



State of Utah

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Michael Smith
William C. Stringer
Karma M. Thomson
Bryce C. Bird,
Executive Secretary

UTAH AIR QUALITY BOARD MEETING
December 2, 2015 – 1:30 p.m.
195 North 1950 West, Room 1015
Salt Lake City, Utah 84116

FINAL MINUTES

I. Call-to-Order

Steve Sands called the meeting to order at 1:30 p.m.

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

Excused: Karma Thomson and William Stringer

Executive Secretary: Bryce Bird

II. Date of the Next Air Quality Board Meeting: February 3, 2016

The January 6, 2016, meeting was canceled.

III. Approval of the Minutes for October 7, 2015, Board Meeting.

- Kerry Kelly moved to approve the minutes as submitted. Robert Paine seconded. The Board approved unanimously.

IV. Final Adoption: Repeal of Existing SIP Subsection IX.A.10 and Re-enact with SIP Subsection IX.A.11: PM10 Maintenance Provisions for Salt Lake County, as Amended. Presented by Bill Reiss.

Bill Reiss, Environmental Engineer at DAQ, summarized that agenda items four, five, six, and seven represent a maintenance plan for PM₁₀ and briefly reviewed the proposals that were presented in September 2015 to the Board. He stated this project is mostly an administrative effort to finish PM₁₀ and move on with efforts to address PM_{2.5}. There are essentially two parts to this state implementation plan (SIP) revision, Part A which contains the SIP narratives addressing the monitored attainment of the standards; and Part H which is the location of the emissions limits belonging to the identified stationary sources. A 30-day public comment period was held and comments were received and a summary of each of those comments, along with DAQ's responses,

were included in the information provided to the Board. In this plan DAQ has addressed and corrected a number of the issues that EPA had raised in 2005 when they proposed to disapprove the last maintenance plan DAQ proposed. Many of EPA's comments were editorial in nature and some did point out simple corrections that have since been made. Other comments, not from EPA, dealt with things not explicitly required as part of a PM₁₀ maintenance plan but might be regarded as measures to strengthen the SIP in a general way. Mr. Reiss then noted some changes were made to the narratives in Part A and in renumbering. A few technical changes were made to select inventory numbers, errors in transcription, and error in the modeling result for 2028. Other comments had to do with the technical support document (TSD). The TSD is not explicitly part of this rulemaking but he stated that DAQ has talked with EPA about how DAQ intends to fix the TSD and those corrections will be made prior to submitting the package to EPA.

In discussion, it was stated that the modeling is essentially the same modeling domain as was done for the PM_{2.5} SIP, and it is inclusive of all three PM₁₀ nonattainment areas as well. Mr. Reiss also explained the removal of the Board's authority through the Director to amend approval orders and some items in the SIP goes back to original PM₁₀ SIP work in 1991. There were quite a few rules that affected area sources and the administration of the SIP in general that were codified into R307 at that time. One of those rules gave the Director the authority to modify some of the limits belonging to the stationary sources that were identified. In looking forward, it was recognized that this would be a problem and there were going to be a lot of reasonable available control technology (RACT) requirements made of those sources. The authority was already held by the Director and it was made an issue when it was held on to again throughout PM₁₀. Since EPA did not approve of the Board's approval to remove in R307 the rule that permitted the Board, through the Director's authority, to make these kinds of revision the rule still sits on the federal books as part of the official SIP for Utah. The rule has been stricken from the state books but still sits on the federal books.

Mr. Reiss also addressed that a comment was received dealing with a particular rule that was developed as part of the PM₁₀ SIP to mitigate against growth. That is a feature of the minor source permitting program that requires offsets when the expected emissions increase from a new source or modified source would reach a level of either 25 or 50 tons when you combined PM₁₀ plus SO_x plus NO_x. There are emission credits on our books that applicants are required to obtain and then trade for these expected increases. That rule applies to minor sources in PM₁₀ nonattainment areas specifically. The question is raised that if EPA approves this plan and then redesignates us, would that then still apply since it specifically does not apply in PM₁₀ maintenance areas. This rule has been effective but certainly is not perfect. It does bring up the need to think of ways to keep emissions down and at the same time it has kind of created a viable pool of emission credits that allow permitting to go forward and recognize improvements in technology and efficiency that have actually lead over time to lesser emissions than was expected in 1991. DAQ is always looking to make sure that the rules are effective and serve their intended purpose.

