Administrative Documentation

2012 PM$_{2.5}$ Infrastructure State Implementation Plan

State of Utah
Department of Environmental Quality
Division of Air Quality
195 N. 1950 West
P.O. Box 144820
Salt Lake City, Utah 84114-4820

December, 2015
# 2012 PM$_{2.5}$ Infrastructure State Implementation Plan

## Administrative Documentation

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December 4, 2015

Shaun McGrath  
Regional Administrator  
US Environmental Protection Agency  
Region 8  
1595 Wynkoop Street  
Denver, CO 80202-1129

Dear Mr. McGrath:

Enclosed for your approval is a demonstration that Utah’s State Implementation Plan (SIP) contains the necessary infrastructure elements to ensure attainment and maintenance of the 2012 National Ambient Air Quality Standard for PM$_{2.5}$. The document, *State of Utah 110(a)(2) SIP Infrastructure Elements for PM$_{2.5}$*, summarizes the Clean Air Act requirements for SIPS and outlines how Utah meets those requirements.

Supporting documentation is being submitted by the Utah Division of Air Quality. If you have questions about this request, please call Bryce Bird, director of the Utah Division of Air Quality, at (801) 536-4064.

Sincerely,

[Signature]
Gary R. Herbert  
Governor

Enclosures
December 14, 2015

Shaun McGrath, Regional Administrator
US EPA Region 8
1595 Wynkoop Street
Denver, Colorado 80202-1129

Dear Mr. McGrath:

This electronic submission contains for your review the administrative documentation in support of Governor Herbert’s revisions to Utah’s Infrastructure State Implementation Plan (ISIP) for PM2.5. The ISIP shows that Utah has the appropriate infrastructure to ensure attainment and maintenance of the 2012 National Ambient Air Quality Standard for PM2.5.

If you have questions, please call me at (801) 536-4046.

Sincerely,

[Signature]
Bryce C. Bird
Director

Enclosures
Chapter 2
Air Conservation Act

Part 1
General Provisions

19-2-101 Short title -- Policy of state and purpose of chapter -- Support of local and regional programs -- Provision of coordinated statewide program.
(1) This chapter is known as the "Air Conservation Act."
(2) It is the policy of this state and the purpose of this chapter to achieve and maintain levels of air quality which will protect human health and safety, and to the greatest degree practicable, prevent injury to plant and animal life and property, foster the comfort and convenience of the people, promote the economic and social development of this state, and facilitate the enjoyment of the natural attractions of this state.
(3) Local and regional air pollution control programs shall be supported to the extent practicable as essential instruments to secure and maintain appropriate levels of air quality.
(4) The purpose of this chapter is to:
   (a) provide for a coordinated statewide program of air pollution prevention, abatement, and control;
   (b) provide for an appropriate distribution of responsibilities among the state and local units of government;
   (c) facilitate cooperation across jurisdictional lines in dealing with problems of air pollution not confined within single jurisdictions; and
   (d) provide a framework within which air quality may be protected and consideration given to the public interest at all levels of planning and development within the state.

Renumbered and Amended by Chapter 112, 1991 General Session

19-2-102 Definitions.
As used in this chapter:
(1) "Air pollutant" means a substance that qualifies as an air pollutant as defined in 42 U.S.C. Sec. 7602.
(2) "Air pollutant source" means private and public sources of emissions of air pollutants.
(3) "Air pollution" means the presence of an air pollutant in the ambient air in the quantities, for a duration, and under the conditions and circumstances that are injurious to human health or welfare, animal or plant life, or property, or would unreasonably interfere with the enjoyment of life or use of property, as determined by the rules adopted by the board.
(4) "Ambient air" means that portion of the atmosphere, external to buildings, to which the general public has access.
(5) "Asbestos" means the asbestiform varieties of serpentine (chrysotile), riebeckite (crocidolite), cummingtonite-grunerite, anthophyllite, actinolite-tremolite, and libby amphibole.
(6) "Asbestos-containing material" means a material containing more than 1% asbestos, as determined using the method adopted in 40 C.F.R. Part 61, Subpart M, National Emission Standard for Asbestos.
(7) "Asbestos inspection" means an activity undertaken to determine the presence or location, or to assess the condition of, asbestos-containing material or suspected asbestos-containing material, whether by visual or physical examination, or by taking samples of the material.
(8) "Board" means the Air Quality Board.
(9) "Clean school bus" means the same as that term is defined in 42 U.S.C. Sec. 16091.
(10) "Director" means the director of the Division of Air Quality.
(11) "Division" means the Division of Air Quality created in Section 19-1-105.
(12) "Friable asbestos-containing material" means a material containing more than 1% asbestos, as determined using the method adopted in 40 C.F.R. Part 61, Subpart M, National Emission Standard for Asbestos, that hand pressure can crumble, pulverize, or reduce to powder when dry.
(13) "Indirect source" means a facility, building, structure, or installation which attracts or may attract mobile source activity that results in emissions of a pollutant for which there is a national standard.

Amended by Chapter 154, 2015 General Session

19-2-103 Members of board -- Appointment -- Terms -- Organization -- Per diem and expenses.

(1) The board consists of the following nine members:
   (a) the following non-voting member, except that the member may vote to break a tie vote between the voting members:
      (i) the executive director; or
      (ii) an employee of the department designated by the executive director; and
   (b) the following eight voting members, who shall be appointed by the governor with the consent of the Senate:
      (i) one representative who:
         (A) is not connected with industry;
         (B) is an expert in air quality matters; and
         (C) is a Utah-licensed physician, a Utah-licensed professional engineer, or a scientist with relevant training and experience;
      (ii) two government representatives who do not represent the federal government;
      (iii) one representative from the mining industry;
      (iv) one representative from the fuels industry;
      (v) one representative from the manufacturing industry;
      (vi) one representative from the public who represents:
         (A) an environmental nongovernmental organization; or
         (B) a nongovernmental organization that represents community interests and does not represent industry interests; and
      (vii) one representative from the public who is trained and experienced in public health.

(2) A member of the board shall:
   (a) be knowledgeable about air pollution matters, as evidenced by a professional degree, a professional accreditation, or documented experience;
   (b) be a resident of Utah;
   (c) attend board meetings in accordance with the attendance rules made by the department under Subsection 19-1-201(1)(d)(i)(A); and
   (d) comply with all applicable statutes, rules, and policies, including the conflict of interest rules made by the department under Subsection 19-1-201(1)(d)(i)(B).

(3) No more than five of the appointed members of the board shall belong to the same political party.
(4) A majority of the members of the board may not derive any significant portion of their income from persons subject to permits or orders under this chapter.

(5) 
(a) Members shall be appointed for a term of four years.
(b) Notwithstanding the requirements of Subsection (5)(a), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of board members are staggered so that half of the appointed board is appointed every two years.

(6) A member may serve more than one term.

(7) A member shall hold office until the expiration of the member's term and until the member's successor is appointed, but not more than 90 days after the expiration of the member's term.

(8) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term.

(9) The board shall elect annually a chair and a vice chair from its members.

(10) 
(a) The board shall meet at least quarterly.
(b) Special meetings may be called by the chair upon the chair's own initiative, upon the request of the director, or upon the request of three members of the board.
(c) Three days' notice shall be given to each member of the board before a meeting.

(11) Five members constitute a quorum at a meeting, and the action of a majority of members present is the action of the board.

(12) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:
(a) Section 63A-3-106;
(b) Section 63A-3-107; and
(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

Amended by Chapter 154, 2015 General Session

19-2-104 Powers of board.
(1) The board may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:
(a) regarding the control, abatement, and prevention of air pollution from all sources and the establishment of the maximum quantity of air pollutants that may be emitted by an air pollutant source;
(b) establishing air quality standards;
(c) requiring persons engaged in operations that result in air pollution to:
   (i) install, maintain, and use emission monitoring devices, as the board finds necessary;
   (ii) file periodic reports containing information relating to the rate, period of emission, and composition of the air pollutant; and
   (iii) provide access to records relating to emissions which cause or contribute to air pollution;
(d)
   (i) implementing:
      (B) 40 C.F.R. Part 763, Asbestos; and
      (C) 40 C.F.R. Part 61, National Emission Standards for Hazardous Air Pollutants, Subpart M, National Emission Standard for Asbestos; and
(e) establishing a requirement for a diesel emission opacity inspection and maintenance program for diesel-powered motor vehicles;
(f) implementing an operating permit program as required by and in conformity with Titles IV and V of the federal Clean Air Act Amendments of 1990;
(g) establishing requirements for county emissions inspection and maintenance programs after obtaining agreement from the counties that would be affected by the requirements;
(h) with the approval of the governor, implementing in air quality nonattainment areas employer-based trip reduction programs applicable to businesses having more than 100 employees at a single location and applicable to federal, state, and local governments to the extent necessary to attain and maintain ambient air quality standards consistent with the state implementation plan and federal requirements under the standards set forth in Subsection (2);
(i) implementing lead-based paint training, certification, and performance requirements in accordance with 15 U.S.C. 2601 et seq., Toxic Substances Control Act, Subchapter IV -- Lead Exposure Reduction, Sections 402 and 406; and
(j) to implement the requirements of Section 19-2-107.5.

(2) When implementing Subsection (1)(h) the board shall take into consideration:
(a) the impact of the business on overall air quality; and
(b) the need of the business to use automobiles in order to carry out its business purposes.

(3) The board may:
(i) hold a hearing that is not an adjudicative proceeding relating to any aspect of, or matter in, the administration of this chapter;
(ii) recommend that the director:
(1) issue orders necessary to enforce the provisions of this chapter;
(2) enforce the orders by appropriate administrative and judicial proceedings;
(3) institute judicial proceedings to secure compliance with this chapter; or
(4) advise, consult, contract, and cooperate with other agencies of the state, local governments, industries, other states, interstate or interlocal agencies, the federal government, or interested persons or groups; and
(iii) establish certification requirements for asbestos project monitors, which shall provide for experience-based certification of a person who:
(A) receives relevant asbestos training, as defined by rule; and
(B) has acquired a minimum of 1,000 hours of asbestos project monitoring related work experience.
(b) The board shall:
(i) to ensure compliance with applicable statutes and regulations:
(1) review a settlement negotiated by the director in accordance with Subsection 19-2-107(2)(b)(viii) that requires a civil penalty of $25,000 or more; and
(2) approve or disapprove the settlement;
(ii) encourage voluntary cooperation by persons and affected groups to achieve the purposes of this chapter;
(iii) meet the requirements of federal air pollution laws;
(iv) by rule in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, establish work practice and certification requirements for persons who:
(A) contract for hire to conduct demolition, renovation, salvage, encapsulation work involving friable asbestos-containing materials, or asbestos inspections if:
   (I) the contract work is done on a site other than a residential property with four or fewer units; or
   (II) the contract work is done on a residential property with four or fewer units where a tested sample contained greater than 1% of asbestos;
(B) conduct work described in Subsection (3)(b)(iv)(A) in areas to which the general public has unrestrained access or in school buildings that are subject to the federal Asbestos Hazard Emergency Response Act of 1986;
(C) conduct asbestos inspections in facilities subject to 15 U.S.C. 2601 et seq., Toxic Substances Control Act, Subchapter II - Asbestos Hazard Emergency Response; or
(D) conduct lead-based paint inspections in facilities subject to 15 U.S.C. 2601 et seq., Toxic Substances Control Act, Subchapter IV -- Lead Exposure Reduction;
(v) establish certification requirements for a person required under 15 U.S.C. 2601 et seq., Toxic Substances Control Act, Subchapter II - Asbestos Hazard Emergency Response, to be accredited as an inspector, management planner, abatement project designer, asbestos abatement contractor and supervisor, or an asbestos abatement worker;
(vi) establish certification procedures and requirements for certification of the conversion of a motor vehicle to a clean-fuel vehicle, certifying the vehicle is eligible for the tax credit granted in Section 59-7-605 or 59-10-1009;
(vii) establish certification requirements for a person required under 15 U.S.C. 2601 et seq., Toxic Control Act, Subchapter IV - Lead Exposure Reduction, to be accredited as an inspector, risk assessor, supervisor, project designer, abatement worker, renovator, or dust sampling technician; and
(viii) assist the State Board of Education in adopting school bus idling reduction standards and implementing an idling reduction program in accordance with Section 41-6a-1308.

(4) A rule adopted under this chapter shall be consistent with provisions of federal laws, if any, relating to control of motor vehicles or motor vehicle emissions.

(5) Nothing in this chapter authorizes the board to require installation of or payment for any monitoring equipment by the owner or operator of a source if the owner or operator has installed or is operating monitoring equipment that is equivalent to equipment which the board would require under this section.

(6)
(a) The board may not require testing for asbestos or related materials on a residential property with four or fewer units, unless:
   (i) the property's construction was completed before January 1, 1981; or
   (ii) the testing is for:
      (A) a sprayed-on or painted on ceiling treatment that contained or may contain asbestos fiber;
      (B) asbestos cement siding or roofing materials;
      (C) resilient flooring products including vinyl asbestos tile, sheet vinyl products, resilient flooring backing material, whether attached or unattached, and mastic;
      (D) thermal-system insulation or tape on a duct or furnace; or
      (E) vermiculite type insulation materials.
(b) A residential property with four or fewer units is subject to an abatement rule made under Subsection (1) or (3)(b)(iv) if:
   (i) a sample from the property is tested for asbestos; and
   (ii) the sample contains asbestos measuring greater than 1%.
(7) The board may not issue, amend, renew, modify, revoke, or terminate any of the following that are subject to the authority granted to the director under Section 19-2-107 or 19-2-108:
(a) a permit;
(b) a license;
(c) a registration;
(d) a certification; or
(e) another administrative authorization made by the director.
(8) A board member may not speak or act for the board unless the board member is authorized by a majority of a quorum of the board in a vote taken at a meeting of the board.
(9) Notwithstanding Subsection (7), the board may exercise all authority granted to the board by a federally enforceable state implementation plan.

Amended by Chapter 154, 2015 General Session

19-2-105 Duties of board.
The board, in conjunction with the governing body of each county identified in Section 41-6a-1643 and other interested parties, shall order the director to perform an evaluation of the inspection and maintenance program developed under Section 41-6a-1643 including issues relating to:
(1) the implementation of a standardized inspection and maintenance program;
(2) out-of-state registration of vehicles used in Utah;
(3) out-of-county registration of vehicles used within the areas required to have an inspection and maintenance program;
(4) use of the farm truck exemption;
(5) mechanic training programs;
(6) emissions standards; and
(7) emissions waivers.

Amended by Chapter 360, 2012 General Session

19-2-105.3 Clean fuel requirements for fleets.
(1) As used in this section:
(a) "1990 Clean Air Act" means the federal Clean Air Act as amended in 1990.
(b) "Clean fuel" means:
   (i) propane, compressed natural gas, or electricity;
   (ii) other fuel the board determines annually on or before July 1 is at least as effective as fuels under Subsection (1)(b)(i) in reducing air pollution; and
   (iii) other fuel that meets the clean fuel vehicle standards in the 1990 Clean Air Act.
(c) "Fleet" means 10 or more vehicles:
   (i) owned or operated by a single entity as defined by board rule; and
   (ii) capable of being fueled or that are fueled at a central location.
(d) "Fleet" does not include motor vehicles that are:
   (i) held for lease or rental to the general public;
   (ii) held for sale or used as demonstration vehicles by motor vehicle dealers;
   (iii) used by motor vehicle manufacturers for product evaluations or tests;
   (iv) authorized emergency vehicles as defined in Section 41-6a-102;
   (v) registered under Title 41, Chapter 1a, Part 2, Registration, as farm vehicles;
   (vi) special mobile equipment as defined in Section 41-1a-102.
(vii) heavy duty trucks with a gross vehicle weight rating of more than 26,000 pounds;
(viii) regularly used by employees to drive to and from work, parked at the employees’ personal residences when they are not at their employment, and not practicably fueled at a central location;
(ix) owned, operated, or leased by public transit districts; or
(x) exempted by board rule.

(2)
(a) After evaluation of reasonably available pollution control strategies, and as part of the state implementation plan demonstrating attainment of the national ambient air quality standards, the board may by rule require fleets in specified geographical areas to use clean fuels if the board determines fleet use of clean fuels is:
(i) necessary to demonstrate attainment of the national ambient air quality standards in an area where they are required; and
(ii) reasonably cost effective when compared to other similarly beneficial control strategies for demonstrating attainment of the national ambient air quality standards.
(b) A vehicle retrofit to operate on compressed natural gas in accordance with Section 19-1-406 qualifies as a clean fuel vehicle under this section.

(3) After evaluation of reasonably available pollution control strategies, and as part of a state implementation plan demonstrating only maintenance of the national ambient air quality standards, the board may by rule require fleets in specified geographical areas to use clean fuels if the board determines fleet use of clean fuels is:
(a) necessary to demonstrate maintenance of the national ambient air quality standards in an area where they are required; and
(b) reasonably cost effective as compared with other similarly beneficial control strategies for demonstrating maintenance of the national ambient air quality standards.

(4) Rules the board makes under this section may include:
(a) dates by which fleets are required to convert to clean fuels under the provisions of this section;
(b) definitions of fleet owners or operators;
(c) definitions of vehicles exempted from this section by rule;
(d) certification requirements for persons who install clean fuel conversion equipment, including testing and certification standards regarding installers; and
(e) certification fees for installers, established under Section 63J-1-504.

(5) Implementation of this section and rules made under this section are subject to the reasonable availability of clean fuel in the local market as determined by the board.

Amended by Chapter 154, 2015 General Session

19-2-106 Rulemaking authority and procedure.

(1)
(a) In carrying out the duties of Section 19-2-104, the board may make rules for the purpose of administering a program under the federal Clean Air Act different than the corresponding federal regulations which address the same circumstances if:
(i) the board holds a public comment period, as described in Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and a public hearing; and
(ii) the board finds that the different rule will provide reasonable added protections to public health or the environment of the state or a particular region of the state.
(b) The board shall consider the differences between an industry that continuously produces emissions and an industry that episodically produces emissions, and make rules that reflect those differences.

(2) The findings described in Subsection (1)(a)(ii) shall be:
   (a) in writing; and
   (b) based on evidence, studies, or other information contained in the record that relates to the state of Utah and type of source involved.

(3) In making rules, the board may incorporate by reference corresponding federal regulations.

Amended by Chapter 80, 2015 General Session

19-2-107 Director -- Appointment -- Powers.
(1) The executive director shall appoint the director. The director shall serve under the administrative direction of the executive director.

(2)
   (a) The director shall:
      (i) prepare and develop comprehensive plans for the prevention, abatement, and control of air pollution in Utah;
      (ii) advise, consult, and cooperate with other agencies of the state, the federal government, other states and interstate agencies, and affected groups, political subdivisions, and industries in furtherance of the purposes of this chapter;
      (iii) review plans, specifications, or other data relative to air pollution control equipment or any part of the air pollution control equipment;
      (iv) under the direction of the executive director, represent the state in all matters relating to interstate air pollution, including interstate compacts and similar agreements;
      (v) secure necessary scientific, technical, administrative, and operational services, including laboratory facilities, by contract or otherwise;
      (vi) encourage voluntary cooperation by persons and affected groups to achieve the purposes of this chapter;
      (vii) encourage local units of government to handle air pollution within their respective jurisdictions on a cooperative basis and provide technical and consulting assistance to them;
      (viii) determine by means of field studies and sampling the degree of air contamination and air pollution in all parts of the state;
      (ix) monitor the effects of the emission of air pollutants from motor vehicles on the quality of the outdoor atmosphere in all parts of Utah and take appropriate responsive action;
      (x) collect and disseminate information relating to air contamination and air pollution and conduct educational and training programs relating to air contamination and air pollution;
      (xi) assess and collect noncompliance penalties as required in Section 120 of the federal Clean Air Act, 42 U.S.C. Section 7420;
      (xii) comply with the requirements of federal air pollution laws;
      (xiii) subject to the provisions of this chapter, enforce rules through the issuance of orders, including:
         (A) prohibiting or abating discharges of wastes affecting ambient air;
         (B) requiring the construction of new control facilities or any parts of new control facilities or the modification, extension, or alteration of existing control facilities or any parts of new control facilities; or
         (C) adopting other remedial measures to prevent, control, or abate air pollution; and
(xiv) as authorized by the board and subject to the provisions of this chapter, act as executive secretary of the board under the direction of the chairman of the board.

(b) The director may:
   (i) employ full-time, temporary, part-time, and contract employees necessary to carry out this chapter;
   (ii) subject to the provisions of this chapter, authorize an employee or representative of the department to enter at reasonable time and upon reasonable notice in or upon public or private property for the purposes of inspecting and investigating conditions and plant records concerning possible air pollution;
   (iii) encourage, participate in, or conduct studies, investigations, research, and demonstrations relating to air pollution and its causes, effects, prevention, abatement, and control, as advisable and necessary for the discharge of duties assigned under this chapter, including the establishment of inventories of pollution sources;
   (iv) collect and disseminate information relating to air pollution and the prevention, control, and abatement of it;
   (v) cooperate with studies and research relating to air pollution and its control, abatement, and prevention;
   (vi) subject to Subsection (3), upon request, consult concerning the following with a person proposing to construct, install, or otherwise acquire an air pollutant source in Utah:
      (A) the efficacy of proposed air pollution control equipment for the source; or
      (B) the air pollution problem that may be related to the source;
   (vii) accept, receive, and administer grants or other funds or gifts from public and private agencies, including the federal government, for the purpose of carrying out any of the functions of this chapter;
   (viii) subject to Subsection 19-2-104(3)(b)(i), settle or compromise a civil action initiated by the division to compel compliance with this chapter or the rules made under this chapter; or
   (ix) subject to the provisions of this chapter, exercise all incidental powers necessary to carry out the purposes of this chapter, including certification to state or federal authorities for tax purposes that air pollution control equipment has been certified in conformity with Title 19, Chapter 12, Pollution Control Act.

(3) A consultation described in Subsection (2)(b)(vi) does not relieve a person from the requirements of this chapter, the rules adopted under this chapter, or any other provision of law.

Amended by Chapter 154, 2015 General Session

Superseded 7/1/2015

19-2-107.5 Wood burning.

(1) The division shall create a:
   (a) public awareness campaign on the effects of wood burning on air quality, specifically targeting nonattainment areas; and
   (b) program to assist an individual to convert a dwelling to a natural gas or other clean fuel heating source, as funding allows, if the individual:
      (i) lives in a dwelling where a wood burning stove is the sole source of heat; and
      (ii) is on the list of registered sole heating source homes.

(2) The division may seek private donations and federal sources of funding to supplement any funds appropriated by the Legislature to fulfill Subsection (1)(b).

Enacted by Chapter 230, 2014 General Session
Effective 7/1/2015

19-2-107.5 Solid fuel burning.

(1) The division shall create a:
   (a) public awareness campaign, in consultation with representatives of the solid fuel burning industry, the healthcare industry, and members of the clean air community, on best wood burning practices and the effects of wood burning on air quality, specifically targeting nonattainment areas; and
   (b) program to assist an individual to convert a dwelling to a natural gas, propane, or wood pellet heating source or a wood burning stove certified by the United States Environmental Protection Agency, as funding allows, if the individual:
      (i) lives in a dwelling where a wood burning stove is the sole source of heat; and
      (ii) is on the list of registered sole heating source homes.

(2)
   (a) The division may not impose a burning ban prohibiting burning during a specified seasonal period of time.
   (b) Notwithstanding Subsection (2)(a), the division shall:
      (i) allow burning during local emergencies and utility outages; and
      (ii) provide for exemptions, through registration with the division, for:
         (A) devices that are sole sources of heat; or
         (B) locations where natural gas service is limited or unavailable.

(3) The division may seek private donations and federal sources of funding to supplement any funds appropriated by the Legislature to fulfill Subsection (1)(b).

Amended by Chapter 416, 2015 General Session

19-2-108 Notice of construction or modification of installations required -- Authority of director to prohibit construction -- Hearings -- Limitations on authority of director -- Inspections authorized.

(1) Notice shall be given to the director by a person planning to construct a new installation which will or might reasonably be expected to be a source or indirect source of air pollution or to make modifications to an existing installation which will or might reasonably be expected to increase the amount of or change the character or effect of air pollutants discharged, so that the installation may be expected to be a source or indirect source of air pollution, or by a person planning to install an air cleaning device or other equipment intended to control emission of air pollutants.

(2)
   (a) The director may require, as a condition precedent to the construction, modification, installation, or establishment of the air pollutant source or indirect source, the submission of plans, specifications, and other information as he finds necessary to determine whether the proposed construction, modification, installation, or establishment will be in accord with applicable rules in force under this chapter.
   (b) If within 90 days after the receipt of plans, specifications, or other information required under this subsection, the director determines that the proposed construction, installation, or establishment or any part of it will not be in accord with the requirements of this chapter or applicable rules or that further time, not exceeding three extensions of 30 days each, is required by the director to adequately review the plans, specifications, or other information,
he shall issue an order prohibiting the construction, installation, or establishment of the air pollutant source or sources in whole or in part.

(3) In addition to any other remedies but prior to invoking any such other remedies, a person aggrieved by the issuance of an order either granting or denying a request for the construction of a new installation, shall, upon request, in accordance with the rules of the department, be entitled to a special adjudicative proceeding conducted by an administrative law judge as provided by Section 19-1-301.5.

(4) Any features, machines, and devices constituting parts of or called for by plans, specifications, or other information submitted under Subsection (1) shall be maintained in good working order.

(5) This section does not authorize the director to require the use of machinery, devices, or equipment from a particular supplier or produced by a particular manufacturer if the required performance standards may be met by machinery, devices, or equipment otherwise available.

(6) (a) An authorized officer, employee, or representative of the director may enter and inspect any property, premise, or place on or at which an air pollutant source is located or is being constructed, modified, installed, or established at any reasonable time for the purpose of ascertaining the state of compliance with this chapter and the rules adopted under it.

(b) (i) A person may not refuse entry or access to an authorized representative of the director who requests entry for purposes of inspection and who presents appropriate credentials.

(ii) A person may not obstruct, hamper, or interfere with an inspection.

(c) If requested, the owner or operator of the premises shall receive a report setting forth all facts found which relate to compliance status.

Amended by Chapter 154, 2015 General Session
Amended by Chapter 441, 2015 General Session

19-2-109 Air quality standards -- Hearings on adoption -- Orders of director -- Adoption of emission control requirements.

(1) (a) The board, in adopting standards of quality for ambient air, shall conduct public hearings.

(b) Notice of any public hearing for the consideration, adoption, or amendment of air quality standards shall specify the locations to which the proposed standards apply and the time, date, and place of the hearing.

(c) The notice shall be:

(i) (A) published at least twice in any newspaper of general circulation in the area affected; and
(B) published on the Utah Public Notice Website created in Section 63F-1-701, at least 20 days before the public hearing; and

(ii) mailed at least 20 days before the public hearing to the chief executive of each political subdivision of the area affected and to other persons the director has reason to believe will be affected by the standards.

(d) The adoption of air quality standards or any modification or changes to air quality standards shall be by order of the director following formal action of the board with respect to the standards.

(e) The order shall be published:

(i) in a newspaper of general circulation in the area affected; and

(ii) as required in Section 45-1-101.
(2)
(a) The board may establish emission control requirements by rule that in its judgment may be necessary to prevent, abate, or control air pollution that may be statewide or may vary from area to area, taking into account varying local conditions.
(b) In adopting these requirements, the board shall give notice and conduct public hearings in accordance with the requirements in Subsection (1).

Amended by Chapter 360, 2012 General Session

19-2-109.1 Operating permit required -- Emissions fee -- Implementation.
(1) As used in this section and Sections 19-2-109.2 and 19-2-109.3:
(a) "1990 Clean Air Act" means the federal Clean Air Act as amended in 1990.
(b) "EPA" means the federal Environmental Protection Agency.
(c) "Operating permit" means a permit issued by the director to sources of air pollution that meet the requirements of Titles IV and V of the 1990 Clean Air Act.
(d) "Program" means the air pollution operating permit program established under this section to comply with Title V of the 1990 Clean Air Act.
(e) "Regulated pollutant" means the same as that term is defined in Title V of the 1990 Clean Air Act and implementing federal regulations.
(2) A person may not operate a source of air pollution required to have a permit under Title V of the 1990 Clean Air Act without having obtained an operating permit from the director under procedures the board establishes by rule.
(3)
(a) Operating permits issued under this section shall be for a period of five years unless the director makes a written finding, after public comment and hearing, and based on substantial evidence in the record, that an operating permit term of less than five years is necessary to protect the public health and the environment of the state.
(b) The director may issue, modify, or renew an operating permit only after providing public notice, an opportunity for public comment, and an opportunity for a public hearing.
(c) The director shall, in conformity with the 1990 Clean Air Act and implementing federal regulations, revise the conditions of issued operating permits to incorporate applicable federal regulations in conformity with Section 502(b)(9) of the 1990 Clean Air Act, if the remaining period of the permit is three or more years.
(d) The director may terminate, modify, revoke, or reissue an operating permit for cause.
(4)
(a) The board shall establish a proposed annual emissions fee that conforms with Title V of the 1990 Clean Air Act for each ton of regulated pollutant, applicable to all sources required to obtain a permit. The emissions fee established under this section is in addition to fees assessed under Section 19-2-108 for issuance of an approval order.
(b) In establishing the fee the board shall comply with the provisions of Section 63J-1-504 that require a public hearing and require the established fee to be submitted to the Legislature for its approval as part of the department's annual appropriations request.
(c) The fee shall cover all reasonable direct and indirect costs required to develop and administer the program and the small business assistance program established under Section 19-2-109.2. The director shall prepare an annual report of the emissions fees collected and the costs covered by those fees under this Subsection (4).
(d) The fee shall be established uniformly for all sources required to obtain an operating permit under the program and for all regulated pollutants.
(e) The fee may not be assessed for emissions of any regulated pollutant if the emissions are already accounted for within the emissions of another regulated pollutant.

(f) An emissions fee may not be assessed for any amount of a regulated pollutant emitted by any source in excess of 4,000 tons per year of that regulated pollutant.

(5) Emissions fees shall be based on actual emissions for a regulated pollutant unless a source elects, prior to the issuance or renewal of a permit, to base the fee during the period of the permit on allowable emissions for that regulated pollutant.

(6) If the owner or operator of a source subject to this section fails to timely pay an annual emissions fee, the director may:
   (a) impose a penalty of not more than 50% of the fee, in addition to the fee, plus interest on the fee computed at 12% annually; or
   (b) revoke the operating permit.

(7) The owner or operator of a source subject to this section may contest an emissions fee assessment or associated penalty in an adjudicative hearing under the Title 63G, Chapter 4, Administrative Procedures Act, and Section 19-1-301, as provided in this Subsection (7).
   (a) The owner or operator shall pay the fee under protest prior to being entitled to a hearing. Payment of an emissions fee or penalty under protest is not a waiver of the right to contest the fee or penalty under this section.
   (b) A request for a hearing under this Subsection (7) shall be made after payment of the emissions fee and within six months after the emissions fee was due.

