eligible for a Waiver unless all Emissions devices meet the U.S. counterpart federal Certification for that Model Year of vehicle and are operational. If a U.S. counterpart does not exist then the following emission control devices may be required:
  - a. Catalytic Converter
  - b. Evaporative Emissions Control System
  - c. PCV System
  - d. EGR System
  - e. AIR System
6. Replica Vehicles, Kit Cars and other Specially Constructed Vehicles, Model Year 1995 and older, shall not receive a Waiver unless meeting all requirements of this Chapter.
7. Vehicles that have been subjected to Engine Switching as defined in 10.12.150(A) and/or engine modifications that do not comply with the applicable federal, state, or local laws will not be eligible for a Certificate of Waiver.

#### **10.12.150 Engine Switching**

- A. Engine switching shall be allowed only in accordance with E.P.A.'s Office of Enforcement and Compliance Assistance (OECA) Engine Switching Fact Sheet and Engine Switching Fact Sheet referenced Memorandum A<sup>2</sup>.
- B. Vehicles not meeting the requirements of Section 10.12.150 shall be deemed as tampered and dealt with in accordance with the Tampering provisions of this Chapter.
- C. If the engine has been converted to another type of fuel, the vehicle must comply with the laws governing the type of fuel which is being used in the vehicle.
- D. It is a violation of this Chapter to register a vehicle with a diesel engine as a vehicle using another type of fuel, or to register a vehicle with an engine that uses another type of fuel as a diesel.

#### **10.12.160 Right to Appeal**

- A. Within ten (10) calendar days after the Division has given a notice of violation(s), Permit denial, suspension or revocation, any person(s) aggrieved may request in writing a hearing before the Division. Only a written request for hearing shall be honored by the Division. The hearing shall take place within ten (10) calendar days after the request is received. A written notice of the Hearing Officer's final determination shall be given within ten (10) calendar days after adjournment of the hearing. The Hearing Officer may sustain, modify, enhance or reverse the action or order. The Division may negotiate a Consent Agreement in lieu or in addition to a Permit suspension.
- B. Use of the hearing process outlined in Section 10.12.180 of this Chapter does not preclude judicial review.

#### **10.12.170 Recall**

The Division reserves the right to recall any vehicle that is suspected of a fraudulent Inspection to be subjected to a challenge Inspection at the Davis County Testing Center. Any or all appropriate actions that are allowed by law may be taken against parties that have been involved in fraudulent actions

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<sup>2</sup> <https://www.epa.gov/enforcement/engine-switching-fact-sheet>

during or subsequent to an Inspection.

#### **10.12.180 Penalty**

- A. Pursuant to Title 26A-1-123, Utah Code Annotated, 1953, as amended and the statutory authority of County Commissions to enact Ordinances, any person violating any of the provisions of this Chapter, either by acts of omission or commission, shall be guilty of a class B misdemeanor and penalized as provided in the Penalty Schedule, Section 10.12.280, in addition to any administrative or civil penalties provided by this Chapter and applicable state law.
  - 1. If a person is found guilty of a subsequent similar violation within two (2) years, he/she may be guilty of a class A misdemeanor and appropriate action may be taken.
- B. Each Occurrence and/or day a violation is committed or Permitted to continue shall constitute a separate violation.
  - 1. The imposition of a penalty under the provisions of this Chapter shall not prevent the revocation or the suspensions of any license or Permit granted under the provisions of this Chapter or preclude any other administrative or civil penalty.
- C. At the request of the Division, the County Attorney may initiate civil or criminal legal action against any person who violates this Chapter.
- D. In addition to other penalties imposed by a court of competent jurisdictions, any person(s) found guilty of violating any provision of this Chapter shall be liable for all expenses, including reasonable attorneys fees and costs of court, incurred by the Division and/or the County incurred arising from the violation or enforcement of this Chapter, whether civil or criminal.
- E. A Penalty Schedule, Section 10.12.280, lists specific violations of this Chapter by which Permits issued to person(s) under the provisions of this Chapter may receive a formal warning, probation, suspension or revocation of said Permit, including time-periods or fines issued. The Penalty Schedule may be amended by the Davis County Commission if deemed necessary to accomplish the purposes of this Chapter.
- F. The Division may, at its discretion, negotiate monetary penalties in lieu of some or all of the time of Permit suspensions allowed in Section 10.12.20 of this Chapter.

#### **10.12.200 Quality Assurance**

- A. Davis County may obtain an outside consultant to review test and Audit data and furnish E.P.A. required reports.
- B. The Division shall perform overt and Covert Audits of Stations and Technicians that shall conform with the reporting requirements as contained in 40 CFR 51.363.

#### **10.12.210 Severability**

If any provision, clause, sentence or paragraph of this Chapter or the application thereof to any person or circumstance shall be held to be invalid, such invalidity shall not affect the other provisions or applications of this Chapter. The valid part of any clause, sentence or paragraph of this Chapter shall be given independence from the invalid provisions or application and to this end the provisions of this Chapter are hereby declared to be severable.

## 10.12.240 Fee Schedule

The fees assessed by the Division shall be:

Permitting of a Certified Emissions Repair Facility and/or Basic Test Station	\$300.00
Annual Renewal of a Certified Emissions Repair Facility and/or Basic Test Station Permit	\$60.00
Annual Renewal of an Expired Certified Emissions Repair Facility and/or Basic Test Station Permit	\$120.00
Permitting a Certified Emissions Repair Facility and/or Basic Test Station at a New Location	\$50.00
Permitting a Certified Emissions Repair Facility and/or Basic Test Station Under a New Business Name	\$125.00
Transferring a Certified Emissions Repair Facility Permit to a Basic Test Station Permit or from a Basic Test Station Permit to a Repair Facility Permit	\$125.00
Permitting a Certified Repair Technician, or an Emissions Tester	\$30.00
Annual Renewal of a Certified Repair Technician or an Emissions Tester Permit	\$25.00
Annual Renewal of an Expired Certified Repair Technician or an Emissions Tester Permit	\$40.00
Duplicate Certified Repair Technician and/or Emissions Tester Permit	\$12.00
Refresher training for Certified Emissions Testers and/or Repair Technicians	\$30.00
Certified Emissions Tester Study Guide	\$40.00
Transferring a Certified Repair Technician Permit to an Emissions Tester Permit or an Emissions Tester Permit to a Certified Repair Technician Permit	\$15.00
Emissions Program Certificate of Compliance Numbers	\$3.25
Duplicate Emissions Program Certificate of Compliance	\$3.00
Emissions Inspection Fee	Set by Station
Air Pollution Control Fee (gasoline, diesel & other fuels--paid at time of Registration)	\$3.00
Chapter Copy	\$5.00

**10.12.250 Emissions Standards**

A. The following schedule gives the maximum allowable concentrations for Carbon Monoxide (CO) and Hydrocarbons (HC) for both cars and trucks as determined by an approved analyzer using the prescribed procedures.

<b>ALL PASSENGER VEHICLES</b> <b>1978 AND OLDER LIGHT DUTY TRUCKS 6,000 POUNDS OR LESS GVWR</b> <b>1979 TRUCKS AND NEWER 8,500 POUNDS OR LESS GVWR</b> <b>MAXIMUM CONCENTRATION STANDARDS</b>		
Model Year	Percent Carbon Monoxide	Parts / Million Hydrocarbons
1968-1969	6.0	800
1970-1974	5.0	700
1975-1976	4.0	600
1977-1979	3.0	500
1980	2.0	300
1981-1995	1.2	220
1996 and newer passenger vehicles & light-duty trucks (8,500 lbs or less)	OBD II Only	OBD II Only
<b>HEAVY DUTY TRUCKS AND VANS</b> <b>1978 AND OLDER 6,001 POUNDS AND OVER GVWR</b> <b>1979 AND NEWER 8,501 POUNDS AND OVER GVWR</b> <b>MAXIMUM CONCENTRATION STANDARDS</b>		
Model Year	Percent Carbon Monoxide	Parts / Million Hydrocarbons
1968-1969	7.0	1500
1970-1978	5.0	1200
1979-1980	4.0	1000
1981-1995	3.5	800
1996-2007	1.2	220
2008-newer	OBDII Only	OBDII Only

NOTE: These should be considered as “Cut Points” for maximum allowable Emissions levels. Vehicles must never be reset to these Emissions levels when readjustments are made, but rather shall be adjusted using manufacturer's specifications. By using manufacturer's specifications, the Emissions levels should be well below the “Cut Points”.

B. On-Board Diagnostics (OBDII) Standards: U.S.E.P.A. guidelines and standards will be followed.

**10.12.260 Waiver Cut Points**

- A. In order for a Waiver to be granted, the subject vehicle must first qualify by not exceeding the following maximum allowable concentrations for Carbon Monoxide (CO) for both cars and trucks as determined by an approved Emissions Inspection Analyzer (EIA) using the prescribed procedures. Vehicles with visible tailpipe Emissions (smoke) are not eligible for Waivers.

<b>ALL PASSENGER VEHICLES                      1978 AND OLDER LIGHT DUTY TRUCKS 6,000 POUNDS OR LESS GVWR                      1979 TRUCKS AND NEWER 8,500 POUNDS OR LESS GVWR                      MAXIMUM CONCENTRATION STANDARDS</b>		
Model Year	Percent Carbon Monoxide	Parts / Million Hydrocarbons
1968-1969	7.0	1000
1970-1974	6.0	800
1975-1976	5.0	700
1977-1979	4.0	600
1980	3.0	400
1981-1995	2.0	300
1996 and newer passenger vehicles & light-duty trucks (8,500 lbs or less)	1.2	220
<b>HEAVY DUTY TRUCKS AND VANS                      1978 AND OLDER 6,001 POUNDS AND OVER GVWR                      1979 AND NEWER 8,501 POUNDS AND OVER GVWR                      MAXIMUM CONCENTRATION STANDARDS</b>		
Model Year	Percent Carbon Monoxide	Parts / Million Hydrocarbons
1968-1969	8.0	1700
1970-1978	7.0	1500
1979-1980	5.0	1200
1981 and newer	4.0	1000

- B. The minimum dilution factor must also be reached as part of the testing requirement.

Note: These should be considered as “Cut Points” for maximum allowable Emissions levels. Vehicles must never be reset to these Emissions levels when readjustments are made, but rather shall be adjusted using manufacturer’s specifications. By using manufacturer’s specifications the Emissions levels should be well below the “Cut Points”.

**10.12.270 Passing Versus Waiver Cut Point Comparison**

ALL PASSENGER VEHICLES				
1978 AND OLDER LIGHT DUTY TRUCKS 6,000 POUNDS OR LESS GVWR				
1979 TRUCKS AND NEWER 8,500 POUNDS OR LESS GVWR				
MAXIMUM CONCENTRATION STANDARDS				
Model Year	% CO Passing	% CO Waiver	PPM HC Passing	PPM HC Waiver
1968 - 1969	6.0	7.0	800	1000
1970 - 1974	5.0	6.0	700	800
1975 - 1976	4.0	5.0	600	700
1977 - 1979	3.0	4.0	500	600
1980	2.0	3.0	300	400
1981 - 1995	1.2	2.0	220	300
1996 +	N/A	1.2	N/A	220

HEAVY DUTY TRUCKS AND VANS				
1978 AND OLDER LIGHT DUTY TRUCKS 6,001 POUNDS AND OVER GVWR				
1979 TRUCKS AND NEWER 8,501 POUNDS AND OVER GVWR				
MAXIMUM CONCENTRATION STANDARDS				
Model Year	% CO Passing	% CO Waiver	PPM HC Passing	PPM HC Waiver
1968 - 1969	7.0	8.0	1500	1700
1970 - 1978	5.0	7.0	1200	1500
1979 - 1980	4.0	5.0	1000	1200
1981 +	3.5	4.0	800	1000

NOTE: These should be considered as “Cut Points” for maximum allowable Emissions levels. Vehicles must never be reset to these Emissions levels when readjustments are made, but rather shall be adjusted using manufacturer's specifications. By using manufacturer's specifications, the Emissions levels should be well below the “Cut Points”.

**10.12.280 Penalty Schedule**

<b>Violation (Resets after two (2) years of no similar violations unless Revoked)</b>	<b>1<sup>st</sup> Occurrence</b>	<b>2<sup>nd</sup> Occurrence</b>	<b>3<sup>rd</sup> Occurrence</b>	<b>4<sup>th</sup> Occurrence</b>
<b>Failure to Inspect or substituting a vehicle other than the vehicle on the test record (intentional pass)</b>	Tech: 180 day suspension and mandatory retraining	Tech: Revocation of Permit for five (5) years		
	Station: 180 day suspension	Station: 270 day suspension	Station: Revocation of Inspection Station Permit for five (5) years	
<b>Passing a failing vehicle or recording “pass” for Tampering on a tampered vehicle (gross negligence)</b>	Tech: 30 day suspension and mandatory retraining	Tech: 60 day suspension and mandatory retraining	Tech: Revocation of Permit for five (5) years	
	Station: 15 day suspension	Station: 30 day suspension	Station: 60 day suspension	Station: Revocation of Permit for five (5) years
<b>Falsifying an Inspection record or Emissions Certificate or failing a passing vehicle (intentional)</b>	Tech: 180 day suspension and mandatory retraining	Tech: Revocation of Permit for five (5) years		
	Station: 180 day suspension	Station: 270 day suspension	Station: Revocation of Permit for five (5) years	
<b>Non-Certified Person performing test (gross negligence)</b>	Tech: 60 day suspension	Tech: 180 day suspension	Tech: Revocation of Permit for five (5) years	
	Station: 60 day suspension	Station: 180 day suspension	Station: Revocation of Permit for five (5) years	

<b>Inaccurate or incomplete data entry</b> <i>(incompetence)</i>	Tech: Formal warning and mandatory retraining	Tech 30 day suspension and mandatory retraining	Tech: 90 day suspension and mandatory retraining	Tech: Revocation of Permit for five (5) years
	Station: Formal warning	Station: 15 day suspension	Station: 45 day suspension	Station: Revocation of Permit for five (5) years
<b>Failure to follow proper test procedures</b> <i>(incompetence)</i>	Tech: Formal warning and mandatory retraining	Tech: 30 day suspension and mandatory retraining	Tech: 90 day suspension and mandatory retraining	Tech: Revocation of Permit for five (5) years
	Station: Formal warning	Station: 15 day suspension	Station: 45 day suspension	Station: Revocation of Inspection Station Permit for five (5) years
<b>Failure of a Covert Audit</b> <i>(incompetence)</i>	Tech: Formal warning and mandatory retraining	Tech: 30 day suspension and mandatory retraining	Tech: 90 day suspension and mandatory retraining	Tech: Revocation of Permit for five (5) years
	Station: Formal Warning	Station: 15 day suspension	Station: 45 day suspension	Station: Revocation of Inspection Station Permit for five (5) years

- A. These penalties apply to all Permits issued pursuant to this Chapter.
- B. Negotiated Consent Agreements: Inspector and/or Station suspensions may be reduced in length by a Negotiated Consent Agreement which may substitute monetary penalties for part or all of the suspension time.
- C. Violations that have been determined to be intentional or flagrant shall result in the maximum penalties of up to \$10,000 per violation. Permit revocations are not eligible for Negotiated Consent Agreements.
- D.
- E. The number of Occurrences for the Failure of a Covert Audit that a Station or Inspector has will reset to zero (0) if the Station or Technician successfully passes two (2) successive covert vehicle audits.

**10.12.290 Conflicts**

This Chapter supersedes all prior Ordinances, resolutions and policies of Davis County to the extent they are in conflict with the specific provisions hereof. In all other respects such prior Ordinances, resolutions and policies shall remain in full force and effect.

**Effective Date**

This Ordinance is necessary for the immediate preservation of the peace, health or safety of the County and its inhabitants and therefore shall take effect immediately upon publication in one issue of a newspaper published and having general circulation in Davis County.

This Ordinance shall be effective as of Oct 18, 2019 (date). All Ordinances and parts of Ordinances in conflict herewith shall not be and the same are here by repealed.

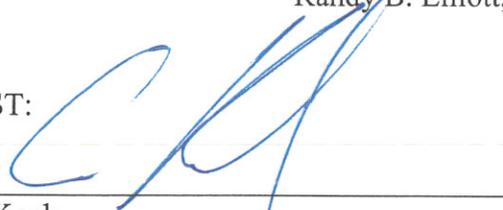
ENACTED AND ADOPTED this 1st day of Oct, 2019.

This Ordinance was duly passed, adopted, and/or approved by the Davis County Legislative Body on this 1st day of Oct, 2019 with Commissioners Randy B. Elliott Aye, Lorene Miner Kamalu Aye, and Bob J Stevenson Aye, all voting as documented herein.

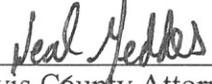
BOARD OF COUNTY COMMISSIONERS OF DAVIS COUNTY

By:   
Randy B. Elliott, Chair

ATTEST:

  
Curtis Koch  
Davis County Clerk/Auditor

Approved as to legal form and compatibility with state law:

  
Deputy Davis County Attorney

Publication Date: \_\_\_\_\_, 2019  
Effective Date: \_\_\_\_\_, 2019

**APPENDIX A**  
**Emission Inspection Analyzer Specifications**

- A. Only Division approved testing equipment will be used to perform Certified Emissions Inspections. The Emissions analyzers (EIA's) shall only be those approved and provided by contract through the current vendor. Refer to Appendix A for current EIA Specifications.
- B. The Division shall explore new technologies related to emissions inspections. As part of this exploration, the Division may perform studies, run pilot projects, collect and analyze data, and make recommendations to the commission. If a new technology can be shown to be as effective as current technologies in reducing emissions and preventing fraud, the Division shall present these findings to the E.P.A. The Division shall then work with the E.P.A. and the commission to seek approval to incorporate the new technology as a testing method.

**COMPUTER HARDWARE/SOFTWARE**

• 17" .28 Dot Pitch SVGA Color Monitor	• 700 MHz CPU speed or faster
• Flash Drive	• 128 Mb RAM
• 12X CD ROM Drive (or faster, optional)	• 40 Gb Hard Drive (or larger)
• 64 MPEG ready PCI Video Board w/1 Mb RAM	• 256 kb External Cache Memory
• 56k Internal Modem (or faster)	• 104 Enhanced Keyboard
• Standard Mouse/Pointer	• Enhanced RPM and I/O Board
• Bar Code Reader, High Intensity, Non- Contact	• Hewlett Packard LaserJet 2300 printer (or equivalent) or OKIPAGE B4200 printer (or equivalent)

**ANALYTICAL SYSTEM**

ITEM	METHOD	RANGE	ACCURACY	RESOLUTION
• HC	NDIR	0-2000ppm	+/- 3%	1 ppm
• CO	NDIR	0-10%	+/- 3%	0.01%
• CO <sub>2</sub>	NDIR	0-16%	+/- 3%	0.1%
• O <sub>2</sub>	Cell/NDIR/NDUV	0-25%	+/- 5%	0.1%
• Relative Humidity		5-95%	+/- 3%	
• Ambient Temperature		0-140F	+/- 3%	
• Barometer Pressure		24-32 in. Abs	+/- 3%	

**REQUIREMENTS**

- \* Electric: 120 VAC 15 Amps
- \* Shop Air: 80 - 90 PSI Compressed Air

**CALIBRATION SYSTEM**

- \* Integrated Zero Air Generator
- \* Automatic Zeroing and Gas Calibration
- \* Automatic Leak Test, Dilution Test and

Low Flow

**SAMPLE SYSTEM**

- \* Heavy-duty Sample System for High Throughput Performance w/Pressurized Sample Back Flush
- \* Solid State Sample Chiller for Enhanced Water Separation (patent pending)

**SUB-SYSTEM**

- \* OBD II Integrated Function
- \* Integrated Fuel Cap Tester

**APPENDIX B**  
**Two Speed Idle Inspection Procedures**

Each vehicle receiving a Two-Speed Idle (TSI) Test shall be allowed to reach normal operating temperature before performing the Inspection.

- A. The vehicle shall be tested as detailed in the Emissions Inspection Analyzer (EIA) specifications referenced in Appendix A and as programmed into the Emissions Inspection Analyzer (EIA) testing sequence. Vehicles failing because of excessive exhaust dilution shall repair the dilution problem prior to continuing the Emissions test. The dilution standard shall be contained in the Emissions Inspection Analyzer (EIA) specifications as referenced in Appendix A and adjusted when the Division determines by analysis that an adjustment is necessary to yield a more accurate level of Emissions readings.
- B. If a vehicles engine stalls during a Two-Speed Idle (TSI) Emissions Inspection, the test shall be restarted. If an Inspector cannot complete a test because of continuous stalling, fluctuating RPM measurements or RPM measurements that are not within the Division and manufacturer's specified parameters, then these problems shall be corrected before the Inspection is continued.

**APPENDIX C**  
**OBD II (Onboard Diagnostics Generation II) Inspection Procedures**

The following test procedure is to be followed for 1996 and newer Model Year gasoline and Light Duty Diesel Powered Motor Vehicles and 2008 and newer Medium Duty Vehicles:

1. Verify vehicle information;
2. Accurately enter information into the analyzer at the required Prompts;
3. Review the information entered into the data review screens and make corrections as need;
4. Perform the visual Inspection of all applicable emission control devices;
5. Turn the ignition key to the **OFF** position;
6. Locate the Diagnostic Link Connector (DLC) in the vehicle and connect the OBD lead from the analyzer directly to the vehicles DLC;
  - a. A Simulator device may not be used or connected to the analyzer at any time during an official Emissions Inspection.
7. Turn the ignition to the **KOEO** position;
8. Visually inspect for the MIL function: indicate “YES” if the MIL is functioning or “NO” if the MIL is not functioning;
9. Start the vehicle;
10. Allow the analyzer to communicate with the vehicle;
11. Increase the vehicle RPM to 1000 RPM for 5 seconds;
12. When prompted, turn off the engine, switch the ignition to the **OFF** position and remove the OBD lead;
13. If the MIL is not functioning, the vehicle fails the OBDII Inspection and requires repair;
14. If the MIL is commanded **ON** the vehicle fails the OBDII Inspection. The vehicle has a malfunction and has stored a Diagnostic Trouble Code (DTC). The DTC will need to be investigated and the necessary repairs made;
15. If the Catalyst readiness monitor is “Not Ready” then the vehicle fails the Inspection.

**APPENDIX D**  
**Davis County Diesel I/M Program**

**11.12.010 Definitions**

1. Diesel Emissions Standard: as defined in section 10.12.020 of the Ordinance and also including the maximum allowable smoke Opacity limits for a given weight class and Model Year of a Motor Vehicle.
2. Diesel I/M Program Fleet Station (Diesel Fleet Station): a private, public or government facility with a fleet of twenty five (25) or more vehicles that has a valid Permit, issued by the Division, to perform Diesel Opacity Inspections on their own vehicles in accordance with this Chapter.
3. Diesel I/M Program Station (Diesel Station): a Permitted facility meeting the requirements of this Chapter.
4. Diesel Opacity Inspector: an individual Permitted by the Division to perform Opacity Inspections on Diesel Vehicles, also referred to as a Technician.
5. Diesel Opacity Inspection: an Inspection of a Diesel Powered Motor Vehicle by a Diesel Opacity Inspector employed by a Diesel I/M Program Station, Fleet Station or the Division.
6. Diesel Opacity Inspector Permit: the Permit issued by the Division to an individual who has successfully completed the Division Diesel Opacity Inspection and training requirements.
7. Diesel Opacity Analyzer: an Opacity meter with any additional hardware or software required by the Division to perform an official Diesel Opacity Inspection in accordance with this Chapter and a type of Emissions Inspection Analyzer (EIA).
8. Diesel Powered Motor Vehicle: vehicles which are propelled by a compression-ignited engine using diesel fuels, bio-fuels, or a mixture of diesel and bio-fuels.
9. Diesel Vehicle Inspection/Maintenance Program: the Opacity Inspection and repair program for Diesel Powered Motor Vehicle established by the Division, pursuant to Section 41-6a-1644, Utah Code Annotated 1953, as amended.
10. Opacity: the degree to which the exhaust plume obscures the view expressed in percentage of obstruction or the degree expressed in percent to which transmittance of light is reduced by the exhaust plume.
11. Opacity Inspection: the Inspection of Diesel Powered Motor Vehicle using procedures prescribed in the Chapter in order to determine the magnitude (expressed as a percentage) of obscured light (Opacity) due to exhaust constituents, mainly fine particles.
12. Opacity Meter: an optical instrument which is designed to provide continuous real-time measurement of the Opacity of diesel exhaust gases and particulates which pass through the optical unit.
13. Technician: a Permitted Diesel Opacity Inspector.
14. Wide Open Throttle (WOT): accelerations used to purge the exhaust system of any residual exhaust prior to an Opacity Inspection applicable to Heavy Duty Diesel Vehicles.

**11.12.030 Purpose**

Refer to section 10.20.030

**11.12.040 Jurisdiction of the Division**

Refer to section 10.20.040

**11.12.050 Powers and Duties**

Refer to section 10.12.050

- A. The Division or a Division Representative is responsible for performing all Inspections on Light, Medium and Heavy Duty Diesel Powered Motor Vehicles.

**11.12.060 Scope**

Refer to section 10.12.050

**11.12.070 General Provisions**

Refer to section 10.12.070

- A. Reciprocity with other vehicle Emissions programs within the state will be allowed as long as Tampering, Opacity, OBDII or other standards meet or exceed those required by this Chapter in accordance with Section 41-6a-1643, Utah Code Annotated, 1953, as amended.
- B. The following vehicles are exempt from the requirements of this Chapter:
  - 1. Heavy Duty Diesel Powered Motor Vehicles that meet all of the following requirements:
    - a. Have an apportioned Registration;
    - b. Are 26,000 lbs. GVWR or greater;
    - c. Have logged more than 50% of their vehicle miles outside of the state; and
    - d. Are within the first three (3) Model Years.

**11.12.080 Standards and Specifications for Diesel Emission Equipment**

All diesel emission equipment must comply with the standards set forth in Appendix D-1

**11.12.090 Requirements of the Vehicle Emission Inspection/Maintenance Program Stations**

Refer to section 10.12.090

**11.12.100 Testing and Permitting of Certified Diesel Opacity Inspectors**

Refer to section 10.12.100

**11.12.110 Diesel Emission Inspection Procedures**

- A. A Division Representative will perform Diesel Opacity Inspections on light and Medium Duty Vehicles that are Model Year 2007 and older and are non OBD II compliant. This

Inspection is performed on a Dynamometer under load with the approved Opacity meter analyzer system. All Heavy Duty Diesel Powered Motor Vehicles 14,000 lbs. GVWR and up are required to have a J1667 snap-idle test performed by a licensed Station/contractor.

- B. Loaded Opacity Inspection Procedures (Refer to Appendix B-2 for drive pattern illustration)
1. All steps in Section 10.12.110(A-L) shall be followed.
  2. All facets of the official Vehicle Emissions I/M Program shall be performed by the Certified Diesel Opacity Inspector including:
    - a. Emissions Inspection Analyzer (EIA) preparation, Gas Calibration, leak checks and host communication diagnostics;
    - b. preparation of reports, forms and Certificates of Compliance;
    - c. accessing the official Emissions testing section of the analyzer;
    - d. performing fuel cap pressure tests;
    - e. exhaust sampling and analysis for the purpose of a diesel Opacity Inspection for issuance of a Certificate of Compliance; and
    - f. all other aspects of the official Vehicle Emissions Inspection, including but not limited to the Visual Inspection, inserting the exhaust probe, inserting or attaching the exhaust Opacity sampling equipment, hooking up the tachometer, entering data into the analyzer, preconditioning the vehicle and signing Certificates of Compliance and Vehicle Inspection Report Forms (VIRs).
  3. Diesel I/M Program Station or Fleet Station shall employ and ensure at least one (1) Certified Diesel Opacity Inspector is routinely scheduled to work during the advertised operating hours of the facility.
  4. To qualify for and obtain a Diesel Opacity Inspector Permit, an applicant shall demonstrate knowledge, skill and competence by passing a written and performance qualification test including, but not limited to, knowledge of the following:
    - a. The requirements of this Chapter;
    - b. Operation of and proper use, care, maintenance and Calibration of the Division approved Emissions Inspection Analyzer (EIA); and
    - c. Proper use and distribution of the required Inspection forms, Certificates of Compliance, Calibration records and supplemental documents.
  5. For each vehicle receiving an Opacity Inspection:
    - a. visually inspect for the presence of single or dual exhaust. If the vehicle to be inspected is equipped with a dual exhaust system, only the darkest stack will be used for testing;
    - b. determine the appropriate Inspection procedure to follow, depending on the vehicle weight rating, type and Model Year, and then proceed with the Inspection procedures as outlined in this Chapter;
    - c. if a vehicle is unable to be inspected using a particular weight category Inspection procedure as outlined in this Chapter because of an unusual engine/chassis configuration, the Director at his/her discretion may select an alternate Inspection procedure to be performed on the vehicle;
    - d. verify for 1996 and newer Medium Duty Vehicles the Key On Engine Off (KOEO) Bulb Function and fail the vehicle if the MIL does not function; and
    - e. verify for 1996 and newer Medium Duty Vehicles the Key On Engine Running function that the MIL is extinguished. Fail the vehicle if the MIL is

illuminated.

C. Heavy-Duty Snap Idle Inspection Procedures

1. The snap idle test is based on the J 1667 protocol. All Diesel Powered Motor Vehicles 14,001 lbs. GVW and greater, will receive a snap idle test performed with the approved testing equipment. The Technician will follow all analyzer Prompts and screens as specified and upon completion of the test will issue the appropriate paperwork to the consumer. All safety considerations addressed in section 10.12.110(G) shall be followed.
2. Heavy Duty Diesel Powered Motor Vehicles that meet all of the following requirements:
  - a. Have an apportioned Registration;
  - b. Are 26,000 lbs. GVWR or greater;
  - c. Have logged more than 50% of their vehicle miles outside of the state; and
  - d. Are within the first three (3) Model Years.
3. Owners of Heavy Duty Diesel Powered Motor Vehicles may request that a Division Representative perform on-site Vehicle Emissions Inspections.
  - a. As a condition for Permitting a Certified Diesel Station or Diesel Fleet Station, the following tools, references and equipment shall be available for the performance of Inspection and maintenance of Diesel Powered Motor Vehicles:
    - i. a Division approved Diesel Opacity Analyzer that meets the minimum specifications as outlined in Appendix A of this Chapter;
    - ii. a handbook, approved by the Division, that includes Inspection procedures to be followed by the Diesel Opacity Inspector;
    - iii. reference manuals specified and approved by the Division that contain tune-up specifications, and information covering the Emissions control systems for the Model Years and makes of vehicles involved in the Diesel Inspection/Maintenance Program;
    - iv. sufficient hand tools for proper performance of Inspection and maintenance of the vehicle;
    - v. exhaust gas removal equipment approved by the Division;
    - vi. the Diesel Opacity Analyzer manufacturer's maintenance and Calibration manual, which must remain in the Inspection Area;
    - vii. all forms, Technical Bulletins, and other information materials provided by the Division; and
    - viii. all essential devices, connections, phone lines and software required by the Division.
  - b. Diesel Fleet Stations
    - i. Owners of vehicle fleets with twenty-five (25) or more Heavy Duty Diesel Powered Motor Vehicles may apply to the Division for a Diesel I/M Program Fleet Station Permit. This Permit would allow fleet owners to inspect only their own Heavy Duty Motor Vehicles that are Registered to the individual or corporation identified on the Permit. A fleet Station may be Permitted for Inspection of light and Medium Duty Vehicles with approval of the Division;
    - ii. The Fleet Station shall immediately notify the Division and surrender all unused Certificates of Compliance at such time as the Station no longer

- employs a Diesel Opacity Inspector; and
- iii. The Fleet Station shall notify the Division whenever five (5) or more consecutive Diesel Opacity Inspections are scheduled to be performed within an eight (8) hour period. The Director may dispatch a field Auditor to observe all or a portion of the Diesel Opacity Inspections performed.

#### **11.12.120 Davis County Testing Center**

- A. The Davis County Testing Center personnel or a Division Representative may conduct Diesel Emissions Inspections approved Inspection equipment, hardware and software as technology advances and new Inspection procedures become available.
- B. Loaded Diesel Opacity, OBDII and Diesel Snap Inspections will be performed following the procedures outlined in this Appendix.
- C. Developmental Emissions Inspections may be conducted.
  1. Vehicles inspected by this method shall comply with all the requirements of the latest U.S.E.P.A.'s Technical Guidance Documents and the requirements as outlined in this Appendix.
- D. Emission Inspection equipment will be checked, maintained, calibrated and serviced in accordance with the appropriate equipment manufacturer's procedures.
- E. The Davis County Testing Center may inspect a portion of the fleet on a voluntary basis for modeling, air quality assurances and public convenience.
- F. The Division may develop or modify all present and future I/M Program procedures.

#### **11.12.130 Emission Standards**

- A. The following schedule gives the maximum allowable concentration limits for Diesel Opacity Inspections:
  1. Heavy Duty Diesel Powered Motor Vehicles, 14,001 pounds GVWR or more – Snap Idle Test:
    - a. 20% Opacity for Diesel engines manufactured on or after January 1, 1996.
    - b. 40% Opacity for Diesel engines manufactured before January 1, 1996.
  2. Light Duty/Medium Duty Vehicles, 14,000 pounds GVWR and less – Dynamometer Inspection:
    - a. 20% Opacity for all Non-OBDII Compliant Vehicles, readings taken at cruise and Wide Open Throttle (WOT).
  3. Light/Medium Duty OBDII Compliant Diesel Powered Motor Vehicles will meet OBDII Standards listed in Section 10.12.250

#### **11.12.140 Certificates of Compliance and Waivers**

- A. Certificate of Compliance
  1. A Certificate of Compliance will be issued to Diesel Powered Motor Vehicles following the standards set in 10.12.140(A).
- B. Certificate of Waiver
  1. A Certificate of Waiver will be issued to Diesel Powered Motor Vehicles following the standards set in 10.12.140(B) with the following exceptions:

- a. Diesel Powered Motor Vehicles are exempt from the Waiver Cut Points established in section 10.12.260.
- b. For vehicles that support the catalyst monitor as originally certified, the catalyst readiness monitor must be operational and set as “Ready” for Light/Medium Duty Vehicles Model Years 1998 and newer to be eligible for a Certificate of Waiver eligibility.
- c. The dollar amount required to be spent on Emissions Related Repair fees for the following specified Diesel Powered Motor Vehicles shall be set at:
  - i. \$750.00 for 1968 and newer Model Year Light/Medium Duty Vehicles: and
  - ii. \$1,500.00 for 1968 and newer Model Year Heavy Duty Diesel Powered Motor Vehicles.
- d. Visible Emissions must be in compliance as defined in Utah Code 41-6a-1626.

**11.12.150 Engine Switching**

Refer to section 10.12.150

**11.12.160 Right to Appeal**

Refer to section 10.12.160

**11.12.170 Recall**

Refer to Section 10.12.170

**11.12.180 Penalty**

Refer to section 10.12.180

**11.12.200 Quality Assurance**

Refer to section 10.12.200

**11.12.210 Severability**

Refer to section 10.12.210

**11.12.220 Auditing and Reporting**

Refer to section 10.12.220

**11.12.230 Emission Inspection Analyzer (EIA)**

Only Division approved Inspection equipment will be used to perform Certified Emissions and Opacity Inspections. The Diesel Emissions analyzers (EIA’s) shall only be those approved and

provided by contract through the current vendor. Refer to Appendix D-1 for Diesel EIA requirements.

**11.12.240 Fee Schedule**

Refer to section 10.12.240 for the applicable fees not listed in 11.12.240

Permitting of a Diesel I/M Program Station or Fleet Station	\$300.00
Annual Renewal of a Diesel I/M Program Station or Fleet Station	\$60.00
Annual Renewal of an Expired Diesel I/M Program Station or Fleet Station	\$120.00
Permitting a Diesel I/M Program Station or Fleet Station at a New Location	\$50.00
Permitting a Diesel I/M Program Station or Fleet Station Under a New Business Name	\$125.00
Permitting a Diesel Opacity Inspector	\$30.00
Annual Renewal of a Diesel Opacity Inspector Permit	\$25.00
Annual Renewal of an Expired Diesel Opacity Inspector Permit	\$40.00
Duplicate Diesel Opacity Inspector Permit	\$12.00
Refresher training for Diesel Opacity Inspectors	\$30.00
Diesel Opacity Inspector Study Guide	\$40.00
Diesel Emission Fee	Set by County

**11.12.280 Penalty Schedule**

Refer to section 10.12.280

**11.12.290 Conflicts**

Refer to section 10.12.290

**Effective Date**

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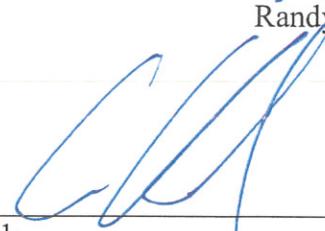
ENACTED AND ADOPTED this 1st day of Oct, 2019.

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BOARD OF COUNTY COMMISSIONERS OF DAVIS COUNTY

By:   
Randy B. Elliott, Chair

ATTEST:

  
Curtis Koch  
Davis County Clerk/Auditor

Approved as to legal form and compatibility with state law:

  
Deputy Davis County Attorney

Publication Date: \_\_\_\_\_, 2019  
Effective Date: \_\_\_\_\_, 2019

## Appendix D-1 Diesel Emission Equipment Specifications

### **PRODUCT SPECIFICATIONS:      Sensors LCS 2400 Opacity Meter**

*Operating Conditions*

Temperature: 5 °C to 40 °C

Humidity: 0 to 95 %

Pressure: 0...10kPa ± 0.2kPa

*Characteristics*

Optical path length: 364 mm (+/- 1 mm)

Tube Temp: 70...100 °C (75 °C typical)



Warm Up Time: ≤ 3 min. @ 20 °C

Zero-Drift: < 0.01 m<sup>-1</sup> over 15 min

Resolution: N: 0.1 % ; k: 0.01 m<sup>-1</sup>

Gas Temperature Range: 10 – 150 °C

Storage Temperature: -32 °C to 55 °C

Pneumatic Stability: ± 1.0%

Acoustic Noise: 53 dba

Opacity Accuracy: ± 2% absolute

Reliability: 20,000 hours (MTBF)

Dimensions (H x W x L): 23.5 cm x 38 cm x 9 cm

Weight: 4.5kg (10 lbs)

Software & Communications 9600/19200 Baud rate (selectable)

Communication: via RS-232 async

*Power:*

Input 230 Vac, 115Vac or 100Vac available

Line Frequency: 50 or 60 Hz

Output 12Vdc @3A (via com port connector)

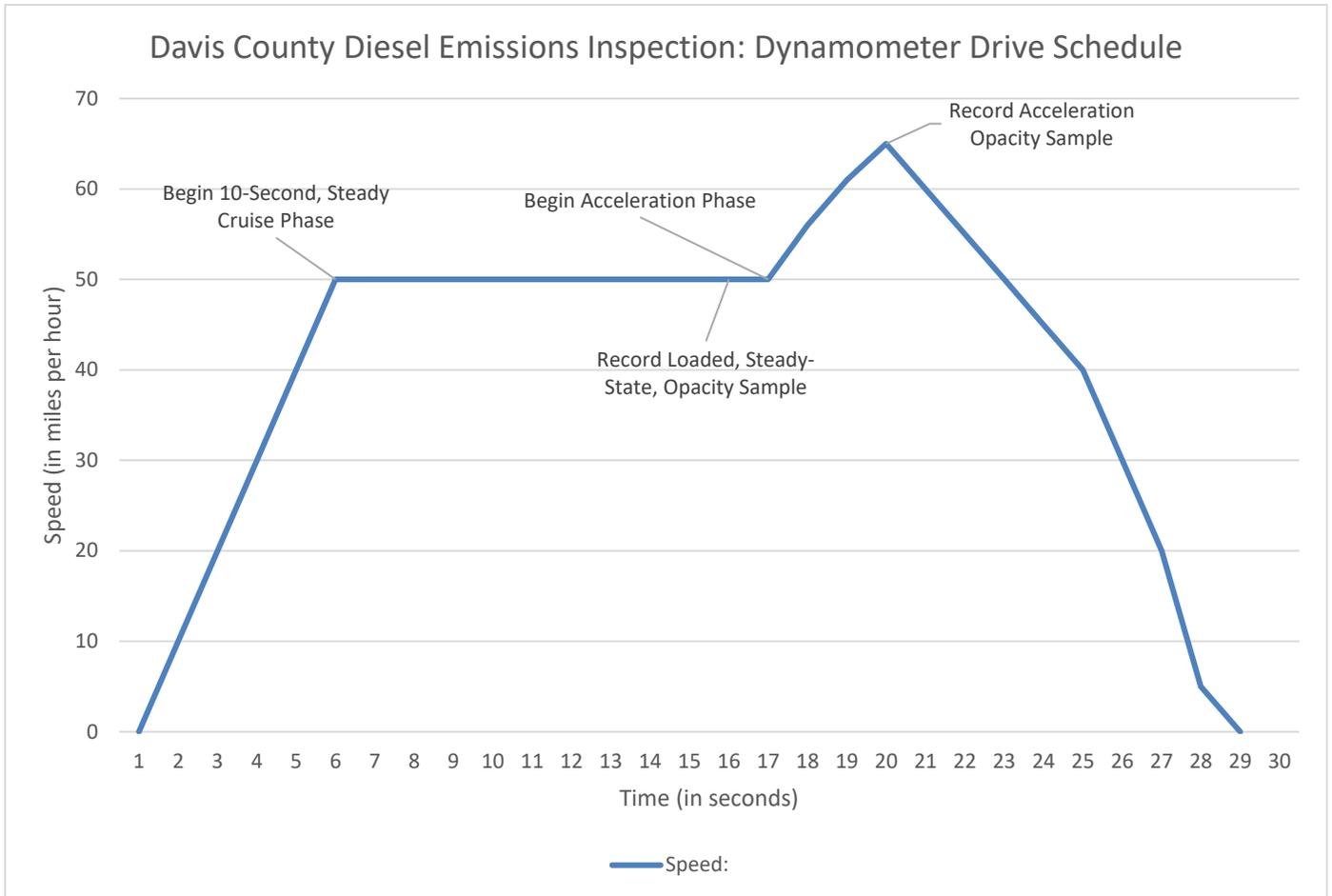
The computer/cabinet shall be based on the Worldwide EIS 7000

# Diesel Exhaust Opacity Measurements

- Sensors Opacity Meter uses laser technology as an upgrade to the halogen technology used previously
- Opacity meter auto-zeros before each test
- Each opacity meter is validated at least once per week using 3 validation lenses, calibrated at 25%, 55%, and 75% opacity
- Opacity meter has many error codes that prohibit testing if set. Error codes include (but are not limited to):
  - Tube Temp Invalid
  - Transducer in Standby Mode
  - Dirty Lenses
  - Gas Temperature Too Cold
  - Ambient Temperature Invalid
  - Power Voltage Out of Tolerance



## Appendix D-2 Loaded Opacity Inspection Drive Pattern



**APPENDIX E**  
**Compressed Natural Gas (CNG) Vehicle Inspection Procedures**

- A. 1995 and older with switchable bi-fuel systems must comply with the appropriate County Inspection procedures using both fuels when possible, including the Visual Inspection.
- B. 1995 and older with non-switchable bi-fuel systems must on a case-by-case basis, comply with the appropriate County Inspection procedures using both fuels when possible, including the Visual Inspection.
- C. 1995 and older systems with a dedicated fuel (non-bi-fueled) must complete normal Inspection procedure using dedicated fuel, including the Visual Inspection.
- D. All 1996 through 2004 dedicated and bi-fueled systems shall receive a Visual Inspection: the MIL must illuminate while the key is on engine off (KOEO); the MIL must extinguish while the key is on with the engine running (KOER). Bi-fuel vehicles will receive a tailpipe test on each fuel.
- E. All 2005 and newer systems must have a conversion kit, be OBDII compatible, and comply with a Visual Inspection and prescribed OBDII and any other required testing.

