



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

**Air Quality Board**  
Stephen C. Sands II, *Chair*  
Kerry Kelly, *Vice-Chair*  
Alan Matheson  
Erin Mendenhall  
Robert Paine III  
Arnold W. Reitze Jr  
Michael Smith  
William C. Stringer  
Karma M. Thomson  
Bryce C. Bird,  
*Executive Secretary*

**UTAH AIR QUALITY BOARD MEETING**

**December 7, 2016 – 1:30 p.m.**  
**195 North 1950 West, Room 1015**  
**Salt Lake City, Utah 84116**

**FINAL MINUTES**

---

**I. Call-to-Order**

Kerry Kelly called the meeting to order at 1:30 p.m.

Board members present: Kerry Kelly, Alan Matheson, Erin Mendenhall, Arnold Reitze, and Michael Smith

Excused: Steve Sands, Karma Thomson, Robert Paine, and William Stringer

Executive Secretary: Bryce Bird

A moment of silence was observed in remembrance of the Pearl Harbor attack.

**II. Date of the Next Air Quality Board Meeting:** February 1, 2017

Staff indicates that there are no agenda items planned for a January meeting. The next planned Board meeting will be February 1, 2017.

**III. Approval of the Minutes for September 7, 2016, Board Meeting.**

Minor grammar changes were submitted on Item 8 and Information Item F.

- Arnold Reitze moved to approve the amended minutes. Erin Mendenhall seconded. The Board approved unanimously.

**IV. Five Year Review: R307-110, R307-120, R307-121, R307-130, R307-135, R307-301, R307-320, R307-325, R307-326, R307-327, R307-328, R307-335, R307-341, R307-343. Presented by Ryan Stephens.**

Ryan Stephens, Rules Coordinator at DAQ, stated that DAQ is required to review and justify each of its rules every five years. This review process is not the time to revise or amend the rules, but it is the time to verify that the rules are still necessary and allowed under state and federal law. The

result of this review determined that the listed rules are necessary and allowed under state and federal law. Staff recommends that the Board continue the rules listed above by approving the five year reviews to be submitted to the Office of Administrative Rules.

In response to a question on the status of the Provo City CO nonattainment area, staff responded that there are no CO nonattainment areas anymore, just maintenance areas. DAQ will submit a redesignation for maintenance and staff will report back to the Board on a timeline and what the process will be moving forward at the next Board meeting.

- Arnold Reitze moved that the Board approve the listed five year reviews. Michael Smith seconded. The Board approved unanimously.

**V. Final Adoption: R307-302. Amend Solid Fuel Burning Devices in Box Elder, Cache, Davis, Salt Lake, Tooele, Utah, and Weber Counties. Presented by Ryan Stephens.**

Ryan Stephens, Rules Coordinator at DAQ, stated that this rule was amended to address comments made by the EPA. The EPA said it could approve the rule if continuous controls were added in the form of a list of prohibited burning materials. Staff made these amendments and the Board had several additional comments on how to improve the rule at the June 2016 Board meeting. Staff has worked to amend the rule to incorporate the Board's suggestions. On August 18, 2016, the EPA published a conditional approval of R307-302 based on DAQ's commitment to include a list of prohibited fuels into the rule. The EPA also stated the rule would satisfy the Clean Air Act (CAA) requirement to implement reasonably available control measures (RACM). There were several comments sent to the DAQ by a single commenter and were addressed in the memorandum to the Board. There was also an amendment to the rule during the comment period which can be found at R307-302-1, lines 4-5. If the Board adopts R307-302 as amended, EPA has indicated they can approve it, and it will become part of Utah's PM<sub>2.5</sub> State Implementation Plan (SIP). Staff recommends that the Board adopt R307-302 as amended.

In response to questions from the Board, staff responded that a homeowner could purchase a wood moisture meter to test the moisture content of a wood pile at local home improvement stores in the \$50-\$100 price range. The key is to keep the wood dry while it is being stored. It was also stated that the language in this amended rule was changed to be consistent with the new source performance standards (NSPS).

- Michael Smith moved that the Board approve final adoption of R307-302, Solid Fuel Burning Devices in Box Elder, Cache, Davis, Salt Lake, Tooele, Utah, and Weber Counties. Erin Mendenhall seconded. The Board approved unanimously.

