



State of Utah

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**UTAH AIR QUALITY BOARD MEETING**

**January 8, 2014 – 1:30 p.m.**  
**195 North 1950 West, Room 1015**  
**Salt Lake City, Utah 84116**

**FINAL MINUTES**

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**I. Call-to-Order**

Steve Sands called the meeting to order at 1:34p.m.

Board members present: Kathy Van Dame, Steve Sands, Kerry Kelly, Robert Paine, Michael Smith, Karma Thomson, Tammie Lucero, and Amanda Smith

Executive Secretary: Bryce Bird

**II. Date of the Next Air Quality Board Meetings:** February 5, 2014, and March 5, 2014.

Staff reports that the February meeting could be canceled as currently there are no action items to come before the Board.

**III. Approval of the Minutes for December 4, 2013, Board Meeting.**

- Kathy Van Dame moved to approve the minutes as written. Michael Smith seconded. The Board approved unanimously.

**IV. Five-Year Reviews: R307-150. Emission Inventories; and R307-405. Permits: Major Sources in Attainment or Unclassified Areas (PSD). Presented by Mark Berger.**

Mark Berger, Environmental Planning Consultant at DAQ, stated Utah Code Title 63G-3-305 requires each agency to review and justify each of its rules within five years of a rule's original effective date or within five years of the filing of the most recent five-year review for the rule. The purpose of this review is not to revise or amend a rule, but rather to determine if the rule is still necessary and allowed under statute. DAQ has completed the five-year review for R307-150 and R307-405. As outlined in the Five-Year Notice of Review and Statement of Continuation forms, it is determined that these rules are both necessary and allowed under state and federal statute. Staff recommends the Board continue these rules by approving the Five-Year Notice of Review and Statement of Continuation forms.

- Kerry Kelly moved to approve the five-year reviews. Robert Paine seconded. The Board approved unanimously.

**V. Final Adoption: Add new SIP Subsections IX.H.11, 12, and 13. Control Measures for Area and Point Sources, Emission Limits and Operating Practices, PM<sub>2.5</sub> Requirements. Presented by Bill Reiss.**

Bill Reiss, Environmental Scientist at DAQ, stated that Part H is the last piece to the 24-hour PM<sub>2.5</sub> state implementation plan which the Board approved in December 2013. It contains the emission limits, as well as precursors, affecting the large stationary sources in the PM<sub>2.5</sub> plan. Part H is divided into three sections, section 11 is the general section, section 12 is specific to sources located in the Salt Lake City non-attainment area, and part 13 is specific to sources located in the Provo non-attainment area. A 30-day public comment period was held, including two public hearings. A summary of the comments received and DAQ responses to those comments were presented to the Board. It was noted that some comments pertained to the state implementation plan (SIP) narratives that were approved by the Board in December 2013. Mr. Reiss presented a brief overview of the comments; in particular EPA's comment that they cannot approve language used throughout Subsection IX.H.11, 12, and 13 exempting emissions during startup, shutdown, and malfunction from the emission limits contained in Part H. As DAQ was working with EPA and the sources on the language, it became apparent that resolving this issue during this iteration of the SIPs is not possible due to rulemaking requirements, etc. Therefore, DAQ will address this issue during the development of the Subpart IV SIP. The Board was given a recap of the reasonable available control technology (RACT) analysis process and how DAQ re-ran the models as controls were identified or redefined to come up with the numbers presented in Part H. Mr. Reiss noted that as a result of this SIP it will be more difficult to approve a major new source or a major modification to an existing source in either of these non-attainment areas. The reason being, the offset requirements in the SIP establish a new baseline for those credits and so many pre-existing credits that reside in the bank will be of no use to new sources or modifications moving forward.

Emission limitations encompassed by Part H represent a significant step forward to the ultimate end point of Subpart IV serious area requirements. Furthermore, these emission limitations provide a reasonable degree of certainty to the sources expected to comply with them and will allow the continuation of design and construction and makes industry aware that at the end of the day these controls will need to pass the best achievable control technology (BACT) analysis; everyone will know what is to be expected. Mr. Reiss states that we are all aware that Subpart IV is coming but without any specifics, the best course of action is to move forward with the SIPs, stay on target, and revise as we go. Staff recommends the Board adopt SIP Subsection IX.H.11, 12, and 13 as amended.