# **Appendix 2: Air Quality Division**

## **Operating Procedures 10/30/2019**

# Air Quality

## Division Operating Procedures (DOP)

### 1.0 Purpose and Applicability

#### 1.1 Purpose

The purpose of this DOP is to establish uniform procedures for all staff assigned air quality program duties.

Environmental health staff may deviate from these procedures when necessary due to unexpected or unique problems that may occur. Any deviations shall be discussed with a manager, and documented as needed.

#### 1.2 Applicable Codes

##### 1.2.1 Code of Federal Regulations (CFR):

1.2.1.1 [Clean Air Act: 40 CFR 51 – Requirements for Preparation, Adoption, and Submittal of Implementation Plans. Subpart S – Inspection/Maintenance Program Requirements](#)

##### 1.2.2 Utah Administrative Code:

1.2.2.1 [Rule R307-302. Solid Fuel Burning Devices;](#)

1.2.2.2 [Rule R307-801. Utah Asbestos Rule;](#) and

1.2.2.3 [Rule R392-510. Utah Indoor Clean Air Act.](#)

##### 1.2.3 Davis County Board of Health:

1.2.3.1 [Illicit Discharge Regulation;](#) and

1.2.3.2 [Adjudicative Hearing Procedure Regulation.](#)

##### 1.2.4 Davis County Ordinance:

1.2.4.1 [Enhanced Vehicle Emissions Inspection/Maintenance Program Ordinance.](#)

##### 1.2.5 Davis County/Worldwide Environmental Products, Inc. Contracts:

1.2.5.1 Agreement to Provide Inspection/Maintenance Support Services and Lease of Property.

1.2.5.2 Agreement to Provide Analyzers and Vehicle Information Database

#### 1.3 Applicable Programs

1.3.1 Air Quality Investigations

1.3.2 Inspection/Maintenance (I/M)

1.3.2.1 Overt Station Audits

1.3.2.2 Covert Station Audits

- 1.3.2.3 Covert Technician Audits
- 1.3.2.4 Smoking Vehicles
- 1.3.2.5 VIN Mismatch
- 1.3.2.6 Duplicate Certificates
- 1.3.2.7 Utah State Tax Commission Forms
- 1.3.3 Air Quality Monitors
- 1.3.4 Air Quality Education

## **2.0 Definitions**

### **2.1 Compliance Assurance List**

The Compliance Assurance List is a list for vehicles that are required to report to the Davis County Emissions Testing Center to receive an official emissions test. Vehicles placed on the list are restricted from being tested at any other I/M station.

### **2.2 Solid Fuels**

Solid fuels are solid materials that can be burnt to release heat or light through the process of combustion. Solid fuels include: wood, wood pellets, charcoal, peat, and coal.

## **3.0 Confidentiality – See General Programs DOP**

## **4.0 Personnel**

### **4.1 Qualifications**

#### 4.1.1 Certified Emissions Tester

Staff conducting audits of I/M stations and/or technicians shall be Certified Emissions Testers.

#### 4.1.2 EPA Method 9

Staff charged with the enforcement of air quality programs shall maintain EPA Method 9 certification.

### **4.2 Job Duties**

#### 4.2.1 Lead I/M Specialist

The Lead I/M Specialist shall:

4.2.1.1 act as the liaison between the Department and I/M vendors; and

4.2.1.2 address the needs of the permitted I/M stations and technicians.

## **5.0 Surveillance & Reporting – See General Programs DOP**

### **5.1 Reporting**

#### 5.1.1 Environmental Protection Agency (EPA) Annual Report

An EPA Emissions Report shall be submitted annually to the EPA and the Utah Department of Environmental Quality (DEQ).

- 5.1.2 Division of Air Quality  
Solid Fuel complaints shall be reported to the DEQ's Division of Air Quality each month.

## **6.0 Procedures**

### **6.1 Air Quality Investigations**

- 6.1.1 Solid Fuel Complaints  
Solid Fuel complaints shall be investigated for compliance with mandatory no burn day restrictions.
  - 6.1.1.1 Assignment  
Solid Fuel complaints shall be assigned to the Air Quality Bureau Manager.
  - 6.1.1.2 Sole Source Registry  
The Bureau Manager shall check to see whether the complaint address is listed on the Sole Source Registry.
    - 6.1.1.2.1 If the address is listed, then no investigation is necessary.
    - 6.1.1.2.2 If the address is not listed, staff shall be assigned to investigate the complaint and provide education to the resident(s).
  - 6.1.1.3 Education  
Staff shall provide education to the resident(s) by distributing the:
    - 6.1.1.3.1 DEQ Wood Burning FAQ; and the
    - 6.1.1.3.2 Division's Solid Fuel FAQ.
  - 6.1.1.4 Investigation  
Staff shall investigate Solid Fuel complaints on mandatory no burn days periodically throughout the inversion season (November 1- March 1).
  - 6.1.1.5 Non-Compliance  
Staff shall document any burning of Solid Fuel by picture on mandatory no burn days.
    - 6.1.1.5.1 The picture, along with the date and time it was taken, shall be emailed to the Bureau Manager.
    - 6.1.1.5.2 The Bureau Manager then will forward the information to the Division of Air Quality for enforcement actions to be taken.
- 6.1.2 Indoor Air Quality Complaints  
Indoor air quality violations at businesses shall be investigated for compliance with the Utah Indoor Clean Air Act.
  - 6.1.2.1 Education  
Staff shall provide businesses with the Utah Indoor Clean Air Act and educate them on the responsibilities of the building owner, agent, and operator.
  - 6.1.2.2 Enforcement  
If additional complaints are received and validated after education has been provided, then a Notice shall be issued to the business.

- 6.1.3 Permitted Outdoor Smoking Areas  
Complaints involving permitted outdoor smoking areas shall be forwarded to the Community Health Division representative.

## **6.2 Overt Station Audits**

- 6.2.1 Frequency  
Overt station audits shall be performed at least twice per year on each test lane.
- 6.2.2 Audit  
Staff shall follow the I/M Station Audit Instructions found in the Appendix when conducting an overt audit.
- 6.2.3 Analyzer Lockout  
Stations may have their analyzer locked out, with approval from a Bureau Manager, when:
  - 6.2.3.1 they fail a gas audit;
  - 6.2.3.2 there is leak detected in the analyzer;
  - 6.2.3.3 they do not have a certified tester;
  - 6.2.3.4 the flex-hose for two-speed idle tests is not functioning properly; or
  - 6.2.3.5 any other issue that prohibits an accurate test from being conducted.

## **6.3 Covert Station Audits**

- 6.3.1 Frequency  
Covert station audits shall be performed annually at each permitted station.
- 6.3.2 Preparation  
The program lead shall train staff conducting covert audits and supply them with the:
  - 6.3.2.1 Bill of Sale;
  - 6.3.2.2 TC-656 form;
  - 6.3.2.3 Undercover Audit Performance Evaluation form; and
  - 6.3.2.4 Petty Cash Request Form;
    - 6.3.2.4.1 Staff shall obtain petty cash shall by submitting the Petty Cash Request Form to the accounting representative.
- 6.3.3 Audit  
Staff conducting the covert audit shall:
  - 6.3.3.1 present the TC-656 form and Bill of Sale at the I/M station and request an emissions test;
  - 6.3.3.2 refrain from disclosing any information that may alert the station that they are undergoing an audit;
  - 6.3.3.3 obtain a receipt for service;
  - 6.3.3.4 collect the Vehicle Inspection Report (VIR);
  - 6.3.3.5 record, after leaving the station, the audit results and the inspection cost on the Covert Audit Performance Evaluation form;

- 6.3.3.6 return the completed Undercover Audit Check Request form, the original VIR's, and any receipts to the program lead; and
- 6.3.3.7 submit the remaining petty cash to the accounting representative.
- 6.3.4 Program Lead
  - Following the completion of covert audits, the program lead shall:
    - 6.3.4.1 complete the Undercover Audit Check Request form;
    - 6.3.4.2 enter all information into the undercover test log;
    - 6.3.4.3 mail the official correspondence containing the audit results to the appropriate stations and I/M inspectors; and
    - 6.3.4.4 ensure the Petty Cash Request form, receipts, Undercover Audit Check Request form, and the original VIR's are returned to the accounting representative.
- 6.3.5 Official Correspondence
  - Staff shall send official correspondence to the I/M station and Certified I/M Tester following the covert audit.
    - 6.3.5.1 Letter of Compliance
      - I/M Stations and Certified I/M Testers shall receive a Letter of Compliance when they pass a covert audit.
    - 6.3.5.2 Letter of Information
      - Certified I/M Testers shall also receive a Letter of Information when they pass a covert audit, but fail to identify all applicable deficiencies on the emissions report.
    - 6.3.5.3 Notice of Violation
      - I/M Stations and Certified I/M Testers shall receive a Notice of Violation when they fail a covert audit.
- 6.3.6 Penalty Schedule
  - I/M stations and technicians that fail covert audits are subject to the penalty schedule listed in the Davis County Emissions Inspection/Maintenance Program Ordinance.

## **6.4 Covert Technician Audits**

- 6.4.1 Video Audits (Reserved)

## **6.5 Smoking Vehicle Program**

- 6.5.1 Complaint Reports
  - Reports of smoking vehicles shall be documented into the [Smoking Vehicle Complaint Log](#) and reviewed by the program lead.
    - 6.5.1.1 The vehicle owner information may be identified using the VADRS or TLR database provided by the Division of Motor Vehicles (DMV).
- 6.5.2 Smoking Vehicle Guidance Document
  - Reports of smoking vehicles registered in Davis County shall be identified as a Level 1 or Level 2 complaint following the [Smoking Vehicle Guidance Document](#).
    - 6.5.2.1 Level 1 complaints shall be issued a Notice requiring them to report to the Davis County Testing Center for an emissions test.

- 6.5.2.1.1 Notices shall be logged on the [Smoking Vehicle Complaint Log](#).
- 6.5.2.2 Level 2 complaints shall be issued a Letter of Information.
- 6.5.3 Compliance Assurance List
  - Owners of vehicles that fail to comply with the Notice shall be placed on the Compliance Assurance List.
  - 6.5.3.1 The program lead shall notify the Bureau Manager of any vehicles that need to be placed on this list.
  - 6.5.3.2 The Bureau Manager shall email the applicable information to Worldwide Environmental Products staff.
- 6.5.4 Outside Jurisdiction
  - Reports of smoking vehicles registered outside of Davis County shall be forwarded to the appropriate contact within that jurisdiction.
- 6.5.5 Unable to Process
  - Reports of smoking vehicles with invalid license plates or registration data shall be documented as "Unable to Process" on the Smoking Vehicle Complaint Log.

## **6.6 VIN Mismatch**

- 6.6.1 Investigation
  - When a VIN mismatch alert is received, the program lead shall:
    - 6.6.1.1 identify the make, model, year, and ownership of the two (2) mismatched vehicles using the VADRS or TLR database provide by the DMV;
    - 6.6.1.2 assess whether the mismatched data appears to be unintentional or intentional using the Davis County VID; and
      - 6.6.1.2.1 Data indicating that an OBD paddle was left in a previously tested vehicle or the wrong vehicle registration was used may indicate an unintentional mismatch by the technician.
      - 6.6.1.2.2 Data indicating that a vehicle failed an emission test and shortly thereafter passed an emissions test, but with a different VIN, may indicate an intentional activity by the Certified I/M Tester.
    - 6.6.1.3 issue official correspondence.
- 6.6.2 Assessment of Intent
  - The program lead shall issue official correspondence based on the assessment of intent related to the VIN mismatch.
  - 6.6.2.1 Unintentional VIN Mismatch
    - A Letter of Information shall be issued to a Certified I/M Tester and I/M Station when a VIN mismatch has been assessed to be unintentional.
    - 6.6.2.1.1 The Letter of Information shall notify them of their improper testing procedure or inaccurate data.
  - 6.6.2.2 Intentional VIN Mismatch
    - A Notice requiring a challenge test shall be issued to a vehicle owner when a VIN mismatch has been assessed to be intentional.
- 6.6.3 Challenge Tests
  - Vehicles that submit a passed emissions test with a mismatched VIN shall be

challenge tested at the Davis County Emissions Testing Center. The challenge test validates or nullifies the result of the passing test. Challenge test activities shall be tracked in the challenge test spreadsheet.

**6.6.3.1 Passing Challenge Test**

The I/M Station and Certified I/M Tester shall be issued a Notice if the challenge test of the vehicle results in a passing emissions test.

6.6.3.1.1 The Notice shall require the Certified I/M Tester to be re-trained

**6.6.3.2 Failing Challenge Test**

The I/M Station and Certified I/M Tester shall be issued a Notice of Violation (NOV) if the challenge test of the vehicle results in a failing emissions test.

**6.6.3.3 Vehicle Owners**

Owners of vehicles that fail a challenge test shall be issued a second Notice. This Notice shall require them to repair the vehicle and pass an emissions test at the Davis County Emissions Testing Center within 15 days.

**6.6.3.4 Failure to Comply**

The program lead shall notify the Bureau Manager of vehicle owners that fail to comply with a Notice.

6.6.3.4.1 The Bureau Manager shall email the applicable information to Worldwide Environmental Products staff and have the vehicle put on the Compliance Assurance List.

**6.7 Duplicate Certificates**

**6.7.1 Frequency**

The program lead shall search for duplicate emissions certificates in the [Weber State Database](#) each month.

**6.7.2 Cross-Check**

Vehicles identified as being registered with a duplicate or invalid certificate shall be cross-checked for accuracy with information provided in the [Davis County VID](#).

**6.7.3 Notices**

Notices, requiring a valid emissions test within 15 days, shall be issued to vehicle owners identified to have registered with a duplicate or invalid certificate.

6.7.3.1 Vehicle owners who fail to comply with the first Notice shall be issued a second Notice.

**6.7.4 Failure to Comply**

Vehicle owners that fail to comply with the second Notice shall:

6.7.4.1 have their vehicle referred to the DMV for revocation of registration; and

6.7.4.2 be placed on the Compliance Assurance List.

**6.8 Utah State Tax Commission Forms**

**6.8.1 Utah State Tax Commission Forms**

Upon receiving a TC-810 or TC-820 Utah State Tax Commission Form, office support staff shall:

- 6.8.1.1 enter the owner and vehicle information into the corresponding TC-810 or TC-820 spreadsheet;
- 6.8.1.2 issue a Letter of Findings to the applicant; and
  - 6.8.1.2.1 The program lead or Bureau Manager shall sign each Letter of Findings.
- 6.8.1.3 file the TC-810 or TC-820 form into the appropriate file folder.
- 6.8.2 Vehicle Inspection Reports
 

Upon receiving a passing vehicle inspection report, office support staff shall:

  - 6.8.2.1 Enter the vehicle inspection date into the corresponding TC-810 or TC-820 spreadsheet;
  - 6.8.2.2 Attach the VIR to the corresponding TC-810 or TC-820 report; and
  - 6.8.2.3 File the forms in the designated “clear” folder.
- 6.8.3 Program Lead
 

The program lead shall:

  - 6.8.3.1 review the TC-810 and TC-820 spreadsheets;
  - 6.8.3.2 verify that vehicles that have not submitted a passing VIR have not passed an emissions test using the Davis County VID;
  - 6.8.3.3 issue Notices to vehicle owners that have not passed an emissions test; and
  - 6.8.3.4 notify the Bureau Manager of vehicle owners that fail to comply with the Notice.
- 6.8.4 Failure to Comply
 

Vehicles owners that fail to comply with a Notice shall be subject to the enforcement procedures listed in section 6.12.
- 6.8.5 Farm Plates
 

Office support staff may stamp with a seal on a Farm Plate Application after they receive:

  - 6.8.5.1 proof that the applicant owns or leases at least 5.25 acres of greenbelt property; and
  - 6.8.5.2 a completed Farm Truck Plate Application, TC-838.
    - 6.8.5.2.1 A copy of the stamped Farm Plate Application shall be retained in the designated folder.

## **6.9 Certificate of Waiver**

- 6.9.1 Worldwide Environmental Products
 

As outlined in contract, the WEP may issue a certificate of waiver in accordance with Davis County Ordinance.

  - 6.9.1.1 The maximum waiver rate shall not exceed 1% of initially failed vehicles.
- 6.9.2 Temporary Waiver or Extension
 

The Lead I/M Specialist may provide a temporary waiver or extension to a vehicle owner in order for a vehicle to be driven long enough to be ready for an emission test.

6.9.2.1 Vehicle owners that fail to provide proof of a passing emissions test by the deadline stated in the temporary waiver or extension may be subject to the enforcement procedures listed in section 6.12.

6.9.3 Engine Swap

Staff shall adhere to EPA guidelines when evaluating a Certificate of Waiver for a vehicle that has had its engine swapped.

**6.10 Air Quality Monitors**

6.10.1 Purple Air Monitors

**6.11 Air Quality Education**

6.11.1 Air Quality Presentations

6.11.2 No Idle Policy

**6.12 Revocation of Registration**

6.12.1 Department of Motor Vehicles

Vehicles that are determined to be out of compliance with local emissions standards and/or fail to comply with a Notice issued by the Division shall be referred by email to the DMV for revocation of registration.

6.12.1.1 Requests for revocation shall include the following information:

6.12.1.1.1 VIN and license plate numbers;

6.12.1.1.2 record of official correspondence sent to the vehicle owner; and

6.12.1.1.3 request for revocation letter.

**7.0 Director Approval**

**Approved:**

October 30, 2019

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Environmental Health Services Director

Weber County

Part E

Attachments

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**UTAH STATE IMPLEMENTATION PLAN**

**SECTION X**

**VEHICLE INSPECTION AND  
MAINTENANCE PROGRAM**

**Part E**

**Weber County**

Adopted by the Utah Air Quality Board  
TBD

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**SECTION X Part E**  
**Weber County Emission Inspection/ Maintenance Program**  
**APPENDICES**

1. Weber County Emission Inspection/ Maintenance Program Regulation revised [~~March 26, 2012~~]September 23, 2019
2. Weber County Audit Policies and Procedures

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**UTAH STATE IMPLEMENTATION PLAN  
SECTION X, PART E  
VEHICLE INSPECTION AND MAINTENANCE (I/M) PROGRAM**

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**1. Applicability**

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*Weber County Inspection and Maintenance (I/M) ~~[P]~~Program ~~[R]~~Requirements:* Ogden City was designated nonattainment for the carbon monoxide (CO) National Ambient Air Quality Standard[s] (NAAQS) on January 6, 1992 (56 FR 56694, November 6, 1991) and was classified as a "moderate" area. The Ogden City CO nonattainment area was redesignated to attainment for the CO NAAQS on November 14, 2005 (70 FR 54267, September 14, 2005). Parts of Weber County was designed as a ‘marginal’ nonattainment area for the 2015 8-hour ozone standard effective August 3, 2018(83 FR 25776), June 4, 2018). An I/M program is not required in marginal nonattainment areas; however, if Weber County is redesignated to a ‘moderate’ nonattainment area, an I/M program would be required by the Clean Air Act (CAA).

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Utah was previously required by Sections 182 and 187 of the ~~[Clean Air Act]~~CAA to implement and maintain an I/M program in Weber County that met the minimum requirements of 40 CFR Part 51 Subpart S and that was at least as effective as the EPA's Basic Performance Standard as specified in 40 CFR 51.352. However, the Basic Performance Standard requirement is no longer applicable as the nonattainment area in Weber County has been redesignated to attainment / maintenance for the CO NAAQS. Parts A 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]~~I/M ~~[P]~~program ~~[R]~~requirements for Weber County and produce mobile source emission reductions that are sufficient to demonstrate continued maintenance of the CO NAAQS. In addition, the Weber County I/M program is a control measure ~~[to attain and maintain EPA's particulate NAAQS in Weber County]~~ included in the Salt Lake City 24- hour particulate Serious SIP submitted to EPA on February 15, 2019.

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**2. Summary of Weber County I/M Program**

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Below is a summary of Weber County’s I/M program. Section X, Part E, Appendices 1 and 2 contain the essential documents for Weber County’s I/M program.

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*Network Type:* Weber County’s I/M program is a decentralized, test-and-repair network, as approved by EPA on September 14, 2005 (70 FR 54267).

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*Test Convenience:* There are approximately ~~[140]~~ 105 permitted ~~[Basic]~~ I/M stations within Weber County. Specific operating hours are not specified by the county; however, Weber County regulation requires that stations be open and available to perform inspections during a major portion of normal business hours of 8:00 a.m. to 5:00 pm Mondays through Fridays.

1 There are also government and private fleet permitted stations that are not open to the public.

2  
3 *Subject Fleet:* All model year 1968 and newer vehicles registered or principally-operated  
4 in Weber County are subject to the I/M program except for exempt vehicles.  
5

6 *Test [f]Frequency:* Vehicles less than two years old as of January 1 on any given year are  
7 exempt from an emissions inspection. Vehicles two years old and less than six years old as  
8 of January 1 on any given year are inspected every other year as per Utah Code 41-6a-  
9 1642(6). All vehicles six years old and older as of January 1 on any given year are  
10 inspected annually.  
11

12 *Station/[i]&[Inspector]Tester/Technician Audits:* Weber County's I/M program will  
13 regularly audit all permitted I/M [inspectors]tester/technicians and stations to ensure  
14 compliance with county I/M regulations, procedures, and policies. Particular attention will  
15 be given to identifying and correcting any fraud or incompetence with respect to vehicle  
16 emissions inspections. Compliance with recordkeeping, document security, analyzer  
17 maintenance, and program security requirements will be scrutinized. The Weber County  
18 I/M program will have an active covert [compliance] audit program to minimize potential  
19 fraudulent testing. [Weber county audit policy] The Policies and Procedures of the audit  
20 program are [is] provided in Appendix 2 of this part of Section X.  
21

22 *Waivers:* Weber County will take corrective action as needed to maintain a maximum waiver  
23 rate of 5% of the initially failed vehicles or the Utah Air Quality Board will revise the SIP and  
24 emission reductions claimed based on the actual waiver rate. The conditions for issuing  
25 waivers legally authorized and specified in the Weber County I/M regulation meets the  
26 minimum waiver issuance criteria specified in 40 CFR Subpart S 51.360.  
27

28 *Test Equipment:* Specifications for Weber County's emission analyzer and its I/M test  
29 procedures, standards and analyzers are provided in Weber County's I/M regulations  
30 provided in Appendix 1. Test equipment and procedure were developed according to  
31 good engineering practices to ensure test accuracy. Analyzer calibration specifications  
32 and emissions test procedures meet the minimum standards established in Appendix A of  
33 the EPA's I/M Guidance Program Requirements, 40 CFR Part 51 Subpart S.  
34

35 *Test Procedures:*

- 36  
37 • The following vehicles are subject to an OBD II inspection:  
38 ○ 1996 and newer light duty vehicles<sup>1</sup> [are subject to an OBD II  
39 inspection], and  
40 ○ 2008 and newer medium duty vehicles<sup>2</sup>  
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<sup>1</sup> Light duty vehicles have a Gross Vehicle Weight of 8500 lbs or less.

<sup>2</sup> Medium duty vehicles have a Gross Vehicle Weight greater than 8500 lbs but less than 14,000~~0~~1 lbs

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- The following vehicles are subject to a two-speed idle test that is compatible with Section VI (Preconditioned Two Speed Idle Test) in Appendix B of the EPA I/M Guidance Program Requirements, 40 CFR 51, Subpart S:
  - 1995 and older vehicles,
  - 1996 and 2007 ~~[newer]~~ medium<sup>3</sup> and heavy-duty vehicles<sup>4</sup>, and
  - 2008 and newer heavy-duty vehicles.

### 3. I/M SIP Implementation

The I/M program regulations, policies, procedures, and activities specified in this I/M SIP revision have been implemented and shall continue until a maintenance plan without an I/M program is approved by EPA in accordance with Section 175 of the Clean Air Act as amended.

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<sup>3</sup> Medium duty vehicles have a Gross Vehicle Weight greater than 8500 lbs but less than 14,000 lbs

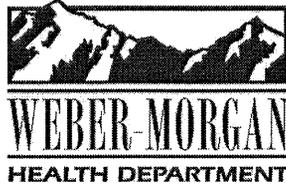
<sup>4</sup> Heavy Duty vehicles have a Gross Vehicle Weight greater than 14,00~~0~~1 lbs

# **Appendix 1: Weber County**

## **Emission Inspection/Maintenance**

### **Program Regulation revised**

**September 23, 2019.**



# Weber-Morgan Health Department

Regulation for

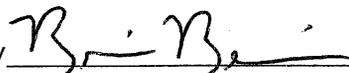
## **Motor Vehicle Inspection and Maintenance Program**

Adopted by the Weber-Morgan Board of Health

September 23, 2019

Under Authority of Section 26A-1-121  
Utah Code Annotated, 1953, as amended

Certified Official Copy  
Weber-Morgan Health Department

By   
Brian Bennion, Director, Weber-Morgan Health Department

By   
Neil Garner, Chair, Weber-Morgan Board of Health

**MOTOR VEHICLE  
INSPECTION AND MAINTENANCE PROGRAM**

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## 1.0 TITLE AND DEFINITIONS

These standards shall be known as the Motor Vehicle Inspection and Maintenance Program Regulation, hereinafter referred to as “this Regulation”.

For the purpose of this Regulation, the following words and phrases, when used herein, except as otherwise required by the context, have the following meanings.

1.1 “**Accreditation**” means Certification that the Analyzer and Analyzer manufacturer meet the operating criteria, specifications and requirements of Weber County and the Department;

1.2 “**Accuracy**” means the degree by which an instrument is able to determine the true concentration of pollutants of interest. Also means freedom from error especially as a result of care;

1.3 “**Air Intake Systems**” means systems that allow for the induction of ambient air, including preheated air into the engine combustion chamber for the purpose of mixing with a fuel for combustion;

1.4 “**A.I.R. (Air Injection Reaction System)**” means a system for providing supplementary air into a vehicle’s exhaust system to promote further oxidation of hydrocarbons (HC) and carbon monoxide (CO) gases and to assist catalytic reaction;

1.5 “**Analyzer**” See definition for UTAH 2011 Analyzer;

1.6 “**Audit**” means a procedure performed by Department personnel that includes but is not limited to, inspection of the Station, review of Station records, inspection of the Analyzer and related I/M equipment, and review of personnel working knowledge and records. The audit procedure is intended to ensure compliance with this Regulation and Department policies and procedures;

1.7 “**Bar 97**” Refers to California Bureau of Automotive Repair Exhaust Gas Analyzer Specifications, which became effective in 1997;

1.8 “**Basic Engine Systems**” means parts or assemblies that provide efficient conversion of a compressed air/fuel charge into useful power, including but not limited to valve train mechanisms, cylinder head to block integrity, piston ring-cylinder sealing integrity and post-combustion emissions control device integrity meeting OEM Standards;

1.9 “**Bench**” means the main sample processing assembly of the exhaust gas Analyzer including detectors, sampling tubes, processor boards, infrared sources and power supply;

1.10 “**Board of Health**” means the Weber-Morgan Board of Health;

1.11 “**Calibration**” means the process of establishing or verifying the accuracy of an exhaust gas Analyzer to perform an accurate and consistent evaluation of engine exhaust using calibration gases having precisely known concentrations;

1.12 “**Calibration [Span] Gases**” means gases of known concentration that are used as references for establishing or verifying the calibration curve of an exhaust gas Analyzer and which are traceable to the National Institute of Standards and Technology and are approved by the Department for use;

1.13 “**Carbon Monoxide**” A colorless, odorless, asphyxiating gas produced by the incomplete burning of fuels. Carbon monoxide may be referred to in these Regulations as CO;

1.14 “**Catalytic Converter**” A post-combustion device that oxidizes HC and CO gases and/or reduces oxides of nitrogen gases;

1.15 “**Certificate of Compliance**” means a serially numbered document issued to the vehicle upon passing an inspection or reinspection and is evidence that the motor vehicle complies with the standards and criteria of this Regulation and other requirements as adopted by the Board of Health. Beginning January 1, 2019 or another date as determined by the Department, all Certificates of Compliance will only be issued electronically and will be submitted by the Department directly to the Utah Division of Motor Vehicles and/or the Utah State Tax Commission;

1.16 “**Certificate of Compliance Numbers**” means numbers issued to Stations and entered into the approved Analyzer for the purpose of issuing Certificates of Compliance;

1.17 “**Certificate of Waiver or Waiver**” means a document issued by the Department used to verify that the vehicle for which it was issued has met the waiver requirements of this Regulation. Beginning January 1, 2019 or another date as determined by the Department, all Certificates of Waiver will only be issued electronically and will be submitted by the Department directly to the Utah Division of Motor Vehicles and/or the Utah State Tax Commission;

1.18 “**Certification**” means assurance by an authorized source, whether it is a laboratory, the manufacturer, the state, or the Department, that a specific product or statement is in fact true and meets all requirements;

1.19 “**Certified Emissions Inspection and Repair Technician or Technician**” means an individual who has successfully completed all permit requirements and has been issued a current, valid Emission Inspection and Repair Technician Permit by the Department. A person permitted by the Department who inspects vehicles, diagnoses emission related faults, and performs emissions related repairs and adjustments to bring vehicles into compliance with the requirements of this Regulation;

1.20 “**Certified Emissions Inspection Only Technician or Tester**” means an individual who has successfully completed all permit requirements and has been

issued a current, valid Emission Inspection Only Technician Permit by the Department;

1.21 “**CO**” means Carbon Monoxide;

1.22 “**Compliance**” means verification that certain data and hardware submitted by a manufacturer for accreditation consideration, meets all Department requirements; Also meeting the requirements of this Regulations;

1.23 “**County**” means Weber County, Utah;

1.24 “**Curb Idle**” means the manufacturer’s specified idle speed for the specific motor vehicle being tested (tolerance within 50 rpm) See also **Idle Mode**;

1.25 “**Cut-Points**” Same as Emission Standards;

1.26 “**Department**” means the Weber-Morgan Health Department, Division of Environmental Health;

1.27 “**Diesel Oxidation Catalyst (DOC)** ” means a catalyst which promotes the oxidation process in diesel exhaust to reduce emissions.

1.28 “**Diesel Particulate Filter (DPF)**” means a system which is designed to capture diesel exhaust particulate matter. The DPF must be cleaned at specific intervals.

1.29 “**Director**” means the Environmental Health Division Director of the Weber-Morgan Health Department or for the purpose of program administration means the I/M Program Manager or I/M Auditor.

1.30 “**Domiciled**” means County in which primary residence is located;

1.31 “**E.G.R. System (Exhaust Gas Recirculation System)**” means an emissions control system that recycles or recirculates a portion of the exhaust gases back to the engine combustion chambers;

1.32 “**Emissions**” means substances expelled into the atmosphere from a motor vehicle; particularly, air contaminants produced by combustion and/or incomplete combustion, hydrocarbon evaporation from the fuel system and/or the crankcase, and particulate matter from the crankcase;

1.33 “**Emission Control Systems**” means any device or combination of parts, originally installed by the manufacturer to control the emissions of a motor vehicle;

1.34 “**Emissions Inspection or Inspection**” means a motor vehicle inspection performed for the purpose of determining whether the vehicle qualifies for issuance of a Certificate of Compliance or Certificate of Waiver, carried out in compliance with this Regulation;

1.35 “**Emissions Repair or Repair**” means repair of a motor vehicle for the purpose of such vehicle passing or attempting to pass an emissions inspection;

1.36 “**Emissions Inspection and Repair Technician Permit or Technician Permit**” means a permit issued by the Department authorizing an individual to conduct emission inspections, repair failed vehicles and issue Certificates of Compliance while under the auspices of a Station;

1.37 “**Emissions Inspection Only Technician Permit or Tester Permit**” means a permit issued by the Department authorizing an individual to perform emission inspections and issue certificates of compliance while under the auspices of a Station;

1.38 “**Emissions Standards (Cut-Points)**” means the maximum allowable concentration of regulated emissions for a given weight class and model year of a motor vehicle, as allowed by this Regulation, using an approved Analyzer;

1.39 “**Emissions Test**” means the process dictated by the official test mode of the Utah 2011 Analyzer;

1.40 “**Engine Switching**” means an engine is removed from a vehicle and is replaced by an engine that is not identical to the original engine;

1.41 “**EPA**” means the United States Environmental Protection Agency;

1.42 “**Evaporative Control System**” means an emission control system that prevents the escape of fuel vapors from the fuel system and/or air cleaner and stores them to be burned in the combustion chamber;

1.43 “**Federal Installation**” means any property or facility subject to the jurisdiction of any department, agency, or instrumentality of the executive, legislative, and judicial branches of the Federal government;

1.44 “**Fleet Facility**” means a corporation or other business entity permitted by the Department to perform the functions of the inspection program for a privately owned fleet of ten or more motor vehicles;

1.45 “**Fuel Control Systems**” means the mechanical, electro mechanical, galvanic or electronic parts or assemblies that regulate the air/fuel ratio in an engine to provide a combustible charge;

1.46 “**Gaseous Fuel**” means, but is not limited to, liquefied petroleum gases and natural gases in liquefied or gaseous forms;

1.47 “**HC**” means hydrocarbons;

1.48 “**Hangup**” means hydrocarbons that cling to the surface of the sampling and Analyzer systems in contact with the exhaust gas sample stream resulting in errors in HC readings;

1.49 “**Heavy Duty Vehicles**” means a vehicle 1978 and older with a weight of more than 6000 pounds or 1979 and newer with a weight of more than 8501 pounds GVW (gross vehicle weight);

1.50 “**Hydrocarbons**” means unburned fuel;

1.51 “**Idle Mode**” means a condition where the vehicle’s engine is at proper operating temperature and running at the rate specified by the manufacturer’s curb idle, where the engine is not propelling the vehicle, and where the throttle is in the closed or idle stop position. This condition achieved without placing a load on the vehicle to decrease its RPM to the specified rate (See also **Curb Idle**);

1.52 “**Ignition Systems**” the means parts or assemblies that are designed to cause and time the ignition of a compressed air/fuel charge;

1.53 “**I/M Clearance**” means a stamp placed on the motor vehicle registration form by an employee of the Utah State Motor Vehicle Office or the Department indicating that the motor vehicle represented by the registration form is in compliance with the inspection program requirements in that the motorist has presented a valid Certificate of Compliance or Certificate of Waiver for the motor vehicle and paid applicable fees;

1.54 “**I/M Program**” means the Vehicle Emissions Inspection and Maintenance Program established by the Board of Health and this Regulation;

1.55 “**I/M Program Test and Repair Station**” means a business permitted by the Department which engages in emissions testing and emissions related repairs to motor vehicles, and which meets the requirements of this Regulation for test and repair facilities;

1.56 “**I/M Program Test Only Station**” means a business permitted by the Department which engages only in emissions related inspections of motor vehicles, and which meets the requirements of this Regulation for test only facilities;

1.57 “**Inspection Area**” means the Department approved area that is occupied by the Analyzer, sample hose, and the vehicle being inspected;

1.58 “**Inspection Report**” means a document used to record information generated by the Tester/Technician during an emissions inspection other than a Certificate of Compliance;

1.59 “**Instrument**” means the complete UTAH 2011 Analyzer system that samples and displays the concentration of emission gases and also performs OBD IM test procedures. The instrument includes the sample handling system, the exhaust gas Analyzer associated computer equipment and the enclosure cabinet;

1.60 “**Light Duty Motor Vehicle**” means all passenger vehicles, 1978 and older; light duty trucks 6000 GVW rating or less; 1979 trucks and newer 8500 pounds GVW rating or less;

1.61 “**Lock-Out**” means when the UTAH 2011 Analyzer automatically prohibits access to the testing portion of the UTAH 2011 Analyzer;

1.62 “**Motor Vehicle or Vehicle**” means any equipment or mechanical device propelled primarily on land by an internal combustion powered engine that is driven on public roads and/or streets. Motor vehicles exempted from the inspection requirements of this Regulation as listed in Section 6.4 of this Regulation;

1.63 “**Motorcycle**” means every motor vehicle having a saddle for the use of the rider and designed to travel with not more than three wheels in contact with the ground, but excluding a farm tractor;

1.64 “**Non-Permitted Person**” means any person who has not been certified by the Department to perform official emissions inspections;

1.65 “**OBD**” means Vehicle On-Board Diagnostics;

1.66 “**OBDII**” means the On-Board Diagnostics Generation II Standard effective in 1996 and newer light duty car and light duty trucks sold in the United States;

1.67 “**OEM**” means Original Equipment Manufacturer;

1.68 “**Off-Highway Vehicles**” means a vehicle licensed to operate exclusively off public highways and roads;

1.69 “**Original Condition**” means the condition of the emission control system(s) as installed by the manufacturer, but not necessarily to the original level of effectiveness;

1.70 “**Other Entity**” may include Fleet Facilities, I/M Technical Centers, and reciprocity agreements with EPA approved I/M Programs;

1.71 “**PCV System (Positive Crankcase Ventilation System)**” means an emissions control system that returns crankcase vapors and blowby gases to the combustion chamber to be burned;

1.72 “**Person**” means an individual, corporation, association, firm, partnership, joint stock company, public or municipal corporation, political subdivision, the state or any agency thereof, or the federal government or any agency thereof;

1.73 “**Prompts**” means instructions and/or data fields, requiring data input to the Analyzer from a Tester/Technician performing an emission inspection;

1.74 “**Publicly-Owned Vehicles**” means a motor vehicle owned by a government entity, including but not limited to the federal government or any agency thereof, the State of Utah or any agency or political subdivision thereof;

1.75 “**Readiness**” means an indicator that identifies when the related emission control system’s operational status has been determined;

1.76 “**Registered or Registration**” means the process by which a motor vehicle receives a license so that it can be legally operated on public streets and highways;

1.77 “**Reinspection**” means any emissions inspection performed on a motor vehicle after it has undergone an initial emissions inspection that did not qualify the motor vehicle for a Certificate of Compliance;

1.78 “**Selective Catalyst Reduction (SCR)**” is a means of reducing NOx in diesel exhaust gases by introducing nitrogen containing compounds such as urea;

1.79 “**Smoking Vehicle**” means a motor vehicle emitting visible emissions after the engine has reached normal operating temperature;

1.80 “**Station**” means an I/M Program Station including all station personnel, employees, and owner(s);

1.81 “**Station Permit**” means the document issued by the Department that authorizes a person to operate a Station;

1.82 “**Tampering**” means the intentional or accidental altering of or removal of emission control systems, and/or emissions-related equipment. Also, the use of fuels other than those required by the manufacturer’s specification as found in the motor vehicle’s owner’s manual. Also, engine modification which may include, but is not limited to, exhaust systems, air intake systems, ignition systems, internal engine modifications, engine switching, etc.;

1.83 “**Technical Bulletin**” means a document issued to Tester/Technicians and Stations by the Department to update, clarify or establish policies and/or procedures for their implementation in the Vehicle Emissions Inspection and Maintenance Program;

1.84 “**Tester/Technician**” means a Department Certified and Permitted Emissions Tester or Department Certified and Permitted Emissions Repair Technician;

1.85 “**Training Program**” means a formal program administered, conducted, or approved by the Department for the education of Testers/Technicians in basic emission control technology, inspection procedures, diagnosis and repair of emission related problems, Vehicle Emissions Inspection and Maintenance Program policies, procedures and this Regulation; it may also include the promotion of training for all mechanics;

1.86 “**TSI**” means Two Speed Idle Test Procedure;

1.87 “**UTAH 2011 Analyzer or Analyzer**” means the official computerized engine exhaust analyzer and associated test equipment approved by the Department for use in the areas of Utah requiring inspections as specified in Section 41-6a-1642, Utah Code Annotated, 1953, as amended;

1.88 “**Vehicle Emissions Inspection and Maintenance Program**” means the program established by the Board of Health pursuant to Section 41-6a-1642, Utah Code Annotated 1953, as amended and Weber County Ordinance Section 28-1-4;

1.89 “**Waiver**” see Certificate of Waiver.