**VI. Final Adoption: Amend SIP Section IX. Part H: Emission Limits and Operating Practices. Presented by Bill Reiss.**

Bill Reiss, Environmental Scientist at DAQ, stated that this agenda item is for amendments to Part H, the emission limits and operating practices portion of the PM<sub>2.5</sub> and PM<sub>10</sub> SIPs. These amendments were proposed in September 2016, with the purpose to facilitate approval by the EPA as it reviews both the PM<sub>10</sub> maintenance plans and the moderate area PM<sub>2.5</sub> SIPs for the Wasatch Front. The emphasis of these amendments was on source monitoring and to achieve consistency between the PM<sub>2.5</sub> and PM<sub>10</sub> emission limits. DAQ worked closely with the EPA and staff feels that both agencies are comfortable with the conditions. A 30 day public comment period was held October 1 through 31, 2016. The comments and responses are summarized in the Board memorandum and a few more changes were made as a result of the comments received.

As stated in the memorandum, there were a couple of adjustments to some daily limits to account for emissions during periods of startup and shut down. These were the NO<sub>x</sub> and SO<sub>x</sub> caps at the Tesoro refinery, on pages 44 and 45. There was a revision to allow a specific alternative monitoring method at the Tesoro refinery, with regard to the sulfur recovery unit. The alternative monitoring method is permissible under Subpart J of the NSPS. Finally, there was an insertion to address a last minute concern raised by the EPA of some language affecting catalytic oxidation for volatile organic compound (VOC) control. Specifically, the language specifies that the catalytic oxidation for VOC control will be employed at all times during which an affected unit is in operation. This is a new item “h. Catalytic Oxidation for VOC Control” on page 7 of Subpart H.11.

In response to the inquiry if the emission factor for low NO<sub>x</sub> burners is the same for both refinery gas and natural gas, staff answered that for that pollutant the gases are equivalent. In discussion, staff was asked to explain DAQ’s response to Western Resource Advocates’ (WRA) comment regarding public access to records related to water/chemical treatment for dust control. In particular, the recordkeeping requirements and the possible solution to require more reporting by the regulated community, even if DAQ did not have the resources to handle the reporting it would make it a public record which could then be used by interested parties.

For this request the DAQ referred to the compliance inspection report which resides at DAQ through the inspection report. An inspector would identify a particular SIP condition which would determine if a source was in compliance or not. The inspector has access to a facility where the source records are maintained and the inspector evaluates those records and reports back through the inspection report, which is a public record maintained at the division. In addition, any record produced in DAQ’s compliance branch is available to the public through the electronic Easy Report record search. This includes inspection reports, emissions data, stack test reports, or emissions limits covered by continuous emissions monitoring system.

Finally, discussion came to the issue of what should the division do to give the public the information it needs without the public having to go through a suit or discovery to get the information from a source. The procedure for the public to request records is through the Government Records Access Management Act. If the agency does not currently have those records, the agency is not required to provide them. The agency or the Board can make it a requirement through rulemaking, but currently there is no legal requirement for the agency to provide information it does not have.

It was recommended by the Board to have a stakeholder meeting to discuss whether the current system is working to access requested information. Staff agrees that discussion on the recordkeeping issue does need to continue because it applies throughout the air quality rules, not just to this Part H agenda item. It was recommended that this amendment be approved and then have a broader discussion in the future on how to address the records issue. The comment raised by WRA applies to a single condition at a single source and not to the entire Part H. The Board decided to have two motions, one on the adoption of this agenda item as listed and one to direct the DAQ to have a stakeholder meeting to further discuss the records issue.

- Erin Mendenhall motioned that the Board adopt amendment to SIP Section IX, Part H, Emission Limits and Operating Practices. Michael Smith seconded. The Board approved unanimously.

- Arnold Reitze motioned that DAQ have a stakeholder meeting to discuss the issue of whether public access is adequate to meet the needs of both the public and the DAQ in the administration of the CAA. Erin Mendenhall seconded. The motion passed with three in favor (A. Reitze, E. Mendenhall, and K. Kelly) and one opposed (M. Smith).

**VII. Final Adoption: Amend R307-110-17. Emission Limits. Presented by Ryan Stephens.**

Ryan Stephens, Rules Coordinator at DAQ, stated that the amendments to Section IX, Part H of the PM<sub>2.5</sub> and PM<sub>10</sub> SIP will have to be incorporated into the air quality rules. R307-110-17 is the rule that does that. The Board just adopted the amendments proposed to Part H. Those amendments will become part of Utah's SIP when this rule is incorporated into the SIP. Staff recommends that the Board adopt R307-110-17.