(8) To reinstate an operating permit revoked under Subsection (6) the owner or operator shall pay all outstanding emissions fees, a penalty of not more than 50% of all outstanding fees, and interest on the outstanding emissions fees computed at 12% annually.

(9) All emissions fees and penalties collected by the department under this section shall be deposited in the General Fund as the Air Pollution Operating Permit Program dedicated credit to be used solely to pay for the reasonable direct and indirect costs incurred by the department in developing and administering the program and the small business assistance program under Section 19-2-109.2.

(10) Failure of the director to act on an operating permit application or renewal is a final administrative action only for the purpose of obtaining judicial review by any of the following persons to require the director to take action on the permit or its renewal without additional delay:
   (a) the applicant;
   (b) a person who participated in the public comment process; or
   (c) a person who could obtain judicial review of that action under applicable law.

Amended by Chapter 154, 2015 General Session

19-2-109.2 Small business assistance program.
(1) The division shall establish a small business stationary source technical and environmental compliance assistance program that conforms with Title V of the 1990 Clean Air Act to assist small businesses to comply with state and federal air pollution laws.

(2) There is created the Compliance Advisory Panel to advise and monitor the program created in Subsection (1). The seven panel members are:
   (a) two members who are not owners or representatives of owners of small business stationary air pollution sources, selected by the governor to represent the general public;
   (b) four members who are owners or who represent owners of small business stationary sources selected by leadership of the Utah Legislature as follows:
(i) one member selected by the majority leader of the Senate;
(ii) one member selected by the minority leader of the Senate;
(iii) one member selected by the majority leader of the House of Representatives; and
(iv) one member selected by the minority leader of the House of Representatives; and
(c) one member selected by the executive director to represent the Division of Air Quality, Department of Environmental Quality.

(3)
(a) Except as required by Subsection (3)(b), as terms of current panel members expire, the department shall appoint each new member or reappointed member to a four-year term.
(b) Notwithstanding the requirements of Subsection (3)(a), the department shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of panel members are staggered so that approximately half of the panel is appointed every two years.

(4) Members may serve more than one term.

(5) Members shall hold office until the expiration of their terms and until their successors are appointed, but not more than 90 days after the expiration of their terms.

(6) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term.

(7) Every two years, the panel shall elect a chair from its members.

(8)
(a) The panel shall meet as necessary to carry out its duties. Meetings may be called by the chair, the director, or upon written request of three of the members of the panel.
(b) Three days' notice shall be given to each member of the panel prior to a meeting.

(9) Four members constitute a quorum at a meeting, and the action of the majority of members present is the action of the panel.

(10) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:
(a) Section 63A-3-106;
(b) Section 63A-3-107; and
(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

Amended by Chapter 154, 2015 General Session

19-2-109.3 Public access to information.
A copy of each permit application, compliance plan, emissions or compliance monitoring report, certification, and each operating permit issued under this chapter shall be made available to the public in accordance with Title 63G, Chapter 2, Government Records Access and Management Act.

Amended by Chapter 382, 2008 General Session

19-2-110 Violations -- Notice to violator -- Corrective action orders -- Conference, conciliation, and persuasion by director -- Hearings.
(1) Whenever the director has reason to believe that a violation of any provision of this chapter or any rule issued under it has occurred, the director may serve written notice of the violation upon the alleged violator. The notice shall specify the provision of this chapter or rule alleged to be violated, the facts alleged to constitute the violation, and may include an order that necessary corrective action be taken within a reasonable time.
(2) Nothing in this chapter prevents the director from making efforts to obtain voluntary compliance through warning, conference, conciliation, persuasion, or other appropriate means.

(3) Hearings may be held before an administrative law judge as provided by Section 19-1-301.

Amended by Chapter 360, 2012 General Session

19-2-112 Generalized condition of air pollution creating emergency -- Sources causing imminent danger to health -- Powers of executive director -- Declaration of emergency.

(1)

(a) Title 63G, Chapter 4, Administrative Procedures Act, and any other provision of law to the contrary notwithstanding, if the executive director finds that a generalized condition of air pollution exists and that it creates an emergency requiring immediate action to protect human health or safety, the executive director, with the concurrence of the governor, shall order persons causing or contributing to the air pollution to reduce or discontinue immediately the emission of air pollutants.

(b) The order shall fix a place and time, not later than 24 hours after its issuance, for a hearing to be held before the governor.

(c) Not more than 24 hours after the commencement of this hearing, and without adjournment of it, the governor shall affirm, modify, or set aside the order of the executive director.

(2)

(a) In the absence of a generalized condition of air pollution referred to in Subsection (1), but if the executive director finds that emissions from the operation of one or more air pollutant sources is causing imminent danger to human health or safety, the executive director may commence adjudicative proceedings under Section 63G-4-502.

(b) Notwithstanding Section 19-1-301 or 19-1-301.5, the executive director may conduct the emergency adjudicative proceeding in place of an administrative law judge.

(3) Nothing in this section limits any power that the governor or any other officer has to declare an emergency and act on the basis of that declaration.

Amended by Chapter 154, 2015 General Session

19-2-113 Variances -- Judicial review.

(1)

(a) A person who owns or is in control of a plant, building, structure, establishment, process, or equipment may apply to the board for a variance from its rules.

(b) The board may grant the requested variance following an announced public meeting, if it finds, after considering the endangerment to human health and safety and other relevant factors, that compliance with the rules from which variance is sought would produce serious hardship without equal or greater benefits to the public.

(2) A variance may not be granted under this section until the board has considered the relative interests of the applicant, other owners of property likely to be affected by the discharges, and the general public.

(3) A variance or renewal of a variance shall be granted within the requirements of Subsection (1) and for time periods and under conditions consistent with the reasons for it, and within the following limitations:

(a) if the variance is granted on the grounds that there are no practicable means known or available for the adequate prevention, abatement, or control of the air pollution involved, it shall be only until the necessary means for prevention, abatement, or control become known
and available, and subject to the taking of any substitute or alternate measures that the board may prescribe;

(b) if the variance is granted on the grounds that compliance with the requirements from which variance is sought will require that measures, because of their extent or cost, must be spread over a long period of time, the variance shall be granted for a reasonable time that, in the view of the board, is required for implementation of the necessary measures; and

(ii) a variance granted on this ground shall contain a timetable for the implementation of remedial measures in an expeditious manner and shall be conditioned on adherence to the timetable; or

(c) if the variance is granted on the ground that it is necessary to relieve or prevent hardship of a kind other than that provided for in Subsection (3)(a) or (b), it may not be granted for more than one year.

(4) A variance granted under this section may be renewed on terms and conditions and for periods that would be appropriate for initially granting a variance.

(b) If a complaint is made to the board because of the variance, a renewal may not be granted unless, following an announced public meeting, the board finds that renewal is justified.

(c) To receive a renewal, an applicant shall submit a request for agency action to the board requesting a renewal.

(d) Immediately upon receipt of an application for renewal, the board shall give public notice of the application as required by its rules.

(5) A variance or renewal is not a right of the applicant or holder but may be granted at the board's discretion.

(b) A person aggrieved by the board's decision may obtain judicial review.

(c) Venue for judicial review of informal adjudicative proceedings is in the district court in which the air pollutant source is situated.

(6) The board may review a variance during the term for which it was granted.

(b) The review procedure is the same as that for an original application.

(c) The variance may be revoked upon a finding that:

(i) the nature or amount of emission has changed or increased; or

(ii) if facts existing at the date of the review had existed at the time of the original application, the variance would not have been granted.

(7) Nothing in this section and no variance or renewal granted pursuant to it shall be construed to prevent or limit the application of the emergency provisions and procedures of Section 19-2-112 to a person or property.

Amended by Chapter 154, 2015 General Session

19-2-114 Activities not in violation of chapter or rules.

The following are not a violation of this chapter or of a rule made under it:

(1) burning incident to horticultural or agricultural operations of:

(a) prunings from trees, bushes, and plants; or

(b) dead or diseased trees, bushes, and plants, including stubble;

(2) burning of weed growth along ditch banks incident to clearing these ditches for irrigation purposes;
(3) controlled heating of orchards or other crops to lessen the chances of their being frozen so long as the emissions from this heating do not violate minimum standards set by the board; and

(4) the controlled burning of not more than two structures per year by an organized and operating fire department for the purpose of training fire service personnel when the United States Weather Service clearing index for the area where the burn is to occur is above 500.

Amended by Chapter 154, 2015 General Session

19-2-115 Violations -- Penalties -- Reimbursement for expenses.
(1) As used in this section, the terms "knowingly," "willfully," and "criminal negligence" shall mean as defined in Section 76-2-103.

(2) (a) A person who violates this chapter, or any rule, order, or permit issued or made under this chapter is subject in a civil proceeding to a penalty not to exceed $10,000 per day for each violation.
(b) Subsection (2)(a) also applies to rules made under the authority of Section 19-2-104, for implementation of 15 U.S.C.A. 2601 et seq., Toxic Substances Control Act, Subchapter II - Asbestos Hazard Emergency Response.
(c) Penalties assessed for violations described in 15 U.S.C.A. 2647, Toxic Substances Control Act, Subchapter II - Asbestos Hazard Emergency Response, may not exceed the amounts specified in that section and shall be used in accordance with that section.

(3) A person is guilty of a class A misdemeanor and is subject to imprisonment under Section 76-3-204 and a fine of not more than $25,000 per day of violation if that person knowingly violates any of the following under this chapter:
(a) an applicable standard or limitation;
(b) a permit condition; or
(c) a fee or filing requirement.

(4) A person is guilty of a third degree felony and is subject to imprisonment under Section 76-3-203 and a fine of not more than $25,000 per day of violation who knowingly:
(a) makes any false material statement, representation, or certification, in any notice or report required by permit; or
(b) renders inaccurate any monitoring device or method required to be maintained by this chapter or applicable rules made under this chapter.

(5) Any fine or penalty assessed under Subsections (2) or (3) is in lieu of any penalty under Section 19-2-109.1.

(6) A person who willfully violates Section 19-2-120 is guilty of a class A misdemeanor.

(7) A person who knowingly violates any requirement of an applicable implementation plan adopted by the board, more than 30 days after having been notified in writing by the director that the person is violating the requirement, knowingly violates an order issued under Subsection 19-2-110(1), or knowingly handles or disposes of asbestos in violation of a rule made under this chapter is guilty of a third degree felony and subject to imprisonment under Section 76-3-203 and a fine of not more than $25,000 per day of violation in the case of the first offense, and not more than $50,000 per day of violation in the case of subsequent offenses.

(8) (a) As used in this section:
(i) "Hazardous air pollutant" means any hazardous air pollutant listed under 42 U.S.C. Sec. 7412 or any extremely hazardous substance listed under 42 U.S.C. Sec. 11002(a)(2).
(ii) "Organization" means a legal entity, other than a government, established or organized for any purpose, and includes a corporation, company, association, firm, partnership, joint stock company, foundation, institution, trust, society, union, or any other association of persons.

(iii) "Serious bodily injury" means bodily injury which involves a substantial risk of death, unconsciousness, extreme physical pain, protracted and obvious disfigurement, or protracted loss or impairment of the function of a body member, organ, or mental faculty.

(b)

(i) A person is guilty of a class A misdemeanor and subject to imprisonment under Section 76-3-204 and a fine of not more than $25,000 per day of violation if that person with criminal negligence:

(A) releases into the ambient air any hazardous air pollutant; and

(B) places another person in imminent danger of death or serious bodily injury.

(ii) As used in this Subsection (8)(b), "person" does not include an employee who is carrying out the employee's normal activities and who is not a part of senior management personnel or a corporate officer.

(c) A person is guilty of a second degree felony and is subject to imprisonment under Section 76-3-203 and a fine of not more than $50,000 per day of violation if that person:

(i) knowingly releases into the ambient air any hazardous air pollutant; and

(ii) knows at the time that the person is placing another person in imminent danger of death or serious bodily injury.

(d) If a person is an organization, it shall, upon conviction of violating Subsection (8)(c), be subject to a fine of not more than $1,000,000.

(e)

(i) A defendant who is an individual is considered to have acted knowingly under Subsections (8)(c) and (d), if:

(A) the defendant's conduct placed another person in imminent danger of death or serious bodily injury; and

(B) the defendant was aware of or believed that there was an imminent danger of death or serious bodily injury to another person.

(ii) Knowledge possessed by a person other than the defendant may not be attributed to the defendant.

(iii) Circumstantial evidence may be used to prove that the defendant possessed actual knowledge, including evidence that the defendant took affirmative steps to be shielded from receiving relevant information.

(f)

(i) It is an affirmative defense to prosecution under this Subsection (8) that the conduct charged was freely consented to by the person endangered and that the danger and conduct charged were reasonably foreseeable hazards of:

(A) an occupation, a business, a profession; or

(B) medical treatment or medical or scientific experimentation conducted by professionally approved methods and the other person was aware of the risks involved prior to giving consent.

(ii) The defendant has the burden of proof to establish any affirmative defense under this Subsection (8)(f) and shall prove that defense by a preponderance of the evidence.

(9)

(a) Except as provided in Subsection (9)(b), and unless prohibited by federal law, all penalties assessed and collected under the authority of this section shall be deposited in the General Fund.
(b) The department may reimburse itself and local governments from money collected from civil penalties for extraordinary expenses incurred in environmental enforcement activities.

(c) The department shall regulate reimbursements by making rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that:
   (i) define qualifying environmental enforcement activities; and
   (ii) define qualifying extraordinary expenses.

Amended by Chapter 360, 2012 General Session

19-2-116 Injunction or other remedies to prevent violations -- Civil actions not abridged.
(1) Action under Section 19-2-115 does not bar enforcement of this chapter, or any of the rules adopted under it or any orders made under it by injunction or other appropriate remedy. The director has the power to institute and maintain in the name of the state any and all enforcement proceedings.

(2) This chapter does not abridge, limit, impair, create, enlarge, or otherwise affect substantively or procedurally the right of any person to damages or other relief on account of injury to persons or property and to maintain any action or other appropriate proceeding for this purpose.

(3)  
   (a) In addition to any other remedy created in this chapter, the director may initiate an action for appropriate injunctive relief:
       (i) upon failure of any person to comply with:
           (A) any provision of this chapter;
           (B) any rule adopted under this chapter; or
           (C) any final order made by the board, the director, or the executive director; and
       (ii) when it appears necessary for the protection of health and welfare.

   (b) The attorney general shall bring injunctive relief actions on request.

   (c) A bond is not required.

Amended by Chapter 360, 2012 General Session

19-2-117 Attorney general as legal advisor to board -- Duties of attorney general and county attorneys.
(1) Except as provided in Section 63G-7-902, the attorney general is the legal advisor to the board and the director and shall defend them or any of them in all actions or proceedings brought against them or any of them.

(2) The county attorney in the county in which a cause of action arises may, upon request of the board or the director, bring an action, civil or criminal, to abate a condition which exists in violation of, or to prosecute for the violation of or to enforce, this chapter or the standards, orders, or rules of the board or the director issued under this chapter.

(3) The director may bring an action and be represented by the attorney general.

(4) In the event a person fails to comply with a cease and desist order of the board or the director that is not subject to a stay pending administrative or judicial review, the director may initiate an action for, and is entitled to, injunctive relief to prevent any further or continued violation of the order.

Amended by Chapter 154, 2015 General Session

19-2-118 Violation of injunction evidence of contempt.
Failure to comply with the terms of any injunction issued under this chapter is prima facie evidence of contempt which is punishable as for other civil contempts.

Renumbered and Amended by Chapter 112, 1991 General Session

19-2-119 Civil or criminal remedies not excluded -- Actionable rights under chapter -- No liability for acts of God or other catastrophes.
(1) Existing civil or criminal remedies for a wrongful action that is a violation of the law are not excluded by this chapter.
(2) Except as provided in Sections 19-1-301 and 19-1-301.5, and rules implementing those provisions, persons other than the state or the board do not acquire actionable rights by virtue of this chapter.
(3) The liabilities imposed for violation of this chapter are not imposed for a violation caused by an act of God, war, strike, riot, or other catastrophe.

Amended by Chapter 154, 2015 General Session

19-2-120 Information required of owners or operators of air pollutant sources.
The owner or operator of a stationary air pollutant source in the state shall furnish to the director the reports required by rules made in accordance with Section 19-2-104 and any other information the director finds necessary to determine whether the source is in compliance with state and federal regulations and standards. The information shall be correlated with applicable emission standards or limitations and shall be available to the public during normal business hours at the office of the division.

Amended by Chapter 154, 2015 General Session

19-2-121 Ordinances of political subdivisions authorized.
Any political subdivision of the state may enact and enforce ordinances to control air pollution that are consistent with this chapter.

Renumbered and Amended by Chapter 112, 1991 General Session

19-2-122 Cooperative agreements between political subdivisions and department.
(1) A political subdivision of the state may enter into and perform, with other political subdivisions of the state or with the department, contracts and agreements as they find proper for establishing, planning, operating, and financing air pollution programs.
(2) The agreements may provide for an agency to:
   (a) supervise and operate an air pollution program;
   (b) prescribe the agency's powers and duties; and
   (c) fix the compensation of the agency's members and employees.

Amended by Chapter 154, 2015 General Session

Part 2
Clean Air Retrofit, Replacement, and Off-road Technology Program
19-2-201 Title.

This part is known as the "Clean Air Retrofit, Replacement, and Off-road Technology Program."

Enacted by Chapter 295, 2014 General Session

19-2-202 Definitions.

As used in this part:

(1) "Board" means the Air Quality Board.

(2) "Certified" means certified by the United States Environmental Protection Agency or the California Air Resources Board to meet appropriate emission standards.

(3) "Cost" means the total reasonable cost of a project eligible for a grant under the fund, including the cost of labor.

(4) "Director" means the director of the Division of Air Quality.

(5) "Division" means the Division of Air Quality, created in Subsection 19-1-105(1)(a).

(6) "Eligible equipment" means equipment with engines, including stationary generators and pumps, operated and, if applicable, permitted in Utah.

(7) "Eligible vehicle" means a vehicle operated and, if applicable, registered in Utah that is:
   (a) a medium-duty or heavy-duty transit bus;
   (b) a school bus as defined in Subsection 53-3-102(33);
   (c) a medium-duty or heavy-duty truck with a gross vehicle weight rating of at least 16,001 GVWR;
   (d) a locomotive; or
   (e) another type of vehicle identified by the board in rule as being a significant potential source of air pollution, as defined in Subsection 19-2-102(3).

(8) "Verified" means verified by the United States Environmental Protection Agency or the California Air Resources Board to reduce air emissions and meet durability requirements.

Enacted by Chapter 295, 2014 General Session

19-2-203 Grants and programs -- Conditions.

(1) The director may make grants for implementing:
   (a) verified technologies for eligible vehicles or equipment; and
   (b) certified vehicles, engines, or equipment.

(2) (a) The division may develop programs, including exchange, rebate, or low-cost purchase programs, to encourage replacement of:
   (i) landscaping and maintenance equipment with equipment that is lower in emissions; and
   (ii) other equipment or products identified by the board in rule as being a significant potential source of air pollution, as defined in Subsection 19-2-102(3).
   (b) The division may enter into agreements with local health departments to administer the programs described in Subsection (2)(a).

(3) As a condition for receiving the grant, a person receiving a grant under Subsection (1) or receiving a grant under this Subsection (3) shall agree to:
   (a) provide information to the division about the vehicles, equipment, or technology acquired with the grant proceeds;
   (b) allow inspections by the division to ensure compliance with the terms of the grant;
   (c) permanently disable replaced vehicles, engines, and equipment from use; and
(d) comply with the conditions for the grant.
(4) Grants and programs under Subsections (1) and (2) may be administered using a rebate program.
(5) Grants issued under this section may not exceed the actual cost of the project.

Enacted by Chapter 295, 2014 General Session

19-2-204 Duties and authorities -- Rulemaking.
(1) The board may, by following the procedures and requirements of Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules:
(a) specifying the amount of money to be dedicated annually for grants;
(b) specifying criteria the director shall consider in prioritizing and awarding grants, including:
   (i) a preference for awarding a grant to an individual who has already secured some other source of funding; and
   (ii) a limitation on the types of vehicles that are eligible for funds;
(c) specifying the terms of a grant or exchange under Subsections 19-2-203(2), (3), and (4);
(d) specifying the procedures to be used in the grant and exchange programs authorized in Subsections 19-2-203(2), (3), and (5); and
(e) requiring all grant applicants to apply on forms provided by the division.
(2) The division shall:
(a) administer funds to encourage vehicle and equipment owners and operators to reduce emissions from vehicles and equipment;
(b) provide forms for application for a grant or exchange under Subsection 19-2-203(2) or (3); and
(c) provide information about which vehicles, engines, or equipment are certified and which technology is verified as provided in this part.
(3) The division may inspect vehicles, equipment, or technology for which a grant was made to ensure compliance with the terms of the grant.

Enacted by Chapter 295, 2014 General Session

Part 3
Conversion to Alternative Fuel Grant Program

19-2-301 Title.
This part is known as the "Conversion to Alternative Fuel Grant Program."

Enacted by Chapter 381, 2015 General Session

19-2-302 Definitions.
As used in this part:
(1) "Air quality standards" means vehicle emission standards equal to or greater than the standards established in bin 4 in Table S04-1 of 40 C.F.R. 86.1811-04(c)(6).
(2) "Alternative fuel" means:
(a) propane, natural gas, or electricity; or
(b) other fuel that the board determines, by rule, to be:
(i) at least as effective in reducing air pollution as the fuels listed in Subsection (2)(a); or
(ii) substantially more effective in reducing air pollution as the fuel for which the engine was originally designed.

(3) "Board" means the Air Quality Board.

(4) "Clean fuel grant" means a grant awarded under Title 19, Chapter 1, Part 4, Clean Fuels and Vehicle Technology Program Act, for reimbursement for a portion of the incremental cost of an OEM vehicle or the cost of conversion equipment.

(5) "Conversion equipment" means equipment designed to:
   (a) allow an eligible vehicle to operate on an alternative fuel; and
   (b) reduce an eligible vehicle's emissions of regulated pollutants, as demonstrated by:
      (i) certification of the conversion equipment by the Environmental Protection Agency or by a state or country that has certification standards that are recognized, by rule, by the board;
      (ii) testing the eligible vehicle, before and after the installation of the equipment, in accordance with 40 C.F.R. Part 86, Control of Emissions from New and In-Use Highway Vehicles and Engines, using all fuel the motor vehicle is capable of using;
      (iii) for a retrofit natural gas vehicle that is retrofit in accordance with Section 19-1-406, satisfying the emission standards described in Section 19-1-406; or
      (iv) any other test or standard recognized by board rule, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(6) "Cost" means the total reasonable cost of a conversion kit and the paid labor, if any, required to install it.

(7) "Director" means the director of the Division of Air Quality.

(8) "Division" means the Division of Air Quality, created in Subsection 19-1-105(1)(a).

(9) "Eligible vehicle" means a:
   (a) commercial vehicle, as defined in Section 41-1a-102;
   (b) farm tractor, as defined in Section 41-1a-102; or
   (c) motor vehicle, as defined in Section 41-1a-102.

Enacted by Chapter 381, 2015 General Session

19-2-303 Grants and programs -- Conditions.

(1) The director may make grants to a person who installs conversion equipment on an eligible vehicle as described in this part.

(2) A person who installs conversion equipment on an eligible vehicle:
   (a) may apply to the division for a grant to offset the cost of installation; and
   (b) shall pass along any savings on the cost of conversion equipment to the owner of the eligible vehicle being converted in the amount of grant money received.

(3) As a condition for receiving the grant, a person who installs conversion equipment shall agree to:
   (a) provide information to the division about the eligible vehicle to be converted with the grant proceeds;
   (b) allow inspections by the division to ensure compliance with the terms of the grant; and
   (c) comply with the conditions for the grant.

(4) A grant issued under this section may not exceed the lesser of 50% of the cost of the conversion system and associated labor, or $2,500, per converted eligible vehicle.

Enacted by Chapter 381, 2015 General Session
19-2-304 Duties and authorities -- Rulemaking.
(1) The board may, by following the procedures and requirements of Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules:
(a) specifying the amount of money to be dedicated annually for grants under this part;
(b) specifying criteria the director shall consider in prioritizing and awarding grants, including a limitation on the types of vehicles that are eligible for funds;
(c) specifying the minimum qualifications of a person who:
   (i) installs conversion equipment on an eligible vehicle; and
   (ii) receives a grant from the division;
(d) specifying the terms of a grant; and
(e) requiring all grant applicants to apply on forms provided by the division.
(2) The division shall:
(a) administer funds to encourage eligible vehicle owners to reduce emissions from eligible vehicles; and
(b) provide information about which conversion technology meets the requirements of this part.
(3) The division may inspect vehicles for which a grant was made to ensure compliance with the terms of the grant.

Enacted by Chapter 381, 2015 General Session

19-2-305 Limitation on applying for a tax credit.
An owner of an eligible vehicle who receives the savings on the cost of conversion equipment, as described in Subsection 19-2-303(2)(b), may not claim a tax credit for the conversion under Section 59-7-605 or 59-10-1009 unless the savings are less than the tax credit authorized by those sections, in which case the owner may claim a tax credit in the amount of the difference.

Enacted by Chapter 381, 2015 General Session
Chapter 3
Utah Administrative Rulemaking Act

Part 1
General Provisions

63G-3-101 Title.
This chapter is known as the "Utah Administrative Rulemaking Act."

Renumbered and Amended by Chapter 382, 2008 General Session

63G-3-102 Definitions.
As used in this chapter:
(1) "Administrative record" means information an agency relies upon when making a rule under this chapter including:
   (a) the proposed rule, change in the proposed rule, and the rule analysis form;
   (b) the public comment received and recorded by the agency during the public comment period;
   (c) the agency's response to the public comment;
   (d) the agency's analysis of the public comment; and
   (e) the agency's report of its decision-making process.
(2) "Agency" means each state board, authority, commission, institution, department, division, officer, or other state government entity other than the Legislature, its committees, the political subdivisions of the state, or the courts, which is authorized or required by law to make rules, adjudicate, grant or withhold licenses, grant or withhold relief from legal obligations, or perform other similar actions or duties delegated by law.
(3) "Bulletin" means the Utah State Bulletin.
(4) "Catchline" means a short summary of each section, part, rule, or title of the code that follows the section, part, rule, or title reference placed before the text of the rule and serves the same function as boldface in legislation as described in Section 68-3-13.
(5) "Code" means the body of all effective rules as compiled and organized by the division and entitled "Utah Administrative Code."
(6) "Director" means the director of the Division of Administrative Rules.
(7) "Division" means the Division of Administrative Rules.
(8) "Effective" means operative and enforceable.
(9) (a) "File" means to submit a document to the division as prescribed by the division.
   (b) "Filing date" means the day and time the document is recorded as received by the division.
(10) "Interested person" means any person affected by or interested in a proposed rule, amendment to an existing rule, or a nonsubstantive change made under Section 63G-3-402.
(11) "Order" means an agency action that determines the legal rights, duties, privileges, immunities, or other interests of one or more specific persons, but not a class of persons.
(12) "Person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an agency.
(13) "Publication" or "publish" means making a rule available to the public by including the rule or a summary of the rule in the bulletin.
(14) "Publication date" means the inscribed date of the bulletin.
(15) "Register" may include an electronic database.
(a) "Rule" means an agency's written statement that:
   (i) is explicitly or implicitly required by state or federal statute or other applicable law;
   (ii) implements or interprets a state or federal legal mandate; and
   (iii) applies to a class of persons or another agency.
(b) "Rule" includes the amendment or repeal of an existing rule.
(c) "Rule" does not mean:
   (i) orders;
   (ii) an agency's written statement that applies only to internal management and that does not restrict the legal rights of a public class of persons or another agency;
   (iii) the governor's executive orders or proclamations;
   (iv) opinions issued by the attorney general's office;
   (v) declaratory rulings issued by the agency according to Section 63G-4-503 except as required by Section 63G-3-201;
   (vi) rulings by an agency in adjudicative proceedings, except as required by Subsection 63G-3-201(6); or
   (vii) an agency written statement that is in violation of any state or federal law.

(17) "Rule analysis" means the format prescribed by the division to summarize and analyze rules.
(18) "Small business" means a business employing fewer than 50 persons.
(19) "Substantive change" means a change in a rule that affects the application or results of agency actions.

Renumbered and Amended by Chapter 382, 2008 General Session

Part 2
Circumstances Requiring Rulemaking - Status of Administrative Rules

63G-3-201 When rulemaking is required.

(1) Each agency shall:
   (a) maintain a current version of its rules; and
   (b) make it available to the public for inspection during its regular business hours.

(2) In addition to other rulemaking required by law, each agency shall make rules when agency action:
   (a) authorizes, requires, or prohibits an action;
   (b) provides or prohibits a material benefit;
   (c) applies to a class of persons or another agency; and
   (d) is explicitly or implicitly authorized by statute.

(3) Rulemaking is also required when an agency issues a written interpretation of a state or federal legal mandate.

(4) Rulemaking is not required when:
   (a) agency action applies only to internal agency management, inmates or residents of a state correctional, diagnostic, or detention facility, persons under state legal custody, patients admitted to a state hospital, members of the state retirement system, or students enrolled in a state education institution;
   (b) a standardized agency manual applies only to internal fiscal or administrative details of governmental entities supervised under statute;
(c) an agency issues policy or other statements that are advisory, informative, or descriptive, and do not conform to the requirements of Subsections (2) and (3); or

(d) an agency makes nonsubstantive changes in a rule, except that the agency shall file all nonsubstantive changes in a rule with the division.

(5)

(a) A rule shall enumerate any penalty authorized by statute that may result from its violation, subject to Subsections (5)(b) and (c).

(b) A violation of a rule may not be subject to the criminal penalty of a class C misdemeanor or greater offense, except as provided under Subsection (5)(c).

(c) A violation of a rule may be subject to a class C or greater criminal penalty under Subsection (5)(a) when:

(i) authorized by a specific state statute;

(ii) a state law and programs under that law are established in order for the state to obtain or maintain primacy over a federal program; or

(iii) state civil or criminal penalties established by state statute regarding the program are equivalent to or less than corresponding federal civil or criminal penalties.

(6) Each agency shall enact rules incorporating the principles of law not already in its rules that are established by final adjudicative decisions within 120 days after the decision is announced in its cases.

(7)

(a) Each agency may enact a rule that incorporates by reference:

(i) all or any part of another code, rule, or regulation that has been adopted by a federal agency, an agency or political subdivision of this state, an agency of another state, or by a nationally recognized organization or association;

(ii) state agency implementation plans mandated by the federal government for participation in the federal program;

(iii) lists, tables, illustrations, or similar materials that are subject to frequent change, fully described in the rule, and are available for public inspection; or

(iv) lists, tables, illustrations, or similar materials that the director determines are too expensive to reproduce in the administrative code.

(b) Rules incorporating materials by reference shall:

(i) be enacted according to the procedures outlined in this chapter;

(ii) state that the referenced material is incorporated by reference;

(iii) state the date, issue, or version of the material being incorporated; and

(iv) define specifically what material is incorporated by reference and identify any agency deviations from it.