## 2.0 PURPOSE

It is the purpose of this Regulation to reduce air pollution levels in Weber County by requiring inspection of in-use motor vehicles and by requiring emission related repairs and adjustments for those vehicles that fail to meet prescribed standards so as to:

2.1 Protect and promote the public health, safety and welfare;

2.2 Improve air quality;

2.3 Comply with Federal Regulations contained in the Clean Air Act of 1970, and amendments to the Act;

2.4 Comply with the law enacted by the Legislature of the State of Utah, Sections 41-6a-1642 and 41-6a-1643 Utah Code Annotated, 1953, as amended; and

2.5 Comply with Weber County Ordinance 28 Chapter 1. – Motor Vehicle Emissions Inspection

## 3.0 AUTHORITY AND JURISDICTION OF THE DEPARTMENT

3.1 Under Section 28-1-3 of the Weber County Ordinance the Weber County Commission authorizes and directs the Weber-Morgan Board of Health and the Director of Health to adopt and promulgate rules and regulations to ensure compliance with EPA and State requirements with respect to Emissions Standards and delegates its authority as an administrative body 41-6a-1642 Utah Code Annotated, 1953, as amended, to the Weber-Morgan Board of Health, to address all issues pertaining to the adoption and administration of the Vehicle Emissions I/M Program, and authorizes a fee to be assessed upon every motorized vehicle registered in Weber County at the time of registration, to be known as the Air Pollution Control Fee.

3.2 Section 28-1-4 of the Weber County Ordinance, directs the Weber-Morgan Health Department to adopt regulations and set fees for I/M Stations and

Mechanic Permits and Emission and Waiver Certificates as necessary to sustain and operate an I/M Program.

3.3 The Weber-Morgan Board of Health is authorized to make standards and regulations pursuant to Section 26A-1-121(1) of the Utah Code Annotated, 1953 as amended.

3.4 The Weber-Morgan Board of Health is authorized to establish and collect fees pursuant to Section 26A-1-114(1)(h)(i) of the Utah Code Annotated, 1953 as amended.

3.5 All aspects of the Vehicle Emissions Inspections and Maintenance Program within Weber County enumerated in Section 2.0 shall be subject to the direction and control of the Weber-Morgan Health Department.

#### 4.0 POWERS AND DUTIES

4.1 General Powers and Duties. The Department shall be responsible for the enforcement and administration of this Regulation and any other powers vested in it by law and shall:

4.1.1 Require the submission of information reports, plans and specifications from Stations as necessary to implement the provisions and requirements of this Regulation;

4.1.2 Issue permits, certifications and charge fees as necessary to implement this Regulation;

4.1.3 Perform audits of any Station and Tester/Technician and issue orders and/or notices, hold hearings, levy administrative penalties and negotiate consent agreements as necessary to effect the purposes of this Regulation;

4.1.4 When necessary take samples and make analysis to ensure that the provisions of this Regulation are met; and

4.1.5 Adopt policies and procedures necessary to ensure that the provisions of this Regulation are met and that the purposes of this Regulation are accomplished.

4.2 Suspension, Revocation, or Denial of Station Permits. The Department may suspend, revoke or deny a Station Permit of a Station and/or negotiate a monetary penalty in lieu of suspending a permit under a consent agreement, and/or require the surrender of the Station Permit and unused Certificates of Compliance and other official documents of such Station upon showing that:

4.2.1 A Tester/Technician or other individual at the Station is in violation of this regulation and:

4.2.2 A vehicle was inspected and issued a Certificate of Compliance by Station personnel who did not, at the time of inspection, comply with all applicable policies, procedures, Technical Bulletins, and this Regulation;

4.2.3 A vehicle was inspected and rejected by the Station when, it can be demonstrated, as determined by the Department that the vehicle was in such condition that it did comply with the requirements of this Regulation;

4.2.4 A vehicle was inspected and issued a Certificate of Compliance when it can be proven, as determined by the Department that the vehicle did not at the time of inspection comply with the requirements of Section 9.11 regarding tampering inspection;

4.2.5 A vehicle was passed and issued a Certificate of Compliance without being present for inspection or substituting a vehicle other than the vehicle entered into the test record;

4.2.6 The Station is not open and available to perform Inspections during a major portion of the normal business hours of 8:00 a.m. to 5:00 p.m., Mondays through Fridays, (except Fleet Facilities);

4.2.7 The Station has violated any provisions of this Regulation, or any Rule, Regulation, or Department policy properly promulgated for the operation of a Station;

4.2.8 The Station was or is not equipped as required by Section 8.0 of this Regulation;

4.2.9 The Station is not operating within the property boundaries of the location specified on the Permit;

4.2.10 A Non-Permitted Person has gained access to the official testing portion of the analyzer, conducted any portion of an official inspection, or signed an Inspection Report;

4.2.11 The approved analyzer has been tampered with or altered in any way contrary to the certification and maintenance requirements of the Analyzer;

4.2.12 The Station denies access to a representative of the Department to conduct an audit or other necessary business during regular business hours;

4.2.13 The Station denies access to or conceals pertinent information from a representative of the Department during an audit or while conducting other necessary business during regular business hours;

4.2.14 The Station performed unnecessary repairs not justified by the results of the inspection;

4.2.15 In accordance with 41-6a-1642 and 41-6a-1643 Utah Code Annotated, 1953, As amended, an emissions inspection for a Salt Lake, Utah, Davis, Cache, or Weber County resident was performed but not as required by the Regulations adopted by the applicable county and/or the UTAH 2011 Analyzer prompts.

4.2.16 The vehicle being tested has been altered or tampered with in any way so that it will either pass or fail the emissions test when it would not otherwise.

4.2.17 In accordance with 40 CFR § 51.364(b)(2), The Weber-Morgan Health Department shall have the authority to impose penalties against the licensed Station, as well as the Tester/Technician, even if the Station had no direct knowledge of the violation but was found to be careless in oversight of Tester/Technicians or has a history of violations. Stations shall be held fully responsible for Tester/Technician performance in the course of duty.

4.3 Suspension, Revocation, or Denial of Tester/Technician Permit. The Department may suspend, revoke, or deny the Permit of a Tester/Technician and require the surrender of the Tester/Technician Permit upon showing that:

4.3.1 The Tester/Technician caused any of the violations listed in section 4.2 to occur;

4.3.2 The Tester/Technician issued or caused a Certificate of Compliance to be issued to an owner/operator without an approved inspection being made;

4.3.3 The Tester/Technician denied the issuance of a Certificate of Compliance to the owner/operator of a vehicle that, at the time of the inspection, complied with the law for issuance of said certificate;

4.3.4 The Tester/Technician issued a Certificate of Compliance to a vehicle that, at the time of issuance, was in such condition that it did not comply with this Regulation;

4.3.5 The Tester/Technician inspected, recorded and passed the tampering inspection, for a vehicle that did not, at the time of inspection, comply with the tampering requirements of the tampering inspection detailed in Section 9.11, regardless of whether a Certificate of Compliance was issued or not;

4.3.6 Inspections were performed by the Tester/Technician but not in accordance with applicable policies, procedures, technical bulletins, and this Regulation;

4.3.7 The Tester/Technician allowed a Non Permitted Person to perform any portion of an inspection or gain access to the official testing portion of the Analyzer;

4.3.8 The Tester/Technician signed an inspection report stating that he/she had performed the emissions test when, in fact, he/she did not;

4.3.9 The Tester/Technician falsified any inspection or official document of the Vehicle Emissions Inspection and Maintenance Program;

4.3.10 The Tester/Technician performed unnecessary repairs not justified by the results of the inspection; or

4.3.11 In accordance with Sections 41-6a-1642 and 41-6a-1643 Utah Code Annotated, 1953, as amended, an emissions inspection for a Weber, Salt Lake, Davis, Cache or Utah County resident was performed but not as required by the Regulations/Ordinances adopted by the applicable county.

4.4 Administrative Penalty: in lieu of suspending a Permit under Sections 4.2 and 4.3, the Department may agree to an administrative monetary settlement such as a negotiated consent agreement.

4.5 The Department shall respond according to policies, procedures and this regulation, to public complaints regarding the fairness and integrity of inspections they receive. The Department shall provide a method for inspection results to be challenged if there is a reason to believe them to be inaccurate. To challenge the results of an inspection or reinspection, a motorist must present his or her vehicle within 2 days (excluding Saturday, Sunday and Holidays) of the inspection being challenged for another emissions inspection at the Weber-Morgan Health Department Emissions Technical Center.

4.6 The Department is authorized to take any and all necessary measures to ensure or facilitate a smooth transition from the UTAH 2000 Analyzer testing program to the new UTAH 2011 Analyzer testing program required by this Regulation.

## 5.0 SCOPE

It shall be unlawful for any person not to comply with any policy, procedure, technical bulletin, regulation or ordinance promulgated by the County and/or the Department unless expressly waived by this Regulation.

## 6.0 GENERAL PROVISIONS

Subject to the exemptions described in Section 6.4 and pursuant to the schedule in Section 6.1, motor vehicles of model years 1968 and newer that are owned and/or operated by a person domiciled in Weber County, shall be subject to an annual or biennial emission inspection performed by a Station or Other Entity approved by the Department. Registration of a vehicle owned and operated by a Weber County resident in a County other than Weber is a violation of this Regulation. Fraudulent registration of a vehicle as a farm truck, diesel, or other exempted vehicle is also a violation of this Regulation.

6.1 Beginning 1 January 1992 a Certificate of Compliance, Certificate of Waiver or evidence that the motor vehicle is exempt from the Inspection and Maintenance Program requirements (as defined in section 6.4) shall be presented to the Weber County Assessor or the Utah State Tax Commission and the Air Pollution Control Fee paid (See section 6.8.2) as conditions precedent to annual registration or annual renewal of registration of a motor vehicle. Certificates of Compliance from other EPA approved I/M Programs may be accepted, if approved by the Director, provided those I/M Programs are equally effective in reducing emissions.

6.2 A Certificate of Compliance issued to a dealer licensed with the State of Utah and issued in the dealer's name, shall be valid for registration purposes for a period of eleven months as specified in Section 14-6a-1642 (10) b-ii Utah Code Annotated, 1953, as amended. The purchaser's name, address, and phone number shall be recorded by the dealer on the back of the Certificate.

6.3 Publicly-Owned Vehicles. Owners of publicly-owned vehicles shall comply with the Vehicle Emissions Inspections/Maintenance program requirements in accordance with this Regulation on an annual or biennial basis pursuant to a schedule determined by the Department. Federally-owned vehicles and vehicles of employees regularly operated on a federal installation located in the county that do not require registration in the State of Utah shall comply with the emissions testing requirements on an annual or biennial basis pursuant to a schedule determined by the Department and as required by Section 118 of the Clean Air Act (1990 amendment).

6.4 Vehicle Exemption. The following vehicles are exempt from the annual or biennial emissions inspection:

6.4.1 Any motor vehicle of model year 1967 or older;

6.4.2 All agricultural implements of husbandry and any motor vehicle that qualifies for an exemption under Section 41-6a-1642, Utah Code Annotated, 1953, as amended;

6.4.3 Any vehicle used for maintenance or construction and not designed or licensed to operate on the highway;

6.4.4 Any motorcycle or motor driven cycle (including vehicles which operate with an engine normally used in a motorcycle);

6.4.5 Any vehicle that operates exclusively on electricity;

6.4.6 Any new motor vehicle being sold for the first time that has a valid Manufacturer's Statement of Origin form;

6.4.7 Any vehicle with an engine smaller than forty (40) cubic inch displacement (655 cc); and

6.4.8 Tactical military vehicles.

6.4.9 Any diesel fueled vehicle 1997 and older.

6.4.10 Any diesel fueled vehicle with a GVW greater than 14,000 pounds.

6.5 It shall be the responsibility of the Tester/Technician to determine if a motor vehicle is exempted from Section 6.4 of this Regulation when presented to the Tester/Technician for an inspection. It shall be the Tester/Technician's responsibility to inform the owner/operator of the vehicle that the vehicle is not required to have an inspection for vehicle registration purposes.

6.6 Official Signs.

6.6.1 All Stations, except fleet facilities, shall display in a conspicuous location on the premises;

6.6.1.1 An official sign provided and approved by the Department;

6.6.1.2 The emissions standards, as promulgated under authority of Section 13.0 and Appendix C, and

6.6.1.3 The fees charged by that station for performing an emissions inspection.

6.7 Equipment Available for Inspection

6.7.1 Required tools, materials, publications (see Section 8.1.8.3.c) supplies, records, unused Certificates of Compliance, other required forms, records of completed inspections, and a complete copy of this Regulation, shall be kept at the station at all times and shall be available for inspection and collection by the Department at any time the station is open for business.

6.7.2 A periodic inspection and audit shall be made by a representative of the Department to verify compliance with this Regulation for each Station.

6.7.2.1 During the time of the inspection and audit, the Department representative shall have exclusive access to the approved testing Analyzer(s).

6.7.2.2 The Department representative may check the accuracy of the Analyzer using Department gas to verify that the Analyzer is reading within the tolerances established by the Department. Analyzers not reading within the acceptable tolerances shall be calibrated to acceptable tolerances or placed out of service.

## 6.8 Fees

6.8.1 The fees assessed Stations and Testers/Technicians shall be determined according to a fee schedule adopted by the Board of Health. The fee schedule is referenced in Appendix B of this Regulation.

6.8.2 The following fee is hereby assessed upon every motor vehicle registered in Weber County annually at the time of registration of the vehicle:

6.8.2.1 Air Pollution Control Fee -- See Appendix B of this Regulation.

6.8.2.2 This fee assessment is included upon all motorized vehicles unless exempted by Utah State Rule.

6.8.2.2.a This includes the vehicles that are exempted from the inspection requirements of this Regulation by Section 6.4

6.8.2.3 Additional fees may be assessed on motor vehicles by other Health Regulations.

6.8.3 Stations may charge a fee for the required service. The fee may not exceed, for each vehicle inspected, the amount set by the Board of Health and referenced in Appendix B of this Regulation:

6.8.3.1 The inspection fee pays for a complete inspection regardless of test results. The owner is entitled to one (1) free reinspection if the vehicle requires a TSI test or two (2) free reinspections if the vehicle requires an OBD test if he/she returns to the station that performed the original inspection within thirty (30) days from the date of the initial inspection. The emissions inspection fee shall be the same regardless of the test results.

6.9 These fees are subject to change and may be amended as deemed necessary by the Board of Health to accomplish the purposes of this Regulation.

## 7.0 STANDARDS AND SPECIFICATIONS FOR ANALYZERS AND CALIBRATION GASES

### 7.1 Approval of Analyzers

7.1.1 No emissions inspection or emissions test required by this Regulation shall be performed after January 31, 2012 unless the type of instrument used for determining compliance with this Regulation is the UTAH2011Analyzer. The Analyzer shall meet the requirements of the Analyzer specifications referenced in Appendix A of this Regulation.

### 7.1.2 Analyzer Registration

Any Analyzer used by a Station shall be registered with and approved by the Department and shall be issued an analyzer identification number. Identification numbers are not transferable. Any new or used Analyzer put in use after station approval must be approved by the Department before use.

### 7.1.3 Running Changes

Any changes to the design characteristics or component specifications that may affect the performance of an Analyzer to be used as an official test instrument in the Vehicle Emissions Inspection and Maintenance Program shall be approved by the Department. It shall be the Analyzer manufacturer's responsibility to verify that the changes have no detrimental effect on the performance of the Analyzer.

7.1.3.1 It shall be a violation of this Regulation for any person to alter or modify the hardware or software of an approved Analyzer without written application and formal written approval by the Department.

7.1.3.2 It shall be a violation of this Regulation for any person to gain access to any Department controlled portions of an approved Analyzer without written approval by the Department.

### 7.1.4 Documentation, Logistics, and Warranty Requirements

#### 7.1.4.1 Instrument Manual

An instrument manual shall be provided by the Analyzer manufacturer. The instruction manual shall be conveyed to the purchaser at the time of sale and shall contain at least the following information for the Analyzer:

- (a) A complete technical description;
- (b) The accessories and options that are included and/or available;
- (c) The location of the model number and identification markings;
- (d) Operating maintenance schedule including daily, weekly, and monthly accommodations and procedures for maintaining sample system integrity including, but not limited to, leak check, hang up, calibration and filters. The services to be performed only by the manufacturer shall be clearly identified;

#### 7.1.4.2 Analyzer Maintenance.

The Analyzer shall be maintained in accordance with the manufacturer's recommended maintenance schedule and records of this maintenance service shall be maintained for examination by the Department.

7.1.4.3 Analyzer printers shall be maintained in such a manner that the printing of the Certificates, inspection reports and documents are accurate and legible. If any printer fails to properly function, then the Station shall discontinue testing until the required repairs have been performed or a replacement printer is installed.

7.1.4.4 No person may engage in repair of the Analyzer unless approved by the Department.

### 7.2 Gas Calibration and Leak Check.

7.2.1 The Analyzer instruction manual and other Department approved information shall be reviewed by the Tester/Technician to ensure that proper procedures are being used for performing the gas calibration.

7.2.2 A Tester/Technician shall perform a leak check and a gas calibration of the Analyzer, with an approved calibration gas, within 72 hours prior to performing any emission test. The gas calibration and leak test must be performed in accordance with the Analyzer specifications as contained in Appendix A.

7.2.3 The Analyzer shall lock-out of the TSI test mode when calibrations and leak tests are not performed within prescribed time frames.

7.2.4 The Department shall use and require for use in the calibration of Analyzers, calibration and span gases and containers meeting the following guidelines.

7.2.4.1 The analyzer manufacturer and/or manufacturer designated marketing vendor shall, supply at a reasonable cost calibration gases approved by the Department to any ultimate purchaser of the Analyzer. Each new or used Analyzer sold by the manufacturer or marketing vendor shall have when deemed necessary by the Department, approved full calibration gas containers installed and operational at the time of delivery.

7.2.4.2 The calibration/Span gases supplied to any I/M Station shall conform to the specifications of the Department. All calibration gases shall meet all requirements for

emissions warranty coverage. Only gas blends approved by the Department shall be used to calibrate the Analyzers.

## 8.0 PERMIT REQUIREMENTS OF THE VEHICLE EMISSIONS STATION

### 8.1 Permit Required.

8.1.1 No person shall operate a Station without a valid Permit issued by the Department. A person desiring to operate a Station shall submit to the Department a written application for a Permit on a form provided by the Department. To qualify for a Permit, an applicant shall:

8.1.1.1 Be an owner of the proposed Station or an officer of the legal ownership;

8.1.1.2 Comply with the requirements of this Regulation;

8.1.1.3 Agree to allow Department access to the Station and to provide required information;

8.1.1.4 Pay the permit application fee at the time the application is submitted;

8.1.1.5 Present a copy of a current business license relating to the Station; and

8.1.1.6 Other information required by the Department.

### 8.1.2 The application shall Include:

8.1.2.1 The name, mailing address, telephone number, and signature of the person applying for the Permit and the name, mailing address, and permanent location of the Station;

8.1.2.2 Information specifying whether the Station is owned by an association, corporation, individual, partnership, or other legal entity;

8.1.2.3 The name, title, address, and telephone number of the person directly responsible for the Station;

8.1.2.4 The name, title, address, and telephone number of the person who functions as the immediate supervisor of the person specified under 8.1.2.3 of this section such as zone, district, or regional supervisor;

8.1.2.5 A statement signed by the applicant that attests to the accuracy of the information provided in the application, and affirms

that the applicant will comply with this Regulation, and allow the Department access to the Station; and

8.1.2.6 Other information required by the Department.

8.1.3 No person shall in any way represent any place as a Station unless the Station is operated under a valid Permit issued by the Department.

8.1.4 The Department is authorized to issue or deny Permits for Stations.

8.1.5 A Permit may not be transferred from one person to another person, from one Station to another Station or from one type of operation to another, unless approved in writing by the Department.

8.1.6 The Permit shall be posted in a conspicuous place within public view on the premises.

8.1.7 The Department may renew a Permit for an existing Station or may issue a Permit to a new owner of an existing Station after a properly completed renewal form is submitted, reviewed, and approved, the fees are paid, and an inspection shows that the Station is in compliance with this Regulation.

8.1.7.1 The Department shall not approve any application for issuance or renewal of a Permit for an existing Station that is under suspension until the date that the suspension has expired.

8.1.7.2 The Department shall not issue a Permit to a new owner of any Station where a Permit has been revoked prior to twelve months from the date of revocation.

8.1.7.3 If the property referenced in 8.1.7.1 or 8.1.7.2 is sold or leased to a new person that wants to open as an approved Station, the new owner or lessee may follow the Adjudicative Procedures in Section 15.0 to seek a waiver from Sections 8.1.7.1 or 8.1.7.2 above based on a Departmental approved consent agreement. If a waiver is recommended the new owner or lessee may negotiate a consent agreement with the Department for the remainder of the suspension referenced in 8.1.7.1 or the twelve month waiting period as required in Section 8.1.7.2.

8.1.8 No Permit shall be issued unless the Department finds that the facilities, tools, and equipment of the applicant comply with the requirements of this Regulation and that competent personnel, certified under the provisions of Section 12.0, are employed and available to make inspections and adjustments, and the operation thereof will be properly conducted in accordance with this Regulation.

8.1.8.1 A Station shall immediately notify the Department if the station does not have a Tester/Technician employed.

8.1.8.2 A Station shall comply with all terms stated in the permit application and all the requirements of this Regulation.

8.1.8.3 As a condition for permitting all Stations, the following tools and materials shall be available for performance of the inspection and maintenance of motor vehicles unless specifically exempted by the Department:

(a) A Department approved Analyzer and connection to the Vehicle Information Database;

(b) An ignition timing light (test and repair only);

(c) Reference manuals approved by the Department that are readily accessible to the emissions Tester/Technician at any time that an emissions test is conducted. Reference manuals shall contain information covering the emissions control systems for the model years and makes of vehicles involved in the Vehicle Emissions Inspection and Maintenance Program;

(d) Sufficient hand tools for proper performance of the inspection and minimum repairs and maintenance as required by the Department;

(e) Department approved calibration gases;

(f) The Analyzer manufacturer's maintenance and calibration manual;

(g) All forms, technical bulletins, a copy of this Regulation, and other information materials provided by the Department;

(h) A suitable non-reactive tailpipe extender or suitable probe adapter for inspecting vehicles with screened or baffled exhaust systems; and

(i) Suitable tools to interface with onboard vehicle computers for computer controlled vehicles which are intended to receive official repairs.

## 8.2 Duties of Testers/Technicians Working in Permitted Stations:

8.2.1 All facets of the Vehicle Emissions Inspection and Maintenance Program shall be performed by the Tester/Technicians including, but not limited to:

8.2.1.1 Analyzer preparation, calibration checks, and leak checks;

8.2.1.2 Exhaust gas sampling and analysis for purposes of an official emissions test for issuance of a Certificate of Compliance;

8.2.1.3 Preparation of reports, forms, and certificates;

8.2.1.4 Accessing the official emissions testing section of the Analyzer; and

8.2.1.5 All other aspects of the official emissions test, including but not limited to, the tampering inspection, inserting the exhaust probe, hooking up the tachometer, hooking up the OBDII data link connector, entering data into the Analyzer, verifying that the engine is at normal operating temperature, ensuring that accessories are off, preconditioning the vehicle, and signing Inspection Reports, etc., unless otherwise approved in writing by the Director.

8.3 Safety. A Station facility shall be kept in good repair, free of obstructions and hazards and in a safe condition for inspection purpose. No inspection shall be conducted if unsafe conditions exist.

8.3.1 All applicable Occupation Safety and Health Administration (OSHA), and other applicable health and safety rules and regulations must be followed in the station.

8.4 Fleet Facility.

A person may establish a fleet facility that is exempt from conducting business at regular hours, or displaying program signs as long as only vehicles owned or controlled by the fleet facility owner are inspected at the station. All other requirements of this Regulation apply.

8.5 Permit Duration and Renewal.

8.5.1 The Permit for Stations shall be issued annually and shall expire on December 31<sup>st</sup> of each year. The Permit is renewable within sixty (60) days prior to the date of expiration.

8.5.2 It is the responsibility of the owner/operator of the Station to pursue the Permit renewal through appropriate channels,

8.5.3 The Station Permit fee shall be paid annually to the Department by the billing due date set by the Department.

8.5.4 Prior to the date on which the Station Permit fee is due the Department shall attempt to notify each regulated Station of the amount of

the fee. Fees unpaid after the billing due date will be assessed a late fee which shall be added to the original fee amount.

## 8.6 Station Permit Revocation and Suspension.

8.6.1 Station Permits may be suspended by the Department for violations of this Regulation.

8.6.2 Station Permits may be revoked by the Department for severe and/or repeated violations of this Regulation.

8.6.3 Suspension or Revocation of Station Permits shall follow the provisions of Appendix D of this Regulation.

8.6.4 Station Permits are and remain the property of the Department, only their use and the license they represent is tendered.

8.6.5 A Station Permit may be suspended or revoked by the Department because of returned checks and may not be reinstated until repayment is confirmed. All returned checks will be charged a returned check handling fee (referenced in Appendix B).

8.6.6 Failure to pay the Station Permit fee and any additional charges after the due date may result in suspension and/or revocation of the Permit and the right to operate as a Station.

## 8.7 Reinstatement of Revoked Station Permit. The Department may issue a Station Permit to a station operator that has had a Permit revoked after the following conditions have been met:

8.7.1 A minimum of five years has passed since the date of revocation for the previous Permit;

8.7.2 The station operator has not previously had 2 or more Permits revoked. Operators with 2 or more revoked permits are not eligible to make application for a Station Permit;

8.7.3 The station operator agrees to a 2 year probationary period.

8.7.3.1 During the probationary period, the operator agrees to surrender their permit should any violations occur that result in suspension or revocation. Failure to surrender the Permit will result in immediate revocation of the Permit by the Department;

8.7.3.2 During the probationary period, the operator agrees to an increased frequency of overt and covert audits as deemed necessary by the department;

8.7.4 The station operator will pay a non-refundable, Revoked Station Reinstatement Fee of \$2,500.00 to the department.

8.8 The Station shall hold the Department harmless in making application for a Permit or for its renewal, such action shall constitute a declaration by the applicant that the Department shall be held harmless from liability incurred due to action or inaction of the Station owner or their employees.

## 9.0 INSPECTION PROCEDURE

9.1 The official emission inspection shall be solely performed by a Tester/Technician who has been permitted at the station where the inspection is being performed and Department approved inspection procedures are being followed.

9.2 If the Tester/Technician is unable, unqualified, or unwilling to make the required repairs or adjustments, should the vehicle fail the inspection, he shall notify the owner/operator of the vehicle before the inspection is administered.

9.3 Prior to conducting any portion of the inspection, the Tester/Technician shall log into the official testing portion of the analyzer and the vehicle shall be located within full view of the analyzer camera unless a one-time-use camera bypass code has been issued by the department;

9.4 The temperature of the inspection area shall be between 41<sup>0</sup> Fahrenheit and 110<sup>0</sup> Fahrenheit (2<sup>0</sup> Celsius and 43<sup>0</sup> Celsius) during the inspection.

9.5 The Analyzer shall be kept in an area that provides adequate protection from the weather, wind, moisture, and extreme temperatures or any other damaging environmental exposure.

9.6 The electrical supply to the Analyzer shall be able to meet the Analyzer manufacturer's requirements for voltage and frequency stability.

9.7 The Tester/Technician shall not inspect or test any motor vehicle with a mechanical condition which may cause injury to personnel or damage to the Station or test equipment or which may affect the validity of the inspection, until such condition is corrected. Such conditions included but are not limited to: coolant, oil, or fuel leaks, low oil or low fluid levels, carburetor gas overflow, vehicle electronic instrument panel malfunction.

9.8 The Tester/Technician shall not inspect or test any motor vehicle with visible emissions and the vehicle shall be reported to the Department. Smoking Vehicles must be deemed by the Department to be in compliance with the Department Regulation for Visible Exhaust Emission Enforcement Program prior to testing.

9.9 Any time an engine stalls during an Emission Test, the Emission Test shall be restarted. If a Tester/Technician cannot complete an Emission Test because of continuous stalling, then the stalling problem shall be corrected before the test is performed.

9.10 The Tester/Technician shall verify the vehicle license plate and Vehicle Identification Number (VIN) on the vehicle and shall enter them in the Analyzer at the appropriate prompt.

9.10.1 The Tester/Technician shall enter completely and accurately all the information required as part of the data entry procedure for the official vehicle Emission Test on the approved Analyzer at the appropriate prompt sequence.

9.10.2 All data entries to the Analyzer during the inspection shall be true and factual.

9.11 The Tester/Technician shall:

9.11.1 Conduct the inspection in accordance with the prompts from the Analyzer and the requirements of this Regulation.

9.11.2 Examine the emissions/tune-up specification decal (sticker) and/or the Vehicle Emission Control Information (VECI) label under the hood and/or check an approved reference manual to determine if the vehicle was manufactured with the following Emission Control Systems:

- Catalytic Converter(s)
- Air Injection Reaction System (AIR System)
- Exhaust Gas Recirculation System (EGR System)
- Evaporative Control System (EVAP System)
- Positive Crankcase Ventilation System (PCV System)
- On-Board Diagnostics System (OBD System)
- Diesel Particulate System (DPF System)
- Urea System
- Gas cap

etc., as prompted by the Analyzer.

9.11.3 On 1996 and newer model year vehicles follow the OBD IM test procedures in accordance with Appendix E.

9.11.4 On 1990 through 1995 vehicles, visually inspect for the presence and apparent operability of the AIR system, catalytic converter, EGR system, Fuel Evaporative Control system, PCV system, and gas cap in accordance with Department procedures and record the information in the Analyzer. If these parts or systems have been removed, or are inoperable, the vehicle fails and the owner shall repair or replace the parts or systems before the emissions test may be continued.

9.11.5 On 1968 through 1989 vehicles, visually inspect for the presence and apparent operability of the AIR system, PCV system, EGR system, Fuel Evaporate Control System, catalytic converter and gas cap etc. in accordance with Department procedures and record the information on the emissions Analyzer.

9.11.6 2001 and older gasoline vehicles require a functional gas cap test following department approved procedures.

9.11.7 All diesel fueled vehicles 14,000 GVW and under and model year 1998 and newer shall be tested as specified in Appendix F, Diesel Test Procedures.

9.12 Prior to performing the exhaust gas sampling portion of an emissions test each vehicle shall be at normal operating temperature.

9.13 The inspection shall be performed with the transmission in 'park' or 'neutral' and with all accessories off, the emergency brake applied and the vehicle in Idle Mode (the vehicle may not be placed in gear to drop idle speed, headlights may be turned on).

9.14 The Analyzer probe shall be inserted into the exhaust pipe at least twelve inches (12") or as recommended by the Analyzer manufacturer, whichever is greater.

9.15 If a baffle or screen prevents probe insertion of at least twelve inches, a suitable probe adapter or snug fitting, non-reactive hose which effectively lengthens the exhaust pipe shall be used.

9.16 For all vehicles equipped with a dual exhaust system that does not originate from a common point, both sides shall be tested simultaneously with an approved adaptor.

9.17 When inspecting a vehicle under windy conditions, the tailpipe shall be shielded from the wind with a suitable cover.

9.18 For Vehicles requiring a Two Speed Idle Test:

9.18.1 With the tachometer properly attached to the vehicle being tested;

9.18.2 The vehicle shall be tested according to the testing sequence as programmed into the Analyzer. Vehicles failing because of excessive exhaust dilution shall repair the dilution problem prior to continuing the emissions test. The dilution standard shall be contained in the Analyzer specifications.

9.19 A Certificate of Compliance shall be issued if:

9.19.1 For 1968 through 1989 model year vehicles, the vehicle emissions levels measured during the TSI test are the same as or less than the applicable emissions standards;

9.19.2 For 1990 through 1995 model year vehicles, the vehicle passes the visual inspection described in Section 9.11 and the vehicle emissions

levels measured during the TSI test are the same as or less than the applicable emissions standards;

9.19.3 For 1996 and newer model year OBDII vehicles, the vehicle passes the visual inspection described in Section 9.11 and the On-Board Diagnostics (OBD) test requirements as specified in Appendix E of this Regulation.

9.20 If the vehicle does not pass the initial Inspection, the owner shall have thirty (30) days to have repairs or adjustments made and return the vehicle to the Station that performed the initial Inspection for one (1) free reinspection for a TSI test, or two (2) free reinspections for a OBD test. The vehicle that did not pass the initial inspection shall then be issued a Certificate of Compliance only when all of the following are met:

9.20.1 The vehicle is reinspected;

9.20.2 The vehicle's emission levels are the same or less than the applicable Emission Standards and;

9.20.3 For 1990 through 1995 model year vehicles, the vehicle passes the visual Inspection as provided for in Section 9.10.

9.20.4 For 1996 and newer model year vehicles, the vehicle passes the On-Board Diagnostics (OBD) test requirements as specified in Appendix E of this Regulation.

9.21 The Inspection Report shall be signed and provided to the customer.

9.22 Vehicles capable of being operated on both gaseous and liquid petroleum fuels shall be tested for both fuels in accordance with the Analyzer specifications as referenced in Appendix A of this Regulation.

9.23 When a vehicle owner requests an Inspection, the Tester/Technician shall perform the inspection in the testing mode of the approved Analyzer. Performing a screening test (or pre-test) in the manual mode of the approved Analyzer or on a non-approved analyzer shall be a violation of this Regulation if the vehicle owner requested an emissions inspection. Adjustments or repairs shall not be made prior to a requested inspection.

9.24 If a vehicle fails the inspection and is within the time and mileage requirements of the federal emissions warranty contained in the Federal Clean Air Act, the Tester/Technician shall inform the owner/operator that he may qualify for warranty coverage of emission related repairs as provided by the vehicle manufacturer and mandated by the Federal Environmental Protection Agency.

## 10.0 CERTIFICATE OF WAIVER

10.1 Prior to referring the vehicle owner/operator to the Department for a Certificate of Waiver, the tester/technician or Station shall verify the repair and eligibility requirements of this Section have been met.

10.2 A Certificate of Waiver shall be issued only under the following conditions;

10.2.1 For all vehicles, an initial inspection was performed that did not pass,

10.2.2 For all vehicles, a second inspection was performed that did not pass after completion of any qualifying repair work. For 1995 or older vehicles, the second test result must demonstrate that the repaired vehicle meets the waiver cut-points specified in Appendix C.

10.2.3 For all vehicles, air pollution control devices applicable and specified for the make, model and year of the vehicle as specified in Section 9.11 of this Regulation are in place and operable on the vehicle. If the devices have been removed or rendered inoperable, they shall be replaced or repaired before a Waiver is granted.

10.2.4 For 1968 to 1980 model year motor vehicles, if the vehicle continues to exceed applicable emissions standards after two hundred fifty dollars (\$250) of acceptable emissions related repairs have been performed and the adjustments required by Appendix G have been performed by a Certified and Permitted Emissions Repair Technician as part of the two hundred fifty dollars (\$250) in emissions related repairs. Proof of repair costs, for that specific vehicle, shall be provided to the Department in the form of an itemized bill, invoice, work order, manifest or statement in which emissions related parts and labor are specifically identified. If repairs are made by the vehicle owner or by someone who does not possess a valid Emission Repair Technician Permit, or is not an ASE Master Technician Certificate holder, or a manufacturer specific master technician certificate holder, employed by an I/M Program Inspection and Repair Station, the cost of labor may not be included in the two hundred fifty dollars (\$250).

10.2.5 For 1981 to 1995 model year motor vehicles, at least three hundred fifty dollars (\$350) of acceptable emissions related repairs have been performed and the adjustments (where applicable) required by Appendix G have been performed by a Certified and Permitted Emissions Repair Technician as part of the three hundred dollars (\$350) in emissions related repairs. Proof of repair costs, for that specific vehicle, shall be provided to the Department in the form of an itemized bill, invoice, work order, manifest or statement in which emission related parts and labor are specifically identified. If repairs are made by the vehicle owner or by someone who does not possess a valid Emissions Repair Technician Permit or is not an ASE Master Technician Certificate holder, or a

manufacturer specific master technician certificate holder, employed by an I/M Program Inspection and Repair Station, the cost of labor may not be included in the three hundred fifty dollars (\$350).

10.2.6 For 1996 and newer model year vehicles, at least four hundred fifty dollars (\$450) of acceptable emissions related repairs have been performed by a Certified and Permitted Emissions Repair Technician as part of the four hundred fifty dollars (\$450) in emissions related repairs. Proof of repair costs, for that specific vehicle, shall be provided to the Department in the form of an itemized bill, invoice, work order, manifest or statement in which emissions related parts and labor are specifically identified. If repairs are made by the vehicle owner or by someone who does not possess a valid Emissions Repair Technician Permit, or is not an ASE Master Technician Certificate, or a manufacturer specific master technician certificate holder, employed by an I/M Program Inspection and Repair Station, the cost of labor may not be included in the four hundred fifty dollars (\$450). Any repair costs eligible under the federal emissions warranties shall not be eligible to be applied to the repair cost waiver limits.

10.2.7 Any vehicle that experiences an increase in any emissions levels shall not be eligible for a certificate of waiver regardless of the amount spent in attempting to repair the vehicle.

10.2.8 As used in this section acceptable emissions related repairs:

10.2.8.1 Refers to those expenditures and costs associated with the adjustment, maintenance, and repair of the motor vehicle which are directly related to reduction of exhaust emissions necessary to comply with the applicable emissions standards, cut-points, and procedures.

10.2.8.2 Refers to repairs and maintenance of the following systems, if done according to manufacturer's specifications, to the extent that the purpose is to reduce emissions:

- (a) Air Intake Systems;
- (b) Ignition Systems;
- (c) Fuel Control Systems;
- (d) Emission Control Systems
- (e) Basic Engine Systems; and
- (f) Repair of problems identified by On-Board Diagnostic (OBD) fault codes.

10.2.9 Does not include adjustments, maintenance, or repairs performed 60 days prior to the official emissions inspection.

10.2.10 Does not include the fee paid for the inspection.

10.2.11 Does not include costs associated with the repairs or replacement required by Section 9.11 or the replacement, and/or repair of air pollution control equipment on the vehicle if the need for such adjustment, maintenance, replacement, or repair is due to disconnection of, tampering with, or abuse of the emissions control systems, or costs incurred due to engine switching and/or modifications.

10.2.12 Does not include repairs performed to the vehicle's exhaust system to correct problems with excessive exhaust dilution.

10.2.13 Does not include any diagnostics performed or any chemical additives.

10.2.14 A Certificate of Waiver shall only be issued once to any vehicle that qualifies, throughout the lifetime of the vehicle.

10.3 Information regarding all performed repairs shall be entered into the appropriate data base of the Analyzer when prompted.

10.4 A Certificate of Waiver shall only be issued by the Department. A Waiver shall only be issued after determining that the vehicle complies with the requirements of this section.

10.5 A Waiver shall not be issued to a vehicle with an inoperable check engine light.

## 11.0 ENGINE SWITCHING

11.1 All vehicles which qualify for testing under this section shall be tested by the Department.

11.2 Vehicles qualifying for testing under this Section shall not be eligible for a Certificate of Waiver.

11.3 Engine switching shall be allowed only in accordance with EPA policy, referenced in Appendix H.

11.4 Vehicles not meeting the requirements of Section 11.0 shall be deemed as tampered and dealt with in accordance with the tampering provisions of this Regulation.

11.5 All vehicles with switched engines shall be verified to meet EPA requirements by the Department prior to issuance of a Certificate of Compliance.

11.6 For 1968 to 1989 vehicles, having an engine other than the original engine and emissions control configuration are deemed as tampered. These vehicles must meet the HC and CO standards for the Model Year of the vehicle in order to receive a Certificate of Compliance, and are not eligible for a Certificate of Waiver, unless they are restored to the original engine and emissions control configuration or a configuration approved by the Department.

## 12.0 CERTIFIED EMISSIONS INSPECTION AND REPAIR TECHNICIAN / CERTIFIED EMISSIONS INSPECTION ONLY TECHNICIAN PERMIT

12.1 Certified Emissions Inspection and Repair Technician or Certified Emissions Inspection Only Permit is required.

12.1.1 Inspection for the issuance of a Certificate of Compliance shall only be performed by a person possessing a valid Certified Emissions Inspection and Repair Technician or a Certified Emissions Inspection Only Technician Permit issued by the Department.

12.1.2 Application for permit shall be made upon an application form prescribed by the Department. No Permit shall be issued unless:

12.1.2.1 For a Certified Emissions Inspection and Repair Technician Permit, the applicant shall show evidence of an associate degree or equivalent in automotive technology, or an ASE Master Technician Certificate or other Department approved prerequisites.

12.1.2.2 The applicant has shown adequate competence by successfully completing the written and practical portions of the Tester/Technician Permit requirements as specified in this Regulation.

12.1.2.3 The applicant has paid the required permit fees as set by the Board of Health (reference in Appendix B).

12.1.3 An applicant shall comply with all of the terms stated in the permit application and with all the requirements of this Regulation.

12.1.4 An applicant shall complete a Department approved training course and shall demonstrate knowledge and skill in the performance of Inspections and use of the approved Analyzer. Such knowledge and skill shall be shown by passing:

12.1.4.1 A written qualification test including but not limited to the following:

(a) Operation and purposes of emission control systems;

- (b) Inspection procedures as outlined in this Regulation and prompted by the Analyzer;
- (c) Operation of the Analyzer including the performance of gas calibration and leak check;
- (d) The provisions of Section 207(b) Warranty provisions of the Federal Clean Air Act; and
- (e) The provisions of this Regulation and other applicable Department policies and procedures.

12.1.4.2 A performance qualification test including but not limited to the following:

- (a) Visual inspection and knowledge of the required emission control equipment;
- (b) Demonstration of skill in proper use, care, maintenance, calibration and leak testing of the Analyzer;

12.1.5 A signed Hands-on Performance check sheet shall be necessary for successful completion of the performance qualification test. The hands-on Performance check sheet shall be signed by an instructor or other person approved by the Department.

12.1.6 The Department shall issue a Tester/Technician Permit to an applicant upon successful completion of the requirements of this Section.