Public comment from Todd Frazier was introduced. Staff addressed Mr. Frazier's questions regarding which contractor was used in the RACT analysis and how they measured emissions from a single location.

Mr. Reiss then went through step-by-step of the changes made in the current version of Part H for the Board's approval, highlighting changes to the Part H document on pages 7, 13, and 49, and indicating the rest of the changes were nonsubstantive changes that were technical or typographical in nature.

Further discussion with the Board followed in which concerns and questions were address by staff. In response to the question of what is EPA's response to approving this SIP today when we know a Subpart IV SIP is coming, staff responded that it has been a joint opinion with EPA that it would be best to first address the moderate area Subpart I SIP requirements that are due the end of this year.

Approval of the moderate SIP will help get some of the measures implemented now which will be good as we begin work on Subpart IV, as we are expected to be reclassified as serious. Also, we know that with a Subpart IV SIP the required testing switches from RACT to BACT. Knowing this, DAQ believes most sources will choose not to wait for Subpart IV and will plan for the new requirements of BACT with the start of engineering and design work so that they will be able to meet certain deadlines. Further typographical errors were pointed out in addition to clarification of some figures listed in the document.

It was mentioned that this past year the figure that the DAQ could call a no-burn day was changed from 35  $\mu\text{g}/\text{m}^3$  (micrograms per meter cubed) to 25  $\mu\text{g}/\text{m}^3$  with the purpose to get any possible emission reductions as soon as possible when we know an inversion is building. Monitoring values at the Brigham City monitor does monitor values above the standard and ATK Launch Systems (ATK) indicates they have the ability to adjust their operations to accommodate when an inversion is forecasted. In response to why a change from 35  $\mu\text{g}/\text{m}^3$  to 25  $\mu\text{g}/\text{m}^3$  is not recommended for ATK, staff indicated that after completing the RACT analysis it was determined to leave it as is. ATK could voluntarily choose to do adjustments, but that DAQ could not require them to do it by the rules and by the RACT analysis that was done. George Gooch, Environmental Manager at ATK, addressed the Board by stating the record provides enough evidence that their Promontory operations have negligible impact on the actual Salt Lake City  $\text{PM}_{2.5}$  SIP non-attainment area; and that the contribution to the problem and the benefit obtained from implementing RACT controls should be considered when evaluating the reasonableness of RACT restrictions. In addition, testing related to military operations and its importance to national security concerns need to be recognized by the special consideration afforded to the permitting of rocket fuel testing facilities in non-attainment areas. Therefore, ATK believes additional restrictions on ATK are not justified at this time.

Mr. Sands then introduced public comment.

Public comment from Matt Pacenza of Healthy Environment Alliance (HEAL) of Utah was introduced. Mr. Pacenza asks that the Board not approve Part H of the SIP today. He comments that there is false choices presented to either approve this Part H today or do nothing today and wait until the serious attainment comes when the next level of rulemaking will be required. He prefers a third choice which is to pull the SIP back today, make it better, and then resubmit it in a few months. Recent attention from the Governor, the Legislature, and the public on air quality issues shows a willingness to spend money and pass new laws to better Utah's air quality. The Board should echo the urgency and willingness to be bold with this SIP. Mr. Pacenza then explained why we need to focus on point source reductions. There is also concern about the lack of urgency, 2019 is not soon enough, to which EPA concurs with in their comments. In addition, EPA repeatedly questioned why DAQ is not embracing the 24-hour standard and DAQ acknowledged that if you don't do a daily standard, it doesn't limit emissions on a short-term basis. Individuals have restrictions on wood burning and being encouraged to not drive which are measures put in place as short-term limits. Short-term limits are precisely what are needed to address the episodic problems and these limits need to be applied to industry as well by applying a 24-hour standard. Finally, several groups went through the RACT carefully looking for pollution controls that were reasonable or not. From the analysis results, if we know "best" pollution controls are coming shouldn't we get them in place as soon as possible. Mr. Pacenza asks the Board to not approve this plan today by pulling it back and then work to make the plan better.

Public comment from Deborah Anderson was introduced. Ms. Anderson inquired as to why people are allowed to burn, even on green days, when those emissions contribute to an increase of pollutants in the future.