(c) The agency shall identify any substantive changes in the material incorporated by reference by following the rulemaking procedures of this chapter.

(d) The agency shall maintain a complete and current copy of the referenced material available for public review at the agency and at the division.

(8)

(a) This chapter is not intended to inhibit the exercise of agency discretion within the limits prescribed by statute or agency rule.

(b) An agency may enact a rule creating a justified exception to a rule.

(9) An agency may obtain assistance from the attorney general to ensure that its rules meet legal and constitutional requirements.

Amended by Chapter 347, 2009 General Session
63G-3-202 Rules having the effect of law.

(1) An agency’s written statement is a rule if it conforms to the definition of a rule under Section 63G-3-102, but the written statement is not enforceable unless it is made as a rule in accordance with the requirements of this chapter.

(2) An agency’s written statement that is made as a rule in accordance with the requirements of this chapter is enforceable and has the effect of law.

Renumbered and Amended by Chapter 382, 2008 General Session

Part 3
Rulemaking Procedures

63G-3-301 Rulemaking procedure.

(1) An agency authorized to make rules is also authorized to amend or repeal those rules.

(2) Except as provided in Sections 63G-3-303 and 63G-3-304, when making, amending, or repealing a rule agencies shall comply with:

(a) the requirements of this section;
(b) consistent procedures required by other statutes;
(c) applicable federal mandates; and
(d) rules made by the division to implement this chapter.

(3) Subject to the requirements of this chapter, each agency shall develop and use flexible approaches in drafting rules that meet the needs of the agency and that involve persons affected by the agency’s rules.

(4)

(a) Each agency shall file its proposed rule and rule analysis with the division.
(b) Rule amendments shall be marked with new language underlined and deleted language struck out.
(c)

(i) The division shall publish the information required under Subsection (8) on the rule analysis and the text of the proposed rule in the next issue of the bulletin.
(ii) For rule amendments, only the section or subsection of the rule being amended need be printed.
(iii) If the director determines that the rule is too long to publish, the director shall publish the rule analysis and shall publish the rule by reference to a copy on file with the division.

(5) Prior to filing a rule with the division, the department head shall consider and comment on the fiscal impact a rule may have on businesses.

(6) If the agency reasonably expects that a proposed rule will have a measurable negative fiscal impact on small businesses, the agency shall consider, as allowed by federal law, each of the following methods of reducing the impact of the rule on small businesses:

(a) establishing less stringent compliance or reporting requirements for small businesses;
(b) establishing less stringent schedules or deadlines for compliance or reporting requirements for small businesses;
(c) consolidating or simplifying compliance or reporting requirements for small businesses;
(d) establishing performance standards for small businesses to replace design or operational standards required in the proposed rule; and
(e) exempting small businesses from all or any part of the requirements contained in the proposed rule.

(7) If during the public comment period an agency receives comment that the proposed rule will cost small business more than one day's annual average gross receipts, and the agency had not previously performed the analysis in Subsection (6), the agency shall perform the analysis described in Subsection (6).

(8) The rule analysis shall contain:
   (a) a summary of the rule or change;
   (b) the purpose of the rule or reason for the change;
   (c) the statutory authority or federal requirement for the rule;
   (d) the anticipated cost or savings to:
      (i) the state budget;
      (ii) local governments;
      (iii) small businesses; and
      (iv) persons other than small businesses, businesses, or local governmental entities;
   (e) the compliance cost for affected persons;
   (f) how interested persons may review the full text of the rule;
   (g) how interested persons may present their views on the rule;
   (h) the time and place of any scheduled public hearing;
   (i) the name and telephone number of an agency employee who may be contacted about the rule;
   (j) the name of the agency head or designee who authorized the rule;
   (k) the date on which the rule may become effective following the public comment period; and
   (l) comments by the department head on the fiscal impact the rule may have on businesses.

(9)
   (a) For a rule being repealed and reenacted, the rule analysis shall contain a summary that generally includes the following:
      (i) a summary of substantive provisions in the repealed rule which are eliminated from the enacted rule; and
      (ii) a summary of new substantive provisions appearing only in the enacted rule.
   (b) The summary required under this Subsection (9) is to aid in review and may not be used to contest any rule on the ground of noncompliance with the procedural requirements of this chapter.

(10) A copy of the rule analysis shall be mailed to all persons who have made timely request of the agency for advance notice of its rulemaking proceedings and to any other person who, by statutory or federal mandate or in the judgment of the agency, should also receive notice.

(11)
   (a) Following the publication date, the agency shall allow at least 30 days for public comment on the rule.
   (b) The agency shall review and evaluate all public comments submitted in writing within the time period under Subsection (11)(a) or presented at public hearings conducted by the agency within the time period under Subsection (11)(a).

(12)
   (a) Except as provided in Sections 63G-3-303 and 63G-3-304, a proposed rule becomes effective on any date specified by the agency that is no fewer than seven calendar days after the close of the public comment period under Subsection (11), nor more than 120 days after the publication date.
(b) The agency shall provide notice of the rule’s effective date to the division in the form required by the division.
(c) The notice of effective date may not provide for an effective date prior to the date it is received by the division.
(d) The division shall publish notice of the effective date of the rule in the next issue of the bulletin.
(e) A proposed rule lapses if a notice of effective date or a change to a proposed rule is not filed with the division within 120 days of publication.

(13)
(a) As used in this Subsection (13), “initiate rulemaking proceedings” means the filing, for the purposes of publication in accordance with Subsection (4), of an agency’s proposed rule that is required by state statute.
(b) A state agency shall initiate rulemaking proceedings no later than 180 days after the effective date of the statutory provision that specifically requires the rulemaking, except under Subsection (13)(c).
(c) When a statute is enacted that requires agency rulemaking and the affected agency already has rules in place that meet the statutory requirement, the agency shall submit the rules to the Administrative Rules Review Committee for review within 60 days after the statute requiring the rulemaking takes effect.
(d) If a state agency does not initiate rulemaking proceedings in accordance with the time requirements in Subsection (13)(b), the state agency shall appear before the legislative Administrative Rules Review Committee and provide the reasons for the delay.

Amended by Chapter 93, 2009 General Session

63G-3-302 Public hearings.
(1) Each agency may hold a public hearing on a proposed rule, amendment to a rule, or repeal of a rule during the public comment period.
(2) Each agency shall hold a public hearing on a proposed rule, amendment to a rule, or repeal of a rule if:
   (a) a public hearing is required by state or federal mandate;
   (b) another state agency, 10 interested persons, or an interested association having not fewer than 10 members request a public hearing; and
   (ii) the agency receives the request in writing not more than 15 days after the publication date of the proposed rule.
(3) The agency shall hold the hearing:
   (a) before the rule becomes effective; and
   (b) no less than seven days nor more than 30 days after receipt of the request for hearing.

Renumbered and Amended by Chapter 382, 2008 General Session

63G-3-303 Changes in rules.
(1)
   (a) To change a proposed rule already published in the bulletin, an agency shall file with the division:
   (i) the text of the changed rule; and
(ii) a rule analysis containing a description of the change and the information required by Section 63G-3-301.
(b) A change to a proposed rule may not be filed more than 120 days after publication of the rule being changed.
(c) The division shall publish the rule analysis for the changed rule in the bulletin.
(d) The changed proposed rule and its associated proposed rule will become effective on a date specified by the agency, not less than 30 days or more than 120 days after publication of the last change in proposed rule.
(e) A changed proposed rule and its associated proposed rule lapse if a notice of effective date or another change to a proposed rule is not filed with the division within 120 days of publication of the last change in proposed rule.

(2) If the rule change is nonsubstantive:
(a) the agency need not comply with the requirements of Subsection (1); and
(b) the agency shall notify the division of the change in writing.

(3) If the rule is effective, the agency shall amend the rule according to the procedures specified in Section 63G-3-301.

Renumbered and Amended by Chapter 382, 2008 General Session

63G-3-304 Emergency rulemaking procedure.
(1) All agencies shall comply with the rulemaking procedures of Section 63G-3-301 unless an agency finds that these procedures would:
(a) cause an imminent peril to the public health, safety, or welfare;
(b) cause an imminent budget reduction because of budget restraints or federal requirements; or
(c) place the agency in violation of federal or state law.

(2)
(a) When finding that its rule is excepted from regular rulemaking procedures by this section, the agency shall file with the division:
(i) the text of the rule; and
(ii) a rule analysis that includes the specific reasons and justifications for its findings.
(b) The division shall publish the rule in the bulletin as provided in Subsection 63G-3-301(4).
(c) The agency shall notify interested persons as provided in Subsection 63G-3-301(10).
(d) The rule becomes effective for a period not exceeding 120 days on the date of filing or any later date designated in the rule.

(3) If the agency intends the rule to be effective beyond 120 days, the agency shall also comply with the procedures of Section 63G-3-301.

Amended by Chapter 300, 2008 General Session
Renumbered and Amended by Chapter 382, 2008 General Session

63G-3-305 Agency review of rules -- Schedule of filings -- Limited exemption for certain rules.
(1) Each agency shall review each of its rules within five years after the rule's original effective date or within five years after the filing of the last five-year review, whichever is later.

(2) An agency may consider any substantial review of a rule to be a five-year review if the agency also meets the requirements described in Subsection (3).
(3) At the conclusion of its review, and no later than the deadline described in Subsection (1), the agency shall decide whether to continue, repeal, or amend and continue the rule and comply with Subsections (3)(a) through (c), as applicable.

(a) If the agency continues the rule, the agency shall file with the division a five-year notice of review and statement of continuation that includes:

(i) a concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require the rule;

(ii) a summary of written comments received during and since the last five-year review of the rule from interested persons supporting or opposing the rule; and

(iii) a reasoned justification for continuation of the rule, including reasons why the agency disagrees with comments in opposition to the rule, if any.

(b) If the agency repeals the rule, the agency shall:

(i) comply with Section 63G-3-301; and

(ii) in the rule analysis described in Section 63G-3-301, state that the repeal is the result of the agency's five-year review under this section.

(c) If the agency amends and continues the rule, the agency shall comply with the requirements described in Section 63G-3-301 and file with the division the five-year notice of review and statement of continuation required in Subsection (3)(a).

(4) The division shall publish a five-year notice of review and statement of continuation in the bulletin no later than one year after the deadline described in Subsection (1).

(5)

(a) The division shall make a reasonable effort to notify an agency that a rule is due for review at least 180 days before the deadline described in Subsection (1).

(b) The division's failure to comply with the requirement described in Subsection (5)(a) does not exempt an agency from complying with any provision of this section.

(6) If an agency finds that it will not meet the deadline established in Subsection (1):

(a) before the deadline described in Subsection (1), the agency may file one extension with the division indicating the reason for the extension; and

(b) the division shall publish notice of the extension in the bulletin in accordance with the division's publication schedule established by division rule under Section 63G-3-402.

(7) An extension permits the agency to comply with the requirements described in Subsections (1) and (3) up to 120 days after the deadline described in Subsection (1).

(8)

(a) If an agency does not comply with the requirements described in Subsection (3), and does not file an extension under Subsection (6), the rule expires automatically on the day immediately after the date of the missed deadline.

(b) If an agency files an extension under Subsection (6) and does not comply with the requirements described in Subsection (3) within 120 days after the day on which the deadline described in Subsection (1) expires, the rule expires automatically on the day immediately after the date of the missed deadline.

(9) After a rule expires under Subsection (8), the division shall:

(a) publish a notice in the next issue of the bulletin that the rule has expired and is no longer enforceable;

(b) remove the rule from the code; and

(c) notify the agency that the rule has expired.

(10) After a rule expires, an agency must comply with the requirements of Section 63G-3-301 to reenact the rule.
Part 4
Division of Administrative Rules

63G-3-401 Division of Administrative Rules created -- Appointment of director.
(1) There is created within the Department of Administrative Services the Division of Administrative Rules, to be administered by a director.
(2) The director of administrative rules shall be appointed by the executive director with the approval of the governor.

63G-3-402 Division of Administrative Rules -- Duties generally.
(1) The Division of Administrative Rules shall:
   (a) establish all filing, publication, and hearing procedures necessary to make rules under this chapter;
   (b) record in a register the receipt of all agency rules, rule analysis forms, and notices of effective dates;
   (c) make the register, copies of all proposed rules, and rulemaking documents available for public inspection;
   (d) publish all proposed rules, rule analyses, notices of effective dates, and review notices in the bulletin at least monthly, except that the division may publish the complete text of any proposed rule that the director determines is too long to print or too expensive to publish by reference to the text maintained by the division;
   (e) compile, format, number, and index all effective rules in an administrative code, and periodically publish that code and supplements or revisions to it;
   (f) publish a digest of all rules and notices contained in the most recent bulletin;
   (g) publish at least annually an index of all changes to the administrative code and the effective date of each change;
   (h) print, or contract to print, all rulemaking publications the division determines necessary to implement this chapter;
   (i) distribute without charge the bulletin and administrative code to state-designated repositories, the Administrative Rules Review Committee, the Office of Legislative Research and General Counsel, and the two houses of the Legislature;
   (j) distribute without charge the digest and index to state legislators, agencies, political subdivisions on request, and the Office of Legislative Research and General Counsel;
   (k) distribute, at prices covering publication costs, all paper rulemaking publications to all other requesting persons and agencies;
   (l) provide agencies assistance in rulemaking;
   (m) if the Department of Administrative Services operates the division as an internal service fund agency in accordance with Section 63A-1-109.5, submit to the Rate Committee established in Section 63A-1-114:
      (i) the proposed rate and fee schedule as required by Section 63A-1-114; and
      (ii) other information or analysis requested by the Rate Committee; and

Amended by Chapter 57, 2014 General Session

Renumbered and Amended by Chapter 382, 2008 General Session
(n) administer this chapter and require state agencies to comply with filing, publication, and hearing procedures.

(2) The division may after notifying the agency make nonsubstantive changes to rules filed with the division or published in the bulletin or code by:
   (a) implementing a uniform system of formatting, punctuation, capitalization, organization, numbering, and wording;
   (b) correcting obvious errors and inconsistencies in punctuation, capitalization, numbering, referencing, and wording;
   (c) changing a catchline to more accurately reflect the substance of each section, part, rule, or title;
   (d) updating or correcting annotations associated with a section, part, rule, or title; and
   (e) merging or determining priority of any amendment, enactment, or repeal to the same rule or section made effective by an agency.

(3) In addition, the division may make the following nonsubstantive changes with the concurrence of the agency:
   (a) eliminate duplication within rules;
   (b) eliminate obsolete and redundant words; and
   (c) correcting defective or inconsistent section and paragraph structure in arrangement of the subject matter of rules.

(4) For nonsubstantive changes made in accordance with Subsection (2) or (3) after publication of the rule in the bulletin, the division shall publish a list of nonsubstantive changes in the bulletin. For each nonsubstantive change, the list shall include:
   (a) the affected code citation;
   (b) a brief description of the change; and
   (c) the date the change was made.

(5) All funds appropriated or collected for publishing the division’s publications shall be nonlapsing.

Amended by Chapter 341, 2010 General Session

63G-3-403 Repeal and reenactment of Utah Administrative Code.

(1) When the director determines that the Utah Administrative Code requires extensive revision and reorganization, the division may repeal the code and reenact a new code according to the requirements of this section.

(2) The division may:
   (a) reorganize, reformat, and renumber the code;
   (b) require each agency to review its rules and make any organizational or substantive changes according to the requirements of Section 63G-3-303; and
   (c) require each agency to prepare a brief summary of all substantive changes made by the agency.

(3) The division may make nonsubstantive changes in the code by:
   (a) adopting a uniform system of punctuation, capitalization, numbering, and wording;
   (b) eliminating duplication;
   (c) correcting defective or inconsistent section and paragraph structure in arrangement of the subject matter of rules;
   (d) eliminating all obsolete or redundant words;
   (e) correcting obvious errors and inconsistencies in punctuation, capitalization, numbering, referencing, and wording;
(f) changing a catchline to more accurately reflect the substance of each section, part, rule, or title;
(g) updating or correcting annotations associated with a section, part, rule, or title; and
(h) merging or determining priority of any amendment, enactment, or repeal to the same rule or section made effective by an agency.

(4)
(a) To inform the public about the proposed code reenactment, the division shall publish in the bulletin:
   (i) notice of the code reenactment;
   (ii) the date, time, and place of a public hearing where members of the public may comment on the proposed reenactment of the code;
   (iii) locations where the proposed reenactment of the code may be reviewed; and
   (iv) agency summaries of substantive changes in the reenacted code.
(b) To inform the public about substantive changes in agency rules contained in the proposed reenactment, each agency shall:
   (i) make the text of their reenacted rules available:
      (A) for public review during regular business hours; and
      (B) in an electronic version; and
   (ii) comply with the requirements of Subsection 63G-3-301(10).
(5) The division shall hold a public hearing on the proposed code reenactment no fewer than 30 days nor more than 45 days after the publication required by Subsection (4)(a).
(6) The division shall distribute complete text of the proposed code reenactment without charge to:
   (a) state-designated repositories in Utah;
   (b) the Administrative Rules Review Committee; and
   (c) the Office of Legislative Research and General Counsel.
(7) The former code is repealed and the reenacted code is effective at noon on a date designated by the division that is not fewer than 45 days nor more than 90 days after the publication date required by this section.
(8) Repeal and reenactment of the code meets the requirements of Section 63G-3-305 for a review of all agency rules.

Amended by Chapter 300, 2008 General Session
Renumbered and Amended by Chapter 382, 2008 General Session

Part 5
Legislative Oversight

63G-3-501 Administrative Rules Review Committee.
(1)
(a) There is created an Administrative Rules Review Committee of the following 10 permanent members:
   (i) five members of the Senate appointed by the president of the Senate, no more than three of whom may be from the same political party; and
   (ii) five members of the House of Representatives appointed by the speaker of the House of Representatives, no more than three of whom may be from the same political party.
(b) Each permanent member shall serve:
(i) for a two-year term; or
(ii) until the permanent member's successor is appointed.

(c) A vacancy exists when a permanent member ceases to be a member of the Legislature, or when a permanent member resigns from the committee.

(ii) When a vacancy exists:
   (A) if the departing member is a member of the Senate, the president of the Senate shall appoint a member of the Senate to fill the vacancy; or
   (B) if the departing member is a member of the House of Representatives, the speaker of the House of Representatives shall appoint a member of the House of Representatives to fill the vacancy.

(iii) The newly appointed member shall serve the remainder of the departing member's unexpired term.

(d) The president of the Senate shall designate a member of the Senate appointed under Subsection (1)(a)(i) as a cochair of the committee.

(ii) The speaker of the House of Representatives shall designate a member of the House of Representatives appointed under Subsection (1)(a)(ii) as a cochair of the committee.

(e) Three representatives and three senators from the permanent members are a quorum for the transaction of business at any meeting.

(f) Subject to Subsection (1)(f)(ii), the committee shall meet at least once each month to review new agency rules, amendments to existing agency rules, and repeals of existing agency rules.

(ii) The committee chairs may suspend the meeting requirement described in Subsection (1)(f)(i) at the committee chairs' discretion.

(2) The division shall submit a copy of each issue of the bulletin to the committee.

(3) The committee shall exercise continuous oversight of the rulemaking process.

(b) The committee shall examine each rule submitted by an agency to determine:
   (i) whether the rule is authorized by statute;
   (ii) whether the rule complies with legislative intent;
   (iii) the rule's impact on the economy and the government operations of the state and local political subdivisions; and
   (iv) the rule's impact on affected persons.

(c) To carry out these duties, the committee may examine any other issues that the committee considers necessary. The committee may also notify and refer rules to the chairs of the interim committee that has jurisdiction over a particular agency when the committee determines that an issue involved in an agency's rules may be more appropriately addressed by that committee.

(d) In reviewing a rule, the committee shall follow generally accepted principles of statutory construction.

(4) When the committee reviews existing rules, the committee chairs shall invite the Senate and House chairs of the standing committee and of the appropriation subcommittee that have jurisdiction over the agency whose existing rules are being reviewed to participate as nonvoting, ex officio members with the committee.

(5) The committee may request that the Office of the Legislative Fiscal Analyst prepare a fiscal note on any rule.
(6) In order to accomplish the committee's functions described in this chapter, the committee has all the powers granted to legislative interim committees under Section 36-12-11.

(7) 
(a) The committee may prepare written findings of the committee's review of a rule and may include any recommendations, including legislative action.
(b) When the committee reviews a rule, the committee shall provide to the agency that enacted the rule:
   (i) the committee's findings, if any; and
   (ii) a request that the agency notify the committee of any changes the agency makes to the rule.
(c) The committee shall provide a copy of the committee's findings, if any, to:
   (i) any member of the Legislature, upon request;
   (ii) any person affected by the rule, upon request;
   (iii) the president of the Senate;
   (iv) the speaker of the House of Representatives;
   (v) the Senate and House chairs of the standing committee that has jurisdiction over the agency that made the rule; and
   (vi) the Senate and House chairs of the appropriation subcommittee that has jurisdiction over the agency that made the rule.

(8) 
(a) The committee may submit a report on its review of state agency rules to each member of the Legislature at each regular session.
(b) The report shall include:
   (i) any findings and recommendations the committee made under Subsection (7);
   (ii) any action an agency took in response to committee recommendations; and
   (iii) any recommendations by the committee for legislation.

Amended by Chapter 383, 2015 General Session

63G-3-502 Legislative reauthorization of agency rules -- Extension of rules by governor.
(1) All grants of rulemaking power from the Legislature to a state agency in any statute are made subject to the provisions of this section.

(2) 
(a) Except as provided in Subsection (2)(b), every agency rule that is in effect on February 28 of any calendar year expires on May 1 of that year unless it has been reauthorized by the Legislature.
(b) Notwithstanding the provisions of Subsection (2)(a), an agency's rules do not expire if:
   (i) the rule is explicitly mandated by a federal law or regulation; or
   (ii) a provision of Utah's constitution vests the agency with specific constitutional authority to regulate.

(3) 
(a) The Administrative Rules Review Committee shall have omnibus legislation prepared for consideration by the Legislature during its annual general session.
(b) The omnibus legislation shall be substantially in the following form: "All rules of Utah state agencies are reauthorized except for the following:"
(c) Before sending the legislation to the governor for the governor's action, the Administrative Rules Review Committee may send a letter to the governor and to the agency explaining specifically why the committee believes any rule should not be reauthorized.
(d) For the purpose of this section, the entire rule, a single section, or any complete paragraph of a rule may be excepted for reauthorization in the omnibus legislation considered by the Legislature.

(4) The Legislature's reauthorization of a rule by legislation does not constitute legislative approval of the rule, nor is it admissible in any proceeding as evidence of legislative intent.

(5)
(a) If an agency believes that a rule that has not been reauthorized by the Legislature or that will be allowed to expire should continue in full force and effect and is a rule within their authorized rulemaking power, the agency may seek the governor's declaration extending the rule beyond the expiration date.

(b) In seeking the extension, the agency shall submit a petition to the governor that affirmatively states:
   (i) that the rule is necessary; and
   (ii) a citation to the source of its authority to make the rule.

(c) If the governor finds that the necessity does exist, and that the agency has the authority to make the rule, the governor may declare the rule to be extended by publishing that declaration in the Administrative Rules Bulletin on or before April 15 of that year.

   (i) The declaration shall set forth the rule to be extended, the reasons the extension is necessary, and a citation to the source of the agency's authority to make the rule.

(d) If the omnibus bill required by Subsection (3) fails to pass both houses of the Legislature or is found to have a technical legal defect preventing reauthorization of administrative rules intended to be reauthorized by the Legislature, the governor may declare all rules to be extended by publishing a single declaration in the Administrative Rules Bulletin on or before June 15 without meeting requirements of Subsections (5)(b) and (c).

Renumbered and Amended by Chapter 382, 2008 General Session

Part 6
Judicial Review

63G-3-601 Interested parties -- Petition for agency action.
(1) As used in this section, "initiate rulemaking proceedings" means the filing, for the purposes of publication in accordance with Subsection 63G-3-301(4), of an agency’s proposed rule to implement a petition for the making, amendment, or repeal of a rule as provided in this section.

(2) An interested person may petition an agency to request the making, amendment, or repeal of a rule.

(3) The division shall prescribe by rule the form for petitions and the procedure for their submission, consideration, and disposition.

(4) A statement shall accompany the proposed rule, or proposed amendment or repeal of a rule, demonstrating that the proposed action is within the jurisdiction of the agency and appropriate to the powers of the agency.

(5) Within 60 days after submission of a petition, the agency shall either deny the petition in writing, stating its reasons for the denial, or initiate rulemaking proceedings.

(6)
(a) If the petition is submitted to a board that has been granted rulemaking authority by the Legislature, the board shall, within 45 days of the submission of the petition, place the petition on its agenda for review.

(b) Within 80 days of the submission of the petition, the board shall either:
(i) deny the petition in writing stating its reasons for denial; or
(ii) initiate rulemaking proceedings.

(7) If the agency or board has not provided the petitioner written notice that the agency has denied the petition or initiated rulemaking proceedings within the time limitations specified in Subsection (5) or (6) respectively, the petitioner may seek a writ of mandamus in state district court.

Renumbered and Amended by Chapter 382, 2008 General Session

**63G-3-602 Judicial challenge to administrative rules.**

(1)
(a) Any person aggrieved by a rule may obtain judicial review of the rule by filing a complaint with the county clerk in the district court where the person resides or in the district court in Salt Lake County.

(b) Any person aggrieved by an agency's failure to comply with Section 63G-3-201 may obtain judicial review of the agency's failure to comply by filing a complaint with the clerk of the district court where the person resides or in the district court in Salt Lake County.

(2)
(a) Except as provided in Subsection (2)(b), a person seeking judicial review under this section shall exhaust that person's administrative remedies by complying with the requirements of Section 63G-3-601 before filing the complaint.

(b) When seeking judicial review of a rule, the person need not exhaust that person's administrative remedies if:
(i) less than six months has passed since the date that the rule became effective and the person had submitted verbal or written comments on the rule to the agency during the public comment period;
(ii) a statute granting rulemaking authority expressly exempts rules made under authority of that statute from compliance with Section 63G-3-601; or
(iii) compliance with Section 63G-3-601 would cause the person irreparable harm.

(3)
(a) In addition to the information required by the Utah Rules of Civil Procedure, a complaint filed under this section shall contain:
(i) the name and mailing address of the plaintiff;
(ii) the name and mailing address of the defendant agency;
(iii) the name and mailing address of any other party joined in the action as a defendant;
(iv) the text of the rule or proposed rule, if any;
(v) an allegation that the person filing the complaint has either exhausted the administrative remedies by complying with Section 63G-3-601 or met the requirements for waiver of exhaustion of administrative remedies established by Subsection (2)(b);
(vi) the relief sought; and
(vii) factual and legal allegations supporting the relief sought.

(b)
(i) The plaintiff shall serve a summons and a copy of the complaint as required by the Utah Rules of Civil Procedure.
(ii) The defendants shall file a responsive pleading as required by the Utah Rules of Civil Procedures.

(iii) The agency shall file the administrative record of the rule, if any, with its responsive pleading.

(4) The district court may grant relief to the petitioner by:

(a) declaring the rule invalid, if the court finds that:

(i) the rule violates constitutional or statutory law or the agency does not have legal authority to make the rule;

(ii) the rule is not supported by substantial evidence when viewed in light of the whole administrative record; or

(iii) the agency did not follow proper rulemaking procedure;

(b) declaring the rule nonapplicable to the petitioner;

(c) remanding the matter to the agency for compliance with proper rulemaking procedures or further fact-finding;

(d) ordering the agency to comply with Section 63G-3-201;

(e) issuing a judicial stay or injunction to enjoin the agency from illegal action or action that would cause irreparable harm to the petitioner; or

(f) any combination of Subsections (4)(a) through (e).

(5) If the plaintiff meets the requirements of Subsection (2)(b), the district court may review and act on a complaint under this section whether or not the plaintiff has requested the agency review under Section 63G-3-601.

Renumbered and Amended by Chapter 382, 2008 General Session

63G-3-603 Time for contesting a rule -- Statute of limitations.

(1) A proceeding to contest any rule on the ground of noncompliance with the procedural requirements of this chapter shall commence within two years of the effective date of the rule.

(2) A proceeding to contest any rule on the ground of not being supported by substantial evidence when viewed in light of the whole administrative record shall commence within four years of the effective date of the challenged action.

(3) A proceeding to contest any rule on the basis that a change to the rule made under Subsection 63G-3-402(2) or (3) substantively changed the rule shall be commenced within two years of the date the change was made.

Renumbered and Amended by Chapter 382, 2008 General Session

Part 7
Official Compilation of Administrative Rules

63G-3-701 Utah Administrative Code as official compilation of rules -- Judicial notice.

The code shall be received by all the judges, public officers, commissions, and departments of the state government as evidence of the administrative law of the state of Utah and as an authorized compilation of the administrative law of Utah. All courts shall take judicial notice of the code and its provisions.

Renumbered and Amended by Chapter 382, 2008 General Session
63G-3-702 Utah Administrative Code -- Organization -- Official compilation.
(1) The Utah Administrative Code shall be divided into three parts:
   (a) titles, whose number shall begin with "R";
   (b) rules; and
   (c) sections.
(2) All sections contained in the code are referenced by a three-part number indicating its location in the code.
(3) The division shall maintain the official compilation of the code and is the state-designated repository for administrative rules. If a dispute arises in which there is more than one version of a rule, the latest effective version on file with the division is considered the correct, current version.

Renumbered and Amended by Chapter 382, 2008 General Session
R15. Administrative Services, Administrative Rules.
R15-1. Administrative Rule Hearings.

R15-1-1. Authority.
(1) This rule establishes procedures and standards for administrative rule hearings as required by Subsection 63G-3-402(1)(a).
(2) The procedures of this rule constitute the minimum requirements for mandatory administrative rule hearings. Additional procedures may be required to comply with any other governing statute, federal law, or federal regulation.

(1) Terms used in this rule are defined in Section 63G-3-102.
(2) In addition:
(a) "hearing" means an administrative rule hearing; and
(b) "officer" means an administrative rule hearing officer.

R15-1-3. Purpose.
(1) The purpose of this rule is to provide:
(a) procedures for agency hearings on proposed administrative rules or rules changes, or on the need for a rule or change;
(b) opportunity for public comment on rules; and
(c) opportunity for agency response to public concerns about rules.

R15-1-4. When Agencies Hold Hearings.
(1) Agencies shall hold hearings as required by Subsection 63G-3-302(2).
(2) Agencies may hold hearings:
(a) during the public comment period on a proposed rule, after its publication in the bulletin and prior to its effective date;
(b) before initiating rulemaking procedures under Title 63G, Chapter 3, to promote public input prior to a rule's publication;
(c) during a regular or extraordinary meeting of a state board, council, or commission, in order to avoid separate and additional meetings; or
(d) to hear any public petition for a rule change as provided by Section 63G-3-601.
(3) Voluntary hearings, as described in this section, follow the procedures prescribed by this rule or any other procedures the agency may provide by rule.
(4) Mandatory hearings, as described in this section, follow the procedures prescribed by this rule and any additional requirements of state or federal law.
(5) If an agency holds a mandatory hearing under the procedures of this rule during the public comment period described in Subsection 63G-3-301(6), no second hearing is required for the purpose of comment on the same rule or change considered at the first hearing.