12.1.7 The Tester/Technician Permit shall be valid only at the Station where the Tester/Technician is presently employed. If the Tester/Technician transfers from one Station to another, they shall notify the Department of the location change. The Permit shall be transferred by the Department prior to the Tester/Technician performing any inspections. The Permit will expire on the same date as the original. A transfer fee or duplicate fee will be charged, as set by the Board of Health and referenced in Appendix B of this Regulation.

12.1.8 Tester/Technician Permits are and remain the property of the Department, only their use and the license they represent is tendered.

## 12.2 Tester/Technician Permit Suspension and Revocation.

12.2.1 Tester/Technician Permit may be suspended by the Department for violations of this Regulation.

12.2.2 Tester/Technician Permit may be revoked by the Department for severe and/or repeated violations of this Regulation.

12.2.3 Suspension or revocation of Tester/Technician Permit shall follow the provisions of Appendix D of this Regulation.

12.2.4 Tester/Technician Permit may be suspended or revoked by the Department because of returned checks and may not be reinstated until repayment is confirmed. All returned checks will be charged a returned check handling fee (referenced in Appendix B).

### 12.3 Re-Qualification Requirements for all Tester/Technician Permits.

12.3.1 Tester/Technician Permits shall not be transferred from one person to another person. Tester/Technician Permits may not be transferred from one Station to another or from one status to another, i.e., from test and repair to test only, without a written request and Department approval.

12.3.2 The Department may renew a permit for an existing Tester/Technician after the permit renewal requirements have been completed, the fees are paid and the Tester/Technician has complied with this Regulation.

12.3.3 Upon determination by the Department of the necessity of updating the qualification for Tester/Technician, they shall be required to re-qualify.

12.3.4 The Tester/Technician shall be required to re-qualify within a specified time period determined by the Department (from the date of written notification by the Department). The notice shall be mailed to the address of record in the office of the Department. Failure to re-qualify within the required period of time shall result in suspension or revocation of the Tester/Technician Permit as described in this Regulation.

### 12.4 Tester/Technician Permit Expiration.

12.4.1 The Tester/Technician Permit shall be issued annually and shall expire one year from the date of issuance. The Permit shall be renewable within sixty (60) days prior to the date of expiration.

12.4.2 It is the responsibility of the Tester/Technician to pursue the renewal of the Tester/Technician Permit.

12.4.3 Permits that have expired for more than 90 days are not renewable.

### 12.5 Reinstatement of Revoked Tester/Technician Permit. The Department may issue a Tester/Technician Permit to a Tester/Technician that has had a permit revoked after the following conditions have been met:

12.5.1 A minimum of five years has passed since the date of revocation for the previous Tester/Technician Permit;

12.5.2 The Tester/Technician has not previously had 2 or more Permits revoked. Tester/Technicians with 2 or more revoked Permits are not eligible to make application for a Tester/Technician Permit;

12.5.3 A complete review of the Tester/Technician testing history will be conducted. A finding of 25 or more test records that indicate a failure to inspect or substitution of a vehicle other than the vehicle on the test record will result in the denial of the application.

12.5.4 The Tester/Technician agrees to a 2 year probationary period.

12.5.4.1 During the probationary period, the Tester/Technician agrees to surrender their Permit should any violations occur that result in suspension or revocation. Failure to surrender the permit will result in immediate revocation of the permit by the Department;

12.5.4.2 During the probationary period, the Tester/Technician agrees to participate in a testing record and overt testing procedure review once a quarter for the first year, and on six month intervals the second year;

12.5.4.3 During the probationary period, the Tester/Technician agrees to participate in additional trainings or audit procedures deemed necessary by the Department;

12.5.5 The Tester/Technician will pay a Revoked Tester/Technician Permit reinstatement fee of \$400.00 to the Department.

12.5.5.1 The fee will include tuition costs and associated materials for required trainings.

## 13.0 EMISSIONS STANDARDS FOR MOTOR VEHICLES

13.1 In order to obtain a valid Certificate of Compliance, a motor vehicle subject to an Emissions Inspection shall not exceed the maximum concentrations for carbon monoxide (CO), and Hydrocarbons (HC) specified in Appendix C of this Regulation, or pass an approved OBD test as specified in Appendix E of this Regulation.

13.2 The Board of Health may establish more stringent Emissions Standards than specified in Appendix C. Any change in Emissions Standards shall be effective upon the first day of any calendar month designated by the Board of Health. The Board of Health shall consider the following factors before establishing more stringent Emissions Standards:

13.2.1 The existing ambient air quality;

13.2.2 The required stringency necessary to meet air quality standards;

13.2.3 The requirements for air quality programs currently in effect as promulgated by the EPA, the Utah Department of Environmental Quality, the County and the Board of Health; The Cut-Points established shall be part of an overall program, in accordance with EPA guidelines, to achieve the required tailpipe reductions, of CO and HC from motor vehicles measured from the date this program is implemented;

13.2.4 The general level of emission control technology on vehicles registered in the County;

13.2.5 Population growth and other factors which may reasonably be expected to impact CO and HC concentrations in the atmosphere;

13.2.6 The likelihood of a particular Cut-Point to achieve desired air quality goals; and

13.2.7 The ability to ensure compliance with the requirements of Section 41-6a-1642 and Section 41-6a-1643, Utah Code Annotated, 1953, as amended.

13.3 The Board of Health shall notify the Utah Department of Environmental Quality of any change to the Emissions Standards within 30 days of adopting changes.

13.4 Notwithstanding the foregoing, the Board of Health understands and acknowledges that following EPA approval of this regulation as part of the Utah State Implementation Plan, no changes to the Cut-points specified in Appendix C, shall be effective to alter the Cut-points for federal purposes absent EPA approval of the change as a revision to the Utah State Implementation Plan.

#### 14.0 CERTIFICATE OF COMPLIANCE, CERTIFICATE OF COMPLIANCE NUMBERS AND CERTIFICATE OF WAIVER

14.1 No person shall make, issue or knowingly use any imitation or counterfeit of a Certificate of Compliance, Certificate of Compliance Numbers or Certificate of Waiver.

14.1.1 No person shall use a stolen Certificate of Compliance.

14.2 Certificate of Compliance Numbers shall be obtained only from the Department.

14.3 No refund or credit shall be allowed for unused certificates/numbers, except as provided in Section 14.7.

14.4 Certificate of Compliance Numbers shall be issued in lots to be determined by the Department.

14.4.1 Certificates of Compliance Numbers shall not be sold, loaned, transferred, or given to any other Station, or any unauthorized individual.

14.5 Certificates of Compliance shall not be issued until an inspection has been performed as required by this Regulation.

14.6 Completion of Certificates of Compliance by other means than the Analyzer by any person or station other than the Department is strictly prohibited.

14.7 Upon final cancellation, or revocation of the Permit, the Station owner, manager or other responsible person shall immediately surrender all unused Certificates of Compliance Numbers to the Department. The Department may receipt and refund the fee paid for unused certificates of Compliance Numbers to the Station owner according to the Weber County Clerk/Auditor's procedures. Upon transfer or termination of business ownership, the Station Permit and all Certificate of Compliance Numbers shall be immediately surrendered to the Department. Any person acquiring a business that has been permitted as an official Station, is prohibited from using any Permit, Certificate of Compliance Numbers or emissions documents issued to the former business; and

14.7.1 Any Analyzer manufacturer or their authorized representative who repossesses or otherwise removes an Analyzer from a Station shall immediately notify the Department and shall immediately surrender any Certificate of Compliance Numbers to the Department.

## 15.0 ADJUDICATIVE PROCEEDINGS

In accordance with the Weber-Morgan Health Department Adjudicative Proceedings, a Departmental Conference may be requested in writing within ten (10) days of any action in which a party is aggrieved.

## 16.0 PENALTY

16.1 Any person who is found guilty of violating any of the provisions of this Regulation, either by failing to do those acts required herein or by doing a prohibited act, shall be guilty of a class B misdemeanor pursuant to Section 26a-1-123, Utah Code Annotated, 1953, as amended. If a person is found guilty of a subsequent similar violation within two years, he shall be guilty of a class A misdemeanor pursuant to Section 26a-1-123, Utah Code annotated, 1953, as amended.

16.2 Each day that a violation is committed or permitted to continue shall constitute a separate violation. Also, each improperly issued Certificate of Compliance constitutes a separate violation.

16.3 The County Attorney may initiate legal action, civil or criminal, requested by the Department to abate any condition that exists in violation of this Regulation.

16.4 In addition to other penalties imposed by a court of competent jurisdiction, any person(s) found guilty of violating any of this Regulation shall be liable for all expenses incurred by the Department in prosecuting and/or abating the violation.

16.5 The Penalty Schedule for Permits warning, Permits suspension, Permits revocation, and/or negotiated consent agreements as adopted by the Board of Health shall be referenced in Appendix D of this Regulation and may be changed and updated by the Board of Health as deemed necessary to accomplish the purposes of this Regulation.

16.6 Enforcement of any criminal penalties does not preclude imposition of administrative or civil penalties and vice-versa.

#### 17.0 SEVERABILITY

If any provision, clause, sentence, or paragraph of this Regulation or the application thereof to any person or circumstances shall be held to be invalid, such invalidity shall not affect the other provisions or applications of this Regulation. The valid part of any clause, sentence, or paragraph of this Regulation shall be given independence from the invalid provisions or application and to this end the provisions of this Regulation are hereby declared to be severable.

#### 18.0 EFFECTIVE DATE

This Regulation including Appendix A through F shall become effective the day of its adoption by the Board of Health. Appendices may be modified by the Board of Health without affecting the rest of this Regulation. Appendices when amended by the Board shall become effective on the day of adoption of amendments by the Board of Health.

Adopted by the Weber-Morgan Board of Health on September 24, 2018

## APPENDIX A

### ANALYZER SPECIFICATIONS

#### 1 EQUIPMENT SPECIFICATIONS

##### 1.1 Computer.

Each workstation will be equipped with the same computer. The computer will be selected to minimize the obsolescence nature of personal computers. It will contain the following components as a minimum. Newer or faster components may be substituted if they become available and the older components can no longer be obtained.

- Windows 7 Professional.
- Intel Core 2 Duo E7500 processor.
- 2 GB RAM
- Onboard graphics controller capable of supporting 1024x768 resolution.
- Onboard LAN Ethernet controller.
- I/O ports: 6 USB 2.0/1.1 ports, 1 RJ45 LAN port, 3 DB-9 serial ports, 1 DB-15 VGA port, 1 DB-25 parallel port, audio jacks: line-out, line in, and mic in.

##### 1.2 Printer

Each workstation will contain a monochrome laser printer (or equivalent) including a paper tray with a 250 sheet capacity loaded with normal letter sized paper capable of printing 27 pages per minute and first pages within 5 seconds.

##### 1.3 OBD Interface

The OBD interface shall be a full OBD, SAE J1978, SAE J1979, SAE HS-3000 Scan Tool Compliant device that reads emission related codes on model year 1996 and newer vehicles. It supports all protocols including CAN, VPW, PWN, ISO, and KEYWORD (KWP). The hardware interface itself will be mounted inside the enclosure. It will be connected to a 5 meter heavy duty cable which will run from the cabinet to the connector used to plug into the vehicle's DLC. The OBD system will meet the following requirements:

- The interface cable has a plug that conforms to the J1962 Diagnostic Connector specification.
- Capable of communicating with the standard data link connector (DLC) of vehicles with certified OBD systems.
- Capable of checking for the monitors supported by the on-board diagnostic system and the evaluation status of supported monitors (test complete/test not complete) in Mode \$01 PID \$01, as well as be able to request the diagnostic trouble codes, as specified in SAE J1979.

In addition, the OBD system will have the ability to capture other information such as PID counts, PCM IDs, and OBD VINs if they are available which can be used to perform OBD “fingerprinting”.

The enclosure containing the hardware interface will supply the interface with an alternate power supply and ground. This will be used to successfully test vehicles which have either power or grounding issues.

#### 1.4 Gas Cap Tester

The gas cap tester used for pressure testing the vehicle gas caps will be mounted inside of the cabinet. The tester uses a 20 foot coiled hose connected to the outside of the cabinet. The gas cap tester will meet the following specifications:

- Measurement:
  - Flow Rate Method: Comparative reference
  - Test Pressure Regulation: 30" H<sub>2</sub>O gauge +/- 1"
  - Flow Rate Pass/Fail Point 60 cc/minute +/- 3 cc/minute
- Operating Conditions:
  - Temperature Range: 15-110° F
  - Altitude Range: - 60–7000’
  - Humidity Range: 0-100% (non-condensing)
- PASS/FAIL Adapter:
  - Pass Setting Flow Range: 52–56 cc/min.
  - Fail Setting Flow Range: 64–68 cc/min.

#### 1.5 Gas and OBDII Units

##### 1.5.1 Gas Analyzer

The system used for the TSI exhaust test will contain heavy duty sample and water filtration system designed to handle high throughput and a durable pump for rapid flow rate and sample delivery. The analyzer will meet the following specifications:

- Measurement Method is NDIR (non-dispersive infrared) for HC, CO, CO<sub>2</sub>, electrochemical cell for O<sub>2</sub>
- Measured Gases
  - HC, as either n-hexane or propane
  - CO, carbon monoxide
  - CO<sub>2</sub>, carbon dioxide

- O<sub>2</sub>, oxygen
- Measurement Range
  - HC: 0 to 30,000 ppm, (n-hexane)
  - CO: 0 to 15%
  - CO<sub>2</sub>: 0 to 20%
  - O<sub>2</sub>: 0 to 25%
- Operating Environment
  - 0° to 50°C (32° to 122°F)
  - 5 to 95% humidity
  - -300 to 3,000 m (-1,000 to 9,750 ft)
- Measurement Resolution
  - HC: 1 ppm
  - CO: 0.001%
  - CO<sub>2</sub>: 0.01%
  - O<sub>2</sub>: 0.01%
- Measurement Accuracy shall meet or exceed BAR97 accuracy standards.

The analyzer system will be contained in the standard cabinet. The cabinet will contain the following items on it for the analyzer:

- A fused AC power inlet.
- A connector for the sample probe.
- Three external ports for calibration.

#### 1.5.2 Tachometer

The tachometer used for RPM pickup will make use of existing RPM measurement technologies. It will have a resolution of +/-1 RPM and will be connected to the vehicle using the following methods:

- Number one cylinder using inductive probe.
- Primary circuit using inductive probe.
- Battery tachometer using battery clamps or cigarette lighter.

The tachometer leads will hang on a hook on the outside of the cabinet and the tachometer boards themselves will be mounted inside the cabinet.

## 1.6 Optional Components

### 1.6.1 Barcode Scanner

The workstation will contain a barcode scanner capable of reading both 1D and 2D barcodes. The barcode scanner will meet the following specifications:

- IP54-rated sealing protects against elements, industrial design withstands multiple 6.5 foot (2 meter) drops to concrete, reducing downtime and costs for maintenance and repairs.
- Ability to read both 1D and 2D barcodes.
- Omni-directional scanning.
- UPC, EAN, Code 39, Code 128, Codabar, Interleaved 2 of 5, Code 93
- PDF417, microPDF417, MaxiCode, DataMatrix (ECC 2000), Composite Codes, QR Code

The barcode scanner will be connected to the cabinet via a USB cable and will be powered by the same cable.

### 1.6.2 Camera

The workstation will contain one or more USB cameras to be used for taking video recordings during an inspection.

## 2 FUNCTIONAL SPECIFICATION

### 2.1 Analyzer System.

This section describes the equipment functional specifications for the Utah Analyzer System. These specifications include the maintenance functions to be performed by the analyzers and the operating conditions.

#### 2.1.1 Operating Conditions

The gas analyzer shall operate in a temperature range from 40 °F to 110 °F. Within this range, the analyzer must operate within the performance specification described above. A proper environment will be created in order to keep the analyzer operation within these ranges except under the most extreme circumstances. Proper air flow to the gas analyzer will be provided to prevent overheating and condensation of water vapor which could reduce the reliability and durability of the analyzer.

The input power required for proper operation of the analyzer will be 115 VAC at 60 Hz. External fuses or circuit breakers will be used to protect the analyzer from power fluctuations. The operation of the analyzer should not be affected by

electrical noise or voltage surges which would be found in a typical garage environment.

### 2.1.2 Warm-up

The gas analyzer shall be stable and ready for operation within 35 seconds of being turned on when at normal operating temperatures. If a test is started while the analyzer is in warm-up, a message will be displayed stating the analyzer is not ready and the test will not be able to proceed.

### 2.1.3 Sampling System

The sampling system will consist of a tailpipe probe attached to a flexible sample line at least 25 feet long, a water removal system, a particulate trap, sample pump, and other flow control components. A second probe and sampling line will be available to test vehicles with dual exhaust systems. The sampling system will be durable to withstand a heavy use system, be free from leaks, and be able to be easily maintained. The system must be able to resist corrosive elements it comes in contact with and be able to withstand typical vehicle exhaust temperatures.

### 2.1.4 Analyzer Response Time

The response time from the probe to the display shall not exceed eight seconds to ninety percent (90%) of a step change in input nor shall it exceed twelve seconds of a ninety-five percent (95%) step change in input. The response time for the O<sub>2</sub> sensor may be as long as fifteen seconds to ninety percent (90%) of full scale.

### 2.1.5 Gas Calibration

The gas analyzer will automatically require a gas calibration for HC, CO, CO<sub>2</sub>, and O<sub>2</sub> every 72 hours (this time will be configurable). If the gas analyzer does not pass the calibration, the system will automatically lock out any more TSI emissions tests from being run.

The gas calibration will ensure that accuracy specifications are satisfied and that linearity is correct at both of the required span points. The gases used for the calibration must use BAR97 approved gases and they will be introduced into the analyzer through calibration ports on the gas analyzer enclosure. These gases will be within 2% of the required span points.

The calibration procedure will be designed to minimize the amount of calibration gas used. The procedure will not use more than two liters per span point. In addition, the procedure will be designed to take less than five minutes.

The span points used for the gas analyzer calibration will be as close as possible to the following gases.

<b>Low Point</b>	<b>High Point</b>
Propane – 200 ppm	Propane – 3200 ppm
CO – 0.5%	CO – 8.0%

CO2 – 6.0%	CO2 – 12.0%
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#### 2.1.6 Single-Point Calibration Check / Audit

A single-point calibration check will be required as recommended by the manufacturer. This calibration check will use any pre-approved gas values in order to verify the calibration curve. The analyzer enclosure will be designed to allow hooking up the additional calibration gases/bottles but they will not be a permanent part of the analyzer and may be brought in as needed.

#### 2.1.7 Leak Check

The gas analyzer will automatically require a leak check for the sampling system at a frequency determined by the department. If the gas analyzer does not pass the leak check, the system will automatically lock out any more TSI emissions tests from being run. A probe tip cap will be provided in order to perform the vacuum decay method of leak check.

#### 2.1.8 Hang-up Check

Before every idle test performed by the system, a HC hang-up check will be performed. This check will be done immediately prior to the actual emission testing portion of the test. During the check, the HC value will be monitored and will automatically complete when the HC value is 20 PPM or less. If the HC value does not drop below this limit within 2 minutes, the inspector will be asked to verify the probe is not in the tailpipe. If the HC value continues to remain high, the test will abort. This check should be performed in the background while the vehicle information is being verified in order to minimize the length of the test.

#### 2.1.9 Dilution Check

While the test is being performed, the readings will be monitored to verify that excessive dilution is not being introduced to the system. This is done by adding the CO and CO2 readings and verifying that they are greater than or equal to 6%. If the sum falls below 6%, too much oxygen is entering the system and the test will need to be restarted after verifying that the probe has not fallen out of the vehicle's tailpipe.

#### 2.1.10 Gas Cap Tester Check

The analyzer will automatically require a check for the gas cap tester every 72 hours or at a frequency determined by the department. If the analyzer does not pass the gas cap tester check, the system will automatically lock out any more TSI and OBD emissions tests from being run if the gas cap test would be applicable for the vehicle being tested. A pass/fail standard device will be provided in order to perform the check.

#### 2.1.11 Information Display

The software will contain a location(s) where the following information is displayed to the inspector:

- Date of last calibration

- Date of last leak check
- Date of next required calibration check
- Gas analyzer related lockout

## 2.2 OBDII System

### 2.2.1 Operating Conditions

The OBD interface and associated components shall operate in a temperature range from 40 °F to 110 °F. Within this range, the OBD interface must operate within the performance specification described above. A proper environment will be created in order to keep the OBDII system operation within these ranges except under the most extreme circumstances. The input power required for proper operation of the OBDII enclosure will be 12 VDC. External fuses or circuit breakers will be used to protect the analyzer from power fluctuations. The operation of the OBDII system should not be affected by electrical noise or voltage surges which would be found in a typical garage environment.

### 2.2.2 DLC Connector

The OBDII connector will be compliant with the SAE J1978 specification and will allow the inspector the ability to connect to a vehicle easily. The attached cable will allow the system to connect to a vehicle located 15 feet away from the OBDII system.

### 2.2.3 General

The OBDII system will be compatible with most types of automotive service operating environments. The analyzer shall operate under the conditions and performance requirements listed here and in 40 CFR 51. The equipment design and operation must meet all Federal requirements (contained in 40 CFR 85.2207-2231) and recommended SAE practices (i.e., J1962, J1978 and J1979) for OBDII system inspections.

## APPENDIX B

### FEE SCHEDULE

The fees for implementing the requirements of the Vehicle Emission Inspection and Maintenance Program are contained in the current Weber-Morgan Health Department Fee Schedule available at 477 23<sup>rd</sup> Street, Ogden, Utah or online at the Department Web Page: [www.webermorganhealth.org](http://www.webermorganhealth.org)

## APPENDIX C

### MOTOR VEHICLE EMISSIONS Inspection and Maintenance PROGRAM

The following schedule gives the maximum allowable concentration for carbon monoxide (CO) and hydrocarbons (HC) for both cars and trucks as determined by an approved Analyzer using the prescribed procedures. The effective date for these cut-points is 1 November 1991.

ALL PASSENGER VEHICLES 1978 AND OLDER LIGHT DUTY TRUCKS 6,000 POUNDS GVWR OR LESS 1979 TRUCKS AND NEWER 8,500 POUNDS GVWR OR LESS		
<b>MAXIMUM CONCENTRATION STANDARDS</b>		
<u>MODEL YEAR</u>	<u>PERCENT CARBON MONOXIDE</u>	<u>PARTS/MILLION HYDROCARBONS</u>
1968 - 1969	6.0	800
1970 - 1974	5.0	700
1975 - 1976	4.0	600
1977 - 1979	3.0	500
1980	2.0	300
1981-1995	1.2	220
HEAVY DUTY TRUCKS AND VANS 1978 AND OLDER 6,001 OR GREATER 1979-2007 OVER 8,500 POUNDS GVWR 2008 AND NEWER OVER 14000 POUNDS GVWR		
<b>MAXIMUM CONCENTRATION STANDARDS</b>		
<u>MODEL YEAR</u>	<u>PERCENT CARBON MONOXIDE</u>	<u>PARTS/MILLION HYDROCARBONS</u>
1968 - 1969	7.0	1500
1970 - 1978	5.0	1200
1979 - 1980	4.0	1000
1981 AND NEWER	3.5	800

Note: These should be considered as “cut-points” for maximum allowable emissions levels. Vehicles must never be reset to these emission levels when readjustments are made, but rather shall be adjusted using manufacturer’s specifications. By using manufacturer’s specifications, the emission levels should be well below the “cut-points”.

The following schedule gives the maximum allowable concentration for carbon monoxide (CO) and hydrocarbons (HC) for both cars and trucks as determined by an approved Analyzer using the prescribed procedures in order to qualify for a waiver. The effective date for these cut-points is September 24, 2018.

ALL PASSENGER VEHICLES  
 1978 AND OLDER LIGHT DUTY TRUCKS 6,000 POUNDS GVWR OR LESS  
 1979 TRUCKS AND NEWER 8,500 POUNDS GVWR OR LESS

**MAXIMUM CONCENTRATION STANDARDS FOR WAIVERS**

<u>MODEL YEAR</u>	<u>PERCENT CARBON MONOXIDE</u>	<u>PARTS/MILLION HYDROCARBONS</u>
1968 - 1969	7.0	1000
1970 - 1974	6.0	800
1975 - 1976	5.0	700
1977 - 1979	4.0	600
1980	3.0	400
1981-1995	2.0	300

HEAVY DUTY TRUCKS AND VANS  
 1978 AND OLDER 6,001 OR GREATER  
 1979 AND NEWER OVER 8,500 POUNDS GVWR

**MAXIMUM CONCENTRATION STANDARDS FOR WAIVERS**

<u>MODEL YEAR</u>	<u>PERCENT CARBON MONOXIDE</u>	<u>PARTS/MILLION HYDROCARBONS</u>
1968 - 1969	8.0	1700
1970 - 1978	7.0	1500
1979 - 1980	5.0	1200
1981 - 1995	4.0	1000

Note: These should be considered as “cut-points” for maximum allowable emissions levels. Vehicles must never be reset to these emission levels when readjustments are made, but rather shall be adjusted using manufacturer’s specifications. By using manufacturer’s specifications, the emission levels should be well below the “cut-points”.

APPENDIX D  
PENALTY SCHEDULE

VIOLATION *	1 <sup>ST</sup> OCCURRENCE *	2 <sup>ND</sup> OCCURRENCE *	3 <sup>RD</sup> OCCURRENCE *	4 <sup>TH</sup> OCCURRENCE *
Failure to inspect or substituting a vehicle or vehicle simulator other than the vehicle entered in test record.	6 Month Suspension Station	9 Month Suspension Station	Revocation Station if within 2 years of 1 <sup>st</sup> occurrence	
	6 Month Suspension and mandatory training Tester/Technician	Revocation Tester/Technician if within 2 years of 1 <sup>st</sup> occurrence		
Non-permitted Tester/Technician performing inspection_or gained access to the official testing portion of the Analyzer.	2 Month Suspension Station	6 Month Suspension Station	Revocation Station if within 2 years of 1 <sup>st</sup> occurrence	
	2 Month Suspension Tester/Technician	6 Month Suspension Tester/Technician	Revocation Tester/Technician if within 2 years of 1 <sup>st</sup> occurrence	
Pass a Failing Vehicle (including tampering portion of inspection).	15 Day Suspension Stations	1 month Suspension Station	2 month Suspension Station	Revocation Station if within 2 years of 1 <sup>st</sup> occurrence
	1 month Suspension and mandatory training Tester/Technician	2 Month Suspension and mandatory training Tester/Technician	Revocation Tester/Technician if within 2 years of 1 <sup>st</sup> occurrence	
Failure to Comply with Proper Test Procedures.	Formal Warning Station	15 Day Suspension Station	45 Day Suspension Station	Revocation Station if within 2 years of 1 <sup>st</sup> occurrence
	Formal Warning and mandatory training Tester/Technician	30 Day Suspension and mandatory training Tester/Technician	90 Day Suspension and mandatory training Tester/Technician	Revocation Tester/Technician if within 2 years of 1 <sup>st</sup> occurrence
Passing Covert Audit Vehicle † (see Covert Audit – Station Responsibility) †† (Covert Audit Occurrence Reset)	Formal Warning and mandatory training Tester/Technician	3 Month Suspension and mandatory training Tester/Technician	Revocation Tester/Technician	
The station was or is not equipped as required by Section 8.0 of the Regulation.	Formal Warning Station	Suspension Station until properly equipped		
Performing Unnecessary or Unrelated Repairs.	Formal Warning Station	3 Month Suspension Station	Revocation Station if within 2 years of 1 <sup>st</sup> occurrence	
	Formal Warning and mandatory training Tester/Technician	3 Month Suspension and mandatory training Tester/Technician	Revocation Tester/Technician	

Falsifying any inspection or official document of the Vehicle Emissions Inspection and Maintenance Program or Fail a Passing Vehicle.	6 Month Suspension Station	9 Month Suspension Station	Revocation Station if within 2 years of 1 <sup>st</sup> occurrence	
	6 Month Suspension and mandatory training Tester/Technician	Revocation Tester/Technician if within 2 years of 1 <sup>st</sup> occurrence		
The Station or Technician denies access to a representative of the Department to conduct an audit or other necessary business during regular business hours.	6 Month Suspension Station	Revocation Station		
	6 Month Suspension Tester/Technician	Revocation Tester/Technician		
Station or Tester/Technician has violated any other provisions of the I/M Regulation, any State Rule or Law, County Ordinance or Department policy dealing with the I/M Program.	Up to 6 Month Suspension Station	6 Month Suspension Station	Revocation Station if within 2 years of 1 <sup>st</sup> occurrence	
	Up to 6 Month Tester/Technician	6 Month Suspension Tester/Technician	Revocation Tester/Technician if within 2 years of 1 <sup>st</sup> occurrence	
Inaccurate or Incomplete Data.	Formal Warning Station	15 Day Suspension Station	45 Day Suspension Station	Revocation Station if within 2 years of 1 <sup>st</sup> occurrence
	Formal Warning and mandatory training Tester/Technician	1 Month Suspension and mandatory training Tester/Technician	3 Month Suspension Tester/Technician	<u>Revocation Tester/Technician if within 2 years of 1<sup>st</sup> occurrence</u>

\*Other appropriate warnings, suspensions, negotiated consent agreements, and/or revocations as deemed necessary and prudent by the department. Violations that have been determined to be intentional or flagrant shall result in the maximum penalties.

### Negotiated Consent Agreements

Initial Tester/Technician and/or Station suspensions may be reduced in length by a Negotiated Consent Agreement that may substitute monetary settlements for part or all of the suspension time for each violation incurred under the penalty schedule. Consent Agreements for stations shall be based on 50% of the maximum emission inspection fee multiplied by the actual number of Certificates of Compliance issued during the equivalent suspension time frame prior to the violation. Consent agreements shall not exceed \$1,667.00 for every 30 day period contained within a suspension, and shall have a maximum amount of \$10,000.00 for a six month suspension. Consent agreements for the tester/technician shall be based on \$100 increments for any 7 day period or portion thereof up to a maximum of 180 days. Negotiated Consent Agreements are only applicable in relation to suspension.

Subsequent violations under each violation category are not eligible for negotiated consent agreements.

#### †Covert Audit – Station Responsibility

The owner/operator has a responsibility to provide a working environment to the tester/technician conducive to performing complete and thorough emissions tests as required in sections 4.3.5 and 9.0. Owner/Operators whose technicians fail to perform correctly on covert audit inspections will receive a written warning for each violation and will receive a three month suspension after three written warnings. Subsequent violations may result in additional suspensions or revocation.

#### ††Resets Based on Successful Completion of Covert Audits

A covert audit violation occurrence will be removed from a station record when two sequential covert audits are completed successfully and without deficiencies.

A covert audit violation occurrence will be removed from a technician record when two sequential covert audits are completed successfully and without deficiencies by that technician.

#### Explanation of Occurrence Resets Based on Time Allowance

The penalty schedule allows for some types of violations to be removed from a Station record 2 years after the date of that occurrence. When an occurrence is removed, subsequent occurrences will be moved back on the penalty schedule in the appropriate category (i.e. second occurrence now becomes the first occurrence). A Station will clear its' record in a specified category by going two consecutive years without committing any of that type of violation.

#### Section 4.2

The Department encourages each I/M Station to develop a Quality Assurance Program within their organization. This program should implement a process designed to minimize the station's exposure under the penalty schedule by providing oversight of the Tester/Technician's activities and verifying that each emissions test is conducted according to this regulation.

## APPENDIX E

### OBD IM TEST PROCEDURES

The following test procedure is to be followed for 1996 model year vehicles or newer with a GVWR of less than 8,501 pounds and 2008 and newer vehicles with a GVWR less than 14,001:

1. Verify vehicle information;
2. Accurately enter information into analyzer at the required prompts;
3. Review the information entered into data review screens and make corrections if needed;
4. **Perform Visual Tampering Inspection of all emission control systems;**
5. Turn ignition key to the off position;
6. Locate the Diagnostic Link Connector (DLC) and connect the OBD lead from the analyzer;
7. **Check for the correct operation of the Malfunction Indicator Light (MIL);**
8. Follow analyzer prompts and continue test;
9. The analyzer will communicate with the vehicle and read fault codes and readiness status;
10. When prompted, turn off the engine, put ignition in the off position, and remove OBD lead;
11. If the MIL is functioning correctly and the readiness monitors are set correctly, the vehicle passes the OBDII test.
12. If the MIL is not functioning the vehicle fails the OBDII test and requires repair;
13. If the MIL is commanded **ON** the vehicle fails. The vehicle has a problem and has stored a Diagnostic Trouble Code (DTC). This DTC needs to be diagnosed for repairs.
14. If the test results say **Not Ready**, the vehicle needs to complete one or more drive cycles to reset and run the readiness monitors.

## APPENDIX F

### DIESEL FUELED VEHICLE TEST PROCEDURE

1.0 All diesel fueled vehicles 2007 and newer shall be tested in accordance with the following procedure;

- 1.1 Verify vehicle information;
- 1.2 Accurately enter information into analyzer at the required prompts;
- 1.3 Review the information entered into data review screens and make corrections if needed;
- 1.4 **Perform Visual Tampering Inspection of all emission control systems**
- 1.5 Turn ignition key to the off position;
- 1.6 Locate the Diagnostic Link Connector (DLC) and connect the OBD lead from the analyzer;
- 1.7 **Check for the correct operation of the Malfunction Indicator Light (MIL)**
- 1.8 Follow analyzer prompts and continue test;
- 1.9 The analyzer will communicate with the vehicle and read fault codes and readiness status;
- 1.10 When prompted, turn off the engine, put ignition in the off position, and remove OBD lead;
- 1.11 If the MIL is functioning correctly and the readiness monitors are set correctly, the vehicle passes the OBDII test.
- 1.12 If the MIL is not functioning the vehicle fails the OBDII test and requires repair;
- 1.13 If the MIL is commanded **ON** the vehicle fails. The vehicle has a problem and has stored a Diagnostic Trouble Code (DTC). This DTC needs to be diagnosed for repairs.
- 1.14. If the test results say **Not Ready**, the vehicle needs to complete one or more drive cycles to reset and run the readiness monitors.

2.0 All diesel powered vehicles 1998-2006 shall be subject to a visual anti-tampering inspection. The emission control systems identified in the emissions decal shall be in place and apparently operable on the vehicle.

2.1 The emission control systems listed on the emissions decal must be present and apparently operable to pass the emissions inspection.

2.2 If the OBDII system is identified in the emissions decal, the procedure in Section 1.1 through 1.10 shall be followed.

2.3 If the emissions decal is missing the Tester/Technician shall check an approved reference manual to determine what emission control systems the vehicle was manufactured with.

2.4 If the emissions decal is missing and the vehicle meets the requirements of Section 2.3, the following emissions control systems shall be present and apparently operable if factory equipped:

- Catalyst;
- Exhaust Gas Recirculation System (EGR);
- Diesel Particulate System (DPF);
- Air Injection Reaction System (AIR);
- Urea System (SCR); and
- OBD II System.

2.5 A Certificate of Compliance shall be issued if the emissions control devices are in place and apparently operable. An inspection of the OBD II system as referenced in Section 2.2 shall be for informational purposes only and will not determine whether a vehicle passes or fails the emission inspection.

## APPENDIX G

### ADJUSTMENT PROCEDURES

The adjustments should be performed on all 1980 and older vehicles (where applicable) that failed the I/M test. These adjustments must be performed by an emissions repair technician before a vehicle will be eligible for a waiver.

#### ADJUSTMENT PROCEDURES (Vehicles without computer Controlled Engine Systems)

1. The following adjustments should be performed on all 1981 and older vehicles (where applicable) that failed the I/M test. These adjustments must be performed by a Technician before a vehicle will be eligible for Certificate Of Waiver.
2. The Emissions Inspection and Repair Technician shall refer to the emissions tune-up specifications. Adjustments shall be made according to manufacturer's specifications. The adjustment procedures shall be as follows:
  - 2.1 The dwell if applicable, shall be checked with a dwell meter to determine if it is within the recommended tolerance of 2 degrees of specifications. The dwell shall be reset if it exceeds this tolerance;
  - 2.2 The idle speed shall be checked with a tachometer to determine if it is within 50 rpm of the manufacturer's specifications. If it is not, it shall be set to within 50 rpm of the manufacturer's specifications;
  - 2.3 The ignition timing shall be checked, using a timing light or engine analyzer, to determine if it is within +4 degrees to -2 degrees of the recommended settings while the engine is idling at the specified speed. If the timing exceeds this tolerance, it shall be adjusted until it falls within +4 degrees to -2 degrees of the recommended setting;
  - 2.4 The idle air/fuel ratio shall be adjusted according to manufacturer's suggested procedures and/or specifications using an infrared analyzer, propane enrichment kit, or tachometer;
  - 2.5 The choke shall be checked for normal operation and, if appropriate, adjusted according to manufacturer's suggested procedures and/or specifications;
  - 2.6 After completing the preceding steps, the idle speed shall be readjusted to manufacturer's specifications; and
  - 2.7 The performed adjustments shall be entered in the required data base of the Analyzer.

## APPENDIX H



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

### ENGINE SWITCHING FACT SHEET

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460  
March 13, 1991  
OFFICE OF AIR AND RADIATION

Pursuant to frequent requests for information received by the U.S. Environmental Protection Agency (EPA) regarding the legality and effects of engine switching, this document will summarize federal law and policy pertaining to this matter, and will discuss other related issues.

#### A. Federal Law

The federal tampering prohibition is contained in section 203(a)(3) of the Clean Air Act (Act), 42 U.S.C. 7522(a)(3). Section 203(a)(3)(A) of the Act prohibits any person from removing or rendering inoperative any emission control device or element of design installed on or in a motor vehicle or motor vehicle engine prior to its sale and delivery to an ultimate purchaser and prohibits any person from knowingly removing or rendering inoperative any such device or element of design after such sale and delivery, and the causing thereof. The maximum civil penalty for a violation of this section by a manufacturer or dealer is \$25,000; for any other person, \$2,500. Section 203(a)(3)(B) of the Act prohibits any person from manufacturing or selling, or offering to sell, or installing, any part or component intended for use with, or as part of, any motor vehicle or motor vehicle engine where a principal effect of the part or component is to bypass, defeat, or render inoperative any device or element of design installed on or in a motor vehicle or motor vehicle engine, and where the person knows or should know that such part or component is being offered for sale or is being installed for such use. The maximum civil penalty for a violation of this section is \$2,500.

EPA received many questions regarding the application of this law to a situation where one engine is removed from a vehicle and another engine is installed in its place. EPA's policy regarding "engine switching" is covered under the provisions of Mobile Source Enforcement Memorandum No. 1A (Attachment 1). This policy states that EPA will not consider any modification to a "certified configuration" to be a violation of federal law if there is a reasonable basis for knowing that emissions are not adversely affected. In many cases, proper emission testing according to the Federal Test Procedure would be necessary to make this determination.

A "certified configuration" is an engine or engine chassis design which has been "certified" (approved) by EPA prior to the production of vehicles with that design. Generally, the manufacturer submits an application for certification of the designs of each engine or vehicle it proposes to manufacture prior to production. The application includes design requirements for all emission related parts, engine calibrations, and other design parameters for each different type of engine (in heavy-duty vehicles), or engine chassis combination (in light-duty vehicles). EPA then "certifies" each acceptable design for use, in vehicles of the upcoming model year.

For light-duty vehicles, installation of a light-duty engine into a different light-duty vehicle by any person would be considered tampering unless the resulting vehicle is identical (with regard to all emission related parts, engine design parameters, and engine calibrations) to a certified configuration of the same or newer model year as the vehicle chassis, or if there is a reasonable basis for knowing that emissions are not adversely affected as described in Memo 1A. The appropriate source for technical information regarding the certified configuration of a vehicle of a particular model year is the vehicle manufacturer.

For heavy-duty vehicles, the resulting vehicle must contain a heavy-duty engine which is identical to a certified configuration of a heavy-duty engine of the same model year or newer as the year of the installed engine. Under no circumstances, however, may a heavy-duty engine ever be installed in a light-duty vehicle.

The most common engine replacement involves replacing a gasoline engine in a light-duty vehicle with another gasoline engine. Another type of engine switching which commonly occurs, however, involves diesel powered vehicles where the diesel engine is removed and replaced with a gasoline engine. Applying the above policy, such a replacement is legal only if the resulting engine-chassis configuration is equivalent to a certified configuration of the same model year or newer as the chassis. If the vehicle chassis in question has been certified with gasoline, as well as diesel engines (as is common), such a conversion could be done legally.

Another situation recently brought to EPA's attention involves the offering for sale of used foreign-built engines. These engines are often not covered by a certified configuration for any vehicle sold in this country. In such a case, there is no way to install such an engine legally. EPA has recently brought enforcement actions against certain parties who have violated the tampering prohibition by performing illegal engine switches.

It should be noted that while EPA's policy allows engine switches as long as the resulting vehicle matches exactly to any certified configuration of the same or newer model year as the chassis, there are some substantial practical limitations to performing such a replacement. Vehicle chassis and engine designs of one vehicle manufacturer are very distinct from those of another, such that it is generally not possible to put an engine into a chassis of a different manufacturer and have it match up to a certified configuration. Therefore, practical considerations will generally limit engine switches to installation of another

engine which was certified to be used in that same make and model (or a "twin" of that make and model, e.g., Pontiac Grand Am and Oldsmobile Calais). In addition, converting a vehicle into a different certified configuration is likely to be very difficult, and the cost may prove prohibitive.

## B. State Laws

Many states also have statutes or regulations prohibiting tampering in general. Most of these laws specifically prohibit tampering by individuals. A few specifically prohibit engine switching, using provisions similar to those stated in EPA's policy. To determine the state law in any given state, the state's Attorney General's office should be contacted. In addition, many states have state or local antitampering inspection programs which require a periodic inspection of vehicles in that area, to determine the integrity of emission control systems. Many programs have established policies for vehicles which have been engine switched. While EPA does not require these programs to fail engine switched vehicles which are not in compliance with federal policy, the Agency does strongly recommend that these programs set their requirements so as to be consistent with the federal law. State or local programs which pass illegally engine switched vehicles may mislead federally regulated parties into believing that engine switching is allowed by federal law.

