



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*

DAQ-014-16

**MEMORANDUM**

**TO:** Air Quality Board

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

**FROM:** Ryan Stephens, Environmental Planning Consultant

**DATE:** February 18, 2016

**SUBJECT:** FINAL ADOPTION: New Rule R307-104. Conflict of Interest.

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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<sub>2.5</sub> 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 worked with the Utah Attorney General’s office and the EPA to develop this rule. R307-104 satisfies Section 128 of the Clean Air Act and gives the EPA the opportunity to approve past and future infrastructure SIPs.

A 30 day public comment period was held for the rule. No comments were received and no hearing was requested.

Staff Recommendation: Staff recommends that the Board adopt new rule R307-104 as proposed.

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 or 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**