

TO: Air Quality Board

THROUGH: Bryce C. Bird, Executive Secretary

FROM: Ryan Stephens, Environmental Planning Consultant

DATE: November 17, 2015

SUBJECT: PROPOSE FOR PUBLIC COMMENT: New Rule R307-104. Conflict of Interest.

Section 128(a)(2) of the Clean Air Act states that implementation plans must have an enforceable requirement that “any potential conflicts of interest by... the head of an executive agency” are disclosed. On October 25, 2013, the EPA partially disapproved DAQ’s infrastructure state implementation plan (SIP) for the 1997 and 2006 PM_{2.5} National Ambient Air Quality Standards. The disapproval was based on the fact that Utah did not have a rule that satisfied Section 128(a)(2) of the Clean Air Act.

DAQ staff has worked with the Utah Attorney General’s office and EPA to develop this rule. R307-104 will satisfy Section 128 of the Clean Air Act and give EPA the opportunity to approve past and future infrastructure SIPs.

DAQ does not anticipate any significant fiscal impact as a result of this new rule.

Recommendation: Staff recommends that the Board propose for public comment new rule R307-104, Conflict of Interest.

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

2 **R307-104. Conflict of Interest.**

3 **R307-104-1. Authority.**

4 This rule establishes procedures that are necessary for
5 promulgating federally approvable air quality standards as
6 permitted by subsection 19-2-104(1)(b).

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8 **R307-104-2. Purpose.**

9 R307-104 satisfies the conflict of interest requirement of
10 42 U.S.C. 7428 (a)(2).

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12 **R307-104-3. Disclosure of conflict of interest.**

13 (1) This rule applies to any member of the board or body
14 which approves permits or enforcement orders, the head of the
15 Utah Division of Air Quality with similar powers, and the head
16 of the Utah Department of Environmental Quality with similar
17 powers.

18 (2) Every individual listed in R307-104-3(1) who is an
19 officer, director, agent, employee, or the owner of a
20 substantial interest in any business entity which is subject to
21 the regulation of the agency by which the individual listed in
22 R307-104-3(1) is employed, shall disclose any position held and
23 the precise nature and value of the interest upon first becoming
24 a public officer or public employee listed in R307-104-3(1), and
25 again whenever his or her position in the business entity
26 changes significantly or if the value of his or her interest in
27 the entity is significantly increased.

28 (3) The disclosure required under R307-104-3(2) shall be
29 made in a sworn statement filed with:

30 (a) the state attorney general in the case of the head of
31 the Utah Division of Air Quality and the head of the Utah
32 Department of Environmental Quality; and

33 (b) the state attorney general and the head of the agency
34 with which the member of the board or body is affiliated in the
35 case of a member of the board of body.

36 (4) This rule does not apply to instances where the total
37 value of the interest does not exceed \$2,000, and life insurance
38 policies and annuities shall not be considered in determining
39 the value of any such interest.

40 (5) Disclosures made under R307-104-3 are public
41 information and shall be available for examination by the
42 public.

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44 **KEY: conflict of interest, Clean Air Act**

45 **Date of Enactment or Last Substantive Amendment: 2015**

46 **Authorizing, and Implemented or Interpreted Law: 19-1-201; 19-**
47 **2-104**