- Erin Mendenhall moved to approve final adoption, repeal of existing SIP Subsection IX.A.10 and re-enact with SIP Subsection IX.A.11: PM₁₀ Maintenance Provisions for Salt Lake County, as amended. Robert Paine seconded. The Board approved unanimously.

V. Final Adoption: Repeal of Existing SIP Subsection IX.A.11 and Re-enact with SIP Subsection IX.A.12: PM10 Maintenance Provisions for Utah County, as Amended. Presented by Bill Reiss.

Bill Reiss, Environmental Engineer at DAQ, stated his presentation of the previous item covers this item for Utah County.

In discussion, Mr. Reiss responded that DAQ We had a good cooperative effort with EPA and staff feels all the questions/comments that came up have been resolved. In response to how the accuracy of the model compare with the safety margin, he responded the model is always kind of plus or minus. Nevertheless, what we start with are some monitored design values that are well beneath the standard of 150 micrograms per cubic meter. What we are really looking at is a huge margin. The metropolitan planning organizations are going to have budgets in the PM_{2.5} SIPs as well which will end up being the more restrictive budgets. For Utah County, there is a particular monitor that only collects data every three days and so the way the PM₁₀ standard is structured it's a pass/fail test with the National Ambient Air Quality Standards (NAAQS) which is based on the number of exceedances. This resulted in a much higher design value for Utah County even though it really does behave a lot more like Salt Lake County. There was just not as much headroom left to carve out a safety margin as there was in Salt Lake County.

- Kerry Kelly moved for final adoption to repeal of existing SIP Subsection IX.A.11 and re-enact with SIP Subsection IX.A.12: PM₁₀ Maintenance Provisions for Utah County, as amended. Michael Smith seconded. The Board approved unanimously.

VI. Final Adoption: Repeal of Existing SIP Subsection IX.A.12 and Re-enact with SIP Subsection IX.A.13: PM10 Maintenance Provisions for Ogden City, as Amended. Presented by Bill Reiss.

No questions or comments from the Board on this agenda item as it was covered in the summary given for agenda item four.

- Arnold Reitze moved for final adoption of repeal of existing SIP Subsection IX.A.12 and re-enact with SIP Subsection IX.A.13: PM₁₀ Maintenance Provision for Ogden City, as amended. Robert Paine seconded. The Board approved unanimously.

VII. Final Adoption: Repeal Existing SIP Subsections IX. Part H. 1, 2, 3, and 4 and Re-enact with SIP Subsections IX. Part H. 1, 2, 3, and 4: Control Measures for Area and Point Sources, Emission Limits and Operating Practices, PM10 Requirements, as Amended. Presented by Bill Reiss.

Bill Reiss, Environmental Engineer at DAQ, stated Part H is kind of the second piece to this overall maintenance plan where the source specific emissions limits that belong in the SIP are housed. Limits are required as part of any SIP and their inclusion in the SIP makes them federally enforceable. There are no new RACT requirements associated with the maintenance plan. There are no new limits for additional PM₁₀ control. However, we made an effort to harmonize the PM₁₀ limits with other regulatory limits. So these conditions look like and have been structured very much like the PM_{2.5} conditions that were recently approved into Subsections 10, 11, and 12 of Part H. A 30-day public comment period was held and comments were collected which are summarized, along with DAQ's responses, as part of the packet to the Board. The majority of EPA's comments could be categorized as a continuing refinement involving concerns remaining from some of the previous iterations of the PM_{2.5} SIP. Some areas of focus included the pairing of averaging periods for emission limits with the 24 hours averaging period of the PM₁₀ NAAQS, emissions during start up, shut down, and malfunction, and the enforceability of the emission limits in Part H, including greater stack test frequency. Staff worked closely with EPA and almost all of the concerns EPA had raised through this process have been addressed through revisions to the language in Part H. As with Part A, some of the comments received were directed at the TSD

which is not part of this rulemaking. DAQ is well on the way to resolving all of those TSD issues and expects to have that done before the package is submitted to EPA.

