



Newsletter

Environmental Connection

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Contents

- Attorney Denise Chancellor Retires
- Radon Program Losing Funding
- On the Radar: Interactive Map Improves Efficiencies
- Samantha Mary Julian, Energy Director: Energy and Environment
- Governor Announces Idle Reduction Policy for the State Fleet
- Utah Fleet Operations Not Sitting Idle
- UDOT Program Will Play a Key Role in U-CAIR
- *Inside DEQ: Drive ... or Not*

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Attorney Denise Chancellor Retires

Utah's lead environmental attorney Denise Chancellor is petite, unimposing and by all appearances unlikely to strike fear in the hearts of opposing counsel. But looks can be deceiving.

Chancellor wears iron will and tenacity in the same way other attorneys carry a briefcase. And she has proven time and again to be a force not to be underestimated.

It was Denise Chancellor after all, who took on the high-powered legal guns of the nuclear waste industry, filing nearly 50 contentions throughout 10 years of litigation as the state's lead counsel in a successful effort to keep spent nuclear fuel rods from temporarily stored on the Skull Valley Goshute Indian Reservation, just 45 miles southwest of Salt Lake City.

"It's hard for me to be partially involved," said Chancellor. "I'm really involved or I'm not. I put everything I have into my work. It's part of my personality."

Chancellor retired from the Utah Attorney General's Office in June, leaving a legacy that will be difficult to match.

The last two years of her 24 year distinguished career at the Utah Attorney General's Office have been spent more quietly behind the scenes as the Chief of the Environmental Division, overseeing the attorneys who represent the Utah Department of Environmental Quality (DEQ). She stepped into that position upon the retirement of Fred Nelson, who was instrumental in drafting legislation that created DEQ in 1991.

“Denise has been a fierce defender of the state and environmental protection,” said Amanda Smith, executive director of DEQ. “Her legal skills have been invaluable to the state. Denise will be succeeded but not replaced.”

DEQ is working with the AG’s Office to fill the vacancy. Until then, plans are under way to locate all AG’s environmental attorneys at DEQ offices where all Divisions can draw from the same talent pool.

Chancellor is most noted for her dogged determination to keep nuclear waste out of Utah, having twice been named Lawyer of the Year, once when the Utah State Bar honored her with the distinguished Energy, Natural Resources and Environmental Law Lawyer of the Year; another as the Attorney General’s Lawyer of the Year.

“She is energetic, dynamic and well respected by private industry attorneys inside and outside the state,” said Connie Nakahara, an assistant attorney who worked alongside Chancellor during the 10 year litigation effort to prevent Private Fuel Storage (PFS), a consortium of nuclear utilities, from temporarily storing 40,000 tons of spent fuel rods on the Skull Valley Goshute Indian Reservation.

“We were working 60 to 100 hours a week,” recalled Nakahara. “We spent many all-nighters. We faced insurmountable challenges and had many disappointments in the PFS case, but we often relied upon Pat Bagley’s editorial cartoons to always make us laugh and keep us going.”

Laura Lockhart, an assistant Utah Attorney General in the environmental division, says Chancellor will be remembered as a feisty competitor who never gave opponents – or her staff – time to catch their breath.

“She walks fast, she talks fast, she works fast,” Lockhart said. “She is infatigable. She has high expectations of herself and of all of us.”

The PFS battle began in 1997 when Chancellor prepared the state’s appeal of the Nuclear Regulatory Commission’s license to allow PFS to temporarily store nuclear spent rods in Utah. What followed was 10 years of litigation before six court jurisdictions, Nakahara said. “During the eight years of NRC adjudicatory proceedings, Utah filed 47 contentions – 10 of which went to trial. These included 62 days of trial, 98 opposing witnesses to depose and cross-examine, more than 20,000 pages of hearing transcripts to review, 225 exhibits to prepare, more than 1,000 pages of pre-filed testimony and countless motions and briefs.”

The case is now at the Department of Interior (DOI) where DOI is reviewing its previous rejection of PFS’s lease to store spent fuel on Reservation lands and to use public lands to build a rail line or an intermodal hub that PFS had hoped to use to transport the spent fuel onto the reservation. In the meantime, the nuclear waste industry has used other means to store spent fuel, mostly onsite at its nuclear power plants throughout the country. Utah’s challenge to NRC’s issuance of a license to PFS is at a standstill, but most experts agree the proposal is unlikely to succeed.