R15-1-5. Hearing Procedures.
(1) Notice.
(a) An agency shall provide notice of a hearing by:
(i) publishing the hearing date, time, place, and subject in the bulletin;
(ii) mailing copies of the notice directly to persons who have petitioned for a hearing or rule changes under Section 63G-3-302 or 63G-3-601, respectively; and
(iii) posting for at least 24 hours in a place in the agency's offices which is frequented by the public.
(b) If a rules hearing becomes mandatory after the agency has published the proposed rule in the bulletin, the agency shall notify in writing persons requesting the hearing of the time and place.
(c) An agency may provide additional notice of a hearing, and shall give further notice as may otherwise be required by law.
(2) Hearing Officer.
(a) The agency head shall appoint as hearing officer a person qualified to conduct fairly the hearing.
(b) No restrictions apply to this appointment except the officer shall know rulemaking procedure.
(c) However, if a state board, council, or commission is responsible for agency rulemaking, and holds a hearing, a member or the body's designee may be the hearing officer.
(3) Time. The officer shall open the hearing at the announced time and place and permit comment for a minimum of one hour. The hearing may be extended or continued to another day as necessary in the judgment of the officer.
(4) Comment.
(a) At the opening of the hearing, the officer shall explain the subject and purpose of the hearing and invite orderly, germane comment from all persons in attendance. The officer may set time limits for speakers and shall ensure equitable use of time.
(b) The agency shall have a representative at the hearing, other than the officer, who is familiar with the rule at issue and who can respond to requests for information by those in attendance.
(c) The officer shall invite written comment to be submitted at the hearing or after the hearing, within a reasonable time. Written comment shall be attached to the hearing minutes.
(d) The officer shall conduct the hearing as an open, informal, orderly, and informative meeting. Oaths, cross-examination, and rules of evidence are not required.
(5) The Hearing Record.
(a) The officer shall cause to be recorded the name, address, and relevant affiliation of all persons speaking at the hearing, and cause an electronic or mechanical verbatim recording of the hearing to be made, or make a brief summary, of their remarks.
(b) The hearing record consists of a copy of the proposed rule or rule change, submitted written comment, the hearing recording or summary, the list of persons speaking at the hearing, and other pertinent documents as determined by the agency.
(c) The hearing officer shall, as soon as practicable, assemble the hearing record and transmit it to the agency for consideration.
(d) The hearing record shall be kept with and as part of the rule's administrative record in a file available at the agency offices for public inspection.

(1) When a hearing issue requires a decision regarding rulemaking procedure, the officer shall submit a written request for
a decision to the director as soon as practicable after, or after
recessing, the hearing, as provided in Section R15-5-6. The director
shall reply to the agency head as provided in Subsection R15-5-6(2).
The director's decision shall be included in the hearing record.

(1) Persons may appeal the decision of the agency head or the
division by petitioning the district court for judicial review as
provided by law.

KEY: administrative law, government hearings
Date of Enactment or Last Substantive Amendment: June 1, 1996
Notice of Continuation: September 21, 2010
Authorizing, and Implemented or Interpreted Law: 63G-3-402
R15. Administrative Services, Administrative Rules.

R15-2-1. Authority.
As required by Subsection 63G-3-601(3), this rule prescribes the form and procedures for submission, consideration, and disposition of petitions requesting the making, amendment, or repeal of an administrative rule.

(1) Terms used in this rule are defined in Section 63G-3-102.
(2) Other terms are defined as follows:
   (a) "rule change" means:
      (i) making a new rule;
      (ii) amending, repealing, or repealing and reenacting an existing rule;
      (iii) amending a proposed rule further by filing a change in proposed rule under the provisions of Section 63G-3-303;
      (iv) allowing a proposed (new, amended, repealed, or repealed and reenacted) rule or change in proposed rule to lapse; or
      (v) any combination of the above.
   (b) "petitioner" means an interested person who submits a petition to an agency pursuant to Section 63G-3-601 and this rule.

(1) The petitioner shall send the petition to the head of the agency authorized by law to make the rule change requested.
(2) The agency receiving the petition shall record the date it received the petition.

R15-2-4. Petition Form.
The petition shall:
   (a) be clearly designated "petition for a rule change";
   (b) state the petitioner's name;
   (c) state the petitioner's interest in the rule, including relevant affiliation, if any;
   (d) include a statement as required by Subsection 63G-3-601(4) regarding the requested rule change;
   (e) state the approximate wording of the requested rule change;
   (f) describe the reason for the rule change;
   (g) include an address, an E-mail address when available, and telephone where the petitioner can be reached during regular business hours; and
   (h) be signed by the petitioner.

R15-2-5. Petition Consideration And Disposition.
(1) The agency head or designee shall:
   (a) review and consider the petition;
   (b) write a response to the petition stating:
      (i) that the petition is denied and reasons for denial, or
      (ii) the date when the agency is initiating a rule change consistent with the intent of the petition; and
   (c) send the response to the petitioner within the time frame provided by Section 63G-3-601.
(2) The petitioned agency may, within the time frame provided
by Section 63G-3-601, interview the petitioner, hold a public hearing on the petition, or take any action the agency, in its judgment, deems necessary to provide the petition due consideration.

(3) The agency shall retain the petition and a copy of the agency's response as part of the administrative record.

(4) The agency shall mail copies of its decision to all persons who petitioned for a rule change.

KEY: administrative law, open government, transparency

December 25, 2006 63G-3-601
Notice of Continuation September 21, 2010
R15. Administrative Services, Administrative Rules.
R15-3-1. Authority, Purpose, and Definitions.
(1) This rule is authorized under Subsection 63G-3-402(1) which requires the division to administer the Utah Administrative Rulemaking Act, Title 63G, Chapter 3.
(2) This rule clarifies when rulemaking is required, and requirements for incorporation by reference within rules.
(3) Terms used in this rule are defined in Section 63G-3-102.

R15-3-2. Agency Discretion.
(1) A rule may restrict agency discretion to prevent agency personnel from exceeding their scope of employment, or committing arbitrary action or application of standards, or to provide due process for persons affected by agency actions.
(2) A rule may authorize agency discretion that sets limits, standards, and scope of employment within which a range of actions may be applied by agency personnel. A rule may also establish criteria for granting exceptions to the standards or procedures of the rule when, in the judgment of authorized personnel, documented circumstances warrant.
(3) An agency may have written policies which broadly prescribe goals and guidelines. Policies are not rules unless they meet the criteria for rules set forth under Section 63G-3-201(2).
(4) Within the limits prescribed by Sections 63G-3-201 and 63G-3-602, an agency has full discretion regarding the substantive content of its rules. The division has authority over nonsubstantive content under Subsections 63G-3-402(2) and (3), and 63G-3-403(2) and (3), rulemaking procedures, and the physical format of rules for compilation in the Utah Administrative Code.

R15-3-3. Use of Incorporation by Reference in Rules.
(1) An agency incorporating materials by reference as permitted under Subsection 63G-3-201(7) shall comply with the following standards:
   (a) The rule shall state specifically that the cited material is "incorporated by reference."
   (b) If the material contains options, or is modified in its application, the options selected and modifications made shall be stated in the rule.
   (c) If the incorporated material is substantively changed at a later time, and the agency intends to enforce the revised material, the agency shall amend its rule through rulemaking procedures to incorporate by reference any applicable changes as soon as practicable.
   (d) In accordance with Subsection 63G-3-201(7)(c), an agency shall describe substantive changes that appear in the materials incorporated by reference as part of the "summary of rule or change" in the rule analysis.
(2) An agency shall comply with copyright requirements when it provides the division a copy of material incorporated by reference.

(1) All rules shall be in a format that permits their
compatibility with the division's computer system and compilation into the Utah Administrative Code.

(2) Rules may not contain maps, charts, graphs, diagrams, illustrations, forms, or similar material.

(3) The division shall issue and provide to agencies instructions and standards for formatting rules.

R15-3-5. Statutory Provisions that Require Rulemaking Pursuant to Subsection 63G-3-301(13).

For the purposes of Subsection 63G-3-301(13), the phrase "statutory provision that requires the rulemaking" means a state statutory provision that explicitly mandates rulemaking.

KEY: administrative law
April 30, 2007               63G-3-201
Notice of Continuation September 21, 2010 63G-3-301
Notice of Continuation September 21, 2010 63G-3-402
R15. Administrative Services, Administrative Rules.
R15-4-1. Authority and Purpose.
(1) This rule establishes procedures for filing and publication of agency rules under Sections 63G-3-301, 63G-3-303, and 63G-3-304, as authorized under Subsection 63G-3-402(1).
(2) The procedures of this rule constitute minimum requirements for rule filing and publication. Other governing statutes, federal laws, or federal regulations may require additional rule filing and publication procedures.

R15-4-2. Definitions.
(1) Terms used in this rule are defined in Section 63G-3-102.
(2) Other terms are defined as follows:
(a) "Anniversary date" means the date that is five years from the original effective date of the rule, or the date that is five years from the date the agency filed with the division the most recent five-year review required under Subsection 63G-3-305(3), whichever is sooner.
(b) "Digest" means the Utah State Digest that summarizes the content of the bulletin as required by Subsection 63G-3-402(1)(f);
(c) "Codify" means the process of collecting and arranging administrative rules systematically in the Utah Administrative Code, and includes the process of verifying that each amendment was marked as required under Subsection 63G-3-301(2)(b);
(d) "Compliance cost" means expenditures a regulated person will incur if a rule or change is made effective;
(e) "Cost" means the aggregated expenses persons as a class affected by a rule will incur if a rule or change is made effective;
(f) "eRules" means the Division's administrative rule filing application that agencies use to file rules and notices;
(g) "Savings" means:
(i) an aggregated monetary amount that will no longer be incurred by persons as a class if a rule or change is made effective;
(ii) an aggregated monetary amount that will be refunded or rebated if a rule or change is made effective;
(iii) an aggregated monetary amount of anticipated revenues to be generated for state budgets, local governments, or both if a rule or change is made effective; or
(iv) any combination of these aggregated monetary amounts.
(h) "Unmarked change" means a change made to rule text that was not marked as required by Subsection 63G-3-301(2)(b).

R15-4-3. Publication Dates and Deadlines.
(1) For the purposes of Subsections 63G-3-301(2) and 63G-3-303(1), an agency shall file its rule and rule analysis by 11:59:59 p.m. on the fifteenth day of the month for publication in the bulletin and digest issued on the first of the next month, and by 11:59:59 p.m. on the first day of the month for publication on the fifteenth of the same month.
(a) If the first or fifteenth day is a Saturday, or a Tuesday, Wednesday, Thursday, or Friday holiday, the agency shall file the rule and rule analysis by 11:59:59 p.m. on the previous regular business day.
(b) If the first or fifteenth day is a Sunday or Monday holiday, the agency shall file the rule and rule analysis by 11:59:59 p.m. on the next regular business day.

(2) For all purposes, the official date of publication for the bulletin and digest shall be the first and fifteenth days of each month.

R15-4-4. Thirty-day Comment Period for a Proposed Rule and a Change in Proposed Rule.

(1) For the purposes of Sections 63G-3-301 and 63G-3-303, "30 days" shall be computed by:
   (a) counting the day after publication of the rule as the first day; and
   (b) counting the thirtieth consecutive day after the day of publication as the thirtieth day, unless
   (c) the thirtieth consecutive day is a Saturday, Sunday, or holiday, in which event the thirtieth day is the next regular business day.

R15-4-5a. Notice of the Effective Date for a Proposed Rule.

(1)(a) Pursuant to Subsection 63G-3-301(9), upon expiration of the comment period designated on the rule analysis and filed with the rule, and before expiration of 120 days after publication of a proposed rule, the agency proposing the rule shall notify the division of the date the rule is to become effective and enforceable.
   (b) The agency shall notify the division after determining that the proposed rule, in the form published, shall be the final form of the rule, and after informing the division of any nonsubstantive changes in the rule as provided for in Section R15-4-6.

(2)(a) The agency shall notify the division by filing with the division a Notice of Effective Date form using eRules.
   (b) If the eRules Notice of Effective Date form is unavailable to the agency, the agency may notify the division by any other form of written communication clearly identifying the proposed rule, stating the date the rule was filed with the division or published in the bulletin, and stating its effective date.

(3) The date designated as the effective date shall be:
   (a) at least seven days after the comment period specified on the rule analysis; or
   (b) if the agency formally extends the comment period for a proposed rule by publishing a subsequent notice in an issue of the bulletin, at least seven days after the extended comment period.

(4) The division shall publish notice of the effective date in the next issue of the bulletin. There is no publication deadline for a notice of effective date for a proposed rule, nor requirement that it be published prior to the effective date.

R15-4-5b. Notice of the Effective Date for a Change in Proposed Rule.

(1)(a) Upon expiration of the 30-day period required by Section 63G-3-303, and before expiration of the 120th day after publication of a change in proposed rule, the agency promulgating the rule shall notify the division of the date the rule is to become effective and enforceable.
   (b) The agency shall notify the division after determining that
the rule text as published is the final form of the rule, and after informing the division of any nonsubstantive changes in the rule as provided for in Section R15-4-6.

(2)(a) The agency shall notify the division by filing with the division a Notice of Effective Date form using eRules.

(b) If the eRules Notice of Effective Date form is unavailable to the agency, the agency may notify the division by any other form of written communication clearly identifying the change in proposed rule and any rules upon which the change in proposed rule is dependent, stating the date the rules were filed with the division or published in the bulletin, and stating the effective date.

(3) The date designated as the effective date shall be:

(a) at least 30 days after the publication date of the rule in the bulletin, or

(b) if the agency designated a comment period, at least seven days after a comment period designated by the agency on the rule analysis or formally extended by publication of a subsequent notice in the bulletin.

(4) The division shall publish notice of the effective date in the next issue of the bulletin. There is no publication deadline for the notice of effective date for a change in proposed rule, nor requirement that it be published prior to the effective date.

R15-4-6. Nonsubstantive Changes in Rules.

(1) Pursuant to Subsections 63G-3-201(4)(d) and 63G-3-303(2), for the purpose of making rule changes that are grammatical or do not materially affect the application or outcome of agency procedures and standards, agencies shall comply with the procedures of this section.

(2) The agency proposing a change shall determine if the change is substantive or nonsubstantive according to the criteria cited in Subsection R15-4-6(1).

(a) The agency may seek the advice of the Attorney General or the division, but the agency is responsible for compliance with the cited criteria.

(3) Without complying with regular rulemaking procedures, an agency may make nonsubstantive changes in:

(a) proposed rules already published in the bulletin and digest but not made effective, or

(b) rules already effective.

(4) To make a nonsubstantive change in a rule, the agency shall:

(a) notify the division by filing with the division the form designated for nonsubstantive changes;

(b) include with the notice the rule text to be changed, with changes marked as required by Section R15-4-9; and

(c) include with the notice the name of the agency head or designee authorizing the change.

(5) A nonsubstantive change becomes effective on the date the division makes the change in the Utah Administrative Code.

(6) The division shall record the nonsubstantive change and its effective date in the administrative rules register.


(1) Pursuant to Section 63G-3-303, agencies shall comply with
the procedures of this section when making a substantive change in a proposed rule.

(a) The procedures of this section apply if:
   (i) the agency determines a change in the rule is necessary;
   (ii) the change is substantive under the criteria of Subsection 63G-3-102(19);
   (iii) the rule was published as a proposal in the bulletin and digest; and
   (iv) the rule has not been made effective under the procedures of Subsection 63G-3-303(1)(d) and Section R15-4-5.
(b) If the rule is already effective, the agency shall comply with regular rulemaking procedures.

(2) To make a substantive change in a proposed rule, the agency shall file with the division:
   (a) a rule analysis, marked to indicate the agency intends to change a rule already published, and describing the change and reasons for it; and
   (b) a copy of the proposed rule previously published in the bulletin marked to show only those changes made since the proposed rule was previously published as described in Section R15-4-9.

(3) The division shall publish the rule analysis in the next issue of the bulletin, subject to the publication deadlines of Section R15-4-3. The division may also publish the changed text of the rule.

(4) The agency may make a change in proposed rule effective by following the requirements of Section R15-4-5, or may further amend the rule by following the procedures of Sections R15-4-6 or R15-4-7.

R15-4-8. Temporary 120-day Rules.

(1) Pursuant to Section 63G-3-304, for the purpose of filing a temporary rule, an agency shall comply with the procedures of this section.

(2) The agency proposing a temporary rule shall determine if the need for the rule complies with the criteria of Subsection 63G-3-304(1).

   (a) The division interprets the criteria of Subsection 63G-3-304(1) to include under "welfare" any substantial material loss to the classes of persons or agencies the agency is mandated to regulate, serve, or protect.

(3) The agency shall use the same procedures for filing and publishing a temporary rule as for a permanent rule, except:
   (a) the rule shall become effective and enforceable on the day and hour it is recorded by the division unless the agency designates a later effective date on the rule analysis;
   (b) no comment period is necessary;
   (c) no public hearing is necessary; and
   (d) the rule shall expire 120 days after the rule's effective date unless the filing agency notifies the division, on the form or by memorandum, of an earlier expiration date.

(4) A temporary rule is separate and distinct from a rule filed under regular rulemaking procedures, though the language of the two rules may be identical. To make a temporary rule permanent, the agency shall propose a separate rule for regular rulemaking.

(5) When a temporary rule and a similar regular rule are in effect at the same time, any conflict between the provisions of the
two are resolved in favor of the rule with the most recent effective date, unless the agency designates otherwise as part of the rule analysis.

(6) A temporary rule has the full force and effect of a permanent rule while in effect, but a temporary rule is not codified in the Utah Administrative Code.

(1) (a) Pursuant to Subsection 63G-3-301(2)(b), an agency shall underscore language to be added and strike out language to be deleted in proposed rules.
(b) Consistent with Subsection 63G-3-301(2)(b), an agency shall underscore language to be added and strike out language to be deleted in changes in proposed rules, 120-day rules, and nonsubstantive changes.
(c) Consistent with legislative bill drafting technique, the struck out language shall be surrounded by brackets.
(2) When an agency proposes to make a new rule or section, the entire proposed text shall be underscored.
(3)(a) When an agency proposes to repeal a complete rule it shall include as part of the information provided in the rule analysis a brief summary of the deleted language and a brief explanation of why the rule is being repealed.
(b) The agency shall include with the rule analysis a copy of the text to be deleted in one of the following formats:
(i) each page annotated "repealed in its entirety" or
(ii) the entire text struck out in its entirety and surrounded by one set of brackets.
(c) The division shall not publish repealed rules unless space is available within the page limits of the bulletin.
(4) When an agency fails to mark a change as described in this section, the director or his designee may refuse to codify the change. When determining whether or not to codify an unmarked change, the director shall consider:
(a) whether the unmarked change is substantive or nonsubstantive; and
(b) if the purpose of public notification has been adequately served.
(5) The director's refusal to codify an unmarked change means that the change is not operative for the purposes of Section 63G-3-701 and that the agency must comply with regular rulemaking procedures to make the change.

R15-4-10. Estimates of Anticipated Cost or Savings, and Compliance Cost.
(1) Pursuant to Subsections 63G-3-301(3), 63G-3-303(1), 63G-3-304(2), and 53C-1-201(3), when an agency files a proposed rule, change in proposed rule, 120-day (emergency) rule, or expedited rule and provides anticipated cost or savings, and compliance cost information in the rule analysis, the agency shall:
(a) estimate the incremental cost or savings and incremental compliance cost associated with the changes proposed by the rule or change;
(b) estimate the incremental cost or savings and incremental
compliance cost in dollars, except as otherwise provided in Subsections R15-4-10(4) and (5);

(c) indicate that the amount is either a cost or a savings; and

(d) estimate the incremental cost or savings expected to accrue to "state budgets," "local governments," "small businesses," and "persons other than small businesses, businesses, or local governmental entities" as aggregated cost or savings;

(2) In addition, an agency may:

(a) provide a narrative description of anticipated cost or savings, and compliance cost;

(b) compare anticipated cost or savings, and compliance cost figures, for the rule or change to:

(i) current budgeted costs associated with the existing rule,

(ii) figures reported on a fiscal note attached to a related legislative bill, or

(iii) both (i) and (ii).

(3) If an agency chooses to provide comparison figures, it shall clearly distinguish comparison figures from the anticipated cost or savings, and compliance cost figures.

(4) If dollar estimates are unknown or not available, or the obtaining thereof would impose a substantial unbudgeted hardship on the agency, the agency may substitute a reasoned narrative description of cost-related actions required by the rule or change, and explain the reason or reasons for the substitution.

(5) If no cost, savings, or compliance cost is associated with the rule or change, an agency may enter "none," "no impact," or similar words in the rule analysis followed by a written explanation of how the agency estimated that there would be no impact, or how the proposed rule, or changes made to an existing rule does not apply to "state budgets," "local government," "small businesses," "persons other than small businesses, businesses, or local governmental entities," or any combination of these.

(6) If an agency does not provide an estimate of cost, savings, compliance cost, or a reasoned narrative description of cost information; or a written explanation as part of the rule analysis in compliance with this section, the Division may, after making an attempt to obtain the required information, refuse to register and publish the rule or change. If the Division refuses to register and publish a rule or change, it shall:

(a) return the rule or change to the agency with a notice indicating that the Division has refused to register and publish the rule or change;

(b) identify the reason or reasons why the Division refused to register and publish the rule or change; and

(c) indicate the filing deadlines for the next issue of the Bulletin.

KEY: administrative law
August 24, 2007 63G-3-301
Notice of Continuation September 21, 2010 63G-3-303
63G-3-304
63G-3-402
R15. Administrative Services, Administrative Rules.
R15-5-1. Purpose.
(1) This rule provides the procedures for informal adjudicative proceedings governing:
   (a) appeal and review of a decision by the division not to publish an agency's proposed rule or rule change or not to register an agency's notice of effective date; and
   (b) a determination by the division whether an agency rule meets the procedural requirements of Title 63G, Chapter 3, the Utah Administrative Rulemaking Act.
(2) The informal procedures of this rule apply to all other division actions for which an adjudicative proceeding may be required.

This rule is required by Sections 63G-4-202 and 63G-4-203, and is enacted under the authority of Subsection 63G-3-402(1)(m) and Sections 63G-4-202, 63G-4-203, and 63G-4-503.

(1) The terms used in this rule are defined in Section 63G-4-103.
(2) In addition, "digest" means the Utah State Digest which summarizes the content of the bulletin as required under Subsection 63G-3-402(1)(f).

R15-5-4. Refusal to Publish or Register a Rule or Rule Change.
(1) The division shall not publish a proposed rule or rule change when the division determines the agency has not met the requirements of Title 63G, Chapter 3, or of Rules R15-3 or R15-4.
(2) The division shall not register an agency's notice of effective date, nor codify the rule or rule change in the Utah Administrative Code, if the agency exceeds the 120-day limit required by Subsection 63G-3-301(6)(a) as interpreted in Section R15-4-5.
(3) The division shall notify the agency of a refusal to publish or register a rule or rule change, and shall advise and assist the agency in correcting any error or omission, and in re-filing to meet statutory and regulatory criteria.

R15-5-5. Appeal of a Refusal to Publish or Register a Rule or Rule Change.
(1) An agency may request a review of a division refusal to publish or register a rule or rule change by filing a written petition for review with the division director.
(2) The division director shall grant or deny the petition within 20 days, and respond in writing giving the reasons for any denial.
(3) The agency may appeal the decision of the division director by filing a written appeal to the Executive Director of the Department of Administrative Services within 20 days of receipt of the division director's decision. The Executive Director shall respond within 20 days affirming or reversing the division director's decision.

(1) A person may contest the procedural validity, or request
a determination of whether a rule meets the requirements of Title 63G, Chapter 3, by filing a written petition with the division.

(a) The rule at issue may be a proposed rule or an effective rule.

(b) The petition must be received by the division within the two-year limit set by Section 63G-3-603.

(c) The petition may emanate from a rulemaking hearing as in Section R15-1-8.

(d) The petition shall specify the rule or rule change at issue and reasons why the petitioner deems it procedurally flawed or invalid.

(e) The petition shall be accompanied by any documents the division should consider in reaching its decision.

(f) The petition shall be signed and designate a telephone number where the petitioner can be contacted during regular business hours.

2 The division shall respond to the petition in writing within 20 days of its receipt.

(a) The division shall research all records pertaining to the rule or rule change at issue.

(b) The response of the division shall state whether the rule is procedurally valid or invalid and how the agency may remedy any defect.

(c) The division shall send a copy of the petition and its response to the pertinent agency.

3 The petitioner may request reconsideration of the division's findings by filing a written request for reconsideration with the division director.

(a) The director may respond to the request in writing.

(b) If the petitioner receives no response within 20 days, the request is denied.

R15-5-7. Remedies Resulting from an Adjudicative Proceeding.

1 A rule the division determines is procedurally invalid shall be stricken from the Utah Administrative Code and notice of its deletion published in the next issues of the bulletin and digest.

2 The division shall notify the pertinent agency and assist the agency in re-filing or otherwise remedying the procedural omission or error in the rule.

3 A rule the division determines is procedurally valid shall be published and registered promptly.

KEY: administrative procedures, administrative law
June 1, 1996 63G-3-402
Notice of Continuation September 22, 2010 63G-4-202
63G-4-203
63G-4-503
State of Utah 110(a)(2) SIP Infrastructure Elements for PM$_{2.5}$

Section 110(a)(2)(A): Emission Limits and Other Control Measures

**Requirement Summary**
"Each such plan shall . . . include enforceable emission limitations and other control measures, means, or techniques (including economic incentives such as fees, marketable permits, and auctions of emissions rights), as well as schedules and timetables for compliance, as may be necessary or appropriate to meet the applicable requirements of this chapter." 42 U.S.C. 7410 (a)(2)(A).

**Utah’s Infrastructure**

SIP Section 1 (*Legal Authority*) identifies the statutory provisions that allow adoption of standards and limitations for attainment and maintenance of national standards. This section of the SIP was codified at R307-110-2, and EPA approved it most recently on June 25, 2003 at 68 FR 37744.

SIP Sections IX Part A identifies control measures for sources of particulate matter. This section of the SIP was developed to meet the NAAQS requirements for particulate matter (both PM$_{10}$ and PM$_{2.5}$). Section IX Part A includes control measures for area and point sources for fine particulate matter. *See Section IX Part A.21- 23.* In 2013 this section was expanded to address the 2006 24-hour NAAQS for PM$_{2.5}$. The most recent update to this section was submitted to the EPA on December 22, 2014. EPA has not yet acted upon the recent updates to Section IX Part A.

SIP Section II (*Review of New and Modified Air Pollution Sources*) provides that new or modified sources of air pollution must submit plans to the Utah Division of Air Quality and receive approval orders before operating. SIP Section II was codified at R307-110-3, and EPA approved the SIP most recently on June 25, 2003 at 68 FR 37744. The Utah Air Quality Rule R307-401 establishes a minor source permitting program in the state for new and modified sources, and was most recently approved by EPA on May 5, 1995 at FR 60 FR 22277.

SIP Section VIII (*Prevention of Significant Deterioration*) was established as required by the Clean Air Act and applies to all air pollutants regulated under the CAA. SIP Section VIII was codified at R307-110-9 and R307-405, and EPA approved it most recently on July 15, 2011 at 76 FR 41712. On April 14, 2011 Utah submitted revisions to R307-405 to incorporate the federal Tailoring Rule provisions that were promulgated on June 3, 2010. EPA has not yet acted upon this submittal.

Section 110(a)(2)(B): Ambient Air Quality Monitoring or Data System

**Requirement Summary**
"Each such plan shall. . . provide for establishment and operation of appropriate devices, methods, systems, and procedures necessary to (i) monitor, compile, and analyze data on
ambient air quality, and (ii) upon request, make such data available to the Administrator." 42 U.S.C. 7410 (a)(2)(B).

**Utah’s Infrastructure**

SIP Section IV (*Ambient Air Monitoring Program*) outlines Utah's air quality surveillance network that meets the provisions of 40 CFR Part 58. This section of the SIP was codified at R307-110-5, and EPA approved it most recently on June 25, 2003 at 68 FR 37744. Utah prepares an Annual Network Review as required by 40 CFR 58.10. The plan is made available for public comment and is submitted to EPA by July 1st of each year. DAQ submits data to EPA's Air Quality System (AQS) as required by 40 CFR Part 58.

In 2012 EPA revised the NAAQS for the primary annual PM$_{2.5}$ standard. The standard was set at 12.0 µg/m$^3$. At this time there are no designated non-attainment sites for the 2012 annual standard. While the state is in compliance with the 2012 annual standard of 12.0 µg/m$^3$, three areas are designated as non-attainment for the 24-hour standard of 35 µg/m$^3$. DAQ currently operates 24-hour Federal Reference Method (FRM) PM$_{2.5}$ samplers throughout the state to demonstrate compliance with NAAQS, evaluate population exposure, support SIP development and model performance evaluation as well as monitor PM levels in source and receptor areas. The state also operates Federal Equivalent Method (FEM) PM$_{2.5}$ samplers at 8 sites throughout the state. Eventually FEM continuous monitors will replace the existing FRM monitors in the network.

DAQ’s 2015 Annual Monitoring Network Plan demonstrates that the state is in compliance with federal requirements for monitoring PM$_{2.5}$. It also includes a description of how DAQ has complied with monitoring requirements, and an explanation of proposed changes to the network. Any changes in monitoring requirements for a new or revised NAAQS will be met by the state and demonstrated in the annual or five year network plan. This plan, which doubles as the five year network plan required by 40 C.F.R. 58.10(d), was submitted to EPA on July 1, 2015.

Monitoring data is available to EPA upon request.

**Section 110(a)(2)(C): Programs for Enforcement, PSD, and NSR**

**Requirement Summary**

"Each such plan shall . . . include a program to provide for the enforcement of the measures described in subparagraph (A), and regulation of the modification and construction of any stationary source within the areas covered by the plan as necessary to assure that national ambient air quality standards are achieved, including a permit program as required in parts C and D of this subchapter."

**Utah’s Infrastructure**

SIP Section I (*Legal Authority*) identifies the statutory provisions that allow DAQ to prevent construction, modification or operation of any stationary source at any location where emissions from such source will prevent the attainment or maintenance of a national standard or interfere
with prevention of significant deterioration requirements (See I.A.1.d). SIP Section I was codified at R307-110-2, and EPA most recently approved the SIP on June 25, 2003 at 68 FR 37744.

SIP Section II *(Review of New and Modified Air Pollution Sources)* provides that new or modified sources of air pollution must submit plans to the Utah Division of Air Quality and receive approval orders before operating. SIP Section II was codified at R307-110-3, and EPA approved the SIP most recently on June 25, 2003 at 68 FR 37744. The Utah Air Quality Rule R307-401 establishes a minor source permitting program in the state for new and modified sources. R307-401 was most recently approved by EPA on May 5, 1995 at FR 60 FR 22277. Utah’s permitting rules require sources to install best available control technology (BACT) for all pollutants, including PM\textsubscript{2.5}. See R307-401-8.