- Robert Paine moved for final adoption to repeal existing SIP Subsections IX. Part H. 1, 2, 3, and 4 and re-enact with SIP Subsections IX. Part H. 1, 2, 3, and 4: Control Measures for Area and Point Sources, Emission Limits and Operating Practices, PM₁₀ Requirements, as amended. Erin Mendenhall seconded. The Board approved unanimously.

VIII. Final Adoption: Amend R307-110-10. Section IX, Control Measures for Area and Point Sources, Part A, Fine Particulate Matter; and Amend R307-110-17. Section IX, Control Measures for Area and Point Sources, Part H, Emissions Limits. Presented by Ryan Stephens.

Ryan Stephens, Environmental Planning Consultant at DAQ, stated the final adoption to these rules incorporates the amended Section IX.A and Section IX.H of the SIP in the Utah Air Quality Rules. A 30-day public comment period was held and no comments were received. Staff recommends the Board adopt R307-110-10 and R307-110-17 as amended.

In discussion, it was noted the date of enactment in these rules will be corrected to December 2, 2015. Also, there are definitions for area and point source in the general definitions section in the permitting rule R307-415-3, which is for Title V. Since this agenda item is for final adoption to incorporate the SIP maintenance plan that was just approved by the Board, it is suggested that a future action would be to look at possibly putting these definitions into R307-101-2 at some point. After further discussion, it was decided the request to amend the definitions of area and point source would be discussed in agenda item nine under R307-101-2.

- Michael Smith moved that the Board approve final adoption amend R307-110-10, Section IX, Control Measures for Area and Point Sources, Part A, Fine Particulate Matter; and amend R307-110-17, Section IX, Control Measures for Area and Point Sources, Part H, Emissions Limits. Erin Mendenhall seconded. The Board approved unanimously.

IX. Final Adoption: Amend R307-101-2. Definitions; R307-102-1. Air Pollution Prohibited; Periodic Reports Required; R307-150. Emission Inventories; R307-201-3. Visible Emissions Standards; R307-206. Emission Standards: Abrasive Blasting; R307-303. Commercial Cooking; R307-305-3. Visible Emissions; R307-306. PM10 Nonattainment and Maintenance Areas: Abrasive Blasting; R307-401. Permit: New and Modified Sources; R307-410. Permits: Emissions Impact Analysis; R307-415. Permits: Operating Permit Requirements. Presented by Ryan Stephens.

Ryan Stephens, Environmental Planning Consultant at DAQ, stated these rule amendments are in response to House Bill 229 which revised several air quality related terms in the Utah Code. The proposed rules amend the current air quality rules so that they reflect the changes made to Utah Code. The amendments create consistency across state regulations, state statutes, and the Clean Air Act (CAA). A 30-day public comment period was held and no comments were received on any of these rules. Staff recommends the Board these amended rules.

Besides an amendment to area and point source definitions as discussed in the previous agenda item, there was also a question with the term air pollution where one interpretation may suggest that we don't have air pollution until the NAAQS is exceeded, and questions whether or not the term is used correctly.

Staff responded that is not the case because the NAAQS are particular to the criteria pollutants established in the CAA which is only a small portion of the overall air pollutants. That defines it more if it's only the NAAQS pollutants and air pollution altogether would involve the hazardous air pollutants and any other substance that could meet those requirements. So it is not limited only by the NAAQS. Furthermore, that definition was what the Legislature set in statute in 19-2-102. The real question may be how is the term air pollution used throughout the regulations and changing the definition could have ripple effects. We are limited in what can be done, number one because it's defined in statute and number two a search of the entire rules would need to be done to see what the implications would be.