# **Appendix 2: Weber County Audit**

## **Policies and Procedures**

**POLICIES AND PROCEDURES**

**WEBER-MORGAN HEALTH DEPARTMENT**

**DIVISION OF ENVIRONMENTAL HEALTH**

**I/M PROGRAM**

**UPDATED AUGUST 2019**

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### **General Policies:**

1. Any contact with the public shall be handled in a courteous and professional manner.
2. Department personnel shall not discuss with anyone outside of the Department any personal evaluations made of a specific brand of equipment, supplier, person or I/M station.
3. Department personnel shall not recommend one I/M station or repair facility over another.
4. Department personnel who are asked for technical assistance regarding why a vehicle failed an emission test should not specifically pinpoint a repair that would fix the vehicle. Recommendations should remain generic in nature and several suggestions as to the appropriate repair for the type of failure may be given.
5. Every effort shall be made to resolve problems or complete services during the vehicle owner's first visit to the Vehicle Emission Center.
6. All equipment shall be warmed-up, calibrated and ready for operation prior to the first scheduled appointment.
7. Whenever possible, appointments shall be scheduled in advance.
8. No money or check is to be accepted in the field by any I/M program personnel for payment of any items. Payment will only be accepted in person, paid by credit card over the phone, or by mail at the Weber-Morgan Health Department (Department) office.
9. There are three basic types of audits: 1. Overt Audits; 2. Covert Audits; 3. Data Audits.

### **OVERT STATION AUDIT**

#### **Station Audit Policy**

1. I/M Program stations are to be audited on a bimonthly schedule. Audit frequency will be altered to a degree to help prevent the predictability of the audit date by station personnel. Audit dates may be more frequent for stations that display possible problem areas regarding compliance with I/M Program Regulations.
2. An I/M Station Audit Report will be completed during each audit. Any violation(s) will be noted, and the station manager or responsible individual informed regarding the violation(s).
3. A Station Audit Report will be completed during each audit. All items covered on the Station Audit Report are to be checked during each audit. Violations and obvious problem areas shall be noted on the Audit Report and brought to the attention of the station owner or responsible individual. Any discrepancies in the Station Audit Report shall be brought to the Program Manager.
4. Upon entering the station, the auditor will take notes of any discrepancies observed, i.e. incorrect inspection procedures, customer complaints, shop safety issues, hazardous spills or conditions. All running vehicles observed shall be vented to exhaust systems or to the outside. When these items are observed, the auditor shall approach the individual(s) or the

station manager about the situation and make sure that these items are corrected and it shall be noted on I/M Station Audit Report and initialed by the individual and station manager. This information will be entered into the station's file and checked on follow-up visit.

5. A gas audit of each station analyzer shall be performed by an auditor using Department approved span gas. If the analyzer fails the gas audit, it shall be noted on the Station Audit Report, and the auditor will attempt a second gas audit. If the second attempt fails the analyzer will automatically be locked out. A gas audit failure will require a service call to the analyzer's vendor, after repairs have been made the vendor will clear the lockout.
6. When possible, the station auditor should attempt to observe an actual emissions test during the station audit.
7. In the event that a station comes under investigation for alleged misconduct, a station auditor will conduct a station audit immediately and turn over all information to the Program Manager for appropriate follow-up.
8. All data collected during the audit will be stored in the I/M database, and all forms and reports filed in a station folder.

### **Station Audit Procedures**

#### **1. Prior to the audit:**

- a. Review station files for each Station to be visited. Note any follow-up action(s) required from the previous audit or station visit.
- b. Obtain a calibration gas cylinder for analyzer gas audit.
- c. Check supply of audit forms, blank paper, and other supplies needed.
- d. Review all test records since the previous station audit.
- e. Review videos to ensure tests are being conducted in accordance with section 9.3 of Weber County's I/M Regulation.

#### **2. During the audit:**

- a. Check in with the station owner/manager.
- b. If a official emission inspection is being conducted, observe the technician performing the inspection, after test is completed verify the VIN of vehicle and technician information with data on the analyzer.
- c. Verify that the Station Permit, I/M Tester/Technician's Certificates, Station Sign, Fee Chart, Reference Manuals, and other required equipment is available. Note any discrepancies on the I/M Station Audit Report.

- d. Select “LEAK CHECK” and perform the leak check to determine if there are any leaks in the system. If the leak check fails, the two speed idle portion of the analyzer will be locked out until repairs are made.
- e. Once a leak check has passed, select “GAS AUDIT” and perform an Analyzer Calibration Gas Audit.
- f. Check the Emission Control Application Guide to ensure it is not more than 4 years old.
- g. Select the Station Audit Report, have the owner/station manager review the I/M Station Audit Report. Indicate any corrective action necessary and establish a date for completion. Have authorized station personal electronically sign it.

3. **After the audit:**

Compile all information and review any discrepancies to determine if further corrective action is required. If so, coordinate with the Program Manager.

**ANALYZER VIDEO DATA USAGE**

Department staff and auditors will review video data as necessary to facilitate tester/technician training, conduct test and station record audits and assist the progress of operating a successful and effective mobile source emissions program. The following items will be operating practices for video data use;

- 1. Employees found to be inappropriately using emission analyzer video data will be subject to the Weber County IT Internet Usage and Security Policy 17.3.1. Inappropriate use will be considered a violation of this policy.
- 2. Disciplinary action against an I/M Station or Tester/Technician will not be based solely on video data. Additional information such as, but not limited to, vehicle test records, witness testimony, audit records, etc. will be necessary to support actions taken by the department.
- 3. Health department staff access to the emissions analyzer camera for uses other than recording emissions tests is limited to the following conditions;
  - a. Access to the camera video is necessary to facilitate training or repairs of the emissions analyzer.
  - b. Station personnel have given their consent for the department staff to access the camera portion of the analyzer.
  - c. Station personnel will be notified when camera access has been initiated and terminated by department staff.

## COMPLAINT PROCEDURE

1. When an emission related complaint is received, the person who received the complaint will record the following information on an approved complaint form: name of person submitting complaint, address, home and/or work phone, station at which incident occurred, date and time of the incident, and a description of the complaint. The complaint will then be assigned to a station auditor who will investigate the complaint, take appropriate action, file a report with Program Manager, and notify the person who submitted the complaint as to the results of the investigation (see section 4.5 of Weber County's I/M Regulation).

## COVERT AUDIT

1. To the extent possible, a covert audit will be performed at each I/M Program Station at least once a year. An attempt will be made to do one covert audit per Tester/Technician each year, if possible. Covert audits will be performed using a variety of vehicles that are representative of the subject fleet that are set to fail across a range of malfunctions. Suspected problem Stations and Tester/Technicians are targeted for earlier and more frequent audits. Complaints also trigger additional audits.
2. Remote visual observation of Tester/Technician performance will be conducted at least once per year per Tester/Technician. This can be in person or by watching video.
3. Vehicles used for undercover audits will be pre-tested and adjusted for use at the Vehicle Emission Center.
4. The audit shall be performed in such a manner as to avoid giving employees at the station being audited any indication that a covert audit is being performed.
5. Covert auditors will complete a training course provided by the Department, which is designed to thoroughly familiarize them with all aspects of inspection procedures.
6. Covert auditors will be rotated to avoid becoming recognizable to inspection station personnel.
7. In all cases, vehicles shall be adjusted to fail either the emissions or tampering or both aspects of the test.
8. On covert audit violations, administrative actions will follow the penalty schedule outlined in Appendix D of Weber County's I/M Regulation.
9. A complete covert audit includes the following phases:
  - a. Pre-testing and adjusting of vehicle.
  - b. Audit/testing at designated station.
  - c. Post-testing and readjusting original configuration if needed.
  - d. Submitting completed I/M tests and receipts to a Auditor, LEHS, or Program Manager, including a debriefing on covert audit results.
  - e. Taking appropriate action on any violations and/or discrepancies.

10. Covert auditors hired by the Weber-Morgan Health Department who conduct covert audits on emissions testing stations should make sure that they do not suggest, encourage or otherwise induce a station and/or tester/technician to pass the vehicle when it should not be passed. If, however, the station and/or tester/technician offers to pass the vehicle, whether or not for financial or other incentive, the covert auditor is free to follow the lead of the station and/or tester/technician. (See State vs. Sprague 680 p. 2d 404 and Utah Code Annotated, Section 76-2-303)

### **ENFORCEMENT ON STATIONS, CERTIFIED TESTER/TECHNICIAN, AND VEHICLE OWNERS**

1. The penalty schedule referenced in Appendix D of Weber County's I/M Regulation will be followed in the case of violations by individual Tester/Technicians and/or Stations. The penalties escalate based upon the frequency of violation and relative severity in terms of a violation's direct impact on the emission reduction potential of the program.
2. Auditors are granted the authority to immediately lock out a station for analyzer malfunction or finding of fraud. A Departmental Conference may be requested to evaluate evidence and determine further action. The Program Manager shall record all enforcement activities, including all formal warnings, consent agreements, suspensions, revocations and other notices of violation. Once a year, the program shall compile summary statistics on its enforcement activities and report this information to the EPA.
3. In the case of Tester/Technician incompetence, the Tester/Technician is required to be retrained, which consists of attending a four hour class put on by the Department. For cases of Tester/Technician violations resulting from factors other than incompetence, the Tester/Technician shall be suspended from testing for a minimum of 15 days, with such suspensions increasing with the severity and frequency of violation, leading ultimately to permit revocation.

### **PROCEDURE FOR HANDLING VEHICLES THAT WERE POTENTIALLY REGISTERED WITH A FRAUDULENT EMISSIONS CERTIFICATE**

When the Department determines that a vehicle was issued a fraudulent Certificate of Compliance or if the Department finds some inconsistencies in data, the vehicle information will be submitted to the Program Manager and the following steps will take place:

1. A certified letter will be mailed to the vehicle owner informing them that their vehicle was fraudulently issued a Certificate of Compliance. The letter will contain the following information:
  - a. Non-compliance of I/M Regulation,
  - b. Where to bring the vehicle for the required test,
  - c. Timeframe (5 days) given to have vehicle retested at the Weber County Vehicle Emissions Center.
  - d. Enforcement actions for not bringing in the vehicle.

2. If the vehicle is brought into the Weber County Emissions Center within the 5 days, one of two things will happen. Either the vehicle will be tested and cleared for passing the test or the vehicle owner will be given 30 days to have the necessary repairs made before another retest.

3. If the vehicle owner does not bring their vehicle in for the required test/retest within the time allotted, the DMV will send a revocation letter. The letter will inform the vehicle owner that their registration has been revoked and will only be reinstated after a passing test has been performed at the Weber County Emissions Center.

4. If the vehicle owner doesn't come in for the required retest after the 30 day period allotted, the vehicle owner's registration will be revoked by the DMV. The letter will inform the vehicle owner that their registration has been revoked and will only be reinstated after a passing test has been performed at the Weber County Emissions Center.

### **CERTIFICATION FOR TESTER/TECHNICIAN**

Any individual that is not currently permitted by the Weber County I/M Program or their previous Weber County permit has been expired for more than three months may become I/M permitted by completing the following requirements:

1. Fill out a Department application and meet the following requirements:
2. There are two paths potential testers/technicians can take to become certified.

Option 1: Pass the pretest with an 80%. Individuals can take the pretest twice in a 1 year period.

Option 2: Individuals without automotive experience or who have failed the pretest twice can enroll in the Ogden-Weber Technical College's 16 hour I/M Course. After successful completion of the course the individual will be allowed to take the pretest again, but will be allowed to pass with a 70%. To register for the class call 801.612.4161

Individuals who have passed the Ogden-Weber Technical College's course will be able to take the pretest a third time for free; each subsequent retest will cost \$20. Individuals must wait at least one week in between tests.

After successful completion of Option 1 or 2, the individual is required to purchase a Technician Training Manual for \$45; included in that fee is the cost of the first try on the written and practical exams. Three hours will be given to complete the written exam. Each subsequent retest will cost \$20. Individuals must wait at least one week in between tests.

After passing both exams, a permit may be purchased for \$25 and is valid for one year.

After a Tester/Technician is issued their permit, the Department will place the information into the Vehicle Information Database.

3. Upon satisfactory completion of all steps, the Tester/Technician will be given their own personal access code, and may commence emission testing.
4. To become a Test and Repair Tester/Technician, the individual must meet the requirements of section 12.1.2.1 of Weber County's I/M Regulation

### **RE-CERTIFICATION OF TESTER/TECHNICIANS**

1. In order to re-certify for emissions testing, the tester/technician shall complete at least one of the following:
  - a. Pass a written exam with a passing grade of 80% or better,
  - b. Pass a hands-on practical examination administered by the Department, and/or
  - c. When deemed necessary by the Department attend and pass if applicable, an emission related class taught by the Department or one that has been approved by the Department.
2. The written exam may be taken twice, allowing one week between attempts to pass exam.
3. Recertification requirements for Test and Repair Technicians may vary from year to year. For example, the Department may choose to have an ASE style written test one year to assess the technician's understanding of emission control systems and emission related repairs. Another year the Department may choose to have a practical test were the Department sets a vehicle up to fail, then watches the technician diagnose the problem.
4. No review of the first exam may be given if the test is not passed. A review may be given if the test is failed on the second attempt.
5. A Tester/Technician will be given a five (5) day grace period beyond their expiration date to pay the re-certification fee without a penalty.
6. If the recertification requirements are not met in the time allotted , then:
  - a. The Tester/Technician shall discontinue testing (will be locked out of analyzer on the date of expiration)
  - b. An expired renewal fee will be assessed
  - c. When deemed necessary the emission repair technician will be required to attend a re-certification class and pay an appropriate class fee, as set by the Department, to be paid prior to the beginning of the class
7. A Tester/Technician's permit that has expired or who leaves one station to go to another station shall notify the Department and pay the appropriate transfer fee.
8. The Program Manager may impose additional re-certification requirements as allowed by the Weber County I/M Regulation.
9. Any Tester/Technician that has been suspended due to any violation of the Weber County I/M Regulation shall not be allowed to recertify until their suspension has been served or a consent agreement has been signed and paid in full. If the suspension goes beyond the

expiration date, then the Tester/Technician will be required to pay the expired Tester/Technician fee.

10. Tester/Technicians who have expired, and have met the requirements for renewal, shall be reinstated in their station within one business day.

### **CERTIFICATE OF WAIVER**

A Certificate of Waiver shall be issued only under the following conditions:

1. A waiver may be issued by the Weber County I/M Vehicle Emission Center staff and only after verification that the vehicle complies with the requirements of Section 10 of Weber County's I/M Regulation.
2. All emission control systems applicable and specified for the make, model and year of the vehicle must be in place and operable on the vehicle. If the systems have been disconnected, removed, tampered, or are inoperable, they shall be replaced or repaired before a waiver can be granted.
3. At least \$250 for 1968 through 1980 model year vehicles, \$350 for 1981 through 1995 and \$450 for 1996 and newer model year vehicles must have been spent on acceptable emission repairs as verified by a Weber County I/M program auditor during physical examination of the vehicle and review of the repair documentation.
4. To count the cost of labor towards a waiver, all emissions related adjustments and repairs must be performed by an individual who meets the requirements of section 12.1.2.1 of Weber County's I/M Regulation
5. Any vehicle that experiences an increase in any emissions levels shall not be eligible for a waiver regardless of the amount spent in attempting to repair the vehicle.
6. Acceptable emissions related repairs (Section 10.2.8.2):
  - a. Refers to those expenditures and costs associated with the adjustment, maintenance, and repair of the motor vehicle which are directly related to reduction of exhaust emissions necessary to comply with the applicable emissions standards, cut-points, and procedures.
    - (i) Air Intake Systems;
    - (ii) Ignition Systems;
    - (iii) Fuel Control Systems;

- (iv) Emission Control Systems;
  - (v) Basic Engine Systems; and
  - (vi) Problems identified by the On-Board Diagnostic System (OBDII)
- b. Does not include adjustments, maintenance, or repairs performed prior to the first official test
  - c. Does not include the fee paid for the inspection.
  - d. Does not include costs associated with costs incurred due to engine switching and/or modifications.
  - e. Does not include repairs performed to the vehicle's exhaust system to correct problems with excessive exhaust dilution.
  - f. Does not include any diagnostics performed or any chemical additives.
  - g. The readiness monitor of the repaired emission control system must be set to ready.
7. A Waiver shall not be issued to a vehicle with an inoperable check engine light.
8. Prior to referring the vehicle owner/operator to the Department for waiver eligibility, the Tester/Technician or Station shall verify that the repair and eligibility requirements of this section have been met.
9. Vehicles still under the federal emissions warranty are not eligible for a waiver until all warranties are exhausted. Warrantied repair and a tampering repair shall not be applied to the repair cost waiver limits.

10. Waivers will only be issued once during the life of the vehicle and are only valid for 60 days.
11. The Weber county I/M Program does not provide time extensions to relieve economic hardships in obtaining emission-related repairs.
12. Vehicle registration and/or title must be in applicant's name. No waivers will be issued to dealers.

Waiver Procedures:

1. All waiver requests will be performed by appointment only.
2. All evaluations for waivers will be done by using the waiver checklist.
3. When an appointment is made, the vehicle owner will be instructed to bring the following items:
  - a. The vehicle that is seeking a waiver
  - b. All tests (official only)
  - c. All receipts
  - d. The vehicle registration or title in the applicant's name.
4. Upon arrival, the individual(s) will be given a waiver application to complete. This application will be reviewed by an I/M Auditor to determine eligibility.
5. If individual(s) meet all requirements, then the vehicle will be brought in for an inspection of the emission related devices and a smoke check. After these checks are performed and vehicle passes these checks, an official emission test will be performed.
6. A waiver will not be issued if the vehicle owner fails to meet any portion of the waiver requirements, to include not having a second test done, not having the car on the road because it is being repaired, the engine is not operational, or having an expired registration.

## **NOT-READY VEHICLE COMPLIANCE WAIVER**

A vehicle owner may be eligible for a Compliance Waiver when their vehicle is in a Not-Ready status and the following conditions are met;

1. The vehicle is not listed on the Health Department's OBDII Exempt.
2. The vehicle has an initial test conducted in the official test mode showing a Not-Ready status. The MIL is functioning correctly and is not commanded on. No pending codes are stored on the vehicle computer.
3. A second inspection has been conducted in the official test mode showing the following;
  - a. Readiness monitors have not changed from Ready to Not-Ready.
  - b. The test dates are separated by at least 7 days and the vehicle has traveled a minimum of 200 miles.
  - c. The MIL is functioning correctly and is not commanded on. No pending codes are stored on the vehicle computer.
4. A statement is included from a test-and-repair technician or other repair technician recognized by rule, stating the appropriate diagnostics and manufacturer recommended drive cycles have been performed and the readiness monitors have not been set.
5. A third inspection showing a Not-Ready status is conducted by a second test-and-repair permitted facility and in the official test mode. The MIL is functioning correctly and is not commanded on. No pending codes are stored on the vehicle computer. Readiness monitors have not changed from Ready to Not-Ready.
6. The necessary drive cycles, diagnostics and repairs have been completed.
7. A fourth or final inspection has been conducted by the second test-and-repair permitted facility and in the official test mode showing the following;
  - a. Readiness monitors have not changed from Ready to Not-Ready.
  - b. The initial and final test dates are separated by at least 14 days and the vehicle has traveled a minimum of 400 miles.
  - c. The MIL is functioning correctly and is not commanded on. No pending codes are stored on the vehicle computer.

8. A statement is included from a second test-and-repair technician or other technician recognized by rule, stating the appropriate diagnostics and manufacturer recommended drive cycles have been performed and the readiness monitors have not been set.
9. At least one of the statements must come from the vehicle manufacturer's dealership repair service and repair technician stating that they have performed the appropriate drive cycles and diagnostics, and they are unable to get the vehicle to reach a readiness status.

### **TEMPORARY PERMIT/EXTENSION**

1. A vehicle owner may be eligible for a temporary permit/extension from the DMV. All vehicle owners will be referred to the DMV and will be required to meet all of their current requirements.

### **VEHICLE TESTING**

1. Tests performed at the Vehicle Emission Center are by appointment only and include, but are not limited to the following:
  - a. Official I/M test
  - b. Testing of gray market vehicles
  - c. Testing of kit cars
  - d. Kit car engine verification
  - e. Challenge test
  - f. Courtesy retest
  - g. Issuance of waivers
  - h. Issuance of farm truck exemptions
  - i. Opacity test
  - j. Other tests/operations as deemed necessary

#### **Challenge test:**

- a. Test will be performed by I/M Auditor
- b. Complete testing procedures, as outlined in the Weber County I/M Regulation.
- c. A complaint report will be completed also if some follow-up action is indicated by the test results.
- d. If the test results indicate a problem with testing procedures and/or equipment of original testing station, all information will be turned over to the Program Manager for determination of action to be taken.

If test results indicate that original testing was correct and procedures were appropriate, the owner will be informed that such is the case and that he/she must comply with the requirements of the law as indicated on his/her original V.I.R.

Grey Market Vehicles:

Vehicles that were manufactured for sale outside the United States and do not have comparable emission control systems on them that a comparable U.S. vehicle would have, must be tested at the Vehicle Emission Center. Tampering requirements will be in accordance with modifications required by the EPA or as the vehicle was originally manufactured if no EPA modifications were required upon entry.

Vehicles that were manufactured for sale outside the United States but are equipped with the same emission control systems that a comparable U.S. vehicle would have may be tested at any permitted I/M station.

Kit Car Testing:

Kit cars shall be tested to the year of the engine using the applicable cut-points and tampering. If the engine is pre 1968 then cut-points and tampering for a 1968 model year shall be used for testing. A Nonconforming Vehicle Record will be completed for all kit cars.

Rebuilt Vehicles:

Rebuilt vehicles (vehicles that were totaled and rebuilt with new and/or used body parts) will be tested according to the year of the chassis.

Switched Engines:

Vehicles with switched engines shall meet all requirements of Appendix H of Weber County's I/M Regulation.

Courtesy Retests of Vehicles:

Courtesy retests will only be performed at the Vehicle Emission Center, by appointment only and without charge. In order to be eligible for a courtesy retest, the vehicle owner must produce a VIR indicating that they have paid for an emission test for the vehicle in question.

### **STATION INFORMATION**

1. Auditors will keep files on each station in the program.
2. Each file will contain the following:
  - a. Tab will contain station name and station number.
  - b. A copy of station application and station checklist.
  - c. A copy of the first station evaluation and performance report.
  - d. A personnel cover sheet on the opposite side of file for reports on station or Emission Repair Technician(s) infractions. These reports will include date entered and detailed information and copies of any reports pertaining to entry.
  - e. After each station audit, a copy of the station's evaluation and performance report will be put into the main data base.
  - f. Audits shall be filed upon returning to the office.
3. New stations shall meet the requirements in section 8.0 of the I/M Regulation.

### **ANALYZER LOCKOUTS**

1. Analyzer lockouts due to enforcement action will only be cleared by the Department.
2. Analyzer lockouts due to analyzer failure will only be cleared by the analyzer's vendor.

### **Station and Tester/Technician Suspension or Revocation**

1. All suspensions and revocations shall be done in accordance with the Weber County I/M Regulation.
2. All Stations and Tester/Technicians shall be notified by letter when they are locked out of the analyzer.
3. Any Station or Tester/Technician that has been suspended shall not be allowed to re-certify until the suspension is served or a consent agreement has been signed and paid in full.

## **SMOKING VEHICLES**

When a smoking vehicle complaint is received, the person who received the complaint will record the following information on an approved smoking vehicle complaint form: name of person submitting complaint, license plate, vehicle description, location, date, and time observed. The smoking vehicle complaint form will then be given to the Program Manager. The Program Manager will assign the complaint to an auditor and the following steps will take place:

1. A certified letter will be mailed to the vehicle owner informing them that their vehicle has been reported to the Weber-Morgan Health Department. The letter will contain the following information:

- a. Utah State Law, 41-6a-1626(2), regarding smoking vehicles.
- b. Where to bring the vehicle for the required test.
- c. Timeframe (10 days) given to bring vehicle in for test.
- d. Enforcement actions for not bringing in the vehicle.

2. If the vehicle is brought into the Vehicle Emissions Center within the 10 days, one of two things will happen. Either the vehicle will be tested (official I/M test and opacity test) and pass or the vehicle owner will sign a Notice of Violation stating that their vehicle failed. By signing the NOV, the vehicle owner is agreeing to make the necessary repairs within 30 days and to have the vehicle retested at the Vehicle Emissions Center.

3. If the vehicle owner does not bring their vehicle in for the required smoke test/retest within the time allotted or fails to make repairs, the DMV will send a “Notice of Revocation” letter.

4. The revocation will not be cleared until the vehicle has passed an official I/M test and opacity test at the Vehicle Emission Center.

## **FARM PLATES**

Vehicles legally registered as Farm Trucks may be exempt from the emission inspection. Owners of these vehicles will submit an application to the Vehicle Emission Center to determine eligibility.

Vehicles with a manufacturer's GVW of 12,001 lbs or greater, that qualifies for registration as a farm truck under section 41-1a-1206 (agricultural use only) may go directly to the DMV and bypass the Vehicle Emissions office.

Vehicles less than 12,001 lbs GVW must qualify through the Vehicle Emissions office and meet

the following guidelines:

- a. The vehicle must be a pickup truck.
- b. The registered owner of the vehicle must also own or lease and operate a farm on greenbelt property.
- c. The registered owner must sign the affidavit.

If all of the above criteria is met than a I/M Auditor will stamp and sign the affidavit in the appropriate space and send the individual to the DMV.

# ITEM 9



State of Utah

GARY R. HERBERT  
*Governor*

SPENCER J. COX  
*Lieutenant Governor*

Department of  
Environmental Quality

L. Scott Baird  
*Interim Executive Director*

DIVISION OF AIR QUALITY  
Bryce C. Bird  
*Director*

DAQ-116-19

**MEMORANDUM**

**TO:** Air Quality Board

**THROUGH:** Bryce C. Bird, Executive Secretary

**FROM:** Liam Thrailkill, Rules Coordinator

**DATE:** November 5, 2019

**SUBJECT:** PROPOSE FOR PUBLIC COMMENT: Amend R307-110-32. Section X, Vehicle Inspection and Maintenance Program, Part B, Davis County; and R307-110-35. Section X, Vehicle Inspection and Maintenance Program, Part E, Weber County.

---

The amendments to Section X, Vehicle Inspection and Maintenance Program, Parts B and E will have to be incorporated into the Utah Air Quality Rules. R307-110-32 is the rule that incorporates the new amendments to Part B, Davis County, into the rules; and R307-110-35 is the rule that incorporates the new amendments to Part E, Weber County. If the Board adopts the amendments proposed to Parts B and E, these amendments will become part of Utah's State Implementation Plan when the rule is finalized.

Recommendation: Staff recommends the Board propose R307-110-32 and R307-110-35 for public comment.

1 **Appendix 1: Regulatory Impact Summary Table\***

<b>Fiscal Costs</b>	<b>FY 2020</b>	<b>FY 2021</b>	<b>FY 2022</b>
State Government	\$0	\$0	\$0
Local Government	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Person	\$0	\$0	\$0
<b>Total Fiscal Costs:</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Fiscal Benefits</b>			
State Government	\$0	\$0	\$0
Local Government	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Benefits:</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Net Fiscal Benefits:</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

2  
3 \*This table only includes fiscal impacts that could be measured. If there are inestimable  
4 fiscal impacts, they will not be included in this table. Inestimable impacts for State  
5 Government, Local Government, Small Businesses and Other Persons are described in the  
6 narrative. Inestimable impacts for Non-Small Businesses are described in Appendix 2.  
7

8 **Appendix 2: Regulatory Impact to Non-Small Businesses**

9 This rule change is not expected to have any fiscal impacts on non-small businesses revenues  
10 or expenditures, because each county implements their own Inspection and Maintenance  
11 programs. This rule only incorporates those existing plans into the State Implementation  
12 Plan.

13 The Executive Director of the Department of Environmental Quality, Scott Baird, has reviewed  
14 and approved this fiscal analysis.

15  
16 **\*\*"Non-small business" means a business employing 50 or more persons; "small business" means  
17 a business employing fewer than 50 persons.**

18  
19 **R307. Environmental Quality, Air Quality.**

20 **R307-110. General Requirements: State Implementation Plan.**

21 ---

22 **R307-110-32. Section X, Vehicle Inspection and Maintenance Program,  
23 Part B, Davis County.**

24 The Utah State Implementation Plan, Section X, Vehicle Inspection  
25 and Maintenance Program, Part B, Davis County, as most recently amended  
26 by the Utah Air Quality Board on March 4, 2020, ~~December 5, 2012,~~  
27 pursuant to Section 19-2-104, is hereby incorporated by reference and  
28 made a part of these rules.

29  
30 **KEY: air pollution, PM10, PM2.5, ozone**

- 1 **Date of Enactment or Last Substantive Amendment:** [~~September 5, 2019~~
- 2 **2020**
- 3 **Notice of Continuation:** January 27, 2017
- 4 **Authorizing, and Implemented or Interpreted Law:** 19-2-104

**State of Utah**  
**Administrative Rule Analysis**  
 Revised October 2019

NOTICE OF PROPOSED RULE		
<b>TYPE OF RULE:</b> New ___; Amendment <u>X</u> ; Repeal ___; Repeal and Reenact ___		
<b>Title No. - Rule No. - Section No.</b>		
<b>Utah Admin. Code Ref (R no.):</b>	<b>R307-110-32</b>	<b>Filing No. (Office Use Only)</b>
<b>Changed to Admin. Code Ref. (R no.):</b> R		

**Agency Information**

<b>1. Agency:</b>	Department of Environmental Quality	
<b>Room no.:</b>	Fourth Floor	
<b>Building:</b>		
<b>Street address:</b>	195 N 1950 W	
<b>City, state:</b>	Salt Lake City, UT84116-3085	
<b>Mailing address:</b>	PO Box 144820	
<b>City, state, zip:</b>	Salt Lake City, UT 84116-3085	
<b>Contact person(s):</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Liam Thrailkill	801-536-4419	lthrailkill@utah.gov
Please address questions regarding information on this notice to the agency.		

**General Information**

<b>2. Rule or section catchline:</b>
Section X, Vehicle Inspection and Maintenance Program, Part B, Davis County.
<b>3. Purpose of the new rule or reason for the change</b> (If this is a new rule, what is the purpose of the rule? If this is an amendment, repeal, or repeal and reenact, what is the reason for the filing?):
The Utah Air Quality Board (Board) has proposed for public comment amended Utah State Implementation Plan, Section X, Part B. As a result, Section R307-110-32, which incorporates Section X, Part B, into the rule, must be amended to change the Board adoption date to the anticipated adoption date of the amended plan.
<b>4. Summary of the new rule or change:</b>
Section R307-110-32 is amended by changing the date of the last adoption by the Air Quality Board to 03/04/2020.

**Fiscal Information**

<b>5. Aggregate anticipated cost or savings to:</b>
<b>A) State budget:</b>
This rule change is not expected to have any fiscal impact on the state budget.
<b>B) Local governments:</b>
This rule change is not expected to have any fiscal impact on local governments.
<b>C) Small businesses</b> ("small business" means a business employing 1-49 persons):
This rule change is not expected to have any fiscal impact on small businesses.

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

This rule change is not expected to have any fiscal impact on non-small businesses revenues or expenditures because each county implements their own Inspection and Maintenance program. This rule only incorporates those existing plans into the State Implementation Plan.

**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 is not expected to have any fiscal impact on persons other than small businesses, non-small businesses, state, or local government entities.

**F) Compliance costs for affected persons:**

This rule change will not have a compliance cost 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.)

<b>Regulatory Impact Summary Table</b>			
<b>Fiscal Costs</b>	<b>FY 2020</b>	<b>FY 2021</b>	<b>FY 2022</b>
State Government	\$0	\$0	\$0
Local Government	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Person	\$0	\$0	\$0
<b>Total Fiscal Costs:</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Fiscal Benefits</b>			
State Government	\$0	\$0	\$0
Local Government	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Benefits:</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Net Fiscal Benefits:</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

**H) Department head sign-off on regulatory impact:**

The head of the Department of Environmental Quality, L. Scott Baird, has reviewed and approved this fiscal analysis.

**6. A) Comments by the department head on the fiscal impact this rule may have on businesses:**

After conducting a thorough analysis, it was determined that this proposed rule will not result in a fiscal impact to businesses.

**B) Name and title of department head commenting on the fiscal impacts:**

L. Scott Baird, Interim Executive Director

**7. This rule change is authorized or mandated by state law, and implements or interprets the following state and federal laws. State code or constitution citations (required):**

Subsection 19-2-104(1)(a)		

**Incorporations by Reference Information**

(If this rule incorporates more than two items by reference, please include additional tables)

**8. 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*):

	<b>First Incorporation</b>
<b>Official Title of Materials Incorporated (from title page)</b>	Utah State Implementation Plan Section X, Vehicle Inspection and Maintenance Program, Part B, Davis County.
<b>Publisher</b>	Utah Division of Air Quality
<b>Date Issued</b>	
<b>Issue, or version</b>	03/04/2020

**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*):

	<b>Second Incorporation</b>
<b>Official Title of Materials Incorporated (from title page)</b>	
<b>Publisher</b>	
<b>Date Issued</b>	
<b>Issue, or version</b>	

**Public Notice Information**

**9. The public may submit written or oral comments to the agency identified in box 1.** (The public may also request a hearing by submitting a written request to the agency. The agency is required to hold a hearing if it receives requests from ten interested persons or from an association having not fewer than ten members. Additionally, the request must be received by the agency not more than 15 days after the publication of this rule in the Utah State Bulletin. See Section 63G-3-302 and Rule R15-1 for more information.)

**A) Comments will be accepted until** (mm/dd/yyyy): 01/14/2020

**B) A public hearing (optional) will be held:**

<b>On</b> (mm/dd/yyyy):	<b>At</b> (hh:mm AM/PM):	<b>At</b> (place):

**10. This rule change MAY\* become effective on** (mm/dd/yyyy): 03/04/2020

\*NOTE: The date above is the date on which this rule MAY become effective. It is NOT the effective date. After the date designated in Box 10, the agency must submit a Notice of Effective Date to the Office of Administrative Rules to make this rule effective. Failure to submit a Notice of Effective Date will result in this rule lapsing and will require the agency to start the rulemaking process over.

**Agency Authorization Information**

**To the agency:** Information requested on this form is required by Sections 63G-3-301, 302, 303, and 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.

<b>Agency head or designee, and title:</b>	Bryce Bird, Director	<b>Date</b> (mm/dd/yyyy):	11/20/2019
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1 **Appendix 1: Regulatory Impact Summary Table\***

<b>Fiscal Costs</b>	<b>FY 2020</b>	<b>FY 2021</b>	<b>FY 2022</b>
State Government	\$0	\$0	\$0
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Non-Small Businesses	\$0	\$0	\$0
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<b>Total Fiscal Costs:</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Fiscal Benefits</b>			
State Government	\$0	\$0	\$0
Local Government	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Benefits:</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Net Fiscal Benefits:</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

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3 **\*This table only includes fiscal impacts that could be measured. If there are inestimable**  
4 **fiscal impacts, they will not be included in this table. Inestimable impacts for State**  
5 **Government, Local Government, Small Businesses and Other Persons are described in the**  
6 **narrative. Inestimable impacts for Non-Small Businesses are described in Appendix 2.**  
7

8 **Appendix 2: Regulatory Impact to Non-Small Businesses**

9 This rule change is not expected to have any fiscal impacts on non-small businesses revenues  
10 or expenditures, because each county implements their own Inspection and Maintenance  
11 programs. This rule only incorporates those existing plans into the State Implementation  
12 Plan.

13 The Executive Director of the Department of Environmental Quality, Scott Baird, has reviewed  
14 and approved this fiscal analysis.

15  
16 **\*\*\*"Non-small business" means a business employing 50 or more persons; "small business" means**  
17 **a business employing fewer than 50 persons.**  
18

19 **R307. Environmental Quality, Air Quality.**

20 **R307-110. General Requirements: State Implementation Plan.**

21 ---

22 **R307-110-35. Section X, Vehicle Inspection and Maintenance Program,**  
23 **Part E, Weber County.**

24 The Utah State Implementation Plan, Section X, Vehicle Inspection  
25 and Maintenance Program, Part E, Weber County, as most recently amended  
26 by the Utah Air Quality Board on March 4, 2020, [~~December 5, 2012,~~]  
27 pursuant to Section 19-2-104, is hereby incorporated by reference and  
28 made a part of these rules.

29  
30 **KEY: air pollution, PM10, PM2.5, ozone**

- 1 **Date of Enactment or Last Substantive Amendment:** [~~August 15, 2019~~
- 2 **2020**
- 3 **Notice of Continuation:** January 27, 2017
- 4 **Authorizing, and Implemented or Interpreted Law:** 19-2-104

**State of Utah**  
**Administrative Rule Analysis**  
Revised October 2019

NOTICE OF PROPOSED RULE		
<b>TYPE OF RULE:</b> New ___; Amendment <u>X</u> ; Repeal ___; Repeal and Reenact ___		
	<b>Title No. - Rule No. - Section No.</b>	
<b>Utah Admin. Code Ref (R no.):</b>	<b>R307-110-35</b>	<b>Filing No. (Office Use Only)</b>
<b>Changed to Admin. Code Ref. (R no.):</b>	<b>R</b>	

**Agency Information**

<b>1. Agency:</b>	Department of Environmental Quality	
<b>Room no.:</b>	Fourth Floor	
<b>Building:</b>		
<b>Street address:</b>	195 N 1950 W	
<b>City, state:</b>	Salt Lake City, UT84116-3085	
<b>Mailing address:</b>	PO Box 144820	
<b>City, state, zip:</b>	Salt Lake City, UT 84116-3085	
<b>Contact person(s):</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Liam Thrailkill	801-536-4419	lthrailkill@utah.gov
Please address questions regarding information on this notice to the agency.		

**General Information**

<b>2. Rule or section catchline:</b>
Section X, Vehicle Inspection and Maintenance Program, Part E, Weber County.
<b>3. Purpose of the new rule or reason for the change</b> (If this is a new rule, what is the purpose of the rule? If this is an amendment, repeal, or repeal and reenact, what is the reason for the filing?):
The Utah Air Quality Board (Board) has proposed for public comment amended Utah State Implementation Plan, Section X, Part E. As a result, Section R307-110-35, which incorporates Section X, Part E, into the rule, must be amended to change the Board adoption date to the anticipated adoption date of the amended plan.
<b>4. Summary of the new rule or change:</b>
Section R307-110-35 is amended by changing the date of the last adoption by the Air Quality Board to 03/04/2020.

**Fiscal Information**

<b>5. Aggregate anticipated cost or savings to:</b>
<b>A) State budget:</b>
This rule change is not expected to have any fiscal impact on the state budget.
<b>B) Local governments:</b>
This rule change is not expected to have any fiscal impact on local governments.
<b>C) Small businesses</b> ("small business" means a business employing 1-49 persons):
This rule change is not expected to have any fiscal impact on small businesses.

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

This rule change is not expected to have any fiscal impact on non-small businesses revenues or expenditures because each county implements their own Inspection and Maintenance program. This rule only incorporates those existing plans into the State Implementation Plan.

**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**):

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**F) Compliance costs for affected persons:**

This rule change will not have a compliance cost 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 Summary Table**

<b>Fiscal Costs</b>	<b>FY 2020</b>	<b>FY 2021</b>	<b>FY 2022</b>
State Government	\$0	\$0	\$0
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Non-Small Businesses	\$0	\$0	\$0
Other Person	\$0	\$0	\$0
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<b>Fiscal Benefits</b>			
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Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Benefits:</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Net Fiscal Benefits:</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

**H) Department head sign-off on regulatory impact:**

The head of the Department of Environmental Quality, L. Scott Baird, has reviewed and approved this fiscal analysis.

**6. A) Comments by the department head on the fiscal impact this rule may have on businesses:**

After conducting a thorough analysis, it was determined that this proposed rule will not result in a fiscal impact to businesses.

**B) Name and title of department head commenting on the fiscal impacts:**

L. Scott Baird, Interim Executive Director

**7. This rule change is authorized or mandated by state law, and implements or interprets the following state and federal laws. State code or constitution citations (required):**

Subsection 19-2-104(1)(a)		

**Incorporations by Reference Information**

(If this rule incorporates more than two items by reference, please include additional tables)

**8. 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*):

	<b>First Incorporation</b>
<b>Official Title of Materials Incorporated (from title page)</b>	Utah State Implementation Plan Section X, Vehicle Inspection and Maintenance Program, Part E, Weber County.
<b>Publisher</b>	Utah Division of Air Quality
<b>Date Issued</b>	
<b>Issue, or version</b>	03/04/2020

**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*):

	<b>Second Incorporation</b>
<b>Official Title of Materials Incorporated (from title page)</b>	
<b>Publisher</b>	
<b>Date Issued</b>	
<b>Issue, or version</b>	

**Public Notice Information**

**9. The public may submit written or oral comments to the agency identified in box 1.** (The public may also request a hearing by submitting a written request to the agency. The agency is required to hold a hearing if it receives requests from ten interested persons or from an association having not fewer than ten members. Additionally, the request must be received by the agency not more than 15 days after the publication of this rule in the Utah State Bulletin. See Section 63G-3-302 and Rule R15-1 for more information.)

**A) Comments will be accepted until** (mm/dd/yyyy): 01/14/2020

**B) A public hearing (optional) will be held:**

<b>On</b> (mm/dd/yyyy):	<b>At</b> (hh:mm AM/PM):	<b>At</b> (place):

**10. This rule change MAY\* become effective on** (mm/dd/yyyy): 03/04/2020

\*NOTE: The date above is the date on which this rule MAY become effective. It is NOT the effective date. After the date designated in Box 10, the agency must submit a Notice of Effective Date to the Office of Administrative Rules to make this rule effective. Failure to submit a Notice of Effective Date will result in this rule lapsing and will require the agency to start the rulemaking process over.

