



Office of the Governor

State of Utah

GARY R. HERBERT
Governor

SPENCER J. COX
Lieutenant Governor

April 13, 2020

Gregory Sopkin, Regional Administrator
US EPA Region 8
1595 Wynkoop Street
Denver, Colorado 80202-1129

Dear Mr. Sopkin,

On March 4, 2020, the Utah Air Quality Board adopted amendments to State Implementation Plan (SIP) Section X, Part B, *Vehicle Inspection and Maintenance Program, Davis County*, and SIP Section X, Part E, *Vehicle Inspection and Maintenance Program, Weber County*. On the same day, the Board adopted amendments to Utah Administrative Code R307-110-32, *Section X, Vehicle Inspection and Maintenance Program, Part B, Davis County*, and R307-110-35, *Section X, Vehicle Inspection and Maintenance Program, Part E, Weber County*. The rules incorporate by reference the State Implementation Plans listed above in the Utah Administrative Code.

Enclosed for your approval are the SIP and rule revisions described above. 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,

Gary R. Herbert
Governor

Enclosures

UTAH

Administrative Documentation

**SIP Section X, Vehicle Inspection and Maintenance Program, Parts
B, Davis County, and E, Weber County.**

**R307-110-32. Section X, Vehicle Inspection and Maintenance
Program, Part B, Davis County.**

**R307-110-35. Section X, Vehicle Inspection and Maintenance
Program, Part E, Weber County.**

**State of Utah
Department of Environmental Quality
Division of Air Quality
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May 21, 2020

UTAH
ADMINISTRATIVE DOCUMENTATION May 2020

SIP Section X Parts B and E.

ADMINISTRATIVE DOCUMENTATION Table of Contents

Legal Authority

<i>Utah Code Title 19, Chapter 2, Air Conservation Act</i>	C-1
<i>Utah Code Title 63G, Chapter 3, Administrative Rulemaking Act</i>	C-28
<i>Utah Administrative Code, R15, Administrative Rules</i>	C-46

Proposed for Public Comment

SIP Section X, Parts B and E: Memo to Air Quality Board	P-1
SIP Section X, Part B: Text as Proposed	P-2
SIP Section X, Part E: Text as Proposed	P-62
R307-110-32&35: Memo to Air Quality Board	P-127
R307-110-32: Text as Proposed	P-128
R307-110-35: Text as Proposed	P-130
R307-110-32&35: DAR <i>Bulletin</i> (January 1, 2020) Rule Analysis Form, OAR #52414 and #52415	P-132

Public Comments

R307-110-32&35: DAR Bulletin – Notice of Public Comment	PC-1
SIP Section X, Parts B and E, R307-110-32&35: Summary of Public Comments (None Received)	PC-6

Effective Rule

R307-110-32: Final Text (Certified).....	E-1
R307-110-35: Final Text (Certified)	E-3
R307-110-32&35: OAR <i>Bulletin</i> (April 1, 2020) Effective Date Notice	E-5

Certification

Codes

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:

(A) Toxic Substances Control Act, Subchapter II, Asbestos Hazard Emergency Response, 15 U.S.C. 2601 et seq.;

- (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
- (ii) reviewing and approving asbestos management plans submitted by local education agencies under the Toxic Substances Control Act, Subchapter II, Asbestos Hazard Emergency Response, 15 U.S.C. 2601 et seq.;
- (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)
 - (a) 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:
 - (A) issue orders necessary to enforce the provisions of this chapter;
 - (B) enforce the orders by appropriate administrative and judicial proceedings;
 - (C) institute judicial proceedings to secure compliance with this chapter; or
 - (D) 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:
 - (A) 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
 - (B) 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

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:
 - (A) during local emergencies and utility outages; or
 - (B) if the primary purpose of the burning is to cook food; 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 320, 2017 General Session

19-2-107.7 Water heater regulations.

- (1) As used in this section:
 - (a) "Natural gas-fired water heater" means a device that heats water by the combustion of natural gas to a thermostatically-controlled temperature not exceeding 210 degrees Fahrenheit for use external to the vessel at pressures not exceeding 160 pounds per square inch gauge.
 - (b) "Recreational vehicle" means a motor home, travel trailer, truck camper, or camping trailer, with or without motive power, designed for human habitation for recreational, emergency, or other occupancy.
- (2) A person may not sell or purchase a natural gas-fired water heater that is manufactured after July 1, 2018 with the intent to install it in Utah if the natural gas-fired water heater exceeds the applicable nitrogen oxide emission rate limit set in Title 15A, State Construction and Fire Codes Act.
- (3) A manufacturer in Utah shall display the model number and nitrogen oxide emission rate of a water heater complying with this section on:
 - (a) the shipping carton for the water heater; and
 - (b) the permanent rating plate of each water heater unit.
- (4) This section does not apply to a water heater unit that:
 - (a) uses a fuel other than natural gas;
 - (b) is used in a recreational vehicle; or
 - (c) is manufactured in Utah for shipment and use outside of Utah.

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)

- (i) 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) 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) 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)

(a) 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 bodily 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

19-2-128 Air Quality Policy Advisory Board created -- Composition -- Responsibility -- Terms of office -- Compensation.

(1) There is created the Air Quality Policy Advisory Board consisting of the following 10 voting members:

- (a) two members of the Senate, appointed by the president of the Senate;
 - (b) three members of the House of Representatives, appointed by the speaker of the House of Representatives;
 - (c) the director;
 - (d) one representative of industry interests, appointed by the president of the Senate;
 - (e) one representative of business or economic development interests, appointed by the speaker of the House of Representatives, who has expertise in air quality matters;
 - (f) one representative of the academic community, appointed by the governor, who has expertise in air quality matters; and
 - (g) one representative of a nongovernmental organization, appointed by the governor, who:
 - (i) represents community interests;
 - (ii) does not represent industry or business interests; and
 - (iii) has expertise in air quality matters.
- (2) The Air Quality Policy Advisory Board shall:
- (a) seek the best available science to identify legislative actions to improve air quality;
 - (b) identify and prioritize potential legislation and funding that will improve air quality; and
 - (c) make recommendations to the Legislature on how to improve air quality in the state.
- (3)
- (a) Except as required by Subsection (3)(b), members appointed under Subsections (1)(d), (e), (f), and (g) are appointed to serve four-year terms.
 - (b) Notwithstanding the requirements of Subsection (3)(a), the governor, president of the Senate, and speaker of the House of Representatives shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of members are staggered so that approximately half of the advisory board is appointed every two years.
 - (c) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term.
- (4) The advisory board shall elect one member to serve as chair of the advisory board for a term of one year.
- (5) Compensation for a member of the advisory board who is a legislator shall be paid in accordance with Section 36-2-2 and Legislative Joint Rules, Title 5, Chapter 3, Legislator Compensation.
- (6) A member of the advisory board who is not a legislator 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.
- (7) The department shall provide staff support for the advisory board.

Enacted by Chapter 140, 2017 General Session

19-2-129 Gasoline vapor recovery -- Penalties.

- (1) As used in this section:
- (a) "Gasoline cargo tank" means a tank that:
 - (i) is intended to hold gasoline;
 - (ii) has a capacity of 1,000 gallons or more; and

- (iii) is attached to or intended to be drawn by a motor vehicle.
 - (b) “Operator” means an individual who controls a motor vehicle:
 - (i) to which a gasoline cargo tank is attached; or
 - (ii) that draws a gasoline cargo tank.
 - (c) “Underground storage tank” means the same as that term is defined in Section 19-6-102.
- (2) The operator of a gasoline cargo tank shall comply with requirements of this section if the operator:
- (a) permits the loading of gasoline into the gasoline cargo tank; or
 - (b) loads an underground storage tank with gasoline from the gasoline cargo tank.
- (3) Except as provided in Subsection (6), the operator of a gasoline cargo tank may permit the loading of gasoline into a tank described in Subsection (2) or load an underground storage tank with gasoline from the gasoline cargo tank described in Subsection (1) only if:
- (a) emissions from the tank that dispenses 10,000 gallons or more in any one calendar month are controlled by the use of:
 - (i) a properly installed and maintained vapor collection and control system that is equipped with fittings that:
 - (A) make a vapor-tight connection; and
 - (B) prevent the release of gasoline vapors by automatically closing upon disconnection; and
 - (ii) submerged filling or bottom filling methods; and
 - (b) the resulting vapor emitted into the air does not exceed the levels described in Subsection (4).
- (4) Vapor emitted into the air as a result of the loading of a tank under Subsection (3) may not exceed 0.640 pounds per 1,000 gallons transferred.
- (5)
- (a) The department may fine an operator who violates this section:
 - (i) up to \$1,000 for a first offense; or
 - (ii) up to \$2,000 for a second offense.
 - (b) An operator who violates this section is guilty of a class C misdemeanor for a third or subsequent offense.
- (6) If a facility at which an underground storage tank is located does not have the equipment necessary for an operator of a gasoline cargo tank to comply with Subsection (3), the operator is excused from the requirements of Subsections (3) and (4) and may not be fined or penalized under Subsection (5).

Enacted by Chapter 395, 2017 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 Section 53-3-102;
 - (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 Section 19-2-102.
- (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.

Amended by Chapter 321, 2016 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 this part from the Conversion to Alternative Fuel Grant Program Fund created in Section 19-1-403.3 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.

Amended by Chapter 369, 2016 General Session

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

- (1) The director may make grants from the Conversion to Alternative Fuel Grant Program Fund created in Section 19-1-403.3 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.

Amended by Chapter 369, 2016 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 the Conversion to Alternative Fuel Grant Program Fund 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.

Amended by Chapter 369, 2016 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) “Department” means the Department of Administrative Services created in Section 63A-1-104.

(7) “Effective” means operative and enforceable.

(8) “Executive director” means the executive director of the department.

(9)

(a) “File” means to submit a document to the office as prescribed by the department.

(b) “Filing date” means the day and time the document is recorded as received by the office.

(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) “Office” means the Office of Administrative Rules created in Section 63G-3-401.

(12) “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.

(13) “Person” means any individual, partnership, corporation, association, governmental entity,

or public or private organization of any character other than an agency.

(14) “Publication” or “publish” means making a rule available to the public by including the rule or a summary of the rule in the bulletin.

(15) “Publication date” means the inscribed date of the bulletin.

(16) “Register” may include an electronic database.

(17)

(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.

(18) “Rule analysis” means the format prescribed by the department to summarize and analyze rules.

(19) “Small business” means a business employing fewer than 50 persons.

(20) “Substantive change” means a change in a rule that affects the application or results of agency actions.

Amended by Chapter 193, 2016 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 office.
- (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 misdemeanor 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 executive director or the executive director's designee 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 office.

(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 181, 2017 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 department 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 office.

(b) Rule amendments shall be marked with new language underlined and deleted language struck out.

(c)

(i) The office 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 executive director or the executive director's designee determines that the rule is too long to publish, the office shall publish the rule analysis and shall publish the rule by reference to a copy on file with the office.

(5) Before filing a rule with the office, the agency shall conduct a thorough analysis, consistent with the criteria established by the Governor's Office of Management and Budget, of the fiscal impact a rule may have on businesses, which criteria may include:

- (a) the type of industries that will be impacted by the rule, and for each identified industry, an estimate of the total number of businesses within the industry, and an estimate of the number of those businesses that are small businesses;
- (b) the individual fiscal impact that would incur to a typical business for a one-year period;
- (c) the aggregated total fiscal impact that would incur to all businesses within the state for a one-year period;
- (d) the total cost that would incur to all impacted entities over a five-year period; and
- (e) the department head's comments on the analysis.

(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;
- (l) the agency's analysis on the fiscal impact of the rule as required under Subsection (5);
- (m) any additional comments the department head may choose to submit regarding the fiscal impact the rule may have on businesses; and

(n) if applicable, a summary of the agency's efforts to comply with the requirements of Subsection (6).

(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 office in the form required by the department.

(c) The notice of effective date may not provide for an effective date prior to the date it is received by the office.

(d) The office 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 office 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 255, 2017 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)
 - (i) 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 office:
 - (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 office 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 office 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 office 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.

Amended by Chapter 193, 2016 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 office:
 - (i) the text of the rule; and
 - (ii) a rule analysis that includes the specific reasons and justifications for its findings.
 - (b) The office 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 193, 2016 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 office 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 office the five-year notice of review and statement of continuation required in Subsection (3)(a).
- (4) The office 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 office 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 office'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 office indicating the reason for the extension; and

(b) the office shall publish notice of the extension in the bulletin in accordance with the office's publication schedule established by 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 office 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.

Amended by Chapter 193, 2016 General Session

Part 4

Office of Administrative Rules

63G-3-401 Office of Administrative Rules created -- Coordinator.

(1) There is created within the Department of Administrative Services the Office of Administrative Rules, to be administered by a coordinator.

(2) The coordinator shall hire, train, and supervise staff necessary for the office to carry out the provisions of this chapter.

Amended by Chapter 193, 2016 General Session

63G-3-402 Office of Administrative Rules -- Duties generally.

(1) The office shall:

(a) record in a register the receipt of all agency rules, rule analysis forms, and notices of

- effective dates;
 - (b) make the register, copies of all proposed rules, and rulemaking documents available for public inspection;
 - (c) publish all proposed rules, rule analyses, notices of effective dates, and review notices in the bulletin at least monthly, except that the office may publish the complete text of any proposed rule that the executive director or the executive director's designee determines is too long to print or too expensive to publish by reference to the text maintained by the office;
 - (d) compile, format, number, and index all effective rules in an administrative code, and periodically publish that code and supplements or revisions to it;
 - (e) publish a digest of all rules and notices contained in the most recent bulletin;
 - (f) publish at least annually an index of all changes to the administrative code and the effective date of each change;
 - (g) print, or contract to print, all rulemaking publications the executive director determines necessary to implement this chapter;
 - (h) 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;
 - (i) distribute without charge the digest and index to state legislators, agencies, political subdivisions on request, and the Office of Legislative Research and General Counsel;
 - (j) distribute, at prices covering publication costs, all paper rulemaking publications to all other requesting persons and agencies;
 - (k) provide agencies assistance in rulemaking;
 - (l) if the department operates the office 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;
 - (m) administer this chapter and require state agencies to comply with filing, publication, and hearing procedures; and
 - (n) make technological improvements to the rulemaking process, including improvements to automation and digital accessibility.
- (2) The department shall establish by rule in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, all filing, publication, and hearing procedures necessary to make rules under this chapter.
- (3) The office may after notifying the agency make nonsubstantive changes to rules filed with the office 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.
- (4) In addition, the office 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) correct defective or inconsistent section and paragraph structure in arrangement of the subject matter of rules.
- (5) For nonsubstantive changes made in accordance with Subsection (3) or (4) after publication of the rule in the bulletin, the office 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.
- (6) All funds appropriated or collected for publishing the office's publications shall be nonlapsing.

Amended by Chapter 193, 2016 General Session

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

- (1) When the executive director determines that the Utah Administrative Code requires extensive revision and reorganization, the office may repeal the code and reenact a new code according to the requirements of this section.
- (2) The office 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 office 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 office 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 office 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 office 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 office 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 193, 2016 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)
 - (i) 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)
 - (i) 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)
 - (i) 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 office shall submit a copy of each issue of the bulletin to the committee.
- (3)
 - (a) 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 193, 2016 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)

(i) 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.

(ii) 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 department 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.

Amended by Chapter 181, 2017 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 office 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 office is considered the correct, current version.

Amended by Chapter 193, 2016 General Session

R15. Administrative Services, Administrative Rules (Office of).

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.

R15-1-2. Definitions.

- (1) Terms used in this rule are defined in Section 63G-3-102.
- (2) In addition:
 - (a) "coordinator" means the coordinator of the Office of Administrative Rules;
 - (b) "hearing" means an administrative rule hearing; and
 - (c) "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 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) 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.

R15-1-8. Decision on an Issue Regarding Rulemaking Procedure.

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

R15-1-9. Appeal and Judicial Review.

(1) Persons may appeal the decision of the agency head or the coordinator 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 11, 2015

Authorizing, and Implemented or Interpreted Law: 63G-3-402

R15. Administrative Services, Administrative Rules (Office of).

R15-2. Public Petitioning for Rulemaking.

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.

R15-2-2. Definitions.

- (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.

R15-2-3. Petition Procedure.

- (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

Date of Enactment or Last Substantive Amendment: December 25, 2006

Notice of Continuation: September 11, 2015

Authorizing, and Implemented or Interpreted Law: 63G-3-601

R15. Administrative Services, Administrative Rules (Office of).
R15-3. Administrative Rules: Scope, Content, and When Required,

R15-3-1. Authority, Purpose, and Definitions.

- (1) This rule is authorized under Subsection 63G-3-402(1) and (2).
- (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 office has authority over nonsubstantive content under Subsections 63G-3-402(3) and (4), 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 providing the office a copy of material incorporated by reference.

R15-3-4. Computer-Prohibited Material.

- (1) All rules shall be in a format that permits their compatibility with the office'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 office 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

Date of Enactment or Last Substantive Amendment: April 30, 2007

Notice of Continuation: September 11, 2015

Authorizing, and Implemented or Interpreted Law: 63G-3-201; 63G-3-301; 63G-3-402

R15. Administrative Services, Administrative Rules (Office of).
R15-4. Administrative Rulemaking Procedures.

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(2).
- (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 office 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)(e);
 - (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(4)(b);
 - (d) "Compliance cost" means expenditures a regulated person will incur if a rule or change is made effective;
 - (e) "coordinator" means the coordinator of the Office of Administrative Rules;
 - (f) "Cost" means the aggregated expenses persons as a class affected by a rule will incur if a rule or change is made effective;
 - (g) "eRules" means the administrative rule filing application that agencies use to file rules and notices;
 - (h) "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.
- (i) "Unmarked change" means a change made to rule text that was not marked as required by Subsection 63G-3-301(4)(b).

R15-4-3. Publication Dates and Deadlines.

- (1) For the purposes of Subsections 63G-3-301(4) 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(12), 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 office of the date the rule is to become effective and enforceable.
 - (b) The agency shall notify the office after determining that the proposed rule, in the form published, shall be the final form of the rule, and after informing the office of any nonsubstantive changes in the rule as provided for in Section R15-4-6.
- (2)(a) The agency shall notify the office by filing with the office 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 office by any other form of written communication clearly identifying the proposed rule, stating the date the rule was filed with the office 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 office 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 office of the date the rule is to become effective and enforceable.

(b) The agency shall notify the office after determining that the rule text as published is the final form of the rule, and after informing the office of any nonsubstantive changes in the rule as provided for in Section R15-4-6.

(2)(a) The agency shall notify the office by filing with the office 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 office 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 office 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 office 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 office, 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 office by filing with the office 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 office makes the change in the Utah Administrative Code.
- (6) The office shall record the nonsubstantive change and its effective date in the administrative rules register.

R15-4-7. Substantive Changes in Proposed Rules.

- (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(20);
 - (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-3-301(12) and Section R15-4-5a.
 - (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 office:
 - (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.
- (3) The office shall publish the rule analysis in the next issue of the bulletin, subject to the publication deadlines of Section R15-4-3. The office 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 R15-4-5b, 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 office 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 office 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 office, 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.

R15-4-9. Underscoring and Striking Out.

- (1)(a) Pursuant to Subsection 63G-3-301(4)(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(4)(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) 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 office 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 coordinator may refuse to codify the change. When determining whether or not to codify an unmarked change, the coordinator 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 coordinator'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(8)(d), 63G-3-303(1)(a), 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 office may, after making an attempt to obtain the required information, refuse to register and publish the rule or change. If the office 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 office has refused to register and publish the rule or change;
 - (b) identify the reason or reasons why the office 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

Date of Enactment or Last Substantive Amendment: August 24, 2007

Notice of Continuation: September 11, 2015

Authorizing, and Implemented or Interpreted Law: 63G-3-301; 63G-3-303; 63G-3-304; 63G-3-402

R15. Administrative Services, Administrative Rules (Office of).

R15-5. Administrative Rules Adjudicative Proceedings.

R15-5-1. Purpose.

- (1) This rule provides the procedures for informal adjudicative proceedings governing:
 - (a) appeal and review of a decision by the office 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 office 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.

R15-5-2. Authority.

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.

R15-5-3. Definitions.

- (1) The terms used in this rule are defined in Section 63G-4-103.
- (2) In addition:
 - (a) "coordinator" means the coordinator of the Office of Administrative Rules; and
 - (b) "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 office shall not publish a proposed rule or rule change when the office determines the agency has not met the requirements of Title 63G, Chapter 3, or of Rules R15-3 or R15-4.
- (2) The office 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 office 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 an office refusal to publish or register a rule or rule change by filing a written petition for review with the coordinator.
- (2) The coordinator 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 coordinator by filing a written appeal to the executive director of the Department of Administrative Services within 20 days of receipt of the coordinator's decision. The executive director shall respond within 20 days affirming or reversing the coordinator's decision.

R15-5-6. Determining the Procedural Validity of a Rule.

- (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 office.
 - (a) The rule at issue may be a proposed rule or an effective rule.
 - (b) The petition must be received by the office 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 office 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 office shall respond to the petition in writing within 20 days of its receipt.
 - (a) The office shall research all records pertaining to the rule or rule change at issue.
 - (b) The response of the office shall state whether the rule is procedurally valid or invalid and how the agency may remedy any defect.
- (c) The office shall send a copy of the petition and its response to the pertinent agency.
- (3) The petitioner may request reconsideration of the office's findings by filing a written request for reconsideration with the coordinator.
 - (a) The coordinator 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 office 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 office 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 office determines is procedurally valid shall be published and registered promptly.

KEY: administrative procedures, administrative law

Date of Enactment or Last Substantive Amendment: June 1, 1996

Notice of Continuation: September 11, 2015

**Authorizing, and Implemented or Interpreted Law: 63G-3-402; 63G-4-202; 63G-4-203;
63G-4-503**

Proposed Rule

TO: Air Quality Board

THROUGH: Bryce C. Bird, Executive Secretary

FROM: Mat Carlile, Environmental Planning Consultant

DATE: November 6, 2019

SUBJECT: PROPOSE FOR PUBLIC COMMENT: Amend SIP Section X, Part B, Vehicle Inspection and Maintenance Program, Davis County; and Part E, Vehicle Inspection and Maintenance Program, Weber County.

Utah Code Annotated 41-6a-1642 gives authority to each county to design and manage a vehicle inspection and maintenance (I/M) program when it is required to attain and maintain any national ambient air quality standard (NAAQS). Section X incorporates these county programs into the Utah State Implementation Plan (SIP). Section X, Part A summarizes I/M requirements that are common among all I/M programs. The other subparts (Parts B through F) contain the requirements for each county's unique I/M program. Section X, Part B is unique to Davis County's I/M program and Section X, Part E is unique to Weber County's I/M program. Amendments to both Section X, Part B and Part E were last adopted by the Board on December 5, 2012.

The Division of Air Quality (DAQ) is asking the Air Quality Board (Board) to propose for public comment amendments to Parts B and E of Utah SIP Section X. The amendments to both Part B and Part E update each county's ordinance/regulation to reflect the activities of the current programs, provide clarity, and ensure that the programs conform to federal requirements.

For example, Davis County moved all of its diesel emission program regulations to an appendix, made changes to its penalty schedule, and removed reference to 'director discretion' in its ordinance. Weber County amended its regulation to specify that all engine switches, regardless of the vehicle model year, will be verified and tested by the health department. Additionally, Appendix H was added to the regulation that includes the EPA's Engine Switching Fact Sheet and references to 'director discretion' were removed.

Staff worked closely with Environmental Protection Agency, Davis County, and Weber County to ensure that these amendments accurately reflect the current I/M programs and that they are approvable by the EPA.

Staff Recommendation: Staff recommends the Board propose amended SIP Section X, Parts B and E for public comment.

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4 **UTAH STATE IMPLEMENTATION PLAN**

5
6 **SECTION X**

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8 **VEHICLE INSPECTION**
9 **AND MAINTENANCE PROGRAM**
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13 **PART B**

14 **DAVIS COUNTY**
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35 Adopted by the Utah Air Quality Board
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Table of Contents

1. Applicability 1

2. Summary of Davis County I/M Program 2

3. I/M SIP implementation..... 4

SECTION X, PART B
DAVIS COUNTY
Appendices

- 1 Davis County Ordinance 10.12 Vehicle Emissions Inspection/Maintenance
2 Program, [~~Ordinance 3-2012,~~] approved and adopted [~~May 29, 2012~~]
3 October 1, 2019.
- 4 2 [~~Audit Policies and Procedures~~]Air Quality Division Operating Procedures
5 10/30/19

UTAH STATE IMPLEMENTATION PLAN
SECTION X
AUTOMOTIVE INSPECTION AND MAINTENANCE (I/M) PROGRAM
PART B
DAVIS COUNTY

1. Applicability

Davis County Inspection and Maintenance (I/M) [p]Program [r]Requirements: ~~[Davis County was designated nonattainment for the 1-hour ozone National Ambient Air Quality Standard (NAAQS) [on January 6, 1992 (56 FR 56694, November 6, 1991)] and classified as "moderate". Davis County was redesignated to an attainment/maintenance area for the 1-hour ozone NAAQS on August 18, 1997 (62 FR 38213, July 17, 1997).]~~ The Utah Air Quality Board adopted an Ozone maintenance plan for Salt Lake and Davis counties on November 5, 1993, to address the 1979 1-hour Ozone National Ambient Air Quality Standard (NAAQS). The plan was reorganized and adopted on January 5, 1995. Revisions to the ozone maintenance plan were adopted by the Board on June 5, 1996, and June 7, 1997. EPA approved the plan on July 17, 1997 (62 FR 38213, July 17, 1997). The ozone maintenance plan required implementation of an improved I/M program no later than January 1, 1998. The ozone maintenance plan established a performance standard that was more stringent than the federal Basic I/M Performance Standard.

On July 17, 1997, EPA approved the State's request to redesignate Salt Lake and Davis counties to attainment for the 1979 1-hour ozone standard. As part of that action, EPA approved the State's 1-hour ozone maintenance plan (62 FR 38213). On July 18, 1997, EPA promulgated an 8-hour ozone NAAQS of 0.08 ppm (62 FR 38894). This standard was intended to replace the 1-hour ozone standard. On April 30, 2004, EPA designated areas of the United States for the 1997 8-hour ozone standard (69 FR 23857). EPA designated all areas in Utah, including Salt Lake County and Davis County, as unclassifiable/attainment for the 1997 8-hour ozone NAAQS (69 FR 23940).

On April 30, 2004, EPA revoked the 1979 1-hour ozone NAAQS (69 FR 23951, 23996; 40 CFR 50.9(b)). As part of that rulemaking, EPA established certain requirements to prevent backsliding in the areas that were redesignated to "attainment" but subject to a maintenance plan, as is the case for Salt Lake County and Davis County. These requirements are codified at 40 CFR 51.905. In the case of Utah, one of these requirements was to submit a maintenance plan for the 1997 8-hour ozone standard. On March 22, 2007, the Governor of Utah submitted a maintenance plan for the 1997 8-hour ozone standard for Salt Lake County and Davis County, and associated rule revisions, which included an I/M program as a control measure. This plan was approved by EPA on September 26, 2013 (78 FR 59242). Davis County was designated as a 'marginal' nonattainment area for the 2015 8-hour ozone standard effective August 3, 2018 (83 FR 25776), June 4, 2018). An I/M program is not required in marginal nonattainment areas; however, if the

1 Davis County is redesignated to a ‘moderate’ nonattainment area, an I/M program would be
2 required by the Clean Air Act (CAA).

3 Utah was previously required by Sections 182 and 187 of the ~~[Clean Air Act]~~CAA to implement
4 and maintain an ~~[Inspection and Maintenance- (I/M)]~~ I/M program in Davis County that met the
5 minimum requirements of 40 CFR Part 51 Subpart S and that was at least as effective as the
6 EPA's Basic Performance Standard as specified in 40 CFR 51.352. However, the Basic
7 Performance Standard requirement is no longer applicable as the nonattainment area in Davis
8 County has~~[ve]~~ been redesignated to attainment / maintenance for the 1979~~[97]~~ 1-hour ozone
9 NAAQS. Parts A and B of Section X, together with the referenced appendices, continue to
10 demonstrate compliance with the 40 CFR Part 51 provisions for ~~[Inspection and~~
11 ~~Maintenance]~~I/M Program Requirements for Davis County and produce mobile source emission
12 reductions that are sufficient to demonstrate continued maintenance of the 1997~~[+]~~8-hour ozone
13 NAAQS. In addition, the Davis County I/M program is a control measure ~~[to attain and maintain~~
14 ~~EPA's particulate NAAQS in Davis County.]~~included in the Salt Lake City 24-hour particulate
15 Serious SIP submitted to EPA on February 15, 2019.

16 **2. Summary of Davis County I/M Program**

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18 Below is a summary of Davis County's I/M program. Section X, Part D Appendices 1 – 2
19 contain the essential documents for Davis County's I/M program.

20
21 *Network Type:* Davis County's I/M program is a decentralized, test-and-repair network.

22
23 *Test Convenience:* There are approximately 140 permitted I/M stations within Davis
24 County. Specific operating hours are not specified by the county. Some stations that test
25 and/or service only one type of vehicle are permitted. There are also government and
26 private fleet permitted stations that are not open to the public.

27
28 *Subject ~~[f]~~Fleet:* All model year 1968 and newer vehicles registered or principally-
29 operated in Davis County are subject to the I/M program except for exempt vehicles.

30
31 *Test ~~F~~frequency:* Vehicles less than two years old as of January 1 on any given year are
32 exempt from an emissions inspection. Vehicles two years old and less than six years old
33 as of January 1 on any given year are inspected every other year as per Utah Code 41-6a-
34 1642(6). All vehicles six years old and older as of January 1 on any given year are
35 inspected annually.

36
37 *Station/~~[i]~~Inspector Audits:* Davis County's I/M program will regularly audit all
38 permitted I/M inspectors and stations to ensure compliance with county I/M ordinance

1 and policies. Particular attention will be given to identifying and correcting any fraud or
2 incompetence with respect to vehicle emissions inspections. Compliance with
3 recordkeeping, document security, analyzer maintenance, and program security
4 requirements will be scrutinized. Davis County I/M program will have an active covert
5 compliance program to minimize potential fraudulent testing. Davis County audit
6 procedures are provided in Appendix 2 of this part of Section X.

7
8 *Waivers:* Davis County's I/M program may issue waivers under limited circumstances.
9 The waiver procedure can be found in Davis County's I/M ordinance provided in
10 Appendix 1. Davis County will take corrective action as needed to maintain a maximum
11 waiver rate of 1% of the initially failed vehicles, or the Utah Air Quality Board will revise
12 the SIP and emission reductions claimed based on the actual waiver rate. The conditions
13 for issuing waivers are specified in Davis County's I/M ordinance and meet the minimum
14 waiver issuance criteria specified in 40 CFR Subparts 51.360.

15
16 *Test Equipment:* Specifications for Davis County's emission analyzer and its I/M test
17 procedures, standards and analyzers are provided in Davis County's I/M ordinance
18 provided in Appendix 1. Test equipment and procedure were developed according to
19 good engineering practices to ensure test accuracy. Analyzer calibration specifications
20 and emissions test procedures meet the minimum standards established in Appendix A of
21 the EPA's I/M Guidance Program Requirements, 40 CFR Part 51 Subpart S.

22
23 *Test Procedures:*

- 24
25 • The following vehicles are subject to an OBD II inspection:
- 26 ○ 1996 and newer light duty vehicles¹, and
 - 27 ○ 2008 and newer medium duty vehicles²
- 28
29
- 30 • The following vehicles are subject to a two-speed idle test that is compatible with
- 31 Section VI (Preconditioned Two Speed Idle Test) in Appendix B of the EPA I/M
- 32 Guidance Program Requirements, 40 CFR 51, Subpart S:
- 33 ○ 1995 and older vehicles,
 - 34 ○ 1996 to 2007 medium and heavy duty vehicles³, and
 - 35 ○ 2008 and newer heavy duty vehicles.
- 36
37
38

1 Light duty vehicles have a Gross Vehicle Weight of 8500 lbs or less.

2 Medium duty vehicles have a Gross Vehicle Weight greater than 8500 lbs but less than 14,000 lbs

3 Heavy Duty vehicles have a Gross Vehicle Weight greater 14,000 lbs

3. I/M SIP Implementation

The I/M program ordinance, policies, procedures, and activities specified in this I/M SIP revision have been implemented and shall continue until a maintenance plan without an I/M program is approved by EPA in accordance with Section 175 of the Clean Air Act as amended.

**Appendix 1: Davis County Vehicle
Emissions Inspection/Maintenance
Program Ordinance**

**DAVIS COUNTY
VEHICLE EMISSIONS
INSPECTION/MAINTENANCE
PROGRAM ORDINANCE**

September 2019



Davis

C O U N T Y

**DAVIS COUNTY
ORDINANCE NO. 10.12**

**DAVIS COUNTY VEHICLE EMISSIONS
INSPECTION/MAINTENANCE PROGRAM ORDINANCE**

**AN ORDINANCE AMENDING SECTION 10.12 - OF THE DAVIS COUNTY CODE
RELATING TO THE VEHICLE INSPECTION AND MAINTENANCE PROGRAM FOR
DAVIS COUNTY**

The Board of County Commissioners of Davis County, Utah, in a regular meeting, lawful notice of which has been given, finds that:

WHEREAS it is in the best interests of Davis County residents to have clean, safe and breathable air; and

WHEREAS adoption and implementation of a vehicle Inspection and maintenance program is likely to promote the values of clean, safe and breathable air in Davis County, and

WHEREAS it is in the best interest of the County that this Ordinance be adopted.

THEREFORE, the Board of County Commissioners of Davis County, Utah, hereby adopts the following Ordinance:

BE IT ORDAINED THAT

Section 10.12 of the Davis County Code is amended and enacted to read:

Table of Contents

Section	
10.12.010	Adopted.....1
10.12.020	Definitions.....1
10.12.030	Purpose.....6
10.12.040	Jurisdiction of the Division.....6
10.12.050	Powers and Duties.....6
10.12.060	Scope.....7
10.12.070	General Provisions7
10.12.080	Standards and Specifications for Emissions Inspection Analyzers (EIA) and Span Gases for Equipment.....9
10.12.090	Requirements of the Vehicle Emissions Inspection/ Maintenance Program Stations.....10
10.12.100	Testing and Permitting of Applicants for Certified Emissions Testers and/or Repair Technicians14
10.12.110	Official Inspection Procedures17
10.12.130	Emissions Standards for Motor Vehicles19
10.12.140	Certificates of Compliance and Waivers19
10.12.150	Engine Switching.....21
10.12.160	Right to Appeal.....21
10.12.170	Recall21
10.12.180	Penalty.....22
10.12.200	Quality Assurance.....22
10.12.210	Severability22
10.12.240	Fee Schedule23

10.12.250	Emissions Standards	24
10.12.260	Waiver Cut Points	25
10.12.270	Passing Versus Waiver Cut Point Comparison.....	26
10.12.280	Penalty Schedule	27
10.12.290	Conflicts	28
Appendix A	Worldwide EIS 5000/7000 Analyzer Specs....	30
Appendix B	TSI Inspection Procedures...	32
Appendix C	OBD II Inspection Procedures.....	33
Appendix D	Diesel Inspection Procedures.....	34
Appendix E	CNG Inspection Procedures.....	46

10.12.010 Adopted

The Davis County Vehicle Emissions Inspection/Maintenance Program Ordinance compiled in book form and bearing the date of October 31, 2014, three (3) copies of which book are on file in the office of the Davis County Clerk, and one (1) copy which is on file in the office of the Davis County Health Department, is adopted as the Davis County Vehicle Emissions Inspection/Maintenance Program Ordinance and is incorporated into this chapter.

10.12.020 Definitions

For the purpose of this Chapter, the following terms, phrases and words shall have the following meanings, unless otherwise defined:

1. Accuracy: the degree by which an analyzer is able to determine the concentration of pollutants of interest (see Appendix A).
2. AIR (Air Injection Reaction) System: a system for providing supplementary air into a vehicle's exhaust system to promote catalytic reaction.
3. Air Intake Systems: systems that allow for the induction of ambient air, including when applicable, preheated air into the engine combustion chamber for the purpose of mixing with a fuel for combustion.
4. ASE: the National Institute for Automotive Service Excellence.
5. Audit: a periodic quality assurance check performed by the Division on equipment and personnel regulated under this Chapter; includes Covert and Overt Audits.
6. Auditor: an employee of the Division who performs audits.
7. Automotive Imports (imported vehicles): vehicles manufactured for use outside of the United States that may not meet U.S.E.P.A. Emissions requirements for the year manufactured.
8. BAR 97: refers to California Bureau of Automotive Repair Analyzer Specifications which became effective in 1997.
9. Basic I/M Inspection or Test: testing as approved by the Division applicable to Motor Vehicles of Model Years and vehicle weight classifications specified by this Chapter and the Division.
10. Calibration: the process of establishing or verifying the Accuracy of an analyzer or other test equipment using precisely known values/concentrations.
11. Calibration Gases: gases of accurately known concentrations that are used as references for establishing or verifying the Calibration curve and Accuracy of an analyzer.
12. C.A.R.B.: the California Air Resource Board.
13. Carbon Monoxide (CO): a colorless, odorless, asphyxiating gas produced by the incomplete burning of fuels.
14. Catalytic Converter: a post-combustion device that uses a catalyst to reduce the toxicity of Emissions from an internal combustion engine.
15. Certificate or Certificate of Compliance: a document used in the Vehicle Emissions Inspection/Maintenance Program to certify that the vehicle has met the requirements of this Chapter.
16. Certification: assurance by an authorized source, whether it be the Federal Government, a laboratory, the manufacturer, the State, or the Division, that a specific product or statement is in fact true and meets all applicable requirements.
17. Certified Basic Test Station (Test Station): a stationary business Permitted by the Division and operated as required by this Chapter to perform I/M Inspections.
18. Certified Emissions Repair Station (Repair Station): a stationary business Permitted by the Division which engages in Emissions Related Repairs to vehicles, and which meets the requirements of this Chapter to perform I/M Inspections.

19. Certified Emissions Repair Technician: a person currently Permitted by the Division who diagnoses Emissions related faults, and supervises Emissions Related Repairs and adjustments to bring vehicles into compliance with the requirements of this Chapter. The Repair Technician also performs Emissions tests.
20. Certified Emissions Tester: a person currently Permitted by the Division who inspects vehicles in a Division Permitted I/M Program Station to determine their compliance with vehicle Emissions Standards, also referred to as an Inspector.
21. CO: Carbon Monoxide gas.
22. CO₂: Carbon Dioxide gas.
23. Compliance Assurance List: a list of vehicles required to be presented to the Testing Center for a challenge, Referee or other type of official emission Inspection.
24. Compressed Natural Gas (CNG) Vehicles: Motor Vehicles which are propelled by a compression-ignited engine using Compressed Natural Gas fuels.
25. Consent Agreement: a monetary penalty paid to the Division in lieu of Suspending a Permit.
26. County: Davis County, Utah.
27. Covert Audit: an Audit that is conducted without the Station and/or Inspector knowing that an Audit is being conducted at the time of the Audit.
28. Curb Idle: the manufacturer's specified idle speed.
29. Cut Points: See Emissions Standards.
30. Davis County Testing Center: the Certified Basic Test Station operated by the Division or a Division Representative.
31. Dedicated Printer: the printer on the approved Emissions Inspection Analyzer (EIA) which is used solely to print Certificates, VIRs, and other official Division required documents.
32. Diesel Particulate Filter System (D.P.F.): an exhaust after-treatment device that significantly reduces Emissions from diesel fueled vehicles by capturing particulate matter.
33. Diesel Powered Motor Vehicle: vehicles which are propelled by a compression-ignited engine using diesel fuels.
34. Director: the Director of the Environmental Health Division of the Davis County Health Department or a Division Representative.
35. Division: the Davis County Environmental Health Division.
36. Division Representative: a person or entity that has been granted the authority to represent or act on behalf of the Division or the Director in enforcing or ensuring the provisions of this Chapter are met; this may include an employee of the Division, a contractor employed by the Division, a permitted station, or a permitted technician.
37. Dynamometer: a vehicle power absorption device which has the ability to approximate or simulate actual on-road operation of Motor Vehicles through the application of variable loading.
38. Electronic/Mechanical Tampering: addition of any electronic or mechanical device that would alter the original manufacturers design or would alter the performance of the vehicle; C.A.R.B and U.S.E.P.A. certified components are exempt.
39. Emissions: substances expelled into the atmosphere from any opening down-stream of the exhaust valve of a Motor Vehicle, particularly air contaminants produced by combustion and/or incomplete combustion as well as hydrocarbon evaporation from the fuel system and the crankcase.
40. Emissions Control Device: a design element or device installed on a Motor Vehicle by the manufacturer to comply with the standards of the Clean Air Act, 42 USC, Section 7521, including but not limited to the Oxygen Sensor, Catalytic Converter and the Fuel Inlet Restrictor; and devices integral to the Exhaust Gas Recirculation (EGR) System, the Evaporative Emissions Control System, the Positive Crankcase Ventilation (PCV) System, the Air Injection System, the Fuel Metering System and the Ignition System.

41. Emissions Inspection Analyzer (EIA): an analyzer approved by the Division for use in the areas of Utah requiring Inspections as specified in Section 41-6a-1642 and 41-6a-1644, Utah Code Annotated, 1953, as amended. An instrument that is capable of measuring the concentrations of certain air contaminants in the exhaust gas emanating from a Motor Vehicle which is approved by the Division for this use in accordance with this Chapter as an official test instrument.
42. Emissions Related Repair: the Inspection, adjustment, repair or replacement of Motor Vehicle engine systems, subsystems or components necessary to bring a vehicle into compliance with the Emissions Standards set forth in this Chapter.
43. Emissions Standard: the maximum allowable concentrations of Carbon Monoxide (CO) and Hydrocarbons (HC) for a given weight class and Model Year of a Motor Vehicle; or compliance to OBDII interrogation.
44. Engine Switching: a situation where one engine is removed from a vehicle and is replaced with an engine that is not identical to the original engine.
45. Evaporative Control System: an Emissions Control System that prevents the escape of fuel vapors from the fuel tank or air cleaner, and stores them to be burned in the combustion chamber.
46. Exemption Form: a document used to verify that a vehicle is exempt from the testing and repair/adjustment requirements of this Chapter.
47. Exhaust Gas Recirculation (EGR) System: an Emissions control system that recycles or recirculates a portion of the exhaust gases back to the engine combustion chambers.
48. Farm Truck: a truck Registered as a Farm Truck under the provisions of the Utah Code 41-1a-102.
49. Federal Installation: any property or facility subject to the jurisdiction of any department, agency, or instrumentality of the executive, legislative, or judicial branches of the Federal government.
50. Fleet Vehicle: a vehicle that is owned by a government entity, a business, or other organization.
51. Gas Calibration: a procedure using known concentrations of HC and CO span gases to verify the Accuracy of an analyzer in measuring HC and CO.
52. Gaseous Fuel: petroleum gases and natural gases in liquefied or gaseous forms.
53. Gross Vehicle Weight Rating (GVWR): the total vehicle weight, including load, as designated by the vehicle manufacturer.
54. Hang-up: a situation in which Hydrocarbons cling to the surface of the sampling and analyzer systems in contact with the exhaust gas sample stream resulting in errors in HC readings.
55. Heavy Duty Motor Vehicles: non-diesel trucks and vans that are 1978 and older, with a 6001 or greater GVWR rating, and 1979 and newer Model Year vehicles with over 8501 GVWR; Diesel Powered Motor Vehicles with a 14,001 pounds GVWR or greater.
56. High Altitude Specifications: tune-up specifications that have been provided by the manufacturer to the Environmental Protection Agency (E.P.A.) for vehicles operating 4,000 feet or more above sea level.
57. Hydrocarbons (HC): unburned or incompletely burned fuel.
58. Ignition Systems: parts or assemblies that are designed to initiate and time the ignition of a compressed air/fuel charge.
59. I/M Program: the Davis County Vehicle Emissions Inspection/Maintenance Program.
60. Inspection: a vehicle Emissions test performed for the purpose of determining whether a vehicle qualifies for issuance of a Certificate of Compliance.
61. Inspection Area: the area that is occupied by the Emissions Inspection Analyzer (EIA), test equipment and the vehicle being inspected.
62. Inspector: a Certified Emissions Repair Technician or Certified Emissions Tester.
63. KOEO: abbreviation of key on engine off.