SIP Section VIII *(Prevention of Significant Deterioration)* was established as required by the Clean Air Act and applies to all air pollutants regulated under the CAA. SIP Section VIII was codified at R307-110-9 and R307-405, and EPA approved it most recently on July 15, 2011 at 76 FR 41712. On April 14, 2011 Utah submitted revisions to R307-405 to incorporate the federal Tailoring Rule provisions that were promulgated on June 3, 2010. EPA has not yet acted upon this submittal.

**Section 110(a)(2)(D)(i): Interstate Transport Provisions**

**Requirement Summary**

"Each such plan shall ... contain adequate provisions: prohibiting, consistent with the provisions of this subchapter, any source or other type of emissions activity within the state from emitting any air pollutant in amounts which will contribute significantly to nonattainment in, or interfere with maintenance by, any other state with respect to any such national primary or secondary ambient air quality standard, or interfere with measures required to be included in the applicable implementation plan for any other state under part C of this subchapter to prevent significant deterioration of air quality to protect visibility."

**Utah’s Infrastructure**

SIP Section XXIII.B (Interstate Transport) demonstrates that sources and emissions activities resulting in PM\textsubscript{2.5} emissions within the state of Utah do not contribute significantly to nonattainment in, or interfere with maintenance by, any other state with respect to any national primary or secondary ambient air quality standards. SIP Section XXIII was codified at R307-110-37, and EPA approved it most recently on March 28, 2008 at 73 FR 16543.

SIP Section XXIII.C demonstrates that Utah’s SIP Section VIII (PSD) ensures that Utah does not interfere with PSD implementation in other states. SIP Section VIII (PSD) and Utah Air Quality Rule R307-405 hold new major sources and major source modifications subject to the Prevention of Significant Deterioration program outlined at 40 CFR 51.166. SIP Section VIII was codified at R307-110-9, and EPA approved it most recently on July 15, 2011 at 76 FR 41712. On April 14, 2011 Utah submitted revisions to R307-405 to incorporate the federal Tailoring Rule provisions that were promulgated on June 3, 2010. EPA has not yet acted upon this submittal.
SIP Section XXIII.D and XX (Regional Haze) demonstrate that Utah prohibits emissions within the state from interfering with the programs of other states to protect visibility. SIP Section XX determined that sources in Utah do not interfere with visibility plans developed by other states. Utah consulted with other states in the Western Regional Air Partnership and reductions in emissions from Utah were included in the regional visibility modeling. Authority for this section is located in Section 19-2-104, UCA. SIP Section XX was codified at R307-110-28. Amendments to SIP Section XX were submitted to EPA June 11, 2015. EPA has not yet acted upon this submittal.

The 2012 PM2.5 nonattainment areas nearest Utah are in California and Idaho. One of the non-attainment areas in Idaho is the Logan, UT non-attainment area. The majority of this area is in the state of Utah itself. The Utah State SIP Section IX demonstrates that attainment can be achieved by December 31, 2015. Because Utah’s SIP also ensures prevention of significant deterioration in the Logan, UT non-attainment area, Utah will not contribute to non-attainment of that area, which is partially in Idaho.

Regarding the West Silver Valley, ID non-attainment area, Utah does not significantly contribute to its non-attainment status. This is because PM2.5 issues in that area are mostly due to wood combustion and low wind speeds during the wintertime. Utah’s PM2.5 is caused by ammonium nitrate, not wood smoke. The distance of nearly five hundred miles between the Utah border and the West Silver Valley, ID non-attainment area is also indicative of the fact that Utah does not significantly contribute to non-attainment in Idaho. PM2.5 does not travel very far from the state of Utah. This is due to several factors. One of the main reasons is because Utah’s PM2.5 problems occur during the winter time inversion. These are periods of low winds and stagnant air. When wind does come in to transport the PM2.5 it disperses the pollutants before they would be able to travel to northern Idaho.

In our January 31, 2013 infrastructure certification for the 2008 ozone NAAQS, we cited EPA Administrator Gina McCarthy’s November 19, 2012 memo which outlined EPA’s intention to abide by the EME Homer City decision (EME Homer City Generation, L.P. v. E.P.A., 696 F.3d 7 (D.C. Cir. 2012)). This decision required EPA to quantify state transport obligations before deeming SIPs deficient. We noted that EPA had not quantified Utah’s obligation, and that our infrastructure SIP was therefore adequate. However, on April 29, 2014, the U.S. Supreme Court reversed and remanded the D.C. Circuit’s EME Homer City ruling and upheld EPA’s approach in CSAPR (EPA v. EME Homer City Generation, L.P., 134 S. Ct. 1584, 1610 (2014)). As a result of the Supreme Court reversal and remand, each state is again required to address the interstate transport requirements of 110(a)(2)(D)(i) regardless of whether EPA has quantified the state’s obligation. Given the change in legal interpretation of interstate transport since January 2013, we are updating the 110(a)(2)(D)(i) section of our 2008 ozone NAAQS infrastructure certification to reflect the current requirements.

Utah does not significantly contribute to ozone non-attainment areas in Denver and Southern California. Regarding Denver, the EPA has recently modeled that Utah will contribute 1.59 ppb of ozone to the Denver, Boulder, Greeley-Ft. Collins-Loveland, Colorado non-attainment area (Denver area).
Not only does Utah not believe its contributions to Colorado’s ozone levels are significant, but Utah also has state rules in place that will reduce its overall contribution even further. For example, the following rules will help reduce Ozone emissions and transport in the future: 1) R307-343 regulates VOC emissions from wood furniture manufacturing operations. Stricter limits went into effect January 1, 2015. 2) R307-344 limits volatile organic compound (VOC) emissions from roll, knife, and rotogravure coaters and drying ovens of paper, film, and foil coating operations. 3) R307-345 limits volatile organic compound VOC emissions from fabric and vinyl coating operations. 4) R307-346 limits VOC emissions from metal furniture coatings. 5) R307-347 limits VOC emissions from large appliance surface coatings. 6) R307-348 reduces VOC emissions from magnet wire coating operations. 7) R307-349 limits VOC emissions from flat wood panel coatings operations. 8) R307-350 limits VOC emissions from miscellaneous metal parts and products coatings operations. 9) R307-351 limits VOC emissions from graphic art operations. 10) R307-352 limits VOC emissions from container, closure, and coil coatings operations. 11) R307-353 limits VOC emissions from plastic parts coatings operations. 12) R307-354 limits VOC emissions from automotive refinishing operations. 13) R307-355 limits VOC emissions from aerospace manufacture and rework facilities. 14) 307-356 limits VOC emissions from appliance pilot lights. 15) R307-361 limits VOC emissions from architectural coatings. These area source rules either reduce or have been amended to expand their application to reduce VOC emissions in Utah since 2014. Because VOC is a precursor to ozone, these rules will help reduce ozone emissions coming from Utah and will reduce ozone transport in the process.

Another rule that will reduce ozone emissions by reducing a precursor is Utah’s new water heater rule found at R307-230. This rule prohibits the sale of water heaters that do not comply with low NOx emission rates. The rule will begin to be implemented on November 1, 2017. NOx is also a precursor to ozone, and it will help reduce Utah’s contribution to both Colorado and California.

In regard to Southern California, Utah does not believe it significantly contributes to non-attainment and maintenance areas for ozone. This is because of the aforementioned area source rules reducing VOC emissions and NOx emissions. It is also because of the general west to east wind direction in the state of Utah. Because of this wind, it is unlikely that ozone coming from Utah is having a significant impact on California.


Requirement Summary
"Each such plan shall . . . contain adequate provisions insuring compliance with the applicable requirements of sections 126 and 115 (relating to interstate and international pollution abatement)."

Utah’s Infrastructure
EPA has not identified any PM$_{2.5}$ sources in Utah that endanger public health or the welfare of a foreign country. Therefore, Utah is not subject to Section 115 of the Clean Air Act.
SIP Section VIII (Prevention of Significant Deterioration) was established as required by the Clean Air Act and applies to all air pollutants regulated under the CAA. In accordance with 40 CFR 51.166(q)(2)(iv), SIP Section VIII requires the Director to notify neighboring states of potential impacts from new major sources or major modifications of PM2.5. SIP Section VIII was codified at R307-110-9 and R307-405, and EPA approved it most recently on July 15, 2011 at 76 FR 41712. On April 14, 2011 Utah submitted revisions to R307-405 to incorporate the federal Tailoring Rule provisions that were promulgated on June 3, 2010. EPA has not yet acted upon these revisions. The PSD SIP and R307-405 contain adequate provisions to be in compliance with Section 126 of the Clean Air Act.

No sources or sources within the state [or tribal area] are the subject of an active finding under section 126 of the CAA with respect to PM2.5. Regarding section 115, there are no final findings against Utah [or a tribal area] with respect to PM2.5.

SIP Section XX (Regional Haze) determined that sources in Utah do not interfere with visibility plans developed by other states. Utah consulted with other states in the Western Regional Air Partnership and reductions in emissions from Utah were included in the regional visibility modeling. Authority for this section is located in Section 19-2-104, UCA. SIP Section XX was codified at R307-110-28. SIP Section XX was amended and submitted to EPA June 11, 2015. EPA has not yet acted upon this submittal.

**Section 110(a)(2)(E)(i): Adequate Personnel, Funding, and Authority**

**Requirement Summary**

"Each such plan shall . . . provide: (i) necessary assurances that the state (or, except where the Administrator deems inappropriate, the general purpose local government or governments, or a regional agency designated by the state or general purpose local governments for such purpose) will have adequate personnel, funding, and authority under state (and, as appropriate, local) law to carry out such implementation plan (and is not prohibited by any provision of federal or state law from carrying out such implementation plan or portion thereof)"

**Utah’s Infrastructure**

SIP Section V (Resources) commits to implement program activities in relation to resources provided by the annual State or EPA Agreement and Section105 grant applications. SIP Section V (Resources) was codified at R307-110-6, and EPA approved it most recently on June 25, 2003 at 68 FR 37744.

Utah Air Quality Rule R307-414, Permits: Fees for Approval Orders, requires the owner and operator of each new major source or major modification to pay a fee sufficient to cover the reasonable costs of reviewing and acting upon the notice of intent and implementing and enforcing requirements placed on such source by any approval order issued.

**Section 110(a)(2)(E)(ii): Adequate Personnel, Funding, and Authority**
Requirement Summary

"Each such plan shall . . . provide . . . (ii) requirements that the state comply with the requirements respecting state boards under section 128."

Utah’s Infrastructure

SIP Section I (Legal Authority) identifies the statutory provisions that implement the provisions of Section 128 of the Clean Air Act respecting State Boards (See I.A.1.g). SIP Section I was codified at R307-110-2, and EPA approved it most recently on June 25, 2003 at 68 FR 37744. Authority for SIP Section I is located at Section 19-2-104, UCA.

The Utah Air Quality Board does not approve permits or enforcement orders, therefore Section 128(a)(1) does not apply to the state of Utah. Utah has recently proposed R307-104, Conflict of Interest. This rule will satisfy the requirements of Section 128(a)(2) of the Clean Air Act.

Section 110(a)(2)(E)(iii): Adequate Personnel, Funding, and Authority

Requirement Summary

"Each such plan shall . . . provide . . . (iii) necessary assurances that, where the state has relied on a local or regional government, agency, or instrumentality for the implementation of any plan provision, the state has responsibility for ensuring adequate implementation of such plan provision."

Utah’s Infrastructure

SIP Section VI (Intergovernmental Cooperation) lists federal, state, and local agencies involved in protecting air quality in Utah. SIP Section VI was codified at R307-110-7, and EPA approved it most recently on June 25, 2003 at 68 FR 37744. Utah’s Division of Air Quality retains responsibility for ensuring adequate implementation of the SIP.

Section 110(a)(2)(F): Stationary Source Monitoring and Reporting

Requirement Summary

"Each such plan shall . . . require, as may be prescribed by the Administrator: (i) the installation, maintenance, and replacement of equipment, and the implementation of other necessary steps, by owners or operators of stationary sources to monitor emissions from such sources, (ii) periodic reports on the nature and amounts of emissions and emissions-related data from such source (iii) correlation of such reports by the state agency with any emission limitations or standards established pursuant to this chapter, which reports shall be available at reasonable times for public inspection."

Utah’s Infrastructure


SIP Section III (Source Surveillance) describes Utah’s programs to monitor sources, including emission inventories, plant inspections, and emission testing. SIP Section III is codified at R307-110-4, and EPA approved it most recently on June 25, 2003 at 68 FR 37744.

R307-150 requires sources to submit periodic emission inventories for criteria pollutants and their precursors and hazardous pollutants. R307-150 was most recently approved by EPA on July 17, 1997, 62 FR 38215. Utah has submitted numerous changes to the inventory rule since that date to incorporate new federal requirements, such as the Consolidated Emission Reporting Rule (CERR), and EPA has not yet acted on any of these submittals.

R307-165 requires sources to conduct periodic tests to assure compliance with the emissions limitations established in approval orders or the SIP. R307-165 was most recently approved by EPA on February 14, 2006 at 71 FR 7679.

R307-170 requires certain large sources to install and maintain continuous emission monitors to assure compliance with emission limitations established in approval orders and the SIP. R307-170 was most recently approved by EPA on September 2, 2008, 73 FR 51222.

SIP Section II (Review of New and Modified Air Pollution Sources) provides that new or modified sources of air pollution must submit plans to the Utah Division of Air Quality and receive approval orders before operating. SIP Section II was codified at R307-110-3, and EPA approved it most recently on June 25, 2003 at 68 FR 37744. The Utah Air Quality Rule R307-401 establishes a minor source permitting program in the state for new and modified sources. R307-401 was most recently approved by EPA on May 5, 1995 at FR 60 FR 22277.

SIP Section VIII (Prevention of Significant Deterioration) was established as required by the Clean Air Act and applies to all air pollutants regulated under the CAA. SIP Section VIII was codified at R307-110-9 and R307-405, and EPA approved it most recently on July 15, 2011 at 76 FR 41712. On April 14, 2011 Utah submitted revisions to R307-405 to incorporate the federal Tailoring Rule provisions that were promulgated on June 3, 2010. EPA has not yet acted upon this submittal.

Section 110(a)(2)(G): Emergency Episodes

Requirement Summary
"Each such plan shall provide for authority comparable to that in section 303 of this title and adequate contingency plans to implement such authority."

Utah’s Infrastructure
SIP Section I (Legal Authority) identifies the statutory provisions to abate pollutant emissions on an emergency basis to prevent substantial endangerment to the health of persons (See I.A.1.g). The legal authority to implement SIP Section I is contained in the Utah Air Conservation Act Section 19-2-112. SIP Section I was codified at R307-110-2, and EPA approved it most recently on June 25, 2003 at 68 FR 37744.

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U.C.A. §19-2-116(3)(a) also provides the director the power to “initiate an action for appropriate injunctive relief...when it appears necessary for the protection of health and welfare.” U.C.A. §19-2-112(2)(a) provides authority to the “executive director, with the concurrence of the governor” to order people “causing or contributing to...air pollution to reduce or discontinue immediately the emission of air pollutants” if the “executive director finds that a generalized condition of air pollution exists and that it creates an emergency requiring immediate action to protect human health or safety.”

In regard to imminent and substantial endangerment to the environment, Utah’s Emergency Management Act allows the Governor to issue rules and regulations having the “full force and effect of law” during disasters. The Governor may also suspend rules and regulations of state agencies that would prevent the ability to adequately deal with such disasters. See U.C.A. 53-2a-209

SIP Section VII (Prevention of Air Pollution Emergency Episodes) provides the basis for taking action to prevent air pollutant concentrations from reaching levels which could endanger the public health or to abate such concentrations should they occur. The legal authority to implement SIP Section VII is contained in the Utah Air Conservation Act Section 19-2-112. SIP Section VII was codified at R307-110-8, and EPA approved it most recently on June 25, 2003 at 68 FR 37744.

Section 110(a)(2)(H): Future SIP revisions

Requirement Summary
"Each such plan shall . . . provide for revision of such plan--(i) from time to time as may be necessary to take account of revisions of such national primary or secondary ambient air quality standard or the availability of improved or more expeditious methods of attaining such standard, and (ii) except as provided in paragraph (3)(C), whenever the Administrator finds on the basis of information available to the Administrator that the plan is substantially inadequate to attain the national ambient air quality standard which it implements or to otherwise comply with any additional requirements established under this chapter (CAA)."

Utah’s Infrastructure
SIP Section I (Legal Authority) identifies the statutory provisions that allow the Utah Division of Air Quality to revise its plans to take account of revisions of national ambient air quality standard and to adopt expeditious methods of attaining and maintaining such standard (See I.A.1.a). The legal authority to implement SIP Section I is contained in the Utah Air Conservation Act Section 19-2-112. SIP Section I was codified at R307-110-2, and EPA approved it most recently on June 25, 2003 at 68 FR 37744.

Section 110(a)(2)(J): Consultation with Government Officials
Requirement Summary
"meet the applicable requirements of section 121 (relating to consultation)"

Utah’s Infrastructure
SIP Section I (Legal Authority) adopts requirements for transportation consultation (Section 174, Clean Air Act) (See I.A.2). SIP Section I was codified at R307-110-2, and EPA approved it most recently on June 25, 2003 at 68 FR 37744.

SIP Section VI (Intergovernmental Cooperation) provides a listing of federal, state, and local agencies involved in protecting air quality in Utah. SIP Section VI was codified at R307-110-7, and EPA approved it most recently on June 25, 2003 at 68 FR 37744.

SIP Section XII (Transportation Conformity Consultation) establishes the consultation procedures on transportation conformity issues when preparing state plans. SIP Section XII was codified at R307-110-20, and EPA approved it most recently on September 2, 2008 at 73 FR 51222.

Section 110(a)(2)(J): Public Notification

Requirement Summary
"meet the applicable requirements of section 127 of this title (relating to public notification)"

Utah’s Infrastructure
SIP Section XVI (Public Notification) includes provisions to notify the public when NAAQS have been exceeded as per Section 127 of the CAA. SIP Section XVI was codified at R307-110-24, and EPA last approved it on June 25, 2003 at 68 FR 37744.

Section 110(a)(2)(J): PSD and Visibility Protection

Requirement Summary
"meet the applicable requirements of ... part C (relating to prevention of significant deterioration of air quality and visibility protection)"

Utah’s Infrastructure
SIP Section VIII (PSD) describes the program to prevent significant deterioration of areas of the state where the air is clean. SIP Section VIII was codified at R307-110-9 and R307-405, and EPA approved SIP Section VIII and R307-405 most recently on July 15, 2011 at 76 FR 41712. Utah has also submitted further revisions to R307-405 to incorporate the federal Tailoring Rule provisions that were promulgated on June 3, 2010, and EPA has not yet acted on these revisions.

SIP Section XVII (Visibility Protection) describes the program to protect visibility, especially within the boundaries of the five national parks located in Utah. Authority for this section is located in Sections 19-2-101 and 104, UCA. SIP Section XVII was codified at R307-110-25, and
EPA approved it most recently on June 25, 2003 at 68 FR 37744.

SIP Section XX (*Regional Haze*) addresses the requirements in Part C of the CAA relating to regional haze. The SIP was based on the recommendations of the Grand Canyon Visibility Transport Commission established by Section 169B(f) of the CAA. Authority for this section is located in Section 19-2-104, UCA. SIP Section XX was codified at R307-110-28. EPA signed a notice to approve the majority of Utah’s Regional Haze plan in December 2012, but has not yet published this final action in the FR. In the same action, EPA disapproved the Best Available Retrofit Technology (BART) determinations for NOx and PM for four subject to BART Electric Generating Units (EGUs). UDAQ is currently preparing a new 5-Factor BART analysis for these four EGUs to address the deficiencies identified in EPA disapproval.

**Section 110(a)(2)(K): Air Quality Modeling or Data**

### Requirement Summary

"Each such plan shall . . . provide for-- (i) the performance of such air quality modeling as the Administrator may prescribe for the purpose of predicting the effect on ambient air quality of any emissions of any air pollutant for which the Administrator has established a national ambient air quality standard, and (ii) the submission, upon request, of data related to such air quality modeling to the Administrator."

### Utah’s Infrastructure

Utah Air Quality Rule R307-405-13 incorporates the air quality model provisions of 40 CFR 52.21(l), which includes the air quality model requirements of appendix W of 40 CFR part 51. R307-110-9 codifies SIP Section VIII (*PSD*). EPA approved SIP Section VIII and R307-405 most recently on July 15, 2011 at 76 FR 41712. On April 14, 2011 Utah submitted revisions to R307-405 to incorporate the federal Tailoring Rule provisions that were promulgated on June 3, 2010. EPA has not yet acted upon this submittal. The Air Quality Board has the authority to propose and finalize rules that require air quality modeling for the purpose of predicting the effect on ambient air quality relating to NAAQS. This authority is found in U.C.A. 19-2-104(1)(a)-(b).

SIP Section II (*Review of New and Modified Air Pollution Sources*) provides that new or modified sources of air pollution must submit plans to the Division of Air Quality and receive an Approval Order before operating. SIP Section II was codified at R307-110-3, and EPA approved it most recently on June 25, 2003 at 68 FR 37744.

R307-410 establishes the procedures and requirements for evaluating the emissions impact of new or modified sources that require an approval order under R307-401. EPA approved R307-410 most recently on July 8, 1994 at 59 FR 35036.
Section 110(a)(2)(L): Permitting Fees

Requirement Summary
"Each such plan shall require the owner or operator of each major stationary source to pay to the permitting authority, as a condition of any permit required under this chapter, a fee sufficient to cover--
(i) the reasonable costs of reviewing and acting upon any application for such a permit, and
(ii) if the owner or operator receives a permit for such source, the reasonable costs of implementing and enforcing the terms and conditions of any such permit (not including any court costs or other costs associated with any enforcement action), until such fee requirement is superseded with respect to such sources by the Administrator’s approval of a fee program under subchapter (title) V of this chapter."

Utah’s Infrastructure
SIP Section I (Legal Authority) identifies the statutory authority to charge a fee to major sources to cover permit and enforcement expenses (See I.A.1.h). SIP Section I was codified at R307-10-2, and EPA approved it most recently on June 25, 2003 at 68 FR 37744.

Utah Air Quality Rule R307-414, Permits: Fees for Approval Orders, requires the owner and operator of each new major source or major modification to pay a fee sufficient to cover the reasonable costs of reviewing and acting upon the notice of intent and implementing and enforcing requirements placed on such source by any approval order issued. EPA approved R307-414 most recently on February 14, 2006 at 71 FR 7679.

Utah’s Title V Operating Permits Program (R307-415) was approved by EPA on June 8, 1995 at 60 FR 30192.

Section 110(a)(2)(M): Consultation or Participation by Affected Local Entities

Requirement Summary
"Each such plan shall . . . provide for consultation and participation by local political subdivisions affected by the plan."

Utah’s Infrastructure
SIP Section VI (Intergovernmental Cooperation) lists federal, state, and local agencies involved in protecting air quality in Utah. SIP Section VI was codified at R307-110-7, and EPA approved it most recently on June 25, 2003 at 68 FR 37744.

SIP Section XII (Transportation Conformity Consultation) establishes the consultation procedures on transportation conformity issues when preparing state plans. SIP Section XII was codified at R307-110-2, and EPA approved it most recently on September 2, 2008 at 73 FR 51222.
Section 110(a)(2)(A): Emission Limits and Other Control Measures

**Requirement Summary**
“Each such plan shall . . . include enforceable emission limitations and other control measures, means, or techniques (including economic incentives such as fees, marketable permits, and auctions of emissions rights), as well as schedules and timetables for compliance, as may be necessary or appropriate to meet the applicable requirements of this chapter.” 42 U.S.C. 7410 (a)(2) (A).

**Utah’s Infrastructure**

SIP Section 1 (Legal Authority) identifies the statutory provisions that allow adoption of standards and limitations for attainment and maintenance of national standards. This section of the SIP was codified at R307-110-2, and EPA approved it most recently on June 25, 2003, at 68 FR 37744.

SIP Sections IX Part A identifies control measures for sources of particulate matter. This section of the SIP was developed to meet the NAAQS requirements for particulate matter (both PM$_{10}$ and PM$_{2.5}$). Section IX Part A includes control measures for area and point sources for fine particulate matter. See Section IX Part A.21-23. In 2013, this section was expanded to address the 2006 24-hour NAAQS for PM$_{2.5}$. The most recent update to this section was submitted to the EPA on December 22, 2014. EPA has not yet acted upon the recent updates to Section IX Part A.

SIP Section II (Review of New and Modified Air Pollution Sources) provides that new or modified sources of air pollution must submit plans to the Utah Division of Air Quality and receive approval orders before operating. SIP Section II was codified at R307-110-3, and EPA approved the SIP most recently on June 25, 2003, at 68 FR 37744. The Utah Air Quality Rule R307-401 establishes a minor source permitting program in the state for new and modified sources, and was most recently approved by EPA on May 5, 1995, at FR 60 FR 22277.

SIP Section VIII (Prevention of Significant Deterioration) was established as required by the Clean Air Act and applies to all air pollutants regulated under the CAA. SIP Section VIII was codified at R307-110-9 and R307-405, and EPA approved it most recently on July 15, 2011, at 76 FR 41712. On April 14, 2011, Utah submitted revisions to R307-405 to incorporate the federal Tailoring Rule provisions that were promulgated on June 3, 2010. EPA has not yet acted upon this submittal.

Section 110(a)(2)(B): Ambient Air Quality Monitoring or Data System

**Requirement Summary**
“Each such plan shall . . . provide for establishment and operation of appropriate devices, methods, systems, and procedures necessary to (i) monitor, compile, and analyze data on ambient air quality, and (ii) upon request, make such data available to the Administrator.” 42 U.S.C. 7410 (a)(2)(B).

**Utah’s Infrastructure**

SIP Section IV (Ambient Air Monitoring Program) outlines Utah’s air quality surveillance network that meets the provisions of 40 CFR Part 58. This section of the SIP was codified at R307-110-5, and EPA approved it most recently on June 25, 2003, at 68 FR 37744. Utah prepares an Annual Network Review as required by 40 CFR 58.10. The plan is made available for public comment and is submitted to EPA by July 1st of each year. DAQ submits data to EPA’s Air Quality System (AQS) as required by 40 CFR Part 58.

In 2012 EPA revised the NAAQS for the primary annual PM$_{2.5}$ standard. The standard was set at 12.0 microg/m$^3$. At this time there are no designated non-attainment sites for the 2012 annual standard. While the state is in compliance with the 2012 annual standard of 12.0 microg/m$^3$, three areas are designated as non-attainment for the 24-hour standard of 35 microg/m$^3$. DAQ currently operates 24-hour Federal Reference Method (FRM) PM$_{2.5}$ samplers throughout the state to demonstrate compliance with NAAQS, evaluate population exposure, support SIP development and model performance evaluation as well as...
monitor PM levels in source and receptor areas. The state also operates Federal Equivalent Method (FEM) PM$_{2.5}$ samplers at 8 sites throughout the state. Eventually FEM continuous monitors will replace the existing FRM monitors in the network.

DAQ’s 2015 Annual Monitoring Network Plan demonstrates that the state is in compliance with federal requirements for monitoring PM$_{2.5}$. It also includes a description of how DAQ has complied with monitoring requirements, and an explanation of proposed changes to the network. Any changes in monitoring requirements for a new or revised NAAQS will be met by the state and demonstrated in the annual or five year network plan. This plan, which doubles as the five year network plan required by 40 C.F.R. 58.10(d), was submitted to EPA on July 1, 2015.

Monitoring data is available to EPA upon request.

Section 110(a)(2)(C): Programs for Enforcement, PSD, and NSR

**Requirement Summary**

“Each such plan shall... include a program to provide for the enforcement of the measures described in subparagraph (A), and regulation of the modification and construction of any stationary source at any location where emissions from such source will prevent the attainment or maintenance of a national standard or interfere with prevention of significant deterioration requirements (See I.A.1.d). SIP Section I was codified at R307-110-2, and EPA most recently approved the SIP on June 25, 2003, at 68 FR 37744.

SIP Section II (Review of New and Modified Air Pollution Sources) provides that new or modified sources of air pollution must submit plans to the Utah Division of Air Quality and receive approval orders before operating. SIP Section II was codified at R307-110-3, and EPA approved the SIP most recently on June 25, 2003, at 68 FR 37744. The Utah Air Quality Rule R307-401 establishes a minor source permitting program in the state for new and modified sources. R307-401 was most recently approved by EPA on May 5, 1995, at FR 60 FR 22277. Utah's permitting rules require sources to install best available control technology (BACT) for all pollutants, including PM$_{2.5}$. See R307-401-8.

SIP Section VIII (Prevention of Significant Deterioration) was established as required by the Clean Air Act and applies to all air pollutants regulated under the CAA. SIP Section VIII was codified at R307-110-9 and R307-405, and EPA approved it most recently on July 15, 2011, at 76 FR 41712. On April 14, 2011, Utah submitted revisions to R307-405 to incorporate the federal Tailoring Rule provisions that were promulgated on June 3, 2010. EPA has not yet acted upon this submittal.


**Requirement Summary**

“Each such plan shall... contain adequate provisions: prohibiting, consistent with the provisions of this subchapter, any source or other type of emissions activity within the state from emitting any air pollutant in amounts which will contribute significantly to nonattainment in, or interfere with maintenance by, any other state with respect to any such national primary or secondary ambient air quality standard, or interfere with measures required to be included in the applicable implementation plan for any other state under part C of this subchapter to prevent significant deterioration of air quality to protect visibility.”

Utah’s Infrastructure

SIP Section XXIII.B (Interstate Transport) demonstrates that sources and emissions activities resulting in PM$_{2.5}$ emissions within the state of Utah do not contribute significantly to nonattainment in, or interfere with maintenance by, any other state with respect to any national primary or secondary ambient air quality standards. SIP Section XXIII was codified at R307-110-37, and EPA approved it most recently on March 28, 2008, at 73 FR 16543.

SIP Section XXIII.C demonstrates that Utah’s SIP Section VIII (PSD) ensures that Utah does not interfere with PSD implementation in other states. SIP Section VIII (PSD) and Utah Air Quality Rule R307-405 hold new major sources and major source modifications subject to the Prevention of Significant Deterioration program outlined at 40 CFR 51.166. SIP Section VIII...
The 2012 PM2.5 non-attainment areas nearest Utah are in California and Idaho. One of the non-attainment areas in Idaho is the Logan, UT non-attainment area. The majority of this area is in the state of Utah itself. The Utah State SIP Section IX demonstrates that attainment can be achieved by December 31, 2015. Because Utah’s SIP also ensures prevention of significant deterioration in the Logan, UT non-attainment area, Utah will not contribute to non-attainment of that area, which is partially in Idaho.