**Agency Authorization Information**

**To the agency:** Information requested on this form is required by Sections 63G-3-301, 302, 303, and 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.

<b>Agency head or designee, and title:</b>	Bryce Bird, Director	<b>Date</b> (mm/dd/yyyy):	11/20/2019
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# ITEM 10



State of Utah

GARY R. HERBERT  
*Governor*

SPENCER J. COX  
*Lieutenant Governor*

Department of  
Environmental Quality

L. Scott Baird  
*Interim Executive Director*

DIVISION OF AIR QUALITY  
Bryce C. Bird  
*Director*

DAQ-121-19

**MEMORANDUM**

**TO:** Air Quality Board

**THROUGH:** Bryce C. Bird, Executive Secretary

**FROM:** Harold Burge, Major Source Compliance Section Manager

**DATE:** November 6, 2019

**SUBJECT:** HollyFrontier Woods Cross Refining LLC – Early Settlement Agreement

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HollyFrontier Woods Cross Refining LLC (Holly) operates an oil refinery located at 1070 West 500 South, West Bountiful, Davis County, Utah. On November 14, 2018, the Utah Division of Air Quality (DAQ) issued a Compliance Advisory to Holly for violation of:

1. Approval Order Conditions II.B.5.a and II.B.5.d, for operating emergency equipment in excess of the 600-hour combined non-emergency operating limit from May 1, 2017, to March 31, 2019.
2. 40 CFR 63.6655(f) for not adequately maintaining records of emergency engine operating hours.
3. 40 CFR 63.6640(f) for exceeding the 100-hour calendar year non-emergency operating limit for 2017 (three engines), 2018 (three engines), and 2019 (one engine).

To resolve these violations, Holly corrected their records, commissioned a plant-wide air system leak survey, installed temporary electrical engines, and are investigating alternative long-term solutions for the addition of permanent air compressors. DAQ and Holly have negotiated a total penalty of \$105,583.

In accordance with Section 19-2-104(3)(b)(i) of the Utah Code, the attached Early Settlement Agreement is presented to the Board for review as the penalty exceeds \$25,000. DAQ will withhold any further action on this matter until the Board approves the attached Early Settlement Agreement.

Recommendation: Staff recommends that the Board approve the attached Early Settlement Agreement.



State of Utah

GARY R. HERBERT  
Governor

SPENCER J. COX  
Lieutenant Governor

Department of  
Environmental Quality

Alan Matheson  
Executive Director

DIVISION OF AIR QUALITY  
Bryce C. Bird  
Director

June 4, 2019

DAQC-0259-19  
Site ID: 10123 (B1)

Sent Via Certified Mail No. 70171070000091092989

Eric Benson  
Holly Frontier Woods Cross Refining LLC  
1070 West 500 South  
West Bountiful, UT 84087-1442

Dear Mr. Benson:

Re: Early Settlement Agreement – HollyFrontier Woods Cross Refining LLC (Holly)-Davis County

On November 14, 2018, the Utah Division of Air Quality (DAQ) issued a Compliance Advisory to Holly as a result of inspections performed on September 25 and 27, 2018. Holly's representative responded to the Compliance Advisory via email on December 4, 2018. Based on the inspection findings, Holly's response to the Compliance Advisory dated December 4, 2018, follow-up response to Compliance Advisory dated April 1, 2019, follow-up inspection on April 2, 2019, and additional information submitted via email on April 8, 2019, the DAQ has determined that Holly is in violation of:

1. Approval Order (AO) dated November 18, 2013, Conditions II.B.5.a. and II.B.5.d.

The total hours of non-emergency usage for the emergency equipment listed in AO Conditions II.A.223 and II.A.224 exceeded the operating limit of 600 hours per rolling 12-month period for 23 months (May 1, 2017, to March 31, 2019). The Sullair engines 55K14, 55K13 and 55K16 (Sullair engines) were used during this period for purposes other than those listed in Condition II.B.5.d.

2. 40 CFR NESHAP Subpart ZZZZ § 63.6655(f)

Records of the hours of operation of each engine subject to this subpart, including what classified the operation as emergency and how many hours are spent for non-emergency operation, were not adequately maintained.

3. 40 CFR NESHAP Subpart ZZZZ § 63.6640(f)

Two Sullair engines and the West Fire No. 1 engine exceeded the 100-hour per calendar year limit in 2017. Three Sullair engines exceeded this limit in 2018. One Sullair engine exceeded this limit in 2019.

Section 19-2-115 of the Utah Code Annotated provides that violations of the Utah Air Conservation Act and/or any order issued thereunder may be subject to a civil penalty of up to \$10,000 per day for each violation. Based upon our civil penalty policy, we calculated a preliminary civil penalty for the above listed violations of \$131,979.

The monetary amount of this DAQ settlement offer is derived from a pre-established schedule of penalties, which account for, among other factors, the magnitude and severity of the violation, economic benefit, cooperation by the source, and prior history of violations.

All parties we deal with, whether private, commercial, or governmental are treated similarly in the settlement process. Early Settlement Agreements are based on the evaluation of the same factors and criteria in all cases. The DAQ acknowledges that the listed violations have been addressed by Holly. The corrective actions taken by Holly to resolve the listed violations were to limit the run times of the three Sullair emergency engines as follows:

1. Commission a plant-wide air system leak survey; and
2. Install temporary electrical engines no later than March 31, 2019; and
3. Investigate alternative long-term solutions for the addition of permanent air compressors.

If you are interested in settling these violations, we are authorized to offer settlement in accordance with the DAQ Penalty Policy as follows:

1. Holly agrees to pay a reduced civil penalty in the sum of \$105,583. Payment of a civil penalty precludes further civil enforcement for the above described violations. Holly agrees to pay \$105,583 of the stipulated penalty within twenty (20) business days from the date you receive this Early Settlement Agreement.
2. The DAQ retains its authority to take any enforcement actions based on any and all violations not specifically described above.
3. In the event any further violations of the Utah Air Quality Rules occur, the DAQ may consider the violations described above in assessing a penalty for the subsequent violations, in accordance with the provisions of Utah Administrative Code R307-130.
4. Entering into this Early Settlement Agreement shall not constitute an admission of violation of the Utah Air Quality Rules, nor shall it be inferred to be such an admission in any administrative or judicial proceeding. The described violations will constitute part of the company compliance history for any purpose for which such history is relevant to the DAQ.

At the DAQ's option, you may request a portion of the calculated civil penalty gravity component to be used to complete a Supplemental Environmental Project (SEP) to benefit present and future air quality within Utah. For more information about the SEP process, please contact the DAQ manager listed below.

This Early Settlement Agreement constitutes an offer of settlement and is not a demand for payment. This Early Settlement Agreement has a reduced penalty for early settlement of this matter.

If the above terms are acceptable to you, please sign and return this Early Settlement Agreement to the DAQ at the letterhead address within twenty (20) business days of receipt of this agreement. Utah Code

19-2-104(3)(b)(i), requires the Utah Air Quality Board (UAQB) to review and approve/disapprove any settlement negotiated by the Director that results in a civil penalty of \$25,000 or more in accordance with Subsection 19-2-107(2)(b)(viii). The DAQ will present this to the UAQB at a future meeting for review and will recommend approval of the negotiated settlement.

You may write or call to request a settlement conference with DAQ representative listed below. A conference must be scheduled within twenty (20) business days of your receipt of this Early Settlement Agreement. If we do not receive a signed copy of this Early Settlement Agreement and payment or other correspondence from you within twenty (20) business days of your receipt, we will assume that you are not interested in resolving this matter as outlined above.

This Early Settlement Agreement is intended to quickly resolve the non-compliance issues listed above and requires the immediate attention of your company. Failure to resolve this matter as outlined above may result in this offer being revoked and/or having this matter referred to a formal enforcement process.

If you have any additional questions, please contact Harold Burge at 801-536-4129 or by email at [hburge@utah.gov](mailto:hburge@utah.gov).

Sincerely,



Bryce C. Bird  
Director

BCB:HB:bp

cc: Davis County Health Department

Acceptance of Early Settlement Agreement

I have read the above Early Settlement Agreement and I agree to the terms and conditions thereof.

Holly Frontier Woods Cross Refining LLC:

Name: SOTT White

Title: VP & Refinery Manager

 9/18/19 801 299-6605  
Signature Date Telephone Number

## ADDENDUM TO JUNE 4, 2019 EARLY SETTLEMENT AGREEMENT

The State of Utah, on behalf of the Utah Department of Environmental Quality, Utah Division of Air Quality, referred to as **UDAQ** in this Addendum to the June 4, 2019 Early Settlement Agreement (“**Addendum**”), and HollyFrontier Woods Cross Refining LLC, referred to as **HollyFrontier** in this Addendum, (collectively “**the Parties**”) sign this Addendum with respect to the June 4, 2019 Early Settlement Agreement accepted by HollyFrontier on September 18, 2019 (“**ESA**”).

By accepting the terms of the ESA, HollyFrontier agreed to pay a penalty of \$105,583.00. This agreement is conditional upon and subject to Utah Air Quality Board review and approval under Section 19-2-104(3)(b)(i) of the Utah Code. In the event the Utah Air Quality Board approves the settlement, this Addendum shall govern how the funds are deposited. The Parties agree as follows:

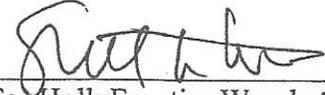
1. 20% of the total penalty amount (\$21,117.00) shall be paid to the General Fund.
2. 80% of the total penalty amount (\$84,466.00) shall be paid to the Environmental Mitigation and Response Fund (“**the Fund**”) as authorized by Section 19-1-603(3) of the Utah Code. Money deposited into the Fund goes towards environmental mitigation action, environmental response actions, site closures, and cleanups under Section 19-1-604(2) of the Utah Code. The funds paid by HollyFrontier to the Fund under this Addendum shall be earmarked for air quality incentive programs per Section 19-1-603(4) of the Utah Code.

This Addendum is effective upon execution by the Parties and may be signed in counterparts. The undersigned counsel of each Party certifies that he or she is authorized to enter into the terms and conditions of this Addendum, and to execute for and bind the Party whom he or she represents for purposes of this Addendum.

IN WITNESS WHEREOF, the Parties execute this Addendum.

  
\_\_\_\_\_  
For Utah Department of Environmental  
Quality, Utah Division of Air Quality  
By: Bryce C. Bird  
Director of the Utah Division of Air Quality

Date: 16/22/2019

  
\_\_\_\_\_  
For HollyFrontier Woods Cross Refinery, LLC  
By: Scott White  
Vice President and Refinery Manager

Date: 12/15/19

Utah Division of Air Quality General Administrative Penalty Worksheet

Source: HollyFrontier Wood Cross Refinery  
 SID No.: 10123 HPV: Yes

Class: Major  
 Violation Dates: see Settlement

Table 1: Gravity Criteria

Citation	Description of the Violation	E	V	C	Gravity Criteria (Gc)				Daily Gravity	Accumulated Gravity	Days of Violation
					Gc 1	Gc 2	Gc 3	Gc 4			
AO Conditions II.B.5.a and II.B.5.d	Exceeding 600 hr/12 mrt limit - May 2017 to March 2019	23		B	2	2	1	1	\$4,300	\$98,900	23
40 CFR 63.6655(f)	recordkeeping	1		C	0	2	1	1	\$729	\$729	1
40 CFR 63.6640(f)	Exceeding the 100 hr/calender year limit in 2017	3		B	2	2	1	1	\$4,300	\$12,900	3
40 CFR 63.6640(f)	Exceeding the 100 hr/calender year limit in 2018	3		B	2	2	1	1	\$4,300	\$12,900	3
40 CFR 63.6640(f)	Exceeding the 100 hr/calendar year limit in 2019	1		B	2	2	1	1	\$4,300	\$4,300	1

Gc 5 History of violations within the last five (5) years

Date of Early Settlement/NOV	Description of Early Settlement/NOV	Category	
1/23/2018	Condition II.B.2.c of AO dated 11/18/13	<input type="checkbox"/> Same Violation B	\$1,000
2/19/2018	Condition II.B.1.b of AO dated 11/18/13	<input type="checkbox"/> Same Violation C	\$250
3/22/2019	Condition II.B.2.c of AO dated 11/18/13	<input type="checkbox"/> Same Violation B	\$1,000
		<input type="checkbox"/> Same Violation	
		<input type="checkbox"/> Same Violation	
Total Gravity			\$131,979

Table 2: Adjustments

Economic Benefit Collectable	Use the information that gives you the most correct value of benefit. This may be the BEN Model, Net Income, Tax Records, Company Records, or any other economic benefit information. If economic benefit is less than \$5,000, disregard.	
Other	Other Monies Collected	
	Early Settlement Reduction (20%) - <input type="checkbox"/> Remove 20%	\$26,396
Total Penalty		\$105,583

Gravity Criteria Definitions

Gc 1. Was the violation a result of excess emissions and/or reporting?	
0	If the violation was not a result of excess emissions and/or reporting
1	If a minor reporting or other problem occurred, but no emissions were involved
2	If a reporting or other problem occurred which involved minor emissions
3	If a reporting or other problem occurred involving significant emissions
Gc 2. Did the violation appear to be willful or due to gross negligence?	
0	If the source clearly did not know that the action/inaction constituted a violation
1	If the source should have known that the action/inaction would result in a violation
2	If the source clearly knew that the action/inaction would result in a minor violation
3	If the source clearly knew that the action/inaction would result in a significant violation
Gc 3. Was the violator unresponsive in correcting the violation?	
0	If the source was cooperative and the violation was corrected as soon as possible
1	If the source was cooperative but the violation was corrected in a less timely manner
2	If the source was cooperative but did not correct the problem
3	If the source was not cooperative and did not attempt to correct the problem
Gc 4. Was the violation a result of improper operation or inadequate maintenance?	
0	If the source was following an acceptable O & M plan at the time the violation occurred
1	If the source was following an inadequate/incomplete O & M plan at the time the violation occurred
2	If the source did not have an O & M plan at the time the violation occurred
3	If the source did not have an O & M plan and the violation was clearly the result of improper O & M

SEP 18 2019

DIVISION OF AIR QUALITY



# HOLLYFRONTIER

## HOLLYFRONTIER WOODS CROSS REFINING LLC

1070 West 500 South • West Bountiful, Utah 84087-1442  
(801) 299-6600 • Fax (801) 299-6609

September 18, 2019

Mr. Bryce Bird, Director  
Attn.: Harold Burge, Manager  
Division of Air Quality  
Utah Dept. of Environmental Quality  
150 North 1950 West  
Salt Lake City, Utah 84116

**RE: Acceptance of Early Settlement Agreement**

Dear Mr. Bird:

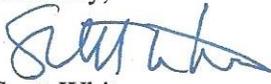
In accordance with the Utah Division of Air Quality's ("UDAQ") Early Settlement Agreement offer, DAQC-0259-19, dated June 4, 2019 (the "ESA"), please find attached a signed copy of same signifying HollyFrontier Woods Cross Refining LLC's ("HollyFrontier") agreement to its terms. While the original offer requested a response from HollyFrontier within twenty days of receipt, counsel for HollyFrontier and UDAQ engaged in several discussions and exchanges of information related to the underlying Compliance Advisory. Accordingly, counsel for UDAQ, Marina Thomas indicated in an e-mail dated September 10, 2019, that the ESA offer is still available to HollyFrontier.

Our principal discussions with UDAQ counsel revolved around the condition limiting operations of the Refinery's emergency engines to 600 hours per rolling 12-month period for "testing and maintenance purposes." As we explained, the excess utilization of the emergency engines was not for testing and maintenance purposes but was, instead, for maintaining sufficient air pressure in the refinery's air system. (HollyFrontier has since remedied the situation by installing additional electrical compressor capacity.) Because these are emergency engines, HollyFrontier did not take issue with the charge of operating the engines excessively in a non-emergency mode; however, we did not believe that such operation also ran afoul of the limit that was expressly applicable to testing and maintenance purposes.

We understand that UDAQ construes the condition more broadly to limit all non-emergency operation, not just testing and maintenance operations. Notwithstanding our disagreement on this point, we believe the Agency is acting in good faith and we desire an efficient resolution of this matter. Accordingly, we are accepting the terms of the ESA. We understand that payment of the ESA settlement amount will not be due until following approval of the settlement terms by the Utah Air Quality Board.

We appreciate your assistance in helping to resolve this matter. Should you have any questions, please contact Eric Benson, Environmental Manager, at (801) 299-6623.

Sincerely,

A handwritten signature in blue ink, appearing to read "Scott White".

Scott White  
Refinery Manager

Enclosure: Re: Early Settlement Agreement – HollyFrontier Woods Cross Refining LLC (Holly)-Davis County, dated June 4, 2019

Cc: Marina V. Thomas, Assistant Attorney General  
Utah Attorney General's Office, Health & Environment Division  
195 N 1950 W Salt Lake City, Utah 84114

# ITEM 11

# Air Toxics



State of Utah

GARY R. HERBERT  
*Governor*

SPENCER J. COX  
*Lieutenant Governor*

Department of  
Environmental Quality

L. Scott Baird  
*Interim Executive Director*

DIVISION OF AIR QUALITY  
Bryce C. Bird  
*Director*

DAQA-791-19

**MEMORANDUM**

**TO:** Air Quality Board  
**FROM:** Bryce C. Bird, Executive Secretary  
**DATE:** October 7, 2019  
**SUBJECT:** Air Toxics, Lead-Based Paint, and Asbestos (ATLAS) Section Compliance Activities – September 2019

---

Asbestos Demolition/Renovation NESHAP Inspections	11
Asbestos AHERA Inspections	10
Asbestos State Rules Only Inspections	2
Asbestos Notification Forms Accepted	219
Asbestos Telephone Calls	459
Asbestos Individuals Certifications Approved/Disapproved	35/0
Asbestos Company Certifications/Re-Certifications	3/1
Asbestos Alternate Work Practices Approved/Disapproved	3/0
Lead-Based Paint (LBP) Inspections	1
LBP Notification Forms Approved	1
LBP Telephone Calls	25
LBP Letters Prepared and Mailed	1
LBP Courses Reviewed/Approved	0
LBP Course Audits	0
LBP Individual Certifications Approved/Disapproved	9/0

DAQA-791-19

Page 2

LBP Firm Certifications	9
Notices of Violation Sent	1
Compliance Advisories Sent	10
Warning Letters Sent	8
Settlement Agreements Finalized	0
Penalties Agreed to:	

# Compliance



State of Utah

GARY R. HERBERT  
Governor

SPENCER J. COX  
Lieutenant Governor

Department of  
Environmental Quality

L. Scott Baird  
Executive Director

DIVISION OF AIR QUALITY  
Bryce C. Bird  
Director

DAQC-1362-19

MEMORANDUM

**TO:** Air Quality Board  
**FROM:** Bryce C. Bird, Executive Secretary  
**DATE:** October 11, 2019  
**SUBJECT:** Compliance Activities – September 2019

Annual Inspections Conducted:

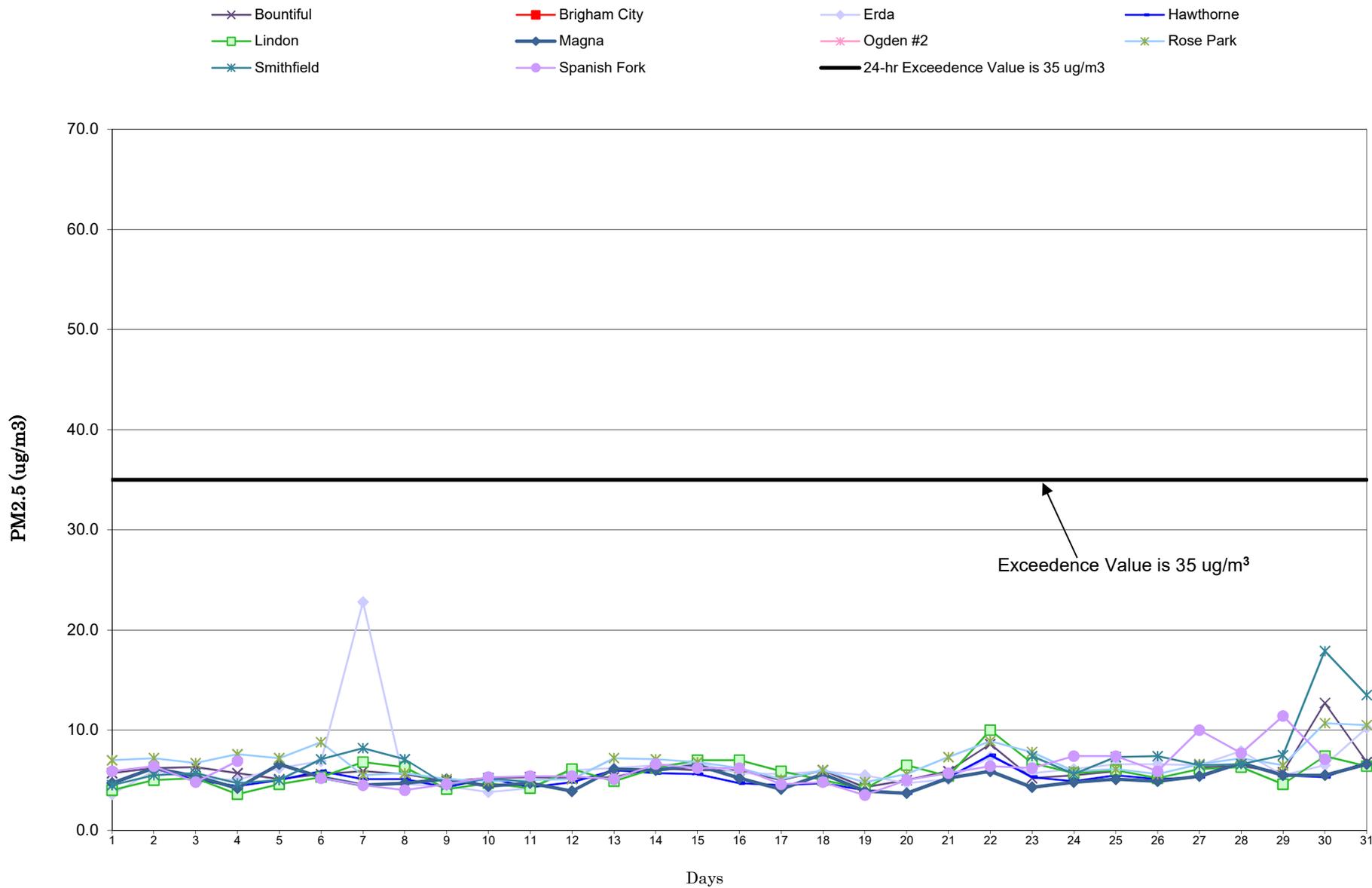
Major.....	12
Synthetic Minor .....	6
Minor .....	22
On-Site Stack Test Audits Conducted: .....	3
Stack Test Report Reviews: .....	39
On-Site CEM Audits Conducted: .....	0
Emission Reports Reviewed: .....	21
Temporary Relocation Requests Reviewed & Approved: .....	5
Fugitive Dust Control Plans Reviewed & Accepted:.....	187
Open Burn Permit Applications Completed .....	0
Soil Remediation Report Reviews: .....	0
<sup>1</sup> Miscellaneous Inspections Conducted:.....	22

Complaints Received: .....	16
Breakdown Reports Received: .....	0
Compliance Actions Resulting From a Breakdown.....	0
Warning Letters Issued: .....	0
Notices of Violation Issued:.....	0
Unresolved Notices of Violation	
US Magnesium .....	08/27/2015
Western Water Solutions .....	05/02/2017
Geneva Rock Products.....	10/20/2017
Norbest.....	11/15/2017
Strang Excavating.....	01/17/2018
US Magnesium .....	03/02/2018
Pacific Energy & Mining.....	03/02/2018
Gordon Creek Compressor Station.....	05/16/2018
JRJ Services .....	06/21/2018
JRJ Services .....	09/07/2018
Compass Minerals.....	12/10/2018
US Magnesium .....	01/08/2019
Mel Clark Construction .....	01/11/2019
Picasso Shutters .....	02/13/2019
Sunroc .....	02/28/2019
University of Utah .....	07/18/2019
Paradox Midstream - Lisbon.....	08/09/2019
Compliance Advisories Issued:.....	7
No Further Action Letters Issued.....	6
Settlement Agreements Reached: .....	0

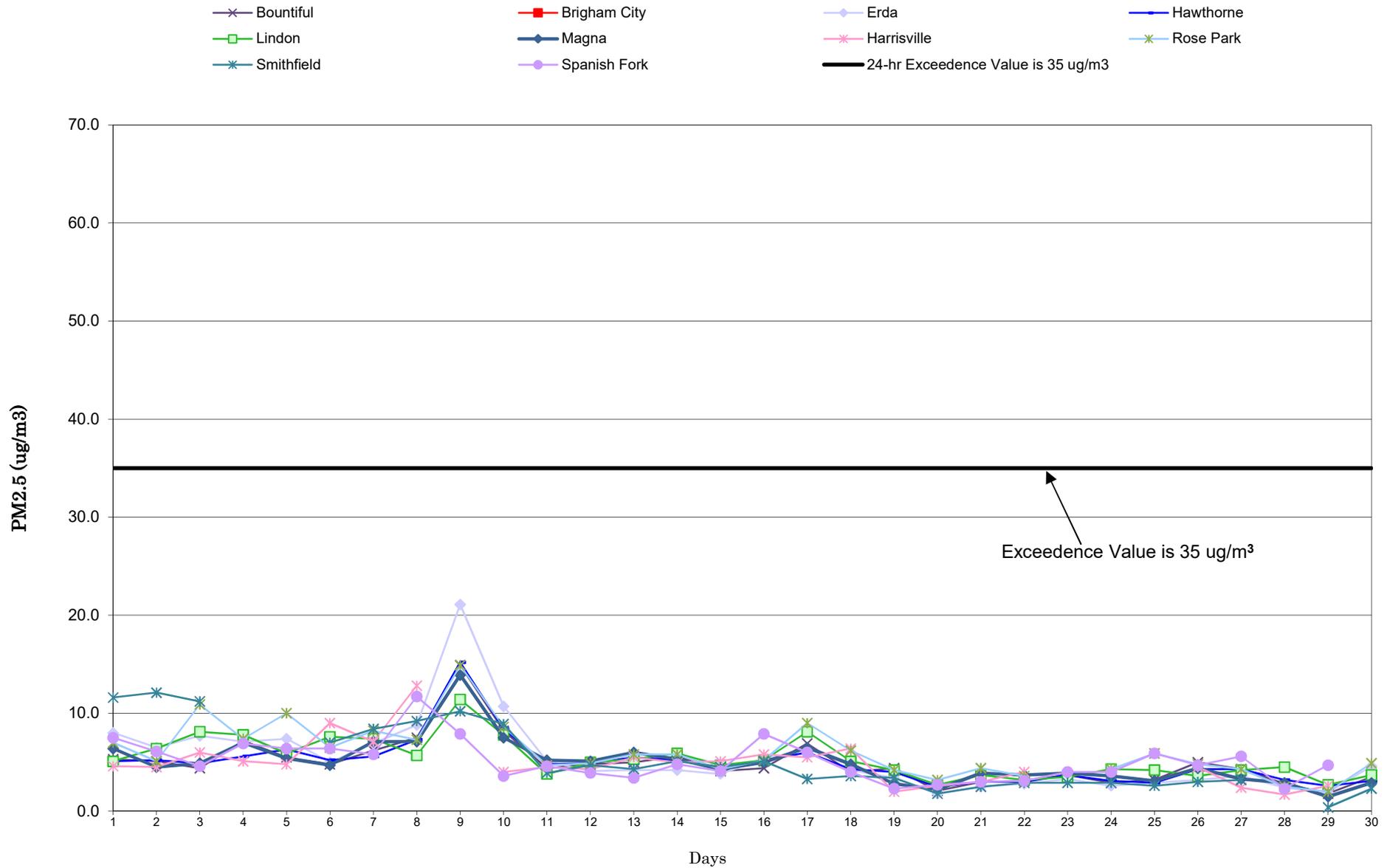
<sup>1</sup>Miscellaneous inspections include, e.g., surveillance, level I inspections, VOC inspections, complaints, on-site training, dust patrol, smoke patrol, open burning, etc.

# Air Monitoring

# Utah 24-Hr PM2.5 Data August 2019



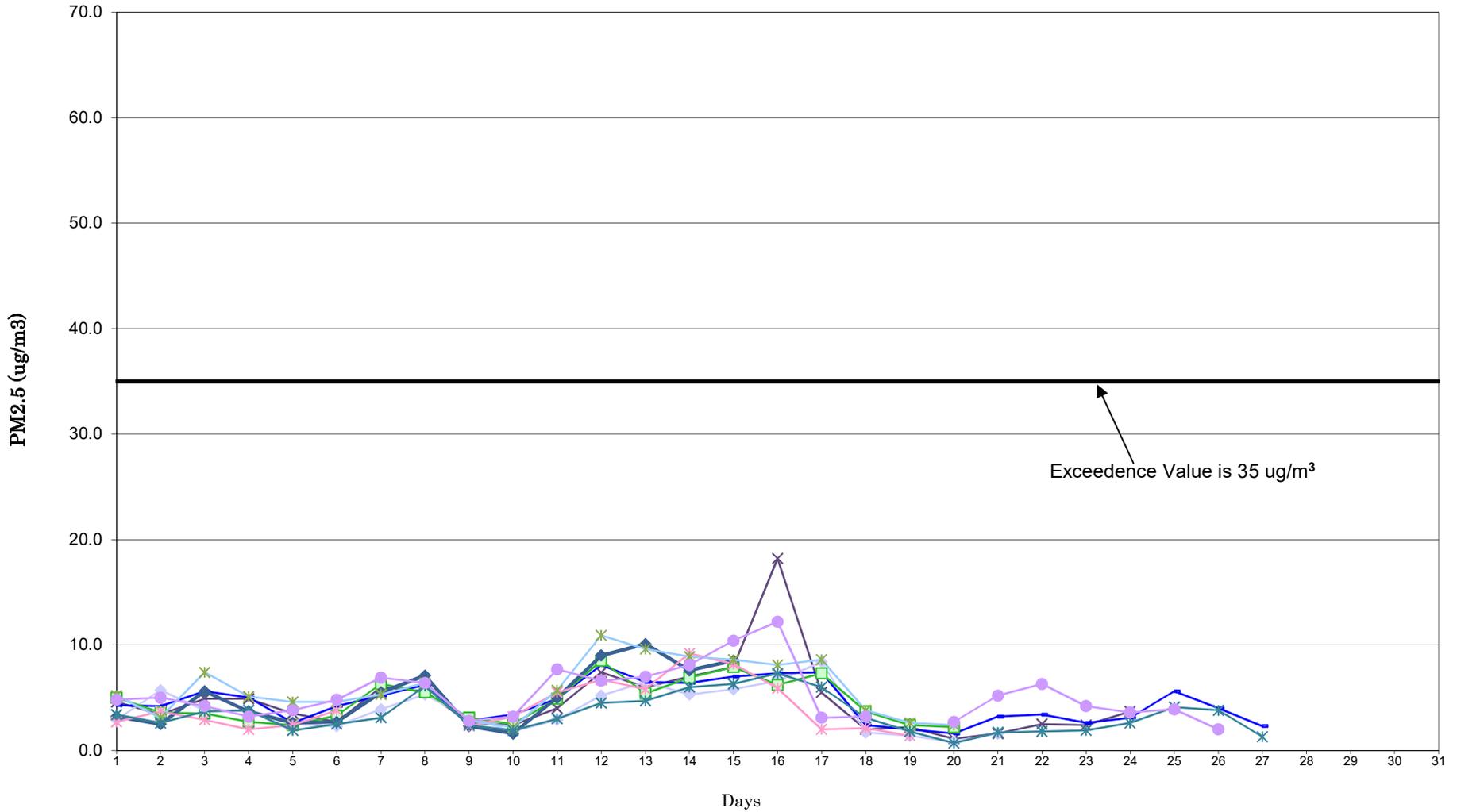
# Utah 24-Hr PM2.5 Data September 2019



Exceedence Value is 35 ug/m<sup>3</sup>

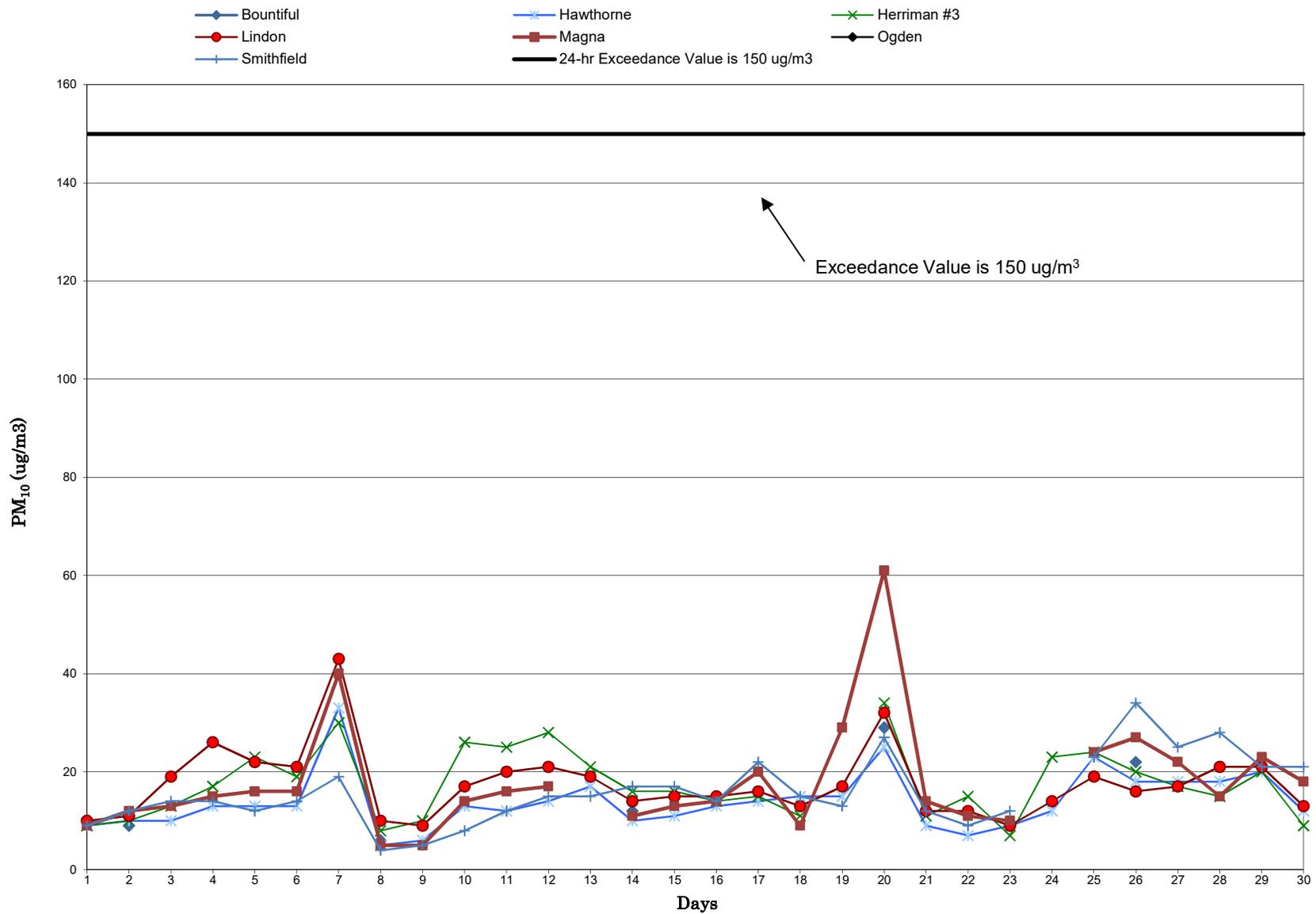
# Utah 24-Hr PM2.5 Data October 2019

- Bountiful
- Brigham City
- Erda
- Hawthorne
- Lindon
- Magna
- Harrisville
- Rose Park
- Smithfield
- Spanish Fork
- 24-hr Exceedence Value is 35 ug/m3

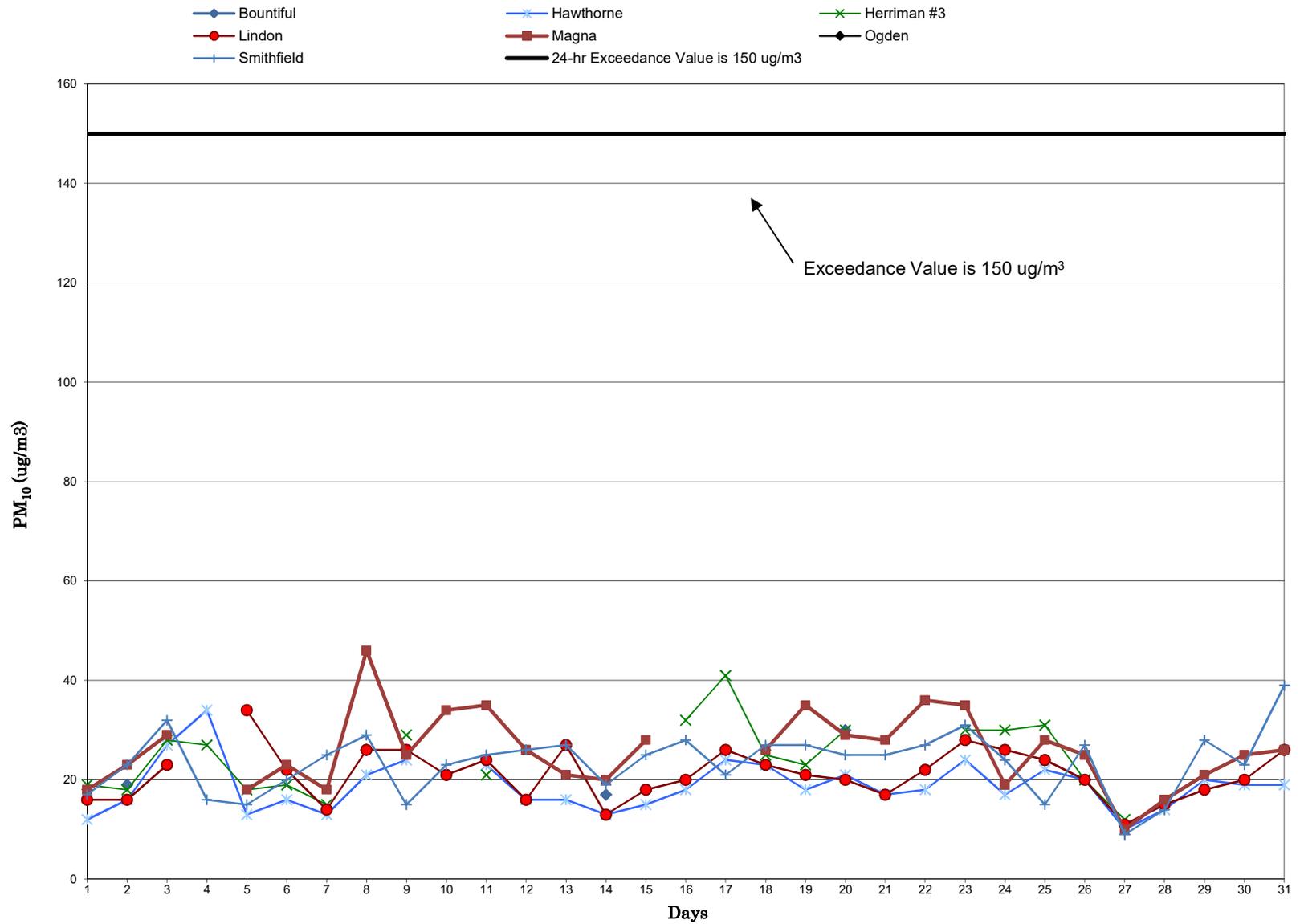




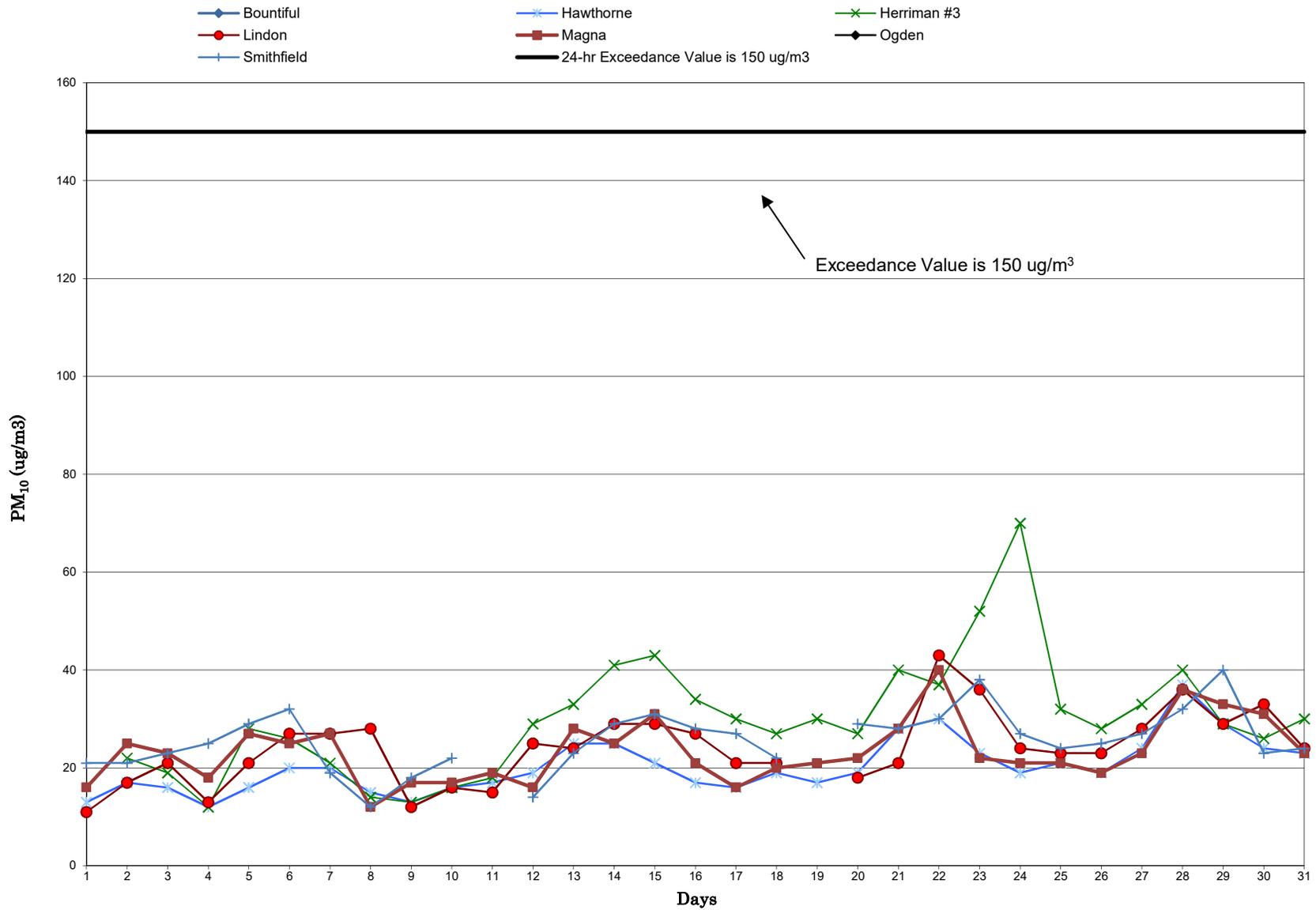
# Utah 24-hr PM<sub>10</sub> Data June 2019