Public comment from Carl Ingwell of Clean Air Now was introduced. Mr. Ingwell commented that Mayor Becker of Salt Lake City asked state regulators to take action to decrease emissions on area and mobile sources and if the state was not willing, the state should allow cities and counties to regulate those sources of emissions because pollution at all levels is harmful. It is his suggestion that industry representatives on the Board not be allowed to vote on the PM<sub>2.5</sub> SIP.

Public comment from Terry Marasco of Utah Mom's for Clean Air was introduced. Mr. Marasco commented that credibility of the Board in the community is low, in particular on the point of industry. The community in general believes the Board has a stamp for industry and the credibility of the Board needs to be raised to an issue of conscience. There has to be a change in the way the Board acts. He suggests the Board stop the process of moving this SIP forward and go back into a workgroup where industry is made to step up to the plate.

Public comment from Chad Smith was introduced. Mr. Smith commented that he is aware that a lot of people are leaving Utah or are choosing not to live here because of the poor air quality. The Board should seriously consider air quality issues.

Public comment from Tom McLaughlin was introduced. Mr. McLaughlin commented that California did not wait for federal mandates to clean up the air. California took the lead to clean up their environment. If Utah does not respond to cleaning up the air, then maybe it is good that EPA makes Utah respond to the issue. He is also concerned of red alert days and the recommended restrictions placed on children for outdoor activity and that it will become difficult for the state to draw companies to relocate to Utah when the air quality is so bad.

Public comment from Jill Sheinberg was introduced. Ms. Sheinberg commented that one of the reasons she has lived in Utah is for the great medical community. If the air quality continues to get worse over the next five years, medical professionals will choose not to move to Utah. The current air quality issue is an emergency and the Board needs to change its attitude and not wait five years to implement the changes in the SIP.

Public comment from Melanie Martin of Peaceful Uprising was introduced. Ms. Martin commented that the Wasatch Front has become a corporate sacrifice zone and DAQ has allowed this to happen. Different solutions have already been suggested and she would like to add a ban on tar sands refining. The Board is mandated to protect human health and not corporate profits. She requests the Board to revoke and reject all permits for Canadian or Utah tar sand refining as well as permits for refineries that are handling tar sands.

Public comment from Will Munger was introduced. Mr. Munger commented that he has a sense of betrayal in the Board's protection of the health of the people of Utah. We are breathing emissions from Canadian tar sands, which is more toxic than regular crude. The Board should prevent tar sands feed stock from being refined in Utah refineries and to prevent tar sands mining from happening in Eastern Utah by halting such activities. Mr. Munger urges the Board to act immediately.

Public comment from Joro Walker of Western Resource Advocates was introduced. Ms. Walker commented that the RACT effort represents putting everything on hold since 2006 when we realized we were not attaining the national ambient air quality standards (NAAQS) and in 2009 when Salt Lake City and Provo were designated as non-attainment areas. We were on hold in 2011 when the SIP was due under Subpart IV. We were on hold in 2013 when the SIP as due under Subpart I. Now we are on hold again because RACT was supposed to be implemented in December 2013. The people of Utah are protected under the Clean Air Act (CAA) that says as of 2013 RACT shall be

implemented and shall be implemented as expeditiously as possible. Again, most of the RACT measures have been delayed until 2017 or 2019 to which EPA doesn't approve of this approach. In response, DAQ stated the delay is because of negotiations with the sources but that is not what the law requires, the deadline was December 2013. The public has seen that when business interests are at issue changes can happen at sources quickly but when public interest is at issue we have to wait. Finally, other reasons for the hold is because RACT emission limits are filled with exceptions for shut down, start up, and malfunction and because of short term emission limits. The public and EPA need to know how DAQ came to their determinations and there needs to be evidence in the record. In closing, Ms. Walker requests that DAQ have a process in place so that the public and the Board stay involved in the development of the Subpart IV SIP which would allow for the public to spend more time with the SIP and provide more meaningful comments. She would like an order from the Board that DAQ respond to EPA's comments in addition to responses to RACT specific comments. It is also requested that DAQ keep all SIPs, technical support documents, comments, and responses online so they are available as DAQ undergoes the process of developing the Subpart IV SIP.

Public comment from Marjie McCloy was introduced. Ms. McCloy commented that under this PM<sub>2.5</sub> SIP Utah barely reaches attainment under the level required by EPA and that if point sources fail to meet its requirements we will immediately be out of attainment once again. She is also concerned about the exchange of outdoor to indoor air in a matter of hours and how that will affect children. The Governor would set a good example by not allowing the expansion at the Holly refinery and other sources because people care more about the air than they do about more jobs. Finally, she believes people will be more willing to have restrictions placed on their driving if first the Governor sets the example.