Chancellor admits she thrived on the challenge of it all. “One of the most rewarding aspects of the case was the friendships and collegially that formed from working side-by-side from 9 in the morning until 11 at night with a group of very dedicated and talented state employees.”

She’s had other courtroom successes since then.

In 2010 the U.S. 10th Circuit Court of Appeals ruled that Utah, through the Northwest Interstate Compact on Low-Level Radioactive Waste, can keep low-level radioactive waste from foreign

countries out of EnergySolutions' disposal facility at Clive. The ruling overturned a U.S. District Court decision that the Compact had no authority to authorize access to the EnergySolutions site.

Chancellor started her law career in 1988 as a law clerk "housed in a closet under the stairs of the Utah Capitol." She received a biology degree at the University of Utah before getting a law degree, notwithstanding that her husband Thomas, now retired, was then a professor at the University of Utah college of law.

Her laurels in the legal community aside, Denise and Thomas are extensive world travelers. "Denise has traveled many times to six continents," Nakahara said, "from growing up in Australia to an overland trip across Africa, where she met her husband Thomas, to being a ski bum at Snowbird to touring the Louvre in Paris, to slogging through the Amazon to visiting Mumbai (Bombay) to St. Petersburg to exploring pyramids in Egypt to biking through Italy to sailing around the Norwegian Sea to exploring caves in France and many more adventures."

Chancellor credits her science background as providing a good foundation to preparing herself for the legal challenges that are at the heart of environmental law. "You have to be willing to dig into the regulations and the science behind the issues," she said. "It's a mix of legal, technical and regulatory work that can be intimidating but in the end they are the more challenging and rewarding parts of the job."

Right now, Chancellor says, she is most looking forward to spending time with her husband, hiking and traveling and enjoying Utah's environment outside the courtroom.

Radon Program Losing Funding

Federal budget cuts threaten to eliminate one of the Utah Department of Environmental Quality's most successful programs – The [Utah Division of Radiation Control Indoor Radon Program](#).

For 20 years the U.S. Environmental Protection Agency (EPA) has provided the Division of Radiation Control (DRC) with an estimated \$50,000 annual grant that partially funds the Indoor Radon Program. The result has been priceless – saving lives by helping hundreds of people with radon testing and education.

"This is a vital program that has had such tremendous benefits to the public," said Rusty Lundberg, director of DRC. "The Division feels that cutting funds to one of the most cost effective, results-oriented, radiation risk reduction programs, leaves the public less informed about a vital health issue. The ultimate question facing the program's future may be: Without the funding, what happens now?"

Christine Keyser, who has served as the state indoor radon program coordinator for four years, is concerned.

"It concerns me that anyone would choose to cut funds to a lifesaving program. The EPA is proposing to abolish the State Indoor Radon Grants based on the false assumption that states can carry on this vital program without federal funding. With limited outside resources to pay for this program, DRC faces a tough challenge to come up with the funding."

History of Saving Lives

The danger of high exposure to radon in mines was known back in the 1500s. Yet, the presence of radon in indoor air was not documented until 1950. Finally in 1970, research was initiated to address sources of indoor radon, determinants of concentration, health effects, and approaches to mitigation. In 1984, a widely publicized incident in Pennsylvania escalated the problem of indoor radon and investigation intensified, with the EPA taking a strong lead to educate states via its State Indoor Radon Grant (SIRG).

EPA's grant has been partially funding the Utah Division of Radiation Control's (DRC) Indoor Radon Program that enables the Division to respond to a continuous stream of public telephone and email inquiries, provide education to homeowners and professionals, conduct "target area" indoor radon assistance and surveys, and offer individualized assistance to homeowners and public agencies concerning all aspects of the indoor radon hazard problem.

"The Division's primary goal is to assure that radiation exposure to individuals is kept to the lowest practical level," said Lundberg. "A vital mechanism in reducing radiation exposure and potentially saving lives is our Indoor Radon Program."

Radiation risk to the American public from radon gas is undisputed. According to William Field (2011), radon is the leading environmental cause of cancer mortality in the United States and the seventh leading cause of cancer mortality overall. The Harvard School of Public Health, Center for Risk Analysis, has ranked radon as the highest of ten risks of death in homes in the United States, ahead of falls and home fires .