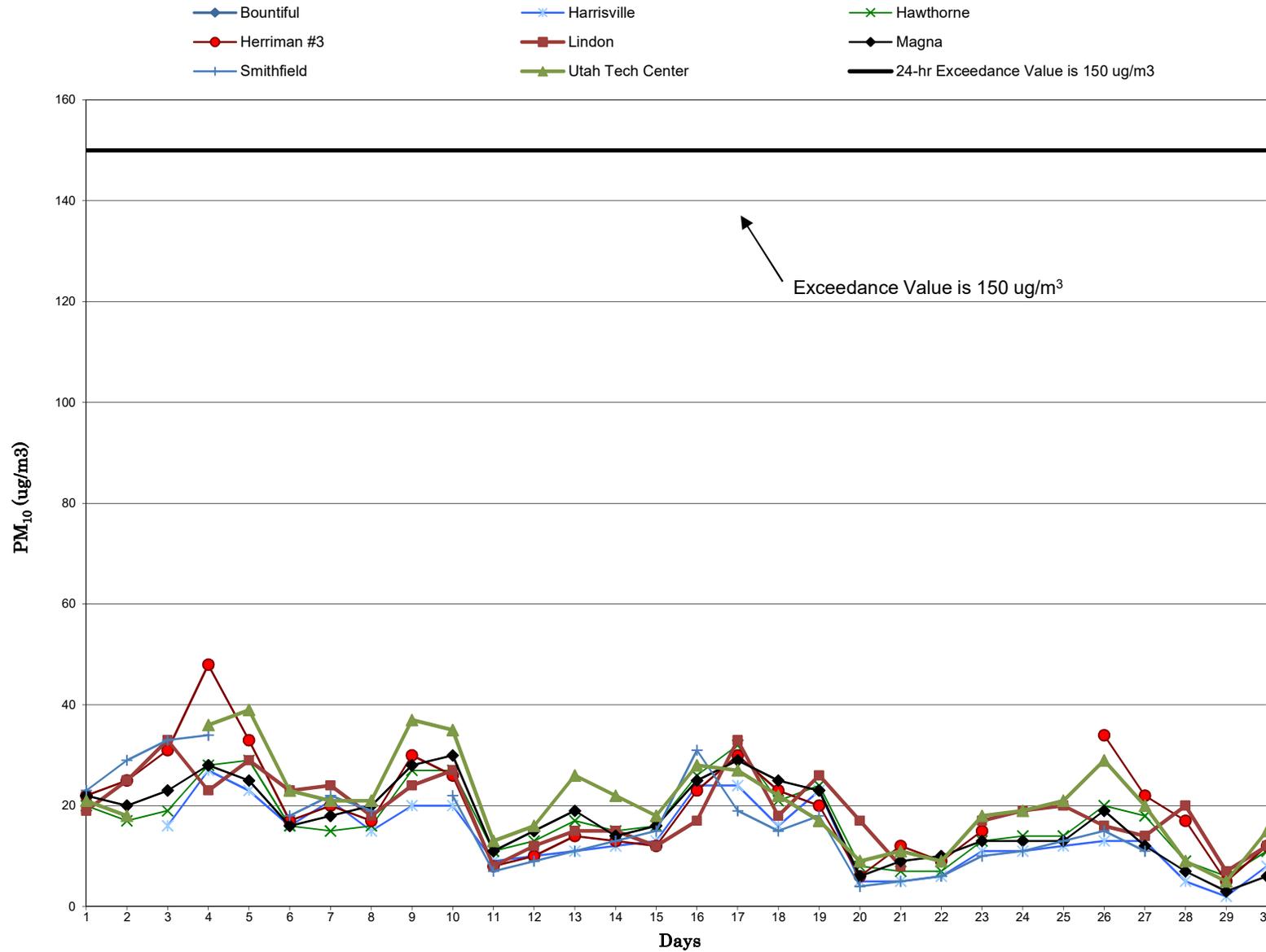
# Utah 24-hr PM<sub>10</sub> Data July 2019



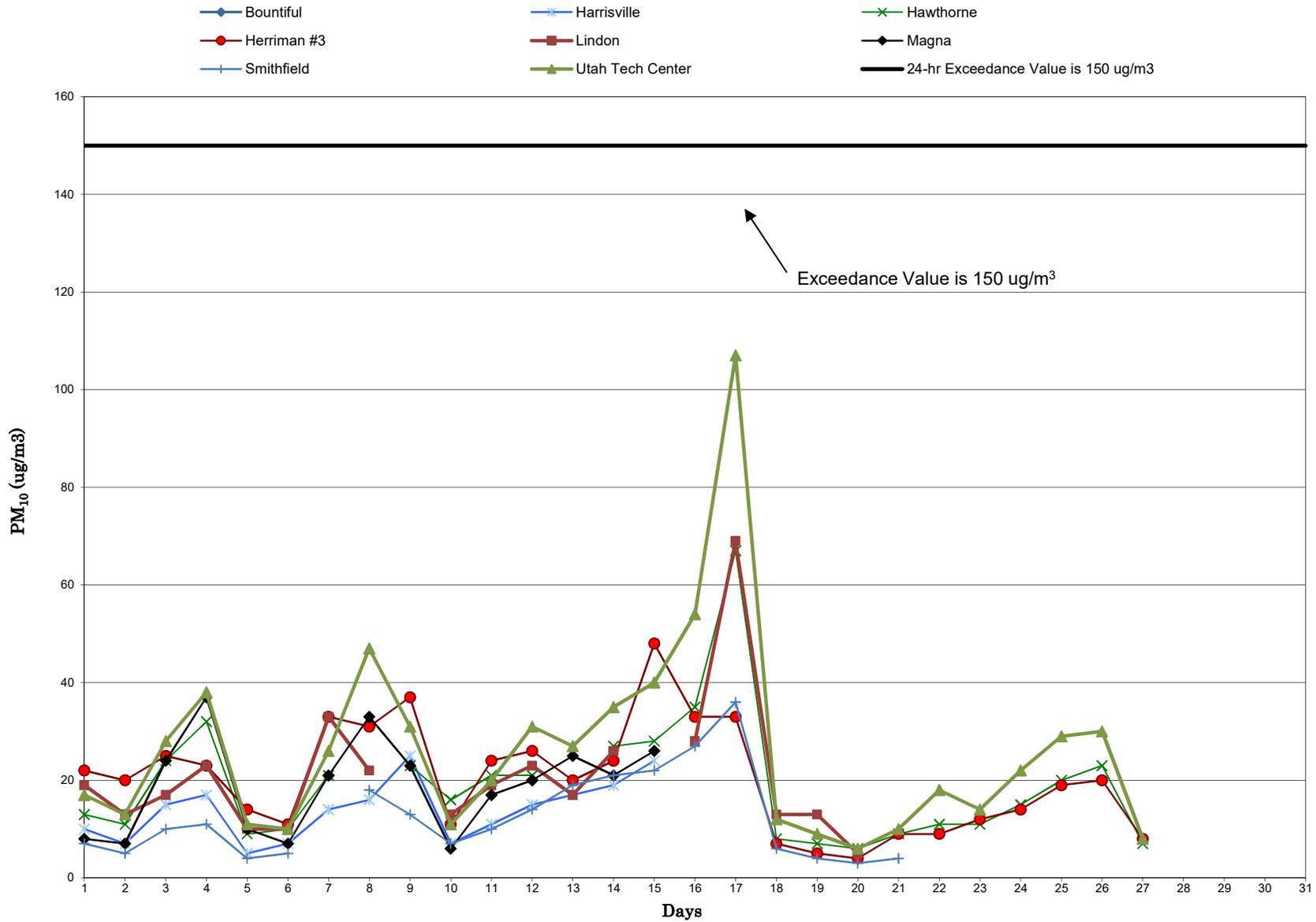
# Utah 24-hr PM<sub>10</sub> Data August 2019



# Utah 24-hr PM<sub>10</sub> Data September 2019

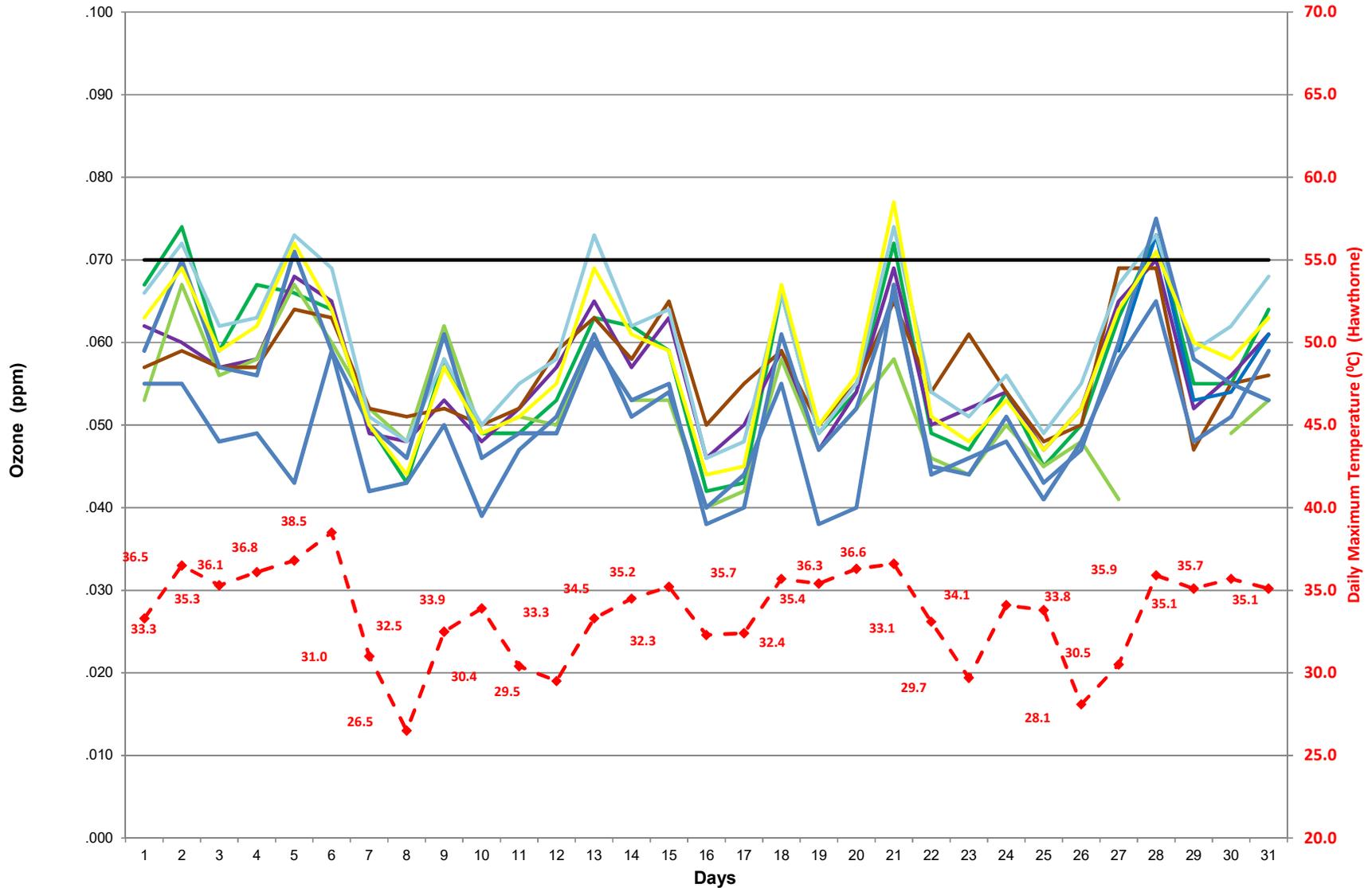
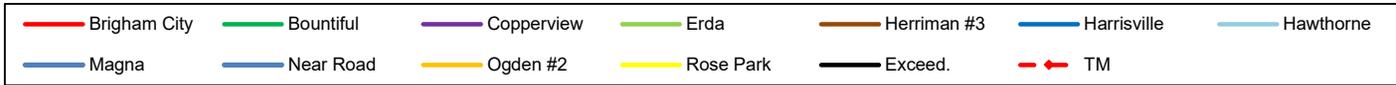


# Utah 24-hr PM<sub>10</sub> Data October 2019

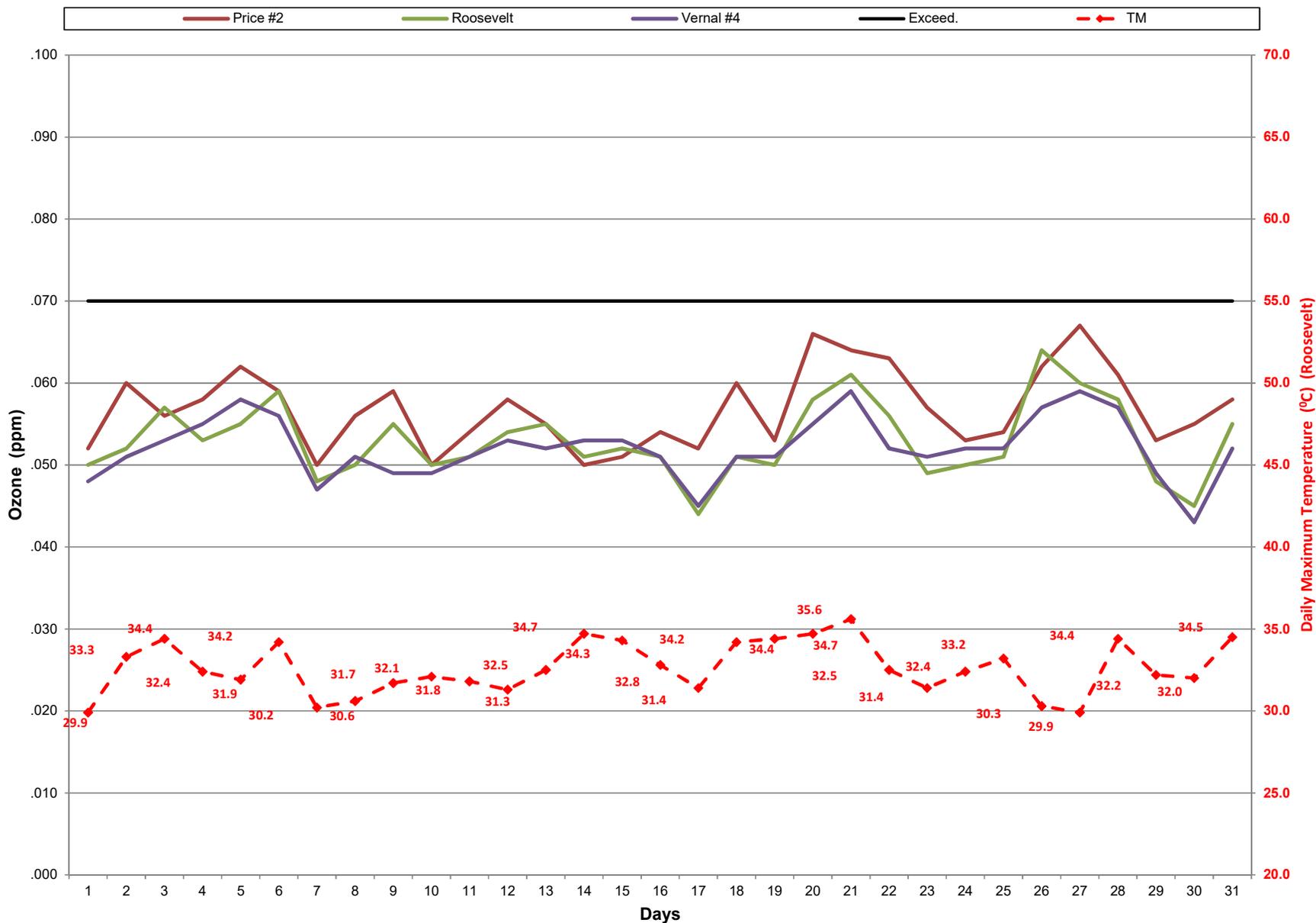




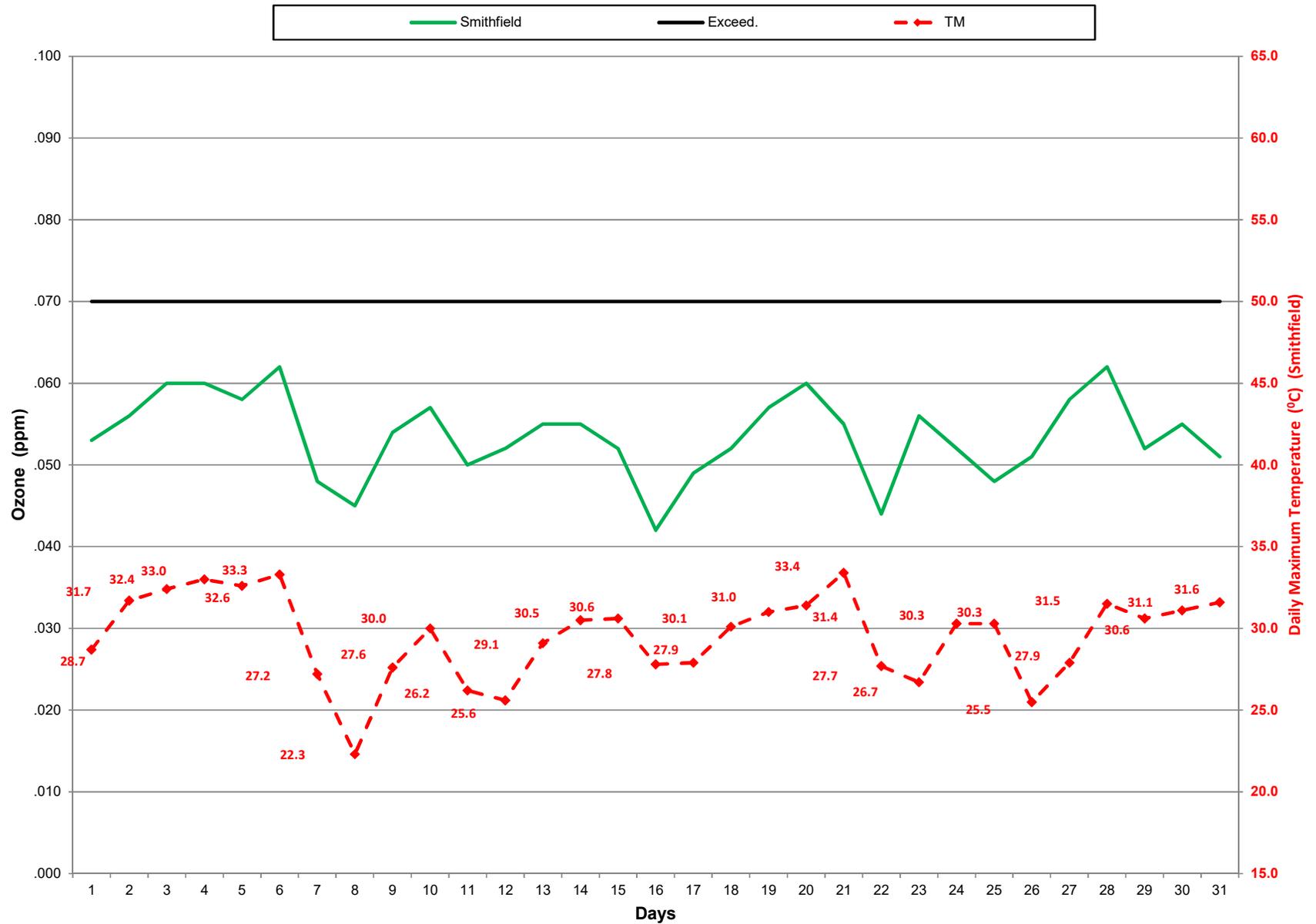
## Highest 8-hr Ozone Concentration & Daily Maximum Temperature August 2019



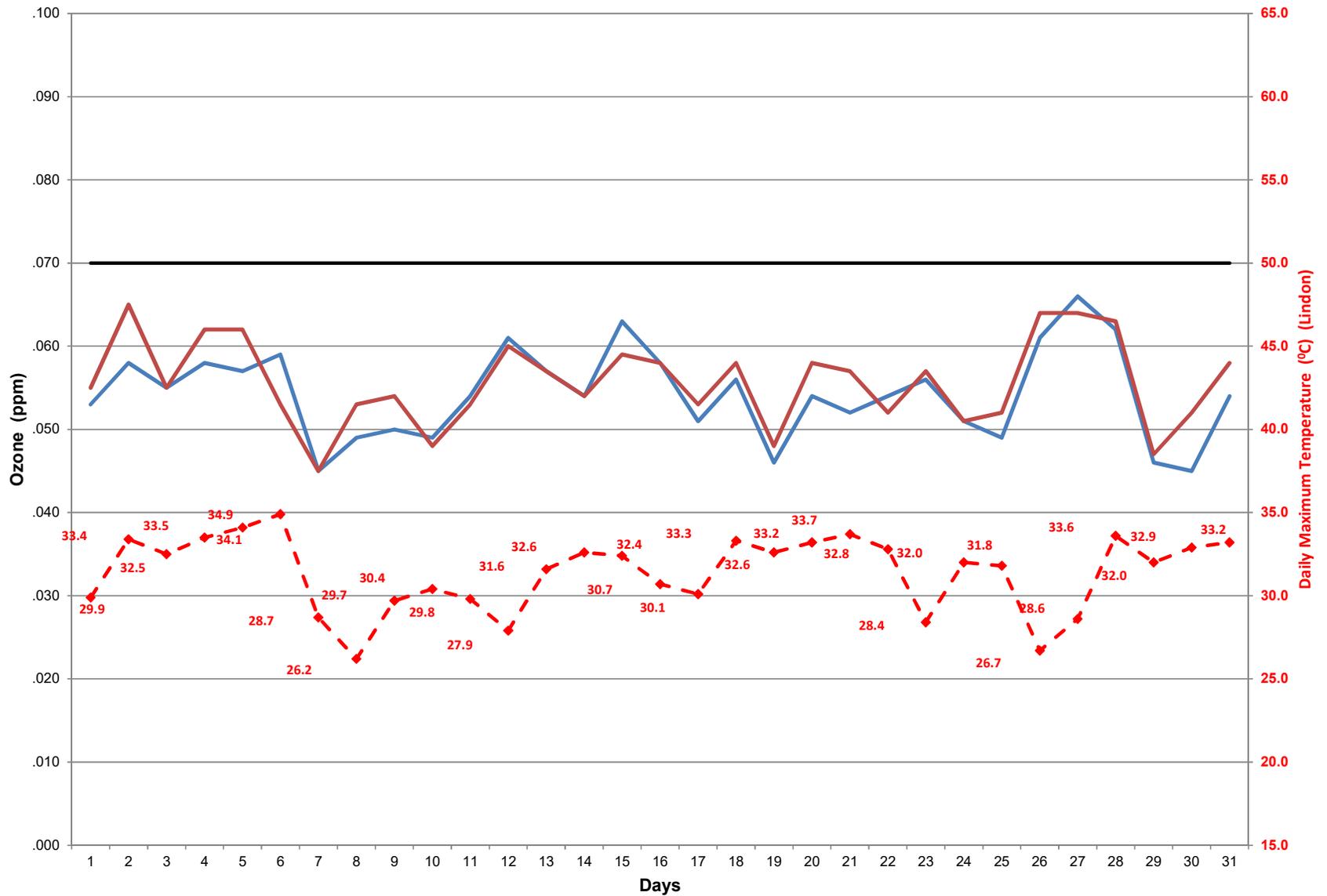
# Highest 8-hr Ozone Concentration & Daily Maximum Temperature August 2019



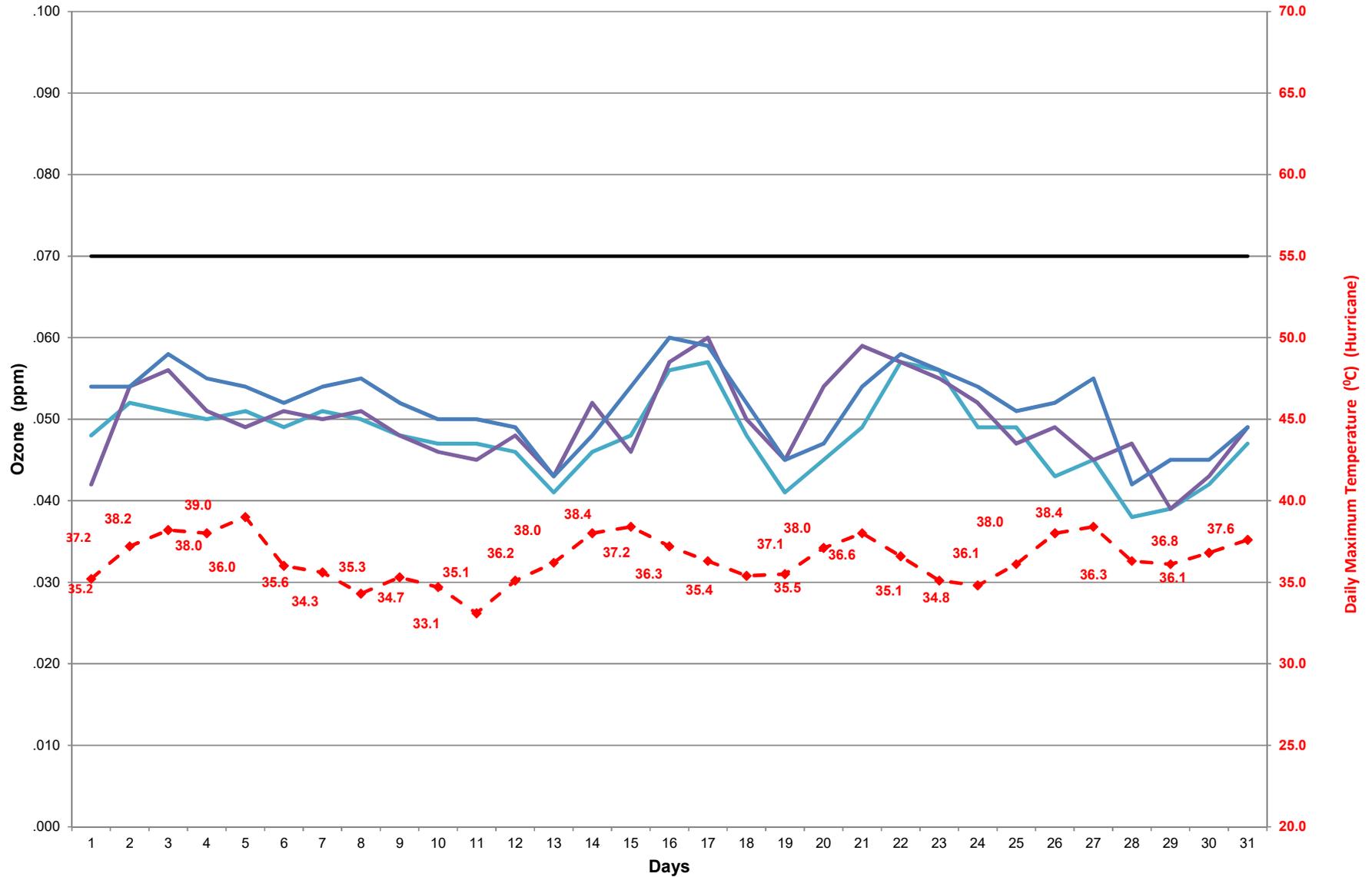
# Highest 8-hr Ozone Concentration & Daily Maximum Temperature August 2019