- 64. KOER: abbreviation of key on engine running.
- 65. Light Duty Motor Vehicle: any non-diesel passenger vehicle, 1978 and older Light Duty truck with a GVWR rating of 6000 pounds or less or 1979 and newer truck with a GVWR rating of 8500 pounds or less; any diesel vehicle with a GVWR of 8500 pounds or less.
- 66. Medium Duty Vehicle: a diesel vehicle with a GVWR between 8,501 and 14,000 pounds.
- 67. MIL Light (Malfunction Indicator Lamp): a warning lamp used to inform the driver that a malfunction has been detected by one or more vehicle electronic management systems.
- 68. Model Year: the vehicle Model Year as designated by the manufacturer.
- 69. Motor Vehicle: a self-propelled motorized vehicle with an internal combustion powered engine which is Registered for use on public roads and/or streets. The term “vehicle” is synonymous with Model Vehicle for the purposes of this Chapter.
- 70. Motorcycle: any Motor Vehicle having a saddle for the use of the rider and designed to travel with not more than three wheels in contact with the ground.
- 71. MSO: Manufacturer’s Statement of Origin, Manufacturer’s Certificate of Origin, or a similar document accompanying each newly manufactured vehicle provided by the new vehicle manufacturer.
- 72. N/A: Not applicable.
- 73. Non-Certified Person: any person who has not been Permitted by the Division to perform Inspections.
- 74. OBDII: On Board Diagnostics, second generation.
- 75. Occurrence: an event, incident, episode or circumstance that happens or takes place during an Inspection that does not comply with Division approved policies or procedures; the action or instance of occurring. Each violation of this Chapter that occurs is considered a separate Occurrence.
- 76. Off Highway Vehicle: a vehicle licensed or allowed to operate exclusively off highways.
- 77. On Board Diagnostics: an Emissions control diagnostics system installed on a vehicle as required by the Clean Air Act, 42 USC, Section 7521(m), which identifies deterioration or malfunction of vehicle systems and stores the information for retrieval.
- 78. Ordinance: the total of this document, including any appendices approved by the Davis County Commission.
- 79. Overt Audit: an Audit that the Station and/or Technician is aware of at the time that the Audit is being conducted.
- 80. PCV System (Positive Crankcase Ventilation System): an Emissions Control System which returns crankcase vapors to the combustion chamber.
- 81. PM 2.5: particulate matter with an aerodynamic diameter less than or equal to a nominal two and one-half (2.5) micrometers as measured by an E.P.A. reference or equivalent method.
- 82. Permit: a document issued by the Division to a person or facility granting them authority to perform Inspections in accordance with this Chapter.
- 83. Primary Residence: the place where an individual permanently resides, maintains a permanent residence more than six (6) months during a calendar year, or where an individual lives more than six (6) months during a calendar year. This may also include where a person votes, spouse resides, children attend school, is employed, identifies as an address on a driver’s license, holds a resident hunting or fishing license, etc.
- 84. Probation: to subject an individual or Station to a period of testing and trial to ascertain fitness for a job; Critical examination and evaluation or subjection to such examination and evaluation.
- 85. Prompts: instructions and/or data fields requiring data input to the Emissions Inspection Analyzer (EIA).
- 86. Reciprocity: a written Agreement between Davis County and any other County(s) operating a comparable Inspection program whereby the Certificate from that/those County(s) would be

- accepted for vehicle Registration in Davis County.
87. Reconstructed Vehicle: a vehicle that has been materially altered from its original construction by the removal, addition or substitution of essential parts (frame and body), new or used.
 88. Referee Inspection: an Inspection conducted by the Division or the Division Representative for the purpose of resolving disputes or gathering data.
 89. Registered or Registration: the process by which a Motor Vehicle receives a license so that it can be legally operated on public streets and highways.
 90. Remote OBDII Inspection: an Inspection that is conducted on an OBDII compliant vehicle at a site that is not associated with the Stations Permitted address using a portable EIA.
 91. Replica Vehicle: a vehicle that all components are purchased in a kit similar to a model car. A Motor Vehicle with a body that is or resembles a Model Year prior to 1975, and that may have a significant drive train or equipment upgrade that is used for occasional pleasure rides and is not used for general daily transportation. A Replica Vehicle is not a vintage vehicle or a special interest vehicle.
 92. Revoke: to formally cancel, to make null and void by withdrawing, recalling or reversing; to retract, repeal or invalidate.
 93. RPM: revolutions per minute as pertaining to engine crankshaft speed.
 94. SAE: Society of Automotive Engineers.
 95. Simulator: A device used to simulate the function and operation of a vehicles powertrain control module and is typically equipped with a data link connector.
 96. Smoking Vehicle: any vehicle emitting excessive visible Emissions as defined in Utah Code 41-6a-1626.
 97. Specially Constructed Vehicle: a Motor Vehicle requiring Registration to be operated on public highways and streets which is often a replica of a classic car type and is usually made from the chassis of an existing Motor Vehicle, a chassis made up of parts from more than one vehicle type, or a chassis made from “scratch” often with a replica body from a kit attached to the chassis. It may also be homemade without the use of a kit and they may also be factory manufactured. Those made from a kit are often called “Kit Cars.”
 98. Station: an I/M Program Station or Fleet Station, including all Station personnel, employees and owner(s).
 99. Suspend: to disallow a Permitted Station or Inspector the privilege of performing Vehicle Emissions Inspection/Maintenance Inspections for a specific period of time.
 100. Tampering: the altering or removal of Emissions Control Devices and/or Emissions-related equipment, the use of fuels other than those required by the manufacturer's specification as found in the Motor Vehicle owner's manual, or engine modifications which may include but are not limited to, Exhaust Systems, Air Intake Systems, Ignition Systems, Internal Engine Modifications or Engine Switching, etc.; this also includes Electronic/Mechanical Tampering.
 101. Technical Bulletin: a document issued by the Division to update, clarify or establish policies and/or procedures for their implementation in the Vehicle Emissions Inspection/Maintenance Program.
 102. Testing Center: a facility operated by the Division or a Division Representative for technical or administrative support of the Vehicle Emissions Inspection/Maintenance Program.
 103. Training Program: a formal program administered, conducted or approved by the Division or Division Representative for the education of Permit holders in basic Emissions control technology, Inspection procedures, diagnosis and repair of Emissions-related problems, Vehicle Emissions Inspection/Maintenance Program policies and procedures and this Chapter.
 104. United States Environmental Protection Agency: also referred to as E.P.A. or U.S.E.P.A..
 105. Vehicle Emissions Inspection/Maintenance Program: the program established by the Division pursuant to Utah Code 41-6a-1642 through 1644.

106. Vehicle Inspection Report (VIR): a report printed by the Emissions Inspection Analyzer (EIA) at the end of the test which enumerates the results of the test. The VIR is signed by the Inspector performing the test and the person who presented the vehicle for Inspection.
107. Waiver or Certificate of Waiver: a document used to verify that a vehicle has met the repair or adjustment requirements of the I/M Program Ordinances even though specific Emissions Standards have not been met.

10.12.030 Purpose

It is the purpose of this Chapter to reduce air pollution levels by requiring Inspections of in use Motor Vehicles of all fuel types and by requiring Emissions Related Repairs/adjustments for those vehicles that fail to meet prescribed standards so as to:

- A. protect and promote public health, safety and welfare;
- B. improve air quality;
- C. reduce the aesthetic affront of visible air pollution;
- D. comply with Federal requirements contained in the Clean Air Act Amendments of 1990, PL 101-549; and
- E. comply with the law enacted by the Legislature of the State of Utah, Section 41-6a-1642 through 1644, Utah Code Annotated, 1953, as amended; and with the Utah Air Quality Board requirements under subsection 19-2-104.

10.12.040 Jurisdiction of the Division

All aspects of the Vehicle Emissions Inspection/Maintenance Program within Davis County enumerated in Section 10.12.030 shall be subject to the direction and control of the Division.

10.12.050 Powers and Duties

- A. The Division or a Division Representative shall be responsible for the enforcement and administration of this Chapter and any other powers vested in it by law and shall:
 1. require the submission of information, reports, plans and specifications from Stations, and Inspectors as necessary to implement the provisions, requirements and standards of this Chapter;
 2. issue Permits and charge fees as necessary to implement the provisions, requirements and standards of this Chapter;
 3. perform audits of I/M Program Stations, issue orders and/or notices, hold hearings, levy administrative penalties, and negotiate Consent Agreements as necessary to enforce the purposes of this Chapter;
 4. take samples and make analyses required to ensure that the provisions of this Chapter are met;
 5. develop policies and procedures necessary to ensure that the provisions and purposes of this Chapter are met and accomplished.
 6. The Division shall respond according to policies and procedures to complaints regarding the fairness and integrity of Inspections and shall provide a method that Inspection results may be challenged if there is a reason to believe them to be inaccurate.
 7. The Division or a Division Representative is responsible for performing all Inspections on Light, and Heavy Duty Motor Vehicles.
 8. The Division may perform periodic Inspections during normal business hours on any vehicle that has or will be inspected by a Station.

10.12.060 Scope

It shall be unlawful for any person to fail to comply with any policy, procedure, Technical Bulletin, standard or regulation promulgated by the Federal Government, the State, or the Division, unless expressly waived by this Chapter.

10.12.070 General Provisions

Subject to the exemptions in Section 10.12.070(H), individuals with their Primary Residence in Davis County must register their Motor Vehicles in Davis County and Motor Vehicles that are or will be Registered in Davis County shall be subject to an Inspection performed by any certified I/M Program Station as specified in this Chapter..

- A. It shall be unlawful for any person with a Primary Residence in Davis County to register a vehicle in any other Utah County.
- B. A Certificate of Compliance or Waiver or evidence that the Motor Vehicle is exempt from the Inspection/Maintenance Program requirements (as defined in Section 10.12.070) shall be presented to the County Assessor or the Utah State Tax Commission and the Air Pollution Control Fee paid as conditions precedent to annual Registration or annual renewal of Registration of a Motor Vehicle.
 - 1. All 1968 and newer Model Year Gaseous Fueled and OBDII compliant Light Duty Diesel Powered Motor Vehicles and all 2008 and newer OBDII compliant Medium Duty Vehicles shall be subject to an Inspection at any Station.
 - 2. All 1968 and newer Heavy Duty Diesel Powered Motor Vehicles and all 1968 through 2007 non-OBD II compliant Diesel Powered Motor Vehicles are subject to the requirements in Appendix D of this Chapter.
- C. Fleet Vehicles that are operated from a facility located within Davis County shall be subject to an Inspection at any Station.
- D. A Certificate issued to a dealer licensed with the State of Utah and issued in the dealer's name, shall be valid for Registration purposes for a period of eleven (11) months as specified in Section 41-3-303, Utah Code Annotated, 1953, as amended.
- E. A dealer issuing a temporary Registration for a vehicle Registered in Davis County must supply proof of the vehicle's compliance with this Chapter to the new owner in the form of an official Vehicle Inspection Report (VIR).
- F. Owners of publicly owned vehicles (Federal, State, County or City) shall comply with the Inspection Program requirements. Federally owned vehicles and vehicles of employees operated on a Federal Installation that do not require Registration in the State of Utah shall comply with the Vehicle Emissions Testing requirements of this Chapter, and as required by Section 118 of the Clean Air Act as amended in 1990.
- G. Reciprocity with other vehicle Emissions programs within the state will be allowed as long as Tampering, HC, CO, OBDII or other standards meet or exceed those required by this Chapter in accordance with Section 41-6a-1643, Utah Code Annotated, 1953, as amended.
- H. The following vehicles are exempt from the requirements of this Chapter:
 - 1. Vehicles less than two (2) Model Years old;
 - 2. Even-numbered Model Year vehicles in odd-numbered years and odd-numbered Model Year vehicles in even-numbered years with Model Years less than six (6) years old;
 - 3. All agricultural implements of husbandry and any Motor Vehicle that qualifies for an exemption as required by Section 41-1a-102 Utah Code Annotated, 1953, as amended;

- a. A vehicle Registered as a Farm Truck may obtain an Exemption Form by contacting the Division;
- 4. Any vehicle used for maintenance or construction and not designed or licensed to operate on the highway;
- 5. Any Motorcycle or motor driven cycle (including vehicles which operate with an engine normally used in a Motorcycle with a maximum of three wheels or less);
- 6. Any vehicle Registered exclusively as an Off Highway Vehicle;
- 7. Any vehicle 1967 Model Year or older;
- 8. Any new vehicle being sold for the first time that has a valid MSO (Manufacturer's Statement of Origin) form;
- 9. Any Motor Vehicle which qualifies for legislative or diplomatic exemptions;
- 10. Any vehicle that operates exclusively on electricity or battery power.
- I. A publicly owned vehicle that is issued an "EX" or "UHP" license plate by the Utah Department of Motor Vehicles must provide annual proof of Emissions compliance for each vehicle to the Division upon request.
 - 1. The Division for failure may request the revocation of the Registration through the Utah Department of Motor Vehicles for vehicles if:
 - a. the requested information is not provided; or
 - b. a valid current Emissions Certificate is not acquired.
- J. It shall be the responsibility of the Inspector to inform the owner/operator of the vehicle that the vehicle is not required to have an Inspection for vehicle Registration purposes if a vehicle is exempted from the I/M Program requirements by this Section.
- K. The fees assessed by this Chapter shall be determined according to a fee schedule adopted by the Davis County Commission. The Fee Schedule is referenced in Section 10.12.240 of this Chapter and may be amended by the Davis County Commission as the Commission deems necessary to accomplish the purposes of this Chapter.
 - 1. An Air Pollution Control (APC) Fee is hereby assessed upon every Motor Vehicle Registered in Davis County annually at the time of Registration of the vehicle, including those vehicles that are exempted from the Inspection requirements of this Chapter by Section 10.12.070(H).
 - 2. Those Stations participating in the program hereunder may charge fees for the required service.
 - a. Inspection fees will be set by each Station as specified in Section 10.12.240. If a vehicle fails the Inspection, the owner is entitled to one (1) free second Inspection if the owner returns to the Station that performed the original Inspection within fifteen (15) days. The Station shall extend the free second Inspection time to accommodate the vehicle owner if the Station is unable to schedule the retest of the vehicle within the time period. The Inspection fee shall be the same whether the vehicle passes or fails the Inspection;
 - b. Upon notification by the Division, a Station shall extend the free retest time for vehicle owners who were unable to complete Emissions repairs because of the unavailability of parts to make the necessary repairs; and
 - c. Duplicate Certificates of Compliance may be issued to a vehicle owner/operator within two (2) months of the initial Inspection. Fees for a duplicate Certificate may not exceed the amount specified in Section 10.12.240.
 - 3. These fees are subject to change and may be amended as deemed necessary by the Davis County Commission and are enumerated in Section 10.12.240 of this Chapter.
- L. All Permits and Certificates of Compliance and Certificate of Compliance numbers issued under the provisions of this Chapter remain the property of the Division. Their use is tendered on the

- condition that the user complies with the requirements of this Chapter.
- M. Vehicle Idling Limitation: It shall be unlawful for any owner or operator of any Heavy Duty Motor Vehicle (GVWR greater than 14,001 lbs.) to cause or Permit the same to be idled for a period in excess of fifteen (15) consecutive minutes, or for a period in excess of forty-five (45) minutes in any one-hundred-twenty (120) minute period.
1. Vehicles may be exempted from the idling limitation requirements of Section 10.12.070(M) under the following conditions:
 - a. To supply power to a refrigeration unit for the purpose of cooling the contents of a trailer;
 - b. To provide heat or air conditioning to a sleeper unit of the vehicle or to occupied buses; and
 - c. Emergency response vehicles.
 2. Vehicles exempted from the Vehicle Idling Limitation of this Chapter shall not remain in an idling condition for a period longer than fifteen (15) consecutive minutes, or for a period in excess of forty-five (45) minutes in any one-hundred-twenty (120) minute period if located within five hundred (500) feet of any residence.
- N. Smoking Vehicles: The Division may investigate complaints on Smoking Vehicles to determine if they exceed the standards listed in Utah Code 41-6a-1626).
1. A person who is found guilty of violating the provisions of section 10.12.070 (N) may be charged with a class C misdemeanor.
 2. The Division will establish and maintain a program to receive complaints concerning vehicles emitting excessive visible Emissions within the County.
 - a. A notice may be sent to the owner(s) of any vehicle that is reported to the Division to be emitting excessive Emissions within the County requiring them to report to the Davis County Testing Center to verify compliance with section 10.12.070(N).
 - i. Any vehicle found to be out of compliance with section 10.12.070(N) will be placed on the Division's Compliance Assurance List until it can be determined that the vehicle is in compliance with this Chapter.
 - ii. Penalties may be assessed to the owner(s) of any vehicle that is found to be out of compliance with section 10.12.070(N) on more than one (1) occasion in a two (2) year period.
 - iii. Penalties may be assessed to the owner(s) of any vehicle that fails to report to the Davis County Testing Center following the receipt of a notice.
- O. A person who is found guilty of Tampering with a Motor Vehicle may be charged with a class B misdemeanor and any penalties as described in Utah Code 19-2-115.
- P. The Division is authorized under the provisions of this Chapter to issue or deny Permits that allow persons and facilities to perform Inspections on vehicles, to issue Certificates of Compliance and to make necessary repairs.

10.12.080 Standards and Specifications for Emissions Inspection Analyzers (EIA) and Span Gases for Equipment

- A. Emissions Inspection Analyzers (EIA) Specifications are contained in Appendix A of this Chapter.
1. Inspections required by this Chapter for vehicles subject to Basic I/M Inspections shall be performed using only an approved Emissions Inspection Analyzer (EIA).
 2. Any analyzer used by a Certified I/M Program Station shall be Registered with and approved by the Division. Analyzers used temporarily during times of breakdown or repair of the Registered analyzer shall meet all other requirements of this Section,

- including the approval of the Division before use.
- a. The Dedicated Printer shall be maintained in such a manner that the printing of the Certificate of Compliance and Vehicle Inspection Report (VIR) shall be clearly visible. If any Dedicated Printer fails to properly function, then the Certified I/M Program Station shall discontinue testing until the required repairs have been performed.
 3. Running changes: Any changes to the design characteristics or component specifications that may affect the performance of an Emissions Inspection Analyzer (EIA) to be used as an official test instrument in the Davis County I/M Program shall be approved by the Division. It shall be the instrument manufacturer's responsibility to confirm that the changes have no detrimental effect on the performance of the Emissions Inspection Analyzer (EIA).
 - a. It shall be illegal for any unauthorized person to modify the hardware or software of an approved Emissions Inspection Analyzer (EIA).
 4. Calibration/Span Gases:
 - a. General: The instrument manufacturer and/or his designated marketing vendors shall on request supply at a reasonable cost BAR 97 approved span gases to any ultimate purchaser of this unit. Each new or used instrument sold by the instrument manufacturer or marketing vendor shall have approved full span gas containers installed and operational at the time of delivery.
 - b. Span gas blends: The span gases supplied to any Certified I/M Program Station shall meet BAR 97 specifications.
 5. Documentation, logistics, and warranty requirements:
 - a. An instruction manual shall accompany each Emissions Inspection Analyzer (EIA) and shall contain at least the following information for the analyzer:
 - i. A complete technical description;
 - ii. The accessories and options that are included and/or available;
 - iii. The model number, identification marking and location;
 - iv. Operating maintenance including daily, weekly, and monthly accommodations and procedures for maintaining sample system integrity including, but not limited to leaks, Hang-up, Gas Calibration and filters. The services to be performed only by the manufacturer shall be clearly identified;
 - v. Information concerning the nearest facility where equipment can be serviced; and
 - vi. The warranty provisions for the analyzer, including a list of warranty repair facilities by name, address and telephone number.
 6. The Emissions Inspection Analyzer shall be maintained in accordance with the manufacturer's recommended maintenance schedule.
 7. If an EIA is surrendered to or repossessed by the Division or a Division Representative, the following must occur:
 - a. a final VID refresh will be conducted on the EIA; and
 - b. notification of the action will be made to the Division.

10.12.090 Requirements of the Vehicle Emissions Inspection/Maintenance Program Stations

- A. Permit Required.
 1. No person shall in any way represent any place as a Certified Emissions Repair Facility and/or Basic Test Station unless Permitted by the Division. The Permit is issued on the condition that the Permittee has knowledge of the requirements of this Chapter and agrees

- to comply with the provisions of this Chapter and any other applicable laws or standards.
2. A Permit is non-transferrable and is valid only for the original owner and/or business to which it was issued. Any changes of ownership of the Station will require the new owner to submit a new application for the appropriate Permit.
 3. The Station must post the following items in a conspicuous place on the premises within view of the public:
 - a. the Permit and Division issued signage;
 - b. Permits for all Inspectors employed by the Station;
 - c. the fees charged for an Inspection; and
 - d. the vehicle Emissions Standards promulgated under the authority of this chapter.
 4. Application for a Station Permit shall be made to the Division upon an official application form.
 - a. Unless exempted in this section, the Station must be at a permanent location which meets all applicable zoning requirements to provide for the Inspection of vehicles, as defined in this Chapter;
 - i. offsite OBDII Inspections of vehicles will be allowed by Stations if the Station has the portable equipment that has been approved by the Division.
 - b. The Station must comply with the following prior to a Permit being issued:
 - i. pass an Overt Audit as defined by this Chapter;
 - ii. employ all required certified personnel as listed in this Chapter to be available to perform Inspections during normal business hours;
 - iii. conduct all Inspections in accordance with this Chapter; and
 - iv. meet any other requirements deemed by the Division to be essential to the purpose of this Chapter.
 - c. As a condition for Permitting a Certified Emissions Repair Facility and/or Basic Test Station, the following equipment, tools and references shall be available, maintained and updated for performance of the Inspection and maintenance of Motor Vehicles:
 - i. a Division approved Emissions Inspection Analyzer (EIA) which conforms at a minimum, to the analyzer specifications of Appendix A, to be certified to perform Inspections;
 - ii. an Emissions control application manual approved by the Division that includes High Altitude Specifications;
 - iii. Division approved Calibration/span gas and equipment for performing the Gas Calibration;
 - iv. a suitable non-reactive tail pipe extender or probe adapter for inspecting vehicles with screened or baffled exhaust systems;
 - v. the analyzer manufacturer's maintenance and Calibration manual which must be retained in the Inspection Area;
 - vi. appropriate hand tools;
 - vii. shop air with regulator for analyzer zero air generator or other approved source;
 - viii. all forms, Technical Bulletins, charts and a Davis County I/M Ordinance and other information materials provided by the Division;
 - ix. an approved adaptor for testing dual-exhaust vehicles; and
 - x. all essential devices, connections and software for communications and downloads.
 - d. In addition to the requirements for a Basic Test Station, a Certified Repair Facility must have the following equipment, tools and references available for use:
 - i. Emissions diagnostic and repair information for affected Model Year vehicles, the most current of which applies to vehicles of Model Years no more than two

- (2) years older than the current calendar year. ;
 - ii. scanner capability to interrogate Onboard Diagnostics of vehicles, the most current of which applies to vehicles of Model Years no more than two (2) years older than the current calendar year;
 - iii. voltmeter with AC and DC capability;
 - iv. DC ammeter;
 - v. ohmmeter;
 - vi. fuel or hydraulic pressure gauge;
 - vii. vacuum gauge;
 - viii. vacuum pump;
 - ix. compression tester and cylinder leak down tester;
 - x. timing light with advance capability;
 - xi. tachometer;
 - xii. dwell meter or duty cycle meter; and
 - xiii. shop air with regulator.
 - 5. The Station shall be kept in good repair and in safe condition for Inspection purposes and must be in compliance with the applicable regulations found in Title 29 CFR 1910, Utah Code Annotated 34A-6 and Utah Administrative Code R-614.
 - 6. If a Station's Permit is cancelled or Revoked:
 - a. unused Certificates of Compliance numbers must be returned to the Division and may be refunded by the Division;
 - b. the official sign and Permit issued to the Station by the Division will be surrendered to the Division; and
 - c. a final VID refresh will be conducted on the EIA.
- B. Permit Duration and Renewal
- 1. The Permit for a Certified Emissions Repair Facility and/or Basic Test Station shall be issued annually and shall expire December 31 of the calendar year for which it was issued. The Permit shall become renewable sixty (60) days prior to the date of expiration.
 - 2. It shall be the responsibility of the Station owner or designee to apply for the Station's Permit renewal through the Division or a Division Representative.
 - 3. Upon approval of the completed application and payment of applicable fees, the Division or a Division Representative may renew the Stations Permit until December 31 of the subsequent calendar year.
 - 4. Station to hold Division harmless in making application for a Permit or for its renewal, such action shall constitute a declaration by the applicant that the Division or a Division Representative shall be held harmless from liability incurred due to any action or inaction of a Station, owners or their employees.
 - 5. Required Permit fees and renewal fees are listed in the Fee Schedule in Section 10.12.240 of this Chapter.
 - 6. The Division may impose a late fee on a Permit which expires prior to receipt of the application for renewal and payment of applicable fees.
 - 7. After six (6) months, an expired Permit is unredeemable and a new Permit must be applied for according to the procedures of this Chapter.
- C. Warning, Probation, Suspension, Revocation and Denial of Station Permit
- 1. The Division may give a formal warning, place on probation, Suspend, Revoke or deny renewal of a Permit under any of the following conditions:
 - a. false, inaccurate or misleading information is knowingly communicated to any person or in any Certificate, record or document regarding the Vehicle Emissions Inspection/ Maintenance Program;

- b. the Permit is obtained or attempted to be obtained fraudulently or deceptively;
 - c. an Audit failed;
 - d. evidence is exhibited that vehicles repaired by a Repair Facility under this Chapter have repeatedly failed re-Inspection; or
 - e. the owner or employees of a Station threaten, harass, stalk or assault an employee of the Division, a Division Representative or any person having a vehicle inspected or repaired subsequent to any requirement of this Chapter.
 - f. a vehicle was inspected and issued a Certificate of Compliance by Station personnel that did not, at the time of Inspection, comply with all applicable policies, procedures, Technical Bulletins, requirements and standards of this Chapter;
 - g. a Certificate of Compliance was issued to a vehicle without an approved Inspection being performed;
 - h. a vehicle was inspected and rejected by the Station when, in fact, the vehicle was determined by the Division to be in such condition that it did comply with the requirements of this Chapter;
 - i. a vehicle was inspected and was given a “passing” result for the Tampering portion of the Inspection as detailed in this Chapter that did not at the time of Inspection comply with the requirements of this Chapter;
 - j. a vehicle was inspected by an individual that did not hold a valid Permit;
 - k. the Station has violated any provision of this Chapter or Division policy properly promulgated for the operation of a Station;
 - l. the Station was not equipped as required by this Chapter;
 - m. the Station is not operating at the location specified on the Permit;
 - n. the Emissions Inspection Analyzer (EIA) has been tampered with or altered in any way contrary to the Certification and maintenance requirements of the analyzer;
 - o. the Station denied access or failed to Permit the Division or a Division Representative to conduct an Audit or other necessary business;
 - p. the Station performed unnecessary repairs not justified by the results of the Inspection;
 - q. a vehicle was tampered, altered or in any way changed from the manufacturer’s original specifications and/or certified configuration with or without an inspection being performed;
 - r. in accordance with Sections 41-6a-1642 through 1644 Utah Code Annotated, 1953, as amended, an Inspection for a Cache, Weber, Salt Lake, or Utah County resident was performed, but not as required by the Regulations/Ordinances adopted by the applicable County and/or the Emissions Inspection Analyzer (EIA) Prompts.
- 2. The Division may reinstate a Suspended Permit upon compliance by the facility with the requirements of this Chapter.
 - 3. Upon revocation of a Permit, a person shall within ten (10) business days return to the Division all materials which were issued as a result of obtaining the Permit, including any signs and documents, and remove any other materials which may lead the public to believe that the facility continues to be Permitted.
 - 4. A penalty schedule is listed in Section 10.12.280 of this Chapter, enumerating actions the Division may take against persons Permitted under this Chapter.
 - 5. Station Permits are the sole property of the Division. Only the license they represent is tendered. Permits may be Suspended or Revoked for violations of this Chapter. Station Permits obtained through fraud or misrepresentation shall be deemed to be null and void.
- D. Personnel Requirements
- 1. A Certified Emissions Basic Test Station shall employ and ensure that at least one (1)

- Inspector is routinely scheduled to work during the advertised operating hours of the facility.
2. A Certified Emissions Repair Facility shall ensure that only a Certified Emissions Repair Technician diagnoses Emissions related faults, and supervises or performs Emissions Related Repairs and adjustments to bring vehicles into compliance with the provisions of this Chapter.
 3. A Certified Emissions Repair Facility shall employ at least one (1) full-time Certified Emissions Repair Technician at each Certified Emissions Repair Facility location and ensure that a Certified Emissions Repair Technician is routinely scheduled to work during the advertised operating hours of the facility.
 4. A Station will assign one (1) individual the responsibility of resolving any problems or addressing any concerns that the Division or a Division Representative may identify. The selected individual or his/her representative will be at the Station and available during normal business hours.
 5. The Station will have a quality assurance plan to ensure Station and Technician compliance with the Ordinance and will keep associated records on file at the Station for review by the Department.
- E. Equipment Quality Assurance
1. For all equipment required under this Chapter, a Station shall follow the manufacturer's specifications for maintenance and Calibration, and the procedures established by the Division.
- F. Audits
1. A Station shall allow access to Division personnel to conduct audits of the facility.
 - a. Routine Audits will be conducted at random and with no prior notification.
 - b. A pre-opening Audit will be conducted at the Station prior to the Station being issued a Permit.
 2. An Audit may include equipment, Gas Calibration and compliance with personnel requirements.
 3. A Station shall not use any piece of equipment which fails an Audit until a subsequent Audit is passed.
 4. The Station shall allow further monitoring at the discretion of the Division to ensure quality control or to determine compliance with this Chapter.

10.12.100 Requirements of the Certified Emissions Testers and/or Repair Technicians

- A. A Permit is required.
1. No person shall perform any part of the official Inspection for the issuance of a Certificate of Compliance unless the person possesses a valid Certified Emissions Tester and/or Repair Technician Permit issued by the Division.
 2. Application for a Certified Emissions Tester or Repair Technician Permit shall be made to the Division upon an official application form.
 3. An applicant shall comply with all of the terms stated in the Permit application and with all the requirements of this Chapter.
 4. To qualify for and obtain a Certified Emissions Tester Permit, an applicant shall pay the applicable fees as listed in section 10.12.240 and complete a Division approved training course which may include the purchase of a self-study guide, or other Division approved training, and shall demonstrate knowledge and skill concerning the performance of Emissions Inspections. Such knowledge and skill shall be shown by passing:
 - a. a written qualification test including knowledge of the following:

- i. Operation and purposes of Emissions control systems;
 - ii. Inspection procedures as outlined in this Chapter;
 - iii. Operation of an Emissions Inspection Analyzer including the performance of a Gas Calibration and leak check;
 - iv. The provisions of Section 207(b) warranty provisions of the Federal Clean Air Act;
 - v. Knowledge of the function of Onboard Diagnostics; and
 - vi. The provisions of this Chapter and other Division policies and procedures.
 - b. A performance qualification test including the following:
 - i. Visual Inspection and knowledge of the function of the required Emissions control equipment;
 - ii. Demonstration of skill in the proper use, care, maintenance, Calibration and leak checking of approved Emissions Inspection Analyzers (EIA);
 - iii. Demonstration of ability to conduct the Emissions Inspection; and
 - iv. Demonstration of ability to accurately input data.
 - c. If an applicant fails the required test twice, they may be required to complete a Division approved training course.
5. To qualify for and obtain a Certified Repair Technician Permit, an individual shall meet the following requirements:
- a. possess a Certified Emissions Tester Permit;
 - b. demonstrate five (5) years full-time employment experience as an automotive technician performing Emissions Related Repairs on on-road vehicles not powered by diesel fuel or electricity, except that a person with two (2) full years of full-time education related to the repair of on-road vehicles not powered by diesel fuel or electricity need only demonstrate four (4) years of the required employment;
 - c. possess the following current, valid ASE Certifications or Vehicle Manufacturer Specific Training:
 - i. ASE Certifications in Engine Performance (A-8) and Advanced Engine Performance Specialist (L-1); or
 - ii. Vehicle Manufacturer Specific Training (VMS): A Repair Technician must have a current Gasoline Engine Performance Certification and be employed by a dealer of the same manufacturer and will be certified for repairs of that manufacturer only.
 - d. Comply with the requirements of this Chapter; and
 - e. Meet any other requirements deemed by the Division to be essential to the purposes of this Chapter.
6. In order to retain and to qualify for renewal of the Certified Repair Technician Permit, the Certifications listed in subsection 5c must be maintained and kept current, and renewal requirements specified for the Certified Emissions Tester in this Section must be met.
7. A signed hands-on performance check sheet shall be necessary for successful completion of the performance qualification test. The hands-on performance check sheet shall be signed by an instructor or other person approved by the Division.
8. The Division may issue the applicable Certified Emissions Tester or Repair Technician Permit to an applicant upon demonstration that the individual has successfully completed the requirements of this Chapter.
9. The Certified Emissions Tester and/or Repair Technician Permit shall be valid only at the Station where the Inspector is employed, and the Permit shall be kept on the premises and readily available to the Auditor. If the Inspector is later employed at a second Station, he/she shall notify the Division of the employment change. Duplicate or additional

Permits will be issued, at the discretion of the Division, for an additional fee. A duplicate Permit will expire on the same date as the original.

10. The Certified Emissions Tester and/or Repair Technician Permit is the sole property of the Division.
- B. Requalification requirements for Certified Emissions Testers and/or Repair Technicians:
1. Recertification requirements shall meet or exceed the standards listed in 10.12.100(A)(4) and/or 10.12.100(A)(5).
 2. Certified Emissions Testers and/or Repair Technicians shall be required to attend refresher training as part of the overall Training Program every 2 years.
 - a. Failure to attend the refresher training shall result in suspension or revocation of the Permit.
- C. Permit Expiration
1. All Permits shall be issued annually and shall expire December 31 of the calendar year. A Permit shall be renewable sixty (60) days prior to the date of its expiration. If a Certified Emissions Tester and/or Repair Technician Permit is obtained on or after October 1st, then the Permit will be valid until December 31st of the following year.
 2. It is the responsibility of the Certified Emissions Tester and/or Repair Technician Permit holder to request the renewal of the Permit.
 - a. In order to qualify for renewal of a Certified Emissions Tester and/or Repair Technician Permit, the Permit holder must have paid applicable fees and completed Division required yearly updates.
- D. Warning, Probation, Suspension, Revocation and Denial of Certified Emissions Tester and/or Repair Technician Permit.
1. The Division may give a formal warning, place on probation, Suspend, Revoke, or deny the renewal of a Permit if the Certified Emissions Tester and/or Repair Technician:
 - a. knowingly communicates any false, inaccurate or misleading information to any person or in any Certificate, record or document regarding the Vehicle Emissions Inspection/Maintenance Program;
 - b. fraudulently or deceptively obtains or attempts to obtain a Permit;
 - c. conducts a fraudulent or inaccurate test;
 - d. consistently fails to properly repair failed vehicles (Repair Technician only);
 - e. threatens, coerces, harasses, offers a bribe, assaults and/or stalks a Division employee or a Division Representative pursuant to his/her duties with the Division or any person having a vehicle tested or repaired subsequent to any requirement of this Chapter;
 - f. the Inspector issued a Certificate of Compliance without performing an approved Inspection;
 - g. the Inspector denied the issuance of a Certificate of Compliance to a vehicle that at the time of the Inspection, complied with the requirements of this Chapter;
 - h. the Inspector issued a Certificate of Compliance to a vehicle that, at the time of issuance, was in such condition that it did not comply with the requirements of this Chapter;
 - i. the Inspector inspected and recorded “pass” on the Tampering Inspection for a vehicle that did not, at the time of the Inspection, comply with the Tampering requirements of the Tampering Inspection detailed in this Chapter, regardless of whether a Certificate of Compliance was issued or not;
 - j. the Inspector signed a Certificate of Compliance prior to an Inspection being performed;
 - k. the Inspector performed an Inspection, but not in accordance with applicable

- l. the Inspector knowingly allowed a Non-Certified Person to perform an Inspection or any portion of an Inspection, or gain access to the official testing portion of the Emissions Inspection Analyzer (EIA);
- m. the Inspector signed an Inspection form or Certificate of Compliance stating that he/she had performed an Inspection when, in fact, he/she had not;
- n. the Inspector performed an out of County Inspection as required by Sections 41-6a-1642 through 1644, Utah Code Annotated, 1953, as amended, but did not perform it as required by the Ordinances or Regulations governing such testing in these counties, if Reciprocity with other counties is in effect;
- o. the Inspector performed unnecessary repairs not justified by the results of an Inspection; and/or
- p. the Inspector tampered with, altered or in any way changed a vehicle from the manufacturer's original specifications and/or certified configuration with or without performing an Inspection.

An individual who's Permit has been Suspended may be subject to:

- a. additional training or testing requirements as approved by the Division before the Permit is reinstated; and
- b. revocation of a Permit after repeated suspensions or when a suspension has exceeded six (6) months.

A penalty schedule in Section 10.12.280 of this Chapter enumerates the actions the Division may take against persons Permitted under this Chapter.

Inspectors that hold a valid Permit from any Utah I/M program may challenge the Certification requirements of Davis County by doing the following:

- Purchase a mechanic handbook and study material from Davis County;
- Pass a written exam administered by Davis County;
- Pass a hands-on exam administered by Davis County;
- Complete all forms and pay all fees, as required by Davis.

- A. The official Inspection shall be solely performed by an Inspector who is Permitted at the Station where the Inspection is being performed.
 1. The Inspector shall follow the Prompts of the EIA to conduct the Inspection.
- B. If the Inspector is unqualified or unwilling to make the required repairs or adjustments should the vehicle fail the Emissions Inspection, they shall notify the owner/operator of the vehicle before the Emissions Inspection is administered.
- C. The entire Inspection shall take place within the reach of the Emissions Inspection Analyzer (EIA) hose, electrical leads or data link.
 1. The Inspection will be conducted in view of the lane camera.
 - a. If a vehicle is too large to fit in the Inspection lane, the Inspection may be conducted outside of the view of the lane camera.
- D. The temperature of the Inspection Area shall be between 41° Fahrenheit and 110° Fahrenheit during the Inspection.
- E. The Emissions Inspection Analyzer shall be kept in an area that provides adequate protection from the weather, wind and extreme temperatures.
- F. The electrical supply to the Emissions Inspection Analyzer (EIA) shall be able to meet the analyzer manufacturer's requirements for voltage and frequency stability.

- G. Data communication links shall be connected and functioning during the Inspection.
- H. All vehicles presented to a Station must receive an Inspection unless:
 - 1. the vehicle has a mechanical condition that is unsafe and/or may cause injury to Station personnel or damage to the vehicle, Station or EIA;
 - a. Such conditions may include but are not limited to fluid leaks, low fluid levels, exhaust leaks, excessive tire wear, under inflated tires, transmission problems, or any other mechanical conditions deemed unsafe by the Division, Station personnel or the Inspector.
 - 2. the Station does not have availability to conduct the Inspection in a timely manner;
 - 3. the Station does not have an available Inspector to conduct the Inspection; or
 - 4. the Station's Permit has been Suspended or Revoked.
- I. Visual Inspection
 - 1. A visual Inspection will be performed on all vehicles to visually verify that the vehicle has not been subjected to Tampering, that all Emissions related components are intact, and that the vehicle does not produce any visible Emissions.
 - 2. Vehicles that are Model Years 1968-1989 that have been subjected to Tampering may receive a Certificate of compliance if tailpipe readings are at or below the maximum allowable Cutpoints for that vehicle.
 - 3. Vehicles that are Model Years 1990 and newer must pass a visual inspection before the test may continue.
 - 4. A visual gas cap Inspection will include cap removal (if applicable) and Inspection of the sealing surface.
 - 5. Unauthorized powertrain modifications of the OEM certified configuration will be considered as Tampering and is in violation of this Chapter.
 - 6. Emission devices and components being replaced with other than OEM parts must be U.S.E.P.A./C.A.R.B. certified.
- J. Data Entry
 - 1. The Inspector shall verify the vehicle license plate and vehicle identification numbers by comparing the information on the vehicle's Registration or other documentation presented by the vehicle owner with those on the vehicle and shall accurately record them as required by the data entry process on the Emissions Inspection Analyzer (EIA), as well as any other data requirements of the Division.
 - 2. The Inspector shall enter completely and accurately all the information required as part of the data entry procedure for the Inspection on the Emissions Inspection Analyzer (EIA).
- K. All testing procedures for restart testing, second chance testing, etc, shall be followed as described in the Emissions Inspection Analyzer (EIA) specifications referenced in Appendix A.
- L. Two-Speed Idle (TSI) Inspection Procedures
 - 1. Refer to Appendix B
- M. OBDII (Onboard Diagnostics Generation II) Inspection Procedures
 - 1. Refer to Appendix C
- N. Compressed Natural Gas (CNG) Vehicle Inspection Procedures
 - 1. Refer to Appendix E
- O. A Certificate of Compliance and Vehicle Inspection Report Form (VIR) shall be issued only if a complete Inspection for the vehicle has been performed and the vehicle has passed the specific test requirements as described in this Chapter.
- P. The Certificate of Compliance, Vehicle Inspection Report Forms (VIR) and other Inspection records shall be completed accurately, signed immediately and distributed as required by the Division. The customer shall be given the appropriate copy.
- Q. Gray Market Vehicles/Automotive Imports applying for Registration in Davis County must

have, at the minimum:

1. Gaseous Fueled 1995 and older vehicles and 1996 and newer vehicles, 8501 and greater GVWR will be required to pass the tailpipe and Tampering standards for the Model Year appearing on the Registration;
 2. Gaseous Fueled 1996 and newer vehicles, 8500 pounds GVWR or less, must be equipped with a functioning OBDII system, and must pass the OBDII Test; and
 3. diesel fueled vehicles must meet the standards and requirements of their U.S. counterparts.
- R. Glider Kits, Kit Vehicles, Reconstructed Vehicles, Replica Vehicles and Specially Constructed Vehicles shall comply with Emissions Standards applicable to the Model Year of the engine of the vehicle. If the engine is 1996 or newer and the vehicle's GVWR meets light-duty standards and was intended to be OBDII compliant, the vehicle must be OBDII compliant. It is the vehicle owner's responsibility to furnish proof of the engine's Model Year.
- S. Vehicles placed on the Compliance Assurance List must be inspected at the Davis County Testing Center. The EIA will notify the Station if a vehicle presented for an Inspection is Registered on the Compliance Assurance List.
- T. The Division, Davis County Health Department, Davis County, their officials or employees shall not be held responsible for any failure of any vehicle component or system occurring during an Inspection.

10.12.130 Emissions Standards for Motor Vehicles

- A. To obtain a valid Emissions Certificate of Compliance, vehicles receiving an Inspection may not exceed the standards as adopted in Section 10.12.250 of this Chapter.

10.12.140 Certificates of Compliance and Waivers

- A. Certificates of Compliance
1. No person shall make, issue or knowingly use any imitation or counterfeit of an official Certificate of Compliance or Waiver or any other official program document.
 2. Certificates of Compliance shall be obtained only from the Division, a Division Representative or a Station.
 3. A Certificate of Compliance may be issued via electronic communication to the Utah Division of Motor Vehicles.
 4. No refund or credit shall be allowed for unused Certificate of Compliance numbers, except as provided in Section 10.12.090.
 5. Certificate of Compliance numbers:
 - a. may be purchased by a Station through a Division Representative;
 - b. shall be sold at the cost adopted by the Davis County Commission as referenced in Section 10.12.240;
 - c. shall not be sold, loaned, transferred, or given to any other Station or any unauthorized individual. The Station shall at all times account for all Certificates of Compliance or Certificate of Compliance numbers that have been purchased by the Station; and
 - d. are solely the property of the Division; only the license they represent is tendered. Certificates of Compliance or Certificate of Compliance numbers obtained through fraud, misrepresentation and/or improper testing may be deemed null and void.
 - e. shall only be processed by a Station from an Emissions Inspection Analyzer's (EIA) Dedicated Printer.
 6. A Certificate of Compliance shall only be issued to a vehicle that has successfully passed an Inspection that was conducted according to the requirements of this Chapter.

- a. Vehicles listed in the E.P.A. document E.P.A.-420-B-12-044 titled “OBD Readiness Testability issues”¹ that have failed an Inspection for the listed problem may be exempted following the suggested action provided in this document.
- B. Certificates of Waiver
 1. A Certificate of Waiver may be issued by the Division or a Division Representative for a vehicle that has failed an Emissions Inspection if the requirements of this section have been met.
 2. To obtain a Certificate of Waiver, the following requirements must be met:
 - a. Emissions Related Repairs must be performed in attempt to correct the condition causing the Emissions related failure.
 - i. Acceptable Emissions Related Repairs refers to those expenditures and costs associated with the adjustment, maintenance and repair of the Motor Vehicle which are directly related to the reduction of exhaust Emissions necessary to comply with the applicable Emissions Standards, Cut Points and procedures.
 - ii. Only labor charges accrued for repairs that were performed by a Certified Emissions Repair Facility or the specific vehicle manufacturer will be accepted.
 - iii. The cost of parts purchased to make the necessary repairs will be accepted.
 - iv. Proof of repair costs for the vehicle must be provided in the form of a dated, itemized statement in which Emissions related parts/repairs and labor are specifically identified.
 - v. Repairs must be performed no more than 60 days prior to an official test failure, and the repairs must be appropriate to the cause of the test failure.
 - vi. The catalyst readiness monitor must be operational and set as “ready” for passenger vehicle Model Years 1996 and newer to be eligible for a Certificate of Waiver eligibility.
 - vii. The vehicle may not produce any visible Emissions.
 - viii. Emissions readings must be at or below the maximum allowable Waiver Cutpoints for the Model Year of the vehicle.
 - ix. The Inspection failure may not be due to Tampering.
 - b. The dollar amount required to be spent on Emissions Related Repairs after an initial Inspection failure are as follows:
 - i. \$450.00 for 1996 and newer Model Year vehicles;
 - ii. \$350.00 for 1981 – 1995 Model Year vehicles;
 - iii. \$250.00 for 1968 – 1980 Model Year vehicles.
 - c. The following repairs will not be counted towards the dollar amount that is required to be spent:
 - i. Repairs to correct a condition of Tampering.
 - v. Repairs performed to the vehicle's exhaust system to correct problems with excessive exhaust dilution.
 - d. Any vehicle that experiences an increase in Emissions levels shall not be eligible for a Certificate of Waiver regardless of the amount spent in attempting to repair the vehicle.
 - e. The vehicle has been subjected to Engine Switching or engine modifications that do not comply with the applicable federal, state, or local laws.
 3. A vehicle may only receive one (1) Waiver in the vehicle’s lifetime. The Division may issue additional Waivers under certain circumstances.

¹ <https://nepis.epa.gov/Exe/ZyPdf.cgi?Dockey=P100EPD8.pdf>

4. Information regarding all performed repairs shall be entered into the appropriate database of the EIA prior to the vehicle being retested.
5. Gray Market Vehicles, Model Year 1995 and older, will not be eligible for a Waiver unless all Emissions devices meet the U.S. counterpart federal Certification for that Model Year of vehicle and are operational. If a U.S. counterpart does not exist then the following emission control devices may be required:
 - a. Catalytic Converter
 - b. Evaporative Emissions Control System
 - c. PCV System
 - d. EGR System
 - e. AIR System
6. Replica Vehicles, Kit Cars and other Specially Constructed Vehicles, Model Year 1995 and older, shall not receive a Waiver unless meeting all requirements of this Chapter.
7. Vehicles that have been subjected to Engine Switching as defined in 10.12.150(A) and/or engine modifications that do not comply with the applicable federal, state, or local laws will not be eligible for a Certificate of Waiver.

10.12.150 Engine Switching

- A. Engine switching shall be allowed only in accordance with E.P.A.'s Office of Enforcement and Compliance Assistance (OECA) Engine Switching Fact Sheet and Engine Switching Fact Sheet referenced Memorandum A². .
- B. Vehicles not meeting the requirements of Section 10.12.150 shall be deemed as tampered and dealt with in accordance with the Tampering provisions of this Chapter.
- C. If the engine has been converted to another type of fuel, the vehicle must comply with the laws governing the type of fuel which is being used in the vehicle.
- D. It is a violation of this Chapter to register a vehicle with a diesel engine as a vehicle using another type of fuel, or to register a vehicle with an engine that uses another type of fuel as a diesel.

10.12.160 Right to Appeal

- A. Within ten (10) calendar days after the Division has given a notice of violation(s), Permit denial, suspension or revocation, any person(s) aggrieved may request in writing a hearing before the Division. Only a written request for hearing shall be honored by the Division. The hearing shall take place within ten (10) calendar days after the request is received. A written notice of the Hearing Officer's final determination shall be given within ten (10) calendar days after adjournment of the hearing. The Hearing Officer may sustain, modify, enhance or reverse the action or order. The Division may negotiate a Consent Agreement in lieu or in addition to a Permit suspension.
- B. Use of the hearing process outlined in Section 10.12.180 of this Chapter does not preclude judicial review.

10.12.170 Recall

The Division reserves the right to recall any vehicle that is suspected of a fraudulent Inspection to be subjected to a challenge Inspection at the Davis County Testing Center. Any or all appropriate actions that are allowed by law may be taken against parties that have been involved in fraudulent actions

² <https://www.epa.gov/enforcement/engine-switching-fact-sheet>

during or subsequent to an Inspection.