Another question raised was with the definition of actual emissions. If you get a construction permit, what would be the test for actual emissions if a source has not yet moved to operation? To which staff responded the language was taken directly from the Code of Federal Regulations. When looking at netting requirements that is addressed under the permitting program process. It is part of the federal definition but where it becomes in practice is when looking at the permit application a source would need to either account for or credit actual versus potential. That is usually the context of netting analysis and the permitting process.

After discussion, the Board would approve this item as presented with amendment to R307-101-2 to include definitions for area and point source. Also, staff is asked to review the definition of air pollution and report that back to the Board.

- Erin Mendenhall moved the Board approve final adoption to amend R307-101-2. Definitions; R307-102-1. Air Pollution Prohibited; Periodic Reports Required; R307-150. Emission Inventories; R307-201-3. Visible Emissions Standards; R307-206. Emission Standards: Abrasive Blasting; R307-303. Commercial Cooking; R307-305-3. Visible Emissions; R307-306. PM10 Nonattainment and Maintenance Areas: Abrasive Blasting; R307-401. Permit: New and Modified Sources; R307-410. Permits: Emissions Impact Analysis; R307-415. Permits: Operating Permit Requirements, with the inclusion of definitions of area and point source to R307-101-2 as proposed. Kerry Kelly seconded. The Board approved unanimously.

X. Propose for Public Comment: New Rule R307-104. Conflict of Interest. Presented by Ryan Stephens.

Ryan Stephens, Environmental Planning Consultant at DAQ, stated that a similar rule was proposed a few months ago which was withdrawn before it went out to public comment because of deficiencies. DAQ incorporated a Utah State Code section by reference which is not allowed under the rulemaking act. DAQ amended the rule without incorporating by reference any other areas of the code. This rule is being proposed in response to EPA's partial disapproval of Utah's Infrastructure SIP for PM_{2.5}. The disapproval was based on the fact that Utah no longer had a rule or statute that complied with Section 128(a)(2) of the CAA. The rule provides an enforceable requirement that any potential conflicts of interest involving any member of the Board or body which approves permits or enforcement orders, the DAQ Director, with similar powers, and the DEQ Executive Director with similar powers, are disclosed which would satisfy Section 128 of the CAA. The DAQ has worked with EPA and the Utah Attorney General's Office to develop this rule. Staff recommends the Board propose new rule R307-104, Conflict of Interest, for public comment.

- Michael Smith moved to propose for public comment new rule R307-104, Conflict of Interest. Robert Paine seconded. The Board approved unanimously.

XI. Propose for Public Comment: Amend R307-101-2. Definitions. Presented by Ryan Stephens.

Ryan Stephens, Environmental Planning Consultant at DAQ, stated the main change is that the date July 6, 2005, was changed to December 2, 2015, to take into account the most recent maintenance plan. Another minor change revised a reference to the CAA as amended in 1990. The rule has been changed to reference the federal CAA as found in 42 U.S.C. Chapter 85. Staff recommends the Board propose for public comment R307-101-2, Definitions.

In response to questions, staff stated it is important to get this rule out to public comment because it is going to be part of the SIP revision which will be submitted to EPA and it has a definition of what a maintenance area is. It will not affect the timeline previously stated.

- Erin Mendenhall moved the Board propose for public comment to amend R307-101-2, Definitions. Kerry Kelly seconded. The Board approved unanimously.

XII. Informational Items.

A. EPA's Proposed Discretionary Reclassification. Presented by Bryce Bird.

Bryce Bird, Division Director and Executive Secretary to the Board, stated that as previously discussed EPA had intended to propose a discretionary reclassification to a serious nonattainment area for each of the current PM_{2.5} nonattainment areas. EPA published that in the Federal Register on November 9, 2015, and the comment period runs through December 9, 2015. This issue is related to the provisions under the CAA, under Part D Subpart 4 that EPA had originally implemented the PM_{2.5} provisions under Subpart 1 and because of a Supreme Court decision it was moved to Subpart 4. Under that new rule EPA has established a classification system where you originally are designated as a moderate nonattainment area and then if you don't attain the standard by the moderate attainment date you would be reclassified by operation of law to a serious nonattainment area within six months after passing that date without making that demonstration. EPA in their proposal is proposing to reclassify and under that process the initial portions of the new serious nonattainment SIP would still be required within 18 months. The final implementation plan that describes the attainment plan would be required three years after designation or reclassification.