Regarding the West Silver Valley, ID non-attainment area, Utah does not significantly contribute to its non-attainment status. This is because PM2.5 issues in that area are mostly due to wood combustion and low wind speeds during the wintertime. Utah’s PM2.5 is caused by ammonium nitrate, not wood smoke. The distance of nearly five hundred miles between the Utah border and the West Silver Valley, ID non-attainment area is also indicative of the fact that Utah does not significantly contribute to non-attainment in Idaho. PM2.5 does not travel very far from the state of Utah. This is due to several factors. One of the main reasons is because Utah’s PM2.5 problems occur during the winter time inversion. These are periods of low winds and stagnant air. When wind does come in to transport the PM2.5 it disperses the pollutants before they would be able to travel to northern Idaho.

In our January 31, 2013, infrastructure certification for the 2008 ozone NAAQS, we cited EPA Administrator Gina McCarthy’s November 19, 2012, memo which outlined EPA’s intention to abide by the EME Homer City decision (EME Homer City Generation, L.P. v. E.P.A., 696 F.3d 7 (D.C. Cir. 2012)). This decision required EPA to quantify state transport obligations before deeming SIPs deficient. We noted that EPA had not quantified Utah’s obligation, and that our infrastructure SIP was therefore adequate. However, on April 29, 2014, the U.S. Supreme Court reversed and remanded the D.C. Circuit’s EME Homer City ruling and upheld EPA’s approach in CSAPR (EME Homer City Generation, L.P., 134 S. Ct. 1584, 1610 (2014)). As a result of the Supreme Court reversal and remand, each state is again required to address the interstate transport requirements of 110(a)(2)(D)(i) regardless of whether EPA has quantified the state’s obligation. Given the change in legal interpretation of interstate transport since January 2013, we are updating the 110(a)(2)(D)(i) section of our 2008 ozone NAAQS infrastructure certification to reflect the current requirements.

Utah does not significantly contribute to ozone non-attainment areas in Denver and Southern California. Regarding Denver, the EPA has recently modeled that Utah will contribute 1.59 ppb of ozone to the Denver, Boulder, Greeley-Ft. Collins-Loveland, Colorado non-attainment area (Denver area).

Not only does Utah not believe its contributions to Colorado’s ozone levels are significant, but Utah also has state rules in place that will reduce its overall contribution even further. For example, the following rules will help reduce Ozone emissions and transport in the future: 1) R307-343 regulates VOC emissions from wood furniture manufacturing operations. Stricter limits went into effect January 1, 2015; 2) R307-344 limits volatile organic compound (VOC) emissions from roll, knife, and rotogravure coaters and drying ovens of paper, film, and foil coating operations; 3) R307-345 limits volatile organic compound VOC emissions from fabric and vinyl coating operations; 4) R307-346 limits VOC emissions from metal furniture coatings; 5) R307-347 limits VOC emissions from large appliance surface coatings; 6) R307-348 reduces VOC emissions from magnet wire coating operations; 7) R307-349 VOC emissions from flat wood panel coatings operations; 8) R307-350 limits VOC emissions from miscellaneous metal parts and products coatings operations; 9) R307-351 limits VOC emissions from graphic art operations; 10) R307-352 limits VOC emissions from container, closure, and coil coatings operations; 11) R307-353 limits VOC emissions from plastic parts coatings operations; 12) R307-354 limits VOC emissions from automotive refinishing operations; 13) R307-355 limits VOC emissions from aerospace manufacture and rework facilities; 14) R307-356 limits VOC emissions from appliance pilot lights; 15) R307-361 limits VOC emissions from architectural coatings. These area source rules either reduce or have been amended to expand their application to reduce VOC emissions in Utah since 2014. Because VOC is a precursor to ozone, these rules will help reduce ozone emissions coming from Utah and will reduce ozone transport in the process.

Another rule that will reduce ozone emissions by reducing a precursor is Utah’s new water heater rule found at R307-230. This rule prohibits the sale of water heaters that do not comply with low NOx emission rates. The rule will begin to be implemented
on November 1, 2017. NOx is also a precursor to ozone, and it will help reduce Utah’s contribution to both Colorado and California.

In regard to Southern California, Utah does not believe it significantly contributes to non attainment and maintenance areas for ozone. This is because of the aforementioned area source rules reducing VOC emissions and NOx emissions. It is also because of the general west to east wind direction in the state of Utah. Because of this wind, it is unlikely that ozone coming from Utah is having a significant impact on California.


Requirement Summary

"Each such plan shall . . . contain adequate provisions insuring compliance with the applicable requirements of sections 126 and 115 (relating to interstate and international pollution abatement)."

Utah’s Infrastructure

EPA has not identified any PM$_{2.5}$ sources in Utah that endanger public health or the welfare of a foreign country. Therefore, Utah is not subject to Section 115 of the Clean Air Act.

SIP Section VIII (Prevention of Significant Deterioration) was established as required by the Clean Air Act and applies to all air pollutants regulated under the CAA. In accordance with 40 CFR 51.166(q)(2)(iv), SIP Section VIII requires the Director to notify neighboring states of potential impacts from new major sources or major modifications of PM$_{2.5}$. SIP Section VIII was codified at R307-110-9 and R307-405, and EPA approved it most recently on July 15, 2011, at 76 FR 41712. On April 14, 2011, Utah submitted revisions to R307-405 to incorporate the federal Tailoring Rule provisions that were promulgated on June 3, 2010. EPA has not yet acted upon these revisions. The PSD SIP and R307-405 contain adequate provisions to be in compliance with Section 126 of the Clean Air Act.

No sources or sources within the state [or tribal area] are the subject of an active finding under section 126 of the CAA with respect to PM$_{2.5}$. Regarding section 115, there are no final findings against Utah [or a tribal area] with respect to PM$_{2.5}$.

SIP Section XX (Regional Haze) determined that sources in Utah do not interfere with visibility plans developed by other states. Utah consulted with other states in the Western Regional Air Partnership and reductions in emissions from Utah were included in the regional visibility modeling. Authority for this section is located in Section 19-2-104, UCA. SIP Section XX was codified at R307-110-28. SIP Section XX was amended and submitted to EPA June 11, 2015. EPA has not yet acted upon this submittal.

Section 110(a)(2)(E)(i): Adequate Personnel, Funding, and Authority

Requirement Summary

"Each such plan shall . . . provide: (i) necessary assurances that the state (or, except where the Administrator deems inappropriate, the general purpose local government or governments, or a regional agency designated by the state or general purpose local governments for such purpose) will have adequate personnel, funding, and authority under state (and, as appropriate, local) law to carry out such implementation plan (and is not prohibited by any provision of federal or state law from carrying out such implementation plan or portion thereof)"

Utah’s Infrastructure

SIP Section V (Resources) commits to implement program activities in relation to resources provided by the annual State or EPA Agreement and Section105 grant applications. SIP Section V (Resources) was codified at R307-110-6, and EPA approved it most recently on June 25, 2003, at 68 FR 37744.

Utah Air Quality Rule R307-414, Permits: Fees for Approval Orders, requires the owner and operator of each new major source or major modification to pay a fee sufficient to cover the reasonable costs of reviewing and acting upon the notice of intent and implementing and enforcing requirements placed on such source by any approval order issued.
Section 110(a)(2)(E)(ii): Adequate Personnel, Funding, and Authority

Requirement Summary

“Each such plan shall . . . provide . . . (ii) requirements that the state comply with the requirements respecting state boards under section 128.”

Utah’s Infrastructure

SIP Section I (Legal Authority) identifies the statutory provisions that implement the provisions of Section 128 of the Clean Air Act respecting State Boards (See I.A.1.g). SIP Section I was codified at R307-110-2, and EPA approved it most recently on June 25, 2003, at 68 FR 37744. Authority for SIP Section I is located at Section 19-2-104, UCA.

The Utah Air Quality Board does not approve permits or enforcement orders, therefore Section 128(a)(1) does not apply to the state of Utah. Utah has recently proposed R307-104, Conflict of Interest. This rule will satisfy the requirements of Section 128(a)(2) of the Clean Air Act.

Section 110(a)(2)(E)(iii): Adequate Personnel, Funding, and Authority

Requirement Summary

“Each such plan shall . . . provide . . . (iii) necessary assurances that, where the state has relied on a local or regional government, agency, or instrumentality for the implementation of any plan provision, the state has responsibility for ensuring adequate implementation of such plan provision.”

Utah’s Infrastructure

SIP Section VI (Intergovernmental Cooperation) lists federal, state, and local agencies involved in protecting air quality in Utah. SIP Section VI was codified at R307-110-7, and EPA approved it most recently on June 25, 2003, at 68 FR 37744. Utah’s Division of Air Quality retains responsibility for ensuring adequate implementation of the SIP.

Section 110(a)(2)(F): Stationary Source Monitoring and Reporting

Requirement Summary

“Each such plan shall . . . require, as may be prescribed by the Administrator:

(i) the installation, maintenance, and replacement of equipment, and the implementation of other necessary steps, by owners or operators of stationary sources to monitor emissions from such sources,

(ii) periodic reports on the nature and amounts of emissions and emissions-related data from such source

(iii) correlation of such reports by the state agency with any emission limitations or standards established pursuant to this chapter, which reports shall be available at reasonable times for public inspection.”

Utah’s Infrastructure

SIP Section III (Source Surveillance) describes Utah’s programs to monitor sources, including emission inventories, plant inspections, and emission testing. SIP Section III is codified at R307-110-4, and EPA approved it most recently on June 25, 2003, at 68 FR 37744.

R307-150 requires sources to submit periodic emission inventories for criteria pollutants and their precursors and hazardous pollutants. R307-150 was most recently approved by EPA on July 17, 1997, 62 FR 38215. Utah has submitted numerous changes to the inventory rule since that date to incorporate new federal requirements, such as the Consolidated Emission Reporting Rule (CERR), and EPA has not yet acted on any of these submittals.

R307-165 requires sources to conduct periodic tests to assure compliance with the emissions limitations established in approval orders or the SIP. R307-165 was most recently approved by EPA on February 14, 2006, at 71 FR 7679.

R307-170 requires certain large sources to install and maintain continuous emission monitors to assure compliance with emission limitations established in approval orders and the SIP. R307-170 was most recently approved by EPA on September 2, 2008, 73 FR 51222.

SIP Section II (Review of New and Modified Air Pollution Sources) provides that new or modified sources of air pollution must submit plans to the Utah Division of Air Quality and receive approval orders before operating. SIP Section II was codified at
R307-110-3, and EPA approved it most recently on June 25, 2003, at 68 FR 37744. The Utah Air Quality Rule R307-401 establishes a minor source permitting program in the state for new and modified sources. R307-401 was most recently approved by EPA on May 5, 1995, at FR 60 FR 22277.

SIP Section VIII (Prevention of Significant Deterioration) was established as required by the Clean Air Act and applies to all air pollutants regulated under the CAA. SIP Section VIII was codified at R307-110-9 and R307-405, and EPA approved it most recently on July 15, 2011, at 76 FR 41712. On April 14, 2011, Utah submitted revisions to R307-405 to incorporate the federal Tailoring Rule provisions that were promulgated on June 3, 2010. EPA has not yet acted upon this submittal.

Section 110(a)(2)(G): Emergency Episodes

Requirement Summary
"Each such plan shall provide for authority comparable to that in section 303 of this title and adequate contingency plans to implement such authority."

Utah's Infrastructure
SIP Section I (Legal Authority) identifies the statutory provisions to abate pollutant emissions on an emergency basis to prevent substantial endangerment to the health of persons (See I.A.1.g). The legal authority to implement SIP Section I is contained in the Utah Air Conservation Act Section 19-2-112. SIP Section I was codified at R307-110-2, and EPA approved it most recently on June 25, 2003, at 68 FR 37744.

U.C.A. Subsection 19-2-116(3)(a) also provides the director the power to "initiate an action for appropriate injunctive relief... when it appears necessary for the protection of health and welfare." U.C.A. Subsection 19-2-112(2)(a) provides authority to the "executive director, with the concurrence of the governor" to order people "causing or contributing to... air pollution to reduce or discontinue immediately the emission of air pollutants" if the "executive director finds that a generalized condition of air pollution exists and that it creates an emergency requiring immediate action to protect human health or safety."

In regard to imminent and substantial endangerment to the environment, Utah's Emergency Management Act allows the Governor to issue rules and regulations having the "full force and effect of law" during disasters. The Governor may also suspend rules and regulations of state agencies that would prevent the ability to adequately deal with such disasters. See U.C.A. 53-2a-209

SIP Section VII (Prevention of Air Pollution Emergency Episodes) provides the basis for taking action to prevent air pollutant concentrations from reaching levels which could endanger the public health or to abate such concentrations should they occur. The legal authority to implement SIP Section VII is contained in the Utah Air Conservation Act Section 19-2-112. SIP Section VII was codified at R307-110-8, and EPA approved it most recently on June 25, 2003, at 68 FR 37744.

Section 110(a)(2)(H): Future SIP revisions

Requirement Summary
"Each such plan shall . . . provide for revision of such plan--
(i) from time to time as may be necessary to take account of revisions of such national primary or secondary ambient air quality standard or the availability of improved or more expeditious methods of attaining such standard, and
(ii) except as provided in paragraph (3)(C), whenever the Administrator finds on the basis of information available to the Administrator that the plan is substantially inadequate to attain the national ambient air quality standard which it implements or to otherwise comply with any additional requirements established under this chapter (CAA)."

Utah's Infrastructure
SIP Section I (Legal Authority) identifies the statutory provisions that allow the Utah Division of Air Quality to revise its plans to take account of revisions of national ambient air quality standard and to adopt expeditious methods of attaining and maintaining such standard (See I.A.1.a). The legal authority to implement SIP Section I is contained in the Utah Air Conservation Act Section 19-2-112. SIP Section I was codified at R307-110-2, and EPA approved it most recently on June 25, 2003, at 68 FR 37744.
Section 110(a)(2)(J): Consultation with Government Officials

**Requirement Summary**

“meet the applicable requirements of section 121 (relating to consultation)”

**Utah’s Infrastructure**

SIP Section I (Legal Authority) adopts requirements for transportation consultation (Section 174, Clean Air Act) (See I.A.2). SIP Section I was codified at R307-110-2, and EPA approved it most recently on June 25, 2003, at 68 FR 37744.

SIP Section VI (Intergovernmental Cooperation) provides a listing of federal, state, and local agencies involved in protecting air quality in Utah. SIP Section VI was codified at R307-110-7, and EPA approved it most recently on June 25, 2003, at 68 FR 37744.

SIP Section XII (Transportation Conformity Consultation) establishes the consultation procedures on transportation conformity issues when preparing state plans. SIP Section XII was codified at R307-110-20, and EPA approved it most recently on September 2, 2008, at 73 FR 51222.

Section 110(a)(2)(J): Public Notification

**Requirement Summary**

“meet the applicable requirements of section 127 of this title (relating to public notification)”

**Utah’s Infrastructure**

SIP Section XVI (Public Notification) includes provisions to notify the public when NAAQS have been exceeded as per Section 127 of the CAA. SIP Section XVI was codified at R307-110-24, and EPA last approved it on June 25, 2003, at 68 FR 37744.

Section 110(a)(2)(J): PSD and Visibility Protection

**Requirement Summary**

“meet the applicable requirements of … part C (relating to prevention of significant deterioration of air quality and visibility protection)”

**Utah’s Infrastructure**

SIP Section VIII (PSD) describes the program to prevent significant deterioration of areas of the state where the air is clean. SIP Section VIII was codified at R307-110-9 and R307-405, and EPA approved SIP Section VIII and R307-405 most recently on July 15, 2011, at 76 FR 41712. Utah has also submitted further revisions to R307-405 to incorporate the federal Tailoring Rule provisions that were promulgated on June 3, 2010, and EPA has not yet acted on these revisions.

SIP Section XVII (Visibility Protection) describes the program to protect visibility, especially within the boundaries of the five national parks located in Utah. Authority for this section is located in Sections 19-2-101 and 104, UCA. SIP Section XVII was codified at R307-110-25, and EPA approved it most recently on June 25, 2003, at 68 FR 37744.

SIP Section XX (Regional Haze) addresses the requirements in Part C of the CAA relating to regional haze. The SIP was based on the recommendations of the Grand Canyon Visibility Transport Commission established by Section 169B(f) of the CAA. Authority for this section is located in Section 19-2-104, UCA. SIP Section XX was codified at R307-110-28. EPA signed a notice to approve the majority of Utah’s Regional Haze plan in December 2012, but has not yet published this final action in the FR. In the same action, EPA disapproved the Best Available Retrofit Technology (BART) determinations for NOx and PM for four subject to BART Electric Generating Units (EGUs). UDAQ is currently preparing a new 5-Factor BART analysis for these four EGUs to address the deficiencies identified in EPA disapproval.

Section 110(a)(2)(K): Air Quality Modeling or Data

**Requirement Summary**

“Each such plan shall... provide for-- (i) the performance of such air quality modeling as the Administrator may prescribe for the purpose of predicting the effect on ambient air quality of any emissions of any air pollutant for which the Administrator has established a national ambient air quality standard, and...”
(ii) the submission, upon request, of data related to such air quality modeling to the Administrator."

Utah’s Infrastructure

Utah Air Quality Rule R307-405-13 incorporates the air quality model provisions of 40 CFR 52.21(l), which includes the air quality model requirements of appendix W of 40 CFR part 51. R307-110-9 codifies SIP Section VIII (PSD). EPA approved SIP Section VIII and R307-405 most recently on July 15, 2011, at 76 FR 41712. On April 14, 2011, Utah submitted revisions to R307-405 to incorporate the federal Tailoring Rule provisions that were promulgated on June 3, 2010. EPA has not yet acted upon this submittal. The Air Quality Board has the authority to propose and finalize rules that require air quality modeling for the purpose of predicting the effect on ambient air quality relating to NAAQS. This authority is found in U.C.A. 19-2-104(1)(a)-(b).

SIP Section II (Review of New and Modified Air Pollution Sources) provides that new or modified sources of air pollution must submit plans to the Division of Air Quality and receive an Approval Order before operating. SIP Section II was codified at R307-110-3, and EPA approved it most recently on June 25, 2003, at 68 FR 37744.

R307-410 establishes the procedures and requirements for evaluating the emissions impact of new or modified sources that require an approval order under R307-401. EPA approved R307-410 most recently on July 8, 1994, at 59 FR 35036.

Section 110(a)(2)(L): Permitting Fees

Requirement Summary

"Each such plan shall require the owner or operator of each major stationary source to pay to the permitting authority, as a condition of any permit required under this chapter, a fee sufficient to cover--
(i) the reasonable costs of reviewing and acting upon any application for such a permit, and
(ii) if the owner or operator receives a permit for such source, the reasonable costs of implementing and enforcing the terms and conditions of any such permit (not including any court costs or other costs associated with any enforcement action), until such fee requirement is superseded with respect to such sources by the Administrator’s approval of a fee program under subchapter (title) V of this chapter."

Utah’s Infrastructure

SIP Section I (Legal Authority) identifies the statutory authority to charge a fee to major sources to cover permit and enforcement expenses (See I.A.1.h). SIP Section I was codified at R307-10-2, and EPA approved it most recently on June 25, 2003, at 68 FR 37744.

Utah Air Quality Rule R307-414, Permits: Fees for Approval Orders, requires the owner and operator of each new major source or major modification to pay a fee sufficient to cover the reasonable costs of reviewing and acting upon the notice of intent and implementing and enforcing requirements placed on such source by any approval order issued. EPA approved R307-414 most recently on February 14, 2006, at 71 FR 7679.

Utah’s Title V Operating Permits Program (R307-415) was approved by EPA on June 8, 1995, at 60 FR 30192.

Section 110(a)(2)(M): Consultation or Participation by Affected Local Entities

Requirement Summary

"Each such plan shall . . . provide for consultation and participation by local political subdivisions affected by the plan."

Utah’s Infrastructure

SIP Section VI (Intergovernmental Cooperation) lists federal, state, and local agencies involved in protecting air quality in Utah. SIP Section VI was codified at R307-110-7, and EPA approved it most recently on June 25, 2003, at 68 FR 37744.

SIP Section XII (Transportation Conformity Consultation) establishes the consultation procedures on transportation conformity issues when preparing state plans. SIP Section XII was codified at R307-110-2, and EPA approved it most recently on September 2, 2008, at 73 FR 51222.
Western Resource Advocates Comments and Responses

Utah Division of Air Quality

December 16, 2015

WRA Comment 1: NNSR permits must be clear – all permit conditions and terms apply at all times. Any existing permit terms or conditions that suggest that emission limits do not apply to emissions released during periods of startup, shut down or malfunction and that these “excess emissions” are somehow exempt from determinations of compliance must be stricken from any NNSR permit. Future NNSR permits may not include such exemptions. See EPA Comments on Utah’s Proposed PM2.5 State Implementation Plan (SIP) and Technical Support Documents, October 20, 2014 (EPA SIP Comments) at 9.

UDAQ Response: Future permits will not include exemptions for emissions released during periods of startup, shut down or malfunction. Although UDAQ has addressed startup and shutdown events and has attempted to eliminate all exemptions to emission limits or to supply alternatives during these periods, UDAQ agrees that some disagreement remains. However, UDAQ believes that this issue is best resolved during the development of a nonattainment SIP.

WRA Comment 2: Rule 307-165 establishes emission testing requirements for stationary sources, including those in the PM2.5 nonattainment areas. R307-165-2 requires stack testing once every 5 years. This is inadequate and fails to meet the requirement of section 110(a)(2)(A) that the SIP include enforceable emission limits necessary to attain and maintain the NAAQS. There is no evidence to suggest that stack testing of this frequency can ensure continuous compliance with SIP emission limits.

UDAQ Response: Stack testing frequency is based on engineering judgment and the permit writer’s knowledge regarding the specific source’s process and history. How close a source is to a threshold (significance, PSD, etc.), what existing stack requirements are in place, and whether the equipment is controlled with industry wide accepted technology are factors that are considered when setting testing frequency.

Furthermore, stack testing alone is generally not enough to verify compliance. Facility compliance with emissions limits also depends on the verification of operating parameters, such as feed rates, etc. These parameters are verified on an on-going basis. Periodic stack tests help to ensure these parameters are accurate and effective in controlling emissions to within the limits specified. UDAQ maintains that its frequency of stack testing is sufficient to provide enforceable emissions limits necessary to attain and maintain the NAAQS.

WRA Comment 3: Approval Orders issued by the Director give him discretion to determine monitoring frequencies, to authorize fugitive emissions control plans, to set limits on condensable PM$_{2.5}$ and to otherwise derive important permit elements after the relevant permits are subject to public notice and comment and EPA review. E.g. Tesoro AO at 15 (“Subsequent testing shall be done if directed by the Director”); 15 (“All other units in the above list shall be stack-tested if directed by the Director.”); 17 (“Testing shall be done if directed by the Director.”); 17 (“All other units in the above list shall be stacktested if directed by the Director.”); 16 (“To determine mass emission rates (lbs/hr, etc.), the pollutant concentration, as determined by the appropriate methods above, shall be multiplied by the
volumetric flow rate and any necessary conversion factors determined by the Director to give the results in the specified units of the emission limitation.”); 18 (same); 8 (“A clear stack calibration shall be performed in accordance with R307-170 as directed by the Director.”). This approach undermines the public and federal enforceability of permit provisions and prevents the public and EPA from commenting on and participating in permitting decisions.

**UDAQ Response:** EPA has issued guidance stating that Section 110(a)(2)(C) is outside the scope of infrastructure SIP (ISIP) actions “to the extent that it refers to permit programs under part D, and section 110(a)(2)(I) in its entirety, which addresses SIP revisions for nonattainment SIP areas.”¹ Utah currently has a federally approved permitting program. The time to make comments on any potential deficiency in that program would be during a public comment period for a SIP revision or rule dealing with the specific issues mentioned in the comment.

**WRA Comment 4:** Under 40 C.F.R. § 51.165(a)(3)(ii)(C), an NNSR program must ensure that offsets are surplus, permanent, quantifiable, and federally enforceable. So that the NNSR program can meet these requirements, the Director should address the issues identified in the May 10, 2001 letter from Richard R. Long, Director, Air and Radiation Program, EPA Region 8, to Rick Sprott, Director, DAQ. EPA stated in that letter, “We do not consider [R307-403-8] to be sufficient to ensure that banked emission reductions meet all requirements to be creditable.” Offsets must reflect “actual” emission reductions and may not be obtained merely by purchasing offsets that have been banked. Moreover, merely showing a decrease in emissions is not adequate to demonstrate a net air quality benefit. Moreover, as EPA recently noted: In order to be surplus and usable during the period of classification as Moderate, banked credits should exceed (in addition to any other applicable requirements) RACT/RACM requirements. [The Director] should be aware that the usability of any credits banked during the period of Moderate classification should be revisited if and when an area is reclassified to Serious or any other CAA requirements become applicable.

**UDAQ Response:** The comment has been noted. As mentioned above, permit programs under Part D are not within the scope of the ISIP. This issue can be addressed during the nonattainment SIP process.

**WRA Comment 5:** In the context of a modification to a source, the Director improperly contends that only those aspects of an approval order (AO) that reflect that modification or revision are subject to public comment and appeal. Rather, the entire permit is relevant to protection of NAAQS, increment, visibility and the SIP control strategy and is therefore subject to public participation.

**UDAQ Response:** UDAQ agrees. The entire permit is relevant to “protection of NAAQS, increment, visibility and the SIP control strategy.” However, portions of the AO that are not being changed do not need to be opened up for public comment. A public comment period has already been held for those portions of the AO.

**WRA Comment 6:** The NNSR program fails to protect short-term NAAQS such as the 24-hour PM$_{2.5}$ standard. That is because the Director maintains, but fails to demonstrate, that averaging periods of longer than 24-hours are adequate to protect short-term NAAQS. This is particularly true given that the

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¹ See USEPA Memo, *Guidance on Infrastructure State Implementation Plan (SIP) Elements under Clean Air Act Sections 110(a)(1) and 110(a)(2)* , Office of Air Quality Planning Standards (2013).
Director’s modeling requirements do not and cannot establish that emissions from new or modified sources are not interfering with attainment or maintenance of the NAAQS, as addressed elsewhere in these comments.

**UDAQ Response:** As mentioned above, permit programs under Part D of the CAA are not within the scope of the ISIP. Additionally, this ISIP is only addressing the 2012 annual standard for PM$_{2.5}$, not the 24 hour standard.

**WRA Comment 7:** R307-403-3 is inadequate to meet the requirements of an adequate NNSR program.

- R403-3(1) improperly establishes, without any site-specific analysis, a threshold under which a source is said to not cause or contribute to a violation of the NAAQS. No such blanket exception is appropriate without consideration of site specific factors such as reasonable further progress and the seriousness of the air quality in the nonattainment area. In any case, this provision has not been shown to be valid in the context of the PM2.5 nonattainment areas or PM2.5, for example, given lag times in atmospheric formation of PM2.5, and has not been updated to address PM2.5 or its precursors.
- R403-3(2) authorizes the Director to issue an approval order for the siting of a major source or major modification in a designated nonattainment area without being subject to the stringent requirements for NNSR as provided in 42 U.S.C. § 7503(a), such as the application of a lowest achievable emission rate (LAER) emission limitation. R403-3(2) purports to apply when the Director determines “emissions from a proposed source would cause a new violation of the NAAQS but would not contribute to an existing violation[.]” The Director has no discretion to avoid the requirements of 42 U.S.C. § 7503(a) and R307-403-3(a)-(e).
- R403-3(3) assumes incorrectly that the Director has the discretion to determine whether or not a new major source or major modification would “contribute” to violation of the NAAQS. Rather, regardless of any finding of contribution, if a new major source or major modification is to be located in a nonattainment area, the Director must comply with 42 U.S.C. § 7503(a) and R307-403-3(a)-(e). He has no discretion to do otherwise.
- Again, modeling that considers maximum short-term emissions must be required to support any claim of net air quality benefit, any contention that a project will not cause or contribute to a violation of the NAAQS and any claim of noninterference with reasonable further progress.
- R307-403 should include the appropriate definition of “lowest achievable emission rate” (LAER) or should cite the definition provided in 42 U.S.C. § 7501(3).

**UDAQ Response:** As mentioned above, permit programs under Part D of the CAA are not within the scope of the ISIP. However, the comments have been noted and may be useful in the context of SIP development.

**WRA Comment 8:**

Section 110(a)(2)(B): Ambient Air Quality Monitoring or Data System

There are no PM2.5 monitoring stations in the southern region of the Salt Lake Valley. As evidenced by monitoring data from 2009 to 2011, the Cottonwood monitoring station recorded higher 24-hour concentrations of PM2.5 than the rest of the stations in Salt Lake County and indeed, the highest
concentrations in the State. Yet, this station was discontinued and no monitoring data is currently collected in this part of the Valley or anywhere in south Salt Lake County. As a result, the Director’s monitoring network is insufficient and unrepresentative and any demonstration of attainment at other monitoring stations in the Salt Lake City Nonattainment Area will not be adequate to show compliance with the NAAQS in the Cottonwood area of Salt Lake Valley. See 42 U.S.C. § 7407(a) (requiring states to assure “air quality within the entire geographic area comprising such State” will achieve the national standards and requiring “an implementation plan [to]… specify the manner in which national primary and secondary ambient air quality standards will be achieved and maintained”); § 7401(a)(1) (requiring implementation plans to provide for implementation of NAAQS “in each air quality control region (or portion thereof) within such State”).

**UDAQ Response:** This comment is referring to monitoring the 24 hour standard. This ISIP is addressing the 2012 PM$_{2.5}$ annual standard. Every year UDAQ takes public comments on its Annual Monitoring Network Plan. This plan demonstrates that the state is in compliance with the federal requirements for monitoring PM$_{2.5}$. WRA is welcome to comment on those plans when they are posted for public comment. The last plan was submitted to EPA on July 1, 2015.

**WRA Comment 9:** Section 110(a)(2)(H): Future SIP Revisions: The CAA is explicit that, except through a state implementation plan revision or other limited circumstances not relevant to this case, “no...action modifying any requirement of an applicable implementation plan may be taken with respect to any stationary source by the State or the [EPA] Administrator,” 42 U.S.C. § 7410(i). In other words, a state implementation plan cannot be unilaterally modified by a state or EPA without undertaking appropriate federal rulemaking procedures. As EPA explained:

“EPA’s approval of a SIP has several consequences. For example, after EPA approves a SIP, EPA and citizens may enforce the SIP’s requirements in Federal court under section 113 and section 304 of the Act; in other words, EPA’s approval of a SIP makes the SIP “Federally enforceable.” Also, once EPA has approved a SIP, a state cannot unilaterally change the federally enforceable version of the SIP. Instead, the state must first submit a SIP revision to the EPA and gain EPA’s approval of that revision.”

74 Fed. Reg. 62717, 62718 (Dec. 1, 2009). Until EPA approves a SIP revision, the approved SIP is the applicable implementation plan with which regulated entities must comply to prevent a violation of the Clean Air Act. General Motors Corp. v. United States, 496 U.S. 530, 540 (1990).

Any revision to the maintenance SIP would undermine its enforceability. A control measure relied on in the maintenance plan could be changed through an Approval Order, making the original limit unenforceable. Also, the process for issuing an Approval Order is an inadequate substitute for the process entailed if a SIP is to be revised. The latter requires EPA approval and public involvement at both state and federal levels.