10.12.180 Penalty

- A. Pursuant to Title 26A-1-123, Utah Code Annotated, 1953, as amended and the statutory authority of County Commissions to enact Ordinances, any person violating any of the provisions of this Chapter, either by acts of omission or commission, shall be guilty of a class B misdemeanor and penalized as provided in the Penalty Schedule, Section 10.12.280, in addition to any administrative or civil penalties provided by this Chapter and applicable state law.
 - 1. If a person is found guilty of a subsequent similar violation within two (2) years, he/she may be guilty of a class A misdemeanor and appropriate action may be taken.
- B. Each Occurrence and/or day a violation is committed or Permitted to continue shall constitute a separate violation.
 - 1. The imposition of a penalty under the provisions of this Chapter shall not prevent the revocation or the suspensions of any license or Permit granted under the provisions of this Chapter or preclude any other administrative or civil penalty.
- C. At the request of the Division, the County Attorney may initiate civil or criminal legal action against any person who violates this Chapter.
- D. In addition to other penalties imposed by a court of competent jurisdictions, any person(s) found guilty of violating any provision of this Chapter shall be liable for all expenses, including reasonable attorneys fees and costs of court, incurred by the Division and/or the County incurred arising from the violation or enforcement of this Chapter, whether civil or criminal.
- E. A Penalty Schedule, Section 10.12.280, lists specific violations of this Chapter by which Permits issued to person(s) under the provisions of this Chapter may receive a formal warning, probation, suspension or revocation of said Permit, including time-periods or fines issued. The Penalty Schedule may be amended by the Davis County Commission if deemed necessary to accomplish the purposes of this Chapter.
- F. The Division may, at its discretion, negotiate monetary penalties in lieu of some or all of the time of Permit suspensions allowed in Section 10.12.20 of this Chapter.

10.12.200 Quality Assurance

- A. Davis County may obtain an outside consultant to review test and Audit data and furnish E.P.A. required reports.
- B. The Division shall perform overt and Covert Audits of Stations and Technicians that shall conform with the reporting requirements as contained in 40 CFR 51.363.

10.12.210 Severability

If any provision, clause, sentence or paragraph of this Chapter or the application thereof to any person or circumstance shall be held to be invalid, such invalidity shall not affect the other provisions or applications of this Chapter. The valid part of any clause, sentence or paragraph of this Chapter shall be given independence from the invalid provisions or application and to this end the provisions of this Chapter are hereby declared to be severable.

10.12.240 Fee Schedule

The fees assessed by the Division shall be:

Permitting of a Certified Emissions Repair Facility and/or Basic Test Station	\$300.00
Annual Renewal of a Certified Emissions Repair Facility and/or Basic Test Station Permit	\$60.00
Annual Renewal of an Expired Certified Emissions Repair Facility and/or Basic Test Station Permit	\$120.00
Permitting a Certified Emissions Repair Facility and/or Basic Test Station at a New Location	\$50.00
Permitting a Certified Emissions Repair Facility and/or Basic Test Station Under a New Business Name	\$125.00
Transferring a Certified Emissions Repair Facility Permit to a Basic Test Station Permit or from a Basic Test Station Permit to a Repair Facility Permit	\$125.00
Permitting a Certified Repair Technician, or an Emissions Tester	\$30.00
Annual Renewal of a Certified Repair Technician or an Emissions Tester Permit	\$25.00
Annual Renewal of an Expired Certified Repair Technician or an Emissions Tester Permit	\$40.00
Duplicate Certified Repair Technician and/or Emissions Tester Permit	\$12.00
Refresher training for Certified Emissions Testers and/or Repair Technicians	\$30.00
Certified Emissions Tester Study Guide	\$40.00
Transferring a Certified Repair Technician Permit to an Emissions Tester Permit or an Emissions Tester Permit to a Certified Repair Technician Permit	\$15.00
Emissions Program Certificate of Compliance Numbers	\$3.25
Duplicate Emissions Program Certificate of Compliance	\$3.00
Emissions Inspection Fee	Set by Station
Air Pollution Control Fee (gasoline, diesel & other fuels--paid at time of Registration)	\$3.00
Chapter Copy	\$5.00

10.12.250 Emissions Standards

- A. The following schedule gives the maximum allowable concentrations for Carbon Monoxide (CO) and Hydrocarbons (HC) for both cars and trucks as determined by an approved analyzer using the prescribed procedures.

ALL PASSENGER VEHICLES 1978 AND OLDER LIGHT DUTY TRUCKS 6,000 POUNDS OR LESS GVWR 1979 TRUCKS AND NEWER 8,500 POUNDS OR LESS GVWR MAXIMUM CONCENTRATION STANDARDS		
Model Year	Percent Carbon Monoxide	Parts / Million Hydrocarbons
1968-1969	6.0	800
1970-1974	5.0	700
1975-1976	4.0	600
1977-1979	3.0	500
1980	2.0	300
1981-1995	1.2	220
1996 and newer passenger vehicles & light-duty trucks (8,500 lbs or less)	OBD II Only	OBD II Only
HEAVY DUTY TRUCKS AND VANS 1978 AND OLDER 6,001 POUNDS AND OVER GVWR 1979 AND NEWER 8,501 POUNDS AND OVER GVWR MAXIMUM CONCENTRATION STANDARDS		
Model Year	Percent Carbon Monoxide	Parts / Million Hydrocarbons
1968-1969	7.0	1500
1970-1978	5.0	1200
1979-1980	4.0	1000
1981-1995	3.5	800
1996-2007	1.2	220
2008-newer	OBDII Only	OBDII Only

NOTE: These should be considered as “Cut Points” for maximum allowable Emissions levels. Vehicles must never be reset to these Emissions levels when readjustments are made, but rather shall be adjusted using manufacturer's specifications. By using manufacturer's specifications, the Emissions levels should be well below the “Cut Points”.

- B. On-Board Diagnostics (OBDII) Standards: U.S.E.P.A. guidelines and standards will be followed.

10.12.260 Waiver Cut Points

- A. In order for a Waiver to be granted, the subject vehicle must first qualify by not exceeding the following maximum allowable concentrations for Carbon Monoxide (CO) for both cars and trucks as determined by an approved Emissions Inspection Analyzer (EIA) using the prescribed procedures. Vehicles with visible tailpipe Emissions (smoke) are not eligible for Waivers.

ALL PASSENGER VEHICLES 1978 AND OLDER LIGHT DUTY TRUCKS 6,000 POUNDS OR LESS GVWR 1979 TRUCKS AND NEWER 8,500 POUNDS OR LESS GVWR MAXIMUM CONCENTRATION STANDARDS		
Model Year	Percent Carbon Monoxide	Parts / Million Hydrocarbons
1968-1969	7.0	1000
1970-1974	6.0	800
1975-1976	5.0	700
1977-1979	4.0	600
1980	3.0	400
1981-1995	2.0	300
1996 and newer passenger vehicles & light-duty trucks (8,500 lbs or less)	1.2	220
HEAVY DUTY TRUCKS AND VANS 1978 AND OLDER 6,001 POUNDS AND OVER GVWR 1979 AND NEWER 8,501 POUNDS AND OVER GVWR MAXIMUM CONCENTRATION STANDARDS		
Model Year	Percent Carbon Monoxide	Parts / Million Hydrocarbons
1968-1969	8.0	1700
1970-1978	7.0	1500
1979-1980	5.0	1200
1981 and newer	4.0	1000

- B. The minimum dilution factor must also be reached as part of the testing requirement.

Note: These should be considered as “Cut Points” for maximum allowable Emissions levels. Vehicles must never be reset to these Emissions levels when readjustments are made, but rather shall be adjusted using manufacturer’s specifications. By using manufacturer’s specifications the Emissions levels should be well below the “Cut Points”.

10.12.270 Passing Versus Waiver Cut Point Comparison

ALL PASSENGER VEHICLES 1978 AND OLDER LIGHT DUTY TRUCKS 6,000 POUNDS OR LESS GVWR 1979 TRUCKS AND NEWER 8,500 POUNDS OR LESS GVWR MAXIMUM CONCENTRATION STANDARDS				
Model Year	% CO Passing	% CO Waiver	PPM HC Passing	PPM HC Waiver
1968 - 1969	6.0	7.0	800	1000
1970 - 1974	5.0	6.0	700	800
1975 - 1976	4.0	5.0	600	700
1977 - 1979	3.0	4.0	500	600
1980	2.0	3.0	300	400
1981 - 1995	1.2	2.0	220	300
1996 +	N/A	1.2	N/A	220

HEAVY DUTY TRUCKS AND VANS 1978 AND OLDER LIGHT DUTY TRUCKS 6,001 POUNDS AND OVER GVWR 1979 TRUCKS AND NEWER 8,501 POUNDS AND OVER GVWR MAXIMUM CONCENTRATION STANDARDS				
Model Year	% CO Passing	% CO Waiver	PPM HC Passing	PPM HC Waiver
1968 - 1969	7.0	8.0	1500	1700
1970 - 1978	5.0	7.0	1200	1500
1979 - 1980	4.0	5.0	1000	1200
1981 +	3.5	4.0	800	1000

NOTE: These should be considered as “Cut Points” for maximum allowable Emissions levels. Vehicles must never be reset to these Emissions levels when readjustments are made, but rather shall be adjusted using manufacturer's specifications. By using manufacturer's specifications, the Emissions levels should be well below the “Cut Points”.

10.12.280 Penalty Schedule

Violation (Resets after two (2) years of no similar violations unless Revoked)	1st Occurrence	2nd Occurrence	3rd Occurrence	4th Occurrence
Failure to Inspect or substituting a vehicle other than the vehicle on the test record <i>(intentional pass)</i>	Tech: 180 day suspension and mandatory retraining	Tech: Revocation of Permit for five (5) years		
	Station: 180 day suspension	Station: 270 day suspension	Station: Revocation of Inspection Station Permit for five (5) years	
Passing a failing vehicle or recording “pass” for Tampering on a tampered vehicle <i>(gross negligence)</i>	Tech: 30 day suspension and mandatory retraining	Tech: 60 day suspension and mandatory retraining	Tech: Revocation of Permit for five (5) years	
	Station: 15 day suspension	Station: 30 day suspension	Station: 60 day suspension	Station: Revocation of Permit for five (5) years
Falsifying an Inspection record or Emissions Certificate or failing a passing vehicle <i>(intentional)</i>	Tech: 180 day suspension and mandatory retraining	Tech: Revocation of Permit for five (5) years		
	Station: 180 day suspension	Station: 270 day suspension	Station: Revocation of Permit for five (5) years	
Non-Certified Person performing test <i>(gross negligence)</i>	Tech: 60 day suspension	Tech: 180 day suspension	Tech: Revocation of Permit for five (5) years	
	Station: 60 day suspension	Station: 180 day suspension	Station: Revocation of Permit for five (5) years	

Inaccurate or incomplete data entry <i>(incompetence)</i>	Tech: Formal warning and mandatory retraining	Tech 30 day suspension and mandatory retraining	Tech: 90 day suspension and mandatory retraining	Tech: Revocation of Permit for five (5) years
	Station: Formal warning	Station: 15 day suspension	Station: 45 day suspension	Station: Revocation of Permit for five (5) years
Failure to follow proper test procedures <i>(incompetence)</i>	Tech: Formal warning and mandatory retraining	Tech: 30 day suspension and mandatory retraining	Tech: 90 day suspension and mandatory retraining	Tech: Revocation of Permit for five (5) years
	Station: Formal warning	Station: 15 day suspension	Station: 45 day suspension	Station: Revocation of Inspection Station Permit for five (5) years
Failure of a Covert Audit <i>(incompetence)</i>	Tech: Formal warning and mandatory retraining	Tech: 30 day suspension and mandatory retraining	Tech: 90 day suspension and mandatory retraining	Tech: Revocation of Permit for five (5) years
	Station: Formal Warning	Station: 15 day suspension	Station: 45 day suspension	Station: Revocation of Inspection Station Permit for five (5) years

- A. These penalties apply to all Permits issued pursuant to this Chapter.
- B. Negotiated Consent Agreements: Inspector and/or Station suspensions may be reduced in length by a Negotiated Consent Agreement which may substitute monetary penalties for part or all of the suspension time.
- C. Violations that have been determined to be intentional or flagrant shall result in the maximum penalties of up to \$10,000 per violation. Permit revocations are not eligible for Negotiated Consent Agreements.
- D.
- E. The number of Occurrences for the Failure of a Covert Audit that a Station or Inspector has will reset to zero (0) if the Station or Technician successfully passes two (2) successive covert vehicle audits.

10.12.290 Conflicts

This Chapter supersedes all prior Ordinances, resolutions and policies of Davis County to the extent they are in conflict with the specific provisions hereof. In all other respects such prior Ordinances, resolutions and policies shall remain in full force and effect.

Effective Date

This Ordinance is necessary for the immediate preservation of the peace, health or safety of the County and its inhabitants and therefore shall take effect immediately upon publication in one issue of a newspaper published and having general circulation in Davis County.

This Ordinance shall be effective as of Oct 18, 2019 (date). All Ordinances and parts of Ordinances in conflict herewith shall not be and the same are here by repealed.

ENACTED AND ADOPTED this 1st day of Oct, 2019.

This Ordinance was duly passed, adopted, and/or approved by the Davis County Legislative Body on this 1st day of Oct, 2019 with Commissioners Randy B. Elliott Aye, Lorene Miner Kamalu Aye, and Bob J Stevenson Aye, all voting as documented herein.

BOARD OF COUNTY COMMISSIONERS OF DAVIS COUNTY

By: _____

Randy B. Elliott, Chair

ATTEST: _____

Curtis Koch

Davis County Clerk/Auditor

Approved as to legal form and compatibility with state law:

Deputy Davis County Attorney

Publication Date: _____, 2019

Effective Date: _____, 2019

APPENDIX A

Emission Inspection Analyzer Specifications

- A. Only Division approved testing equipment will be used to perform Certified Emissions Inspections. The Emissions analyzers (EIA's) shall only be those approved and provided by contract through the current vendor. Refer to Appendix A for current EIA Specifications.
- B. The Division shall explore new technologies related to emissions inspections. As part of this exploration, the Division may perform studies, run pilot projects, collect and analyze data, and make recommendations to the commission. If a new technology can be shown to be as effective as current technologies in reducing emissions and preventing fraud, the Division shall present these findings to the E.P.A. The Division shall then work with the E.P.A. and the commission to seek approval to incorporate the new technology as a testing method.

COMPUTER HARDWARE/SOFTWARE

• 17" .28 Dot Pitch SVGA Color Monitor	• 700 MHz CPU speed or faster
• Flash Drive	• 128 Mb RAM
• 12X CD ROM Drive (or faster, optional)	• 40 Gb Hard Drive (or larger)
• 64 MPEG ready PCI Video Board w/1 Mb RAM	• 256 kb External Cache Memory
• 56k Internal Modem (or faster)	• 104 Enhanced Keyboard
• Standard Mouse/Pointer	• Enhanced RPM and I/O Board
• Bar Code Reader, High Intensity, Non- Contact	• Hewlett Packard LaserJet 2300 printer (or equivalent) or OKIPAGE B4200 printer (or equivalent)

ANALYTICAL SYSTEM

ITEM	METHOD	RANGE	ACCURACY	RESOLUTION
• HC	NDIR	0-2000ppm	+/- 3%	1 ppm
• CO	NDIR	0-10%	+/- 3%	0.01%
• CO ₂	NDIR	0-16%	+/- 3%	0.1%
• O ₂	Cell/NDIR/NDUV	0-25%	+/- 5%	0.1%
• Relative Humidity		5-95%	+/- 3%	
• Ambient Temperature		0-140F	+/- 3%	
• Barometer Pressure		24-32 in. Abs	+/- 3%	

REQUIREMENTS

- * Electric: 120 VAC 15 Amps
- * Shop Air: 80 - 90 PSI Compressed Air

CALIBRATION SYSTEM

- * Integrated Zero Air Generator
- * Automatic Zeroing and Gas Calibration
- * Automatic Leak Test, Dilution Test and

Low Flow

SAMPLE SYSTEM

- * Heavy-duty Sample System for High Throughput Performance w/Pressurized Sample Back Flush
- * Solid State Sample Chiller for Enhanced Water Separation (patent pending)

SUB-SYSTEM

- * OBD II Integrated Function
- * Integrated Fuel Cap Tester

APPENDIX B

Two Speed Idle Inspection Procedures

Each vehicle receiving a Two-Speed Idle (TSI) Test shall be allowed to reach normal operating temperature before performing the Inspection.

- A. The vehicle shall be tested as detailed in the Emissions Inspection Analyzer (EIA) specifications referenced in Appendix A and as programmed into the Emissions Inspection Analyzer (EIA) testing sequence. Vehicles failing because of excessive exhaust dilution shall repair the dilution problem prior to continuing the Emissions test. The dilution standard shall be contained in the Emissions Inspection Analyzer (EIA) specifications as referenced in Appendix A and adjusted when the Division determines by analysis that an adjustment is necessary to yield a more accurate level of Emissions readings.
- B. If a vehicles engine stalls during a Two-Speed Idle (TSI) Emissions Inspection, the test shall be restarted. If an Inspector cannot complete a test because of continuous stalling, fluctuating RPM measurements or RPM measurements that are not within the Division and manufacturer's specified parameters, then these problems shall be corrected before the Inspection is continued.

APPENDIX C

OBD II (Onboard Diagnostics Generation II) Inspection Procedures

The following test procedure is to be followed for 1996 and newer Model Year gasoline and Light Duty Diesel Powered Motor Vehicles and 2008 and newer Medium Duty Vehicles:

1. Verify vehicle information;
2. Accurately enter information into the analyzer at the required Prompts;
3. Review the information entered into the data review screens and make corrections as need;
4. Perform the visual Inspection of all applicable emission control devices;
5. Turn the ignition key to the **OFF** position;
6. Locate the Diagnostic Link Connector (DLC) in the vehicle and connect the OBD lead from the analyzer directly to the vehicles DLC;
 - a. A Simulator device may not be used or connected to the analyzer at any time during an official Emissions Inspection.
7. Turn the ignition to the **KOEO** position;
8. Visually inspect for the MIL function: indicate “YES” if the MIL is functioning or “NO” if the MIL is not functioning;
9. Start the vehicle;
10. Allow the analyzer to communicate with the vehicle;
11. Increase the vehicle RPM to 1000 RPM for 5 seconds;
12. When prompted, turn off the engine, switch the ignition to the **OFF** position and remove the OBD lead;
13. If the MIL is not functioning, the vehicle fails the OBDII Inspection and requires repair;
14. If the MIL is commanded **ON** the vehicle fails the OBDII Inspection. The vehicle has a malfunction and has stored a Diagnostic Trouble Code (DTC). The DTC will need to be investigated and the necessary repairs made;
15. If the Catalyst readiness monitor is “Not Ready” then the vehicle fails the Inspection.

APPENDIX D

Davis County Diesel I/M Program

11.12.010 Definitions

1. Diesel Emissions Standard: as defined in section 10.12.020 of the Ordinance and also including the maximum allowable smoke Opacity limits for a given weight class and Model Year of a Motor Vehicle.
2. Diesel I/M Program Fleet Station (Diesel Fleet Station): a private, public or government facility with a fleet of twenty five (25) or more vehicles that has a valid Permit, issued by the Division, to perform Diesel Opacity Inspections on their own vehicles in accordance with this Chapter.
3. Diesel I/M Program Station (Diesel Station): a Permitted facility meeting the requirements of this Chapter.
4. Diesel Opacity Inspector: an individual Permitted by the Division to perform Opacity Inspections on Diesel Vehicles, also referred to as a Technician.
5. Diesel Opacity Inspection: an Inspection of a Diesel Powered Motor Vehicle by a Diesel Opacity Inspector employed by a Diesel I/M Program Station, Fleet Station or the Division.
6. Diesel Opacity Inspector Permit: the Permit issued by the Division to an individual who has successfully completed the Division Diesel Opacity Inspection and training requirements.
7. Diesel Opacity Analyzer: an Opacity meter with any additional hardware or software required by the Division to perform an official Diesel Opacity Inspection in accordance with this Chapter and a type of Emissions Inspection Analyzer (EIA).
8. Diesel Powered Motor Vehicle: vehicles which are propelled by a compression-ignited engine using diesel fuels, bio-fuels, or a mixture of diesel and bio-fuels.
9. Diesel Vehicle Inspection/Maintenance Program: the Opacity Inspection and repair program for Diesel Powered Motor Vehicle established by the Division, pursuant to Section 41-6a-1644, Utah Code Annotated 1953, as amended.
10. Opacity: the degree to which the exhaust plume obscures the view expressed in percentage of obstruction or the degree expressed in percent to which transmittance of light is reduced by the exhaust plume.
11. Opacity Inspection: the Inspection of Diesel Powered Motor Vehicle using procedures prescribed in the Chapter in order to determine the magnitude (expressed as a percentage) of obscured light (Opacity) due to exhaust constituents, mainly fine particles.
12. Opacity Meter: an optical instrument which is designed to provide continuous real-time measurement of the Opacity of diesel exhaust gases and particulates which pass through the optical unit.
13. Technician: a Permitted Diesel Opacity Inspector.
14. Wide Open Throttle (WOT): accelerations used to purge the exhaust system of any residual exhaust prior to an Opacity Inspection applicable to Heavy Duty Diesel Vehicles.

11.12.030 Purpose

Refer to section 10.20.030

11.12.040 Jurisdiction of the Division

Refer to section 10.20.040

11.12.050 Powers and Duties

Refer to section 10.12.050

- A. The Division or a Division Representative is responsible for performing all Inspections on Light, Medium and Heavy Duty Diesel Powered Motor Vehicles.

11.12.060 Scope

Refer to section 10.12.050

11.12.070 General Provisions

Refer to section 10.12.070

- A. Reciprocity with other vehicle Emissions programs within the state will be allowed as long as Tampering, Opacity, OBDII or other standards meet or exceed those required by this Chapter in accordance with Section 41-6a-1643, Utah Code Annotated, 1953, as amended.
- B. The following vehicles are exempt from the requirements of this Chapter:
 - 1. Heavy Duty Diesel Powered Motor Vehicles that meet all of the following requirements:
 - a. Have an apportioned Registration;
 - b. Are 26,000 lbs. GVWR or greater;
 - c. Have logged more than 50% of their vehicle miles outside of the state; and
 - d. Are within the first three (3) Model Years.

11.12.080 Standards and Specifications for Diesel Emission Equipment

All diesel emission equipment must comply with the standards set forth in Appendix D-1

11.12.090 Requirements of the Vehicle Emission Inspection/Maintenance Program Stations

Refer to section 10.12.090

11.12.100 Testing and Permitting of Certified Diesel Opacity Inspectors

Refer to section 10.12.100

11.12.110 Diesel Emission Inspection Procedures

- A. A Division Representative will perform Diesel Opacity Inspections on light and Medium Duty Vehicles that are Model Year 2007 and older and are non OBD II compliant. This

Inspection is performed on a Dynamometer under load with the approved Opacity meter analyzer system. All Heavy Duty Diesel Powered Motor Vehicles 14,000 lbs. GVWR and up are required to have a J1667 snap-idle test performed by a licensed Station/contractor.

B. Loaded Opacity Inspection Procedures (Refer to Appendix B-2 for drive pattern illustration)

1. All steps in Section 10.12.110(A-L) shall be followed.
2. All facets of the official Vehicle Emissions I/M Program shall be performed by the Certified Diesel Opacity Inspector including:
 - a. Emissions Inspection Analyzer (EIA) preparation, Gas Calibration, leak checks and host communication diagnostics;
 - b. preparation of reports, forms and Certificates of Compliance;
 - c. accessing the official Emissions testing section of the analyzer;
 - d. performing fuel cap pressure tests;
 - e. exhaust sampling and analysis for the purpose of a diesel Opacity Inspection for issuance of a Certificate of Compliance; and
 - f. all other aspects of the official Vehicle Emissions Inspection, including but not limited to the Visual Inspection, inserting the exhaust probe, inserting or attaching the exhaust Opacity sampling equipment, hooking up the tachometer, entering data into the analyzer, preconditioning the vehicle and signing Certificates of Compliance and Vehicle Inspection Report Forms (VIRs).
3. Diesel I/M Program Station or Fleet Station shall employ and ensure at least one (1) Certified Diesel Opacity Inspector is routinely scheduled to work during the advertised operating hours of the facility.
4. To qualify for and obtain a Diesel Opacity Inspector Permit, an applicant shall demonstrate knowledge, skill and competence by passing a written and performance qualification test including, but not limited to, knowledge of the following:
 - a. The requirements of this Chapter;
 - b. Operation of and proper use, care, maintenance and Calibration of the Division approved Emissions Inspection Analyzer (EIA); and
 - c. Proper use and distribution of the required Inspection forms, Certificates of Compliance, Calibration records and supplemental documents.
5. For each vehicle receiving an Opacity Inspection:
 - a. visually inspect for the presence of single or dual exhaust. If the vehicle to be inspected is equipped with a dual exhaust system, only the darkest stack will be used for testing;
 - b. determine the appropriate Inspection procedure to follow, depending on the vehicle weight rating, type and Model Year, and then proceed with the Inspection procedures as outlined in this Chapter;
 - c. if a vehicle is unable to be inspected using a particular weight category Inspection procedure as outlined in this Chapter because of an unusual engine/chassis configuration, the Director at his/her discretion may select an alternate Inspection procedure to be performed on the vehicle;
 - d. verify for 1996 and newer Medium Duty Vehicles the Key On Engine Off (KOEO) Bulb Function and fail the vehicle if the MIL does not function; and
 - e. verify for 1996 and newer Medium Duty Vehicles the Key On Engine Running function that the MIL is extinguished. Fail the vehicle if the MIL is

illuminated.

C. Heavy-Duty Snap Idle Inspection Procedures

1. The snap idle test is based on the J 1667 protocol. All Diesel Powered Motor Vehicles 14,001 lbs. GVW and greater, will receive a snap idle test performed with the approved testing equipment. The Technician will follow all analyzer Prompts and screens as specified and upon completion of the test will issue the appropriate paperwork to the consumer. All safety considerations addressed in section 10.12.110(G) shall be followed.
2. Heavy Duty Diesel Powered Motor Vehicles that meet all of the following requirements:
 - a. Have an apportioned Registration;
 - b. Are 26,000 lbs. GVWR or greater;
 - c. Have logged more than 50% of their vehicle miles outside of the state; and
 - d. Are within the first three (3) Model Years.
3. Owners of Heavy Duty Diesel Powered Motor Vehicles may request that a Division Representative perform on-site Vehicle Emissions Inspections.
 - a. As a condition for Permitting a Certified Diesel Station or Diesel Fleet Station, the following tools, references and equipment shall be available for the performance of Inspection and maintenance of Diesel Powered Motor Vehicles:
 - i. a Division approved Diesel Opacity Analyzer that meets the minimum specifications as outlined in Appendix A of this Chapter;
 - ii. a handbook, approved by the Division, that includes Inspection procedures to be followed by the Diesel Opacity Inspector;
 - iii. reference manuals specified and approved by the Division that contain tune-up specifications, and information covering the Emissions control systems for the Model Years and makes of vehicles involved in the Diesel Inspection/Maintenance Program;
 - iv. sufficient hand tools for proper performance of Inspection and maintenance of the vehicle;
 - v. exhaust gas removal equipment approved by the Division;
 - vi. the Diesel Opacity Analyzer manufacturer's maintenance and Calibration manual, which must remain in the Inspection Area;
 - vii. all forms, Technical Bulletins, and other information materials provided by the Division; and
 - viii. all essential devices, connections, phone lines and software required by the Division.
 - b. Diesel Fleet Stations
 - i. Owners of vehicle fleets with twenty-five (25) or more Heavy Duty Diesel Powered Motor Vehicles may apply to the Division for a Diesel I/M Program Fleet Station Permit. This Permit would allow fleet owners to inspect only their own Heavy Duty Motor Vehicles that are Registered to the individual or corporation identified on the Permit. A fleet Station may be Permitted for Inspection of light and Medium Duty Vehicles with approval of the Division;
 - ii. The Fleet Station shall immediately notify the Division and surrender all unused Certificates of Compliance at such time as the Station no longer

- employs a Diesel Opacity Inspector; and
- iii. The Fleet Station shall notify the Division whenever five (5) or more consecutive Diesel Opacity Inspections are scheduled to be performed within an eight (8) hour period. The Director may dispatch a field Auditor to observe all or a portion of the Diesel Opacity Inspections performed.

11.12.120 Davis County Testing Center

- A. The Davis County Testing Center personnel or a Division Representative may conduct Diesel Emissions Inspections approved Inspection equipment, hardware and software as technology advances and new Inspection procedures become available.
- B. Loaded Diesel Opacity, OBDII and Diesel Snap Inspections will be performed following the procedures outlined in this Appendix.
- C. Developmental Emissions Inspections may be conducted.
 1. Vehicles inspected by this method shall comply with all the requirements of the latest U.S.E.P.A.'s Technical Guidance Documents and the requirements as outlined in this Appendix.
- D. Emission Inspection equipment will be checked, maintained, calibrated and serviced in accordance with the appropriate equipment manufacturer's procedures.
- E. The Davis County Testing Center may inspect a portion of the fleet on a voluntary basis for modeling, air quality assurances and public convenience.
- F. The Division may develop or modify all present and future I/M Program procedures.

11.12.130 Emission Standards

- A. The following schedule gives the maximum allowable concentration limits for Diesel Opacity Inspections:
 1. Heavy Duty Diesel Powered Motor Vehicles, 14,001 pounds GVWR or more – Snap Idle Test:
 - a. 20% Opacity for Diesel engines manufactured on or after January 1, 1996.
 - b. 40% Opacity for Diesel engines manufactured before January 1, 1996.
 2. Light Duty/Medium Duty Vehicles, 14,000 pounds GVWR and less – Dynamometer Inspection:
 - a. 20% Opacity for all Non-OBDII Compliant Vehicles, readings taken at cruise and Wide Open Throttle (WOT).
 3. Light/Medium Duty OBDII Compliant Diesel Powered Motor Vehicles will meet OBDII Standards listed in Section 10.12.250

11.12.140 Certificates of Compliance and Waivers

- A. Certificate of Compliance
 1. A Certificate of Compliance will be issued to Diesel Powered Motor Vehicles following the standards set in 10.12.140(A).
- B. Certificate of Waiver
 1. A Certificate of Waiver will be issued to Diesel Powered Motor Vehicles following the standards set in 10.12.140(B) with the following exceptions:

- a. Diesel Powered Motor Vehicles are exempt from the Waiver Cut Points established in section 10.12.260.
- b. For vehicles that support the catalyst monitor as originally certified, the catalyst readiness monitor must be operational and set as “Ready” for Light/Medium Duty Vehicles Model Years 1998 and newer to be eligible for a Certificate of Waiver eligibility.
- c. The dollar amount required to be spent on Emissions Related Repair fees for the following specified Diesel Powered Motor Vehicles shall be set at:
 - i. \$750.00 for 1968 and newer Model Year Light/Medium Duty Vehicles:
and
 - ii. \$1,500.00 for 1968 and newer Model Year Heavy Duty Diesel Powered Motor Vehicles.
- d. Visible Emissions must be in compliance as defined in Utah Code 41-6a-1626.

11.12.150 Engine Switching

Refer to section 10.12.150

11.12.160 Right to Appeal

Refer to section 10.12.160

11.12.170 Recall

Refer to Section 10.12.170

11.12.180 Penalty

Refer to section 10.12.180

11.12.200 Quality Assurance

Refer to section 10.12.200

11.12.210 Severability

Refer to section 10.12.210

11.12.220 Auditing and Reporting

Refer to section 10.12.220

11.12.230 Emission Inspection Analyzer (EIA)

Only Division approved Inspection equipment will be used to perform Certified Emissions and Opacity Inspections. The Diesel Emissions analyzers (EIA's) shall only be those approved and

provided by contract through the current vendor. Refer to Appendix D-1 for Diesel EIA requirements.

11.12.240 Fee Schedule

Refer to section 10.12.240 for the applicable fees not listed in 11.12.240

Permitting of a Diesel I/M Program Station or Fleet Station	\$300.00
Annual Renewal of a Diesel I/M Program Station or Fleet Station	\$60.00
Annual Renewal of an Expired Diesel I/M Program Station or Fleet Station	\$120.00
Permitting a Diesel I/M Program Station or Fleet Station at a New Location	\$50.00
Permitting a Diesel I/M Program Station or Fleet Station Under a New Business Name	\$125.00
Permitting a Diesel Opacity Inspector	\$30.00
Annual Renewal of a Diesel Opacity Inspector Permit	\$25.00
Annual Renewal of an Expired Diesel Opacity Inspector Permit	\$40.00
Duplicate Diesel Opacity Inspector Permit	\$12.00
Refresher training for Diesel Opacity Inspectors	\$30.00
Diesel Opacity Inspector Study Guide	\$40.00
Diesel Emission Fee	Set by County

11.12.280 Penalty Schedule

Refer to section 10.12.280

11.12.290 Conflicts

Refer to section 10.12.290

Effective Date

This Ordinance is necessary for the immediate preservation of the peace, health or safety of the County and its inhabitants and therefore shall take effect immediately upon publication in one issue of a newspaper published and having general circulation in Davis County.

This Ordinance shall be effective as of Oct 18, 2019 (date). All Ordinances and parts of Ordinances in conflict herewith shall not be and the same are here by repealed.

ENACTED AND ADOPTED this 1st day of Oct, 2019.

This Ordinance was duly passed, adopted, and/or approved by the Davis County Legislative Body on this 1st day of Oct, 2019 with Commissioners Randy B. Elliott Aye, Lorene Miner Kamalu Aye, and Bob J Stevenson Aye, all voting as documented herein.

BOARD OF COUNTY COMMISSIONERS OF DAVIS COUNTY

By: 

Randy B. Elliott, Chair

ATTEST:


Curtis Koch

Davis County Clerk/Auditor

Approved as to legal form and compatibility with state law:


Deputy Davis County Attorney

Publication Date: , 2019

Effective Date: , 2019

Appendix D-1 Diesel Emission Equipment Specifications

PRODUCT SPECIFICATIONS: Sensors LCS 2400 Opacity Meter

Operating Conditions

Temperature: 5 °C to 40 °C

Humidity: 0 to 95 %

Pressure: 0...10kPa \pm 0.2kPa

Characteristics

Optical path length: 364 mm (+/- 1 mm)

Tube Temp: 70...100 °C (75 °C typical)



Warm Up Time: \leq 3 min. @ 20 °C

Zero-Drift: $< 0.01 \text{ m}^{-1}$ over 15 min

Resolution: N: 0.1 % ; k: 0.01 m^{-1}

Gas Temperature Range: 10 – 150 °C

Storage Temperature: -32 °C to 55 °C

Pneumatic Stability: $\pm 1.0\%$

Acoustic Noise: 53 dba

Opacity Accuracy: $\pm 2\%$ absolute

Reliability: 20,000 hours (MTBF)

Dimensions (H x W x L): 23.5 cm x 38 cm x 9 cm

Weight: 4.5kg (10 lbs)

Software & Communications 9600/19200 Baud rate (selectable)

Communication: via RS-232 async

Power:

Input 230 Vac,, 115Vac or 100Vac available

Line Frequency: 50 or 60 Hz

Output 12Vdc @3A (via com port connector)

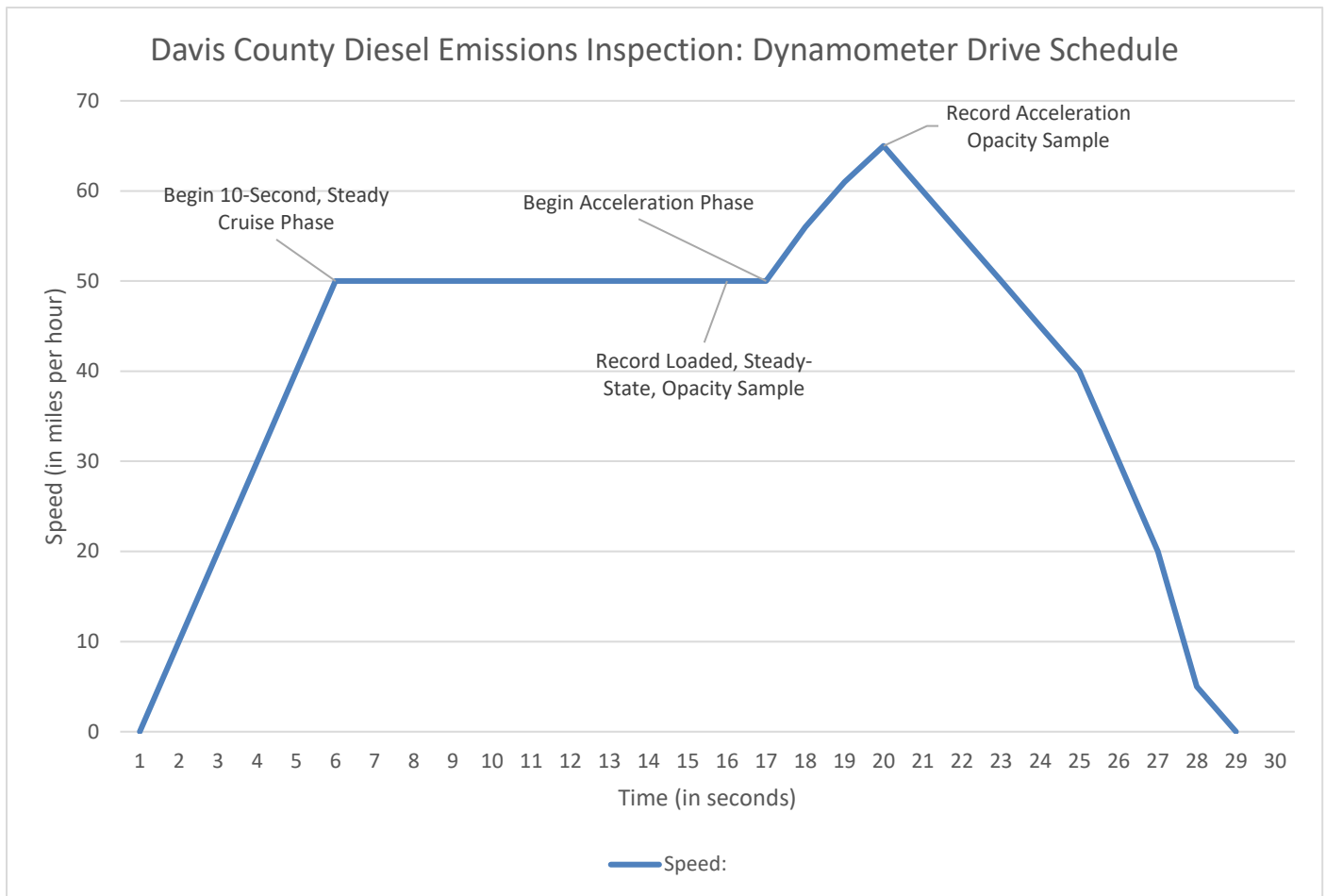
The computer/cabinet shall be based on the Worldwide EIS 7000

Diesel Exhaust Opacity Measurements

- Sensors Opacity Meter uses laser technology as an upgrade to the halogen technology used previously
- Opacity meter auto-zeros before each test
- Each opacity meter is validated at least once per week using 3 validation lenses, calibrated at 25%, 55%, and 75% opacity
- Opacity meter has many error codes that prohibit testing if set. Error codes include (but are not limited to):
 - Tube Temp Invalid
 - Transducer in Standby Mode
 - Dirty Lenses
 - Gas Temperature Too Cold
 - Ambient Temperature Invalid
 - Power Voltage Out of Tolerance



Appendix D-2 Loaded Opacity Inspection Drive Pattern



APPENDIX E
Compressed Natural Gas (CNG) Vehicle Inspection Procedures

- A. 1995 and older with switchable bi-fuel systems must comply with the appropriate County Inspection procedures using both fuels when possible, including the Visual Inspection.
- B. 1995 and older with non-switchable bi-fuel systems must on a case-by-case basis, comply with the appropriate County Inspection procedures using both fuels when possible, including the Visual Inspection.
- C. 1995 and older systems with a dedicated fuel (non-bi-fueled) must complete normal Inspection procedure using dedicated fuel, including the Visual Inspection.
- D. All 1996 through 2004 dedicated and bi-fueled systems shall receive a Visual Inspection: the MIL must illuminate while the key is on engine off (KOEO); the MIL must extinguish while the key is on with the engine running (KOER). Bi-fuel vehicles will receive a tailpipe test on each fuel.
- E. All 2005 and newer systems must have a conversion kit, be OBDII compatible, and comply with a Visual Inspection and prescribed OBDII and any other required testing.

Effective Date

This Ordinance is necessary for the immediate preservation of the peace, health or safety of the County and its inhabitants and therefore shall take effect immediately upon publication in one issue of a newspaper published and having general circulation in Davis County.

This Ordinance shall be effective as of Oct 18, 2019 (date). All Ordinances and parts of Ordinances in conflict herewith shall not be and the same are here by repealed.

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BOARD OF COUNTY COMMISSIONERS OF DAVIS COUNTY

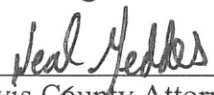
By:


Randy B. Elliott, Chair

ATTEST:


Curtis Koch
Davis County Clerk/Auditor

Approved as to legal form and compatibility with state law:


Deputy Davis County Attorney

Publication Date: _____, 2019
Effective Date: _____, 2019

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BOARD OF COUNTY COMMISSIONERS OF DAVIS COUNTY

By: 

Randy B. Elliott, Chair

ATTEST:


Curtis Koch

Davis County Clerk/Auditor

Approved as to legal form and compatibility with state law:


Deputy Davis County Attorney

Publication Date: , 2019

Effective Date: , 2019

1
2
3
4 **UTAH STATE IMPLEMENTATION PLAN**

5
6 **SECTION X**

7
8 **VEHICLE INSPECTION AND**
9 **MAINTENANCE PROGRAM**

10
11 **Part E**

12
13 **Weber County**

14
15
16
17
18
19
20
21
22
23
24
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35 Adopted by the Utah Air Quality Board
36 TBD

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2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21

Table of Contents

1. Applicability 1

2. Summary of Weber County I/M Program..... 1

3. I/M SIP implementation..... 3

SECTION X Part E
Weber County Emission Inspection/ Maintenance Program
APPENDICES

1. Weber County Emission Inspection/ Maintenance Program Regulation revised [~~March 26, 2012~~]September 23, 2019
2. Weber County Audit Policies and Procedures

UTAH STATE IMPLEMENTATION PLAN
SECTION X, PART E
VEHICLE INSPECTION AND MAINTENANCE (I/M) PROGRAM

1. Applicability

Weber County Inspection and Maintenance (I/M) [P]Program [R]Requirements: Ogden City was designated nonattainment for the carbon monoxide (CO) National Ambient Air Quality Standard[s] (NAAQS) on January 6, 1992 (56 FR 56694, November 6, 1991) and was classified as a "moderate" area. The Ogden City CO nonattainment area was redesignated to attainment for the CO NAAQS on November 14, 2005 (70 FR 54267, September 14, 2005). Parts of Weber County was designed as a 'marginal' nonattainment area for the 2015 8-hour ozone standard effective August 3, 2018(83 FR 25776), June 4, 2018). An I/M program is not required in marginal nonattainment areas; however, if Weber County is redesignated to a 'moderate' nonattainment area, an I/M program would be required by the Clean Air Act (CAA).

Utah was previously required by Sections 182 and 187 of the ~~[Clean Air Act]~~CAA to implement and maintain an I/M program in Weber County that met the minimum requirements of 40 CFR Part 51 Subpart S and that was at least as effective as the EPA's Basic Performance Standard as specified in 40 CFR 51.352. However, the Basic Performance Standard requirement is no longer applicable as the nonattainment area in Weber County has been redesignated to attainment / maintenance for the CO NAAQS. Parts A and E of Section X, together with the referenced appendices, continue to demonstrate compliance with the 40 CFR Part 51 provisions for ~~[Inspection and Maintenance]~~I/M [P]program [R]requirements for Weber County and produce mobile source emission reductions that are sufficient to demonstrate continued maintenance of the CO NAAQS. In addition, the Weber County I/M program is a control measure ~~[to attain and maintain EPA's particulate NAAQS in Weber County]~~ included in the Salt Lake City 24- hour particulate Serious SIP submitted to EPA on February 15, 2019.

2. Summary of Weber County I/M Program

Below is a summary of Weber County's I/M program. Section X, Part E, Appendices 1 and 2 contain the essential documents for Weber County's I/M program.

Network Type: Weber County's I/M program is a decentralized, test-and-repair network, as approved by EPA on September 14, 2005 (70 FR 54267).

Test Convenience: There are approximately ~~[110]~~ 105 permitted ~~[Basic]~~ I/M stations within Weber County. Specific operating hours are not specified by the county; however, Weber County regulation requires that stations be open and available to perform inspections during a major portion of normal business hours of 8:00 a.m. to 5:00 pm Mondays through Fridays.

There are also government and private fleet permitted stations that are not open to the public.

Subject Fleet: All model year 1968 and newer vehicles registered or principally-operated in Weber County are subject to the I/M program except for exempt vehicles.

Test [f]Frequency: Vehicles less than two years old as of January 1 on any given year are exempt from an emissions inspection. Vehicles two years old and less than six years old as of January 1 on any given year are inspected every other year as per Utah Code 41-6a-1642(6). All vehicles six years old and older as of January 1 on any given year are inspected annually.

Station/[i]&[Inspector]/Tester/Technician Audits: Weber County's I/M program will regularly audit all permitted I/M ~~[inspectors]~~tester/technicians and stations to ensure compliance with county I/M regulations, procedures, and policies. Particular attention will be given to identifying and correcting any fraud or incompetence with respect to vehicle emissions inspections. Compliance with recordkeeping, document security, analyzer maintenance, and program security requirements will be scrutinized. The Weber County I/M program will have an active covert ~~[compliance]~~ audit program to minimize potential fraudulent testing. ~~[Weber county audit policy]~~ The Policies and Procedures of the audit program are [is] provided in Appendix 2 of this part of Section X.

Waivers: Weber County will take corrective action as needed to maintain a maximum waiver rate of 5% of the initially failed vehicles or the Utah Air Quality Board will revise the SIP and emission reductions claimed based on the actual waiver rate. The conditions for issuing waivers legally authorized and specified in the Weber County I/M regulation meets the minimum waiver issuance criteria specified in 40 CFR Subpart S 51.360.

Test Equipment: Specifications for Weber County's emission analyzer and its I/M test procedures, standards and analyzers are provided in Weber County's I/M regulations provided in Appendix 1. Test equipment and procedure were developed according to good engineering practices to ensure test accuracy. Analyzer calibration specifications and emissions test procedures meet the minimum standards established in Appendix A of the EPA's I/M Guidance Program Requirements, 40 CFR Part 51 Subpart S.

Test Procedures:

- The following vehicles are subject to an OBD II inspection:
 - 1996 and newer light duty vehicles¹ ~~[are subject to an OBD II inspection].~~ and
 - 2008 and newer medium duty vehicles²

¹ Light duty vehicles have a Gross Vehicle Weight of 8500 lbs or less.

² Medium duty vehicles have a Gross Vehicle Weight greater than 8500 lbs but less than 14,000 lbs

- The following vehicles are subject to a two-speed idle test that is compatible with Section VI (Preconditioned Two Speed Idle Test) in Appendix B of the EPA I/M Guidance Program Requirements, 40 CFR 51, Subpart S:
 - 1995 and older vehicles,
 - 1996 and 2007 [newer] medium³ and heavy-duty vehicles⁴, and
 - 2008 and newer heavy-duty vehicles.