- Arnold Reitze moved to adopt R307-110-17, Emission Limits. Michael Smith seconded. The Board approved unanimously.

**VIII. Propose for Public Comment: Amend R307-125. Clean Air Retrofit, Replacement, and Off-Road Technology Program. Presented by Ryan Stephens.**

Ryan Stephens, Rules Coordinator at DAQ, stated that the clean air retrofit, replacement, and off-road technology (CARROT) program provides for grants or other programs such as exchange, rebate, or low-cost purchase programs for activities that reduce emissions from non-road or heavy-duty diesel, on-road engines. In just two years, the popularity of the CARROT program, particularly the lawn equipment discount and exchange program, has exceeded expectations. As a result of the success from the lawn equipment exchanges, staff is proposing amendments that would eliminate the 50% limit the rule currently places on the allocation of CARROT funds toward "exchange, rebate, or low-cost purchase program(s) under 19-2-203(2)." The limit is not required by statute, and eliminating it would give DAQ more freedom to fund a popular and successful program. Staff recommends that the Board propose the amended R307-125 for public comment.

Bryce Bird added that one of the challenges with these types of programs is they take a lot of staff time to develop the program and move the money forward. This week DAQ was successful in competing for a number of federal grants. DAQ received two targeted air shed grants for \$2.5 million each, which was 25% of the money available nationally. Under the diesel emissions reduction act (DERA) DAQ received \$1 million. In addition, the state will get \$32.4 million from the Volkswagen settlement. The applications were focused on specific vehicle projects that have already been identified. School bus replacements are a main focus of all the grants, as well as some replacements of Salt Lake City vehicles and other diesel vehicles that operate in the Salt Lake area. The targeted air shed grants apply to Cache Valley and Utah County with a target mostly towards school bus replacement, and a vehicle repair program in the Cache Valley in which vehicles that do not pass the new emissions testing program will be given the ability to fix or replace those vehicles.

- Erin Mendenhall moved to propose R307-125, Clean Air Retrofit, Replacement, and Off-Road Technology Program, for public comment. Arnold Reitze seconded. The Board approved unanimously.

**IX. Propose for Public Comment: Amend R307-841. Residential Property and Child-Occupied Facility Renovation; and R307-842. Lead-Based Paint Activities. Presented by Ryan Stephens.**

Ryan Stephens, Rules Coordinator at DAQ, stated that on February 17, 2016, the EPA promulgated changes to the lead renovation, repair, and painting (RRP) rule and the lead-based paint (LBP) activities rule. These amendments reduced the training burden and costs to the regulated community by allowing electronic training as an option for the LBP renovator refresher course. R307-841 and R307-842 are being amended to reflect these changes and to include several changes that were recommended by staff to better administer the LBP program in Utah. Staff recommends that the Board propose R307-841 and R307-842 for public comment.

- Arnold Reitze moved that the Board propose to amend R307-841 and R307-842 for public comment. Erin Mendenhall seconded. The Board approved unanimously.

**X. Lapoint Recycle and Storage, Inc. Early Settlement Agreement. Presented by Jay Morris.**

Jay Morris, Minor Source Compliance Section Manager at DAQ, stated that Utah Code Ann. 19-2-104 requires the Board to review a recommended penalty in excess of \$25,000. Lapoint Recycle and Storage, Inc. (Lapoint) was issued a compliance advisory for failing to submit a notice of intent and receiving an approval order prior to constructing an oil and waste water storage, separation, and treatment operation in the Uinta Basin. The DAQ and Lapoint have negotiated the terms of a settlement for the violation with a final penalty amount of \$39,200. The terms of the settlement include a cash penalty amount of \$11,650, a deferred penalty amount of the same, and a credit of \$15,900 towards the completion of a supplemental environmental project (SEP) where they agree to replace some diesel powered pumps with some all electric pumps. Lapoint has agreed to the above terms of the settlement. Staff recommends that the Board approve the penalty amount and early settlement offer.

Mr. Morris further explained that the deferred amount is an option that DAQ has in its penalty policy so that sources will be more inclined to operate in compliance. There will be several opportunities for DAQ staff to evaluate the source and ensure they are operating in compliance through status checks of Lapoint's SEP and regular source inspections. If a violation is found during the two year period, the Director has the option of collecting the deferred amount in addition to any penalties for the new observed violation(s). Finally, DAQ has been in contact with sources and has sent informational letters to sources for sites that appear to need a permit, as well as each of the big producers, in the Uinta Basin. Sources should be aware of permitting requirements.