Yet, the Director has claimed the authority unilaterally to modify, inter alia, specific SIP provisions that apply to stationary sources in the context of the existing PM$_{10}$ SIP and has acted on that assertion by amending various Approval Orders. As this approach to a SIP is unlawful, the proposed SIP Actions must include an explicit denunciation of this approach and an explicit acknowledgement that any approved maintenance SIP may be altered according to the applicable procedures for modifying a federally

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approved SIP. The SIP Actions must ratify that until such time as EPA has approved any SIP changes, the original EPA-approved provisions are enforceable as state and federal law.

**UDAQ Comment**: UDAQ agrees that SIP revisions must follow the federal procedures set out in the CAA. The comment has been noted. However, the comment references an example of an action that WRA believes is an improper revision of the PM\textsubscript{10} SIP. This ISIP is about the 2012 annual PM\textsubscript{2.5} standard. WRA made a similar comment in regard to UDAQ’s recent PM\textsubscript{10} Maintenance Plan, and UDAQ responded at that time.

**WRA Comment 10:**

**Section 110(a)(2)(K): Air Quality Modeling or Data**

The CAA requires that ambient concentrations in all areas meet the applicable NAAQS. See 42 U.S.C. § 7407(a) (requiring states to assure “air quality within the entire geographic area comprising such State” will achieve the national standards and requiring “an implementation plan [to]… specify the manner in which national primary and secondary ambient air quality standards will be achieved and maintained”); § 7401(a)(1) (requiring implementation plans to provide for implementation of NAAQS “in each air quality control region (or portion thereof) within such State”). It is insufficient to suggest that an area need only show attainment at monitored locations and need only adopt controls that will address those locations.

Thus, the Director must require modeling for ambient impacts in nonattainment areas. Emissions could impact an area that was in attainment (although included in a nonattainment area) in a manner that failed to protect NAAQS. Moreover, without modeling, the Director will not be in a position to know whether any offsets acquired will result in a net air quality benefit. Likewise, the Director will now know whether progress toward attainment will be hindered by the proposed project – as concentrations around the new or modified source could frustrate reasonable forward progress, milestones or even attainment. Emission reductions could be made in an area that does not “need” them. Finally, areas adjacent to the nonattainment area may also be affected by the source and modeling is necessary to ensure that the NAAQS are protected in these areas.

**UDAQ Response**: UDAQ does modeling for the entire state. Modeling where there are no monitors is referred to as unmonitored attainment modeling. Utah is currently in attainment for the 2012 annual PM\textsubscript{2.5} standard for the entire state. Since the most densely populated areas are in attainment, UDAQ is not concerned that remote unmonitored sites with few anthropogenic emissions are in violation of the annual standard.

**WRA Comment 11:**

**Section 110(a)(2)(K): Air Quality Modeling or Data**

The use of annual average emission rates when modeling to show protection of short term NAAQS is improper. Rather, The Director’s own modeling guidance states that the basis of a modeling analysis of maximum short-term concentrations must be short-term emission rates based on short-term limits specified in the AO: Modeled emission rates should be representative of the averaging period(s) for which impacts are being determined. The emission rate used in the modeling analyses to establish maximum short-term concentrations (24 hours or less) should be representative of the pending AO’s permitted
maximum allowable emission level for that time period.[.] See also NSR Manual C.45 (for NAAQS compliance demonstrations, “the emissions rate for the proposed…modification must reflect the maximum allowable operating conditions as expressed by the federally enforceable emissions limit, operating level, and operating factor for each applicable pollutant and averaging time.”).

**UDAQ Response:** This comment is referring to modeling data for the 24 hour standard. This ISIP is only addressing the 2012 annual PM$_{2.5}$ standard.
State of Utah 110(a)(2) SIP Infrastructure Elements for PM$_{2.5}$

Section 110(a)(2)(A): Emission Limits and Other Control Measures

**Requirement Summary**
"Each such plan shall. . . include enforceable emission limitations and other control measures, means, or techniques (including economic incentives such as fees, marketable permits, and auctions of emissions rights), as well as schedules and timetables for compliance, as may be necessary or appropriate to meet the applicable requirements of this chapter." 42 U.S.C. 7410 (a)(2)(A).

**Utah’s Infrastructure**

SIP Section 1 (*Legal Authority*) identifies the statutory provisions that allow adoption of standards and limitations for attainment and maintenance of national standards. This section of the SIP was codified at R307-110-2, and EPA approved it most recently on June 25, 2003 at 68 FR 37744.

SIP Sections IX Part A identifies control measures for sources of particulate matter. This section of the SIP was developed to meet the NAAQS requirements for particulate matter (both PM$_{10}$ and PM$_{2.5}$). Section IX Part A includes control measures for area and point sources for fine particulate matter. *See Section IX Part A.21-23.* In 2013 this section was expanded to address the 2006 24-hour NAAQS for PM$_{2.5}$. The most recent update to this section was submitted to the EPA on December 22, 2014. EPA has not yet acted upon the recent updates to Section IX Part A.

SIP Section II (*Review of New and Modified Air Pollution Sources*) provides that new or modified sources of air pollution must submit plans to the Utah Division of Air Quality and receive approval orders before operating. SIP Section II was codified at R307-110-3, and EPA approved the SIP most recently on June 25, 2003 at 68 FR 37744. The Utah Air Quality Rule R307-401 establishes a minor source permitting program in the state for new and modified sources, and was most recently approved by EPA on May 5, 1995 at FR 60 FR 22277.

SIP Section VIII (*Prevention of Significant Deterioration*) was established as required by the Clean Air Act and applies to all air pollutants regulated under the CAA. SIP Section VIII was codified at R307-110-9 and R307-405, and EPA approved it most recently on July 15, 2011 at 76 FR 41712. On April 14, 2011 Utah submitted revisions to R307-405 to incorporate the federal Tailoring Rule provisions that were promulgated on June 3, 2010. EPA has not yet acted upon this submittal.

Section 110(a)(2)(B): Ambient Air Quality Monitoring or Data System

**Requirement Summary**
"Each such plan shall. . . provide for establishment and operation of appropriate devices, methods, systems, and procedures necessary to (i) monitor, compile, and analyze data on
ambient air quality, and (ii) upon request, make such data available to the Administrator." 42 U.S.C. 7410 (a)(2)(B).

**Utah’s Infrastructure**

SIP Section IV (*Ambient Air Monitoring Program*) outlines Utah's air quality surveillance network that meets the provisions of 40 CFR Part 58. This section of the SIP was codified at R307-110-5, and EPA approved it most recently on June 25, 2003 at 68 FR 37744. Utah prepares an Annual Network Review as required by 40 CFR 58.10. The plan is made available for public comment and is submitted to EPA by July 1st of each year. DAQ submits data to EPA's Air Quality System (AQS) as required by 40 CFR Part 58.

In 2012 EPA revised the NAAQS for the primary annual PM$_{2.5}$ standard. The standard was set at 12.0 µg/m$^3$. At this time there are no designated non-attainment sites for the 2012 annual standard. While the state is in compliance with the 2012 annual standard of 12.0 µg/m$^3$, three areas are designated as non-attainment for the 24-hour standard of 35 µg/m$^3$. DAQ currently operates 24-hour Federal Reference Method (FRM) PM$_{2.5}$ samplers throughout the state to demonstrate compliance with NAAQS, evaluate population exposure, support SIP development and model performance evaluation as well as monitor PM levels in source and receptor areas. The state also operates Federal Equivalent Method (FEM) PM$_{2.5}$ samplers at 8 sites throughout the state. Eventually FEM continuous monitors will replace the existing FRM monitors in the network.

DAQ’s 2015 Annual Monitoring Network Plan demonstrates that the state is in compliance with federal requirements for monitoring PM$_{2.5}$. It also includes a description of how DAQ has complied with monitoring requirements, and an explanation of proposed changes to the network. Any changes in monitoring requirements for a new or revised NAAQS will be met by the state and demonstrated in the annual or five year network plan. This plan, which doubles as the five year network plan required by 40 C.F.R. 58.10(d), was submitted to EPA on July 1, 2015.

Monitoring data is available to EPA upon request.

**Section 110(a)(2)(C): Programs for Enforcement, PSD, and NSR**

**Requirement Summary**

"Each such plan shall . . . include a program to provide for the enforcement of the measures described in subparagraph (A), and regulation of the modification and construction of any stationary source within the areas covered by the plan as necessary to assure that national ambient air quality standards are achieved, including a permit program as required in parts C and D of this subchapter."

**Utah’s Infrastructure**

SIP Section I (*Legal Authority*) identifies the statutory provisions that allow DAQ to prevent construction, modification or operation of any stationary source at any location where emissions from such source will prevent the attainment or maintenance of a national standard or interfere
with prevention of significant deterioration requirements (See I.A.1.d). SIP Section I was codified at R307-110-2, and EPA most recently approved the SIP on June 25, 2003 at 68 FR 37744.

SIP Section II (Review of New and Modified Air Pollution Sources) provides that new or modified sources of air pollution must submit plans to the Utah Division of Air Quality and receive approval orders before operating. SIP Section II was codified at R307-110-3, and EPA approved the SIP most recently on June 25, 2003 at 68 FR 37744. The Utah Air Quality Rule R307-401 establishes a minor source permitting program in the state for new and modified sources. R307-401 was most recently approved by EPA on May 5, 1995 at FR 60 FR 22277. Utah’s permitting rules require sources to install best available control technology (BACT) for all pollutants, including PM$_{2.5}$. See R307-401-8.

SIP Section VIII (Prevention of Significant Deterioration) was established as required by the Clean Air Act and applies to all air pollutants regulated under the CAA. SIP Section VIII was codified at R307-110-9 and R307-405, and EPA approved it most recently on July 15, 2011 at 76 FR 41712. On April 14, 2011 Utah submitted revisions to R307-405 to incorporate the federal Tailoring Rule provisions that were promulgated on June 3, 2010. EPA has not yet acted upon this submittal.


Requirement Summary

"Each such plan shall ... contain adequate provisions: prohibiting, consistent with the provisions of this subchapter, any source or other type of emissions activity within the state from emitting any air pollutant in amounts which will contribute significantly to nonattainment in, or interfere with maintenance by, any other state with respect to any such national primary or secondary ambient air quality standard, or interfere with measures required to be included in the applicable implementation plan for any other state under part C of this subchapter to prevent significant deterioration of air quality to protect visibility."

Utah’s Infrastructure

SIP Section XXIII.B (Interstate Transport) demonstrates that sources and emissions activities resulting in PM$_{2.5}$ emissions within the state of Utah do not contribute significantly to nonattainment in, or interfere with maintenance by, any other state with respect to any national primary or secondary ambient air quality standards. SIP Section XXIII was codified at R307-110-37, and EPA approved it most recently on March 28, 2008 at 73 FR 16543.

SIP Section XXIII.C demonstrates that Utah’s SIP Section VIII (PSD) ensures that Utah does not interfere with PSD implementation in other states. SIP Section VIII (PSD) and Utah Air Quality Rule R307-405 hold new major sources and major source modifications subject to the Prevention of Significant Deterioration program outlined at 40 CFR 51.166. SIP Section VIII was codified at R307-110-9, and EPA approved it most recently on July 15, 2011 at 76 FR 41712. On April 14, 2011 Utah submitted revisions to R307-405 to incorporate the federal Tailoring Rule provisions that were promulgated on June 3, 2010. EPA has not yet acted upon this submittal.
SIP Section XXIII.D and XX (Regional Haze) demonstrate that Utah prohibits emissions within the state from interfering with the programs of other states to protect visibility. SIP Section XX determined that sources in Utah do not interfere with visibility plans developed by other states. Utah consulted with other states in the Western Regional Air Partnership and reductions in emissions from Utah were included in the regional visibility modeling. Authority for this section is located in Section 19-2-104, UCA. SIP Section XX was codified at R307-110-28. Amendments to SIP Section XX were submitted to EPA June 11, 2015. EPA has not yet acted upon this submittal.

The 2012 PM2.5 nonattainment areas nearest Utah are in California and Idaho. One of the non-attainment areas in Idaho is the Logan, UT non-attainment area. The majority of this area is in the state of Utah itself. The Utah State SIP Section IX demonstrates that attainment can be achieved by December 31, 2015. Because Utah’s SIP also ensures prevention of significant deterioration in the Logan, UT non-attainment area, Utah will not contribute to non-attainment of that area, which is partially in Idaho.

Regarding the West Silver Valley, ID non-attainment area, Utah does not significantly contribute to its non-attainment status. This is because PM2.5 issues in that area are mostly due to wood combustion and low wind speeds during the wintertime. Utah’s PM2.5 is caused by ammonium nitrate, not wood smoke. The distance of nearly five hundred miles between the Utah border and the West Silver Valley, ID non-attainment area is also indicative of the fact that Utah does not significantly contribute to non-attainment in Idaho. PM2.5 does not travel very far from the state of Utah. This is due to several factors. One of the main reasons is because Utah’s PM2.5 problems occur during the winter time inversion. These are periods of low winds and stagnant air. When wind does come in to transport the PM2.5 it disperses the pollutants before they would be able to travel to northern Idaho.

In our January 31, 2013 infrastructure certification for the 2008 ozone NAAQS, we cited EPA Administrator Gina McCarthy’s November 19, 2012 memo which outlined EPA’s intention to abide by the EME Homer City decision (EME Homer City Generation, L.P. v. E.P.A., 696 F.3d 7 (D.C. Cir. 2012)). This decision required EPA to quantify state transport obligations before deeming SIPs deficient. We noted that EPA had not quantified Utah’s obligation, and that our infrastructure SIP was therefore adequate. However, on April 29, 2014, the U.S. Supreme Court reversed and remanded the D.C. Circuit’s EME Homer City ruling and upheld EPA’s approach in CSAPR (EME Homer City Generation, L.P., 134 S. Ct. 1584, 1610 (2014)). As a result of the Supreme Court reversal and remand, each state is again required to address the interstate transport requirements of 110(a)(2)(D)(i) regardless of whether EPA has quantified the state’s obligation. Given the change in legal interpretation of interstate transport since January 2013, we are updating the 110(a)(2)(D)(i) section of our 2008 ozone NAAQS infrastructure certification to reflect the current requirements.

Utah does not significantly contribute to ozone non-attainment areas in Denver and Southern California. Regarding Denver, the EPA has recently modeled that Utah will contribute 1.59 ppb of ozone to the Denver, Boulder, Greeley-Ft. Collins-Loveland, Colorado non-attainment area (Denver area).
Not only does Utah not believe its contributions to Colorado’s ozone levels are significant, but Utah also has state rules in place that will reduce its overall contribution even further. For example, the following rules will help reduce Ozone emissions and transport in the future:

1) R307-343 regulates VOC emissions from wood furniture manufacturing operations. Stricter limits went into effect January 1, 2015. 2) R307-344 limits volatile organic compound (VOC) emissions from roll, knife, and rotogravure coaters and drying ovens of paper, film, and foil coating operations. 3) R307-345 limits volatile organic compound VOC emissions from fabric and vinyl coating operations. 4) R307-346 limits VOC emissions from metal furniture coatings. 5) R307-347 limits VOC emissions from large appliance surface coatings. 6) R307-348 reduces VOC emissions from magnet wire coating operations. 7) R307-349 limits VOC emissions from flat wood panel coatings operations. 8) R307-350 limits VOC emissions from miscellaneous metal parts and products coatings operations. 9) R307-351 limits VOC emissions from graphic art operations. 10) R307-352 limits VOC emissions from container, closure, and coil coatings operations. 11) R307-353 limits VOC emissions from plastic parts coatings operations. 12) R307-354 limits VOC emissions from automotive refinishing operations. 13) R307-355 limits VOC emissions from aerospace manufacture and rework facilities. 14) R307-356 limits VOC emissions from appliance pilot lights. 15) R307-361 limits VOC emissions from architectural coatings. These area source rules either reduce or have been amended to expand their application to reduce VOC emissions in Utah since 2014. Because VOC is a precursor to ozone, these rules will help reduce ozone emissions coming from Utah and will reduce ozone transport in the process.

[Another rule that will reduce ozone emissions by reducing a precursor is Utah’s new water heater found at R307-230. This rule prohibits the sale of water heaters that do not comply with low NOx emission rates. The rule will begin to be implemented on November 1, 2017. NOx is also a precursor to ozone, and it will help reduce Utah’s contribution to both Colorado and California.]

In regard to Southern California, Utah does not believe it significantly contributes to non-attainment and maintenance areas for ozone. This is because of the aforementioned area source rules reducing VOC emissions and NOx emissions. It is also because of the general west to east wind direction in the state of Utah. Because of this wind, it is unlikely that ozone coming from Utah is having a significant impact on California.

**Section 110(a)(2)(D)(ii): Interstate and International Transport Provisions**

**Requirement Summary**

"Each such plan shall . . . contain adequate provisions insuring compliance with the applicable requirements of sections 126 and 115 (relating to interstate and international pollution abatement)."

**Utah’s Infrastructure**

EPA has not identified any PM$_{2.5}$ sources in Utah that endanger public health or the welfare of a foreign country. Therefore, Utah is not subject to Section 115 of the Clean Air Act.
SIP Section VIII (Prevention of Significant Deterioration) was established as required by the Clean Air Act and applies to all air pollutants regulated under the CAA. In accordance with 40 CFR 51.166(q)(2)(iv), SIP Section VIII requires the Director to notify neighboring states of potential impacts from new major sources or major modifications of PM$_{2.5}$. SIP Section VIII was codified at R307-110-9 and R307-405, and EPA approved it most recently on July 15, 2011 at 76 FR 41712. On April 14, 2011 Utah submitted revisions to R307-405 to incorporate the federal Tailoring Rule provisions that were promulgated on June 3, 2010. EPA has not yet acted upon these revisions. The PSD SIP and R307-405 contain adequate provisions to be in compliance with Section 126 of the Clean Air Act.

No sources or sources within the state [or tribal area] are the subject of an active finding under section 126 of the CAA with respect to PM$_{2.5}$. Regarding section 115, there are no final findings against Utah [or a tribal area] with respect to PM$_{2.5}$.

SIP Section XX (Regional Haze) determined that sources in Utah do not interfere with visibility plans developed by other states. Utah consulted with other states in the Western Regional Air Partnership and reductions in emissions from Utah were included in the regional visibility modeling. Authority for this section is located in Section 19-2-104, UCA. SIP Section XX was codified at R307-110-28. SIP Section XX was amended and submitted to EPA June 11, 2015. EPA has not yet acted upon this submittal.

**Section 110(a)(2)(E)(i): Adequate Personnel, Funding, and Authority**

**Requirement Summary**
"Each such plan shall. . . provide: (i) necessary assurances that the state (or, except where the Administrator deems inappropriate, the general purpose local government or governments, or a regional agency designated by the state or general purpose local governments for such purpose) will have adequate personnel, funding, and authority under state (and, as appropriate, local) law to carry out such implementation plan (and is not prohibited by any provision of federal or state law from carrying out such implementation plan or portion thereof)"

**Utah’s Infrastructure**
SIP Section V (Resources) commits to implement program activities in relation to resources provided by the annual State or EPA Agreement and Section105 grant applications. SIP Section V (Resources) was codified at R307-110-6, and EPA approved it most recently on June 25, 2003 at 68 FR 37744.

Utah Air Quality Rule R307-414, Permits: Fees for Approval Orders, requires the owner and operator of each new major source or major modification to pay a fee sufficient to cover the reasonable costs of reviewing and acting upon the notice of intent and implementing and enforcing requirements placed on such source by any approval order issued.

**Section 110(a)(2)(E)(ii): Adequate Personnel, Funding, and Authority**
Requirement Summary
"Each such plan shall . . . provide . . . (ii) requirements that the state comply with the requirements respecting state boards under section 128."

Utah’s Infrastructure
SIP Section I (Legal Authority) identifies the statutory provisions that implement the provisions of Section 128 of the Clean Air Act respecting State Boards (See I.A.1.g). SIP Section I was codified at R307-110-2, and EPA approved it most recently on June 25, 2003 at 68 FR 37744. Authority for SIP Section I is located at Section 19-2-104, UCA.

The Utah Air Quality Board does not approve permits or enforcement orders, therefore Section 128(a)(1) does not apply to the state of Utah. Utah has recently proposed R307-104, Conflict of Interest. This rule will satisfy the requirements of Section 128(a)(2) of the Clean Air Act. R307-104 will become effective in March 2016 after it is adopted by the Utah Air Quality Board. The Board has already proposed the rule, but the public comment period officially begins on January 1, 2016.

Section 110(a)(2)(E)(iii): Adequate Personnel, Funding, and Authority

Requirement Summary
"Each such plan shall . . . provide . . . (iii) necessary assurances that, where the state has relied on a local or regional government, agency, or instrumentality for the implementation of any plan provision, the state has responsibility for ensuring adequate implementation of such plan provision."

Utah’s Infrastructure
SIP Section VI (Intergovernmental Cooperation) lists federal, state, and local agencies involved in protecting air quality in Utah. SIP Section VI was codified at R307-110-7, and EPA approved it most recently on June 25, 2003 at 68 FR 37744. Utah’s Division of Air Quality retains responsibility for ensuring adequate implementation of the SIP.

Section 110(a)(2)(F): Stationary Source Monitoring and Reporting

Requirement Summary
"Each such plan shall . . . require, as may be prescribed by the Administrator: (i) the installation, maintenance, and replacement of equipment, and the implementation of other necessary steps, by owners or operators of stationary sources to monitor emissions from such sources, (ii) periodic reports on the nature and amounts of emissions and emissions-related data from such source (iii) correlation of such reports by the state agency with any emission limitations or standards established pursuant to this chapter, which reports shall be available at reasonable times for public inspection."

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Utah’s Infrastructure

SIP Section III (Source Surveillance) describes Utah’s programs to monitor sources, including emission inventories, plant inspections, and emission testing. SIP Section III is codified at R307-110-4, and EPA approved it most recently on June 25, 2003 at 68 FR 37744.

R307-150 requires sources to submit periodic emission inventories for criteria pollutants and their precursors and hazardous pollutants. R307-150 was most recently approved by EPA on July 17, 1997, 62 FR 38215. Utah has submitted numerous changes to the inventory rule since that date to incorporate new federal requirements, such as the Consolidated Emission Reporting Rule (CERR), and EPA has not yet acted on any of these submittals.

R307-165 requires sources to conduct periodic tests to assure compliance with the emissions limitations established in approval orders or the SIP. R307-165 was most recently approved by EPA on February 14, 2006 at 71 FR 7679.

R307-170 requires certain large sources to install and maintain continuous emission monitors to assure compliance with emission limitations established in approval orders and the SIP. R307-170 was most recently approved by EPA on September 2, 2008, 73 FR 51222.

SIP Section II (Review of New and Modified Air Pollution Sources) provides that new or modified sources of air pollution must submit plans to the Utah Division of Air Quality and receive approval orders before operating. SIP Section II was codified at R307-110-3, and EPA approved it most recently on June 25, 2003 at 68 FR 37744. The Utah Air Quality Rule R307-401 establishes a minor source permitting program in the state for new and modified sources. R307-401 was most recently approved by EPA on May 5, 1995 at FR 60 FR 22277.

SIP Section VIII (Prevention of Significant Deterioration) was established as required by the Clean Air Act and applies to all air pollutants regulated under the CAA. SIP Section VIII was codified at R307-110-9 and R307-405, and EPA approved it most recently on July 15, 2011 at 76 FR 41712. On April 14, 2011 Utah submitted revisions to R307-405 to incorporate the federal Tailoring Rule provisions that were promulgated on June 3, 2010. EPA has not yet acted upon this submittal.

Section 110(a)(2)(G): Emergency Episodes

Requirement Summary
"Each such plan shall provide for authority comparable to that in section 303 of this title and adequate contingency plans to implement such authority."

Utah’s Infrastructure
SIP Section I (Legal Authority) identifies the statutory provisions to abate pollutant emissions on an emergency basis to prevent substantial endangerment to the health of persons (See I.A.1.g). The legal authority to implement SIP Section I is contained in the Utah Air Conservation Act Section 19-2-112. SIP Section I was codified at R307-110-2, and EPA approved it most recently
on June 25, 2003 at 68 FR 37744.

U.C.A. §19-2-116(3)(a) also provides the director the power to “initiate an action for appropriate injunctive relief…when it appears necessary for the protection of health and welfare.” U.C.A. §19-2-112(2)(a) provides authority to the “executive director, with the concurrence of the governor” to order people “causing or contributing to… air pollution to reduce or discontinue immediately the emission of air pollutants” if the “executive director finds that a generalized condition of air pollution exists and that it creates an emergency requiring immediate action to protect human health or safety.”

In regard to imminent and substantial endangerment to the environment, Utah’s Emergency Management Act allows the Governor to issue rules and regulations having the “full force and effect of law” during disasters. The Governor may also suspend rules and regulations of state agencies that would prevent the ability to adequately deal with such disasters. See U.C.A. 53-2a-209

SIP Section VII (Prevention of Air Pollution Emergency Episodes) provides the basis for taking action to prevent air pollutant concentrations from reaching levels which could endanger the public health or to abate such concentrations should they occur. The legal authority to implement SIP Section VII is contained in the Utah Air Conservation Act Section 19-2-112. SIP Section VII was codified at R307-110-8, and EPA approved it most recently on June 25, 2003 at 68 FR 37744.

Section 110(a)(2)(H): Future SIP revisions

Requirement Summary
"Each such plan shall . . . provide for revision of such plan--
(i) from time to time as may be necessary to take account of revisions of such national primary or secondary ambient air quality standard or the availability of improved or more expeditious methods of attaining such standard, and
(ii) except as provided in paragraph (3)(C), whenever the Administrator finds on the basis of information available to the Administrator that the plan is substantially inadequate to attain the national ambient air quality standard which it implements or to otherwise comply with any additional requirements established under this chapter (CAA).”

Utah’s Infrastructure
SIP Section I (Legal Authority) identifies the statutory provisions that allow the Utah Division of Air Quality to revise its plans to take account of revisions of national ambient air quality standard and to adopt expeditious methods of attaining and maintaining such standard (See I.A.1.a). The legal authority to implement SIP Section I is contained in the Utah Air Conservation Act Section 19-2-112. SIP Section I was codified at R307-110-2, and EPA approved it most recently on June 25, 2003 at 68 FR 37744.
Section 110(a)(2)(J): Consultation with Government Officials

**Requirement Summary**
"meet the applicable requirements of section 121 (relating to consultation)"

**Utah’s Infrastructure**
SIP Section I (*Legal Authority*) adopts requirements for transportation consultation (Section 174, Clean Air Act) (See I.A.2). SIP Section I was codified at R307-110-2, and EPA approved it most recently on June 25, 2003 at 68 FR 37744.

SIP Section VI (*Intergovernmental Cooperation*) provides a listing of federal, state, and local agencies involved in protecting air quality in Utah. SIP Section VI was codified at R307-110-7, and EPA approved it most recently on June 25, 2003 at 68 FR 37744.

SIP Section XII (*Transportation Conformity Consultation*) establishes the consultation procedures on transportation conformity issues when preparing state plans. SIP Section XII was codified at R307-110-20, and EPA approved it most recently on September 2, 2008 at 73 FR 51222.

Section 110(a)(2)(J): Public Notification

**Requirement Summary**
"meet the applicable requirements of section 127 of this title (relating to public notification)"

**Utah’s Infrastructure**
SIP Section XVI (*Public Notification*) includes provisions to notify the public when NAAQS have been exceeded as per Section 127 of the CAA. SIP Section XVI was codified at R307-110-24, and EPA last approved it on June 25, 2003 at 68 FR 37744.

Section 110(a)(2)(J): PSD and Visibility Protection

**Requirement Summary**
"meet the applicable requirements of … part C (relating to prevention of significant deterioration of air quality and visibility protection)"

**Utah’s Infrastructure**
SIP Section VIII (*PSD*) describes the program to prevent significant deterioration of areas of the state where the air is clean. SIP Section VIII was codified at R307-110-9 and R307-405, and EPA approved SIP Section VIII and R307-405 most recently on July 15, 2011 at 76 FR 41712. Utah has also submitted further revisions to R307-405 to incorporate the federal Tailoring Rule provisions that were promulgated on June 3, 2010, and EPA has not yet acted on these revisions.

SIP Section XVII (*Visibility Protection*) describes the program to protect visibility, especially
within the boundaries of the five national parks located in Utah. Authority for this section is located in Sections 19-2-101 and 104, UCA. SIP Section XVII was codified at R307-110-25, and EPA approved it most recently on June 25, 2003 at 68 FR 37744.

SIP Section XX (Regional Haze) addresses the requirements in Part C of the CAA relating to regional haze. The SIP was based on the recommendations of the Grand Canyon Visibility Transport Commission established by Section 169B(f) of the CAA. Authority for this section is located in Section 19-2-104, UCA. SIP Section XX was codified at R307-110-28. EPA signed a notice to approve the majority of Utah’s Regional Haze plan in December 2012, but has not yet published this final action in the FR. In the same action, EPA disapproved the Best Available Retrofit Technology (BART) determinations for NOx and PM for four subject to BART Electric Generating Units (EGUs). UDAQ is currently preparing a new 5-Factor BART analysis for these four EGUs to address the deficiencies identified in EPA disapproval.

**Section 110(a)(2)(K): Air Quality Modeling or Data**

**Requirement Summary**

"Each such plan shall... provide for-- (i) the performance of such air quality modeling as the Administrator may prescribe for the purpose of predicting the effect on ambient air quality of any emissions of any air pollutant for which the Administrator has established a national ambient air quality standard, and

(ii) the submission, upon request, of data related to such air quality modeling to the Administrator."

**Utah’s Infrastructure**

Utah Air Quality Rule R307-405-13 incorporates the air quality model provisions of 40 CFR 52.21(l), which includes the air quality model requirements of appendix W of 40 CFR part 51. R307-110-9 codifies SIP Section VIII (PSD). EPA approved SIP Section VIII and R307-405 most recently on July 15, 2011 at 76 FR 41712. On April 14, 2011 Utah submitted revisions to R307-405 to incorporate the federal Tailoring Rule provisions that were promulgated on June 3, 2010. EPA has not yet acted upon this submittal. The Air Quality Board has the authority to propose and finalize rules that require air quality modeling for the purpose of predicting the effect on ambient air quality relating to NAAQS. This authority is found in U.C.A. 19-2-104(1)(a)-(b).

SIP Section II (Review of New and Modified Air Pollution Sources) provides that new or modified sources of air pollution must submit plans to the Division of Air Quality and receive an Approval Order before operating. SIP Section II was codified at R307-110-3, and EPA approved it most recently on June 25, 2003 at 68 FR 37744.