## Highest 8-hr Ozone Concentration & Daily Maximum Temperature August 2019

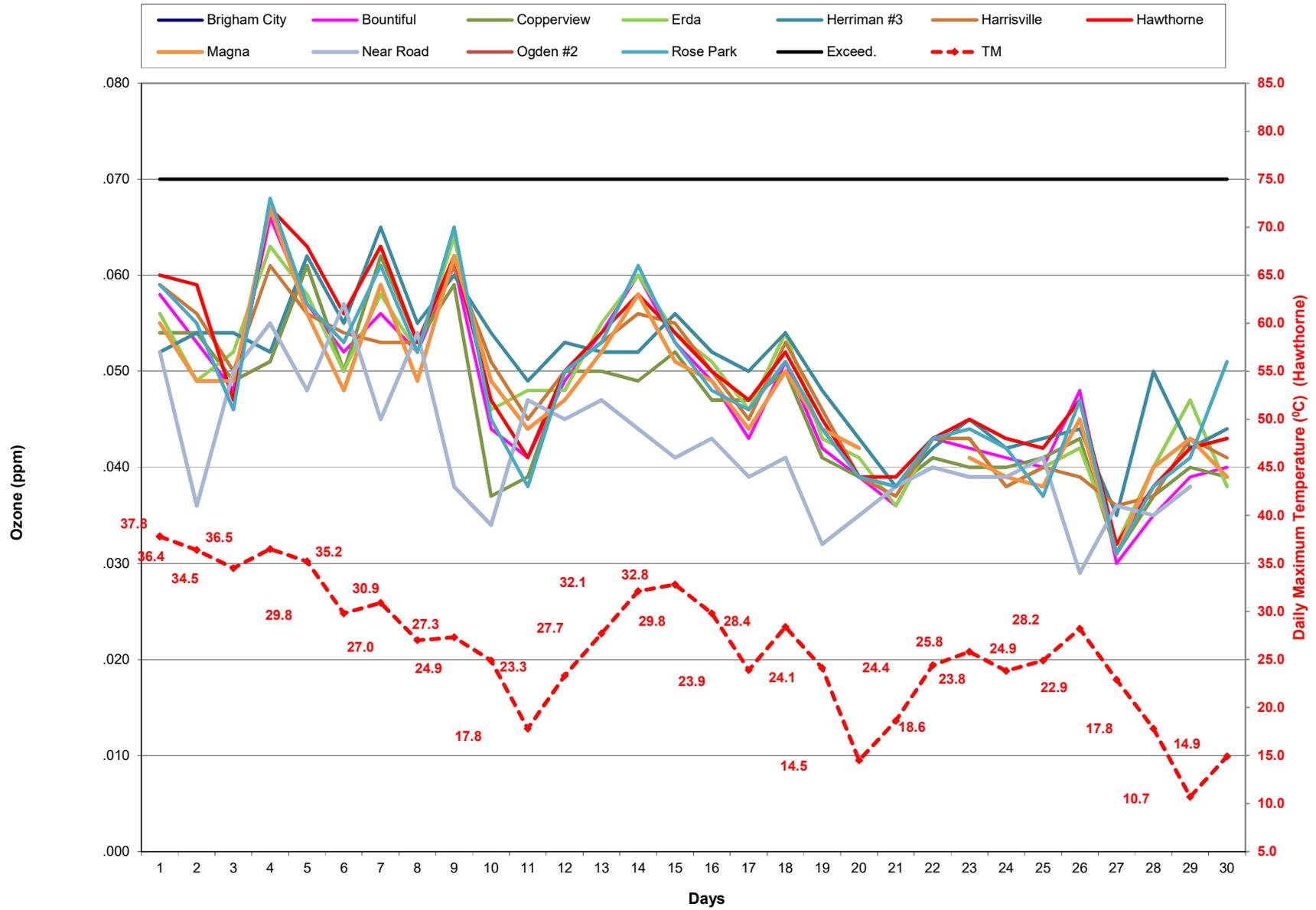


# Highest 8-hr Ozone Concentration & Daily Maximum Temperature August 2019

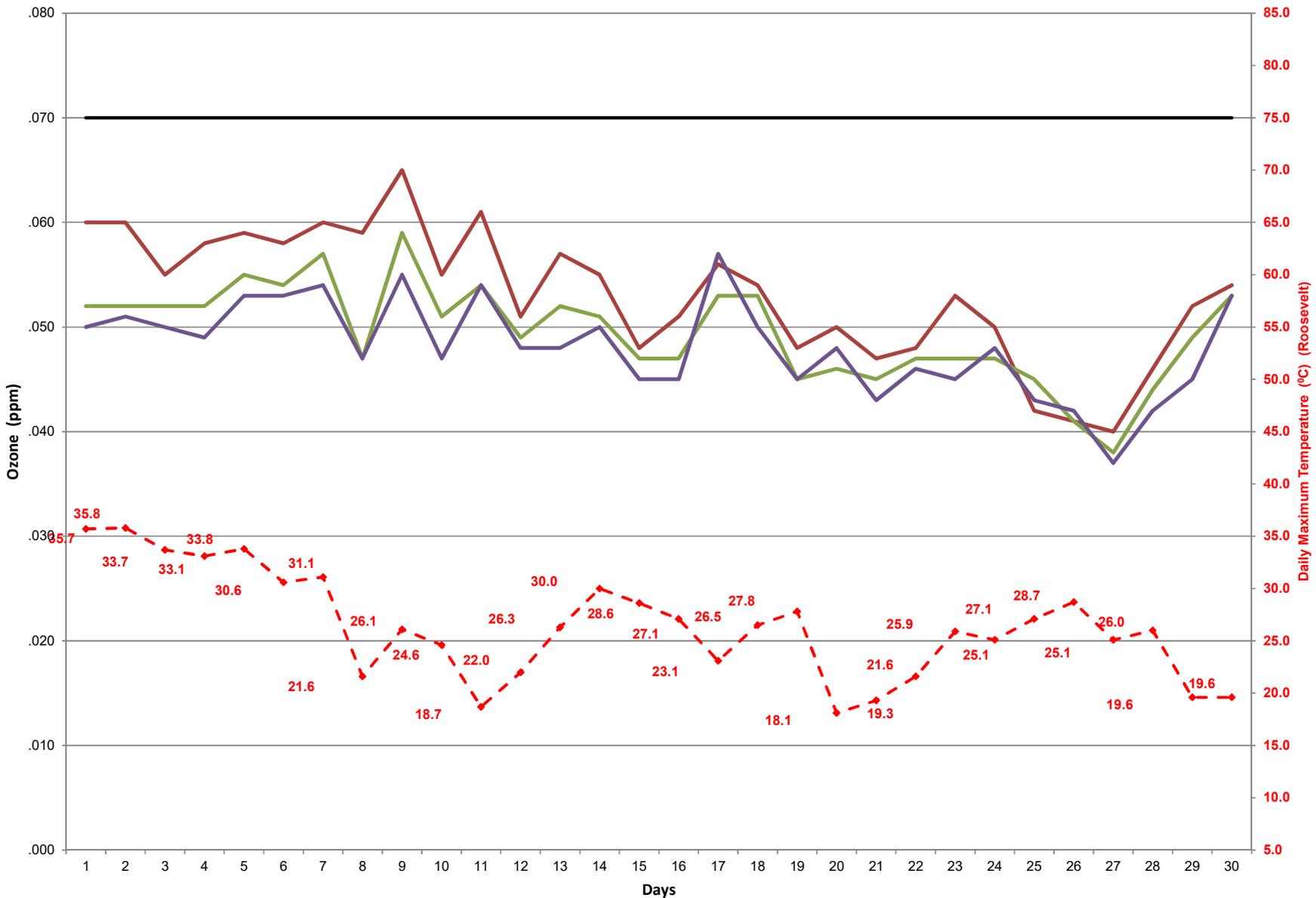




## Highest 8-hr Ozone Concentration & Daily Maximum Temperature September 2019

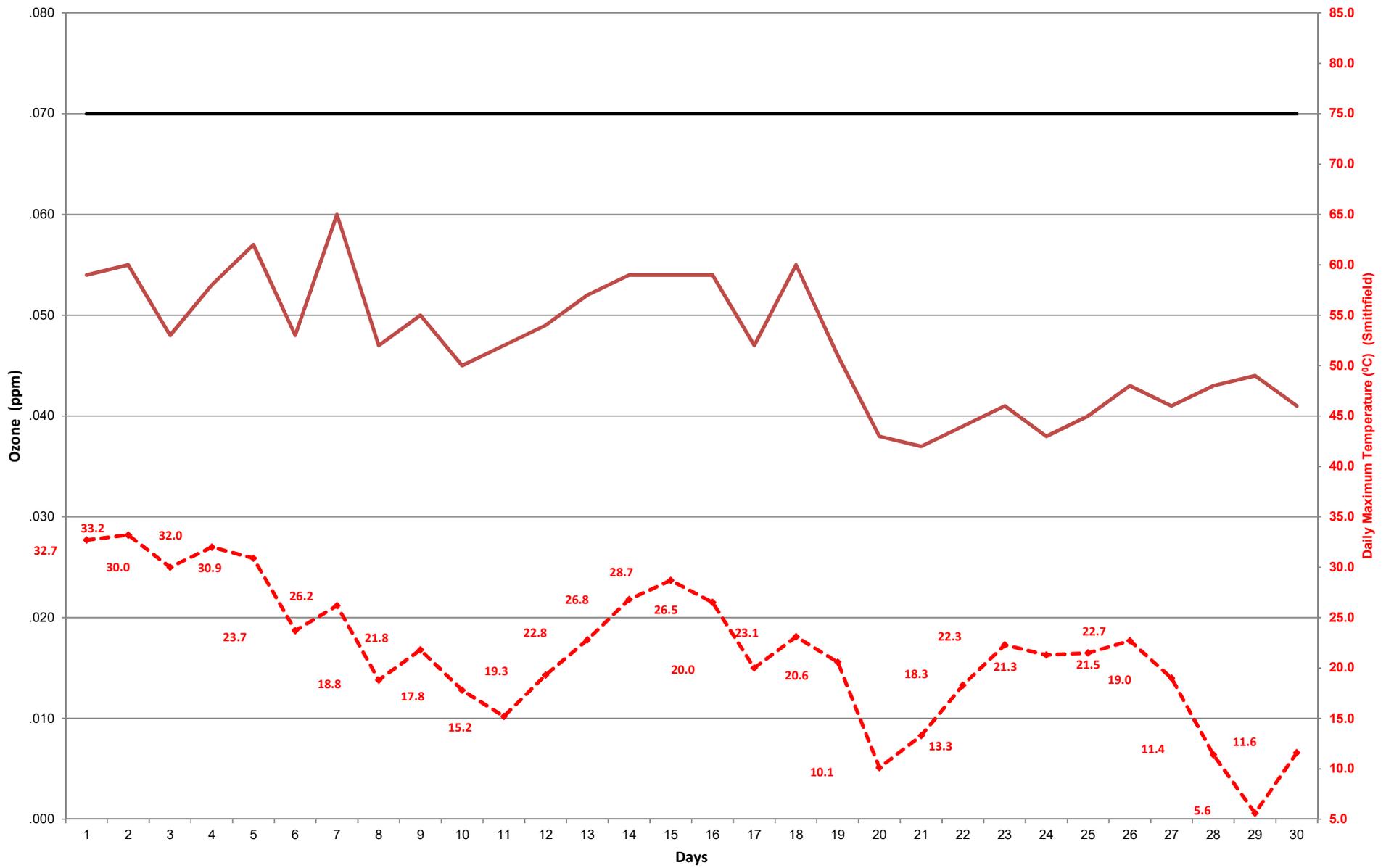


### Highest 8-hr Ozone Concentration & Daily Maximum Temperature September 2019

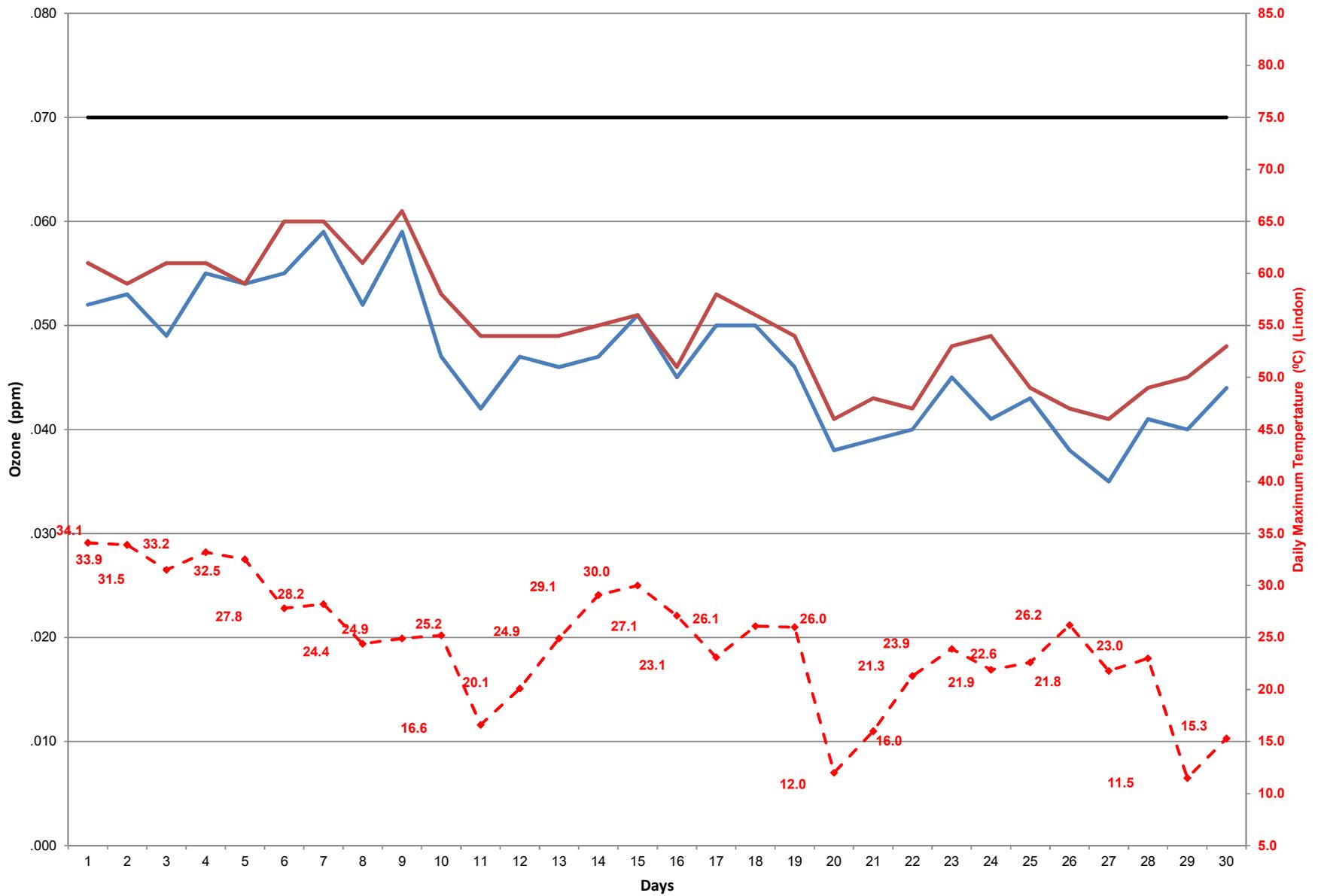


# Highest 8-hr Ozone Concentration & Daily Maximum Temperature September 2019

Smithfield Exceed. TM

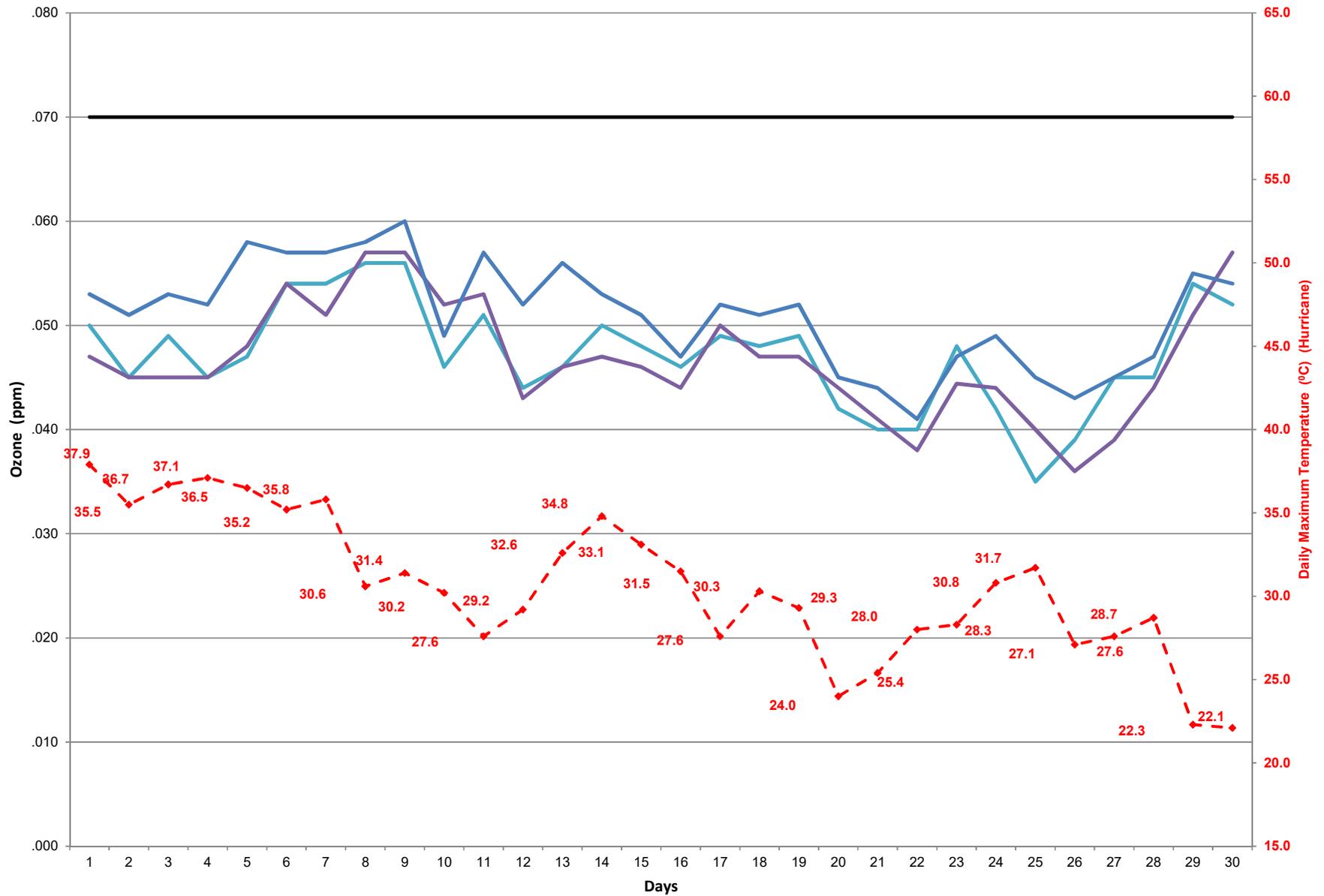


### Highest 8-hr Ozone Concentration & Daily Maximum Temperature September 2019



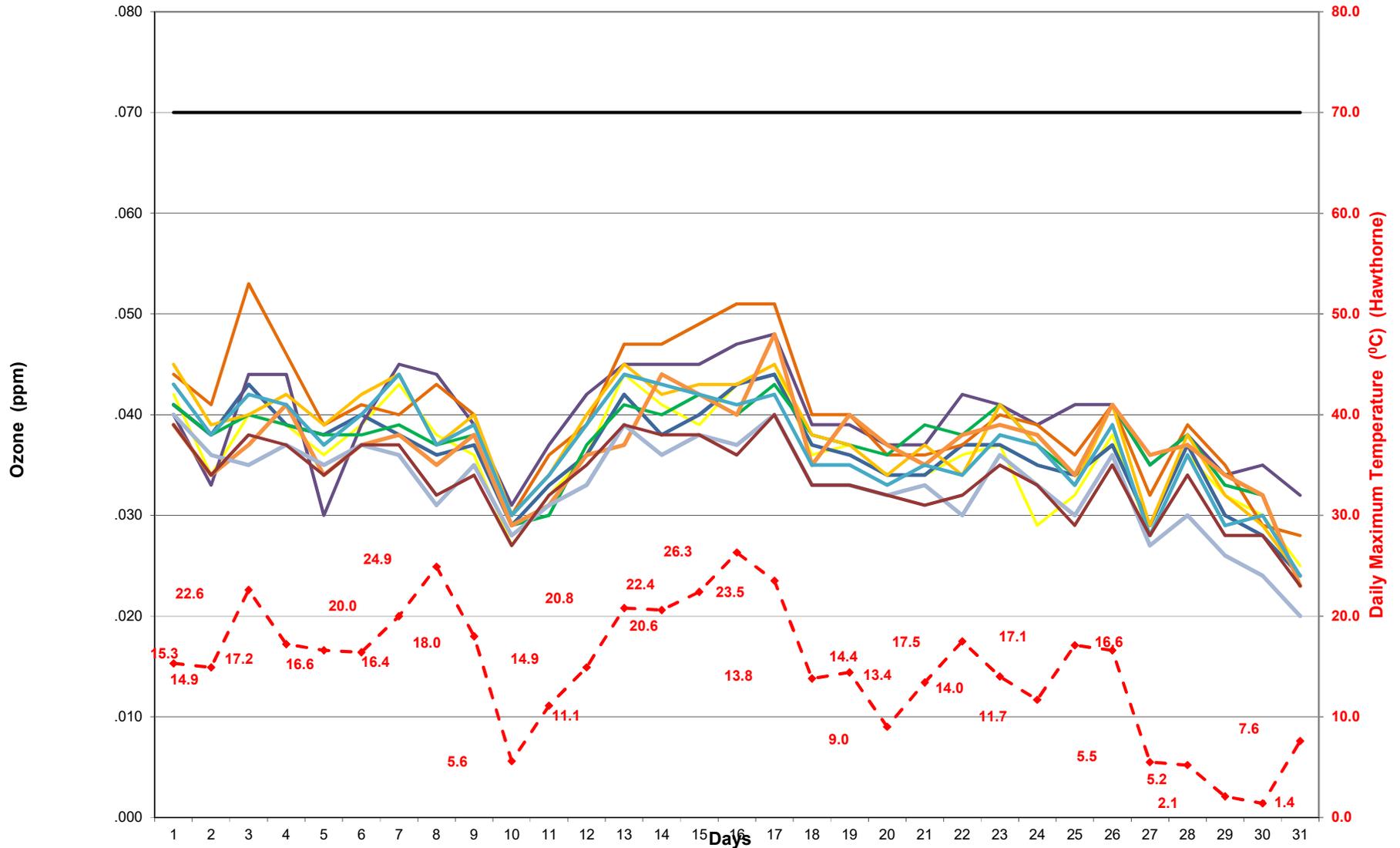
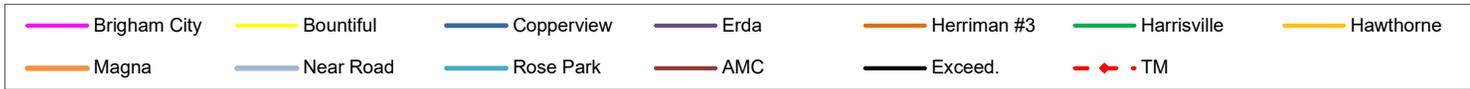
# Highest 8-hr Ozone Concentration & Daily Maximum Temperature September 2019

— Enoch — Escalante — Hurricane — Exceed. — ♦ — TM

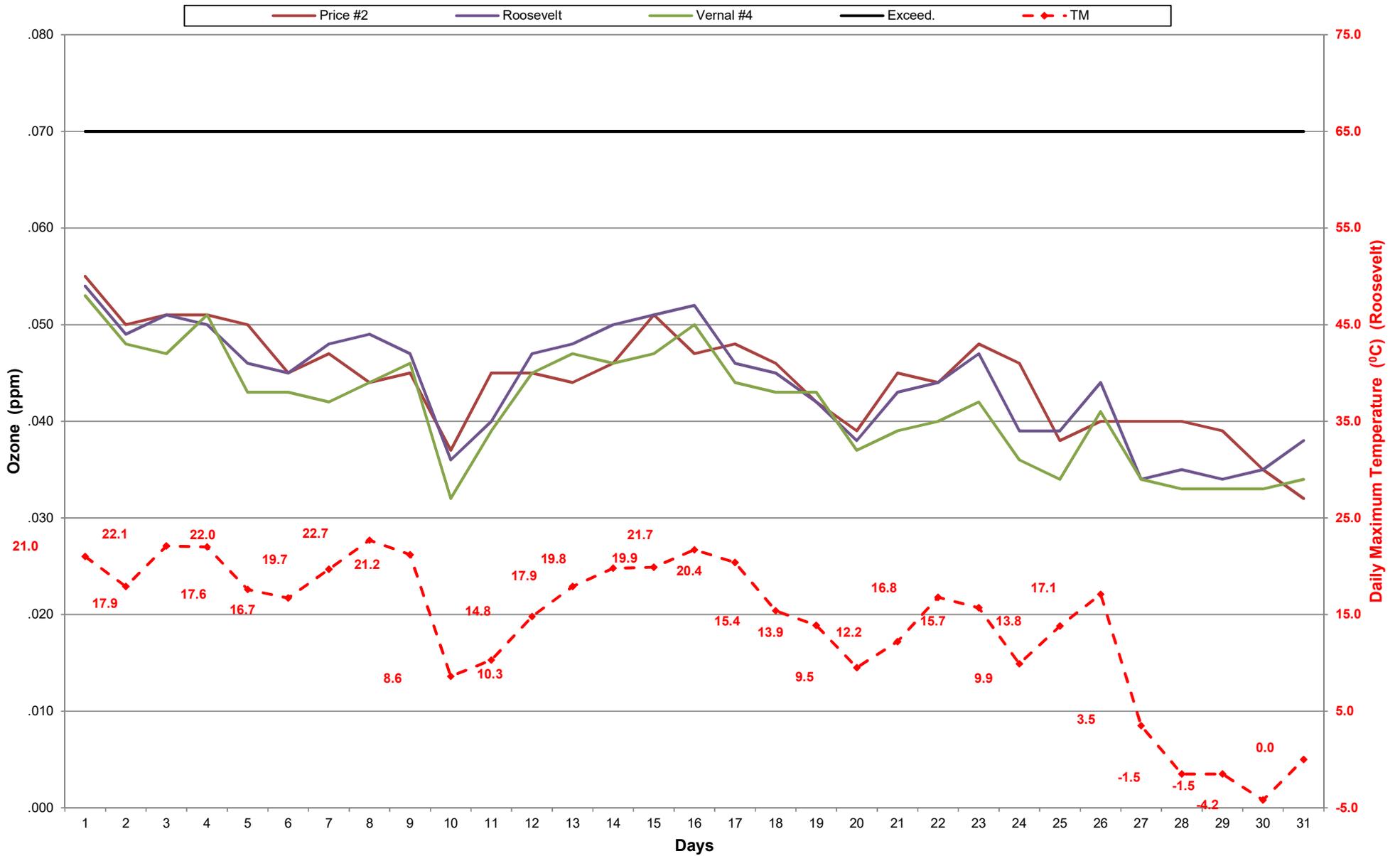




## Highest 8-hr Ozone Concentration & Daily Maximum Temperature October 2019

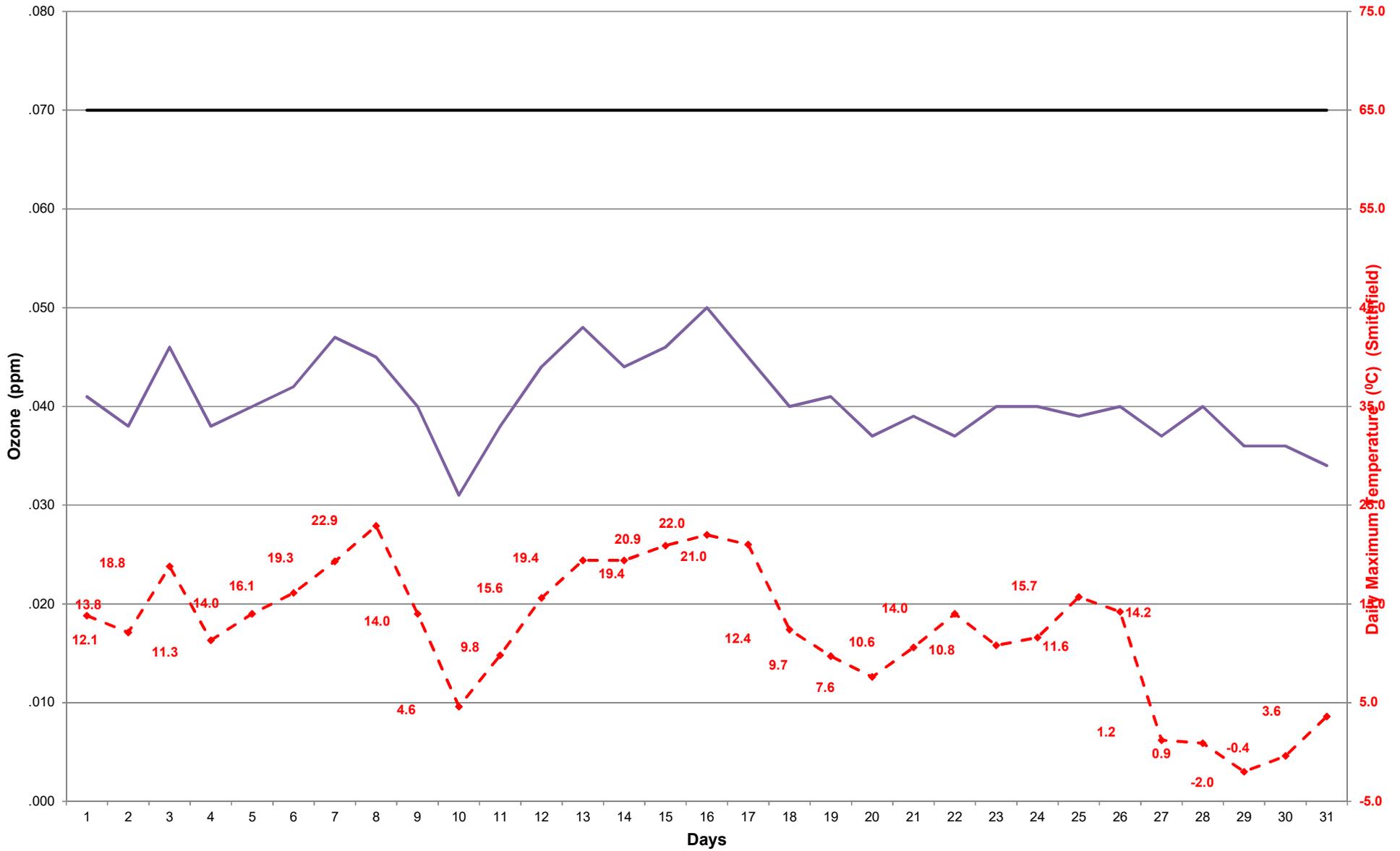


# Highest 8-hr Ozone Concentration & Daily Maximum Temperature October 2019



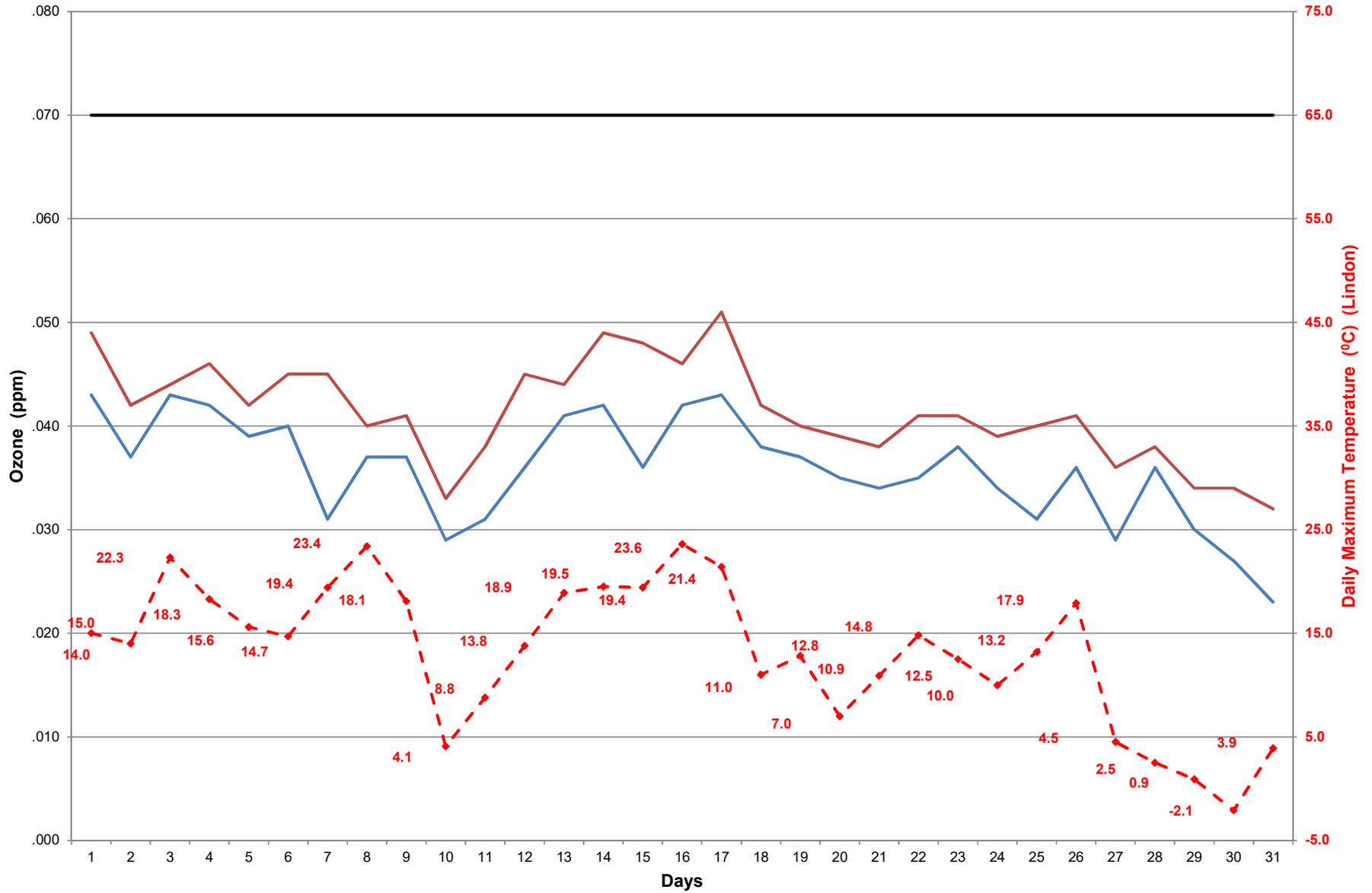
# Highest 8-hr Ozone Concentration & Daily Maximum Temperature October 2019

Smithfield Exceed. TM



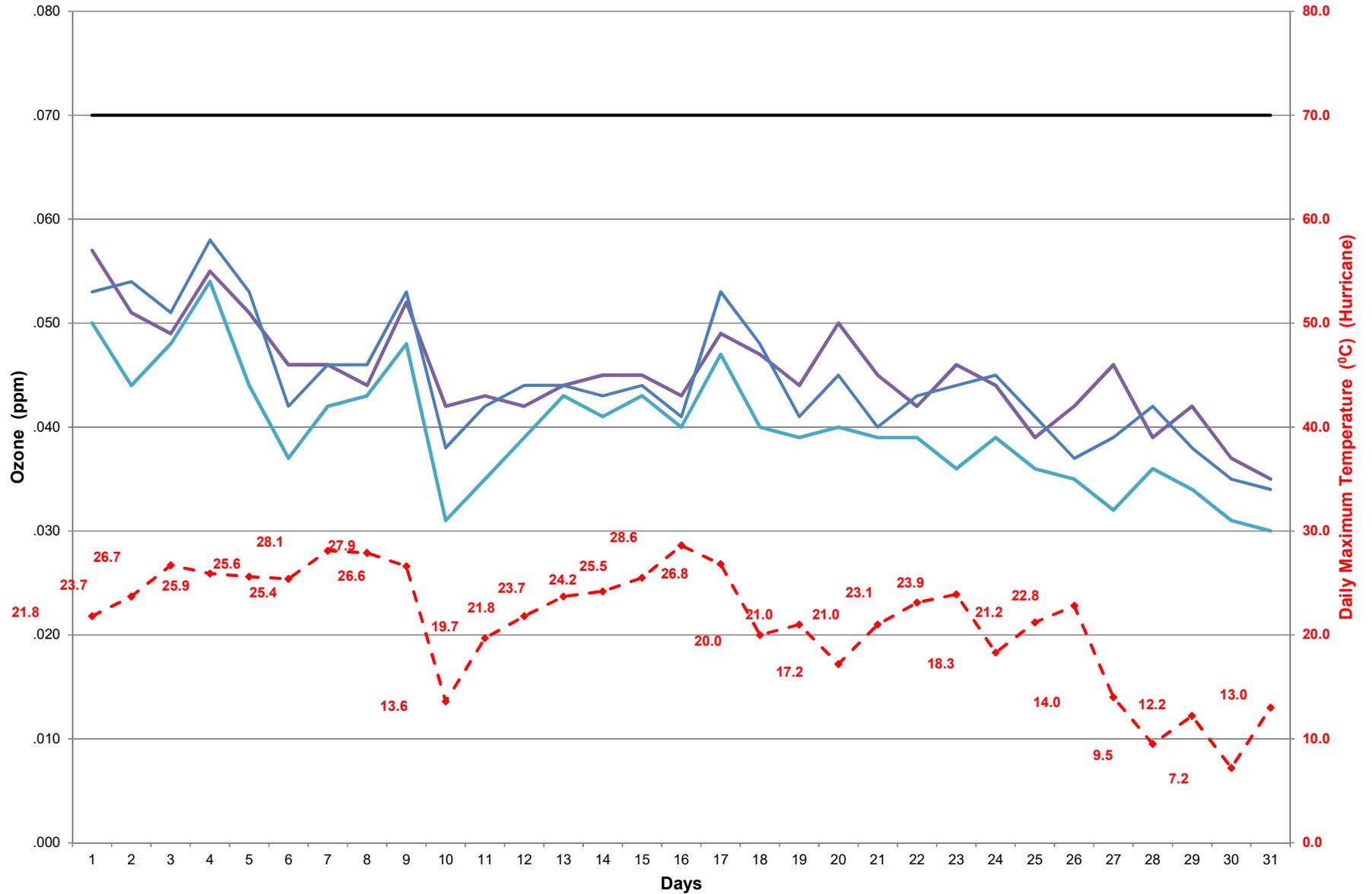
# Highest 8-hr Ozone Concentration & Daily Maximum Temperature October 2019

— Linton — Spanish Fork — Exceed. —♦— TM



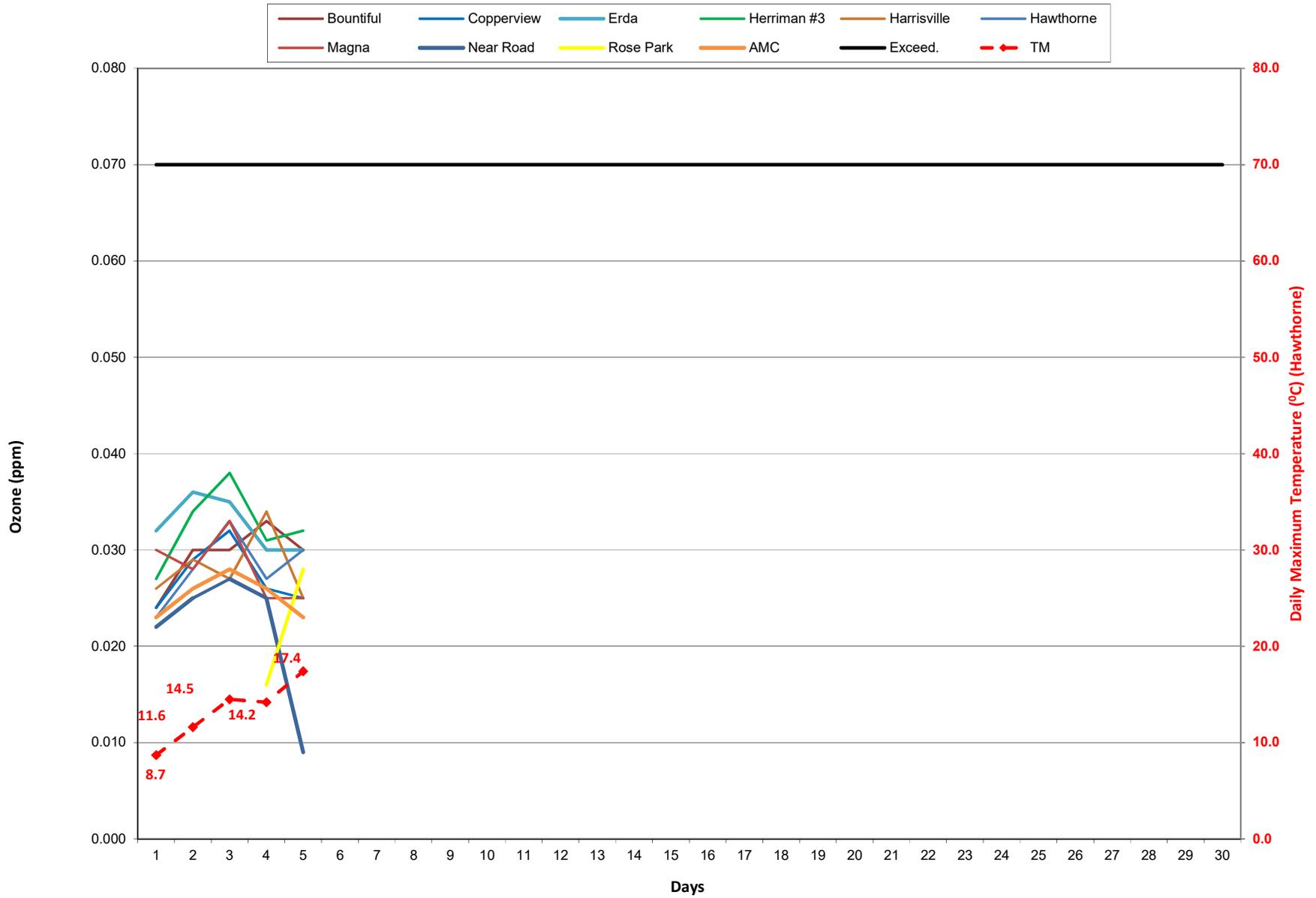
# Highest 8-hr Ozone Concentration & Daily Maximum Temperature October 2019

— Enoch — Escalante — Hurricane — Exceed. — TM



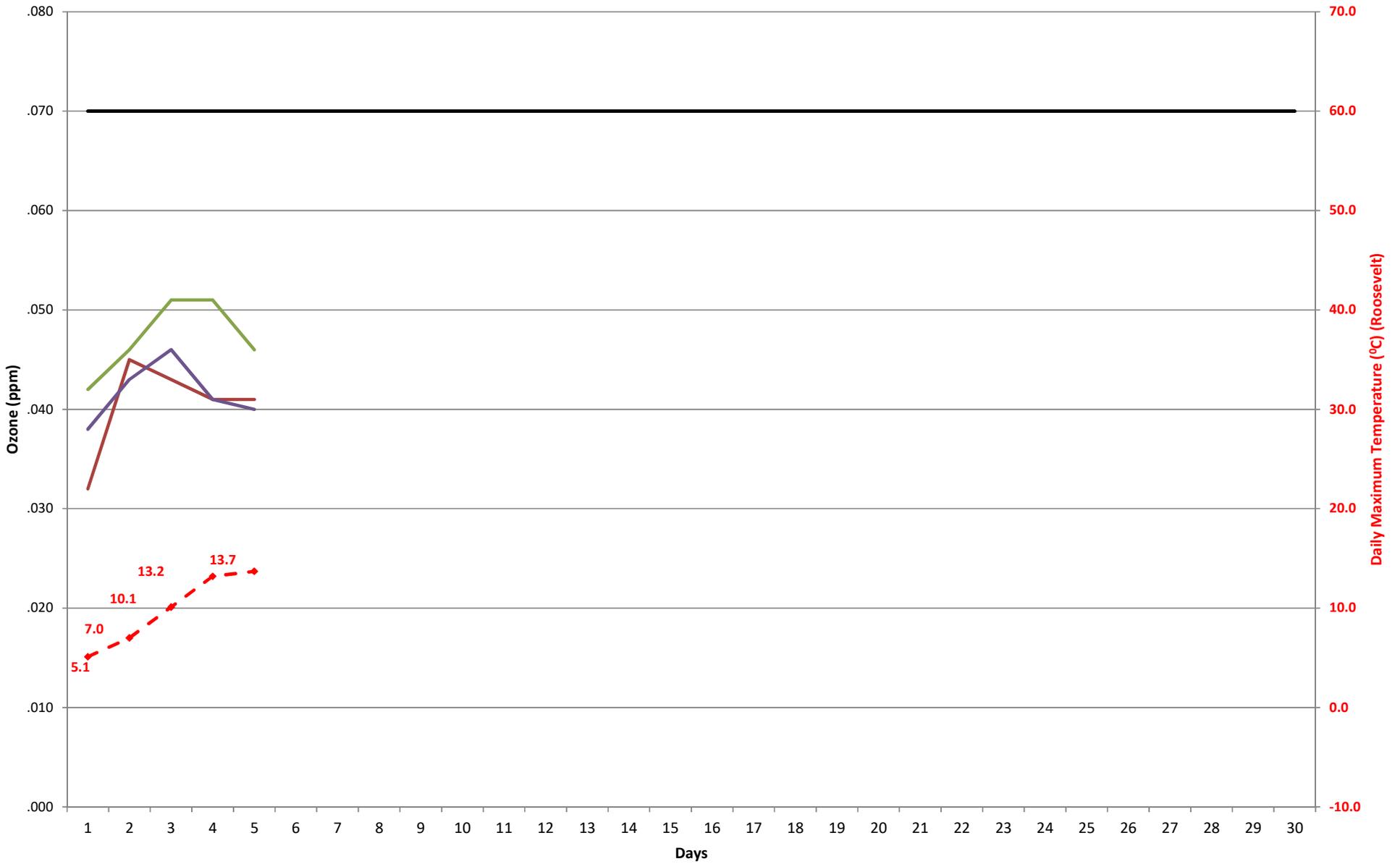


### Highest 8-hr Ozone Concentration & Daily Maximum Temperature November 2019



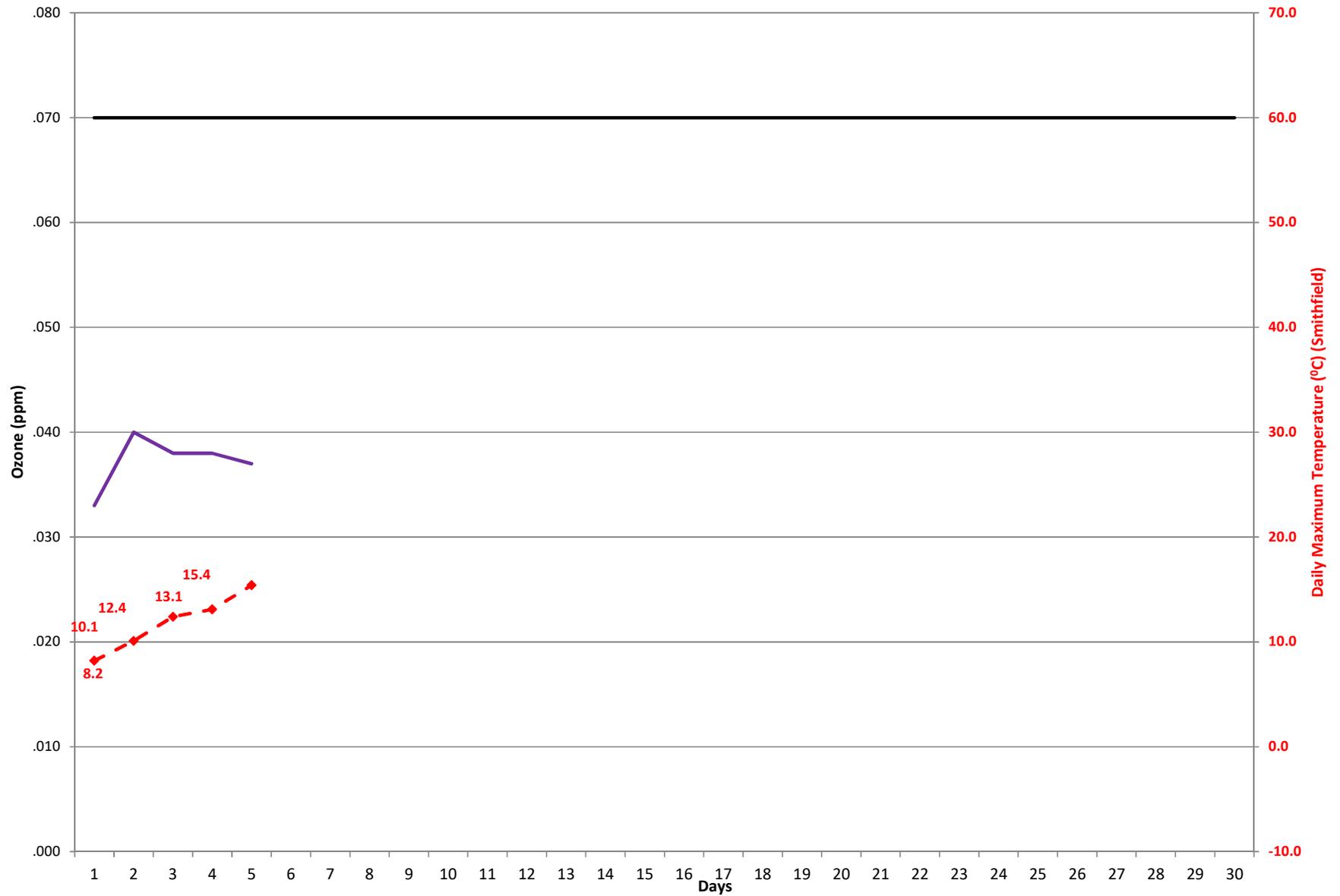
# Highest 8-hr Ozone Concentration & Daily Maximum Temperature November 2019

Price #2    Roosevelt    Vernal #4    Exceed.    TM



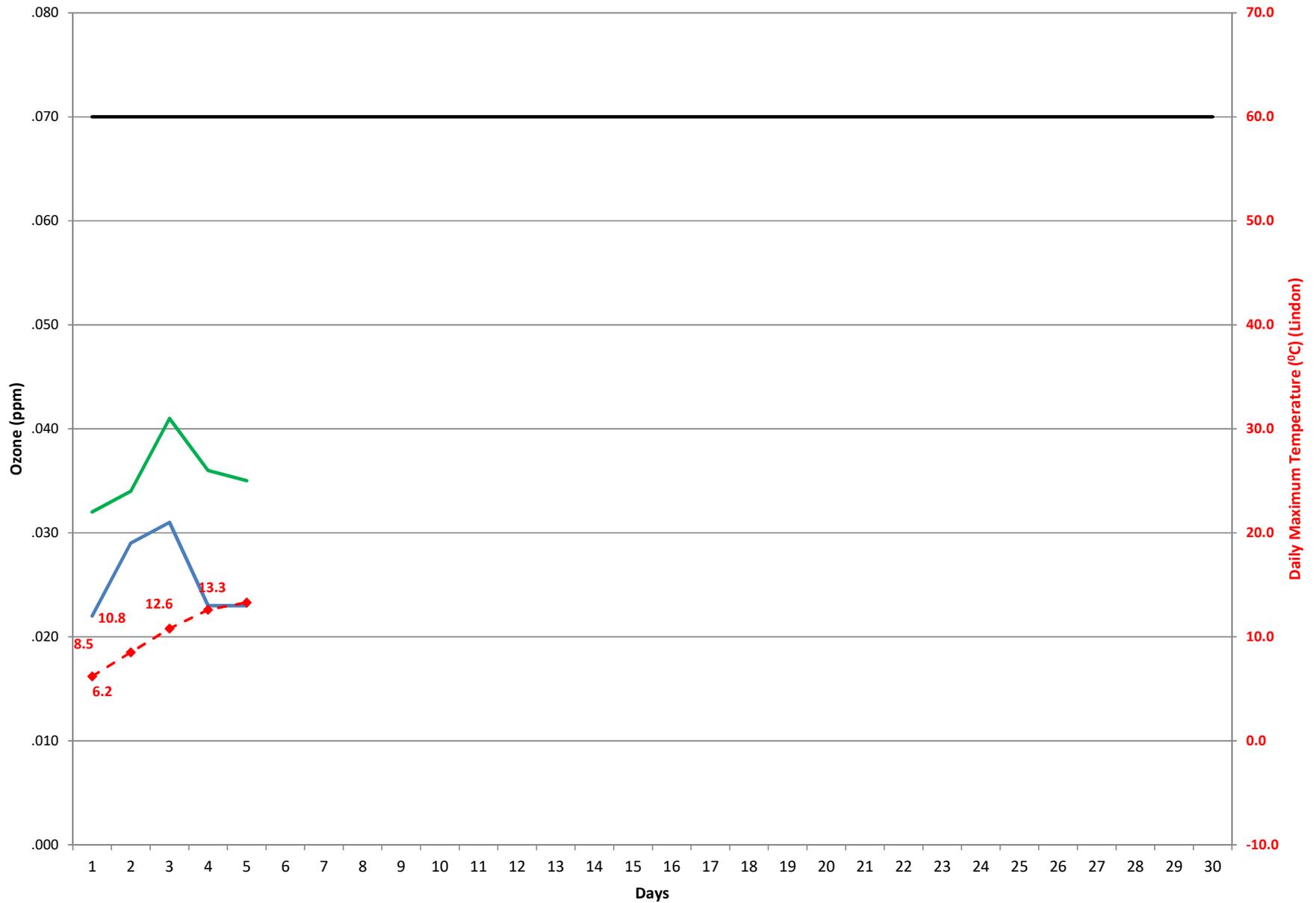
# Highest 8-hr Ozone Concentration & Daily Maximum Temperature November 2019

Smithfield Exceed. TM



# Highest 8-hr Ozone Concentration & Daily Maximum Temperature November 2019

— London — Spanish Fork — Exceed. - - ◆ - - TM



# Highest 8-hr Ozone Concentration & Daily Maximum Temperature November 2019