The Division's core objective is to improve air quality by reducing the level of indoor radon in the state of Utah to concentrations less than the Environmental Protection Agency's action level of 4 pCi/L (pico-Curies per liter). The Indoor Radon Program focuses its efforts on the following five areas:

- Radon Awareness, Testing, and Mitigation
- Radon Resistant New Construction (RRNC)
- Real Estate Disclosure and Testing
- Local Government Coalitions
- Public School Testing

To reach these goals and objectives, the State Radon Program Coordinator works closely with local health districts, education departments, hospitals, Realtors, builders, homeowners, media and policy makers.

"Radon awareness in Utah has grown steadily the past decade," said Keyser. "Already this year, we have seen the number of radon tests conducted in Utah triple from the previous year.

The programs growth and success is evidenced by the following measurements:

- Radon testing has increased. During the first three months of 2012, radon tests reached approximately 4,083. In comparison, tests total 4,236 in 2011 and only 900 in 2005.
- Installation of radon mitigation systems have increased. Homes mitigated in 2011 reached approx. 755, compared to 596 mitigations in 2010 and only 150 in 2005.
- Website visits have increased. Visits to the radon website reached 54,154 in 2011, approx. 20,000 more visits than previous years.
- Radon awareness has increased. Utah hosted its first annual EPA Region 8 Stakeholders Radon Meeting in April 2012. Radon CE courses have doubled for Realtors and home

builders. All twelve local health districts have signed up to be more proactive in promoting radon awareness in all areas of the state.

- Government and community involvement has increased. Governor Herbert declared January 3-9, 2012 as “Radon Action Week.” Habitat for Humanity in Utah County is currently using RRNC in every home it builds. The Huntsman Cancer Institute collaborated with the Division to study radon awareness in Utah and just recently published its findings. Several Utah lung cancer survivors have become strong advocates for radon testing. The mayor of Beaver City has instructed a local committee to fight radon, with the Division’s assistance.
- More new homes are being built with Radon Resistant New Construction (RRNC). Approx. 200 homes were built with RRNC last year and the number continues to grow.
- More schools are being tested for radon. Canyons School District, Salt Lake County School District, and Tooele School District have done extensive testing the past two years.

“Although we are seeing significant progress, there is still so much more outreach that needs to be done,” said Keyser. “The testing data indicate that approximately one-third of the homes in Utah have elevated radon levels; we have just begun to scratch the surface.”

This article was written by Christine Keyser, the state indoor radon program coordinator.

On the Radar: Interactive Map Improves Efficiencies

The Division of Environmental Response and Remediation (DERR) has developed an Interactive Map of Superfund sites, Underground Storage Tanks and other related cleanup repository documents that’s greatly improved the public’s ability to gain access without having to file onerous government documents to obtain information.

The [Interactive Map](#) available at DEQ’s Web site: deq.utah.gov allows users to see the appropriate locations of potentially hazardous sites in Utah, including [brownfields](#), [superfunds site](#), [Underground Storage Tanks](#) or areas featuring interstates, railroads, transmission lines or where chemicals may be stored. Developers of the Web map caution that it represents raw data that fairly pinpoints locations but could contain some inaccuracies and the site location display is only an approximate representation of the actual site.

Even so, the Interactive Map has been a tremendous hit, with thousands of documents downloaded in a year’s time. More importantly, said Brent Everett, director of the DERR, “This promotes openness and transparency and makes us more efficient by providing the information to the public in an easy format that would otherwise require countless staff hours spent researching documents.”

The result is a 64 percent reduction in a four-year period (1,340 in 2008 to 476 in 2012) in the amount of requests for documents. Typically, businesses, real estate agents, consultants, journalists, lawyers and private citizens file requests for the information through Government Records Access and Management Act, known as [GRAMA](#) requests.

The amount of documents that have been requested via the Interactive Map and search tool is tremendous, said Therron Blatter, manager of DERR’s Underground Storage Tank Branch. Since last July, over 12,000 documents were requested by folks as far away as Asia to nearby locations within Utah.

“Once you understand how to use the site, people love it,” Blatter said. “The site gets used extensively.”

The Interactive Map was finalized in the late 1990s and has evolved to include search engines that track down documents tied to properties. The site is open to the public, where the user can drill down to as much information that can be downloaded electronically. Users can type the location or area to find out the historic uses of the lands, any contaminated sites or cleanups. Eventually, other Divisions like Solid and Hazardous Waste, will contribute to the database. The Division of Drinking Water does require a login verification due to the secure nature of water source protection.