What this does in a practical sense is that the major source requirements, the inventory requirements, would all be in place within 18 months no matter which pathway an area reached serious nonattainment. But the overall planning requirement would allow the state to have more years of implementation of the moderate plan to be effective at adjusting the design value before the final plan was developed which is why the state has discussed this with EPA. It's not to forestall or delay any requirement because the substantive requirements and attainment date do stay the same. The new serious area permitting requirements still happen within 18 months. Again, the only difference is that the timing of the plan allows more time for the implementation strategies of the moderate plan to be in effect.

Complicating factors are that EPA has not developed an implementation rule for PM_{2.5} under the Subpart 4 requirements and the CAA does not address PM_{2.5} at all or what the test is for meeting the moderate area test. With that, DAQ still believes it is in the state's best interest to move in that direction and is encouraged by EPA giving DAQ that option.

Another challenge is that currently all areas are meeting the initial test for the moderate area attainment year. And that is during this year all areas are currently meeting, at least for one year, the PM_{2.5} standard. In looking between now and the end of the year, there is a possibility that we could remain in attainment for this year, especially in the Logan nonattainment area where they haven't exceeded the standard this year except for a few days of exceptional events in August during smoke events.

The state will be making comments and in the next week will try to predict what the rest of the year will bring and whether or not we move forward with a submission of an extension of the moderate attainment status for another year or whether we take advantage of some of the benefits that come from the moving from serious nonattainment classification by this discretionary mechanism.

There is some uncertainty in what the timeline will be after EPA reaches a final decision. In reading a combination of what the CAA says and what EPA did in earlier implementation rules the CAA requirement is that the discretionary reclassification will need to take effect before the date that would trigger an operation of law classification. Under that reading EPA would have to make the final Federal Register notice before the end of the year which would be a very quick turnaround for them. Also, in that same provision in the CAA it says it is triggered off when the SIP was due. Because of the deadlines rule that EPA published our SIP was due later than it would have been under that scenario and so that deadline would be six months later. That may be some of our comments, that EPA may not have to make the decision now because the deadline of the SIP was changed by that timing rule that was published. There is some uncertainty but the strictest reading is that they would have to publish before the end of the year.

- B. Air Toxics. Presented by Robert Ford.**
- C. Compliance. Presented by Jay Morris and Harold Burge.**
- D. Monitoring. Presented by Bo Call.**

Bo Call, Air Monitoring Section Manager at DAQ, updated the Board on the monitoring data and answered questions from the Board. He noted that negative values at some of the monitors were due to wires being crossed from the machines and negative numbers were being collected instead of the real number.

In other discussion, Mr. Call responded the annual numbers are not available yet, but he knows at the regulatory site, Hawthorne, we were well above the ozone standard. The timeline for designation under the new ozone standard is the state submits the attainment status of all areas of the state in October 2016 and then EPA has up until October 2017 to make the final designations. Then EPA is anticipating having the guidance for the designation process out by the end of this year so we know what the breakout is for the different levels of classification. We don't have that yet so it is unknown if it will be marginal, moderate, severe, or extreme until we know what those classification criteria are, and they have not been published yet.

In regards to last month's request for monitoring at point of the mountain, staff responded that there is a whole set of rules that must be followed about where to place a monitor. There is also the challenge of having the infrastructure available and the cost run such a

monitor. DAQ is behind in replacing current equipment that is beyond its useful life, and so does not have spare monitors that can be placed in different requested areas.

E. Other Items to be Brought Before the Board.

Written comment in relation to R307-801, Asbestos Rule, from Eldon Romney was introduced. Mr. Romney requests that in the future a committee be set up to vet asbestos related rules prior to an asbestos rule going to the Legislature.

Meeting adjourned at 3:02 p.m.

Minutes approved: February 3, 2016