3. I/M SIP Implementation

The I/M program regulations, policies, procedures, and activities specified in this I/M SIP revision have been implemented and shall continue until a maintenance plan without an I/M program is approved by EPA in accordance with Section 175 of the Clean Air Act as amended.

³ Medium duty vehicles have a Gross Vehicle Weight greater than 8500 lbs but less than 14,000 lbs

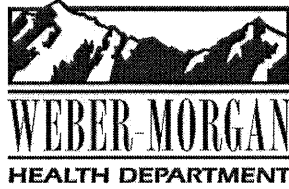
⁴ Heavy Duty vehicles have a Gross Vehicle Weight greater than 14,00[0]1 lbs

Appendix 1: Weber County

Emission Inspection/Maintenance

Program Regulation revised

September 23, 2019.



Weber-Morgan Health Department

Regulation for

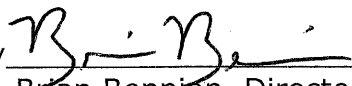
Motor Vehicle Inspection and Maintenance Program

Adopted by the Weber-Morgan Board of Health

September 23, 2019

Under Authority of Section 26A-1-121
Utah Code Annotated, 1953, as amended

Certified Official Copy
Weber-Morgan Health Department

By 
Brian Bennion, Director, Weber-Morgan Health Department

By 
Neil Garner, Chair, Weber-Morgan Board of Health

MOTOR VEHICLE INSPECTION AND MAINTENANCE PROGRAM

TABLE OF CONTENTS

	<u>Page</u>
1.0 Title and Definitions	3
2.0 Purpose.....	10
3.0 Authority and Jurisdiction.....	10
4.0 Powers and Duties	11
5.0 Scope	14
6.0 General Provisions	14
7.0 Standards and Specifications for Analyzers and Span Gases	17
8.0 Permit Requirements of the Vehicle Emissions Inspection and Maintenance Station	19
9.0 Inspection Procedures.....	24
10.0 Certificate of Waiver	28
11.0 Engine Switching.....	31
12.0 Certified Emissions Inspection and repair Technician / Certified Emissions Inspection Only Technician Permit	31
13.0 Emissions Standards for Motor Vehicles	34
14.0 Certificates of Compliance and Certificates of Compliance - Waiver.....	35
15.0 Adjudicative Proceedings	36
16.0 Penalty	36
17.0 Severability.....	37
18.0 Effective Date	37
Appendix A - Utah 2011 Analyzer Specifications.....	38
Appendix B - Fee Schedule.....	45
Appendix C - Weber County Emission Standards (Cut points)	46
Appendix D - Penalty Schedule.....	48
Appendix E - OBD IM Inspection Procedures.....	51
Appendix F – Diesel Fueled Vehicle Test Procedure	52
Appendix G- Adjustment Procedures.....	54
Appendix H - Engine Switching Fact Sheet.....	56

1.0 TITLE AND DEFINITIONS

These standards shall be known as the Motor Vehicle Inspection and Maintenance Program Regulation, hereinafter referred to as “this Regulation”.

For the purpose of this Regulation, the following words and phrases, when used herein, except as otherwise required by the context, have the following meanings.

1.1 “**Accreditation**” means Certification that the Analyzer and Analyzer manufacturer meet the operating criteria, specifications and requirements of Weber County and the Department;

1.2 “**Accuracy**” means the degree by which an instrument is able to determine the true concentration of pollutants of interest. Also means freedom from error especially as a result of care;

1.3 “**Air Intake Systems**” means systems that allow for the induction of ambient air, including preheated air into the engine combustion chamber for the purpose of mixing with a fuel for combustion;

1.4 “**A.I.R. (Air Injection Reaction System)**” means a system for providing supplementary air into a vehicle’s exhaust system to promote further oxidation of hydrocarbons (HC) and carbon monoxide (CO) gases and to assist catalytic reaction;

1.5 “**Analyzer**” See definition for UTAH 2011 Analyzer;

1.6 “**Audit**” means a procedure performed by Department personnel that includes but is not limited to, inspection of the Station, review of Station records, inspection of the Analyzer and related I/M equipment, and review of personnel working knowledge and records. The audit procedure is intended to ensure compliance with this Regulation and Department policies and procedures;

1.7 “**Bar 97**” Refers to California Bureau of Automotive Repair Exhaust Gas Analyzer Specifications, which became effective in 1997;

1.8 “**Basic Engine Systems**” means parts or assemblies that provide efficient conversion of a compressed air/fuel charge into useful power, including but not limited to valve train mechanisms, cylinder head to block integrity, piston ring-cylinder sealing integrity and post-combustion emissions control device integrity meeting OEM Standards;

1.9 “**Bench**” means the main sample processing assembly of the exhaust gas Analyzer including detectors, sampling tubes, processor boards, infrared sources and power supply;

1.10 “**Board of Health**” means the Weber-Morgan Board of Health;

1.11 **“Calibration”** means the process of establishing or verifying the accuracy of an exhaust gas Analyzer to perform an accurate and consistent evaluation of engine exhaust using calibration gases having precisely known concentrations;

1.12 **“Calibration [Span] Gases”** means gases of known concentration that are used as references for establishing or verifying the calibration curve of an exhaust gas Analyzer and which are traceable to the National Institute of Standards and Technology and are approved by the Department for use;

1.13 **“Carbon Monoxide”** A colorless, odorless, asphyxiating gas produced by the incomplete burning of fuels. Carbon monoxide may be referred to in these Regulations as CO;

1.14 **“Catalytic Converter”** A post-combustion device that oxidizes HC and CO gases and/or reduces oxides of nitrogen gases;

1.15 **“Certificate of Compliance”** means a serially numbered document issued to the vehicle upon passing an inspection or reinspection and is evidence that the motor vehicle complies with the standards and criteria of this Regulation and other requirements as adopted by the Board of Health. Beginning January 1, 2019 or another date as determined by the Department, all Certificates of Compliance will only be issued electronically and will be submitted by the Department directly to the Utah Division of Motor Vehicles and/or the Utah State Tax Commission;

1.16 **“Certificate of Compliance Numbers”** means numbers issued to Stations and entered into the approved Analyzer for the purpose of issuing Certificates of Compliance;

1.17 **“Certificate of Waiver or Waiver”** means a document issued by the Department used to verify that the vehicle for which it was issued has met the waiver requirements of this Regulation. Beginning January 1, 2019 or another date as determined by the Department, all Certificates of Waiver will only be issued electronically and will be submitted by the Department directly to the Utah Division of Motor Vehicles and/or the Utah State Tax Commission;

1.18 **“Certification”** means assurance by an authorized source, whether it is a laboratory, the manufacturer, the state, or the Department, that a specific product or statement is in fact true and meets all requirements;

1.19 **“Certified Emissions Inspection and Repair Technician or Technician”** means an individual who has successfully completed all permit requirements and has been issued a current, valid Emission Inspection and Repair Technician Permit by the Department. A person permitted by the Department who inspects vehicles, diagnoses emission related faults, and performs emissions related repairs and adjustments to bring vehicles into compliance with the requirements of this Regulation;

1.20 **“Certified Emissions Inspection Only Technician or Tester”** means an individual who has successfully completed all permit requirements and has been

issued a current, valid Emission Inspection Only Technician Permit by the Department;

1.21 **“CO”** means Carbon Monoxide;

1.22 **“Compliance”** means verification that certain data and hardware submitted by a manufacturer for accreditation consideration, meets all Department requirements; Also meeting the requirements of this Regulations;

1.23 **“County”** means Weber County, Utah;

1.24 **“Curb Idle”** means the manufacturer’s specified idle speed for the specific motor vehicle being tested (tolerance within 50 rpm) See also **Idle Mode**;

1.25 **“Cut-Points”** Same as Emission Standards;

1.26 **“Department”** means the Weber-Morgan Health Department, Division of Environmental Health;

1.27 **“Diesel Oxidation Catalyst (DOC)”** means a catalyst which promotes the oxidation process in diesel exhaust to reduce emissions.

1.28 **“Diesel Particulate Filter (DPF)”** means a system which is designed to capture diesel exhaust particulate matter. The DPF must be cleaned at specific intervals.

1.29 **“Director”** means the Environmental Health Division Director of the Weber-Morgan Health Department or for the purpose of program administration means the I/M Program Manager or I/M Auditor.

1.30 **“Domiciled”** means County in which primary residence is located;

1.31 **“E.G.R. System (Exhaust Gas Recirculation System)”** means an emissions control system that recycles or recirculates a portion of the exhaust gases back to the engine combustion chambers;

1.32 **“Emissions”** means substances expelled into the atmosphere from a motor vehicle; particularly, air contaminants produced by combustion and/or incomplete combustion, hydrocarbon evaporation from the fuel system and/or the crankcase, and particulate matter from the crankcase;

1.33 **“Emission Control Systems”** means any device or combination of parts, originally installed by the manufacturer to control the emissions of a motor vehicle;

1.34 **“Emissions Inspection or Inspection”** means a motor vehicle inspection performed for the purpose of determining whether the vehicle qualifies for issuance of a Certificate of Compliance or Certificate of Waiver, carried out in compliance with this Regulation;

1.35 “**Emissions Repair or Repair**” means repair of a motor vehicle for the purpose of such vehicle passing or attempting to pass an emissions inspection;

1.36 “**Emissions Inspection and Repair Technician Permit or Technician Permit**” means a permit issued by the Department authorizing an individual to conduct emission inspections, repair failed vehicles and issue Certificates of Compliance while under the auspices of a Station;

1.37 “**Emissions Inspection Only Technician Permit or Tester Permit**” means a permit issued by the Department authorizing an individual to perform emission inspections and issue certificates of compliance while under the auspices of a Station;

1.38 “**Emissions Standards (Cut-Points)**” means the maximum allowable concentration of regulated emissions for a given weight class and model year of a motor vehicle, as allowed by this Regulation, using an approved Analyzer;

1.39 “**Emissions Test**” means the process dictated by the official test mode of the Utah 2011 Analyzer;

1.40 “**Engine Switching**” means an engine is removed from a vehicle and is replaced by an engine that is not identical to the original engine;

1.41 “**EPA**” means the United States Environmental Protection Agency;

1.42 “**Evaporative Control System**” means an emission control system that prevents the escape of fuel vapors from the fuel system and/or air cleaner and stores them to be burned in the combustion chamber;

1.43 “**Federal Installation**” means any property or facility subject to the jurisdiction of any department, agency, or instrumentality of the executive, legislative, and judicial branches of the Federal government;

1.44 “**Fleet Facility**” means a corporation or other business entity permitted by the Department to perform the functions of the inspection program for a privately owned fleet of ten or more motor vehicles;

1.45 “**Fuel Control Systems**” means the mechanical, electro mechanical, galvanic or electronic parts or assemblies that regulate the air/fuel ratio in an engine to provide a combustible charge;

1.46 “**Gaseous Fuel**” means, but is not limited to, liquefied petroleum gases and natural gases in liquefied or gaseous forms;

1.47 “**HC**” means hydrocarbons;

1.48 “**Hangup**” means hydrocarbons that cling to the surface of the sampling and Analyzer systems in contact with the exhaust gas sample stream resulting in errors in HC readings;

1.49 “**Heavy Duty Vehicles**” means a vehicle 1978 and older with a weight of more than 6000 pounds or 1979 and newer with a weight of more than 8501 pounds GVW (gross vehicle weight);

1.50 “**Hydrocarbons**” means unburned fuel;

1.51 “**Idle Mode**” means a condition where the vehicle’s engine is at proper operating temperature and running at the rate specified by the manufacturer’s curb idle, where the engine is not propelling the vehicle, and where the throttle is in the closed or idle stop position. This condition achieved without placing a load on the vehicle to decrease its RPM to the specified rate (See also **Curb Idle**);

1.52 “**Ignition Systems**” the means parts or assemblies that are designed to cause and time the ignition of a compressed air/fuel charge;

1.53 “**I/M Clearance**” means a stamp placed on the motor vehicle registration form by an employee of the Utah State Motor Vehicle Office or the Department indicating that the motor vehicle represented by the registration form is in compliance with the inspection program requirements in that the motorist has presented a valid Certificate of Compliance or Certificate of Waiver for the motor vehicle and paid applicable fees;

1.54 “**I/M Program**” means the Vehicle Emissions Inspection and Maintenance Program established by the Board of Health and this Regulation;

1.55 “**I/M Program Test and Repair Station**” means a business permitted by the Department which engages in emissions testing and emissions related repairs to motor vehicles, and which meets the requirements of this Regulation for test and repair facilities;

1.56 “**I/M Program Test Only Station**” means a business permitted by the Department which engages only in emissions related inspections of motor vehicles, and which meets the requirements of this Regulation for test only facilities;

1.57 “**Inspection Area**” means the Department approved area that is occupied by the Analyzer, sample hose, and the vehicle being inspected;

1.58 “**Inspection Report**” means a document used to record information generated by the Tester/Technician during an emissions inspection other than a Certificate of Compliance;

1.59 “**Instrument**” means the complete UTAH 2011 Analyzer system that samples and displays the concentration of emission gases and also performs OBD IM test procedures. The instrument includes the sample handling system, the exhaust gas Analyzer associated computer equipment and the enclosure cabinet;

1.60 “**Light Duty Motor Vehicle**” means all passenger vehicles, 1978 and older; light duty trucks 6000 GVW rating or less; 1979 trucks and newer 8500 pounds GVW rating or less;

1.61 “**Lock-Out**” means when the UTAH 2011 Analyzer automatically prohibits access to the testing portion of the UTAH 2011 Analyzer;

1.62 “**Motor Vehicle or Vehicle**” means any equipment or mechanical device propelled primarily on land by an internal combustion powered engine that is driven on public roads and/or streets. Motor vehicles exempted from the inspection requirements of this Regulation as listed in Section 6.4 of this Regulation;

1.63 “**Motorcycle**” means every motor vehicle having a saddle for the use of the rider and designed to travel with not more than three wheels in contact with the ground, but excluding a farm tractor;

1.64 “**Non-Permitted Person**” means any person who has not been certified by the Department to perform official emissions inspections;

1.65 “**OBD**” means Vehicle On-Board Diagnostics;

1.66 “**OBDII**” means the On-Board Diagnostics Generation II Standard effective in 1996 and newer light duty car and light duty trucks sold in the United States;

1.67 “**OEM**” means Original Equipment Manufacturer;

1.68 “**Off-Highway Vehicles**” means a vehicle licensed to operate exclusively off public highways and roads;

1.69 “**Original Condition**” means the condition of the emission control system(s) as installed by the manufacturer, but not necessarily to the original level of effectiveness;

1.70 “**Other Entity**” may include Fleet Facilities, I/M Technical Centers, and reciprocity agreements with EPA approved I/M Programs;

1.71 “**PCV System (Positive Crankcase Ventilation System)**” means an emissions control system that returns crankcase vapors and blowby gases to the combustion chamber to be burned;

1.72 “**Person**” means an individual, corporation, association, firm, partnership, joint stock company, public or municipal corporation, political subdivision, the state or any agency thereof, or the federal government or any agency thereof;

1.73 “**Prompts**” means instructions and/or data fields, requiring data input to the Analyzer from a Tester/Technician performing an emission inspection;

1.74 “**Publicly-Owned Vehicles**” means a motor vehicle owned by a government entity, including but not limited to the federal government or any agency thereof, the State of Utah or any agency or political subdivision thereof;

1.75 “**Readiness**” means an indicator that identifies when the related emission control system’s operational status has been determined;

1.76 “**Registered or Registration**” means the process by which a motor vehicle receives a license so that it can be legally operated on public streets and highways;

1.77 “**Reinspection**” means any emissions inspection performed on a motor vehicle after it has undergone an initial emissions inspection that did not qualify the motor vehicle for a Certificate of Compliance;

1.78 “**Selective Catalyst Reduction (SCR)**” is a means of reducing NOx in diesel exhaust gases by introducing nitrogen containing compounds such as urea;

1.79 “**Smoking Vehicle**” means a motor vehicle emitting visible emissions after the engine has reached normal operating temperature;

1.80 “**Station**” means an I/M Program Station including all station personnel, employees, and owner(s);

1.81 “**Station Permit**” means the document issued by the Department that authorizes a person to operate a Station;

1.82 “**Tampering**” means the intentional or accidental altering of or removal of emission control systems, and/or emissions-related equipment. Also, the use of fuels other than those required by the manufacturer’s specification as found in the motor vehicle’s owner’s manual. Also, engine modification which may include, but is not limited to, exhaust systems, air intake systems, ignition systems, internal engine modifications, engine switching, etc.;

1.83 “**Technical Bulletin**” means a document issued to Tester/Technicians and Stations by the Department to update, clarify or establish policies and/or procedures for their implementation in the Vehicle Emissions Inspection and Maintenance Program;

1.84 “**Tester/Technician**” means a Department Certified and Permitted Emissions Tester or Department Certified and Permitted Emissions Repair Technician;

1.85 “**Training Program**” means a formal program administered, conducted, or approved by the Department for the education of Testers/Technicians in basic emission control technology, inspection procedures, diagnosis and repair of emission related problems, Vehicle Emissions Inspection and Maintenance Program policies, procedures and this Regulation; it may also include the promotion of training for all mechanics;

1.86 “**TSI**” means Two Speed Idle Test Procedure;

1.87 “**UTAH 2011 Analyzer or Analyzer**” means the official computerized engine exhaust analyzer and associated test equipment approved by the Department for use in the areas of Utah requiring inspections as specified in Section 41-6a-1642, Utah Code Annotated, 1953, as amended;

1.88 “**Vehicle Emissions Inspection and Maintenance Program**” means the program established by the Board of Health pursuant to Section 41-6a-1642, Utah Code Annotated 1953, as amended and Weber County Ordinance Section 28-1-4;

1.89 “**Waiver**” see Certificate of Waiver.

2.0 PURPOSE

It is the purpose of this Regulation to reduce air pollution levels in Weber County by requiring inspection of in-use motor vehicles and by requiring emission related repairs and adjustments for those vehicles that fail to meet prescribed standards so as to:

2.1 Protect and promote the public health, safety and welfare;

2.2 Improve air quality;

2.3 Comply with Federal Regulations contained in the Clean Air Act of 1970, and amendments to the Act;

2.4 Comply with the law enacted by the Legislature of the State of Utah, Sections 41-6a-1642 and 41-6a-1643 Utah Code Annotated, 1953, as amended; and

2.5 Comply with Weber County Ordinance 28 Chapter 1. – Motor Vehicle Emissions Inspection

3.0 AUTHORITY AND JURISDICTION OF THE DEPARTMENT

3.1 Under Section 28-1-3 of the Weber County Ordinance the Weber County Commission authorizes and directs the Weber-Morgan Board of Health and the Director of Health to adopt and promulgate rules and regulations to ensure compliance with EPA and State requirements with respect to Emissions Standards and delegates its authority as an administrative body 41-6a-1642 Utah Code Annotated, 1953, as amended, to the Weber-Morgan Board of Health, to address all issues pertaining to the adoption and administration of the Vehicle Emissions I/M Program, and authorizes a fee to be assessed upon every motorized vehicle registered in Weber County at the time of registration, to be known as the Air Pollution Control Fee.

3.2 Section 28-1-4 of the Weber County Ordinance, directs the Weber-Morgan Health Department to adopt regulations and set fees for I/M Stations and

Mechanic Permits and Emission and Waiver Certificates as necessary to sustain and operate an I/M Program.

3.3 The Weber-Morgan Board of Health is authorized to make standards and regulations pursuant to Section 26A-1-121(1) of the Utah Code Annotated, 1953 as amended.

3.4 The Weber-Morgan Board of Health is authorized to establish and collect fees pursuant to Section 26A-1-114(1)(h)(i) of the Utah Code Annotated, 1953 as amended.

3.5 All aspects of the Vehicle Emissions Inspections and Maintenance Program within Weber County enumerated in Section 2.0 shall be subject to the direction and control of the Weber-Morgan Health Department.

4.0 POWERS AND DUTIES

4.1 General Powers and Duties. The Department shall be responsible for the enforcement and administration of this Regulation and any other powers vested in it by law and shall:

4.1.1 Require the submission of information reports, plans and specifications from Stations as necessary to implement the provisions and requirements of this Regulation;

4.1.2 Issue permits, certifications and charge fees as necessary to implement this Regulation;

4.1.3 Perform audits of any Station and Tester/Technician and issue orders and/or notices, hold hearings, levy administrative penalties and negotiate consent agreements as necessary to effect the purposes of this Regulation;

4.1.4 When necessary take samples and make analysis to ensure that the provisions of this Regulation are met; and

4.1.5 Adopt policies and procedures necessary to ensure that the provisions of this Regulation are met and that the purposes of this Regulation are accomplished.

4.2 Suspension, Revocation, or Denial of Station Permits. The Department may suspend, revoke or deny a Station Permit of a Station and/or negotiate a monetary penalty in lieu of suspending a permit under a consent agreement, and/or require the surrender of the Station Permit and unused Certificates of Compliance and other official documents of such Station upon showing that:

4.2.1 A Tester/Technician or other individual at the Station is in violation of this regulation and:

4.2.2 A vehicle was inspected and issued a Certificate of Compliance by Station personnel who did not, at the time of inspection, comply with all applicable policies, procedures, Technical Bulletins, and this Regulation;

4.2.3 A vehicle was inspected and rejected by the Station when, it can be demonstrated, as determined by the Department that the vehicle was in such condition that it did comply with the requirements of this Regulation;

4.2.4 A vehicle was inspected and issued a Certificate of Compliance when it can be proven, as determined by the Department that the vehicle did not at the time of inspection comply with the requirements of Section 9.11 regarding tampering inspection;

4.2.5 A vehicle was passed and issued a Certificate of Compliance without being present for inspection or substituting a vehicle other than the vehicle entered into the test record;

4.2.6 The Station is not open and available to perform Inspections during a major portion of the normal business hours of 8:00 a.m. to 5:00 p.m., Mondays through Fridays, (except Fleet Facilities);

4.2.7 The Station has violated any provisions of this Regulation, or any Rule, Regulation, or Department policy properly promulgated for the operation of a Station;

4.2.8 The Station was or is not equipped as required by Section 8.0 of this Regulation;

4.2.9 The Station is not operating within the property boundaries of the location specified on the Permit;

4.2.10 A Non-Permitted Person has gained access to the official testing portion of the analyzer, conducted any portion of an official inspection, or signed an Inspection Report;

4.2.11 The approved analyzer has been tampered with or altered in any way contrary to the certification and maintenance requirements of the Analyzer;

4.2.12 The Station denies access to a representative of the Department to conduct an audit or other necessary business during regular business hours;

4.2.13 The Station denies access to or conceals pertinent information from a representative of the Department during an audit or while conducting other necessary business during regular business hours;

4.2.14 The Station performed unnecessary repairs not justified by the results of the inspection;

4.2.15 In accordance with 41-6a-1642 and 41-6a-1643 Utah Code Annotated, 1953, As amended, an emissions inspection for a Salt Lake, Utah, Davis, Cache, or Weber County resident was performed but not as required by the Regulations adopted by the applicable county and/or the UTAH 2011 Analyzer prompts.

4.2.16 The vehicle being tested has been altered or tampered with in any way so that it will either pass or fail the emissions test when it would not otherwise.

4.2.17 In accordance with 40 CFR § 51.364(b)(2), The Weber-Morgan Health Department shall have the authority to impose penalties against the licensed Station, as well as the Tester/Technician, even if the Station had no direct knowledge of the violation but was found to be careless in oversight of Tester/Technicians or has a history of violations. Stations shall be held fully responsible for Tester/Technician performance in the course of duty.

4.3 Suspension, Revocation, or Denial of Tester/Technician Permit. The Department may suspend, revoke, or deny the Permit of a Tester/Technician and require the surrender of the Tester/Technician Permit upon showing that:

4.3.1 The Tester/Technician caused any of the violations listed in section 4.2 to occur;

4.3.2 The Tester/Technician issued or caused a Certificate of Compliance to be issued to an owner/operator without an approved inspection being made;

4.3.3 The Tester/Technician denied the issuance of a Certificate of Compliance to the owner/operator of a vehicle that, at the time of the inspection, complied with the law for issuance of said certificate;

4.3.4 The Tester/Technician issued a Certificate of Compliance to a vehicle that, at the time of issuance, was in such condition that it did not comply with this Regulation;

4.3.5 The Tester/Technician inspected, recorded and passed the tampering inspection, for a vehicle that did not, at the time of inspection, comply with the tampering requirements of the tampering inspection detailed in Section 9.11, regardless of whether a Certificate of Compliance was issued or not;

4.3.6 Inspections were performed by the Tester/Technician but not in accordance with applicable policies, procedures, technical bulletins, and this Regulation;

4.3.7 The Tester/Technician allowed a Non Permitted Person to perform any portion of an inspection or gain access to the official testing portion of the Analyzer;

4.3.8 The Tester/Technician signed an inspection report stating that he/she had performed the emissions test when, in fact, he/she did not;

4.3.9 The Tester/Technician falsified any inspection or official document of the Vehicle Emissions Inspection and Maintenance Program;

4.3.10 The Tester/Technician performed unnecessary repairs not justified by the results of the inspection; or

4.3.11 In accordance with Sections 41-6a-1642 and 41-6a-1643 Utah Code Annotated, 1953, as amended, an emissions inspection for a Weber, Salt Lake, Davis, Cache or Utah County resident was performed but not as required by the Regulations/Ordinances adopted by the applicable county.

4.4 Administrative Penalty: in lieu of suspending a Permit under Sections 4.2 and 4.3, the Department may agree to an administrative monetary settlement such as a negotiated consent agreement.

4.5 The Department shall respond according to policies, procedures and this regulation, to public complaints regarding the fairness and integrity of inspections they receive. The Department shall provide a method for inspection results to be challenged if there is a reason to believe them to be inaccurate. To challenge the results of an inspection or reinspection, a motorist must present his or her vehicle within 2 days (excluding Saturday, Sunday and Holidays) of the inspection being challenged for another emissions inspection at the Weber-Morgan Health Department Emissions Technical Center.

4.6 The Department is authorized to take any and all necessary measures to ensure or facilitate a smooth transition from the UTAH 2000 Analyzer testing program to the new UTAH 2011 Analyzer testing program required by this Regulation.

5.0 SCOPE

It shall be unlawful for any person not to comply with any policy, procedure, technical bulletin, regulation or ordinance promulgated by the County and/or the Department unless expressly waived by this Regulation.

6.0 GENERAL PROVISIONS

Subject to the exemptions described in Section 6.4 and pursuant to the schedule in Section 6.1, motor vehicles of model years 1968 and newer that are owned and/or operated by a person domiciled in Weber County, shall be subject to an annual or biennial emission inspection performed by a Station or Other Entity approved by the Department. Registration of a vehicle owned and operated by a Weber County resident in a County other than Weber is a violation of this Regulation. Fraudulent registration of a vehicle as a farm truck, diesel, or other exempted vehicle is also a violation of this Regulation.

6.1 Beginning 1 January 1992 a Certificate of Compliance, Certificate of Waiver or evidence that the motor vehicle is exempt from the Inspection and Maintenance Program requirements (as defined in section 6.4) shall be presented to the Weber County Assessor or the Utah State Tax Commission and the Air Pollution Control Fee paid (See section 6.8.2) as conditions precedent to annual registration or annual renewal of registration of a motor vehicle. Certificates of Compliance from other EPA approved I/M Programs may be accepted, if approved by the Director, provided those I/M Programs are equally effective in reducing emissions.

6.2 A Certificate of Compliance issued to a dealer licensed with the State of Utah and issued in the dealer's name, shall be valid for registration purposes for a period of eleven months as specified in Section 14-6a-1642 (10) b-ii Utah Code Annotated, 1953, as amended. The purchaser's name, address, and phone number shall be recorded by the dealer on the back of the Certificate.

6.3 Publicly-Owned Vehicles. Owners of publicly-owned vehicles shall comply with the Vehicle Emissions Inspections/Maintenance program requirements in accordance with this Regulation on an annual or biennial basis pursuant to a schedule determined by the Department. Federally-owned vehicles and vehicles of employees regularly operated on a federal installation located in the county that do not require registration in the State of Utah shall comply with the emissions testing requirements on an annual or biennial basis pursuant to a schedule determined by the Department and as required by Section 118 of the Clean Air Act (1990 amendment).

6.4 Vehicle Exemption. The following vehicles are exempt from the annual or biennial emissions inspection:

6.4.1 Any motor vehicle of model year 1967 or older;

6.4.2 All agricultural implements of husbandry and any motor vehicle that qualifies for an exemption under Section 41-6a-1642, Utah Code Annotated, 1953, as amended;

6.4.3 Any vehicle used for maintenance or construction and not designed or licensed to operate on the highway;

6.4.4 Any motorcycle or motor driven cycle (including vehicles which operate with an engine normally used in a motorcycle);

6.4.5 Any vehicle that operates exclusively on electricity;

6.4.6 Any new motor vehicle being sold for the first time that has a valid Manufacturer's Statement of Origin form;

6.4.7 Any vehicle with an engine smaller than forty (40) cubic inch displacement (655 cc); and

6.4.8 Tactical military vehicles.

6.4.9 Any diesel fueled vehicle 1997 and older.

6.4.10 Any diesel fueled vehicle with a GVW greater than 14,000 pounds.

6.5 It shall be the responsibility of the Tester/Technician to determine if a motor vehicle is exempted from Section 6.4 of this Regulation when presented to the Tester/Technician for an inspection. It shall be the Tester/Technician's responsibility to inform the owner/operator of the vehicle that the vehicle is not required to have an inspection for vehicle registration purposes.

6.6 Official Signs.

6.6.1 All Stations, except fleet facilities, shall display in a conspicuous location on the premises;

6.6.1.1 An official sign provided and approved by the Department;

6.6.1.2 The emissions standards, as promulgated under authority of Section 13.0 and Appendix C, and

6.6.1.3 The fees charged by that station for performing an emissions inspection.

6.7 Equipment Available for Inspection

6.7.1 Required tools, materials, publications (see Section 8.1.8.3.c) supplies, records, unused Certificates of Compliance, other required forms, records of completed inspections, and a complete copy of this Regulation, shall be kept at the station at all times and shall be available for inspection and collection by the Department at any time the station is open for business.

6.7.2 A periodic inspection and audit shall be made by a representative of the Department to verify compliance with this Regulation for each Station.

6.7.2.1 During the time of the inspection and audit, the Department representative shall have exclusive access to the approved testing Analyzer(s).

6.7.2.2 The Department representative may check the accuracy of the Analyzer using Department gas to verify that the Analyzer is reading within the tolerances established by the Department. Analyzers not reading within the acceptable tolerances shall be calibrated to acceptable tolerances or placed out of service.

6.8 Fees

6.8.1 The fees assessed Stations and Testers/Technicians shall be determined according to a fee schedule adopted by the Board of Health. The fee schedule is referenced in Appendix B of this Regulation.

6.8.2 The following fee is hereby assessed upon every motor vehicle registered in Weber County annually at the time of registration of the vehicle:

6.8.2.1 Air Pollution Control Fee -- See Appendix B of this Regulation.

6.8.2.2 This fee assessment is included upon all motorized vehicles unless exempted by Utah State Rule.

6.8.2.2.a This includes the vehicles that are exempted from the inspection requirements of this Regulation by Section 6.4

6.8.2.3 Additional fees may be assessed on motor vehicles by other Health Regulations.

6.8.3 Stations may charge a fee for the required service. The fee may not exceed, for each vehicle inspected, the amount set by the Board of Health and referenced in Appendix B of this Regulation:

6.8.3.1 The inspection fee pays for a complete inspection regardless of test results. The owner is entitled to one (1) free reinspection if the vehicle requires a TSI test or two (2) free reinspections if the vehicle requires an OBD test if he/she returns to the station that performed the original inspection within thirty (30) days from the date of the initial inspection. The emissions inspection fee shall be the same regardless of the test results.

6.9 These fees are subject to change and may be amended as deemed necessary by the Board of Health to accomplish the purposes of this Regulation.

7.0 STANDARDS AND SPECIFICATIONS FOR ANALYZERS AND CALIBRATION GASES

7.1 Approval of Analyzers

7.1.1 No emissions inspection or emissions test required by this Regulation shall be performed after January 31, 2012 unless the type of instrument used for determining compliance with this Regulation is the UTAH2011Analyzer. The Analyzer shall meet the requirements of the Analyzer specifications referenced in Appendix A of this Regulation.

7.1.2 Analyzer Registration

Any Analyzer used by a Station shall be registered with and approved by the Department and shall be issued an analyzer identification number. Identification numbers are not transferable. Any new or used Analyzer put in use after station approval must be approved by the Department before use.

7.1.3 Running Changes

Any changes to the design characteristics or component specifications that may affect the performance of an Analyzer to be used as an official test instrument in the Vehicle Emissions Inspection and Maintenance Program shall be approved by the Department. It shall be the Analyzer manufacturer's responsibility to verify that the changes have no detrimental effect on the performance of the Analyzer.

7.1.3.1 It shall be a violation of this Regulation for any person to alter or modify the hardware or software of an approved Analyzer without written application and formal written approval by the Department.

7.1.3.2 It shall be a violation of this Regulation for any person to gain access to any Department controlled portions of an approved Analyzer without written approval by the Department.

7.1.4 Documentation, Logistics, and Warranty Requirements

7.1.4.1 Instrument Manual

An instrument manual shall be provided by the Analyzer manufacturer. The instruction manual shall be conveyed to the purchaser at the time of sale and shall contain at least the following information for the Analyzer:

- (a) A complete technical description;
- (b) The accessories and options that are included and/or available;
- (c) The location of the model number and identification markings;
- (d) Operating maintenance schedule including daily, weekly, and monthly accommodations and procedures for maintaining sample system integrity including, but not limited to, leak check, hang up, calibration and filters. The services to be performed only by the manufacturer shall be clearly identified;

7.1.4.2 Analyzer Maintenance.

The Analyzer shall be maintained in accordance with the manufacturer's recommended maintenance schedule and records of this maintenance service shall be maintained for examination by the Department.

7.1.4.3 Analyzer printers shall be maintained in such a manner that the printing of the Certificates, inspection reports and documents are accurate and legible. If any printer fails to properly function, then the Station shall discontinue testing until the required repairs have been performed or a replacement printer is installed.

7.1.4.4 No person may engage in repair of the Analyzer unless approved by the Department.

7.2 Gas Calibration and Leak Check.

7.2.1 The Analyzer instruction manual and other Department approved information shall be reviewed by the Tester/Technician to ensure that proper procedures are being used for performing the gas calibration.

7.2.2 A Tester/Technician shall perform a leak check and a gas calibration of the Analyzer, with an approved calibration gas, within 72 hours prior to performing any emission test. The gas calibration and leak test must be performed in accordance with the Analyzer specifications as contained in Appendix A.

7.2.3 The Analyzer shall lock-out of the TSI test mode when calibrations and leak tests are not performed within prescribed time frames.

7.2.4 The Department shall use and require for use in the calibration of Analyzers, calibration and span gases and containers meeting the following guidelines.

7.2.4.1 The analyzer manufacturer and/or manufacturer designated marketing vendor shall, supply at a reasonable cost calibration gases approved by the Department to any ultimate purchaser of the Analyzer. Each new or used Analyzer sold by the manufacturer or marketing vendor shall have when deemed necessary by the Department, approved full calibration gas containers installed and operational at the time of delivery.

7.2.4.2 The calibration/Span gases supplied to any I/M Station shall conform to the specifications of the Department. All calibration gases shall meet all requirements for

emissions warranty coverage. Only gas blends approved by the Department shall be used to calibrate the Analyzers.

8.0 PERMIT REQUIREMENTS OF THE VEHICLE EMISSIONS STATION

8.1 Permit Required.

8.1.1 No person shall operate a Station without a valid Permit issued by the Department. A person desiring to operate a Station shall submit to the Department a written application for a Permit on a form provided by the Department. To qualify for a Permit, an applicant shall:

8.1.1.1 Be an owner of the proposed Station or an officer of the legal ownership;

8.1.1.2 Comply with the requirements of this Regulation;

8.1.1.3 Agree to allow Department access to the Station and to provide required information;

8.1.1.4 Pay the permit application fee at the time the application is submitted;

8.1.1.5 Present a copy of a current business license relating to the Station; and

8.1.1.6 Other information required by the Department.

8.1.2 The application shall Include:

8.1.2.1 The name, mailing address, telephone number, and signature of the person applying for the Permit and the name, mailing address, and permanent location of the Station;

8.1.2.2 Information specifying whether the Station is owned by an association, corporation, individual, partnership, or other legal entity;

8.1.2.3 The name, title, address, and telephone number of the person directly responsible for the Station;

8.1.2.4 The name, title, address, and telephone number of the person who functions as the immediate supervisor of the person specified under 8.1.2.3 of this section such as zone, district, or regional supervisor;

8.1.2.5 A statement signed by the applicant that attests to the accuracy of the information provided in the application, and affirms

that the applicant will comply with this Regulation, and allow the Department access to the Station; and

8.1.2.6 Other information required by the Department.

8.1.3 No person shall in any way represent any place as a Station unless the Station is operated under a valid Permit issued by the Department.

8.1.4 The Department is authorized to issue or deny Permits for Stations.

8.1.5 A Permit may not be transferred from one person to another person, from one Station to another Station or from one type of operation to another, unless approved in writing by the Department.

8.1.6 The Permit shall be posted in a conspicuous place within public view on the premises.

8.1.7 The Department may renew a Permit for an existing Station or may issue a Permit to a new owner of an existing Station after a properly completed renewal form is submitted, reviewed, and approved, the fees are paid, and an inspection shows that the Station is in compliance with this Regulation.

8.1.7.1 The Department shall not approve any application for issuance or renewal of a Permit for an existing Station that is under suspension until the date that the suspension has expired.

8.1.7.2 The Department shall not issue a Permit to a new owner of any Station where a Permit has been revoked prior to twelve months from the date of revocation.

8.1.7.3 If the property referenced in 8.1.7.1 or 8.1.7.2 is sold or leased to a new person that wants to open as an approved Station, the new owner or lessee may follow the Adjudicative Procedures in Section 15.0 to seek a waiver from Sections 8.1.7.1 or 8.1.7.2 above based on a Departmental approved consent agreement. If a waiver is recommended the new owner or lessee may negotiate a consent agreement with the Department for the remainder of the suspension referenced in 8.1.7.1 or the twelve month waiting period as required in Section 8.1.7.2.

8.1.8 No Permit shall be issued unless the Department finds that the facilities, tools, and equipment of the applicant comply with the requirements of this Regulation and that competent personnel, certified under the provisions of Section 12.0, are employed and available to make inspections and adjustments, and the operation thereof will be properly conducted in accordance with this Regulation.

8.1.8.1 A Station shall immediately notify the Department if the station does not have a Tester/Technician employed.

8.1.8.2 A Station shall comply with all terms stated in the permit application and all the requirements of this Regulation.

8.1.8.3 As a condition for permitting all Stations, the following tools and materials shall be available for performance of the inspection and maintenance of motor vehicles unless specifically exempted by the Department:

- (a) A Department approved Analyzer and connection to the Vehicle Information Database;
- (b) An ignition timing light (test and repair only);
- (c) Reference manuals approved by the Department that are readily accessible to the emissions Tester/Technician at any time that an emissions test is conducted. Reference manuals shall contain information covering the emissions control systems for the model years and makes of vehicles involved in the Vehicle Emissions Inspection and Maintenance Program;
- (d) Sufficient hand tools for proper performance of the inspection and minimum repairs and maintenance as required by the Department;
- (e) Department approved calibration gases;
- (f) The Analyzer manufacturer's maintenance and calibration manual;
- (g) All forms, technical bulletins, a copy of this Regulation, and other information materials provided by the Department;
- (h) A suitable non-reactive tailpipe extender or suitable probe adapter for inspecting vehicles with screened or baffled exhaust systems; and
- (i) Suitable tools to interface with onboard vehicle computers for computer controlled vehicles which are intended to receive official repairs.

8.2 Duties of Testers/Technicians Working in Permitted Stations:

8.2.1 All facets of the Vehicle Emissions Inspection and Maintenance Program shall be performed by the Tester/Technicians including, but not limited to:

8.2.1.1 Analyzer preparation, calibration checks, and leak checks;

8.2.1.2 Exhaust gas sampling and analysis for purposes of an official emissions test for issuance of a Certificate of Compliance;

8.2.1.3 Preparation of reports, forms, and certificates;

8.2.1.4 Accessing the official emissions testing section of the Analyzer; and

8.2.1.5 All other aspects of the official emissions test, including but not limited to, the tampering inspection, inserting the exhaust probe, hooking up the tachometer, hooking up the OBDII data link connector, entering data into the Analyzer, verifying that the engine is at normal operating temperature, ensuring that accessories are off, preconditioning the vehicle, and signing Inspection Reports, etc., unless otherwise approved in writing by the Director.

8.3 Safety. A Station facility shall be kept in good repair, free of obstructions and hazards and in a safe condition for inspection purpose. No inspection shall be conducted if unsafe conditions exist.

8.3.1 All applicable Occupation Safety and Health Administration (OSHA), and other applicable health and safety rules and regulations must be followed in the station.

8.4 Fleet Facility.

A person may establish a fleet facility that is exempt from conducting business at regular hours, or displaying program signs as long as only vehicles owned or controlled by the fleet facility owner are inspected at the station. All other requirements of this Regulation apply.

8.5 Permit Duration and Renewal.

8.5.1 The Permit for Stations shall be issued annually and shall expire on December 31st of each year. The Permit is renewable within sixty (60) days prior to the date of expiration.

8.5.2 It is the responsibility of the owner/operator of the Station to pursue the Permit renewal through appropriate channels,

8.5.3 The Station Permit fee shall be paid annually to the Department by the billing due date set by the Department.

8.5.4 Prior to the date on which the Station Permit fee is due the Department shall attempt to notify each regulated Station of the amount of

the fee. Fees unpaid after the billing due date will be assessed a late fee which shall be added to the original fee amount.

8.6 Station Permit Revocation and Suspension.

8.6.1 Station Permits may be suspended by the Department for violations of this Regulation.

8.6.2 Station Permits may be revoked by the Department for severe and/or repeated violations of this Regulation.

8.6.3 Suspension or Revocation of Station Permits shall follow the provisions of Appendix D of this Regulation.

8.6.4 Station Permits are and remain the property of the Department, only their use and the license they represent is tendered.

8.6.5 A Station Permit may be suspended or revoked by the Department because of returned checks and may not be reinstated until repayment is confirmed. All returned checks will be charged a returned check handling fee (referenced in Appendix B).

8.6.6 Failure to pay the Station Permit fee and any additional charges after the due date may result in suspension and/or revocation of the Permit and the right to operate as a Station.

8.7 Reinstatement of Revoked Station Permit. The Department may issue a Station Permit to a station operator that has had a Permit revoked after the following conditions have been met:

8.7.1 A minimum of five years has passed since the date of revocation for the previous Permit;

8.7.2 The station operator has not previously had 2 or more Permits revoked. Operators with 2 or more revoked permits are not eligible to make application for a Station Permit;

8.7.3 The station operator agrees to a 2 year probationary period.

8.7.3.1 During the probationary period, the operator agrees to surrender their permit should any violations occur that result in suspension or revocation. Failure to surrender the Permit will result in immediate revocation of the Permit by the Department;

8.7.3.2 During the probationary period, the operator agrees to an increased frequency of overt and covert audits as deemed necessary by the department;

8.7.4 The station operator will pay a non-refundable, Revoked Station Reinstatement Fee of \$2,500.00 to the department.

- 8.8 The Station shall hold the Department harmless in making application for a Permit or for its renewal, such action shall constitute a declaration by the applicant that the Department shall be held harmless from liability incurred due to action or inaction of the Station owner or their employees.

9.0 INSPECTION PROCEDURE

9.1 The official emission inspection shall be solely performed by a Tester/Technician who has been permitted at the station where the inspection is being performed and Department approved inspection procedures are being followed.

9.2 If the Tester/Technician is unable, unqualified, or unwilling to make the required repairs or adjustments, should the vehicle fail the inspection, he shall notify the owner/operator of the vehicle before the inspection is administered.

9.3 Prior to conducting any portion of the inspection, the Tester/Technician shall log into the official testing portion of the analyzer and the vehicle shall be located within full view of the analyzer camera unless a one-time-use camera bypass code has been issued by the department;

9.4 The temperature of the inspection area shall be between 41⁰ Fahrenheit and 110⁰ Fahrenheit (2⁰ Celsius and 43⁰ Celsius) during the inspection.

9.5 The Analyzer shall be kept in an area that provides adequate protection from the weather, wind, moisture, and extreme temperatures or any other damaging environmental exposure.

9.6 The electrical supply to the Analyzer shall be able to meet the Analyzer manufacturer's requirements for voltage and frequency stability.

9.7 The Tester/Technician shall not inspect or test any motor vehicle with a mechanical condition which may cause injury to personnel or damage to the Station or test equipment or which may affect the validity of the inspection, until such condition is corrected. Such conditions included but are not limited to: coolant, oil, or fuel leaks, low oil or low fluid levels, carburetor gas overflow, vehicle electronic instrument panel malfunction.

9.8 The Tester/Technician shall not inspect or test any motor vehicle with visible emissions and the vehicle shall be reported to the Department. Smoking Vehicles must be deemed by the Department to be in compliance with the Department Regulation for Visible Exhaust Emission Enforcement Program prior to testing.

9.9 Any time an engine stalls during an Emission Test, the Emission Test shall be restarted. If a Tester/Technician cannot complete an Emission Test because of continuous stalling, then the stalling problem shall be corrected before the test is performed.

9.10 The Tester/Technician shall verify the vehicle license plate and Vehicle Identification Number (VIN) on the vehicle and shall enter them in the Analyzer at the appropriate prompt.

9.10.1 The Tester/Technician shall enter completely and accurately all the information required as part of the data entry procedure for the official vehicle Emission Test on the approved Analyzer at the appropriate prompt sequence.

9.10.2 All data entries to the Analyzer during the inspection shall be true and factual.

9.11 The Tester/Technician shall:

9.11.1 Conduct the inspection in accordance with the prompts from the Analyzer and the requirements of this Regulation.

9.11.2 Examine the emissions/tune-up specification decal (sticker) and/or the Vehicle Emission Control Information (VECI) label under the hood and/or check an approved reference manual to determine if the vehicle was manufactured with the following Emission Control Systems:

- Catalytic Converter(s)
- Air Injection Reaction System (AIR System)
- Exhaust Gas Recirculation System (EGR System)
- Evaporative Control System (EVAP System)
- Positive Crankcase Ventilation System (PCV System)
- On-Board Diagnostics System (OBD System)
- Diesel Particulate System (DPF System)
- Urea System
- Gas cap

etc., as prompted by the Analyzer.

9.11.3 On 1996 and newer model year vehicles follow the OBD IM test procedures in accordance with Appendix E.

9.11.4 On 1990 through 1995 vehicles, visually inspect for the presence and apparent operability of the AIR system, catalytic converter, EGR system, Fuel Evaporative Control system, PCV system, and gas cap in accordance with Department procedures and record the information in the Analyzer. If these parts or systems have been removed, or are inoperable, the vehicle fails and the owner shall repair or replace the parts or systems before the emissions test may be continued.