DEQ strives to become more efficient and transparent in the way it does business, noted Amanda Smith, executive director of DEQ. Some requests for information are somewhat intimidating and difficult to track. But GRAMA is the law of our state and DEQ fully complies with the obligations of open-government disclosure, Smith added.

“Having a tool that provides easy access and meaningful information is not only a benefit to our agency in saving time and cost,” Smith added, “but to the public’s right to know.”

Guest Speaker: Samantha Mary Julian
Energy Director Promotes Power of Environment

Although separated by distance, the Office of Energy Development (OED) remains closely tied to the Department of Environmental Quality (DEQ) in its environmental mission.

“Environmental protection is a key aspect of responsible energy development,” said Samantha Mary Julian, director of OED. “While working to advance energy projects, OED regularly must engage on environmental issues such as species preservation, water and air quality.”

Julian spoke to DEQ employees on June 22 as part of a Speaker Series the Employee Development Committee formed a few years ago, inviting Utah community leaders to speak on issues.

There’s been much progress since Governor Gary Herbert released his 10-year Energy Plan in March 2011, Julian said. The 2011 Legislature established the Energy Office, originally co-located with DEQ at the Multi Agency State Office Building. In May, OED moved in the World Trade Center at City Creek, consolidating energy functions into one location.

“In one year we saw a flurry of productive activity,” she said, “My staff are focused on becoming the ‘go to’ people in energy, and they have made great strides in the past 14 months.”

OED has been an active player in the Uintah Basin Air Quality Initiative, which brought together scientists, government agencies, and oil and gas industry to study high ozone pollution during heavy snow-covered winters. The office also has been involved in the creation of the Governor’s U-CAIR statewide air quality initiative, a voluntary program meant to mobilize a variety of stakeholders to reduce emissions and boost efficiencies.

“Both initiatives are successes of the Governor’s Energy Plan,” Julian said. “OED will continue to support efficiency and emissions actions as it is critical to responsible development and use of energy.”

In its first year, OED not only ran successful programs and advanced policy and development but also hosted the first annual Governor's Energy Development Summit. "The event, held on Feb. 15, was a huge success, drawing a sold-out crowd of 1,000 attendees, who flew in from 21 states and from Canada," Julian said.

Most recently, Cody B. Steward was named successor to Amanda Smith as the Governor's Energy Advisor. Julian said she's excited about the changes in the state's energy sector and looks forward to implementing Stewart's energy vision for Utah.

In the meantime, OED will continue to work closely with DEQ.

"We plan to team up with DEQ to educate others," Julian said, "about environmental concerns in energy development."

Governor Announces Idle Reduction Policy for the State Fleet **"The state will lead by example."**

In a move that could dramatically reduce tailpipe emissions from vehicles in the State fleet, Governor Gary Herbert announced that all 7,300 State vehicles will be switched off after thirty seconds of idling. The state is taking an important step to improve Utah's air quality," declared Governor Herbert. "We believe that change must start with us."

The Reduction of Automotive Idling Executive Order promotes better air quality by cutting vehicle emissions currently released when State vehicles idle. Exhaust emissions released during idling contain nitrogen oxides, volatile organic compounds, particulate matter, carbon monoxide, and carbon dioxide, pollutants that all contribute to unhealthy air.

Idling produces more exhaust emissions than a moving vehicle. It also wastes fuel. Reductions in idle time will result in reduced emissions and considerable cost savings for fuel and vehicle maintenance. With over 7,000 vehicles in the State fleet, these reductions will result in better air quality as well as cost savings to taxpayers.

Each State agency will develop a policy consistent with the Executive Order and implement mandatory anti-idling requirements for State employees. Idling will be tracked using telematics, onboard computer systems that use a GPS and a data logger to capture information on idle times. Agencies will also encourage employees to reduce or avoid idling when driving their personal vehicles. "We urge individuals and businesses to join us in this important effort," added Herbert. "If each of us does our part, we can make a difference in both our air quality and quality of life."

Utah Fleet Operations Not Sitting Idle **Agency Takes the Lead in Tracking Idle Reduction Success**

Under the direction of the Governor, the Division of Fleet Operations will be spearheading a six-month pilot study to test the effectiveness of the new State anti-idling Executive Order. The Division, which manages 7,300 state vehicles traveling more than 78 million miles per year, is ready to put the rubber to the road.