Public comment from Lionel Trepanie of Utah Tar Sands Resistance was introduced. Mr. Trepanie commented that he believes the Board is a failure because of its representation by industry. He commented on the Red Leaf Resources water permit for strip mining of shale in Eastern Utah. Also, that the 12.7% figure put out by DAQ on how much pollution comes from large point sources is dishonest because what appear to be large sources of emissions are considered to be an area source and so those source numbers fall under that 12%. Mr. Trepanie then compared DAQ's information sheet showing control strategy reductions of 64.5 tons with HEAL Utah's information, which according to his calculation, one increase at a large source would wipe out any decrease from the SIP. He also pointed out that a person cannot burn a fire to stay warm but yet testing of rockets is allowed. He senses a level of frustration and anger among the public and he urges the public to stay the course and build their strength and know that with the public is where solutions will be made.

Public comment from Nicoah Nelson was introduced. Ms. Nelson commented to the statement made that industry would work ahead of schedule to meet the restrictions in 2019. She states that unless it makes financial sense for a company they would rather go to court first to fight those regulations. Industry is out to make money and employ people. The Board is supposed to be on the other side representing the population against the economic force that is business. She urges the Board to use its conscience and represent citizens.

Public comment from Chad Mullins was introduced. Mr. Mullins commented on Mayor Becker's point that state law needs to be changed to allow for standards that are relevant to Utah, in particular the law stating Utah standards cannot be more strict than federal standards. Mayor Becker also asked that if this cannot be accomplished at a state level then give local control to cities and counties to fit their needs. Finally, Mr. Mullins commented that vehicle miles traveled and population growth is only going to increase in this region and not reduce as stated in the information given out today.

Public comment from Linda Johnson of Breathe Utah and League of Women Voters of Salt Lake was introduced. Ms. Johnson first stated that she was glad the flaring at refineries has stopped. She then addressed the audience to write a letter to their legislator to remove the restrictions on DAQ that prevent it from enforcing stronger rules and regulations than allowed by the EPA. EPA regulations are generic for the whole Country and the Wasatch Front is a basin that needs extra strong measures to be taken to improve the air.

Amanda Smith, DEQ Executive Director, thanked everyone in attendance and everyone who was involved in some way in this PM<sub>2.5</sub> SIP process. She appreciates in particular the comments about transparency in the ability for the public to see our responses to the comments and allowing time for public review. The Department is always working on federal deadlines. In this SIP DAQ was told that EPA was doing it under the wrong part of the CAA and so the time frames for DAQ changed to where we now have to do these SIPs under Subpart IV. Ms. Smith commented there is a lot of research on air quality and she encourages people to do the research, know the facts, and to educate themselves on what the health impacts are.

The Board further discussed that as current statute is written, local governments cannot enforce or write more strict rules than the federal government. Staff also responded to the transparency request by making it an open process as they address each of EPA's comments and that they commit to make sure the SIPs being proposed back to the Board meets EPA's interpretation of the requirements. In order to meet the December 2014 deadline staff will begin the new SIP process immediately. With the start of the new SIP, DAQ will address EPA's point on the time frame issue, the shutdown, startup, and malfunction points, and their 24-hour averaging point. Finally, the Board suggests a motion be made to approve Part H of the SIP as written and then have staff look at the number of days that were at 25 µg/m<sup>3</sup> and how many fewer days there would be at 35 µg/m<sup>3</sup>. In addition, have DAQ work with ATK to do a written analysis in terms of impact in what a change from 35 µg/m<sup>3</sup> to 25 µg/m<sup>3</sup> would be.

- Kathy Van Dame moved that the Board approve final adoption to add new SIP Subsections IX.H.11, 12, and 13, Control Measures for Area and Point Sources, Emission Limits and Operating Practices, PM<sub>2.5</sub> Requirements, as written with the changes made by staff. Kerry Kelly seconded. The motion carried to approve with a vote of six in favor (K. Van Dame, S. Sands, K. Kelly, M. Smith, K. Thomson, and T. Lucero), one opposed (R. Paine), and one non-voting member (A. Smith).