9.11.5 On 1968 through 1989 vehicles, visually inspect for the presence and apparent operability of the AIR system, PCV system, EGR system, Fuel Evaporate Control System, catalytic converter and gas cap etc. in accordance with Department procedures and record the information on the emissions Analyzer.

9.11.6 2001 and older gasoline vehicles require a functional gas cap test following department approved procedures.

9.11.7 All diesel fueled vehicles 14,000 GVW and under and model year 1998 and newer shall be tested as specified in Appendix F, Diesel Test Procedures.

9.12 Prior to performing the exhaust gas sampling portion of an emissions test each vehicle shall be at normal operating temperature.

9.13 The inspection shall be performed with the transmission in 'park' or 'neutral' and with all accessories off, the emergency brake applied and the vehicle in Idle Mode (the vehicle may not be placed in gear to drop idle speed, headlights may be turned on).

9.14 The Analyzer probe shall be inserted into the exhaust pipe at least twelve inches (12") or as recommended by the Analyzer manufacturer, whichever is greater.

9.15 If a baffle or screen prevents probe insertion of at least twelve inches, a suitable probe adapter or snug fitting, non-reactive hose which effectively lengthens the exhaust pipe shall be used.

9.16 For all vehicles equipped with a dual exhaust system that does not originate from a common point, both sides shall be tested simultaneously with an approved adaptor.

9.17 When inspecting a vehicle under windy conditions, the tailpipe shall be shielded from the wind with a suitable cover.

9.18 For Vehicles requiring a Two Speed Idle Test:

9.18.1 With the tachometer properly attached to the vehicle being tested;

9.18.2 The vehicle shall be tested according to the testing sequence as programmed into the Analyzer. Vehicles failing because of excessive exhaust dilution shall repair the dilution problem prior to continuing the emissions test. The dilution standard shall be contained in the Analyzer specifications.

9.19 A Certificate of Compliance shall be issued if:

9.19.1 For 1968 through 1989 model year vehicles, the vehicle emissions levels measured during the TSI test are the same as or less than the applicable emissions standards;

9.19.2 For 1990 through 1995 model year vehicles, the vehicle passes the visual inspection described in Section 9.11 and the vehicle emissions

levels measured during the TSI test are the same as or less than the applicable emissions standards;

9.19.3 For 1996 and newer model year OBDII vehicles, the vehicle passes the visual inspection described in Section 9.11 and the On-Board Diagnostics (OBD) test requirements as specified in Appendix E of this Regulation.

9. 20 If the vehicle does not pass the initial Inspection, the owner shall have thirty (30) days to have repairs or adjustments made and return the vehicle to the Station that performed the initial Inspection for one (1) free reinspection for a TSI test, or two (2) free reinspections for a OBD test. The vehicle that did not pass the initial inspection shall then be issued a Certificate of Compliance only when all of the following are met:

9.20.1 The vehicle is reinspected;

9.20.2 The vehicle's emission levels are the same or less than the applicable Emission Standards and;

9.20.3 For 1990 through 1995 model year vehicles, the vehicle passes the visual Inspection as provided for in Section 9.10.

9.20.4 For 1996 and newer model year vehicles, the vehicle passes the On-Board Diagnostics (OBD) test requirements as specified in Appendix E of this Regulation.

9.21 The Inspection Report shall be signed and provided to the customer.

9.22 Vehicles capable of being operated on both gaseous and liquid petroleum fuels shall be tested for both fuels in accordance with the Analyzer specifications as referenced in Appendix A of this Regulation.

9.23 When a vehicle owner requests an Inspection, the Tester/Technician shall perform the inspection in the testing mode of the approved Analyzer. Performing a screening test (or pre-test) in the manual mode of the approved Analyzer or on a non-approved analyzer shall be a violation of this Regulation if the vehicle owner requested an emissions inspection. Adjustments or repairs shall not be made prior to a requested inspection.

9.24 If a vehicle fails the inspection and is within the time and mileage requirements of the federal emissions warranty contained in the Federal Clean Air Act, the Tester/Technician shall inform the owner/operator that he may qualify for warranty coverage of emission related repairs as provided by the vehicle manufacturer and mandated by the Federal Environmental Protection Agency.

10.0 CERTIFICATE OF WAIVER

10.1 Prior to referring the vehicle owner/operator to the Department for a Certificate of Waiver, the tester/technician or Station shall verify the repair and eligibility requirements of this Section have been met.

10.2 A Certificate of Waiver shall be issued only under the following conditions;

10.2.1 For all vehicles, an initial inspection was performed that did not pass,

10.2.2 For all vehicles, a second inspection was performed that did not pass after completion of any qualifying repair work. For 1995 or older vehicles, the second test result must demonstrate that the repaired vehicle meets the waiver cut-points specified in Appendix C.

10.2.3 For all vehicles, air pollution control devices applicable and specified for the make, model and year of the vehicle as specified in Section 9.11 of this Regulation are in place and operable on the vehicle. If the devices have been removed or rendered inoperable, they shall be replaced or repaired before a Waiver is granted.

10.2.4 For 1968 to 1980 model year motor vehicles, if the vehicle continues to exceed applicable emissions standards after two hundred fifty dollars (\$250) of acceptable emissions related repairs have been performed and the adjustments required by Appendix G have been performed by a Certified and Permitted Emissions Repair Technician as part of the two hundred fifty dollars (\$250) in emissions related repairs. Proof of repair costs, for that specific vehicle, shall be provided to the Department in the form of an itemized bill, invoice, work order, manifest or statement in which emissions related parts and labor are specifically identified. If repairs are made by the vehicle owner or by someone who does not possess a valid Emission Repair Technician Permit, or is not an ASE Master Technician Certificate holder, or a manufacturer specific master technician certificate holder, employed by an I/M Program Inspection and Repair Station, the cost of labor may not be included in the two hundred fifty dollars (\$250).

10.2.5 For 1981 to 1995 model year motor vehicles, at least three hundred fifty dollars (\$350) of acceptable emissions related repairs have been performed and the adjustments (where applicable) required by Appendix G have been performed by a Certified and Permitted Emissions Repair Technician as part of the three hundred dollars (\$350) in emissions related repairs. Proof of repair costs, for that specific vehicle, shall be provided to the Department in the form of an itemized bill, invoice, work order, manifest or statement in which emission related parts and labor are specifically identified. If repairs are made by the vehicle owner or by someone who does not possess a valid Emissions Repair Technician Permit or is not an ASE Master Technician Certificate holder, or a

manufacturer specific master technician certificate holder, employed by an I/M Program Inspection and Repair Station, the cost of labor may not be included in the three hundred fifty dollars (\$350).

10.2.6 For 1996 and newer model year vehicles, at least four hundred fifty dollars (\$450) of acceptable emissions related repairs have been performed by a Certified and Permitted Emissions Repair Technician as part of the four hundred fifty dollars (\$450) in emissions related repairs. Proof of repair costs, for that specific vehicle, shall be provided to the Department in the form of an itemized bill, invoice, work order, manifest or statement in which emissions related parts and labor are specifically identified. If repairs are made by the vehicle owner or by someone who does not possess a valid Emissions Repair Technician Permit, or is not an ASE Master Technician Certificate, or a manufacturer specific master technician certificate holder, employed by an I/M Program Inspection and Repair Station, the cost of labor may not be included in the four hundred fifty dollars (\$450). Any repair costs eligible under the federal emissions warranties shall not be eligible to be applied to the repair cost waiver limits.

10.2.7 Any vehicle that experiences an increase in any emissions levels shall not be eligible for a certificate of waiver regardless of the amount spent in attempting to repair the vehicle.

10.2.8 As used in this section acceptable emissions related repairs:

10.2.8.1 Refers to those expenditures and costs associated with the adjustment, maintenance, and repair of the motor vehicle which are directly related to reduction of exhaust emissions necessary to comply with the applicable emissions standards, cut-points, and procedures.

10.2.8.2 Refers to repairs and maintenance of the following systems, if done according to manufacturer's specifications, to the extent that the purpose is to reduce emissions:

- (a) Air Intake Systems;
- (b) Ignition Systems;
- (c) Fuel Control Systems;
- (d) Emission Control Systems
- (e) Basic Engine Systems; and
- (f) Repair of problems identified by On-Board Diagnostic (OBD) fault codes.

10.2.9 Does not include adjustments, maintenance, or repairs performed 60 days prior to the official emissions inspection.

10.2.10 Does not include the fee paid for the inspection.

10.2.11 Does not include costs associated with the repairs or replacement required by Section 9.11 or the replacement, and/or repair of air pollution control equipment on the vehicle if the need for such adjustment, maintenance, replacement, or repair is due to disconnection of, tampering with, or abuse of the emissions control systems, or costs incurred due to engine switching and/or modifications.

10.2.12 Does not include repairs performed to the vehicle's exhaust system to correct problems with excessive exhaust dilution.

10.2.13 Does not include any diagnostics performed or any chemical additives.

10.2.14 A Certificate of Waiver shall only be issued once to any vehicle that qualifies, throughout the lifetime of the vehicle.

10.3 Information regarding all performed repairs shall be entered into the appropriate data base of the Analyzer when prompted.

10.4 A Certificate of Waiver shall only be issued by the Department. A Waiver shall only be issued after determining that the vehicle complies with the requirements of this section.

10.5 A Waiver shall not be issued to a vehicle with an inoperable check engine light.

11.0 ENGINE SWITCHING

11.1 All vehicles which qualify for testing under this section shall be tested by the Department.

11.2 Vehicles qualifying for testing under this Section shall not be eligible for a Certificate of Waiver.

11.3 Engine switching shall be allowed only in accordance with EPA policy, referenced in Appendix H.

11.4 Vehicles not meeting the requirements of Section 11.0 shall be deemed as tampered and dealt with in accordance with the tampering provisions of this Regulation.

11.5 All vehicles with switched engines shall be verified to meet EPA requirements by the Department prior to issuance of a Certificate of Compliance.

11.6 For 1968 to 1989 vehicles, having an engine other than the original engine and emissions control configuration are deemed as tampered. These vehicles must meet the HC and CO standards for the Model Year of the vehicle in order to receive a Certificate of Compliance, and are not eligible for a Certificate of Waiver, unless they are restored to the original engine and emissions control configuration or a configuration approved by the Department.

12.0 CERTIFIED EMISSIONS INSPECTION AND REPAIR TECHNICIAN / CERTIFIED EMISSIONS INSPECTION ONLY TECHNICIAN PERMIT

12.1 Certified Emissions Inspection and Repair Technician or Certified Emissions Inspection Only Permit is required.

12.1.1 Inspection for the issuance of a Certificate of Compliance shall only be performed by a person possessing a valid Certified Emissions Inspection and Repair Technician or a Certified Emissions Inspection Only Technician Permit issued by the Department.

12.1.2 Application for permit shall be made upon an application form prescribed by the Department. No Permit shall be issued unless:

12.1.2.1 For a Certified Emissions Inspection and Repair Technician Permit, the applicant shall show evidence of an associate degree or equivalent in automotive technology, or an ASE Master Technician Certificate or other Department approved prerequisites.

12.1.2.2 The applicant has shown adequate competence by successfully completing the written and practical portions of the Tester/Technician Permit requirements as specified in this Regulation.

12.1.2.3 The applicant has paid the required permit fees as set by the Board of Health (reference in Appendix B).

12.1.3 An applicant shall comply with all of the terms stated in the permit application and with all the requirements of this Regulation.

12.1.4 An applicant shall complete a Department approved training course and shall demonstrate knowledge and skill in the performance of Inspections and use of the approved Analyzer. Such knowledge and skill shall be shown by passing:

12.1.4.1 A written qualification test including but not limited to the following:

(a) Operation and purposes of emission control systems;

- (b) Inspection procedures as outlined in this Regulation and prompted by the Analyzer;
- (c) Operation of the Analyzer including the performance of gas calibration and leak check;
- (d) The provisions of Section 207(b) Warranty provisions of the Federal Clean Air Act; and
- (e) The provisions of this Regulation and other applicable Department policies and procedures.

12.1.4.2 A performance qualification test including but not limited to the following:

- (a) Visual inspection and knowledge of the required emission control equipment;
- (b) Demonstration of skill in proper use, care, maintenance, calibration and leak testing of the Analyzer;

12.1.5 A signed Hands-on Performance check sheet shall be necessary for successful completion of the performance qualification test. The hands-on Performance check sheet shall be signed by an instructor or other person approved by the Department.

12.1.6 The Department shall issue a Tester/Technician Permit to an applicant upon successful completion of the requirements of this Section.

12.1.7 The Tester/Technician Permit shall be valid only at the Station where the Tester/Technician is presently employed. If the Tester/Technician transfers from one Station to another, they shall notify the Department of the location change. The Permit shall be transferred by the Department prior to the Tester/Technician performing any inspections. The Permit will expire on the same date as the original. A transfer fee or duplicate fee will be charged, as set by the Board of Health and referenced in Appendix B of this Regulation.

12.1.8 Tester/Technician Permits are and remain the property of the Department, only their use and the license they represent is tendered.

12.2 Tester/Technician Permit Suspension and Revocation.

12.2.1 Tester/Technician Permit may be suspended by the Department for violations of this Regulation.

12.2.2 Tester/Technician Permit may be revoked by the Department for severe and/or repeated violations of this Regulation.

12.2.3 Suspension or revocation of Tester/Technician Permit shall follow the provisions of Appendix D of this Regulation.

12.2.4 Tester/Technician Permit may be suspended or revoked by the Department because of returned checks and may not be reinstated until repayment is confirmed. All returned checks will be charged a returned check handling fee (referenced in Appendix B).

12.3 Re-Qualification Requirements for all Tester/Technician Permits.

12.3.1 Tester/Technician Permits shall not be transferred from one person to another person. Tester/Technician Permits may not be transferred from one Station to another or from one status to another, i.e., from test and repair to test only, without a written request and Department approval.

12.3.2 The Department may renew a permit for an existing Tester/Technician after the permit renewal requirements have been completed, the fees are paid and the Tester/Technician has complied with this Regulation.

12.3.3 Upon determination by the Department of the necessity of updating the qualification for Tester/Technician, they shall be required to re-qualify.

12.3.4 The Tester/Technician shall be required to re-qualify within a specified time period determined by the Department (from the date of written notification by the Department). The notice shall be mailed to the address of record in the office of the Department. Failure to re-qualify within the required period of time shall result in suspension or revocation of the Tester/Technician Permit as described in this Regulation.

12.4 Tester/Technician Permit Expiration.

12.4.1 The Tester/Technician Permit shall be issued annually and shall expire one year from the date of issuance. The Permit shall be renewable within sixty (60) days prior to the date of expiration.

12.4.2 It is the responsibility of the Tester/Technician to pursue the renewal of the Tester/Technician Permit.

12.4.3 Permits that have expired for more than 90 days are not renewable.

12.5 Reinstatement of Revoked Tester/Technician Permit. The Department may issue a Tester/Technician Permit to a Tester/Technician that has had a permit revoked after the following conditions have been met:

12.5.1 A minimum of five years has passed since the date of revocation for the previous Tester/Technician Permit;

12.5.2 The Tester/Technician has not previously had 2 or more Permits revoked. Tester/Technicians with 2 or more revoked Permits are not eligible to make application for a Tester/Technician Permit;

12.5.3 A complete review of the Tester/Technician testing history will be conducted. A finding of 25 or more test records that indicate a failure to inspect or substitution of a vehicle other than the vehicle on the test record will result in the denial of the application.

12.5.4 The Tester/Technician agrees to a 2 year probationary period.

12.5.4.1 During the probationary period, the Tester/Technician agrees

to surrender their Permit should any violations occur that result in suspension or revocation. Failure to surrender the permit will result in immediate revocation of the permit by the Department;

12.5.4.2 During the probationary period, the Tester/Technician agrees to participate in a testing record and overt testing procedure review once a quarter for the first year, and on six month intervals the second year;

12.5.4.3 During the probationary period, the Tester/Technician agrees to participate in additional trainings or audit procedures deemed necessary by the Department;

12.5.5 The Tester/Technician will pay a Revoked Tester/Technician Permit reinstatement fee of \$400.00 to the Department.

12.5.5.1 The fee will include tuition costs and associated materials for required trainings.

13.0 EMISSIONS STANDARDS FOR MOTOR VEHICLES

13.1 In order to obtain a valid Certificate of Compliance, a motor vehicle subject to an Emissions Inspection shall not exceed the maximum concentrations for carbon monoxide (CO), and Hydrocarbons (HC) specified in Appendix C of this Regulation, or pass an approved OBD test as specified in Appendix E of this Regulation.

13.2 The Board of Health may establish more stringent Emissions Standards than specified in Appendix C. Any change in Emissions Standards shall be effective upon the first day of any calendar month designated by the Board of Health. The Board of Health shall consider the following factors before establishing more stringent Emissions Standards:

13.2.1 The existing ambient air quality;

13.2.2 The required stringency necessary to meet air quality standards;

13.2.3 The requirements for air quality programs currently in effect as promulgated by the EPA, the Utah Department of Environmental Quality, the County and the Board of Health; The Cut-Points established shall be part of an overall program, in accordance with EPA guidelines, to achieve the required tailpipe reductions, of CO and HC from motor vehicles measured from the date this program is implemented;

13.2.4 The general level of emission control technology on vehicles registered in the County;

13.2.5 Population growth and other factors which may reasonably be expected to impact CO and HC concentrations in the atmosphere;

13.2.6 The likelihood of a particular Cut-Point to achieve desired air quality goals; and

13.2.7 The ability to ensure compliance with the requirements of Section 41-6a-1642 and Section 41-6a-1643, Utah Code Annotated, 1953, as amended.

13.3 The Board of Health shall notify the Utah Department of Environmental Quality of any change to the Emissions Standards within 30 days of adopting changes.

13.4 Notwithstanding the foregoing, the Board of Health understands and acknowledges that following EPA approval of this regulation as part of the Utah State Implementation Plan, no changes to the Cut-points specified in Appendix C, shall be effective to alter the Cut-points for federal purposes absent EPA approval of the change as a revision to the Utah State Implementation Plan.

14.0 CERTIFICATE OF COMPLIANCE, CERTIFICATE OF COMPLIANCE NUMBERS AND CERTIFICATE OF WAIVER

14.1 No person shall make, issue or knowingly use any imitation or counterfeit of a Certificate of Compliance, Certificate of Compliance Numbers or Certificate of Waiver.

14.1.1 No person shall use a stolen Certificate of Compliance.

14.2 Certificate of Compliance Numbers shall be obtained only from the Department.

14.3 No refund or credit shall be allowed for unused certificates/numbers, except as provided in Section 14.7.

14.4 Certificate of Compliance Numbers shall be issued in lots to be determined by the Department.

14.4.1 Certificates of Compliance Numbers shall not be sold, loaned, transferred, or given to any other Station, or any unauthorized individual.

14.5 Certificates of Compliance shall not be issued until an inspection has been performed as required by this Regulation.

14.6 Completion of Certificates of Compliance by other means than the Analyzer by any person or station other than the Department is strictly prohibited.

14.7 Upon final cancellation, or revocation of the Permit, the Station owner, manager or other responsible person shall immediately surrender all unused Certificates of Compliance Numbers to the Department. The Department may receipt and refund the fee paid for unused certificates of Compliance Numbers to the Station owner according to the Weber County Clerk/Auditor's procedures. Upon transfer or termination of business ownership, the Station Permit and all Certificate of Compliance Numbers shall be immediately surrendered to the Department. Any person acquiring a business that has been permitted as an official Station, is prohibited from using any Permit, Certificate of Compliance Numbers or emissions documents issued to the former business; and

14.7.1 Any Analyzer manufacturer or their authorized representative who repossesses or otherwise removes an Analyzer from a Station shall immediately notify the Department and shall immediately surrender any Certificate of Compliance Numbers to the Department.

15.0 ADJUDICATIVE PROCEEDINGS

In accordance with the Weber-Morgan Health Department Adjudicative Proceedings, a Departmental Conference may be requested in writing within ten (10) days of any action in which a party is aggrieved.

16.0 PENALTY

16.1 Any person who is found guilty of violating any of the provisions of this Regulation, either by failing to do those acts required herein or by doing a prohibited act, shall be guilty of a class B misdemeanor pursuant to Section 26a-1-123, Utah Code Annotated, 1953, as amended. If a person is found guilty of a subsequent similar violation within two years, he shall be guilty of a class A misdemeanor pursuant to Section 26a-1-123, Utah Code annotated, 1953, as amended.

16.2 Each day that a violation is committed or permitted to continue shall constitute a separate violation. Also, each improperly issued Certificate of Compliance constitutes a separate violation.

16.3 The County Attorney may initiate legal action, civil or criminal, requested by the Department to abate any condition that exists in violation of this Regulation.

16.4 In addition to other penalties imposed by a court of competent jurisdiction, any person(s) found guilty of violating any of this Regulation shall be liable for all expenses incurred by the Department in prosecuting and/or abating the violation.

16.5 The Penalty Schedule for Permits warning, Permits suspension, Permits revocation, and/or negotiated consent agreements as adopted by the Board of Health shall be referenced in Appendix D of this Regulation and may be changed and updated by the Board of Health as deemed necessary to accomplish the purposes of this Regulation.

16.6 Enforcement of any criminal penalties does not preclude imposition of administrative or civil penalties and vice-versa.

17.0 SEVERABILITY

If any provision, clause, sentence, or paragraph of this Regulation or the application thereof to any person or circumstances shall be held to be invalid, such invalidity shall not affect the other provisions or applications of this Regulation. The valid part of any clause, sentence, or paragraph of this Regulation shall be given independence from the invalid provisions or application and to this end the provisions of this Regulation are hereby declared to be severable.

18.0 EFFECTIVE DATE

This Regulation including Appendix A through F shall become effective the day of its adoption by the Board of Health. Appendices may be modified by the Board of Health without affecting the rest of this Regulation. Appendices when amended by the Board shall become effective on the day of adoption of amendments by the Board of Health.

Adopted by the Weber-Morgan Board of Health on September 24, 2018

ANALYZER SPECIFICATIONS

1 EQUIPMENT SPECIFICATIONS

1.1 Computer.

Each workstation will be equipped with the same computer. The computer will be selected to minimize the obsolescence nature of personal computers. It will contain the following components as a minimum. Newer or faster components may be substituted if they become available and the older components can no longer be obtained.

- Windows 7 Professional.
- Intel Core 2 Duo E7500 processor.
- 2 GB RAM
- Onboard graphics controller capable of supporting 1024x768 resolution.
- Onboard LAN Ethernet controller.
- I/O ports: 6 USB 2.0/1.1 ports, 1 RJ45 LAN port, 3 DB-9 serial ports, 1 DB-15 VGA port, 1 DB-25 parallel port, audio jacks: line-out, line in, and mic in.

1.2 Printer

Each workstation will contain a monochrome laser printer (or equivalent) including a paper tray with a 250 sheet capacity loaded with normal letter sized paper capable of printing 27 pages per minute and first pages within 5 seconds.

1.3 OBD Interface

The OBD interface shall be a full OBD, SAE J1978, SAE J1979, SAE HS-3000 Scan Tool Compliant device that reads emission related codes on model year 1996 and newer vehicles. It supports all protocols including CAN, VPW, PWN, ISO, and KEYWORD (KWP). The hardware interface itself will be mounted inside the enclosure. It will be connected to a 5 meter heavy duty cable which will run from the cabinet to the connector used to plug into the vehicle's DLC. The OBD system will meet the following requirements:

- The interface cable has a plug that conforms to the J1962 Diagnostic Connector specification.
- Capable of communicating with the standard data link connector (DLC) of vehicles with certified OBD systems.
- Capable of checking for the monitors supported by the on-board diagnostic system and the evaluation status of supported monitors (test complete/test not complete) in Mode \$01 PID \$01, as well as be able to request the diagnostic trouble codes, as specified in SAE J1979.

In addition, the OBD system will have the ability to capture other information such as PID counts, PCM IDs, and OBD VINs if they are available which can be used to perform OBD “fingerprinting”.

The enclosure containing the hardware interface will supply the interface with an alternate power supply and ground. This will be used to successfully test vehicles which have either power or grounding issues.

1.4 Gas Cap Tester

The gas cap tester used for pressure testing the vehicle gas caps will be mounted inside of the cabinet. The tester uses a 20 foot coiled hose connected to the outside of the cabinet. The gas cap tester will meet the following specifications:

- Measurement:
 - Flow Rate Method: Comparative reference
 - Test Pressure Regulation: 30" H₂O gauge +/- 1"
 - Flow Rate Pass/Fail Point 60 cc/minute +/- 3 cc/minute
- Operating Conditions:
 - Temperature Range: 15-110° F
 - Altitude Range: - 60–7000'
 - Humidity Range: 0-100% (non-condensing)
- PASS/FAIL Adapter:
 - Pass Setting Flow Range: 52–56 cc/min.
 - Fail Setting Flow Range: 64–68 cc/min.

1.5 Gas and OBDII Units

1.5.1 Gas Analyzer

The system used for the TSI exhaust test will contain heavy duty sample and water filtration system designed to handle high throughput and a durable pump for rapid flow rate and sample delivery. The analyzer will meet the following specifications:

- Measurement Method is NDIR (non-dispersive infrared) for HC, CO, CO₂, electrochemical cell for O₂
- Measured Gases
 - HC, as either n-hexane or propane
 - CO, carbon monoxide
 - CO₂, carbon dioxide

- O₂, oxygen
- Measurement Range
 - HC: 0 to 30,000 ppm, (n-hexane)
 - CO: 0 to 15%
 - CO₂: 0 to 20%
 - O₂: 0 to 25%
- Operating Environment
 - 0° to 50°C (32° to 122°F)
 - 5 to 95% humidity
 - -300 to 3,000 m (-1,000 to 9,750 ft)
- Measurement Resolution
 - HC: 1 ppm
 - CO: 0.001%
 - CO₂: 0.01%
 - O₂: 0.01%
- Measurement Accuracy shall meet or exceed BAR97 accuracy standards.

The analyzer system will be contained in the standard cabinet. The cabinet will contain the following items on it for the analyzer:

- A fused AC power inlet.
- A connector for the sample probe.
- Three external ports for calibration.

1.5.2 Tachometer

The tachometer used for RPM pickup will make use of existing RPM measurement technologies. It will have a resolution of +/-1 RPM and will be connected to the vehicle using the following methods:

- Number one cylinder using inductive probe.
- Primary circuit using inductive probe.
- Battery tachometer using battery clamps or cigarette lighter.

The tachometer leads will hang on a hook on the outside of the cabinet and the tachometer boards themselves will be mounted inside the cabinet.

1.6 Optional Components

1.6.1 Barcode Scanner

The workstation will contain a barcode scanner capable of reading both 1D and 2D barcodes. The barcode scanner will meet the following specifications:

- IP54-rated sealing protects against elements, industrial design withstands multiple 6.5 foot (2 meter) drops to concrete, reducing downtime and costs for maintenance and repairs.
- Ability to read both 1D and 2D barcodes.
- Omni-directional scanning.
- UPC, EAN, Code 39, Code 128, Codabar, Interleaved 2 of 5, Code 93
- PDF417, microPDF417, MaxiCode, DataMatrix (ECC 2000), Composite Codes, QR Code

The barcode scanner will be connected to the cabinet via a USB cable and will be powered by the same cable.

1.6.2 Camera

The workstation will contain one or more USB cameras to be used for taking video recordings during an inspection.

2 FUNCTIONAL SPECIFICATION

2.1 Analyzer System.

This section describes the equipment functional specifications for the Utah Analyzer System. These specifications include the maintenance functions to be performed by the analyzers and the operating conditions.

2.1.1 Operating Conditions

The gas analyzer shall operate in a temperature range from 40 °F to 110 °F. Within this range, the analyzer must operate within the performance specification described above. A proper environment will be created in order to keep the analyzer operation within these ranges except under the most extreme circumstances. Proper air flow to the gas analyzer will be provided to prevent overheating and condensation of water vapor which could reduce the reliability and durability of the analyzer.

The input power required for proper operation of the analyzer will be 115 VAC at 60 Hz. External fuses or circuit breakers will be used to protect the analyzer from power fluctuations. The operation of the analyzer should not be affected by

electrical noise or voltage surges which would be found in a typical garage environment.

2.1.2 Warm-up

The gas analyzer shall be stable and ready for operation within 35 seconds of being turned on when at normal operating temperatures. If a test is started while the analyzer is in warm-up, a message will be displayed stating the analyzer is not ready and the test will not be able to proceed.

2.1.3 Sampling System

The sampling system will consist of a tailpipe probe attached to a flexible sample line at least 25 feet long, a water removal system, a particulate trap, sample pump, and other flow control components. A second probe and sampling line will be available to test vehicles with dual exhaust systems. The sampling system will be durable to withstand a heavy use system, be free from leaks, and be able to be easily maintained. The system must be able to resist corrosive elements it comes in contact with and be able to withstand typical vehicle exhaust temperatures.

2.1.4 Analyzer Response Time

The response time from the probe to the display shall not exceed eight seconds to ninety percent (90%) of a step change in input nor shall it exceed twelve seconds of a ninety-five percent (95%) step change in input. The response time for the O₂ sensor may be as long as fifteen seconds to ninety percent (90%) of full scale.

2.1.5 Gas Calibration

The gas analyzer will automatically require a gas calibration for HC, CO, CO₂, and O₂ every 72 hours (this time will be configurable). If the gas analyzer does not pass the calibration, the system will automatically lock out any more TSI emissions tests from being run.

The gas calibration will ensure that accuracy specifications are satisfied and that linearity is correct at both of the required span points. The gases used for the calibration must use BAR97 approved gases and they will be introduced into the analyzer through calibration ports on the gas analyzer enclosure. These gases will be within 2% of the required span points.

The calibration procedure will be designed to minimize the amount of calibration gas used. The procedure will not use more than two liters per span point. In addition, the procedure will be designed to take less than five minutes.

The span points used for the gas analyzer calibration will be as close as possible to the following gases.

Low Point	High Point
Propane – 200 ppm	Propane – 3200 ppm
CO – 0.5%	CO – 8.0%

CO2 – 6.0%	CO2 – 12.0%
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2.1.6 Single-Point Calibration Check / Audit

A single-point calibration check will be required as recommended by the manufacturer. This calibration check will use any pre-approved gas values in order to verify the calibration curve. The analyzer enclosure will be designed to allow hooking up the additional calibration gases/bottles but they will not be a permanent part of the analyzer and may be brought in as needed.

2.1.7 Leak Check

The gas analyzer will automatically require a leak check for the sampling system at a frequency determined by the department. If the gas analyzer does not pass the leak check, the system will automatically lock out any more TSI emissions tests from being run. A probe tip cap will be provided in order to perform the vacuum decay method of leak check.

2.1.8 Hang-up Check

Before every idle test performed by the system, a HC hang-up check will be performed. This check will be done immediately prior to the actual emission testing portion of the test. During the check, the HC value will be monitored and will automatically complete when the HC value is 20 PPM or less. If the HC value does not drop below this limit within 2 minutes, the inspector will be asked to verify the probe is not in the tailpipe. If the HC value continues to remain high, the test will abort. This check should be performed in the background while the vehicle information is being verified in order to minimize the length of the test.

2.1.9 Dilution Check

While the test is being performed, the readings will be monitored to verify that excessive dilution is not being introduced to the system. This is done by adding the CO and CO2 readings and verifying that they are greater than or equal to 6%. If the sum falls below 6%, too much oxygen is entering the system and the test will need to be restarted after verifying that the probe has not fallen out of the vehicle's tailpipe.

2.1.10 Gas Cap Tester Check

The analyzer will automatically require a check for the gas cap tester every 72 hours or at a frequency determined by the department. If the analyzer does not pass the gas cap tester check, the system will automatically lock out any more TSI and OBD emissions tests from being run if the gas cap test would be applicable for the vehicle being tested. A pass/fail standard device will be provided in order to perform the check.

2.1.11 Information Display

The software will contain a location(s) where the following information is displayed to the inspector:

- Date of last calibration

- Date of last leak check
- Date of next required calibration check
- Gas analyzer related lockout

2.2 OBDII System

2.2.1 Operating Conditions

The OBD interface and associated components shall operate in a temperature range from 40 °F to 110 °F. Within this range, the OBD interface must operate within the performance specification described above. A proper environment will be created in order to keep the OBDII system operation within these ranges except under the most extreme circumstances. The input power required for proper operation of the OBDII enclosure will be 12 VDC. External fuses or circuit breakers will be used to protect the analyzer from power fluctuations. The operation of the OBDII system should not be affected by electrical noise or voltage surges which would be found in a typical garage environment.

2.2.2 DLC Connector

The OBDII connector will be compliant with the SAE J1978 specification and will allow the inspector the ability to connect to a vehicle easily. The attached cable will allow the system to connect to a vehicle located 15 feet away from the OBDII system.

2.2.3 General

The OBDII system will be compatible with most types of automotive service operating environments. The analyzer shall operate under the conditions and performance requirements listed here and in 40 CFR 51. The equipment design and operation must meet all Federal requirements (contained in 40 CFR 85.2207-2231) and recommended SAE practices (i.e., J1962, J1978 and J1979) for OBDII system inspections.

APPENDIX B

FEE SCHEDULE

The fees for implementing the requirements of the Vehicle Emission Inspection and Maintenance Program are contained in the current Weber-Morgan Health Department Fee Schedule available at 477 23rd Street, Ogden, Utah or online at the Department Web Page: www.webermorganhealth.org

47
APPENDIX C

MOTOR VEHICLE EMISSIONS Inspection and Maintenance PROGRAM

The following schedule gives the maximum allowable concentration for carbon monoxide (CO) and hydrocarbons (HC) for both cars and trucks as determined by an approved Analyzer using the prescribed procedures. The effective date for these cut-points is 1 November 1991.

ALL PASSENGER VEHICLES 1978 AND OLDER LIGHT DUTY TRUCKS 6,000 POUNDS GVWR OR LESS 1979 TRUCKS AND NEWER 8,500 POUNDS GVWR OR LESS MAXIMUM CONCENTRATION STANDARDS		
<u>MODEL YEAR</u>	<u>PERCENT CARBON MONOXIDE</u>	<u>PARTS/MILLION HYDROCARBONS</u>
1968 - 1969	6.0	800
1970 - 1974	5.0	700
1975 - 1976	4.0	600
1977 - 1979	3.0	500
1980	2.0	300
1981-1995	1.2	220

HEAVY DUTY TRUCKS AND VANS 1978 AND OLDER 6,001 OR GREATER 1979-2007 OVER 8,500 POUNDS GVWR 2008 AND NEWER OVER 14000 POUNDS GVWR MAXIMUM CONCENTRATION STANDARDS		
<u>MODEL YEAR</u>	<u>PERCENT CARBON MONOXIDE</u>	<u>PARTS/MILLION HYDROCARBONS</u>
1968 - 1969	7.0	1500
1970 - 1978	5.0	1200
1979 - 1980	4.0	1000
1981 AND NEWER	3.5	800

Note: These should be considered as "cut-points" for maximum allowable emissions levels. Vehicles must never be reset to these emission levels when readjustments are made, but rather shall be adjusted using manufacturer's specifications. By using manufacturer's specifications, the emission levels should be well below the "cut-points".

The following schedule gives the maximum allowable concentration for carbon monoxide (CO) and hydrocarbons (HC) for both cars and trucks as determined by an approved Analyzer using the prescribed procedures in order to qualify for a waiver. The effective date for these cut-points is September 24, 2018.

ALL PASSENGER VEHICLES 1978 AND OLDER LIGHT DUTY TRUCKS 6,000 POUNDS GVWR OR LESS 1979 TRUCKS AND NEWER 8,500 POUNDS GVWR OR LESS MAXIMUM CONCENTRATION STANDARDS FOR WAIVERS		
<u>MODEL YEAR</u>	<u>PERCENT CARBON MONOXIDE</u>	<u>PARTS/MILLION HYDROCARBONS</u>
1968 - 1969	7.0	1000
1970 - 1974	6.0	800
1975 - 1976	5.0	700
1977 - 1979	4.0	600
1980	3.0	400
1981-1995	2.0	300
HEAVY DUTY TRUCKS AND VANS 1978 AND OLDER 6,001 OR GREATER 1979 AND NEWER OVER 8,500 POUNDS GVWR MAXIMUM CONCENTRATION STANDARDS FOR WAIVERS		
<u>MODEL YEAR</u>	<u>PERCENT CARBON MONOXIDE</u>	<u>PARTS/MILLION HYDROCARBONS</u>
1968 - 1969	8.0	1700
1970 - 1978	7.0	1500
1979 - 1980	5.0	1200
1981 - 1995	4.0	1000

Note: These should be considered as “cut-points” for maximum allowable emissions levels. Vehicles must never be reset to these emission levels when readjustments are made, but rather shall be adjusted using manufacturer’s specifications. By using manufacturer’s specifications, the emission levels should be well below the “cut-points”.

49
APPENDIX D

PENALTY SCHEDULE

VIOLATION *	1 ST OCCURRENCE *	2 ND OCCURRENCE *	3 RD OCCURRENCE *	4 TH OCCURRENCE *
Failure to inspect or substituting a vehicle or vehicle simulator other than the vehicle entered in test record.	6 Month Suspension Station	9 Month Suspension Station	Revocation Station if within 2 years of 1 st occurrence	
	6 Month Suspension and mandatory training Tester/Technician	Revocation Tester/Technician if within 2 years of 1 st occurrence		
Non-permitted Tester/Technician performing inspection_or gained access to the official testing portion of the Analyzer.	2 Month Suspension Station	6 Month Suspension Station	Revocation Station if within 2 years of 1 st occurrence	
	2 Month Suspension Tester/Technician	6 Month Suspension Tester/Technician	Revocation Tester/Technician if within 2 years of 1 st occurrence	
Pass a Failing Vehicle (including tampering portion of inspection).	15 Day Suspension Stations	1 month Suspension Station	2 month Suspension Station	Revocation Station if within 2 years of 1 st occurrence
	1 month Suspension and mandatory training Tester/Technician	2 Month Suspension and mandatory training Tester/Technician	Revocation Tester/Technician if within 2 years of 1 st occurrence	
Failure to Comply with Proper Test Procedures.	Formal Warning Station	15 Day Suspension Station	45 Day Suspension Station	Revocation Station if within 2 years of 1 st occurrence
	Formal Warning and mandatory training Tester/Technician	30 Day Suspension and mandatory training Tester/Technician	90 Day Suspension and mandatory training Tester/Technician	Revocation Tester/Technician if within 2 years of 1 st occurrence
Passing Covert Audit Vehicle † (see Covert Audit – Station Responsibility) †† (Covert Audit Occurrence Reset)	Formal Warning and mandatory training Tester/Technician	3 Month Suspension and mandatory training Tester/Technician	Revocation Tester/Technician	
The station was or is not equipped as required by Section 8.0 of the Regulation.	Formal Warning Station	Suspension Station until properly equipped		
Performing Unnecessary or Unrelated Repairs.	Formal Warning Station	3 Month Suspension Station	Revocation Station if within 2 years of 1 st occurrence	
	Formal Warning and mandatory training Tester/Technician	3 Month Suspension and mandatory training Tester/Technician	Revocation Tester/Technician	

Falsifying any inspection or official document of the Vehicle Emissions Inspection and Maintenance Program or Fail a Passing Vehicle.	6 Month Suspension Station	9 Month Suspension Station	Revocation Station if within 2 years of 1 st occurrence	
	6 Month Suspension and mandatory training Tester/Technician	Revocation Tester/Technician if within 2 years of 1 st occurrence		
The Station or Technician denies access to a representative of the Department to conduct an audit or other necessary business during regular business hours.	6 Month Suspension Station	Revocation Station		
	6 Month Suspension Tester/Technician	Revocation Tester/Technician		
Station or Tester/Technician has violated any other provisions of the I/M Regulation, any State Rule or Law, County Ordinance or Department policy dealing with the I/M Program.	Up to 6 Month Suspension Station	6 Month Suspension Station	Revocation Station if within 2 years of 1 st occurrence	
	Up to 6 Month Tester/Technician	6 Month Suspension Tester/Technician	Revocation Tester/Technician if within 2 years of 1 st occurrence	
Inaccurate or Incomplete Data.	Formal Warning Station	15 Day Suspension Station	45 Day Suspension Station	Revocation Station if within 2 years of 1 st occurrence
	Formal Warning and mandatory training Tester/Technician	1 Month Suspension and mandatory training Tester/Technician	3 Month Suspension Tester/Technician	<u>Revocation Tester/Technician if within 2 years of 1st occurrence</u>

*Other appropriate warnings, suspensions, negotiated consent agreements, and/or revocations as deemed necessary and prudent by the department. Violations that have been determined to be intentional or flagrant shall result in the maximum penalties.

Negotiated Consent Agreements

Initial Tester/Technician and/or Station suspensions may be reduced in length by a Negotiated Consent Agreement that may substitute monetary settlements for part or all of the suspension time for each violation incurred under the penalty schedule. Consent Agreements for stations shall be based on 50% of the maximum emission inspection fee multiplied by the actual number of Certificates of Compliance issued during the equivalent suspension time frame prior to the violation. Consent agreements shall not exceed \$1,667.00 for every 30 day period contained within a suspension, and shall have a maximum amount of \$10,000.00 for a six month suspension. Consent agreements for the tester/technician shall be based on \$100 increments for any 7 day period or portion thereof up to a maximum of 180 days. Negotiated Consent Agreements are only applicable in relation to suspension.

Subsequent violations under each violation category are not eligible for negotiated consent agreements.

†Covert Audit – Station Responsibility

The owner/operator has a responsibility to provide a working environment to the tester/technician conducive to performing complete and thorough emissions tests as required in sections 4.3.5 and 9.0. Owner/Operators whose technicians fail to perform correctly on covert audit inspections will receive a written warning for each violation and will receive a three month suspension after three written warnings. Subsequent violations may result in additional suspensions or revocation.

††Resets Based on Successful Completion of Covert Audits

A covert audit violation occurrence will be removed from a station record when two sequential covert audits are completed successfully and without deficiencies.

A covert audit violation occurrence will be removed from a technician record when two sequential covert audits are completed successfully and without deficiencies by that technician.

Explanation of Occurrence Resets Based on Time Allowance

The penalty schedule allows for some types of violations to be removed from a Station record 2 years after the date of that occurrence. When an occurrence is removed, subsequent occurrences will be moved back on the penalty schedule in the appropriate category (i.e. second occurrence now becomes the first occurrence). A Station will clear its' record in a specified category by going two consecutive years without committing any of that type of violation.

Section 4.2

The Department encourages each I/M Station to develop a Quality Assurance Program within their organization. This program should implement a process designed to minimize the station's exposure under the penalty schedule by providing oversight of the Tester/Technician's activities and verifying that each emissions test is conducted according to this regulation.

OBD IM TEST PROCEDURES

The following test procedure is to be followed for 1996 model year vehicles or newer with a GVWR of less than 8,501 pounds and 2008 and newer vehicles with a GVWR less than 14,001:

1. Verify vehicle information;
2. Accurately enter information into analyzer at the required prompts;
3. Review the information entered into data review screens and make corrections if needed;
4. **Perform Visual Tampering Inspection of all emission control systems;**
5. Turn ignition key to the off position;
6. Locate the Diagnostic Link Connector (DLC) and connect the OBD lead from the analyzer;
7. **Check for the correct operation of the Malfunction Indicator Light (MIL);**
8. Follow analyzer prompts and continue test;
9. The analyzer will communicate with the vehicle and read fault codes and readiness status;
10. When prompted, turn off the engine, put ignition in the off position, and remove OBD lead;
11. If the MIL is functioning correctly and the readiness monitors are set correctly, the vehicle passes the OBDII test.
12. If the MIL is not functioning the vehicle fails the OBDII test and requires repair;
13. If the MIL is commanded **ON** the vehicle fails. The vehicle has a problem and has stored a Diagnostic Trouble Code (DTC). This DTC needs to be diagnosed for repairs.
14. If the test results say **Not Ready**, the vehicle needs to complete one or more drive cycles to reset and run the readiness monitors.

DIESEL FUELED VEHICLE TEST PROCEDURE

1.0 All diesel fueled vehicles 2007 and newer shall be tested in accordance with the following procedure;

- 1.1 Verify vehicle information;
- 1.2 Accurately enter information into analyzer at the required prompts;
- 1.3 Review the information entered into data review screens and make corrections if needed;
- 1.4 **Perform Visual Tampering Inspection of all emission control systems**
- 1.5 Turn ignition key to the off position;
- 1.6 Locate the Diagnostic Link Connector (DLC) and connect the OBD lead from the analyzer;
- 1.7 **Check for the correct operation of the Malfunction Indicator Light (MIL)**
- 1.8 Follow analyzer prompts and continue test;
- 1.9 The analyzer will communicate with the vehicle and read fault codes and readiness status;
- 1.10 When prompted, turn off the engine, put ignition in the off position, and remove OBD lead;
- 1.11 If the MIL is functioning correctly and the readiness monitors are set correctly, the vehicle passes the OBDII test.
- 1.12 If the MIL is not functioning the vehicle fails the OBDII test and requires repair;
- 1.13 If the MIL is commanded **ON** the vehicle fails. The vehicle has a problem and has stored a Diagnostic Trouble Code (DTC). This DTC needs to be diagnosed for repairs.
- 1.14. If the test results say **Not Ready**, the vehicle needs to complete one or more drive cycles to reset and run the readiness monitors.

2.0 All diesel powered vehicles 1998-2006 shall be subject to a visual anti-tampering inspection. The emission control systems identified in the emissions decal shall be in place and apparently operable on the vehicle.

2.1 The emission control systems listed on the emissions decal must be present and apparently operable to pass the emissions inspection.

2.2 If the OBDII system is identified in the emissions decal, the procedure in Section 1.1 through 1.10 shall be followed.

2.3 If the emissions decal is missing the Tester/Technician shall check an approved reference manual to determine what emission control systems the vehicle was manufactured with.

2.4 If the emissions decal is missing and the vehicle meets the requirements of Section 2.3, the following emissions control systems shall be present and apparently operable if factory equipped:

- Catalyst;
- Exhaust Gas Recirculation System (EGR);
- Diesel Particulate System (DPF);
- Air Injection Reaction System (AIR);
- Urea System (SCR); and
- OBD II System.

2.5 A Certificate of Compliance shall be issued if the emissions control devices are in place and apparently operable. An inspection of the OBD II system as referenced in Section 2.2 shall be for informational purposes only and will not determine whether a vehicle passes or fails the emission inspection.

APPENDIX G

ADJUSTMENT PROCEDURES

The adjustments should be performed on all 1980 and older vehicles (where applicable) that failed the I/M test. These adjustments must be performed by an emissions repair technician before a vehicle will be eligible for a waiver.