"The addition of idle reduction strategies to existing fleet management protocols will further reduce air emissions, cut fuel costs, and reduce engine maintenance," said Fleet Operations Director Sam Lee. "We see this anti-idle policy as a great fit with our [ongoing efforts to reduce emissions](#) from fleet vehicles."

Fleet Operations will deploy telematics equipment in select State vehicles for the pilot project. Telematics devices utilize a GPS unit connected to onboard recorders to track vehicle location, time spent idling, and speed. Idling information will be transmitted via a cellular network to a data server that can be accessed by agency personnel. Fleet Operations will analyze this data to determine the effectiveness of the State anti-idle policy during the July to December 2012 pilot period.

"The data we gather over the course of the pilot project will provide valuable insight into driver behavior and idle times," explains Lee. "The information we collect through telematics will help us reduce idle time and identify fleet strategies that increase efficiencies, reduce emissions, and provide us with cost savings."

State agencies are required to develop a policy for drivers of State fleet vehicles consistent with the requirements under the Governor's Executive Order. Driver training, distribution of information about idling reduction, and the development of an effective and efficient process for evaluating and tracking compliance will ensure that the program achieves its objectives.

"Education about the impacts of idling will be a key factor in program success," added Lee. "Drivers will naturally create an idle free fleet as they see how simple and smart it is to turn off their vehicle rather than idle."

UDOT Program Will Play a Key Role in U-CAIR TravelWise Makes Travel Cents

What began as a way to reduce traffic congestion during the 2002 Winter Games has grown into a program that promises to change the way Utah residents think about their travel behaviors. Embraced by the Salt Lake Chamber, businesses, and individuals along the Wasatch Front during the Clear the Air Challenge, the [UDOT TravelWise](#) Program is now poised to boost its partnerships with businesses, government, and individuals statewide.

"Our goal is for employers, employees, governments, and individuals to make TravelWise strategies a part of their daily lives," states Angelo Papastamos, Utah Department of Transportation (UDOT) Planning Manager for the TravelWise Program. "The TravelWise program offers cost-efficient solutions that reduce energy consumption, improve air quality, and optimize mobility while strengthening Utah's economic growth and vitality."

UDOT developed the TravelWise program in 2008 to encourage Utahns to choose alternative travel options to driving alone. TravelWise strategies include carpooling, trip chaining (combining trips), teleworking, flexible work schedules, mass transit, biking, and walking.

"Active transportation, like walking and biking, provides health benefits," explains Mr. Papastamos. "Alternative work schedules give employees flexibility and cut congestion during heavy commute times. Public transit, carpooling, and vanpooling take cars off the road and reduce commuter stress. Teleworking and e-travel use technology to make efficient use of people's time. Trip chaining combines errands so drivers don't return home unnecessarily between trips."

"Implementation of these strategies and other TravelWise practices reduce emissions, save time, and cut vehicle maintenance and fuel costs."

TravelWise Tracker

One of the centerpieces of the TravelWise program is the TravelWise Tracker. The Tracker is an online trip calculator that provides individuals, governments, and businesses with a way to monitor their progress in reducing trips and emissions.

"The Tracker is simple to use," explains Mr. Papastamos. "You create an account on the TravelWise Web site, set weekly goals, and enter the number of trips reduced based on the TravelWise strategies used. The calculator converts the trips saved into miles, emissions reduced, energy saved, and money saved. By looking at "My Dashboard," you chart your progress towards your trip reduction goals, both weekly and year-to-date."

"We even offer a mobile TravelWise Tracker that makes it easy to enter data using a smartphone or tablet."

The Tracker has been the calculator for the Clear the Air Challenge for four years, including this year's August challenge. It is an essential component of the U-CAIR pledge and will be the primary means for quantifying the benefit to air quality from travel strategies implemented through the pledge. U-CAIR will use these quantified benefits to measure statewide progress in emissions reductions.

Promoting TravelWise Strategies

TravelWise works with businesses, agencies, governments, and individuals by helping them apply these strategies, both as a way of life and a way of doing business.

TravelWise provides transportation agency partners such as UTA, the Mountainland Association of Governments (MAG), and the Wasatch Front Regional Council (WFRC) with information on the use of TravelWise strategies for regional transportation planning. Individuals introduced to the TravelWise Tracker through the Clear the Air Challenge use the Tracker year-round to optimize their trip planning and chart their cost savings and emission reductions.