R307-410 establishes the procedures and requirements for evaluating the emissions impact of new or modified sources that require an approval order under R307-401. EPA approved R307-410 most recently on July 8, 1994 at 59 FR 35036.
Section 110(a)(2)(L): Permitting Fees

Requirement Summary
"Each such plan shall require the owner or operator of each major stationary source to pay to the permitting authority, as a condition of any permit required under this chapter, a fee sufficient to cover--
(i) the reasonable costs of reviewing and acting upon any application for such a permit, and
(ii) if the owner or operator receives a permit for such source, the reasonable costs of implementing and enforcing the terms and conditions of any such permit (not including any court costs or other costs associated with any enforcement action), until such fee requirement is superseded with respect to such sources by the Administrator’s approval of a fee program under subchapter (title) V of this chapter."

Utah’s Infrastructure
SIP Section I (Legal Authority) identifies the statutory authority to charge a fee to major sources to cover permit and enforcement expenses (See I.A.1.h). SIP Section I was codified at R307-10-2, and EPA approved it most recently on June 25, 2003 at 68 FR 37744.

Utah Air Quality Rule R307-414, Permits: Fees for Approval Orders, requires the owner and operator of each new major source or major modification to pay a fee sufficient to cover the reasonable costs of reviewing and acting upon the notice of intent and implementing and enforcing requirements placed on such source by any approval order issued. EPA approved R307-414 most recently on February 14, 2006 at 71 FR 7679.

Utah’s Title V Operating Permits Program (R307-415) was approved by EPA on June 8, 1995 at 60 FR 30192.

Section 110(a)(2)(M): Consultation or Participation by Affected Local Entities

Requirement Summary
"Each such plan shall . . . provide for consultation and participation by local political subdivisions affected by the plan."

Utah’s Infrastructure
SIP Section VI (Intergovernmental Cooperation) lists federal, state, and local agencies involved in protecting air quality in Utah. SIP Section VI was codified at R307-110-7, and EPA approved it most recently on June 25, 2003 at 68 FR 37744.

SIP Section XII (Transportation Conformity Consultation) establishes the consultation procedures on transportation conformity issues when preparing state plans. SIP Section XII was codified at R307-110-2, and EPA approved it most recently on September 2, 2008 at 73 FR 51222.
State of Utah 110(a)(2) SIP Infrastructure Elements for PM$_{2.5}$

Section 110(a)(2)(A): Emission Limits and Other Control Measures

**Requirement Summary**
"Each such plan shall. . . include enforceable emission limitations and other control measures, means, or techniques (including economic incentives such as fees, marketable permits, and auctions of emissions rights), as well as schedules and timetables for compliance, as may be necessary or appropriate to meet the applicable requirements of this chapter." 42 U.S.C. 7410 (a)(2)(A).

**Utah’s Infrastructure**

SIP Section 1 (*Legal Authority*) identifies the statutory provisions that allow adoption of standards and limitations for attainment and maintenance of national standards. This section of the SIP was codified at R307-110-2, and EPA approved it most recently on June 25, 2003 at 68 FR 37744.

SIP Sections IX Part A identifies control measures for sources of particulate matter. This section of the SIP was developed to meet the NAAQS requirements for particulate matter (both PM$_{10}$ and PM$_{2.5}$). Section IX Part A includes control measures for area and point sources for fine particulate matter. See Section IX Part A.21-23. In 2013 this section was expanded to address the 2006 24-hour NAAQS for PM$_{2.5}$. The most recent update to this section was submitted to the EPA on December 22, 2014. EPA has not yet acted upon the recent updates to Section IX Part A.

SIP Section II (*Review of New and Modified Air Pollution Sources*) provides that new or modified sources of air pollution must submit plans to the Utah Division of Air Quality and receive approval orders before operating. SIP Section II was codified at R307-110-3, and EPA approved the SIP most recently on June 25, 2003 at 68 FR 37744. The Utah Air Quality Rule R307-401 establishes a minor source permitting program in the state for new and modified sources, and was most recently approved by EPA on May 5, 1995 at FR 60 FR 22277.

SIP Section VIII (*Prevention of Significant Deterioration*) was established as required by the Clean Air Act and applies to all air pollutants regulated under the CAA. SIP Section VIII was codified at R307-110-9 and R307-405, and EPA approved it most recently on July 15, 2011 at 76 FR 41712. On April 14, 2011 Utah submitted revisions to R307-405 to incorporate the federal Tailoring Rule provisions that were promulgated on June 3, 2010. EPA has not yet acted upon this submittal.

Section 110(a)(2)(B): Ambient Air Quality Monitoring or Data System

**Requirement Summary**
"Each such plan shall. . . provide for establishment and operation of appropriate devices, methods, systems, and procedures necessary to (i) monitor, compile, and analyze data on
ambient air quality, and (ii) upon request, make such data available to the Administrator." 42 U.S.C. 7410 (a)(2)(B).

Utah’s Infrastructure
SIP Section IV (Ambient Air Monitoring Program) outlines Utah's air quality surveillance network that meets the provisions of 40 CFR Part 58. This section of the SIP was codified at R307-110-5, and EPA approved it most recently on June 25, 2003 at 68 FR 37744. Utah prepares an Annual Network Review as required by 40 CFR 58.10. The plan is made available for public comment and is submitted to EPA by July 1st of each year. DAQ submits data to EPA’s Air Quality System (AQS) as required by 40 CFR Part 58.

In 2012 EPA revised the NAAQS for the primary annual PM$_{2.5}$ standard. The standard was set at 12.0 µg/m$^3$. At this time there are no designated non-attainment sites for the 2012 annual standard. While the state is in compliance with the 2012 annual standard of 12.0 µg/m$^3$, three areas are designated as non-attainment for the 24-hour standard of 35 µg/m$^3$. DAQ currently operates 24-hour Federal Reference Method (FRM) PM$_{2.5}$ samplers throughout the state to demonstrate compliance with NAAQS, evaluate population exposure, support SIP development and model performance evaluation as well as monitor PM levels in source and receptor areas. The state also operates Federal Equivalent Method (FEM) PM$_{2.5}$ samplers at 8 sites throughout the state. Eventually FEM continuous monitors will replace the existing FRM monitors in the network.

DAQ’s 2015 Annual Monitoring Network Plan demonstrates that the state is in compliance with federal requirements for monitoring PM$_{2.5}$. It also includes a description of how DAQ has complied with monitoring requirements, and an explanation of proposed changes to the network. Any changes in monitoring requirements for a new or revised NAAQS will be met by the state and demonstrated in the annual or five year network plan. This plan, which doubles as the five year network plan required by 40 C.F.R. 58.10(d), was submitted to EPA on July 1, 2015.

Monitoring data is available to EPA upon request.

Section 110(a)(2)(C): Programs for Enforcement, PSD, and NSR

Requirement Summary
"Each such plan shall . . . include a program to provide for the enforcement of the measures described in subparagraph (A), and regulation of the modification and construction of any stationary source within the areas covered by the plan as necessary to assure that national ambient air quality standards are achieved, including a permit program as required in parts C and D of this subchapter."

Utah’s Infrastructure
SIP Section I (Legal Authority) identifies the statutory provisions that allow DAQ to prevent construction, modification or operation of any stationary source at any location where emissions from such source will prevent the attainment or maintenance of a national standard or interfere
with prevention of significant deterioration requirements (See I.A.1.d). SIP Section I was codified at R307-110-2, and EPA most recently approved the SIP on June 25, 2003 at 68 FR 37744.

SIP Section II (Review of New and Modified Air Pollution Sources) provides that new or modified sources of air pollution must submit plans to the Utah Division of Air Quality and receive approval orders before operating. SIP Section II was codified at R307-110-3, and EPA approved the SIP most recently on June 25, 2003 at 68 FR 37744. The Utah Air Quality Rule R307-401 establishes a minor source permitting program in the state for new and modified sources. R307-401 was most recently approved by EPA on May 5, 1995 at FR 60 FR 22277. Utah’s permitting rules require sources to install best available control technology (BACT) for all pollutants, including PM$_{2.5}$. See R307-401-8.

SIP Section VIII (Prevention of Significant Deterioration) was established as required by the Clean Air Act and applies to all air pollutants regulated under the CAA. SIP Section VIII was codified at R307-110-9 and R307-405, and EPA approved it most recently on July 15, 2011 at 76 FR 41712. On April 14, 2011 Utah submitted revisions to R307-405 to incorporate the federal Tailoring Rule provisions that were promulgated on June 3, 2010. EPA has not yet acted upon this submittal.


Requirement Summary
"Each such plan shall ... contain adequate provisions: prohibiting, consistent with the provisions of this subchapter, any source or other type of emissions activity within the state from emitting any air pollutant in amounts which will contribute significantly to nonattainment in, or interfere with maintenance by, any other state with respect to any such national primary or secondary ambient air quality standard, or interfere with measures required to be included in the applicable implementation plan for any other state under part C of this subchapter to prevent significant deterioration of air quality to protect visibility."

Utah’s Infrastructure

SIP Section XXIII.B (Interstate Transport) demonstrates that sources and emissions activities resulting in PM$_{2.5}$ emissions within the state of Utah do not contribute significantly to nonattainment in, or interfere with maintenance by, any other state with respect to any national primary or secondary ambient air quality standards. SIP Section XXIII was codified at R307-110-37, and EPA approved it most recently on March 28, 2008 at 73 FR 16543.

SIP Section XXIII.C demonstrates that Utah’s SIP Section VIII (PSD) ensures that Utah does not interfere with PSD implementation in other states. SIP Section VIII (PSD) and Utah Air Quality Rule R307-405 hold new major sources and major source modifications subject to the Prevention of Significant Deterioration program outlined at 40 CFR 51.166. SIP Section VIII was codified at R307-110-9, and EPA approved it most recently on July 15, 2011 at 76 FR 41712. On April 14, 2011 Utah submitted revisions to R307-405 to incorporate the federal Tailoring Rule provisions that were promulgated on June 3, 2010. EPA has not yet acted upon this submittal.
SIP Section XXIII.D and XX (Regional Haze) demonstrate that Utah prohibits emissions within the state from interfering with the programs of other states to protect visibility. SIP Section XX determined that sources in Utah do not interfere with visibility plans developed by other states. Utah consulted with other states in the Western Regional Air Partnership and reductions in emissions from Utah were included in the regional visibility modeling. Authority for this section is located in Section 19-2-104, UCA. SIP Section XX was codified at R307-110-28. Amendments to SIP Section XX were submitted to EPA June 11, 2015. EPA has not yet acted upon this submittal.

The 2012 PM2.5 nonattainment areas nearest Utah are in California and Idaho. One of the nonattainment areas in Idaho is the Logan, UT non-attainment area. The majority of this area is in the state of Utah itself. The Utah State SIP Section IX demonstrates that attainment can be achieved by December 31, 2015. Because Utah’s SIP also ensures prevention of significant deterioration in the Logan, UT non-attainment area, Utah will not contribute to non-attainment of that area, which is partially in Idaho.

Regarding the West Silver Valley, ID non-attainment area, Utah does not significantly contribute to its non-attainment status. This is because PM2.5 issues in that area are mostly due to wood combustion and low wind speeds during the wintertime. Utah’s PM2.5 is caused by ammonium nitrate, not wood smoke. The distance of nearly five hundred miles between the Utah border and the West Silver Valley, ID non-attainment area is also indicative of the fact that Utah does not significantly contribute to non-attainment in Idaho. PM2.5 does not travel very far from the state of Utah. This is due to several factors. One of the main reasons is because Utah’s PM2.5 problems occur during the winter time inversion. These are periods of low winds and stagnant air. When wind does come in to transport the PM2.5 it disperses the pollutants before they would be able to travel to northern Idaho.

In our January 31, 2013 infrastructure certification for the 2008 ozone NAAQS, we cited EPA Administrator Gina McCarthy’s November 19, 2012 memo which outlined EPA’s intention to abide by the EME Homer City decision (EME Homer City Generation, L.P. v. E.P.A., 696 F.3d 7 (D.C. Cir. 2012)). This decision required EPA to quantify state transport obligations before deeming SIPs deficient. We noted that EPA had not quantified Utah’s obligation, and that our infrastructure SIP was therefore adequate. However, on April 29, 2014, the U.S. Supreme Court reversed and remanded the D.C. Circuit’s EME Homer City ruling and upheld EPA’s approach in CSAPR (EME Homer City Generation, L.P., 134 S. Ct. 1584, 1610 (2014)). As a result of the Supreme Court reversal and remand, each state is again required to address the interstate transport requirements of 110(a)(2)(D)(i) regardless of whether EPA has quantified the state’s obligation. Given the change in legal interpretation of interstate transport since January 2013, we are updating the 110(a)(2)(D)(i) section of our 2008 ozone NAAQS infrastructure certification to reflect the current requirements.

Utah does not significantly contribute to ozone non-attainment areas in Denver and Southern California. Regarding Denver, the EPA has recently modeled that Utah will contribute 1.59 ppb of ozone to the Denver, Boulder, Greeley-Ft. Collins-Loveland, Colorado non-attainment area (Denver area).
Not only does Utah not believe its contributions to Colorado’s ozone levels are significant, but Utah also has state rules in place that will reduce its overall contribution even further. For example, the following rules will help reduce Ozone emissions and transport in the future: 1) R307-343 regulates VOC emissions from wood furniture manufacturing operations. Stricter limits went into effect January 1, 2015. 2) R307-344 limits volatile organic compound (VOC) emissions from roll, knife, and rotogravure coaters and drying ovens of paper, film, and foil coating operations. 3) R307-345 limits volatile organic compound VOC emissions from fabric and vinyl coating operations. 4) R307-346 limits VOC emissions from metal furniture coatings. 5) R307-347 limits VOC emissions from large appliance surface coatings. 6) R307-348 reduces VOC emissions from magnet wire coating operations. 7) R307-349 limits VOC emissions from flat wood panel coatings operations. 8) R307-350 limits VOC emissions from miscellaneous metal parts and products coatings operations. 9) R307-351 limits VOC emissions from graphic art operations. 10) R307-352 limits VOC emissions from container, closure, and coil coatings operations. 11) R307-353 limits VOC emissions from plastic parts coatings operations. 12) R307-354 limits VOC emissions from automotive refinishing operations. 13) R307-355 limits VOC emissions from aerospace manufacture and rework facilities. 14) 307-356 limits VOC emissions from appliance pilot lights. 15) R307-361 limits VOC emissions from architectural coatings. These area source rules either reduce or have been amended to expand their application to reduce VOC emissions in Utah since 2014. Because VOC is a precursor to ozone, these rules will help reduce ozone emissions coming from Utah and will reduce ozone transport in the process.

In regard to Southern California, Utah does not believe it significantly contributes to non-attainment and maintenance areas for ozone. This is because of the aforementioned area source rules reducing VOC emissions and NOx emissions. It is also because of the general west to east wind direction in the state of Utah. Because of this wind, it is unlikely that ozone coming from Utah is having a significant impact on California.

**Section 110(a)(2)(D)(ii): Interstate and International Transport Provisions**

**Requirement Summary**

"Each such plan shall. . . contain adequate provisions insuring compliance with the applicable requirements of sections 126 and 115 (relating to interstate and international pollution abatement)."

**Utah’s Infrastructure**

EPA has not identified any PM$_{2.5}$ sources in Utah that endanger public health or the welfare of a foreign country. Therefore, Utah is not subject to Section 115 of the Clean Air Act.

SIP Section VIII (*Prevention of Significant Deterioration*) was established as required by the Clean Air Act and applies to all air pollutants regulated under the CAA. In accordance with 40 CFR 51.166(q)(2)(iv), SIP Section VIII requires the Director to notify neighboring states of potential impacts from new major sources or major modifications of PM$_{2.5}$. SIP Section VIII was codified at R307-110-9 and R307-405, and EPA approved it most recently on July 15, 2011 at 76 FR 41712. On April 14, 2011 Utah submitted revisions to R307-405 to incorporate the federal
Tailoring Rule provisions that were promulgated on June 3, 2010. EPA has not yet acted upon these revisions. The PSD SIP and R307-405 contain adequate provisions to be in compliance with Section 126 of the Clean Air Act.

No sources or sources within the state [or tribal area] are the subject of an active finding under section 126 of the CAA with respect to PM$_{2.5}$. Regarding section 115, there are no final findings against Utah [or a tribal area] with respect to PM$_{2.5}$.

SIP Section XX (Regional Haze) determined that sources in Utah do not interfere with visibility plans developed by other states. Utah consulted with other states in the Western Regional Air Partnership and reductions in emissions from Utah were included in the regional visibility modeling. Authority for this section is located in Section 19-2-104, UCA. SIP Section XX was codified at R307-110-28. SIP Section XX was amended and submitted to EPA June 11, 2015. EPA has not yet acted upon this submittal.

**Section 110(a)(2)(E)(i): Adequate Personnel, Funding, and Authority**

**Requirement Summary**
"Each such plan shall . . . provide: (i) necessary assurances that the state (or, except where the Administrator deems inappropiate, the general purpose local government or governments, or a regional agency designated by the state or general purpose local governments for such purpose) will have adequate personnel, funding, and authority under state (and, as appropriate, local) law to carry out such implementation plan (and is not prohibited by any provision of federal or state law from carrying out such implementation plan or portion thereof)"

**Utah’s Infrastructure**
SIP Section V (Resources) commits to implement program activities in relation to resources provided by the annual State or EPA Agreement and Section105 grant applications. SIP Section V (Resources) was codified at R307-110-6, and EPA approved it most recently on June 25, 2003 at 68 FR 37744.

Utah Air Quality Rule R307-414, Permits: Fees for Approval Orders, requires the owner and operator of each new major source or major modification to pay a fee sufficient to cover the reasonable costs of reviewing and acting upon the notice of intent and implementing and enforcing requirements placed on such source by any approval order issued.

**Section 110(a)(2)(E)(ii): Adequate Personnel, Funding, and Authority**

**Requirement Summary**
"Each such plan shall . . . provide . . . (ii) requirements that the state comply with the requirements respecting state boards under section 128."

**Utah’s Infrastructure**
SIP Section I (Legal Authority) identifies the statutory provisions that implement the provisions
of Section 128 of the Clean Air Act respecting State Boards (See I.A.1.g). SIP Section I was codified at R307-110-2, and EPA approved it most recently on June 25, 2003 at 68 FR 37744. Authority for SIP Section I is located at Section 19-2-104, UCA.

The Utah Air Quality Board does not approve permits or enforcement orders, therefore Section 128(a)(1) does not apply to the state of Utah. Utah has recently proposed R307-104, Conflict of Interest. This rule will satisfy the requirements of Section 128(a)(2) of the Clean Air Act. It will become effective in March 2016 after it is adopted by the Utah Air Quality Board. The Board has already proposed the rule, but the public comment period officially begins on January 1, 2016.

**Section 110(a)(2)(E)(iii): Adequate Personnel, Funding, and Authority**

**Requirement Summary**

"Each such plan shall . . . provide . . . (iii) necessary assurances that, where the state has relied on a local or regional government, agency, or instrumentality for the implementation of any plan provision, the state has responsibility for ensuring adequate implementation of such plan provision."

**Utah’s Infrastructure**

SIP Section VI (Intergovernmental Cooperation) lists federal, state, and local agencies involved in protecting air quality in Utah. SIP Section VI was codified at R307-110-7, and EPA approved it most recently on June 25, 2003 at 68 FR 37744. Utah’s Division of Air Quality retains responsibility for ensuring adequate implementation of the SIP.

**Section 110(a)(2)(F): Stationary Source Monitoring and Reporting**

**Requirement Summary**

"Each such plan shall . . . require, as may be prescribed by the Administrator:

(i) the installation, maintenance, and replacement of equipment, and the implementation of other necessary steps, by owners or operators of stationary sources to monitor emissions from such sources,
(ii) periodic reports on the nature and amounts of emissions and emissions-related data from such source
(iii) correlation of such reports by the state agency with any emission limitations or standards established pursuant to this chapter, which reports shall be available at reasonable times for public inspection."

**Utah’s Infrastructure**

SIP Section III (Source Surveillance) describes Utah’s programs to monitor sources, including emission inventories, plant inspections, and emission testing. SIP Section III is codified at R307-110-4, and EPA approved it most recently on June 25, 2003 at 68 FR 37744.

R307-150 requires sources to submit periodic emission inventories for criteria pollutants and their precursors and hazardous pollutants. R307-150 was most recently approved by EPA on
July 17, 1997, 62 FR 38215. Utah has submitted numerous changes to the inventory rule since that date to incorporate new federal requirements, such as the Consolidated Emission Reporting Rule (CERR), and EPA has not yet acted on any of these submittals.

R307-165 requires sources to conduct periodic tests to assure compliance with the emissions limitations established in approval orders or the SIP. R307-165 was most recently approved by EPA on February 14, 2006 at 71 FR 7679.

R307-170 requires certain large sources to install and maintain continuous emission monitors to assure compliance with emission limitations established in approval orders and the SIP. R307-170 was most recently approved by EPA on September 2, 2008, 73 FR 51222.

SIP Section II (Review of New and Modified Air Pollution Sources) provides that new or modified sources of air pollution must submit plans to the Utah Division of Air Quality and receive approval orders before operating. SIP Section II was codified at R307-110-3, and EPA approved it most recently on June 25, 2003 at 68 FR 37744. The Utah Air Quality Rule R307-401 establishes a minor source permitting program in the state for new and modified sources. R307-401 was most recently approved by EPA on May 5, 1995 at FR 60 FR 22277.

SIP Section VIII (Prevention of Significant Deterioration) was established as required by the Clean Air Act and applies to all air pollutants regulated under the CAA. SIP Section VIII was codified at R307-110-9 and R307-405, and EPA approved it most recently on July 15, 2011 at 76 FR 41712. On April 14, 2011 Utah submitted revisions to R307-405 to incorporate the federal Tailoring Rule provisions that were promulgated on June 3, 2010. EPA has not yet acted upon this submittal.

Section 110(a)(2)(G): Emergency Episodes

**Requirement Summary**
"Each such plan shall provide for authority comparable to that in section 303 of this title and adequate contingency plans to implement such authority."

**Utah’s Infrastructure**
SIP Section I (Legal Authority) identifies the statutory provisions to abate pollutant emissions on an emergency basis to prevent substantial endangerment to the health of persons (See I.A.1.g). The legal authority to implement SIP Section I is contained in the Utah Air Conservation Act Section 19-2-112. SIP Section I was codified at R307-110-2, and EPA approved it most recently on June 25, 2003 at 68 FR 37744.

U.C.A. §19-2-116(3)(a) also provides the director the power to “initiate an action for appropriate injunctive relief…when it appears necessary for the protection of health and welfare.” U.C.A. §19-2-112(2)(a) provides authority to the “executive director, with the concurrence of the governor” to order people “causing or contributing to… air pollution to reduce or discontinue immediately the emission of air pollutants” if the “executive director finds that a generalized condition of air pollution exists and that it creates an emergency requiring immediate action to
In regard to imminent and substantial endangerment to the environment, Utah’s Emergency Management Act allows the Governor to issue rules and regulations having the “full force and effect of law” during disasters. The Governor may also suspend rules and regulations of state agencies that would prevent the ability to adequately deal with such disasters. See U.C.A. 53-2a-209.

SIP Section VII (Prevention of Air Pollution Emergency Episodes) provides the basis for taking action to prevent air pollutant concentrations from reaching levels which could endanger the public health or to abate such concentrations should they occur. The legal authority to implement SIP Section VII is contained in the Utah Air Conservation Act Section 19-2-112. SIP Section VII was codified at R307-110-8, and EPA approved it most recently on June 25, 2003 at 68 FR 37744.

Section 110(a)(2)(H): Future SIP revisions

Requirement Summary
"Each such plan shall . . . provide for revision of such plan--(i) from time to time as may be necessary to take account of revisions of such national primary or secondary ambient air quality standard or the availability of improved or more expeditious methods of attaining such standard, and (ii) except as provided in paragraph (3)(C), whenever the Administrator finds on the basis of information available to the Administrator that the plan is substantially inadequate to attain the national ambient air quality standard which it implements or to otherwise comply with any additional requirements established under this chapter (CAA).”

Utah’s Infrastructure
SIP Section I (Legal Authority) identifies the statutory provisions that allow the Utah Division of Air Quality to revise its plans to take account of revisions of national ambient air quality standard and to adopt expeditious methods of attaining and maintaining such standard (See I.A.1.a). The legal authority to implement SIP Section I is contained in the Utah Air Conservation Act Section 19-2-112. SIP Section I was codified at R307-110-2, and EPA approved it most recently on June 25, 2003 at 68 FR 37744.

Section 110(a)(2)(J): Consultation with Government Officials

Requirement Summary
"meet the applicable requirements of section 121 (relating to consultation)”

Utah’s Infrastructure
SIP Section I (Legal Authority) adopts requirements for transportation consultation (Section 174, Clean Air Act) (See I.A.2). SIP Section I was codified at R307-110-2, and EPA approved it most
recently on June 25, 2003 at 68 FR 37744.

SIP Section VI (Intergovernmental Cooperation) provides a listing of federal, state, and local agencies involved in protecting air quality in Utah. SIP Section VI was codified at R307-110-7, and EPA approved it most recently on June 25, 2003 at 68 FR 37744.

SIP Section XII (Transportation Conformity Consultation) establishes the consultation procedures on transportation conformity issues when preparing state plans. SIP Section XII was codified at R307-110-20, and EPA approved it most recently on September 2, 2008 at 73 FR 51222.

Section 110(a)(2)(J): Public Notification

Requirement Summary
"meet the applicable requirements of section 127 of this title (relating to public notification)"

Utah’s Infrastructure
SIP Section XVI (Public Notification) includes provisions to notify the public when NAAQS have been exceeded as per Section 127 of the CAA. SIP Section XVI was codified at R307-110-24, and EPA last approved it on June 25, 2003 at 68 FR 37744.

Section 110(a)(2)(J): PSD and Visibility Protection

Requirement Summary
"meet the applicable requirements of ... part C (relating to prevention of significant deterioration of air quality and visibility protection)"

Utah’s Infrastructure
SIP Section VIII (PSD) describes the program to prevent significant deterioration of areas of the state where the air is clean. SIP Section VIII was codified at R307-110-9 and R307-405, and EPA approved SIP Section VIII and R307-405 most recently on July 15, 2011 at 76 FR 41712. Utah has also submitted further revisions to R307-405 to incorporate the federal Tailoring Rule provisions that were promulgated on June 3, 2010, and EPA has not yet acted on these revisions.

SIP Section XVII (Visibility Protection) describes the program to protect visibility, especially within the boundaries of the five national parks located in Utah. Authority for this section is located in Sections 19-2-101 and 104, UCA. SIP Section XVII was codified at R307-110-25, and EPA approved it most recently on June 25, 2003 at 68 FR 37744.

SIP Section XX (Regional Haze) addresses the requirements in Part C of the CAA relating to regional haze. The SIP was based on the recommendations of the Grand Canyon Visibility Transport Commission established by Section 169B(f) of the CAA. Authority for this section is located in Section 19-2-104, UCA. SIP Section XX was codified at R307-110-28. EPA signed a
notice to approve the majority of Utah’s Regional Haze plan in December 2012, but has not yet published this final action in the FR. In the same action, EPA disapproved the Best Available Retrofit Technology (BART) determinations for NOx and PM for four subject to BART Electric Generating Units (EGUs). UDAQ is currently preparing a new 5-Factor BART analysis for these four EGUs to address the deficiencies identified in EPA disapproval.

Section 110(a)(2)(K): Air Quality Modeling or Data

Requirement Summary
"Each such plan shall. . . provide for-- (i) the performance of such air quality modeling as the Administrator may prescribe for the purpose of predicting the effect on ambient air quality of any emissions of any air pollutant for which the Administrator has established a national ambient air quality standard, and
(ii) the submission, upon request, of data related to such air quality modeling to the Administrator."

Utah’s Infrastructure

Utah Air Quality Rule R307-405-13 incorporates the air quality model provisions of 40 CFR 52.21(l), which includes the air quality model requirements of appendix W of 40 CFR part 51. R307-110-9 codifies SIP Section VIII (PSD). EPA approved SIP Section VIII and R307-405 most recently on July 15, 2011 at 76 FR 41712. On April 14, 2011 Utah submitted revisions to R307-405 to incorporate the federal Tailoring Rule provisions that were promulgated on June 3, 2010. EPA has not yet acted upon this submittal. The Air Quality Board has the authority to propose and finalize rules that require air quality modeling for the purpose of predicting the effect on ambient air quality relating to NAAQS. This authority is found in U.C.A. 19-2-104(1)(a)-(b).

SIP Section II (Review of New and Modified Air Pollution Sources) provides that new or modified sources of air pollution must submit plans to the Division of Air Quality and receive an Approval Order before operating. SIP Section II was codified at R307-110-3, and EPA approved it most recently on June 25, 2003 at 68 FR 37744.

R307-410 establishes the procedures and requirements for evaluating the emissions impact of new or modified sources that require an approval order under R307-401. EPA approved R307-410 most recently on July 8, 1994 at 59 FR 35036.

Section 110(a)(2)(L): Permitting Fees

Requirement Summary
"Each such plan shall require the owner or operator of each major stationary source to pay to the permitting authority, as a condition of any permit required under this chapter, a fee sufficient to cover--
(i) the reasonable costs of reviewing and acting upon any application for such a permit, and
(ii) if the owner or operator receives a permit for such source, the reasonable costs of
implementing and enforcing the terms and conditions of any such permit (not including any court
costs or other costs associated with any enforcement action), until such fee requirement is
superseded with respect to such sources by the Administrator’s approval of a fee program under
subchapter (title) V of this chapter."

Utah’s Infrastructure
SIP Section I (Legal Authority) identifies the statutory authority to charge a fee to major sources
to cover permit and enforcement expenses (See I.A.1.h). SIP Section I was codified at R307-10-2,
and EPA approved it most recently on June 25, 2003 at 68 FR 37744.

Utah Air Quality Rule R307-414, Permits: Fees for Approval Orders, requires the owner and
operator of each new major source or major modification to pay a fee sufficient to cover the
reasonable costs of reviewing and acting upon the notice of intent and implementing and
enforcing requirements placed on such source by any approval order issued. EPA approved
R307-414 most recently on February 14, 2006 at 71 FR 7679.

Utah’s Title V Operating Permits Program (R307-415) was approved by EPA on June 8, 1995 at
60 FR 30192.

Section 110(a)(2)(M): Consultation or Participation by Affected Local
Entities

Requirement Summary
"Each such plan shall . . . provide for consultation and participation by local political
subdivisions affected by the plan."

Utah’s Infrastructure
SIP Section VI (Intergovernmental Cooperation) lists federal, state, and local agencies involved
in protecting air quality in Utah. SIP Section VI was codified at R307-110-7, and EPA approved
it most recently on June 25, 2003 at 68 FR 37744.

SIP Section XII (Transportation Conformity Consultation) establishes the consultation
procedures on transportation conformity issues when preparing state plans. SIP Section XII was
codified at R307-110-2, and EPA approved it most recently on September 2, 2008 at 73 FR
51222.
I, Ryan M. Stephens, Rules Coordinator for the Utah Division of Air Quality, do hereby certify that the public comment period regarding the 2012 PM2.5 Infrastructure SIP was held from October 15 to November 16, 2015. Comments were received, and responses were given. The Infrastructure SIP is now final and contained in this submission for your review.

Signed this 18th day of December 2015.

[Signature]