ADJUSTMENT PROCEDURES (Vehicles without computer Controlled Engine Systems)

1. The following adjustments should be performed on all 1981 and older vehicles (where applicable) that failed the I/M test. These adjustments must be performed by a Technician before a vehicle will be eligible for Certificate Of Waiver.
2. The Emissions Inspection and Repair Technician shall refer to the emissions tune-up specifications. Adjustments shall be made according to manufacturer's specifications. The adjustment procedures shall be as follows:
 - 2.1 The dwell if applicable, shall be checked with a dwell meter to determine if it is within the recommended tolerance of 2 degrees of specifications. The dwell shall be reset if it exceeds this tolerance;
 - 2.2 The idle speed shall be checked with a tachometer to determine if it is within 50 rpm of the manufacturer's specifications. If it is not, it shall be set to within 50 rpm of the manufacturer's specifications;
 - 2.3 The ignition timing shall be checked, using a timing light or engine analyzer, to determine if it is within +4 degrees to -2 degrees of the recommended settings while the engine is idling at the specified speed. If the timing exceeds this tolerance, it shall be adjusted until it falls within +4 degrees to -2 degrees of the recommended setting;
 - 2.4 The idle air/fuel ratio shall be adjusted according to manufacturer's suggested procedures and/or specifications using an infrared analyzer, propane enrichment kit, or tachometer;
 - 2.5 The choke shall be checked for normal operation and, if appropriate, adjusted according to manufacturer's suggested procedures and/or specifications;
 - 2.6 After completing the preceding steps, the idle speed shall be readjusted to manufacturer's specifications; and
 - 2.7 The performed adjustments shall be entered in the required data base of the Analyzer.

APPENDIX H



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

ENGINE SWITCHING FACT SHEET

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460
March 13, 1991
OFFICE OF AIR AND RADIATION

Pursuant to frequent requests for information received by the U.S. Environmental Protection Agency (EPA) regarding the legality and effects of engine switching, this document will summarize federal law and policy pertaining to this matter, and will discuss other related issues.

A. Federal Law

The federal tampering prohibition is contained in section 203(a)(3) of the Clean Air Act (Act), 42 U.S.C. 7522(a)(3). Section 203(a)(3)(A) of the Act prohibits any person from removing or rendering inoperative any emission control device or element of design installed on or in a motor vehicle or motor vehicle engine prior to its sale and delivery to an ultimate purchaser and prohibits any person from knowingly removing or rendering inoperative any such device or element of design after such sale and delivery, and the causing thereof. The maximum civil penalty for a violation of this section by a manufacturer or dealer is \$25,000; for any other person, \$2,500. Section 203(a)(3)(B) of the Act prohibits any person from manufacturing or selling, or offering to sell, or installing, any part or component intended for use with, or as part of, any motor vehicle or motor vehicle engine where a principal effect of the part or component is to bypass, defeat, or render inoperative any device or element of design installed on or in a motor vehicle or motor vehicle engine, and where the person knows or should know that such part or component is being offered for sale or is being installed for such use. The maximum civil penalty for a violation of this section is \$2,500.

EPA received many questions regarding the application of this law to a situation where one engine is removed from a vehicle and another engine is installed in its place. EPA's policy regarding "engine switching" is covered under the provisions of Mobile Source Enforcement Memorandum No. 1A (Attachment 1). This policy states that EPA will not consider any modification to a "certified configuration" to be a violation of federal law if there is a reasonable basis for knowing that emissions are not adversely affected. In many cases, proper emission testing according to the Federal Test Procedure would be necessary to make this determination.

A "certified configuration" is an engine or engine chassis design which has been "certified" (approved) by EPA prior to the production of vehicles with that design. Generally, the manufacturer submits an application for certification of the designs of each engine or vehicle it proposes to manufacture prior to production. The application includes design requirements for all emission related parts, engine calibrations, and other design parameters for each different type of engine (in heavy-duty vehicles), or engine chassis combination (in light-duty vehicles). EPA then "certifies" each acceptable design for use, in vehicles of the upcoming model year.

For light-duty vehicles, installation of a light-duty engine into a different light-duty vehicle by any person would be considered tampering unless the resulting vehicle is identical (with regard to all emission related parts, engine design parameters, and engine calibrations) to a certified configuration of the same or newer model year as the vehicle chassis, or if there is a reasonable basis for knowing that emissions are not adversely affected as described in Memo 1A. The appropriate source for technical information regarding the certified configuration of a vehicle of a particular model year is the vehicle manufacturer.

For heavy-duty vehicles, the resulting vehicle must contain a heavy-duty engine which is identical to a certified configuration of a heavy-duty engine of the same model year or newer as the year of the installed engine. Under no circumstances, however, may a heavy-duty engine ever be installed in a light-duty vehicle.

The most common engine replacement involves replacing a gasoline engine in a light-duty vehicle with another gasoline engine. Another type of engine switching which commonly occurs, however, involves diesel powered vehicles where the diesel engine is removed and replaced with a gasoline engine. Applying the above policy, such a replacement is legal only if the resulting engine-chassis configuration is equivalent to a certified configuration of the same model year or newer as the chassis. If the vehicle chassis in question has been certified with gasoline, as well as diesel engines (as is common), such a conversion could be done legally.

Another situation recently brought to EPA's attention involves the offering for sale of used foreign-built engines. These engines are often not covered by a certified configuration for any vehicle sold in this country. In such a case, there is no way to install such an engine legally. EPA has recently brought enforcement actions against certain parties who have violated the tampering prohibition by performing illegal engine switches.

It should be noted that while EPA's policy allows engine switches as long as the resulting vehicle matches exactly to any certified configuration of the same or newer model year as the chassis, there are some substantial practical limitations to performing such a replacement. Vehicle chassis and engine designs of one vehicle manufacturer are very distinct from those of another, such that it is generally not possible to put an engine into a chassis of a different manufacturer and have it match up to a certified configuration. Therefore, practical considerations will generally limit engine switches to installation of another

engine which was certified to be used in that same make and model (or a "twin" of that make and model, e.g., Pontiac Grand Am and Oldsmobile Calais). In addition, converting a vehicle into a different certified configuration is likely to be very difficult, and the cost may prove prohibitive.

B. State Laws

Many states also have statutes or regulations prohibiting tampering in general. Most of these laws specifically prohibit tampering by individuals. A few specifically prohibit engine switching, using provisions similar to those stated in EPA's policy. To determine the state law in any given state, the state's Attorney General's office should be contacted. In addition, many states have state or local antitampering inspection programs which require a periodic inspection of vehicles in that area, to determine the integrity of emission control systems. Many programs have established policies for vehicles which have been engine switched. While EPA does not require these programs to fail engine switched vehicles which are not in compliance with federal policy, the Agency does strongly recommend that these programs set their requirements so as to be consistent with the federal law. State or local programs which pass illegally engine switched vehicles may mislead federally regulated parties into believing that engine switching is allowed by federal law.

TO: Air Quality Board

THROUGH: Bryce C. Bird, Executive Secretary

FROM: Liam Thrailkill, Rules Coordinator

DATE: November 20, 2019

SUBJECT: PROPOSE FOR PUBLIC COMMENT: Amend R307-110-32. Section X, Vehicle Inspection and Maintenance Program, Part B, Davis County; and R307-110-35. Section X, Vehicle Inspection and Maintenance Program, Part E, Weber County.

The amendments to Section X, Vehicle Inspection and Maintenance Program, Parts B and E will have to be incorporated into the Utah Air Quality Rules. R307-110-32 is the rule that incorporates the new amendments to Part B, Davis County, into the rules and R307-110-35 is the rule that incorporates the new amendments to Part E, Weber County. If the Board adopts the amendments proposed to Parts B and E, these amendments will become part of Utah's State Implementation Plan when the rule is finalized.

Staff Recommendation: Staff recommends the Board propose R307-110-32 and R307-110-35 for public comment.

Appendix 1: Regulatory Impact Summary Table*

Fiscal Costs	FY 2020	FY 2021	FY 2022
State Government	\$0	\$0	\$0
Local Government	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Person	\$0	\$0	\$0
Total Fiscal Costs:	\$0	\$0	\$0
Fiscal Benefits			
State Government	\$0	\$0	\$0
Local Government	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits:	\$0	\$0	\$0
Net Fiscal Benefits:	\$0	\$0	\$0

*This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts for State Government, Local Government, Small Businesses and Other Persons are described in the narrative. Inestimable impacts for Non-Small Businesses are described in Appendix 2.

Appendix 2: Regulatory Impact to Non-Small Businesses

This rule change is not expected to have any fiscal impacts on non-small businesses revenues or expenditures, because each county implements their own Inspection and Maintenance programs. This rule only incorporates those existing plans into the State Implementation Plan.

The Executive Director of the Department of Environmental Quality, Scott Baird, has reviewed and approved this fiscal analysis.

**"Non-small business" means a business employing 50 or more persons; "small business" means a business employing fewer than 50 persons.

R307. Environmental Quality, Air Quality.

R307-110. General Requirements: State Implementation Plan.

R307-110-32. Section X, Vehicle Inspection and Maintenance Program, Part B, Davis County.

The Utah State Implementation Plan, Section X, Vehicle Inspection and Maintenance Program, Part B, Davis County, as most recently amended by the Utah Air Quality Board on March 4, 2020, ~~December 5, 2012~~, pursuant to Section 19-2-104, is hereby incorporated by reference and made a part of these rules.

KEY: air pollution, PM10, PM2.5, ozone

Date of Enactment or Last Substantive Amendment: [~~September 5, 2019~~] 2020

Notice of Continuation: January 27, 2017

Authorizing, and Implemented or Interpreted Law: 19-2-104

1
2

Appendix 1: Regulatory Impact Summary Table*

Fiscal Costs	FY 2020	FY 2021	FY 2022
State Government	\$0	\$0	\$0
Local Government	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Person	\$0	\$0	\$0
Total Fiscal Costs:	\$0	\$0	\$0
Fiscal Benefits			
State Government	\$0	\$0	\$0
Local Government	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits:	\$0	\$0	\$0
Net Fiscal Benefits:	\$0	\$0	\$0

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KEY: air pollution, PM10, PM2.5, ozone

Date of Enactment or Last Substantive Amendment: [~~August 15, 2019~~ 2020

Notice of Continuation: January 27, 2017

Authorizing, and Implemented or Interpreted Law: 19-2-104

1
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UTAH STATE BULLETIN

OFFICIAL NOTICES OF UTAH STATE GOVERNMENT
Filed December 03, 2019, 12:00 a.m. through December 16, 2019, 11:59 p.m.

Number 2020-01
January 01, 2020

Nancy L. Lancaster, Managing Editor

The *Utah State Bulletin (Bulletin)* is an official noticing publication of the executive branch of Utah state government. The Office of Administrative Rules, part of the Department of Administrative Services, produces the *Bulletin* under authority of Section 63G-3-402.

The Portable Document Format (PDF) version of the *Bulletin* is the official version. The PDF version of this issue is available at <https://rules.utah.gov/>. Any discrepancy between the PDF version and other versions will be resolved in favor of the PDF version.

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Office of Administrative Rules, Salt Lake City 84114

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Utah state bulletin.

Semimonthly.

1. Delegated legislation--Utah--Periodicals. 2. Administrative procedure--Utah--Periodicals.
- I. Utah. Office of Administrative Rules.

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TABLE OF CONTENTS

NOTICES OF PROPOSED RULES.....	1
FIVE-YEAR NOTICES OF REVIEW AND STATEMENTS OF CONTINUATION	209
NOTICES FIVE-YEAR REVIEW EXTENSION	231
NOTICES OF RULE EFFECTIVE DATES	233

NOTICES OF PROPOSED RULES

A state agency may file a **PROPOSED RULE** when it determines the need for a substantive change to an existing rule. With a **NOTICE OF PROPOSED RULE**, an agency may create a new rule, amend an existing rule, repeal an existing rule, or repeal an existing rule and reenact a new rule. Filings received between December 03, 2019, 12:00 a.m., and December 16, 2019, 11:59 p.m. are included in this, the January 01, 2020, issue of the *Utah State Bulletin*.

In this publication, each **PROPOSED RULE** is preceded by a **RULE ANALYSIS**. This analysis provides summary information about the **PROPOSED RULE** including the name of a contact person, anticipated cost impact of the rule, and legal cross-references.

Following the **RULE ANALYSIS**, the text of the **PROPOSED RULE** is usually printed. New rules or additions made to existing rules are underlined (example). Deletions made to existing rules are struck out with brackets surrounding them (~~example~~). Rules being repealed are completely struck out. A row of dots in the text between paragraphs (.) indicates that unaffected text from within a section was removed to conserve space. Unaffected sections are not usually printed. If a **PROPOSED RULE** is too long to print, the Office of Administrative Rules may include only the **RULE ANALYSIS**. A copy of each rule that is too long to print is available from the filing agency or from the Office of Administrative Rules.

The law requires that an agency accept public comment on **PROPOSED RULES** published in this issue of the *Utah State Bulletin* until at least January 31, 2020. The agency may accept comment beyond this date and will indicate the last day the agency will accept comment in the **RULE ANALYSIS**. The agency may also hold public hearings. Additionally, citizens or organizations may request the agency hold a hearing on a specific **PROPOSED RULE**. Section 63G-3-302 requires that a hearing request be received by the agency proposing the rule "in writing not more than 15 days after the publication date of the proposed rule."

From the end of the public comment period through April 30, 2020, the agency may notify the Office of Administrative Rules that it wants to make the **PROPOSED RULE** effective. The agency sets the effective date. The date may be no fewer than seven calendar days after the close of the public comment period nor more than 120 days after the publication date of this issue of the *Utah State Bulletin*. Alternatively, the agency may file a **CHANGE IN PROPOSED RULE** in response to comments received. If the Office of Administrative Rules does not receive a **NOTICE OF EFFECTIVE DATE** or a **CHANGE IN PROPOSED RULE**, the **PROPOSED RULE** lapses.

The public, interest groups, and governmental agencies are invited to review and comment on **PROPOSED RULES**. *Comment may be directed to the contact person identified on the **RULE ANALYSIS** for each rule.*

PROPOSED RULES are governed by Section 63G-3-301, Rule R15-2, and Sections R15-4-3, R15-4-4, R15-4-5a, R15-4-9, and R15-4-10.

The Proposed Rules Begin on the Following Page

(ii) request authorization from the Board to seek damages from the publisher for failure to meet contract provisions.

(c) The Superintendent shall advise publishers of the provisions of this Subsection (3).

(d) The Utah Instructional Materials Commission created under Rule R277-469 may not approve textbooks and materials from publishers that have a pattern of not providing materials and textbooks for students with disabilities in a timely manner, consistent with the law and Board rules.

(4)(a) An LEA may request and access audio books through the USIMAC, as appropriate, or through other sources.

(b) Membership required for other sources is the responsibility of the LEA designated as the responsible entity for serving the student in the IEP or Section 504 accommodation plan.

KEY: educational administration

Date of Enactment or Last Substantive Amendment:
~~September 21, 2017~~ 2020

Notice of Continuation: July 19, 2017

Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53E-3-401(4); 53E-8-204; 53E-8-402; 53E-8-409

NOTICE OF PROPOSED RULE

TYPE OF RULE: Amendment

Utah Admin. Code Ref (R no.):	R307-110-32	Filing No.	52414
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Agency Information

1. Department:	Environmental Quality	
Agency:	Air Quality	
Room no.:	Fourth Floor	
Street address:	195 N 1950 W	
City, state:	Salt Lake City, UT	
Mailing address:	PO Box 144820	
City, state, zip:	Salt Lake City, UT 84116-3085	
Contact person(s):		
Name:	Phone:	Email:
Liam Thrailkill	801-536-4419	lthrailkill@utah.gov

Please address questions regarding information on this notice to the agency.

General Information

2. Rule or section catchline:

Section X, Vehicle Inspection and Maintenance Program, Part B, Davis County

3. Purpose of the new rule or reason for the change:

The Utah Air Quality Board (Board) has proposed for public comment amended Utah State Implementation Plan, Section X, Part B. As a result, Section R307-110-32, which incorporates Section X, Part B, into this rule, must be amended to change the Board adoption date to

the anticipated adoption date of the amended plan.

4. Summary of the new rule or change:

Section R307-110-32 is amended by changing the date of the last adoption by the Air Quality Board to 03/04/2020.

Fiscal Information

5. Aggregate anticipated cost or savings to:

A) State budget:

This rule change is not expected to have any fiscal impact on the state budget.

B) Local governments:

This rule change is not expected to have any fiscal impact on local governments.

C) Small businesses ("small business" means a business employing 1-49 persons):

This rule change is not expected to have any fiscal impact on small businesses.

D) Non-small businesses ("non-small business" means a business employing 50 or more persons):

This rule change is not expected to have any fiscal impact on non-small businesses' revenues or expenditures because each county implements their own Inspection and Maintenance program. This rule only incorporates those existing plans into the State Implementation Plan.

E) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an **agency**):

This rule change is not expected to have any fiscal impact on persons other than small businesses, non-small businesses, state, or local government entities.

F) Compliance costs for affected persons:

This rule change will not have a compliance cost for affected persons.

G) Regulatory Impact Summary Table (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)

Regulatory Impact Table

Fiscal Cost	FY2020	FY2021	FY2022
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0

Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Cost	\$0	\$0	\$0
Fiscal Benefits			
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits	\$0	\$0	\$0
Net Fiscal Benefits	\$0	\$0	\$0
H) Department head approval of regulatory impact analysis:			
The interim executive director of the Department of Environmental Quality, L. Scott Baird, has reviewed and approved this fiscal analysis.			
6. A) Comments by the department head on the fiscal impact this rule may have on businesses:			
After conducting a thorough analysis, it was determined that this proposed rule amendment will not result in a fiscal impact to businesses.			
B) Name and title of department head commenting on the fiscal impacts:			
L. Scott Baird, Interim Executive Director			

Citation Information

7. This rule change is authorized or mandated by state law, and implements or interprets the following state and federal laws. State code or constitution citations (required):

Subsection 19-2-104(1)(a)		
---------------------------	--	--

Incorporations by Reference Information

(If this rule incorporates more than two items by reference, please include additional tables.)

8. A) This rule adds, updates, or removes the following title of materials incorporated by references :

	First Incorporation
Official Title of Materials Incorporated (from title page)	Utah State Implementation Plan Section X, Vehicle Inspection and Maintenance Program, Part B, Davis County
Publisher	Utah Division of Air Quality

Issue, or version	03/04/2020
--------------------------	------------

Public Notice Information

9. The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. The agency is required to hold a hearing if it receives requests from ten interested persons or from an association having not fewer than ten members. Additionally, the request must be received by the agency not more than 15 days after the publication of this rule in the Utah State Bulletin. See Section 63G-3-302 and Rule R15-1 for more information.)

A) Comments will be accepted until: 02/03/2020

B) A public hearing (optional) will be held:

On:	At:	At:
02/03/2020	10:00 AM	Multi Agency State Office Building, Division of Air Quality, 195 N 1950 W, Fourth Floor, Salt Lake City, UT

10. This rule change MAY become effective on: 03/04/2020

NOTE: The date above is the date on which this rule MAY become effective. It is NOT the effective date. After the date designated in Box 10, the agency must submit a Notice of Effective Date to the Office of Administrative Rules to make this rule effective. Failure to submit a Notice of Effective Date will result in this rule lapsing and will require the agency to start the rulemaking process over.

Agency Authorization Information

Agency head or designee, and title:	Bryce Bird, Director	Date:	11/20/2019
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R307. Environmental Quality, Air Quality.

R307-110. General Requirements: State Implementation Plan.

R307-110-32. Section X, Vehicle Inspection and Maintenance Program, Part B, Davis County.

The Utah State Implementation Plan, Section X, Vehicle Inspection and Maintenance Program, Part B, Davis County, as most recently amended by the Utah Air Quality Board on March 4, 2020, [~~December 5, 2012~~], pursuant to Section 19-2-104, is hereby incorporated by reference and made a part of these rules.

KEY: air pollution, PM10, PM2.5, ozone

Date of Enactment or Last Substantive Amendment: [~~September 5, 2019~~] **2020**

Notice of Continuation: January 27, 2017

Authorizing, and Implemented or Interpreted Law: 19-2-104

NOTICE OF PROPOSED RULE**TYPE OF RULE:** Amendment

Utah Admin. Code Ref (R no.):	R307-110-35	Filing No.	52415
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Agency Information

1. Department:	Environmental Quality	
Agency:	Air Quality	
Room no.:	Fourth Floor	
Street address:	195 N 1950 W	
City, state:	Salt Lake City, UT	
Mailing address:	PO Box 144820	
City, state, zip:	Salt Lake City, UT 84116-3085	
Contact person(s):		
Name:	Phone:	Email:
Liam Thrailkill	801-536-4419	lthrailkill@utah.gov

Please address questions regarding information on this notice to the agency.

General Information**2. Rule or section catchline:**

Section X, Vehicle Inspection and Maintenance Program, Part E, Weber County

3. Purpose of the new rule or reason for the change:

The Utah Air Quality Board (Board) has proposed for public comment amended Utah State Implementation Plan, Section X, Part E. As a result, Section R307-110-35, which incorporates Section X, Part E, into this rule, must be amended to change the Board adoption date to the anticipated adoption date of the amended plan.

4. Summary of the new rule or change:

Section R307-110-35 is amended by changing the date of the last adoption by the Air Quality Board to 03/04/2020.

Fiscal Information**5. Aggregate anticipated cost or savings to:****A) State budget:**

This rule change is not expected to have any fiscal impact on the state budget.

B) Local governments:

This rule change is not expected to have any fiscal impact on local governments.

C) Small businesses ("small business" means a business employing 1-49 persons):

This rule change is not expected to have any fiscal impact on small businesses.

D) Non-small businesses ("non-small business" means a business employing 50 or more persons):

This rule change is not expected to have any fiscal impact on non-small businesses revenues or expenditures because each county implements their own Inspection and Maintenance program. This rule only incorporates those existing plans into the State Implementation Plan.

E) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an **agency**):

This rule change is not expected to have any fiscal impact on persons other than small businesses, non-small businesses, state, or local government entities.

F) Compliance costs for affected persons:

This rule change will not have a compliance cost for affected persons.

G) Regulatory Impact Summary Table (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)

Regulatory Impact Table

Fiscal Cost	FY2020	FY2021	FY2022
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Cost	\$0	\$0	\$0
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Other Persons	\$0	\$0	\$0
Total Fiscal Benefits	\$0	\$0	\$0
Net Fiscal Benefits	\$0	\$0	\$0

H) Department head approval of regulatory impact analysis:

The interim executive director of the Department of Environmental Quality, L. Scott Baird, has reviewed and approved this fiscal analysis.

6. A) Comments by the department head on the fiscal impact this rule may have on businesses:

After conducting a thorough analysis, it was determined that this proposed rule will not result in a fiscal impact to businesses.

B) Name and title of department head commenting on the fiscal impacts:

L. Scott Baird, Interim Executive Director

Citation Information

7. This rule change is authorized or mandated by state law, and implements or interprets the following state and federal laws. State code or constitution citations (required):

Subsection 19-2-104(1)(a)

Incorporations by Reference Information

(If this rule incorporates more than two items by reference, please include additional tables.)

8. A) This rule adds, updates, or removes the following title of materials incorporated by references:

	First Incorporation
Official Title of Materials Incorporated (from title page)	Utah State Implementation Plan Section X, Vehicle Inspection and Maintenance Program, Part E, Weber County
Publisher	Utah Division of Air Quality
Issue, or version	03/04/2020

Public Notice Information

9. The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. The agency is required to hold a hearing if it receives requests from ten interested persons or from an association having not fewer than ten members. Additionally, the request must be received by the agency not more than 15 days after the publication of this rule in the Utah State Bulletin. See Section 63G-3-302 and Rule R15-1 for more information.)

A) Comments will be accepted until: 02/03/2020

B) A public hearing (optional) will be held:

On:	At:	At:
02/03/2020	10:00 AM	Multi Agency State Office Building, Division of Air

Quality, 195 N 1950 W,
Fourth Floor, Salt Lake
City, UT

10. This rule change MAY become effective on: 03/04/2020

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Agency head or designee, and title:	Bryce Bird, Director	Date:	11/20/2019
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Date of Enactment or Last Substantive Amendment: ~~September 5, 2019~~ 2020

Notice of Continuation: January 27, 2017

Authorizing, and Implemented or Interpreted Law: 19-2-104

NOTICE OF PROPOSED RULE

TYPE OF RULE: New

Utah Admin. Code Ref (R no.):	R384-418	Filing No.	52465
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Agency Information

1. Department:	Health		
Agency:	Disease Control and Prevention, Health Promotion		
Building:	Cannon Health Building		
Street address:	288 N 1460 W		
City, state:	Salt Lake City, UT 84116		
Mailing address:	PO Box 142102		
City, state, zip:	Salt Lake City, UT 84114		
Contact person(s):			
Name:	Phone:	Email:	

Public Comment

UTAH STATE BULLETIN

OFFICIAL NOTICES OF UTAH STATE GOVERNMENT
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Number 2020-01
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Nancy L. Lancaster, Managing Editor

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Office of Administrative Rules, Salt Lake City 84114

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TABLE OF CONTENTS

NOTICES OF PROPOSED RULES.....	1
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In this publication, each **PROPOSED RULE** is preceded by a **RULE ANALYSIS**. This analysis provides summary information about the **PROPOSED RULE** including the name of a contact person, anticipated cost impact of the rule, and legal cross-references.

Following the **RULE ANALYSIS**, the text of the **PROPOSED RULE** is usually printed. New rules or additions made to existing rules are underlined (example). Deletions made to existing rules are struck out with brackets surrounding them (~~example~~). Rules being repealed are completely struck out. A row of dots in the text between paragraphs (.) indicates that unaffected text from within a section was removed to conserve space. Unaffected sections are not usually printed. If a **PROPOSED RULE** is too long to print, the Office of Administrative Rules may include only the **RULE ANALYSIS**. A copy of each rule that is too long to print is available from the filing agency or from the Office of Administrative Rules.

The law requires that an agency accept public comment on **PROPOSED RULES** published in this issue of the *Utah State Bulletin* until at least January 31, 2020. The agency may accept comment beyond this date and will indicate the last day the agency will accept comment in the **RULE ANALYSIS**. The agency may also hold public hearings. Additionally, citizens or organizations may request the agency hold a hearing on a specific **PROPOSED RULE**. Section 63G-3-302 requires that a hearing request be received by the agency proposing the rule "in writing not more than 15 days after the publication date of the proposed rule."

From the end of the public comment period through April 30, 2020, the agency may notify the Office of Administrative Rules that it wants to make the **PROPOSED RULE** effective. The agency sets the effective date. The date may be no fewer than seven calendar days after the close of the public comment period nor more than 120 days after the publication date of this issue of the *Utah State Bulletin*. Alternatively, the agency may file a **CHANGE IN PROPOSED RULE** in response to comments received. If the Office of Administrative Rules does not receive a **NOTICE OF EFFECTIVE DATE** or a **CHANGE IN PROPOSED RULE**, the **PROPOSED RULE** lapses.

The public, interest groups, and governmental agencies are invited to review and comment on **PROPOSED RULES**. *Comment may be directed to the contact person identified on the **RULE ANALYSIS** for each rule.*

PROPOSED RULES are governed by Section 63G-3-301, Rule R15-2, and Sections R15-4-3, R15-4-4, R15-4-5a, R15-4-9, and R15-4-10.

The Proposed Rules Begin on the Following Page

(ii) request authorization from the Board to seek damages from the publisher for failure to meet contract provisions.

(c) The Superintendent shall advise publishers of the provisions of this Subsection (3).

(d) The Utah Instructional Materials Commission created under Rule R277-469 may not approve textbooks and materials from publishers that have a pattern of not providing materials and textbooks for students with disabilities in a timely manner, consistent with the law and Board rules.

(4)(a) An LEA may request and access audio books through the USIMAC, as appropriate, or through other sources.

(b) Membership required for other sources is the responsibility of the LEA designated as the responsible entity for serving the student in the IEP or Section 504 accommodation plan.

KEY: educational administration

Date of Enactment or Last Substantive Amendment:
~~September 21, 2017~~ 2020

Notice of Continuation: July 19, 2017

Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53E-3-401(4); 53E-8-204; 53E-8-402; 53E-8-409

NOTICE OF PROPOSED RULE

TYPE OF RULE: Amendment

Utah Admin. Code Ref (R no.):	R307-110-32	Filing No.	52414
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Agency Information

1. Department:	Environmental Quality	
Agency:	Air Quality	
Room no.:	Fourth Floor	
Street address:	195 N 1950 W	
City, state:	Salt Lake City, UT	
Mailing address:	PO Box 144820	
City, state, zip:	Salt Lake City, UT 84116-3085	
Contact person(s):		
Name:	Phone:	Email:
Liam Thrailkill	801-536-4419	lthrailkill@utah.gov

Please address questions regarding information on this notice to the agency.

General Information

2. Rule or section catchline:
Section X, Vehicle Inspection and Maintenance Program, Part B, Davis County
3. Purpose of the new rule or reason for the change:
The Utah Air Quality Board (Board) has proposed for public comment amended Utah State Implementation Plan, Section X, Part B. As a result, Section R307-110-32, which incorporates Section X, Part B, into this rule, must be amended to change the Board adoption date to

the anticipated adoption date of the amended plan.

4. Summary of the new rule or change:

Section R307-110-32 is amended by changing the date of the last adoption by the Air Quality Board to 03/04/2020.

Fiscal Information

5. Aggregate anticipated cost or savings to:

A) State budget:

This rule change is not expected to have any fiscal impact on the state budget.

B) Local governments:

This rule change is not expected to have any fiscal impact on local governments.

C) Small businesses ("small business" means a business employing 1-49 persons):

This rule change is not expected to have any fiscal impact on small businesses.

D) Non-small businesses ("non-small business" means a business employing 50 or more persons):

This rule change is not expected to have any fiscal impact on non-small businesses' revenues or expenditures because each county implements their own Inspection and Maintenance program. This rule only incorporates those existing plans into the State Implementation Plan.

E) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an **agency**):

This rule change is not expected to have any fiscal impact on persons other than small businesses, non-small businesses, state, or local government entities.

F) Compliance costs for affected persons:

This rule change will not have a compliance cost for affected persons.

G) Regulatory Impact Summary Table (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)

Regulatory Impact Table			
Fiscal Cost	FY2020	FY2021	FY2022
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0

Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Cost	\$0	\$0	\$0
Fiscal Benefits			
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits	\$0	\$0	\$0
Net Fiscal Benefits	\$0	\$0	\$0
H) Department head approval of regulatory impact analysis:			
The interim executive director of the Department of Environmental Quality, L. Scott Baird, has reviewed and approved this fiscal analysis.			
6. A) Comments by the department head on the fiscal impact this rule may have on businesses:			
After conducting a thorough analysis, it was determined that this proposed rule amendment will not result in a fiscal impact to businesses.			
B) Name and title of department head commenting on the fiscal impacts:			
L. Scott Baird, Interim Executive Director			

Citation Information

7. This rule change is authorized or mandated by state law, and implements or interprets the following state and federal laws. State code or constitution citations (required):

Subsection 19-2-104(1)(a)		
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Incorporations by Reference Information

(If this rule incorporates more than two items by reference, please include additional tables.)

8. A) This rule adds, updates, or removes the following title of materials incorporated by references :

	First Incorporation
Official Title of Materials Incorporated (from title page)	Utah State Implementation Plan Section X, Vehicle Inspection and Maintenance Program, Part B, Davis County
Publisher	Utah Division of Air Quality

Issue, or version	03/04/2020
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Public Notice Information

9. The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. The agency is required to hold a hearing if it receives requests from ten interested persons or from an association having not fewer than ten members. Additionally, the request must be received by the agency not more than 15 days after the publication of this rule in the Utah State Bulletin. See Section 63G-3-302 and Rule R15-1 for more information.)

A) Comments will be accepted until: 02/03/2020

B) A public hearing (optional) will be held:

On:	At:	At:
02/03/2020	10:00 AM	Multi Agency State Office Building, Division of Air Quality, 195 N 1950 W, Fourth Floor, Salt Lake City, UT

10. This rule change MAY become effective on: 03/04/2020

NOTE: The date above is the date on which this rule MAY become effective. It is NOT the effective date. After the date designated in Box 10, the agency must submit a Notice of Effective Date to the Office of Administrative Rules to make this rule effective. Failure to submit a Notice of Effective Date will result in this rule lapsing and will require the agency to start the rulemaking process over.

Agency Authorization Information

Agency head or designee, and title:	Bryce Bird, Director	Date:	11/20/2019
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R307. Environmental Quality, Air Quality.**R307-110. General Requirements: State Implementation Plan.****R307-110-32. Section X, Vehicle Inspection and Maintenance Program, Part B, Davis County.**

The Utah State Implementation Plan, Section X, Vehicle Inspection and Maintenance Program, Part B, Davis County, as most recently amended by the Utah Air Quality Board on March 4, 2020, [~~December 5, 2012~~], pursuant to Section 19-2-104, is hereby incorporated by reference and made a part of these rules.

KEY: air pollution, PM10, PM2.5, ozone

Date of Enactment or Last Substantive Amendment: [~~September 5, 2019~~] **2020**

Notice of Continuation: January 27, 2017

Authorizing, and Implemented or Interpreted Law: 19-2-104

NOTICE OF PROPOSED RULE**TYPE OF RULE:** Amendment

Utah Admin. Code Ref (R no.):	R307-110-35	Filing No.	52415
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Agency Information

1. Department:	Environmental Quality	
Agency:	Air Quality	
Room no.:	Fourth Floor	
Street address:	195 N 1950 W	
City, state:	Salt Lake City, UT	
Mailing address:	PO Box 144820	
City, state, zip:	Salt Lake City, UT 84116-3085	
Contact person(s):		
Name:	Phone:	Email:
Liam Thrailkill	801-536-4419	lthrailkill@utah.gov

Please address questions regarding information on this notice to the agency.

General Information**2. Rule or section catchline:**

Section X, Vehicle Inspection and Maintenance Program, Part E, Weber County

3. Purpose of the new rule or reason for the change:

The Utah Air Quality Board (Board) has proposed for public comment amended Utah State Implementation Plan, Section X, Part E. As a result, Section R307-110-35, which incorporates Section X, Part E, into this rule, must be amended to change the Board adoption date to the anticipated adoption date of the amended plan.

4. Summary of the new rule or change:

Section R307-110-35 is amended by changing the date of the last adoption by the Air Quality Board to 03/04/2020.

Fiscal Information**5. Aggregate anticipated cost or savings to:****A) State budget:**

This rule change is not expected to have any fiscal impact on the state budget.

B) Local governments:

This rule change is not expected to have any fiscal impact on local governments.

C) Small businesses ("small business" means a business employing 1-49 persons):

This rule change is not expected to have any fiscal impact on small businesses.

D) Non-small businesses ("non-small business" means a business employing 50 or more persons):

This rule change is not expected to have any fiscal impact on non-small businesses revenues or expenditures because each county implements their own Inspection and Maintenance program. This rule only incorporates those existing plans into the State Implementation Plan.

E) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an **agency**):

This rule change is not expected to have any fiscal impact on persons other than small businesses, non-small businesses, state, or local government entities.

F) Compliance costs for affected persons:

This rule change will not have a compliance cost for affected persons.

G) Regulatory Impact Summary Table (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)

Regulatory Impact Table

Fiscal Cost	FY2020	FY2021	FY2022
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Cost	\$0	\$0	\$0
Fiscal Benefits			
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits	\$0	\$0	\$0
Net Fiscal Benefits	\$0	\$0	\$0

H) Department head approval of regulatory impact analysis:

The interim executive director of the Department of Environmental Quality, L. Scott Baird, has reviewed and approved this fiscal analysis.

6. A) Comments by the department head on the fiscal impact this rule may have on businesses:

After conducting a thorough analysis, it was determined that this proposed rule will not result in a fiscal impact to businesses.

B) Name and title of department head commenting on the fiscal impacts:

L. Scott Baird, Interim Executive Director

Citation Information

7. This rule change is authorized or mandated by state law, and implements or interprets the following state and federal laws. State code or constitution citations (required):

Subsection 19-2-104(1)(a)

Incorporations by Reference Information

(If this rule incorporates more than two items by reference, please include additional tables.)

8. A) This rule adds, updates, or removes the following title of materials incorporated by references:

	First Incorporation
Official Title of Materials Incorporated (from title page)	Utah State Implementation Plan Section X, Vehicle Inspection and Maintenance Program, Part E, Weber County
Publisher	Utah Division of Air Quality
Issue, or version	03/04/2020

Public Notice Information

9. The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. The agency is required to hold a hearing if it receives requests from ten interested persons or from an association having not fewer than ten members. Additionally, the request must be received by the agency not more than 15 days after the publication of this rule in the Utah State Bulletin. See Section 63G-3-302 and Rule R15-1 for more information.)

A) Comments will be accepted until: 02/03/2020

B) A public hearing (optional) will be held:

On:	At:	At:
02/03/2020	10:00 AM	Multi Agency State Office Building, Division of Air

Quality, 195 N 1950 W,
Fourth Floor, Salt Lake
City, UT

10. This rule change MAY become effective on: 03/04/2020

NOTE: The date above is the date on which this rule MAY become effective. It is NOT the effective date. After the date designated in Box 10, the agency must submit a Notice of Effective Date to the Office of Administrative Rules to make this rule effective. Failure to submit a Notice of Effective Date will result in this rule lapsing and will require the agency to start the rulemaking process over.

Agency Authorization Information

Agency head or designee, and title:	Bryce Bird, Director	Date:	11/20/2019
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R307. Environmental Quality, Air Quality.

R307-110. General Requirements: State Implementation Plan.

R307-110-35. Section X, Vehicle Inspection and Maintenance Program, Part E, Weber County.

The Utah State Implementation Plan, Section X, Vehicle Inspection and Maintenance Program, Part E, Weber County, as most recently amended by the Utah Air Quality Board on March 4, 2020, ~~December 5, 2012~~, pursuant to Section 19-2-104, is hereby incorporated by reference and made a part of these rules.

KEY: air pollution, PM10, PM2.5, ozone

Date of Enactment or Last Substantive Amendment: ~~September 5, 2019~~ 2020

Notice of Continuation: January 27, 2017

Authorizing, and Implemented or Interpreted Law: 19-2-104

NOTICE OF PROPOSED RULE

TYPE OF RULE: New

Utah Admin. Code Ref (R no.):	R384-418	Filing No.	52465
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Agency Information

1. Department:	Health		
Agency:	Disease Control and Prevention, Health Promotion		
Building:	Cannon Health Building		
Street address:	288 N 1460 W		
City, state:	Salt Lake City, UT 84116		
Mailing address:	PO Box 142102		
City, state, zip:	Salt Lake City, UT 84114		
Contact person(s):			
Name:	Phone:	Email:	

TO: Air Quality Board

THROUGH: Bryce C. Bird, Executive Secretary

FROM: Mat Carlile, Environmental Planning Consultant

DATE: March 4, 2020

SUBJECT: PROPOSE FOR FINAL ADOPTION: Amend SIP Section X, Part B, Vehicle Inspection and Maintenance Program, Davis County; Part E, Vehicle Inspection and Maintenance Program, Weber County; R307-110-31 Section X, Vehicle Inspection and Maintenance Program, Part B, Davis County; and R307-110-35 Section X, Vehicle Inspection and Maintenance Program, Part E, Weber County.

On November 20, 2019, the Air Quality Board proposed for public comment amendments to State Implementation Plan (SIP) Section X, Part B, Vehicle Inspection and Maintenance Program, Davis County and Part E, Vehicle Inspection and Maintenance Program, Weber County. The amendments incorporate into Utah's SIP updates the counties made to their vehicle inspection and maintenance (I/M) ordinances/regulations. The updates reflect the activities of the current programs, provide clarity, and ensure that the programs conform to federal requirements.

Davis County updated its program by moving all of its diesel emission program to an appendix, made changes to its penalty schedule, and removed references to 'director discretion' in its ordinance. Weber County amended its regulation to specify that all engine switches, regardless of the vehicle model year, will be verified and tested by the health department. Additionally, references to 'director discretion' were removed and an appendix H was added to the regulation that includes the Environmental Protection Agency's (EPA) Engine Switching Fact Sheet.

Utah Code Annotated 41-6a-1642 grants authority to each county to design and manage an I/M program when one is required to attain or maintain any national ambient air quality standard. The Division of Air Quality's (DAQ's) responsibility when a county creates or makes changes to a program is to ensure that the program meets federal requirements and provides the needed emissions reductions to meet national ambient air quality standards, and incorporate those changes into its SIP. DAQ staff worked closely with the EPA, Davis County, and Weber County, and we have concluded that the changes accurately reflect each county's current I/M program, meet federal requirements, and are approvable by the EPA.

In addition, when sections of the SIP are amended by the Board, those sections must be incorporated into the Air Quality Rules. The Board proposed amendments to R307-110-

31 and R307-110-35 to incorporate into its rules changes made to Section X, Vehicle Inspection and Maintenance Program, Parts B and E.

A public comment period was held through the month of January. A public hearing was held on Monday, February 3, 2020, and due to severe weather a second hearing was held on Wednesday, February 5, 2020. No one came to either hearing. No comments were received on the proposed amendments.

Recommendation: Staff recommends the Board adopt the amended SIP Section X, Parts B and E, and R307-110-31 and 35 as proposed.

Effective Rule

R307-110-32
File number 52414 AMD
Effective March 5, 2020

CERTIFIED A TRUE COPY
Office of Administrative Rules

R307. Environmental Quality, Air Quality.

R307-110. General Requirements: State Implementation Plan.

R307-110-32. Section X, Vehicle Inspection and Maintenance Program, Part B, Davis County.

The Utah State Implementation Plan, Section X, Vehicle Inspection and Maintenance Program, Part B, Davis County, as most recently amended by the Utah Air Quality Board on March 4, 2020, pursuant to Section 19-2-104, is hereby incorporated by reference and made a part of these rules.

KEY: air pollution, PM10, PM2.5, ozone

Date of Enactment or Last Substantive Amendment: March 5, 2020

Notice of Continuation: January 27, 2017

Authorizing, and Implemented or Interpreted Law: 19-2-104

!--dar--

R307-110-35
File number 52414 AMD
Effective March 5, 2020

CERTIFIED A TRUE COPY
Office of Administrative Rules

R307. Environmental Quality, Air Quality.

R307-110. General Requirements: State Implementation Plan.

R307-110-35. Section X, Vehicle Inspection and Maintenance Program, Part E, Weber County.

The Utah State Implementation Plan, Section X, Vehicle Inspection and Maintenance Program, Part E, Weber County, as most recently amended by the Utah Air Quality Board on March 4, 2020, pursuant to Section 19-2-104, is hereby incorporated by reference and made a part of these rules.

KEY: air pollution, PM10, PM2.5, ozone

**Date of Enactment or Last Substantive Amendment:
March 5, 2020**

Notice of Continuation: January 27, 2017

Authorizing, and Implemented or Interpreted Law: 19-2-104

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UTAH STATE BULLETIN

OFFICIAL NOTICES OF UTAH STATE GOVERNMENT
Filed March 03, 2020, 12:00 a.m. through March 16, 2020, 11:59 p.m.

Number 2020-07
April 01, 2020

Nancy L. Lancaster, Managing Editor

The *Utah State Bulletin (Bulletin)* is an official noticing publication of the executive branch of Utah state government. The Office of Administrative Rules, part of the Department of Administrative Services, produces the *Bulletin* under authority of Section 63G-3-402.

The Portable Document Format (PDF) version of the *Bulletin* is the official version. The PDF version of this issue is available at <https://rules.utah.gov/>. Any discrepancy between the PDF version and other versions will be resolved in favor of the PDF version.

Inquiries concerning the substance or applicability of an administrative rule that appears in the *Bulletin* should be addressed to the contact person for the rule. Questions about the *Bulletin* or the rulemaking process may be addressed to: Office of Administrative Rules, PO Box 141007, Salt Lake City, Utah 84114-1007, telephone 801-957-7110. Additional rulemaking information and electronic versions of all administrative rule publications are available at <https://rules.utah.gov/>.

The information in this *Bulletin* is summarized in the *Utah State Digest (Digest)* of the same volume and issue number. The *Digest* is available by e-mail subscription or online. Visit <https://rules.utah.gov/> for additional information.

Office of Administrative Rules, Salt Lake City 84114

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Utah state bulletin.

Semimonthly.

1. Delegated legislation--Utah--Periodicals. 2. Administrative procedure--Utah--Periodicals.
- I. Utah. Office of Administrative Rules.

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TABLE OF CONTENTS

EXECUTIVE DOCUMENTS	1
NOTICES OF PROPOSED RULES.....	13
NOTICES 120-DAY (EMERGENCY) RULES	53
FIVE-YEAR NOTICES OF REVIEW AND STATEMENTS OF CONTINUATION	63
NOTICES OF RULE EFFECTIVE DATES	97

EXECUTIVE DOCUMENTS

Under authority granted by the Utah Constitution and various federal and state statutes, the Governor periodically issues **EXECUTIVE DOCUMENTS**, which can be categorized as either Executive Orders, Proclamations, and Declarations. Executive Orders set policy for the executive branch; create boards and commissions; provide for the transfer of authority; or otherwise interpret, implement, or give administrative effect to a provision of the Constitution, state law or executive policy. Proclamations call special or extraordinary legislative sessions; designate classes of cities; publish states-of-emergency; promulgate other official formal public announcements or functions; or publicly avow or cause certain matters of state government to be made generally known. Declarations designate special days, weeks or other time periods; call attention to or recognize people, groups, organizations, functions, or similar actions having a public purpose; or invoke specific legislative purposes (such as the declaration of an agricultural disaster).

The Governor's Office staff files **EXECUTIVE DOCUMENTS** that have legal effect with the Office of Administrative Rules for publication and distribution.

EXECUTIVE ORDER

Suspending the Enforcement of Utah Code §§ 20A-9-407(3)(a) and 20A-9-408(3)(b) Due to Infectious Disease COVID-19 Novel Coronavirus

WHEREAS, On March 6, 2020, a state of emergency was declared in response to the evolving outbreak of novel coronavirus disease 2019 (COVID-19);

WHEREAS, State and local authorities have recommended that individuals experiencing symptoms of COVID-19 self-isolate themselves as necessary to prevent further transmission of the disease;

WHEREAS, Utah Code §§ 20A-9-407(3)(a) and 20A-9-408(3)(b), subject to certain exceptions, require a member of a qualified political party who is seeking the nomination of the qualified political party for an elective office that is to be filled at the next general election (hereinafter, a "potential candidate") to file a declaration of candidacy in person with the filing officer at the Utah State Elections Office;

WHEREAS, A potential candidate may experience symptoms of COVID-19 and choose to self-isolate as recommended by state and local authorities;

WHEREAS, To require a potential candidate to file a declaration of candidacy in person may directly conflict with the recommendation of state and local authorities that individuals experiencing symptoms of COVID-19 self-isolate as necessary to prevent further transmission of the disease;

WHEREAS, Utah Code § 53-2a-209(4) authorizes the governor to suspend by executive order enforcement of a statute that is directly related to and necessary to address a state of emergency;

WHEREAS, Utah Code § 53-2a-204(1)(b) authorizes the governor to employ measures and give direction to state and local officers and agencies that are reasonable and necessary to secure compliance with orders made pursuant to part 2 of the Emergency Management Act;

NOW, THEREFORE, I, Gary R. Herbert, Governor of the State of Utah, hereby order the suspension of enforcement of Utah Code §§ 20A-9-407(3)(a) and 20A-9-408(3)(b) to the extent that the provisions require a potential candidate to file a declaration of candidacy in person.