Businesses can partner with TravelWise in a number of ways. The Salt Lake Chamber Clean Air Champions program uses the TravelWise Tracker for businesses participating at its "Extra Rewards" level. Businesses who establish a TravelWise Integration Plan (TRIP) set goals and select TravelWise strategies they will promote to employees, customers, and vendors. Partners select the TravelWise strategies that best fit their company's needs and commit to specific efforts to implement them. They agree to endorse and use the TravelWise Tracker to measure and document the benefits of TravelWise strategies. In return, the TravelWise program pledges resources and support to ensure their success.

Area businesses are pursuing innovative ways to improve air quality, reduce energy consumption, and reduce traffic congestion through collaborative efforts with TravelWise. Overstock.com and TravelWise recently established a flagship program for businesses wishing to hold internal TravelWise competitions. TravelWise has also partnered with Rio Tinto for an upcoming media awareness campaign to educate the public about TravelWise strategies.

TravelWise and U-CAIR

"We're not asking one person to do everything, we're asking everyone to do something. As individuals, businesses and organizations embrace and implement TravelWise strategies, our roadways will function more efficiently and all Utahns will benefit."

-Utah Governor Gary R. Herbert

Governor Herbert could have easily used the same words to describe the U-CAIR program. He cited the TravelWise Tracker in his 10 Year Strategic Energy Plan, stating that "it is critical to educate and promote the benefits of more energy-efficient transportation with such tools as the ... Tracker (which) allows people to measure the money, emissions, and energy saved by using TravelWise strategies."

More travel options, change in travel behaviors, and commitment to make a difference will all play a role in the success of both programs.

"As statewide programs, TravelWise and U-CAIR provide tools and support that are critical to implementing transportation, economic and infrastructure solutions," concluded Papastamos. "Working together, we believe that U-CAIR and TravelWise can make meaningful changes that will reduce traffic congestion and energy consumption while improving Utah's air quality."

**Inside DEQ: Drive ... or Not?
Reducing VMT Reduces Emissions**

VMT. It sounds like the name of a concept car. It isn't, but it does relate to automobile use. The acronym stands for "Vehicle Miles Traveled," and it is an important consideration in travel demand management and employer based trip reduction programs. The collaboration between the Division of Air Quality (DAQ) and U-CAIR on the Governor's Clean Air Initiative presents an ideal opportunity for DEQ to develop a formal VMT reduction program for businesses and governments looking to reduce their drive-alone rate.

"Vehicle Miles Traveled" represents the number of miles driven, whether by an individual, by a particular group, or by the population of a geographic region. The premise behind reducing miles traveled is simple: fewer miles equal fewer emissions. Implementing travel reduction strategies, however, is far from simple.

"Over the past fifty years, cars have dramatically reduced their per-vehicle emissions," explains Lisa Burr, Research Analyst with the Mobile Source and Transportation Section of DAQ. "At the same time, the number of vehicle miles traveled has skyrocketed."

"Increasing travel efficiency and reducing miles driven is an important part of any strategy to improve air quality."

The EPA recently issued a study that evaluated the emission reduction potential of travel efficiency strategies and measured the potential of these efficiencies to reduce VMT. The EPA found that while "many of the technical and financial hurdles have been addressed ... public opinion remains a challenge for some strategies. The real determination of what works best in an individual region will be based on the willingness of the public and policy makers to support change."

"U-CAIR asks residents to pledge to do their part to clean Utah's air," said Joe Thomas, Manager for the DAQ Mobile Source and Transportation Section. "This kind of commitment can go a long way in overcoming the traditional barriers to VMT reductions."

The Division is currently working to develop an employer-based trip reduction program for businesses who want to make voluntary reductions in the vehicle miles driven by employees commuting to and from work, particularly on air quality alert days when weather can trigger unhealthy pollution levels. Strategies could include ridesharing, subsidized transit passes, vanpool leasing programs, flexible schedules, and coordination with local transit authorities on mass transit service to work areas.

While much of the focus on VMT reduction centers around changes in the workplace, individuals can do their part by combining trips, using e-travel to shop online, carpooling to school and extracurricular activities, and using non-vehicle transit options for personal travel.

"Ultimately, a successful VMT reduction program hinges on a combination of education and determination," concludes Thomas. "U-CAIR provides the framework to link the two."