- Michael Smith moved that the Board approve the penalty amount and early settlement offer to Lapoint Recycle and Storage, Inc. Arnold Reitze seconded. The Board approved unanimously.

**XI. Informational Items.**

**A. 2017 Utah Winter Fine Particulate Study. Presented by Munkh Baasandorj.**

Munkh Baasandorj, Environmental Scientist at DAQ and Research Professor at the University of Utah, updated the Board on the pilot study done last year. The study suggests that the night time chemistry, which varies with altitude, lead to the formation of particulate matter within a polluted layer. The pollution episodes are driven by complex

interaction between the meteorology and chemistry. Detailed vertical measurements will be key to understanding processes driving the pollution episodes. This year the Utah Winter Fine Particulate Study (UWFPS) will be conducted from January 15 to February 15, 2017, in Salt Lake City and adjacent basins. The UWFPS study will include out-of-state investigators, local investigators, and DAQ and EPA staff. The main component of the study will be NOAA's twin otter research aircraft. The key factors governing high PM<sub>2.5</sub> events in Utah's valleys will be studied. Ms. Baaasandorj then detailed key relevant science questions of the study. The aircraft will be equipped with instruments to measure Utah-specific particulate pollution. There will also be ground-based observations to provide continuous measurements of the chemical and meteorological parameters and to fill in the gaps between the twin otter flights. The combination of the twin otter, ground-based measurements, and remote sensing will provide the most comprehensive dataset collected to date. Further details of the study will be available on UWFPS's webpage.

**B. Final Sole Source Conversion Project Report. Presented by Joel Karmazyn.**

Joel Karmazyn, Environmental Scientist at DAQ, updated the Board on the project to convert sole source residences to central heating. Through the project, 35 conversions of either natural gas or propane furnaces were completed. In addition, 7 coal stokers were retired and 6 gas lines were installed. Through outreach, which took 2 years, it was discovered that 186 of the original 254 homes were no longer eligible. Most of the stoves were not EPA certified and some were removed but most are still in place. Currently, 28 homes remain on the sole source registry.

**C. Air Toxics. Presented by Robert Ford.**

**D. Compliance. Presented by Jay Morris and Harold Burge.**

**E. Monitoring. Presented by Bo Call.**

Bowen Call, Air Monitoring Section Manager at DAQ, updated the Board on the monitoring graphs. There were no exceedances, but there were a couple of voluntary days called. The Rose Park shelter has been replaced and can now be accessed on DAQ's mobile app as one of the sites with continuous particulate monitoring.

**F. Other Items to be Brought Before the Board.**

Bryce Bird stated that EPA's administrator signed Utah's finding of failure to attain the PM<sub>2.5</sub> standard with a deadline set of December 31, 2017, for the next SIP to be submitted. This proposal reclassifies each of the nonattainment areas in Utah as serious. A public comment period will start once it is published in the Federal Register. DAQ is already working with EPA on defining the modeling inputs and the criteria for developing the plan as it may be necessary that Utah will miss the deadline by a month or two because of timing. Staff has already met with the 70 ton stationary sources in preparation of a serious designation. DAQ will have a stakeholder process and will send out notification when the information is available.

Public comment from Kathy Van Dame of Breathe Utah was introduced. Ms. Van Dame explained that last year the Legislature passed the Utah Sustainable Transportation & Energy Plan (STEP) initiative by Rocky Mountain Power (RMP) which was controversial. One of the issues was funding to keep RMP's Gadsby station from operating on forecasted red air days. On past inversion days, Gadsby and other electric generators in the valley are being run and dispatched because of market conditions unrelated to Utah. In the SIP Part H that was adopted today, one of the natural gas generators is given authority to start and stop over 600 times in a year. Ms. Van Dame suggests that someone come up with a way to give financial incentives to sources to not sell to the market on days when air quality is bad.

Alan Matheson updated the Board on Governor Herbert's proposed budget. In terms of air quality, there was \$1.45 million, which includes a one-time \$1.3 million and ongoing \$150,000, listed for air quality monitors and \$250,000 proposed for research. In addition to the awarded amounts Bryce mentioned earlier, there is money in air assist grants from the Department of Workforce Services to help small businesses comply with regulations. The DEQ is fortunate to get good funding and proposed funding for air quality and water quality issues.

---

Meeting adjourned at 3:12 p.m.

Minutes approved: February 1, 2017