I hereby also direct the Director of Elections to permit a potential candidate to file a declaration of candidacy as though the potential candidate is an individual qualified to use the procedures provided in Utah Code § 20A-9-202(1)(c).

IN TESTIMONY, WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Utah this 12th day of March 2020.

(State Seal)

Gary R. Herbert
Governor

Attest:

Spencer J. Cox
Lieutenant Governor

2020/002/EO

EXECUTIVE ORDER

Temporarily Suspending Utah Administrative Code R671-302 Regarding Public Access to
Board of Pardons and Parole Hearings

WHEREAS, On March 6, 2020, Governor Gary R. Herbert issued an Executive Order declaring a state of emergency due to novel coronavirus disease 2019 (COVID-19);

WHEREAS, On March 11, 2020, the World Health Organization characterized the COVID-19 outbreak as a pandemic;

WHEREAS, On March 12, 2020, the Utah Department of Corrections suspended access to the Utah State Prison in Draper and the Central Utah Correctional Facility in Gunnison by visitors and volunteers in order to prevent the spread of COVID-19;

WHEREAS, On March 13, 2020, President Donald J. Trump declared a national state of emergency based on the continuing spread of COVID-19;

WHEREAS, Strict adherence to Utah Administrative Code R671-302, News Media and Public Access to Hearings, will substantially hinder necessary action by the Utah Department of Corrections in coping with and preventing the continuing spread of COVID-19;

WHEREAS, Utah Code § 53-2a-209(3) authorizes the governor to suspend by executive order the provisions of any order, rule, or regulation of any state agency, if the strict compliance with the provisions of the order, rule, or regulation would substantially prevent, hinder, or delay necessary action in coping with an emergency or disaster;

WHEREAS, Utah Code § 53-2a-204(1)(b) authorizes the governor to employ measures and give direction to state and local officers and agencies that are reasonable and necessary to secure compliance with orders made pursuant to part 2 of the Emergency Management Act;

NOW, THEREFORE, I, Gary R. Herbert, Governor of the State of Utah, hereby order the suspension of Utah Administrative Code R671-302, News Media and Public Access to Hearings. Effective immediately, the Utah Board of Pardons and Parole ("Board") shall restrict in-person access to Board hearings as follows:

A. At a parole revocation hearing, including an evidentiary hearing, in-person access shall be limited to: (1) a Board member; (2) a hearing officer; (3) a prison staff member; (4) an offender; (5) legal counsel for the offender; (6) an Adult Probation and Parole agent; (7) legal counsel for Adult Probation and Parole; (8) a witness; (9) a victim; (10) one representative of each victim; and (11) up to two family members of each victim.

B. At an original hearing, rehearing, special attention review hearing, and redetermination hearing, in-person access shall be limited to: (1) a Board member; (2) a hearing officer; (3) a prison staff member; (4) an offender; (5) a victim; (6) one representative of each victim; and (7) up to two family members of each victim.

C. At a pardon hearing, in-person access shall be limited to: (1) a Board member; (2) a prison staff member; (3) a pardon applicant; (4) legal counsel for the pardon applicant; (5) a victim; (6) one representative of each victim; (7) up to two family members of each victim; and (8) an authorized representative of the arresting or investigative agency, sentencing court, or prosecutor's office for each conviction being addressed.

D. At a commutation hearing, in-person access shall be limited by the Board as the Board reasonably determines is necessary to prevent or control the spread of COVID-19.

Notwithstanding the foregoing restrictions, the Board shall simultaneously transmit by electronic means hearings for public viewing and listening.

This Order shall remain in effect until the date of termination of the state of emergency declared in Executive Order 2020-1 unless terminated earlier by the Governor.

IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Utah. Done in Salt Lake City, Utah, on this, the 17th day of March, 2020.

(State Seal)

Gary R. Herbert
Governor

ATTEST:

Spencer J. Cox
Lieutenant Governor

2020/003/EO

EXECUTIVE ORDER

Temporarily Suspending Utah Administrative Code R82-2-201 Regarding Liquor Returns, Refunds and Exchanges

WHEREAS, On March 6, 2020, Governor Gary R. Herbert issued an Executive Order declaring a state of emergency due to novel coronavirus disease 2019 (COVID-19);

WHEREAS, On March 11, 2020, the World Health Organization characterized the COVID-19 outbreak as a pandemic;

WHEREAS, On March 13, 2020, President Donald J. Trump declared a national state of emergency based on the continuing spread of COVID-19;

WHEREAS, On March 15, 2020, the Summit County Health Officer issued a Public Health Order requiring all restaurants, coffee shops, tea shops, employee cafeterias, self-serve buffets, salad bars, unpackaged self-serve food services, bars, taverns, nightclubs, private liquor clubs, and saloons in Summit County to cease all dine-in food service, effective at 5:00 p.m. on March 15, 2020;

WHEREAS, On March 16, 2020, the Salt Lake County Mayor and the Salt Lake County Health Department Executive Director issued a Public Health Order requiring all food service, restaurants, self-serve buffets, salad bars, unpackaged self-serve food services, bars, taverns, nightclubs, private liquor clubs, and saloons in Salt Lake County to close to members, guests, patrons, customers, and the general public, and to cease all dine-in food service effective at 11:00 p.m. on March 16, 2020;

WHEREAS, on March 17, 2020, the Executive Director of the Utah Department of Health issued a State Public Health Order requiring all food service, restaurants, self-serve buffets, salad bars, unpackaged self-serve food services, bars, taverns, nightclubs, private liquor clubs, and saloons in the state of Utah to close to members, guests, patrons, customers, and the general public, and to cease all dine-in food service effective at 11:59 p.m. on March 18, 2020;

WHEREAS, Utah Administrative Code R82-2-201 governs all liquor returns, refunds, and exchanges, and mandates that wine and beer, due to their perishable nature and susceptibility to temperature changes, should be accepted at a DABC store with caution;

WHEREAS, Utah Administrative Code R82-2-201(2)(b)(iv) requires returns of more than \$500 to be processed via check, which may take several weeks;

WHEREAS, The aforementioned businesses will not be permitted to sell liquor for consumption on their premises while the public health orders are effective;

WHEREAS, Strict compliance with Utah Administrative Code R82-2-201 would substantially prevent, hinder, or delay necessary action in coping with the economic impact of the emergency;

WHEREAS, Returning liquor to the Department of Alcoholic Beverage Control (DABC) is necessary for businesses to cope with the economic impact of COVID-19;

WHEREAS, Utah Code § 53-2a-209(3) authorizes the governor to suspend by executive order the provisions of any order, rule, or regulation of any state agency, if the strict compliance with the provisions of the order, rule, or regulation would substantially prevent, hinder, or delay necessary action in coping with an emergency or disaster;

WHEREAS, Utah Code § 53-2a-204(1)(b) authorizes the governor to employ measures and give direction to state and local officers and agencies that are reasonable and necessary to secure compliance with orders made pursuant to part 2 of the Emergency Management Act;

NOW, THEREFORE, I, Gary R. Herbert, Governor of the State of Utah, hereby order the suspension and enforcement of Utah Administrative Code R82-2-201, to the extent that the provisions prohibit or strongly discourage the DABC from accepting returns of wine, heavy beer, cream-based spirits or liqueurs, and other distilled spirits.

The DABC shall accept a return by a DABC licensee of distilled spirits, wine, heavy beer, cream-based spirits or liqueurs, and other distilled spirits not acquired through the DABC's special order program (hereinafter, a "product") and shall waive the restocking fee for the return of the product if the licensee:

1. provides for each product a purchase receipt dated no earlier than March 2, 2020 and no later than March 18, 2020;
2. returns each product in an unopened and sealed condition;
3. schedules an appointment with a DABC store and returns the product to the DABC store (product purchased at a package agency may be returned only to a DABC store); and
4. complies with any other return processes, such as filling out required forms, implemented by the DABC.

I further suspend Utah Administrative Code R82-2-201(2)(b)(iv), which provides that returns exceeding \$500 will be processed via check mailed to the customer. DABC shall provide refunds in the manner it determines best serves the interests of the Department and the licensee.

This Order shall remain in effect through April 1, 2020.

IN TESTIMONY, WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Utah this 18th day of March 2020.

(State Seal)

Gary R. Herbert
Governor

Attest:

Spencer J. Cox
Lieutenant Governor

2020/004/EO

EXECUTIVE ORDER

Suspending the Enforcement of Provisions of Utah Code §§ 52-4-202 and 52-4-207, and Related State Agency Orders, Rules, and Regulations, Due to Infectious Disease COVID-19 Novel Coronavirus

WHEREAS, On March 6, 2020, Governor Gary R. Herbert issued an Executive Order declaring a state of emergency due to novel coronavirus disease 2019 (COVID-19);

WHEREAS, On March 11, 2020, the World Health Organization characterized the COVID-19 outbreak as a pandemic;

WHEREAS, On March 13, 2020, President Donald J. Trump declared a national state of emergency based on the continuing spread of COVID-19;

WHEREAS, Federal, state, and local authorities have recommended that individuals limit public gatherings and that individuals experiencing symptoms of COVID-19 self-isolate to prevent and control the continuing spread of COVID-19;

WHEREAS, The public monitoring and participation requirements in the Open and Public Meetings Act, Utah Code § 52-4-101 et seq. (OPMA), will gather interested persons, members of the public, and members of a public body in a single, confined location where the risks of further spreading COVID-19 are far greater;

WHEREAS, Utah Code § 52-4-207(2) prohibits a public body from holding an electronic meeting unless the public body has adopted a resolution, rule, or ordinance governing the use of electronic meetings;

WHEREAS, Utah Code §§ 52-4-207(3)(a)(ii), (c), (d), and (e) require a public body to take certain actions regarding anchor locations associated with an electronic meeting where members of the public body, interested persons, or the public are required or permitted to gather;

WHEREAS, Utah Code § 52-4-202(3)(a)(i)(A), requires a public body to give public notice of a meeting by posting written notice at the principal office of the public body or specified body, or if no principal office exists, at the building where the meeting is to be held;

WHEREAS, Utah Code §§ 52-4-202(3)(a)(i)(A), 207(2), 207(3)(a)(ii), 207(3)(c), 207(3)(d), and 207(3)(e) limit the ability of public bodies to hold electronic meetings and thereby implement the recommendations of federal, state, and local authorities to limit gatherings and encourage self-isolation in order to prevent and control the continuing spread of COVID-19;

WHEREAS, Strict compliance with the provisions of any order, rule, or regulation of any state agency implementing or conforming with Utah Code §§ 52-4-202(3)(a)(i)(A), 207(2), 207(3)(a)(ii), 207(3)(c), 207(3)(d), and 207(3)(e) would substantially prevent, hinder, or delay necessary action in coping with the continuing spread of COVID-19;

WHEREAS, Suspending the enforcement of Utah Code §§ 52-4-202(3)(a)(i)(A), 207(2), 207(3)(a)(ii), 207(3)(c), 207(3)(d), 207(3)(e), and any provision of any order, rule, or regulation of any state agency to the extent that the order, rule, or regulation implements or conforms with these subsections is directly related to and necessary to address the state of emergency declared due to COVID-19;

WHEREAS, Utah Code § 53-2a-209(4) authorizes the governor to suspend by executive order enforcement of a statute that is directly related to and necessary to address a state of emergency;

WHEREAS, Utah Code § 53-2a-209(3) authorizes the governor to suspend the provisions of any order, rule, or regulation of any state agency, if the strict compliance with the provisions of the order, rule, or regulation would substantially prevent, hinder, or delay necessary action in coping with the emergency or disaster;

WHEREAS, Utah Code § 53-2a-204(1)(b) authorizes the governor to employ measures and give direction to state and local officers and agencies that are reasonable and necessary to secure compliance with orders made pursuant to part 2 of the Emergency Management Act;

NOW, THEREFORE, I, Gary R. Herbert, Governor of the State of Utah, hereby order the suspension of enforcement of Utah Code §§ 52-4-202(3)(a)(i)(A), 207(2), 207(3)(a)(ii), 207(3)(c), 207(3)(d), and 207(3)(e), and the suspension of any provision of any order, rule, or regulation of any state agency to the extent that the order, rule, or regulation implements or conforms with these subsections.

Accordingly, a public body governed by OPMA may hold an electronic meeting even if the public body has not adopted a resolution, rule, or ordinance governing the use of electronic meetings. Furthermore, a public body that convenes or conducts an electronic meeting is not required to:

1. post written notice at the principal office of the public body or specified body, or if no principal office exists, at the building where the meeting is to be held;
2. post written notice at an anchor location;
3. establish one or more anchor locations for the public meeting, at least one of which is in the building and political subdivision where the public body would normally meet if they were not holding an electronic meeting;
4. provide space and facilities at an anchor location so that interested persons and the public may physically attend and monitor the open portions of the meeting; or
5. if comments from the public will be accepted during the electronic meeting, provide space and facilities at an anchor location so that interested persons and the public may physically attend, monitor, and participate in the open portions of the meeting.

Notwithstanding the foregoing, a public body that holds an electronic meeting shall:

1. provide a means by which interested persons and the public may remotely hear or observe, live, by audio or video transmission the open portions of the meeting;
2. if comments from the public will be accepted during the electronic meeting, provide a means by which interested persons and the public participating remotely may ask questions and make comments by electronic means in the open portions of the meeting; and
3. if the public body has not adopted a resolution, rule, or ordinance governing the use of electronic meetings, adopt as soon as practicable a resolution, rule, or ordinance, which may be adopted at an electronic meeting pursuant to this Order, governing the use of electronic meetings in accordance with Utah Code § 52-4-207.

A public hearing governed by OPMA may be conducted electronically according to the exemptions and conditions in this Order.

Except for provisions specifically suspended above, nothing in this Order shall be construed to exempt or excuse a public body from giving public notice of an electronic meeting as otherwise required by Utah Code §§ 52-4-207(3)(a)(i) and (3)(b).

This Order shall remain in effect until the termination of the state of emergency declared in Executive Order 2020-1.

IN TESTIMONY, WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Utah this 18th day of March 2020.

(State Seal)

Gary R. Herbert
Governor

Attest:

Spencer J. Cox
Lieutenant Governor

2020/005/EO

EXECUTIVE ORDER

Declaring a State of Emergency Due to Magnitude 5.7 Earthquake

WHEREAS, On March 18, 2020, a magnitude 5.7 earthquake and nearly 50 aftershocks (hereinafter, the “earthquake”) struck Utah, centered near the township of Magna, Salt Lake County;

WHEREAS, The earthquake caused significant damage in multiple counties along the Wasatch Front;

WHEREAS, Impacts from earthquakes are a threat to public safety and property;

WHEREAS, Many of the communities affected by the earthquake are also responding to the novel coronavirus disease 2019 (COVID-19) pandemic, limiting resources;

WHEREAS, Numerous local communities have declared or are declaring local states of emergency due to COVID-19, are now declaring for the earthquake, and have requested resources and support from state departments and agencies to assist them in dealing with these emergencies;

WHEREAS, The Utah Division of Emergency Management has temporarily activated the State Emergency Operations Center to a Level 1;

WHEREAS, The Utah National Guard, Utah Department of Transportation, and Utah Geological Survey, among others, have deployed resources in response to the earthquake;

WHEREAS, The American Red Cross has opened a disaster shelter in West Valley City to aid individuals displaced by the earthquake;

WHEREAS, Declaring a state of emergency will facilitate the protection of persons and property from the impacts of the earthquake and will expedite the use of state resources and the deployment of federal and interstate resources, if required;

WHEREAS, Declaring a state of emergency will also permit the State to request and receive mutual aid assistance from other states through the Emergency Management Assistance Compact, if required;

WHEREAS, The conditions of extreme peril to the safety of persons and property due to the earthquake create a state of emergency within the intent of the Utah Disaster Response and Recovery Act, Utah Code § 53-2a-101 et seq.;

NOW, THEREFORE, I, Gary R. Herbert, Governor of the State of Utah, declare a “State of Emergency” due to the aforesaid circumstances requiring aid, assistance, and relief available from state resources and hereby order:

1. The continued execution of the State Emergency Operations Plan;
2. Assistance from state government to political subdivisions as needed;
3. Coordination with local authorities and the private sector to maximize response and recovery; and
4. The Division of Emergency Management to ensure adequate state staffing to expedite disaster response and recovery efforts.
5. This State of Emergency is declared and effective immediately and shall remain in effect until I find the threat or danger has passed or the disaster reduced to the extent that emergency conditions no longer exist.

IN TESTIMONY, WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Utah this 20th day of March 2020.

(State Seal)

Gary R. Herbert
Governor

ATTEST:

Spencer J. Cox
Lieutenant Governor

2020/006/EO

EXECUTIVE ORDER

Suspending Enforcement of Statutes Relating to Telehealth Services

WHEREAS, on March 6, 2020, I issued Executive Order 2020-1, declaring a state of emergency due to coronavirus disease 2019 (COVID-19);

WHEREAS, Executive Order 2020-1 recognizes the need for state and local authorities, and the private sector to cooperate to slow the spread of COVID-19;

WHEREAS, COVID-19 is caused by a virus that spreads easily from person to person, may result in serious illness or death, and has been characterized by the World Health Organization as a worldwide pandemic;

WHEREAS, on March 22, 2020, the Utah Department of Health and Mountainstar HCA announced Utah's first COVID-19-related death;

WHEREAS, the number of diagnosed COVID-19 cases in Utah continues to rise;

WHEREAS, the Centers for Disease Control and Prevention has issued guidelines encouraging healthcare facilities to use telehealth services to reduce unnecessary healthcare visits and to prevent transmission of COVID-19 and other respiratory viruses;

WHEREAS, state and local health authorities have encouraged patients with symptoms of illness consistent with COVID-19 to use telehealth services rather than go to a healthcare facility or doctor's office;

WHEREAS, the use of telehealth services is critical to ensure that the healthcare system is not overwhelmed during this state of emergency and to prevent the continuing spread of COVID-19;

WHEREAS, Utah Code Title 26, Chapter 60, Telehealth Act governs the use of telehealth services in Utah;

WHEREAS, Utah Code §§ 26-60-102(8)(b)(ii) and 26-60-103(2)(a) may limit the ability of a healthcare provider to offer telehealth services during this state of emergency;

WHEREAS, Utah Code § 53-2a-209(4) authorizes the governor to suspend by executive order enforcement of a statute that is directly related and necessary to address a state of emergency;

WHEREAS, Utah Code § 53-2a-204(1)(b) authorizes the governor to employ measures and give direction to state and local officers and agencies that are reasonable and necessary to secure compliance with orders made pursuant to Utah Code Title 53, Chapter 2a, Part 2, Disaster Response and Recovery Act.

NOW, THEREFORE, I, Gary R. Herbert, Governor of the State of Utah, hereby order the suspension of enforcement of:

1. Utah Code § 26-60-102(8)(b)(ii); and
2. Utah Code § 26-60-103(2)(a) to the extent that it interferes with a medical provider's ability to offer telehealth services.

A medical provider that pursuant to this Order offers telehealth services that do not comply with the federal Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191, 110 Stat. 1936, as amended, or the federal Health Information Technology for Economic and Clinical Health Act, Pub. L. No. 111-5, 123 Stat. 226, 467, as amended, shall:

1. inform the patient the telehealth service does not comply with those federal acts;
2. give the patient an opportunity to decline use of the telehealth service; and
3. take reasonable care to ensure security and privacy of the telehealth service.

This Order shall remain in effect until the date the state of emergency declared in Executive Order 2020-1 is terminated, or until otherwise modified, amended, rescinded, or superseded by me or by a succeeding governor.

IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Utah. Done in Salt Lake City, Utah, on this, the 25th day of March, 2020.

(State Seal)

Gary R. Herbert
Governor

ATTEST:

Spencer J. Cox
Lieutenant Governor

2020/007/EO

EXECUTIVE ORDER

Suspending Certain Provisions of the Utah Election Code Regarding Signature Gathering

WHEREAS, on March 6, 2020, I issued Executive Order 2020-1, declaring a state of emergency due to novel coronavirus disease 2019 (COVID-19);

WHEREAS, COVID-19 is caused by a virus that spreads easily from person to person, may result in serious illness or death, and has been characterized by the World Health Organization as a worldwide pandemic;

WHEREAS, on March 22, 2020, the Utah Department of Health and Mountainstar HCA announced Utah's first COVID-19-related death;

WHEREAS, the number of diagnosed COVID-19 cases in Utah continues to rise;

WHEREAS, on March 16, 2020, President Trump and the White House Coronavirus Task Force issued the President's Coronavirus Guidelines for America to help protect Americans during the global COVID-19 outbreak;

WHEREAS, consistent with the President's Coronavirus Guidelines for America, state and local health authorities have encouraged individuals and businesses to limit in-person contact in order to prevent the continued spread of COVID-19;

WHEREAS, a primary election will be held in Utah on June 30, 2020;

WHEREAS, Utah Code Title 20A, Chapter 9, Part 4, Primary Elections governs the administration of primary elections, including requirements for an individual to appear as a candidate for elective office on the regular primary election ballot of the registered political party listed on the individual's declaration of candidacy;

WHEREAS, Utah Code § 20A-9-408 provides requirements for a member of a qualified political party who is seeking the nomination of the qualified political party for an elective office (hereinafter, a "candidate") through a signature-gathering process;

WHEREAS, Utah Code § 20A-9-408(9)(a)(ii) requires a candidate to submit signatures to the election officer no later than 5 p.m. 14 days before the day on which the qualified political party holds the party's convention to select candidates for the elective office;

WHEREAS, Utah Code § 20A-9-408(9)(a)(i) requires a candidate to collect signatures using the same circulation and verification requirements described in Utah Code §§ 20A-7-204 and 20A-7-205;

WHEREAS, Utah Code § 20A-7-204(4)(b), as made applicable to a candidate's signature packets by Utah Code § 20A-

9-408(9)(a)(i), requires a candidate to create signature packets prior to circulation by "binding" a copy of a form approved by the lieutenant governor to signature sheets;

WHEREAS, Utah Code § 20A-7-205(2), as made applicable to a candidate's signature packets by Utah Code § 20A-9-408(9)(a)(i), requires a candidate to ensure that any signature sheet is signed in the presence of and verified by an individual meeting certain qualifications by completing a verification printed on the last page of each signature packet;

WHEREAS, Utah Code §§ 20A-9-408(9)(d)(i) and (ii) require the election officer to check and take certain actions regarding any individual who completes a verification for a signature packet;

WHEREAS, Utah Code §§ 20A-7-204(4)(b) and 205(2), as made applicable to a candidate's signature packets by Utah Code § 20A-9-408(9)(a)(i), necessitate a candidate or petition circulator to deliver a nomination petition to the public for signatures in person or by physical mail, a process that conflicts with recommendations by state and local leaders to limit in-person contact to prevent the continued spread of COVID-19, and limits the ability of candidates to gather and submit signatures during the state of emergency;

WHEREAS, the signature-gathering period for the June 30, 2020 general primary began on January 2, 2020, and ends at 5 p.m. on April 13, 2020;

WHEREAS, the State maintains a compelling interest in preserving the integrity of the signature-gathering process;

WHEREAS, Utah Code §§ 20A-9-408(9)(d)(iii) and (iv) require the election officer to determine whether each signer is a registered voter who is qualified to sign the petition, using the same method, described in Utah Code § 20A-7-206.3, used to verify a signature on a petition, and to certify whether each name is that of a registered voter who is qualified to sign the signature packet;

WHEREAS, the Utah Elections Office and I have consulted with, and have been advised by, the Utah Office of the Attorney General;

WHEREAS, in May 2019 Lieutenant Governor Cox retained Gayle McKeachnie, as an independent third-party advisor, to review and advise on all elections questions related to the gubernatorial campaign before the Lieutenant Governor makes a decision on those questions;

WHEREAS, the Utah Elections Office and I have consulted with, and have been advised by, Gayle McKeachnie regarding preserving candidates' access to the regular primary ballot while maintaining the integrity of the signature-gathering process;

WHEREAS, Utah Code § 53-2a-209(4) authorizes the governor to suspend by executive order enforcement of a statute that is directly related and necessary to address a state of emergency;

WHEREAS, Utah Code § 53-2a-204(1)(b) authorizes the governor to employ measures and give direction to state and local officers and agencies that are reasonable and necessary to secure compliance with orders made pursuant to Utah Code Title 53, Chapter 2a, Part 2, Disaster Response and Recovery Act.

NOW, THEREFORE, I, Gary R. Herbert, Governor of the State of Utah, hereby order the suspension of enforcement of:

1. Utah Code § 20A-7-204(4)(b), as made applicable to a candidate's signature packets by Utah Code § 20A-9-408(9)(a)(i), to the extent that it requires a candidate to create signature packets prior to circulation by "binding" a copy of a form approved by the lieutenant governor to signature sheets;
2. Utah Code § 20A-7-205(2), as made applicable to a candidate's signature packets by Utah Code § 20A-9-408(9)(a)(i), to the extent that it requires a candidate to ensure that any signature sheet is signed in the presence of and verified by an individual meeting certain qualifications by completing a verification printed on the last page of each signature packet;
3. Utah Code § 20A-9-408(9)(d)(i); and
4. Utah Code § 20A-9-408(9)(d)(ii).

This Order shall remain in effect until the date the state of emergency declared in Executive Order 2020-1 is terminated, or until otherwise modified, amended, rescinded, or superseded by me or by a succeeding governor.

IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Utah. Done in Salt Lake City, Utah, on this, the 26th day of March, 2020.

(State Seal)

Gary R. Herbert
Governor

ATTEST:

Spencer J. Cox
Lieutenant Governor

2020/008/EO

End of the Executive Documents Section

NOTICES OF PROPOSED RULES

A state agency may file a **PROPOSED RULE** when it determines the need for a substantive change to an existing rule. With a **NOTICE OF PROPOSED RULE**, an agency may create a new rule, amend an existing rule, repeal an existing rule, or repeal an existing rule and reenact a new rule. Filings received between March 03, 2020, 12:00 a.m., and March 16, 2020, 11:59 p.m. are included in this, the April 01, 2020, issue of the *Utah State Bulletin*.

In this publication, each **PROPOSED RULE** is preceded by a **RULE ANALYSIS**. This analysis provides summary information about the **PROPOSED RULE** including the name of a contact person, anticipated cost impact of the rule, and legal cross-references.

Following the **RULE ANALYSIS**, the text of the **PROPOSED RULE** is usually printed. New rules or additions made to existing rules are underlined (example). Deletions made to existing rules are struck out with brackets surrounding them (~~example~~). Rules being repealed are completely struck out. A row of dots in the text between paragraphs (.) indicates that unaffected text from within a section was removed to conserve space. Unaffected sections are not usually printed. If a **PROPOSED RULE** is too long to print, the Office of Administrative Rules may include only the **RULE ANALYSIS**. A copy of each rule that is too long to print is available from the filing agency or from the Office of Administrative Rules.

The law requires that an agency accept public comment on **PROPOSED RULES** published in this issue of the *Utah State Bulletin* until at least May 01, 2020. The agency may accept comment beyond this date and will indicate the last day the agency will accept comment in the **RULE ANALYSIS**. The agency may also hold public hearings. Additionally, citizens or organizations may request the agency hold a hearing on a specific **PROPOSED RULE**. Section 63G-3-302 requires that a hearing request be received by the agency proposing the rule "in writing not more than 15 days after the publication date of the proposed rule."

From the end of the public comment period through July 30, 2020, the agency may notify the Office of Administrative Rules that it wants to make the **PROPOSED RULE** effective. The agency sets the effective date. The date may be no fewer than seven calendar days after the close of the public comment period nor more than 120 days after the publication date of this issue of the *Utah State Bulletin*. Alternatively, the agency may file a **CHANGE IN PROPOSED RULE** in response to comments received. If the Office of Administrative Rules does not receive a **NOTICE OF EFFECTIVE DATE** or a **CHANGE IN PROPOSED RULE**, the **PROPOSED RULE** lapses.

The public, interest groups, and governmental agencies are invited to review and comment on **PROPOSED RULES**. *Comment may be directed to the contact person identified on the **RULE ANALYSIS** for each rule.*

PROPOSED RULES are governed by Section 63G-3-301, Rule R15-2, and Sections R15-4-3, R15-4-4, R15-4-5a, R15-4-9, and R15-4-10.

The Proposed Rules Begin on the Following Page

NOTICES OF RULE EFFECTIVE DATES

Environmental Quality

Air Quality

No. 52414 (Amendment): R307-110. General Requirements: State Implementation Plan
Published: 01/01/2020
Effective: 03/05/2020

No. 52415 (Amendment): R307-110. General Requirements: State Implementation Plan
Published: 01/01/2020
Effective: 03/05/2020

No. 52316 (Amendment): R307-401. Permit: New and Modified Sources
Published: 12/15/2019
Effective: 03/05/2020

Governor

Economic Development

No. 52343 (New Rule): R357-16b. Utah Children's Outdoor Recreation and Education Grant Program Rule
Published: 02/01/2020
Effective: 03/11/2020

Health

Health Care Financing, Coverage and Reimbursement Policy

No. 52389 (Amendment): R414-49. Dental, Oral and Maxillofacial Surgeons and Orthodontia
Published: 12/15/2019
Effective: 03/01/2020

Family Health and Preparedness, Licensing

No. 52375 (Amendment): R432-35. Background Screening -- Health Facilities
Published: 12/15/2019
Effective: 03/01/2020

Insurance

Administration

No. 52500 (Amendment): R590-102. Insurance Department Fee Payment Rule
Published: 02/01/2020
Effective: 03/10/2020

No. 52490 (Amendment): R590-160. Adjudicative Proceedings
Published: 02/01/2020
Effective: 03/10/2020

No. 52489 (New Rule): R590-284. Corporate Governance Annual Disclosure Rule
Published: 02/01/2020
Effective: 03/10/2020

Natural Resources

Wildlife Resources

No. 52522 (Amendment): R657-10. Taking Cougar
Published: 02/15/2020
Effective: 03/24/2020

No. 52523 (Amendment): R657-33. Taking Bear
Published: 02/15/2020
Effective: 03/24/2020

Transportation

Operations, Construction

No. 52484 (New Rule): R916-5. R916-5. Health Reform -- Health Insurance Coverage in State Contracts -- Implementation.
Published: 02/01/2020
Effective: 03/10/2020

End of the Notices of Rule Effective Dates Section

1
2
3
4 **UTAH STATE IMPLEMENTATION PLAN**

5
6 **SECTION X**

7
8 **VEHICLE INSPECTION**
9 **AND MAINTENANCE PROGRAM**
10

11
12
13 **PART B**

14
15 **DAVIS COUNTY**
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34

35
36 Adopted by the Utah Air Quality Board
37 March 4, 2020

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21

Table of Contents

1. Applicability	1
2. Summary of Davis County I/M Program	2
3. I/M SIP implementation.....	3

1
2
3
4
5
6
7
8
9
10
11
12

SECTION X, PART B
DAVIS COUNTY
Appendices

- 1 Davis County Ordinance 10.12_Vehicle Emissions Inspection/Maintenance
 Program, approved and adopted October 1, 2019.
- 2 Quality Division Operating Procedures 10/30/19

UTAH STATE IMPLEMENTATION PLAN
SECTION X
AUTOMOTIVE INSPECTION AND MAINTENANCE (I/M) PROGRAM
PART B
DAVIS COUNTY

1. Applicability

Davis County Inspection and Maintenance (I/M) Program Requirements: The Utah Air Quality Board adopted an Ozone maintenance plan for Salt Lake and Davis counties on November 5, 1993, to address the 1979 1-hour Ozone National Ambient Air Quality Standard (NAAQS). The plan was reorganized and adopted on January 5, 1995. Revisions to the ozone maintenance plan were adopted by the Board on June 5, 1996, and June 7, 1997. EPA approved the plan on July 17, 1997 (62 FR 38213, July 17, 1997). The ozone maintenance plan required implementation of an improved I/M program no later than January 1, 1998. The ozone maintenance plan established a performance standard that was more stringent than the federal Basic I/M Performance Standard.

On July 17, 1997, EPA approved the State's request to redesignate Salt Lake and Davis counties to attainment for the 1979 1-hour ozone standard. As part of that action, EPA approved the State's 1-hour ozone maintenance plan (62 FR 38213). On July 18, 1997, EPA promulgated an 8-hour ozone NAAQS of 0.08 ppm (62 FR 38894). This standard was intended to replace the 1-hour ozone standard. On April 30, 2004, EPA designated areas of the United States for the 1997 8-hour ozone standard (69 FR 23857). EPA designated all areas in Utah, including Salt Lake County and Davis County, as unclassifiable/attainment for the 1997 8-hour ozone NAAQS (69 FR 23940).

On April 30, 2004, EPA revoked the 1979 1-hour ozone NAAQS (69 FR 23951, 23996; 40 CFR 50.9(b)). As part of that rulemaking, EPA established certain requirements to prevent backsliding in the areas that were redesignated to "attainment" but subject to a maintenance plan, as is the case for Salt Lake County and Davis County. These requirements are codified at 40 CFR 51.905. In the case of Utah, one of these requirements was to submit a maintenance plan for the 1997 8-hour ozone standard. On March 22, 2007, the Governor of Utah submitted a maintenance plan for the 1997 8-hour ozone standard for Salt Lake County and Davis County, and associated rule revisions, which included an I/M program as a control measure. This plan was approved by EPA on September 26, 2013 (78 FR 59242). Davis County was designated as a 'marginal' nonattainment area for the 2015 8-hour ozone standard effective August 3, 2018 (83 FR 25776), June 4, 2018). An I/M program is not required in marginal nonattainment areas; however, if the Davis County is redesignated to a 'moderate' nonattainment area, an I/M program would be required by the Clean Air Act (CAA).

Utah was previously required by Sections 182 and 187 of the CAA to implement and maintain an I/M program in Davis County that met the minimum requirements of 40 CFR Part 51 Subpart S and that was at least as effective as the EPA's Basic Performance Standard as specified in 40 CFR 51.352. However, the Basic Performance Standard requirement is no longer applicable as the nonattainment area in Davis County has been redesignated to attainment / maintenance for the 1979 1-hour ozone NAAQS. Parts A and B of Section X, together with the referenced appendices, continue to demonstrate compliance with the 40 CFR Part 51 provisions for I/M Program Requirements for Davis County and produce mobile source emission reductions that are sufficient to demonstrate continued maintenance of the 1997 8-hour ozone NAAQS. In addition, the Davis County I/M program is a control measure included in the Salt Lake City 24-hour particulate Serious SIP submitted to EPA on February 15, 2019.

2. Summary of Davis County I/M Program

Below is a summary of Davis County's I/M program. Section X, Part D Appendices 1 – 2 contain the essential documents for Davis County's I/M program.

Network Type: Davis County's I/M program is a decentralized, test-and-repair network.

Test Convenience: There are approximately 140 permitted I/M stations within Davis County. Specific operating hours are not specified by the county. Some stations that test and/or service only one type of vehicle are permitted. There are also government and private fleet permitted stations that are not open to the public.

Subject Fleet: All model year 1968 and newer vehicles registered or principally-operated in Davis County are subject to the I/M program except for exempt vehicles.

Test Frequency: Vehicles less than two years old as of January 1 on any given year are exempt from an emissions inspection. Vehicles two years old and less than six years old as of January 1 on any given year are inspected every other year as per Utah Code 41-6a-1642(6). All vehicles six years old and older as of January 1 on any given year are inspected annually.

Station/Inspector Audits: Davis County's I/M program will regularly audit all permitted I/M inspectors and stations to ensure compliance with county I/M ordinance and policies. Particular attention will be given to identifying and correcting any fraud or incompetence with respect to vehicle emissions inspections. Compliance with recordkeeping, document security, analyzer maintenance, and program security requirements will be scrutinized. Davis County I/M program will have an active covert compliance program to minimize potential fraudulent testing. Davis County audit procedures are provided in Appendix 2 of this part of Section X.

1
2 *Waivers:* Davis County's I/M program may issue waivers under limited circumstances.
3 The waiver procedure can be found in Davis County's I/M ordinance provided in
4 Appendix 1. Davis County will take corrective action as needed to maintain a maximum
5 waiver rate of 1% of the initially failed vehicles, or the Utah Air Quality Board will revise
6 the SIP and emission reductions claimed based on the actual waiver rate. The conditions
7 for issuing waivers are specified in Davis County's I/M ordinance and meet the minimum
8 waiver issuance criteria specified in 40 CFR Subparts 51.360.

9
10 *Test Equipment:* Specifications for Davis County's emission analyzer and its I/M test
11 procedures, standards and analyzers are provided in Davis County's I/M ordinance
12 provided in Appendix 1. Test equipment and procedure were developed according to
13 good engineering practices to ensure test accuracy. Analyzer calibration specifications
14 and emissions test procedures meet the minimum standards established in Appendix A of
15 the EPA's I/M Guidance Program Requirements, 40 CFR Part 51 Subpart S.

16
17 *Test Procedures:*

- 18
19 • The following vehicles are subject to an OBD II inspection:
- 20 ○ 1996 and newer light duty vehicles¹, and
 - 21 ○ 2008 and newer medium duty vehicles²
- 22
23
- 24 • The following vehicles are subject to a two-speed idle test that is compatible with
- 25 Section VI (Preconditioned Two Speed Idle Test) in Appendix B of the EPA I/M
- 26 Guidance Program Requirements, 40 CFR 51, Subpart S:
- 27 ○ 1995 and older vehicles,
 - 28 ○ 1996 to 2007 medium and heavy-duty vehicles³, and
 - 29 ○ 2008 and newer heavy-duty vehicles.
- 30
31
32

33 **3. I/M SIP Implementation**

34
35 The I/M program ordinance, policies, procedures, and activities specified in this I/M SIP
36 revision have been implemented and shall continue until a maintenance plan without an
37 I/M program is approved by EPA in accordance with Section 175 of the Clean Air Act as
38 amended.

1 Light duty vehicles have a Gross Vehicle Weight of 8500 lbs or less.

2 Medium duty vehicles have a Gross Vehicle Weight greater than 8500 lbs but less than 14,000 lbs

3 Heavy Duty vehicles have a Gross Vehicle Weight greater 14,000 lbs

**Appendix 1: Davis County Vehicle
Emissions Inspection/Maintenance
Program Ordinance**

**DAVIS COUNTY
VEHICLE EMISSIONS
INSPECTION/MAINTENANCE
PROGRAM ORDINANCE**

September 2019



Davis

C O U N T Y

**DAVIS COUNTY
ORDINANCE NO. 10.12**

**DAVIS COUNTY VEHICLE EMISSIONS
INSPECTION/MAINTENANCE PROGRAM ORDINANCE**

**AN ORDINANCE AMENDING SECTION 10.12 - OF THE DAVIS COUNTY CODE
RELATING TO THE VEHICLE INSPECTION AND MAINTENANCE PROGRAM FOR
DAVIS COUNTY**

The Board of County Commissioners of Davis County, Utah, in a regular meeting, lawful notice of which has been given, finds that:

WHEREAS it is in the best interests of Davis County residents to have clean, safe and breathable air; and

WHEREAS adoption and implementation of a vehicle Inspection and maintenance program is likely to promote the values of clean, safe and breathable air in Davis County, and

WHEREAS it is in the best interest of the County that this Ordinance be adopted.

THEREFORE, the Board of County Commissioners of Davis County, Utah, hereby adopts the following Ordinance:

BE IT ORDAINED THAT

Section 10.12 of the Davis County Code is amended and enacted to read:

Table of Contents

Section	
10.12.010	Adopted.....1
10.12.020	Definitions.....1
10.12.030	Purpose.....6
10.12.040	Jurisdiction of the Division.....6
10.12.050	Powers and Duties.....6
10.12.060	Scope.....7
10.12.070	General Provisions7
10.12.080	Standards and Specifications for Emissions Inspection Analyzers (EIA) and Span Gases for Equipment.....9
10.12.090	Requirements of the Vehicle Emissions Inspection/ Maintenance Program Stations.....10
10.12.100	Testing and Permitting of Applicants for Certified Emissions Testers and/or Repair Technicians14
10.12.110	Official Inspection Procedures17
10.12.130	Emissions Standards for Motor Vehicles19
10.12.140	Certificates of Compliance and Waivers19
10.12.150	Engine Switching.....21
10.12.160	Right to Appeal.....21
10.12.170	Recall21
10.12.180	Penalty.....22
10.12.200	Quality Assurance.....22
10.12.210	Severability22
10.12.240	Fee Schedule23

10.12.250	Emissions Standards	24
10.12.260	Waiver Cut Points	25
10.12.270	Passing Versus Waiver Cut Point Comparison.....	26
10.12.280	Penalty Schedule	27
10.12.290	Conflicts	28
Appendix A	Worldwide EIS 5000/7000 Analyzer Specs....	30
Appendix B	TSI Inspection Procedures...	32
Appendix C	OBD II Inspection Procedures.....	33
Appendix D	Diesel Inspection Procedures.....	34
Appendix E	CNG Inspection Procedures.....	46

10.12.010 Adopted

The Davis County Vehicle Emissions Inspection/Maintenance Program Ordinance compiled in book form and bearing the date of October 31, 2014, three (3) copies of which book are on file in the office of the Davis County Clerk, and one (1) copy which is on file in the office of the Davis County Health Department, is adopted as the Davis County Vehicle Emissions Inspection/Maintenance Program Ordinance and is incorporated into this chapter.

10.12.020 Definitions

For the purpose of this Chapter, the following terms, phrases and words shall have the following meanings, unless otherwise defined:

1. Accuracy: the degree by which an analyzer is able to determine the concentration of pollutants of interest (see Appendix A).
2. AIR (Air Injection Reaction) System: a system for providing supplementary air into a vehicle's exhaust system to promote catalytic reaction.
3. Air Intake Systems: systems that allow for the induction of ambient air, including when applicable, preheated air into the engine combustion chamber for the purpose of mixing with a fuel for combustion.
4. ASE: the National Institute for Automotive Service Excellence.
5. Audit: a periodic quality assurance check performed by the Division on equipment and personnel regulated under this Chapter; includes Covert and Overt Audits.
6. Auditor: an employee of the Division who performs audits.
7. Automotive Imports (imported vehicles): vehicles manufactured for use outside of the United States that may not meet U.S.E.P.A. Emissions requirements for the year manufactured.
8. BAR 97: refers to California Bureau of Automotive Repair Analyzer Specifications which became effective in 1997.
9. Basic I/M Inspection or Test: testing as approved by the Division applicable to Motor Vehicles of Model Years and vehicle weight classifications specified by this Chapter and the Division.
10. Calibration: the process of establishing or verifying the Accuracy of an analyzer or other test equipment using precisely known values/concentrations.
11. Calibration Gases: gases of accurately known concentrations that are used as references for establishing or verifying the Calibration curve and Accuracy of an analyzer.
12. C.A.R.B.: the California Air Resource Board.
13. Carbon Monoxide (CO): a colorless, odorless, asphyxiating gas produced by the incomplete burning of fuels.
14. Catalytic Converter: a post-combustion device that uses a catalyst to reduce the toxicity of Emissions from an internal combustion engine.
15. Certificate or Certificate of Compliance: a document used in the Vehicle Emissions Inspection/Maintenance Program to certify that the vehicle has met the requirements of this Chapter.
16. Certification: assurance by an authorized source, whether it be the Federal Government, a laboratory, the manufacturer, the State, or the Division, that a specific product or statement is in fact true and meets all applicable requirements.
17. Certified Basic Test Station (Test Station): a stationary business Permitted by the Division and operated as required by this Chapter to perform I/M Inspections.
18. Certified Emissions Repair Station (Repair Station): a stationary business Permitted by the Division which engages in Emissions Related Repairs to vehicles, and which meets the requirements of this Chapter to perform I/M Inspections.

19. Certified Emissions Repair Technician: a person currently Permitted by the Division who diagnoses Emissions related faults, and supervises Emissions Related Repairs and adjustments to bring vehicles into compliance with the requirements of this Chapter. The Repair Technician also performs Emissions tests.
20. Certified Emissions Tester: a person currently Permitted by the Division who inspects vehicles in a Division Permitted I/M Program Station to determine their compliance with vehicle Emissions Standards, also referred to as an Inspector.
21. CO: Carbon Monoxide gas.
22. CO₂: Carbon Dioxide gas.
23. Compliance Assurance List: a list of vehicles required to be presented to the Testing Center for a challenge, Referee or other type of official emission Inspection.
24. Compressed Natural Gas (CNG) Vehicles: Motor Vehicles which are propelled by a compression-ignited engine using Compressed Natural Gas fuels.
25. Consent Agreement: a monetary penalty paid to the Division in lieu of Suspending a Permit.
26. County: Davis County, Utah.
27. Covert Audit: an Audit that is conducted without the Station and/or Inspector knowing that an Audit is being conducted at the time of the Audit.
28. Curb Idle: the manufacturer's specified idle speed.
29. Cut Points: See Emissions Standards.
30. Davis County Testing Center: the Certified Basic Test Station operated by the Division or a Division Representative.
31. Dedicated Printer: the printer on the approved Emissions Inspection Analyzer (EIA) which is used solely to print Certificates, VIRs, and other official Division required documents.
32. Diesel Particulate Filter System (D.P.F.): an exhaust after-treatment device that significantly reduces Emissions from diesel fueled vehicles by capturing particulate matter.
33. Diesel Powered Motor Vehicle: vehicles which are propelled by a compression-ignited engine using diesel fuels.
34. Director: the Director of the Environmental Health Division of the Davis County Health Department or a Division Representative.
35. Division: the Davis County Environmental Health Division.
36. Division Representative: a person or entity that has been granted the authority to represent or act on behalf of the Division or the Director in enforcing or ensuring the provisions of this Chapter are met; this may include an employee of the Division, a contractor employed by the Division, a permitted station, or a permitted technician.
37. Dynamometer: a vehicle power absorption device which has the ability to approximate or simulate actual on-road operation of Motor Vehicles through the application of variable loading.
38. Electronic/Mechanical Tampering: addition of any electronic or mechanical device that would alter the original manufacturers design or would alter the performance of the vehicle; C.A.R.B and U.S.E.P.A. certified components are exempt.
39. Emissions: substances expelled into the atmosphere from any opening down-stream of the exhaust valve of a Motor Vehicle, particularly air contaminants produced by combustion and/or incomplete combustion as well as hydrocarbon evaporation from the fuel system and the crankcase.
40. Emissions Control Device: a design element or device installed on a Motor Vehicle by the manufacturer to comply with the standards of the Clean Air Act, 42 USC, Section 7521, including but not limited to the Oxygen Sensor, Catalytic Converter and the Fuel Inlet Restrictor; and devices integral to the Exhaust Gas Recirculation (EGR) System, the Evaporative Emissions Control System, the Positive Crankcase Ventilation (PCV) System, the Air Injection System, the Fuel Metering System and the Ignition System.