**VI. Final Adoption: R307-110-17. Section IX, Control Measures for Area and Point Sources, Part H, Emissions Limits. Presented by Mark Berger.**

Mark Berger, Environmental Planning Consultant at DAQ, stated the new SIP Part H just adopted by the Board now needs to be incorporated into the Air Quality Rules. R307-110-17 is the rule that currently incorporates Part H into the rules. The amendment to incorporate the new Part H into the rules had the same public comment period and public hearings as the SIP itself. During the public comment period no comments were received regarding incorporating the new part H into the rules. Staff recommends the Board adopt R307-110-17 as proposed.

- Karma Thomson moved the Board approve final adoption of R307-110-17 as proposed. Michael Smith seconded. The Board approved unanimously.

## **VII. Informational Items.**

### **A. Air Toxics. Presented by Robert Ford.**

### **B. Compliance. Presented by Jay Morris and Harold Burge.**

Jay Morris, Minor Compliance Section Manager at DAQ, gave a brief summary on compliance for wood burning. The no-burn period extends from November 1 to March 1. Staff does compliance patrols in Salt Lake, Davis, Weber, and Utah Counties when a mandatory no-burn action day is called. An agreement with the Bear River Health Department was made in which they do the patrols in Cache County for DAQ. A similar agreement has been made with Salt Lake County Health Department and they will begin doing patrols in Salt Lake County, which allows staff to cover more areas in other counties along the Wasatch Front. Penalty for non-compliance begins at \$25 for a first time violator and goes up to \$299 per violation for repeat violations. A first time violator has the option of attending a solid fuel burning device class in lieu of paying the \$25 penalty.

In discussion, the Board asks that staff add to the monthly compliance memorandum a breakdown of reported wood smoke complaints, penalties, location, etc., for their review. In addition, staff is preparing letters to the manufacturers, distributors, and sellers of consumer products and wood burning stove and fireplaces that are affected by the rules approved by the Board concerning these products. The Board will receive notice and copies of these letters when they are mailed out.

### **C. Monitoring. Presented by Bo Call.**

Bo Call, Monitoring Section Manager at DAQ, updated the Board on particulate and ozone levels and noted in particular the PM<sub>2.5</sub> exceedances along the Wasatch Front and the ozone exceedances at Roosevelt and Vernal in December. Mr. Call also provided total number of exceedance days for the 98<sup>th</sup> percentile numbers for PM<sub>2.5</sub> for 2013, rolling three year average figures for PM<sub>2.5</sub>, and the total PM<sub>2.5</sub> and ozone exceedance days for the year per monitor. Mr. Call also discussed effects of fireworks around the New Year's Day holiday and that because it's a national holiday the EPA usually accepts the data as an exceptional event, if a monitor shows an exceedance. The Hawthorne monitor did not show elevated numbers as a result of fireworks this New Year's holiday, which could be the result of its distance from areas that were exhibiting fireworks.

In response to questions on funding of monitoring, Mr. Call responded that while funding is going down the required monitoring for DAQ has not. Funding for DAQ was broken down that some comes from EPA's 103 grant for PM<sub>2.5</sub>, which is a non-matching grant and is going away, a toxics grant that pays for a portion of the toxics sampling being done at one monitor, a 105 grant which is a matched grant and covers most of what the monitoring section does, some comes from Title V funding, and some funding comes in for special studies.

### **D. Other Items to be Brought Before the Board.**

Staff responded to the topic of Tier 3 gasoline and how we could bring Tier 3 fuels to this area. While results of the regulatory analysis showed that Utah counties would benefit, we need to wait until the motor vehicle emissions simulator (MOVES) 2014 model is made available by EPA to see what the actual benefits to Utah would be. It was noted that Tier 3

fuel is premature because EPA has not finalized its rule and there could be changes to parts of the rule which would impact the final rule. Aside from running the model to see what the benefit of having Tier 3 fuel in 2014 and 2015 would be, separate analysis will need to be made on other factors such as the supply corridor and what refineries are capable of within the supply corridor. Staff will get an update from EPA on the time frame of the final Tier 3 rule and also when the MOVES 2014 model will become available.

In closing, a website run by Jim Steenburgh, Wasatch Weather Weenies, was recommended for its treatment of monitor values after fireworks. It was also requested the Board be updated on legislative issues affecting the Department of Environmental Quality during the current legislative session.

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Meeting adjourned at 4:58 p.m.

Minutes approved: March 5, 2014