41. Emissions Inspection Analyzer (EIA): an analyzer approved by the Division for use in the areas of Utah requiring Inspections as specified in Section 41-6a-1642 and 41-6a-1644, Utah Code Annotated, 1953, as amended. An instrument that is capable of measuring the concentrations of certain air contaminants in the exhaust gas emanating from a Motor Vehicle which is approved by the Division for this use in accordance with this Chapter as an official test instrument.
42. Emissions Related Repair: the Inspection, adjustment, repair or replacement of Motor Vehicle engine systems, subsystems or components necessary to bring a vehicle into compliance with the Emissions Standards set forth in this Chapter.
43. Emissions Standard: the maximum allowable concentrations of Carbon Monoxide (CO) and Hydrocarbons (HC) for a given weight class and Model Year of a Motor Vehicle; or compliance to OBDII interrogation.
44. Engine Switching: a situation where one engine is removed from a vehicle and is replaced with an engine that is not identical to the original engine.
45. Evaporative Control System: an Emissions Control System that prevents the escape of fuel vapors from the fuel tank or air cleaner, and stores them to be burned in the combustion chamber.
46. Exemption Form: a document used to verify that a vehicle is exempt from the testing and repair/adjustment requirements of this Chapter.
47. Exhaust Gas Recirculation (EGR) System: an Emissions control system that recycles or recirculates a portion of the exhaust gases back to the engine combustion chambers.
48. Farm Truck: a truck Registered as a Farm Truck under the provisions of the Utah Code 41-1a-102.
49. Federal Installation: any property or facility subject to the jurisdiction of any department, agency, or instrumentality of the executive, legislative, or judicial branches of the Federal government.
50. Fleet Vehicle: a vehicle that is owned by a government entity, a business, or other organization.
51. Gas Calibration: a procedure using known concentrations of HC and CO span gases to verify the Accuracy of an analyzer in measuring HC and CO.
52. Gaseous Fuel: petroleum gases and natural gases in liquefied or gaseous forms.
53. Gross Vehicle Weight Rating (GVWR): the total vehicle weight, including load, as designated by the vehicle manufacturer.
54. Hang-up: a situation in which Hydrocarbons cling to the surface of the sampling and analyzer systems in contact with the exhaust gas sample stream resulting in errors in HC readings.
55. Heavy Duty Motor Vehicles: non-diesel trucks and vans that are 1978 and older, with a 6001 or greater GVWR rating, and 1979 and newer Model Year vehicles with over 8501 GVWR; Diesel Powered Motor Vehicles with a 14,001 pounds GVWR or greater.
56. High Altitude Specifications: tune-up specifications that have been provided by the manufacturer to the Environmental Protection Agency (E.P.A.) for vehicles operating 4,000 feet or more above sea level.
57. Hydrocarbons (HC): unburned or incompletely burned fuel.
58. Ignition Systems: parts or assemblies that are designed to initiate and time the ignition of a compressed air/fuel charge.
59. I/M Program: the Davis County Vehicle Emissions Inspection/Maintenance Program.
60. Inspection: a vehicle Emissions test performed for the purpose of determining whether a vehicle qualifies for issuance of a Certificate of Compliance.
61. Inspection Area: the area that is occupied by the Emissions Inspection Analyzer (EIA), test equipment and the vehicle being inspected.
62. Inspector: a Certified Emissions Repair Technician or Certified Emissions Tester.
63. KOEO: abbreviation of key on engine off.

- 64. KOER: abbreviation of key on engine running.
- 65. Light Duty Motor Vehicle: any non-diesel passenger vehicle, 1978 and older Light Duty truck with a GVWR rating of 6000 pounds or less or 1979 and newer truck with a GVWR rating of 8500 pounds or less; any diesel vehicle with a GVWR of 8500 pounds or less.
- 66. Medium Duty Vehicle: a diesel vehicle with a GVWR between 8,501 and 14,000 pounds.
- 67. MIL Light (Malfunction Indicator Lamp): a warning lamp used to inform the driver that a malfunction has been detected by one or more vehicle electronic management systems.
- 68. Model Year: the vehicle Model Year as designated by the manufacturer.
- 69. Motor Vehicle: a self-propelled motorized vehicle with an internal combustion powered engine which is Registered for use on public roads and/or streets. The term “vehicle” is synonymous with Model Vehicle for the purposes of this Chapter.
- 70. Motorcycle: any Motor Vehicle having a saddle for the use of the rider and designed to travel with not more than three wheels in contact with the ground.
- 71. MSO: Manufacturer’s Statement of Origin, Manufacturer’s Certificate of Origin, or a similar document accompanying each newly manufactured vehicle provided by the new vehicle manufacturer.
- 72. N/A: Not applicable.
- 73. Non-Certified Person: any person who has not been Permitted by the Division to perform Inspections.
- 74. OBDII: On Board Diagnostics, second generation.
- 75. Occurrence: an event, incident, episode or circumstance that happens or takes place during an Inspection that does not comply with Division approved policies or procedures; the action or instance of occurring. Each violation of this Chapter that occurs is considered a separate Occurrence.
- 76. Off Highway Vehicle: a vehicle licensed or allowed to operate exclusively off highways.
- 77. On Board Diagnostics: an Emissions control diagnostics system installed on a vehicle as required by the Clean Air Act, 42 USC, Section 7521(m), which identifies deterioration or malfunction of vehicle systems and stores the information for retrieval.
- 78. Ordinance: the total of this document, including any appendices approved by the Davis County Commission.
- 79. Overt Audit: an Audit that the Station and/or Technician is aware of at the time that the Audit is being conducted.
- 80. PCV System (Positive Crankcase Ventilation System): an Emissions Control System which returns crankcase vapors to the combustion chamber.
- 81. PM 2.5: particulate matter with an aerodynamic diameter less than or equal to a nominal two and one-half (2.5) micrometers as measured by an E.P.A. reference or equivalent method.
- 82. Permit: a document issued by the Division to a person or facility granting them authority to perform Inspections in accordance with this Chapter.
- 83. Primary Residence: the place where an individual permanently resides, maintains a permanent residence more than six (6) months during a calendar year, or where an individual lives more than six (6) months during a calendar year. This may also include where a person votes, spouse resides, children attend school, is employed, identifies as an address on a driver’s license, holds a resident hunting or fishing license, etc.
- 84. Probation: to subject an individual or Station to a period of testing and trial to ascertain fitness for a job; Critical examination and evaluation or subjection to such examination and evaluation.
- 85. Prompts: instructions and/or data fields requiring data input to the Emissions Inspection Analyzer (EIA).
- 86. Reciprocity: a written Agreement between Davis County and any other County(s) operating a comparable Inspection program whereby the Certificate from that/those County(s) would be

- accepted for vehicle Registration in Davis County.
87. Reconstructed Vehicle: a vehicle that has been materially altered from its original construction by the removal, addition or substitution of essential parts (frame and body), new or used.
 88. Referee Inspection: an Inspection conducted by the Division or the Division Representative for the purpose of resolving disputes or gathering data.
 89. Registered or Registration: the process by which a Motor Vehicle receives a license so that it can be legally operated on public streets and highways.
 90. Remote OBDII Inspection: an Inspection that is conducted on an OBDII compliant vehicle at a site that is not associated with the Stations Permitted address using a portable EIA.
 91. Replica Vehicle: a vehicle that all components are purchased in a kit similar to a model car. A Motor Vehicle with a body that is or resembles a Model Year prior to 1975, and that may have a significant drive train or equipment upgrade that is used for occasional pleasure rides and is not used for general daily transportation. A Replica Vehicle is not a vintage vehicle or a special interest vehicle.
 92. Revoke: to formally cancel, to make null and void by withdrawing, recalling or reversing; to retract, repeal or invalidate.
 93. RPM: revolutions per minute as pertaining to engine crankshaft speed.
 94. SAE: Society of Automotive Engineers.
 95. Simulator: A device used to simulate the function and operation of a vehicles powertrain control module and is typically equipped with a data link connector.
 96. Smoking Vehicle: any vehicle emitting excessive visible Emissions as defined in Utah Code 41-6a-1626.
 97. Specially Constructed Vehicle: a Motor Vehicle requiring Registration to be operated on public highways and streets which is often a replica of a classic car type and is usually made from the chassis of an existing Motor Vehicle, a chassis made up of parts from more than one vehicle type, or a chassis made from "scratch" often with a replica body from a kit attached to the chassis. It may also be homemade without the use of a kit and they may also be factory manufactured. Those made from a kit are often called "Kit Cars."
 98. Station: an I/M Program Station or Fleet Station, including all Station personnel, employees and owner(s).
 99. Suspend: to disallow a Permitted Station or Inspector the privilege of performing Vehicle Emissions Inspection/Maintenance Inspections for a specific period of time.
 100. Tampering: the altering or removal of Emissions Control Devices and/or Emissions-related equipment, the use of fuels other than those required by the manufacturer's specification as found in the Motor Vehicle owner's manual, or engine modifications which may include but are not limited to, Exhaust Systems, Air Intake Systems, Ignition Systems, Internal Engine Modifications or Engine Switching, etc.; this also includes Electronic/Mechanical Tampering.
 101. Technical Bulletin: a document issued by the Division to update, clarify or establish policies and/or procedures for their implementation in the Vehicle Emissions Inspection/Maintenance Program.
 102. Testing Center: a facility operated by the Division or a Division Representative for technical or administrative support of the Vehicle Emissions Inspection/Maintenance Program.
 103. Training Program: a formal program administered, conducted or approved by the Division or Division Representative for the education of Permit holders in basic Emissions control technology, Inspection procedures, diagnosis and repair of Emissions-related problems, Vehicle Emissions Inspection/Maintenance Program policies and procedures and this Chapter.
 104. United States Environmental Protection Agency: also referred to as E.P.A. or U.S.E.P.A..
 105. Vehicle Emissions Inspection/Maintenance Program: the program established by the Division pursuant to Utah Code 41-6a-1642 through 1644.

106. Vehicle Inspection Report (VIR): a report printed by the Emissions Inspection Analyzer (EIA) at the end of the test which enumerates the results of the test. The VIR is signed by the Inspector performing the test and the person who presented the vehicle for Inspection.
107. Waiver or Certificate of Waiver: a document used to verify that a vehicle has met the repair or adjustment requirements of the I/M Program Ordinances even though specific Emissions Standards have not been met.

10.12.030 Purpose

It is the purpose of this Chapter to reduce air pollution levels by requiring Inspections of in use Motor Vehicles of all fuel types and by requiring Emissions Related Repairs/adjustments for those vehicles that fail to meet prescribed standards so as to:

- A. protect and promote public health, safety and welfare;
- B. improve air quality;
- C. reduce the aesthetic affront of visible air pollution;
- D. comply with Federal requirements contained in the Clean Air Act Amendments of 1990, PL 101-549; and
- E. comply with the law enacted by the Legislature of the State of Utah, Section 41-6a-1642 through 1644, Utah Code Annotated, 1953, as amended; and with the Utah Air Quality Board requirements under subsection 19-2-104.

10.12.040 Jurisdiction of the Division

All aspects of the Vehicle Emissions Inspection/Maintenance Program within Davis County enumerated in Section 10.12.030 shall be subject to the direction and control of the Division.

10.12.050 Powers and Duties

- A. The Division or a Division Representative shall be responsible for the enforcement and administration of this Chapter and any other powers vested in it by law and shall:
 1. require the submission of information, reports, plans and specifications from Stations, and Inspectors as necessary to implement the provisions, requirements and standards of this Chapter;
 2. issue Permits and charge fees as necessary to implement the provisions, requirements and standards of this Chapter;
 3. perform audits of I/M Program Stations, issue orders and/or notices, hold hearings, levy administrative penalties, and negotiate Consent Agreements as necessary to enforce the purposes of this Chapter;
 4. take samples and make analyses required to ensure that the provisions of this Chapter are met;
 5. develop policies and procedures necessary to ensure that the provisions and purposes of this Chapter are met and accomplished.
 6. The Division shall respond according to policies and procedures to complaints regarding the fairness and integrity of Inspections and shall provide a method that Inspection results may be challenged if there is a reason to believe them to be inaccurate.
 7. The Division or a Division Representative is responsible for performing all Inspections on Light, and Heavy Duty Motor Vehicles.
 8. The Division may perform periodic Inspections during normal business hours on any vehicle that has or will be inspected by a Station.

10.12.060 Scope

It shall be unlawful for any person to fail to comply with any policy, procedure, Technical Bulletin, standard or regulation promulgated by the Federal Government, the State, or the Division, unless expressly waived by this Chapter.

10.12.070 General Provisions

Subject to the exemptions in Section 10.12.070(H), individuals with their Primary Residence in Davis County must register their Motor Vehicles in Davis County and Motor Vehicles that are or will be Registered in Davis County shall be subject to an Inspection performed by any certified I/M Program Station as specified in this Chapter..

- A. It shall be unlawful for any person with a Primary Residence in Davis County to register a vehicle in any other Utah County.
- B. A Certificate of Compliance or Waiver or evidence that the Motor Vehicle is exempt from the Inspection/Maintenance Program requirements (as defined in Section 10.12.070) shall be presented to the County Assessor or the Utah State Tax Commission and the Air Pollution Control Fee paid as conditions precedent to annual Registration or annual renewal of Registration of a Motor Vehicle.
 - 1. All 1968 and newer Model Year Gaseous Fueled and OBDII compliant Light Duty Diesel Powered Motor Vehicles and all 2008 and newer OBDII compliant Medium Duty Vehicles shall be subject to an Inspection at any Station.
 - 2. All 1968 and newer Heavy Duty Diesel Powered Motor Vehicles and all 1968 through 2007 non-OBD II compliant Diesel Powered Motor Vehicles are subject to the requirements in Appendix D of this Chapter.
- C. Fleet Vehicles that are operated from a facility located within Davis County shall be subject to an Inspection at any Station.
- D. A Certificate issued to a dealer licensed with the State of Utah and issued in the dealer's name, shall be valid for Registration purposes for a period of eleven (11) months as specified in Section 41-3-303, Utah Code Annotated, 1953, as amended.
- E. A dealer issuing a temporary Registration for a vehicle Registered in Davis County must supply proof of the vehicle's compliance with this Chapter to the new owner in the form of an official Vehicle Inspection Report (VIR).
- F. Owners of publicly owned vehicles (Federal, State, County or City) shall comply with the Inspection Program requirements. Federally owned vehicles and vehicles of employees operated on a Federal Installation that do not require Registration in the State of Utah shall comply with the Vehicle Emissions Testing requirements of this Chapter, and as required by Section 118 of the Clean Air Act as amended in 1990.
- G. Reciprocity with other vehicle Emissions programs within the state will be allowed as long as Tampering, HC, CO, OBDII or other standards meet or exceed those required by this Chapter in accordance with Section 41-6a-1643, Utah Code Annotated, 1953, as amended.
- H. The following vehicles are exempt from the requirements of this Chapter:
 - 1. Vehicles less than two (2) Model Years old;
 - 2. Even-numbered Model Year vehicles in odd-numbered years and odd-numbered Model Year vehicles in even-numbered years with Model Years less than six (6) years old;
 - 3. All agricultural implements of husbandry and any Motor Vehicle that qualifies for an exemption as required by Section 41-1a-102 Utah Code Annotated, 1953, as amended;

- a. A vehicle Registered as a Farm Truck may obtain an Exemption Form by contacting the Division;
- 4. Any vehicle used for maintenance or construction and not designed or licensed to operate on the highway;
- 5. Any Motorcycle or motor driven cycle (including vehicles which operate with an engine normally used in a Motorcycle with a maximum of three wheels or less);
- 6. Any vehicle Registered exclusively as an Off Highway Vehicle;
- 7. Any vehicle 1967 Model Year or older;
- 8. Any new vehicle being sold for the first time that has a valid MSO (Manufacturer's Statement of Origin) form;
- 9. Any Motor Vehicle which qualifies for legislative or diplomatic exemptions;
- 10. Any vehicle that operates exclusively on electricity or battery power.
- I. A publicly owned vehicle that is issued an "EX" or "UHP" license plate by the Utah Department of Motor Vehicles must provide annual proof of Emissions compliance for each vehicle to the Division upon request.
 - 1. The Division for failure may request the revocation of the Registration through the Utah Department of Motor Vehicles for vehicles if:
 - a. the requested information is not provided; or
 - b. a valid current Emissions Certificate is not acquired.
- J. It shall be the responsibility of the Inspector to inform the owner/operator of the vehicle that the vehicle is not required to have an Inspection for vehicle Registration purposes if a vehicle is exempted from the I/M Program requirements by this Section.
- K. The fees assessed by this Chapter shall be determined according to a fee schedule adopted by the Davis County Commission. The Fee Schedule is referenced in Section 10.12.240 of this Chapter and may be amended by the Davis County Commission as the Commission deems necessary to accomplish the purposes of this Chapter.
 - 1. An Air Pollution Control (APC) Fee is hereby assessed upon every Motor Vehicle Registered in Davis County annually at the time of Registration of the vehicle, including those vehicles that are exempted from the Inspection requirements of this Chapter by Section 10.12.070(H).
 - 2. Those Stations participating in the program hereunder may charge fees for the required service.
 - a. Inspection fees will be set by each Station as specified in Section 10.12.240. If a vehicle fails the Inspection, the owner is entitled to one (1) free second Inspection if the owner returns to the Station that performed the original Inspection within fifteen (15) days. The Station shall extend the free second Inspection time to accommodate the vehicle owner if the Station is unable to schedule the retest of the vehicle within the time period. The Inspection fee shall be the same whether the vehicle passes or fails the Inspection;
 - b. Upon notification by the Division, a Station shall extend the free retest time for vehicle owners who were unable to complete Emissions repairs because of the unavailability of parts to make the necessary repairs; and
 - c. Duplicate Certificates of Compliance may be issued to a vehicle owner/operator within two (2) months of the initial Inspection. Fees for a duplicate Certificate may not exceed the amount specified in Section 10.12.240.
 - 3. These fees are subject to change and may be amended as deemed necessary by the Davis County Commission and are enumerated in Section 10.12.240 of this Chapter.
- L. All Permits and Certificates of Compliance and Certificate of Compliance numbers issued under the provisions of this Chapter remain the property of the Division. Their use is tendered on the

- condition that the user complies with the requirements of this Chapter.
- M. Vehicle Idling Limitation: It shall be unlawful for any owner or operator of any Heavy Duty Motor Vehicle (GVWR greater than 14,001 lbs.) to cause or Permit the same to be idled for a period in excess of fifteen (15) consecutive minutes, or for a period in excess of forty-five (45) minutes in any one-hundred-twenty (120) minute period.
1. Vehicles may be exempted from the idling limitation requirements of Section 10.12.070(M) under the following conditions:
 - a. To supply power to a refrigeration unit for the purpose of cooling the contents of a trailer;
 - b. To provide heat or air conditioning to a sleeper unit of the vehicle or to occupied buses; and
 - c. Emergency response vehicles.
 2. Vehicles exempted from the Vehicle Idling Limitation of this Chapter shall not remain in an idling condition for a period longer than fifteen (15) consecutive minutes, or for a period in excess of forty-five (45) minutes in any one-hundred-twenty (120) minute period if located within five hundred (500) feet of any residence.
- N. Smoking Vehicles: The Division may investigate complaints on Smoking Vehicles to determine if they exceed the standards listed in Utah Code 41-6a-1626).
1. A person who is found guilty of violating the provisions of section 10.12.070 (N) may be charged with a class C misdemeanor.
 2. The Division will establish and maintain a program to receive complaints concerning vehicles emitting excessive visible Emissions within the County.
 - a. A notice may be sent to the owner(s) of any vehicle that is reported to the Division to be emitting excessive Emissions within the County requiring them to report to the Davis County Testing Center to verify compliance with section 10.12.070(N).
 - i. Any vehicle found to be out of compliance with section 10.12.070(N) will be placed on the Division's Compliance Assurance List until it can be determined that the vehicle is in compliance with this Chapter.
 - ii. Penalties may be assessed to the owner(s) of any vehicle that is found to be out of compliance with section 10.12.070(N) on more than one (1) occasion in a two (2) year period.
 - iii. Penalties may be assessed to the owner(s) of any vehicle that fails to report to the Davis County Testing Center following the receipt of a notice.
- O. A person who is found guilty of Tampering with a Motor Vehicle may be charged with a class B misdemeanor and any penalties as described in Utah Code 19-2-115.
- P. The Division is authorized under the provisions of this Chapter to issue or deny Permits that allow persons and facilities to perform Inspections on vehicles, to issue Certificates of Compliance and to make necessary repairs.

10.12.080 Standards and Specifications for Emissions Inspection Analyzers (EIA) and Span Gases for Equipment

- A. Emissions Inspection Analyzers (EIA) Specifications are contained in Appendix A of this Chapter.
1. Inspections required by this Chapter for vehicles subject to Basic I/M Inspections shall be performed using only an approved Emissions Inspection Analyzer (EIA).
 2. Any analyzer used by a Certified I/M Program Station shall be Registered with and approved by the Division. Analyzers used temporarily during times of breakdown or repair of the Registered analyzer shall meet all other requirements of this Section,

- including the approval of the Division before use.
- a. The Dedicated Printer shall be maintained in such a manner that the printing of the Certificate of Compliance and Vehicle Inspection Report (VIR) shall be clearly visible. If any Dedicated Printer fails to properly function, then the Certified I/M Program Station shall discontinue testing until the required repairs have been performed.
 3. Running changes: Any changes to the design characteristics or component specifications that may affect the performance of an Emissions Inspection Analyzer (EIA) to be used as an official test instrument in the Davis County I/M Program shall be approved by the Division. It shall be the instrument manufacturer's responsibility to confirm that the changes have no detrimental effect on the performance of the Emissions Inspection Analyzer (EIA).
 - a. It shall be illegal for any unauthorized person to modify the hardware or software of an approved Emissions Inspection Analyzer (EIA).
 4. Calibration/Span Gases:
 - a. General: The instrument manufacturer and/or his designated marketing vendors shall on request supply at a reasonable cost BAR 97 approved span gases to any ultimate purchaser of this unit. Each new or used instrument sold by the instrument manufacturer or marketing vendor shall have approved full span gas containers installed and operational at the time of delivery.
 - b. Span gas blends: The span gases supplied to any Certified I/M Program Station shall meet BAR 97 specifications.
 5. Documentation, logistics, and warranty requirements:
 - a. An instruction manual shall accompany each Emissions Inspection Analyzer (EIA) and shall contain at least the following information for the analyzer:
 - i. A complete technical description;
 - ii. The accessories and options that are included and/or available;
 - iii. The model number, identification marking and location;
 - iv. Operating maintenance including daily, weekly, and monthly accommodations and procedures for maintaining sample system integrity including, but not limited to leaks, Hang-up, Gas Calibration and filters. The services to be performed only by the manufacturer shall be clearly identified;
 - v. Information concerning the nearest facility where equipment can be serviced; and
 - vi. The warranty provisions for the analyzer, including a list of warranty repair facilities by name, address and telephone number.
 6. The Emissions Inspection Analyzer shall be maintained in accordance with the manufacturer's recommended maintenance schedule.
 7. If an EIA is surrendered to or repossessed by the Division or a Division Representative, the following must occur:
 - a. a final VID refresh will be conducted on the EIA; and
 - b. notification of the action will be made to the Division.

10.12.090 Requirements of the Vehicle Emissions Inspection/Maintenance Program Stations

- A. Permit Required.
 1. No person shall in any way represent any place as a Certified Emissions Repair Facility and/or Basic Test Station unless Permitted by the Division. The Permit is issued on the condition that the Permittee has knowledge of the requirements of this Chapter and agrees

- to comply with the provisions of this Chapter and any other applicable laws or standards.
2. A Permit is non-transferrable and is valid only for the original owner and/or business to which it was issued. Any changes of ownership of the Station will require the new owner to submit a new application for the appropriate Permit.
 3. The Station must post the following items in a conspicuous place on the premises within view of the public:
 - a. the Permit and Division issued signage;
 - b. Permits for all Inspectors employed by the Station;
 - c. the fees charged for an Inspection; and
 - d. the vehicle Emissions Standards promulgated under the authority of this chapter.
 4. Application for a Station Permit shall be made to the Division upon an official application form.
 - a. Unless exempted in this section, the Station must be at a permanent location which meets all applicable zoning requirements to provide for the Inspection of vehicles, as defined in this Chapter;
 - i. offsite OBDII Inspections of vehicles will be allowed by Stations if the Station has the portable equipment that has been approved by the Division.
 - b. The Station must comply with the following prior to a Permit being issued:
 - i. pass an Overt Audit as defined by this Chapter;
 - ii. employ all required certified personnel as listed in this Chapter to be available to perform Inspections during normal business hours;
 - iii. conduct all Inspections in accordance with this Chapter; and
 - iv. meet any other requirements deemed by the Division to be essential to the purpose of this Chapter.
 - c. As a condition for Permitting a Certified Emissions Repair Facility and/or Basic Test Station, the following equipment, tools and references shall be available, maintained and updated for performance of the Inspection and maintenance of Motor Vehicles:
 - i. a Division approved Emissions Inspection Analyzer (EIA) which conforms at a minimum, to the analyzer specifications of Appendix A, to be certified to perform Inspections;
 - ii. an Emissions control application manual approved by the Division that includes High Altitude Specifications;
 - iii. Division approved Calibration/span gas and equipment for performing the Gas Calibration;
 - iv. a suitable non-reactive tail pipe extender or probe adapter for inspecting vehicles with screened or baffled exhaust systems;
 - v. the analyzer manufacturer's maintenance and Calibration manual which must be retained in the Inspection Area;
 - vi. appropriate hand tools;
 - vii. shop air with regulator for analyzer zero air generator or other approved source;
 - viii. all forms, Technical Bulletins, charts and a Davis County I/M Ordinance and other information materials provided by the Division;
 - ix. an approved adaptor for testing dual-exhaust vehicles; and
 - x. all essential devices, connections and software for communications and downloads.
 - d. In addition to the requirements for a Basic Test Station, a Certified Repair Facility must have the following equipment, tools and references available for use:
 - i. Emissions diagnostic and repair information for affected Model Year vehicles, the most current of which applies to vehicles of Model Years no more than two

- (2) years older than the current calendar year. ;
 - ii. scanner capability to interrogate Onboard Diagnostics of vehicles, the most current of which applies to vehicles of Model Years no more than two (2) years older than the current calendar year;
 - iii. voltmeter with AC and DC capability;
 - iv. DC ammeter;
 - v. ohmmeter;
 - vi. fuel or hydraulic pressure gauge;
 - vii. vacuum gauge;
 - viii. vacuum pump;
 - ix. compression tester and cylinder leak down tester;
 - x. timing light with advance capability;
 - xi. tachometer;
 - xii. dwell meter or duty cycle meter; and
 - xiii. shop air with regulator.
 - 5. The Station shall be kept in good repair and in safe condition for Inspection purposes and must be in compliance with the applicable regulations found in Title 29 CFR 1910, Utah Code Annotated 34A-6 and Utah Administrative Code R-614.
 - 6. If a Station's Permit is cancelled or Revoked:
 - a. unused Certificates of Compliance numbers must be returned to the Division and may be refunded by the Division;
 - b. the official sign and Permit issued to the Station by the Division will be surrendered to the Division; and
 - c. a final VID refresh will be conducted on the EIA.
- B. Permit Duration and Renewal
- 1. The Permit for a Certified Emissions Repair Facility and/or Basic Test Station shall be issued annually and shall expire December 31 of the calendar year for which it was issued. The Permit shall become renewable sixty (60) days prior to the date of expiration.
 - 2. It shall be the responsibility of the Station owner or designee to apply for the Station's Permit renewal through the Division or a Division Representative.
 - 3. Upon approval of the completed application and payment of applicable fees, the Division or a Division Representative may renew the Stations Permit until December 31 of the subsequent calendar year.
 - 4. Station to hold Division harmless in making application for a Permit or for its renewal, such action shall constitute a declaration by the applicant that the Division or a Division Representative shall be held harmless from liability incurred due to any action or inaction of a Station, owners or their employees.
 - 5. Required Permit fees and renewal fees are listed in the Fee Schedule in Section 10.12.240 of this Chapter.
 - 6. The Division may impose a late fee on a Permit which expires prior to receipt of the application for renewal and payment of applicable fees.
 - 7. After six (6) months, an expired Permit is unredeemable and a new Permit must be applied for according to the procedures of this Chapter.
- C. Warning, Probation, Suspension, Revocation and Denial of Station Permit
- 1. The Division may give a formal warning, place on probation, Suspend, Revoke or deny renewal of a Permit under any of the following conditions:
 - a. false, inaccurate or misleading information is knowingly communicated to any person or in any Certificate, record or document regarding the Vehicle Emissions Inspection/ Maintenance Program;

- b. the Permit is obtained or attempted to be obtained fraudulently or deceptively;
 - c. an Audit failed;
 - d. evidence is exhibited that vehicles repaired by a Repair Facility under this Chapter have repeatedly failed re-Inspection; or
 - e. the owner or employees of a Station threaten, harass, stalk or assault an employee of the Division, a Division Representative or any person having a vehicle inspected or repaired subsequent to any requirement of this Chapter.
 - f. a vehicle was inspected and issued a Certificate of Compliance by Station personnel that did not, at the time of Inspection, comply with all applicable policies, procedures, Technical Bulletins, requirements and standards of this Chapter;
 - g. a Certificate of Compliance was issued to a vehicle without an approved Inspection being performed;
 - h. a vehicle was inspected and rejected by the Station when, in fact, the vehicle was determined by the Division to be in such condition that it did comply with the requirements of this Chapter;
 - i. a vehicle was inspected and was given a “passing” result for the Tampering portion of the Inspection as detailed in this Chapter that did not at the time of Inspection comply with the requirements of this Chapter;
 - j. a vehicle was inspected by an individual that did not hold a valid Permit;
 - k. the Station has violated any provision of this Chapter or Division policy properly promulgated for the operation of a Station;
 - l. the Station was not equipped as required by this Chapter;
 - m. the Station is not operating at the location specified on the Permit;
 - n. the Emissions Inspection Analyzer (EIA) has been tampered with or altered in any way contrary to the Certification and maintenance requirements of the analyzer;
 - o. the Station denied access or failed to Permit the Division or a Division Representative to conduct an Audit or other necessary business;
 - p. the Station performed unnecessary repairs not justified by the results of the Inspection;
 - q. a vehicle was tampered, altered or in any way changed from the manufacturer’s original specifications and/or certified configuration with or without an inspection being performed;
 - r. in accordance with Sections 41-6a-1642 through 1644 Utah Code Annotated, 1953, as amended, an Inspection for a Cache, Weber, Salt Lake, or Utah County resident was performed, but not as required by the Regulations/Ordinances adopted by the applicable County and/or the Emissions Inspection Analyzer (EIA) Prompts.
- 2. The Division may reinstate a Suspended Permit upon compliance by the facility with the requirements of this Chapter.
 - 3. Upon revocation of a Permit, a person shall within ten (10) business days return to the Division all materials which were issued as a result of obtaining the Permit, including any signs and documents, and remove any other materials which may lead the public to believe that the facility continues to be Permitted.
 - 4. A penalty schedule is listed in Section 10.12.280 of this Chapter, enumerating actions the Division may take against persons Permitted under this Chapter.
 - 5. Station Permits are the sole property of the Division. Only the license they represent is tendered. Permits may be Suspended or Revoked for violations of this Chapter. Station Permits obtained through fraud or misrepresentation shall be deemed to be null and void.
- D. Personnel Requirements
- 1. A Certified Emissions Basic Test Station shall employ and ensure that at least one (1)

- Inspector is routinely scheduled to work during the advertised operating hours of the facility.
2. A Certified Emissions Repair Facility shall ensure that only a Certified Emissions Repair Technician diagnoses Emissions related faults, and supervises or performs Emissions Related Repairs and adjustments to bring vehicles into compliance with the provisions of this Chapter.
 3. A Certified Emissions Repair Facility shall employ at least one (1) full-time Certified Emissions Repair Technician at each Certified Emissions Repair Facility location and ensure that a Certified Emissions Repair Technician is routinely scheduled to work during the advertised operating hours of the facility.
 4. A Station will assign one (1) individual the responsibility of resolving any problems or addressing any concerns that the Division or a Division Representative may identify. The selected individual or his/her representative will be at the Station and available during normal business hours.
 5. The Station will have a quality assurance plan to ensure Station and Technician compliance with the Ordinance and will keep associated records on file at the Station for review by the Department.
- E. Equipment Quality Assurance
1. For all equipment required under this Chapter, a Station shall follow the manufacturer's specifications for maintenance and Calibration, and the procedures established by the Division.
- F. Audits
1. A Station shall allow access to Division personnel to conduct audits of the facility.
 - a. Routine Audits will be conducted at random and with no prior notification.
 - b. A pre-opening Audit will be conducted at the Station prior to the Station being issued a Permit.
 2. An Audit may include equipment, Gas Calibration and compliance with personnel requirements.
 3. A Station shall not use any piece of equipment which fails an Audit until a subsequent Audit is passed.
 4. The Station shall allow further monitoring at the discretion of the Division to ensure quality control or to determine compliance with this Chapter.

10.12.100 Requirements of the Certified Emissions Testers and/or Repair Technicians

- A. A Permit is required.
1. No person shall perform any part of the official Inspection for the issuance of a Certificate of Compliance unless the person possesses a valid Certified Emissions Tester and/or Repair Technician Permit issued by the Division.
 2. Application for a Certified Emissions Tester or Repair Technician Permit shall be made to the Division upon an official application form.
 3. An applicant shall comply with all of the terms stated in the Permit application and with all the requirements of this Chapter.
 4. To qualify for and obtain a Certified Emissions Tester Permit, an applicant shall pay the applicable fees as listed in section 10.12.240 and complete a Division approved training course which may include the purchase of a self-study guide, or other Division approved training, and shall demonstrate knowledge and skill concerning the performance of Emissions Inspections. Such knowledge and skill shall be shown by passing:
 - a. a written qualification test including knowledge of the following:

- i. Operation and purposes of Emissions control systems;
 - ii. Inspection procedures as outlined in this Chapter;
 - iii. Operation of an Emissions Inspection Analyzer including the performance of a Gas Calibration and leak check;
 - iv. The provisions of Section 207(b) warranty provisions of the Federal Clean Air Act;
 - v. Knowledge of the function of Onboard Diagnostics; and
 - vi. The provisions of this Chapter and other Division policies and procedures.
 - b. A performance qualification test including the following:
 - i. Visual Inspection and knowledge of the function of the required Emissions control equipment;
 - ii. Demonstration of skill in the proper use, care, maintenance, Calibration and leak checking of approved Emissions Inspection Analyzers (EIA);
 - iii. Demonstration of ability to conduct the Emissions Inspection; and
 - iv. Demonstration of ability to accurately input data.
 - c. If an applicant fails the required test twice, they may be required to complete a Division approved training course.
5. To qualify for and obtain a Certified Repair Technician Permit, an individual shall meet the following requirements:
- a. possess a Certified Emissions Tester Permit;
 - b. demonstrate five (5) years full-time employment experience as an automotive technician performing Emissions Related Repairs on on-road vehicles not powered by diesel fuel or electricity, except that a person with two (2) full years of full-time education related to the repair of on-road vehicles not powered by diesel fuel or electricity need only demonstrate four (4) years of the required employment;
 - c. possess the following current, valid ASE Certifications or Vehicle Manufacturer Specific Training:
 - i. ASE Certifications in Engine Performance (A-8) and Advanced Engine Performance Specialist (L-1); or
 - ii. Vehicle Manufacturer Specific Training (VMS): A Repair Technician must have a current Gasoline Engine Performance Certification and be employed by a dealer of the same manufacturer and will be certified for repairs of that manufacturer only.
 - d. Comply with the requirements of this Chapter; and
 - e. Meet any other requirements deemed by the Division to be essential to the purposes of this Chapter.
6. In order to retain and to qualify for renewal of the Certified Repair Technician Permit, the Certifications listed in subsection 5c must be maintained and kept current, and renewal requirements specified for the Certified Emissions Tester in this Section must be met.
7. A signed hands-on performance check sheet shall be necessary for successful completion of the performance qualification test. The hands-on performance check sheet shall be signed by an instructor or other person approved by the Division.
8. The Division may issue the applicable Certified Emissions Tester or Repair Technician Permit to an applicant upon demonstration that the individual has successfully completed the requirements of this Chapter.
9. The Certified Emissions Tester and/or Repair Technician Permit shall be valid only at the Station where the Inspector is employed, and the Permit shall be kept on the premises and readily available to the Auditor. If the Inspector is later employed at a second Station, he/she shall notify the Division of the employment change. Duplicate or additional

Permits will be issued, at the discretion of the Division, for an additional fee. A duplicate Permit will expire on the same date as the original.

10. The Certified Emissions Tester and/or Repair Technician Permit is the sole property of the Division.
- B. Requalification requirements for Certified Emissions Testers and/or Repair Technicians:
 1. Recertification requirements shall meet or exceed the standards listed in 10.12.100(A)(4) and/or 10.12.100(A)(5).
 2. Certified Emissions Testers and/or Repair Technicians shall be required to attend refresher training as part of the overall Training Program every 2 years.
 - a. Failure to attend the refresher training shall result in suspension or revocation of the Permit.
- C. Permit Expiration
 1. All Permits shall be issued annually and shall expire December 31 of the calendar year. A Permit shall be renewable sixty (60) days prior to the date of its expiration. If a Certified Emissions Tester and/or Repair Technician Permit is obtained on or after October 1st, then the Permit will be valid until December 31st of the following year.
 2. It is the responsibility of the Certified Emissions Tester and/or Repair Technician Permit holder to request the renewal of the Permit.
 - a. In order to qualify for renewal of a Certified Emissions Tester and/or Repair Technician Permit, the Permit holder must have paid applicable fees and completed Division required yearly updates.
- D. Warning, Probation, Suspension, Revocation and Denial of Certified Emissions Tester and/or Repair Technician Permit.
 1. The Division may give a formal warning, place on probation, Suspend, Revoke, or deny the renewal of a Permit if the Certified Emissions Tester and/or Repair Technician:
 - a. knowingly communicates any false, inaccurate or misleading information to any person or in any Certificate, record or document regarding the Vehicle Emissions Inspection/Maintenance Program;
 - b. fraudulently or deceptively obtains or attempts to obtain a Permit;
 - c. conducts a fraudulent or inaccurate test;
 - d. consistently fails to properly repair failed vehicles (Repair Technician only);
 - e. threatens, coerces, harasses, offers a bribe, assaults and/or stalks a Division employee or a Division Representative pursuant to his/her duties with the Division or any person having a vehicle tested or repaired subsequent to any requirement of this Chapter;
 - f. the Inspector issued a Certificate of Compliance without performing an approved Inspection;
 - g. the Inspector denied the issuance of a Certificate of Compliance to a vehicle that at the time of the Inspection, complied with the requirements of this Chapter;
 - h. the Inspector issued a Certificate of Compliance to a vehicle that, at the time of issuance, was in such condition that it did not comply with the requirements of this Chapter;
 - i. the Inspector inspected and recorded "pass" on the Tampering Inspection for a vehicle that did not, at the time of the Inspection, comply with the Tampering requirements of the Tampering Inspection detailed in this Chapter, regardless of whether a Certificate of Compliance was issued or not;
 - j. the Inspector signed a Certificate of Compliance prior to an Inspection being performed;
 - k. the Inspector performed an Inspection, but not in accordance with applicable

- policies, procedures, Technical Bulletins, requirements and standards of this Chapter;
- l. the Inspector knowingly allowed a Non-Certified Person to perform an Inspection or any portion of an Inspection, or gain access to the official testing portion of the Emissions Inspection Analyzer (EIA);
 - m. the Inspector signed an Inspection form or Certificate of Compliance stating that he/she had performed an Inspection when, in fact, he/she had not;
 - n. the Inspector performed an out of County Inspection as required by Sections 41-6a-1642 through 1644, Utah Code Annotated, 1953, as amended, but did not perform it as required by the Ordinances or Regulations governing such testing in these counties, if Reciprocity with other counties is in effect;
 - o. the Inspector performed unnecessary repairs not justified by the results of an Inspection; and/or
 - p. the Inspector tampered with, altered or in any way changed a vehicle from the manufacturer's original specifications and/or certified configuration with or without performing an Inspection.
2. An individual who's Permit has been Suspended may be subject to:
 - a. additional training or testing requirements as approved by the Division before the Permit is reinstated; and
 - b. revocation of a Permit after repeated suspensions or when a suspension has exceeded six (6) months.
 3. A penalty schedule in Section 10.12.280 of this Chapter enumerates the actions the Division may take against persons Permitted under this Chapter.
- E. Inspectors that hold a valid Permit from any Utah I/M program may challenge the Certification requirements of Davis County by doing the following:
1. Purchase a mechanic handbook and study material from Davis County;
 2. Pass a written exam administered by Davis County;
 3. Pass a hands-on exam administered by Davis County;
 4. Complete all forms and pay all fees, as required by Davis.

10.12.110 Official Inspection Procedures

- A. The official Inspection shall be solely performed by an Inspector who is Permitted at the Station where the Inspection is being performed.
 1. The Inspector shall follow the Prompts of the EIA to conduct the Inspection.
- B. If the Inspector is unqualified or unwilling to make the required repairs or adjustments should the vehicle fail the Emissions Inspection, they shall notify the owner/operator of the vehicle before the Emissions Inspection is administered.
- C. The entire Inspection shall take place within the reach of the Emissions Inspection Analyzer (EIA) hose, electrical leads or data link.
 1. The Inspection will be conducted in view of the lane camera.
 - a. If a vehicle is too large to fit in the Inspection lane, the Inspection may be conducted outside of the view of the lane camera.
- D. The temperature of the Inspection Area shall be between 41° Fahrenheit and 110° Fahrenheit during the Inspection.
- E. The Emissions Inspection Analyzer shall be kept in an area that provides adequate protection from the weather, wind and extreme temperatures.
- F. The electrical supply to the Emissions Inspection Analyzer (EIA) shall be able to meet the analyzer manufacturer's requirements for voltage and frequency stability.

- G. Data communication links shall be connected and functioning during the Inspection.
- H. All vehicles presented to a Station must receive an Inspection unless:
 - 1. the vehicle has a mechanical condition that is unsafe and/or may cause injury to Station personnel or damage to the vehicle, Station or EIA;
 - a. Such conditions may include but are not limited to fluid leaks, low fluid levels, exhaust leaks, excessive tire wear, under inflated tires, transmission problems, or any other mechanical conditions deemed unsafe by the Division, Station personnel or the Inspector.
 - 2. the Station does not have availability to conduct the Inspection in a timely manner;
 - 3. the Station does not have an available Inspector to conduct the Inspection; or
 - 4. the Station's Permit has been Suspended or Revoked.
- I. Visual Inspection
 - 1. A visual Inspection will be performed on all vehicles to visually verify that the vehicle has not been subjected to Tampering, that all Emissions related components are intact, and that the vehicle does not produce any visible Emissions.
 - 2. Vehicles that are Model Years 1968-1989 that have been subjected to Tampering may receive a Certificate of compliance if tailpipe readings are at or below the maximum allowable Cutpoints for that vehicle.
 - 3. Vehicles that are Model Years 1990 and newer must pass a visual inspection before the test may continue.
 - 4. A visual gas cap Inspection will include cap removal (if applicable) and Inspection of the sealing surface.
 - 5. Unauthorized powertrain modifications of the OEM certified configuration will be considered as Tampering and is in violation of this Chapter.
 - 6. Emission devices and components being replaced with other than OEM parts must be U.S.E.P.A./C.A.R.B. certified.
- J. Data Entry
 - 1. The Inspector shall verify the vehicle license plate and vehicle identification numbers by comparing the information on the vehicle's Registration or other documentation presented by the vehicle owner with those on the vehicle and shall accurately record them as required by the data entry process on the Emissions Inspection Analyzer (EIA), as well as any other data requirements of the Division.
 - 2. The Inspector shall enter completely and accurately all the information required as part of the data entry procedure for the Inspection on the Emissions Inspection Analyzer (EIA).
- K. All testing procedures for restart testing, second chance testing, etc, shall be followed as described in the Emissions Inspection Analyzer (EIA) specifications referenced in Appendix A.
- L. Two-Speed Idle (TSI) Inspection Procedures
 - 1. Refer to Appendix B
- M. OBDII (Onboard Diagnostics Generation II) Inspection Procedures
 - 1. Refer to Appendix C
- N. Compressed Natural Gas (CNG) Vehicle Inspection Procedures
 - 1. Refer to Appendix E
- O. A Certificate of Compliance and Vehicle Inspection Report Form (VIR) shall be issued only if a complete Inspection for the vehicle has been performed and the vehicle has passed the specific test requirements as described in this Chapter.
- P. The Certificate of Compliance, Vehicle Inspection Report Forms (VIR) and other Inspection records shall be completed accurately, signed immediately and distributed as required by the Division. The customer shall be given the appropriate copy.
- Q. Gray Market Vehicles/Automotive Imports applying for Registration in Davis County must

have, at the minimum:

1. Gaseous Fueled 1995 and older vehicles and 1996 and newer vehicles, 8501 and greater GVWR will be required to pass the tailpipe and Tampering standards for the Model Year appearing on the Registration;
 2. Gaseous Fueled 1996 and newer vehicles, 8500 pounds GVWR or less, must be equipped with a functioning OBDII system, and must pass the OBDII Test; and
 3. diesel fueled vehicles must meet the standards and requirements of their U.S. counterparts.
- R. Glider Kits, Kit Vehicles, Reconstructed Vehicles, Replica Vehicles and Specially Constructed Vehicles shall comply with Emissions Standards applicable to the Model Year of the engine of the vehicle. If the engine is 1996 or newer and the vehicle's GVWR meets light-duty standards and was intended to be OBDII compliant, the vehicle must be OBDII compliant. It is the vehicle owner's responsibility to furnish proof of the engine's Model Year.
- S. Vehicles placed on the Compliance Assurance List must be inspected at the Davis County Testing Center. The EIA will notify the Station if a vehicle presented for an Inspection is Registered on the Compliance Assurance List.
- T. The Division, Davis County Health Department, Davis County, their officials or employees shall not be held responsible for any failure of any vehicle component or system occurring during an Inspection.

10.12.130 Emissions Standards for Motor Vehicles

- A. To obtain a valid Emissions Certificate of Compliance, vehicles receiving an Inspection may not exceed the standards as adopted in Section 10.12.250 of this Chapter.

10.12.140 Certificates of Compliance and Waivers

- A. Certificates of Compliance
1. No person shall make, issue or knowingly use any imitation or counterfeit of an official Certificate of Compliance or Waiver or any other official program document.
 2. Certificates of Compliance shall be obtained only from the Division, a Division Representative or a Station.
 3. A Certificate of Compliance may be issued via electronic communication to the Utah Division of Motor Vehicles.
 4. No refund or credit shall be allowed for unused Certificate of Compliance numbers, except as provided in Section 10.12.090.
 5. Certificate of Compliance numbers:
 - a. may be purchased by a Station through a Division Representative;
 - b. shall be sold at the cost adopted by the Davis County Commission as referenced in Section 10.12.240;
 - c. shall not be sold, loaned, transferred, or given to any other Station or any unauthorized individual. The Station shall at all times account for all Certificates of Compliance or Certificate of Compliance numbers that have been purchased by the Station; and
 - d. are solely the property of the Division; only the license they represent is tendered. Certificates of Compliance or Certificate of Compliance numbers obtained through fraud, misrepresentation and/or improper testing may be deemed null and void.
 - e. shall only be processed by a Station from an Emissions Inspection Analyzer's (EIA) Dedicated Printer.
 6. A Certificate of Compliance shall only be issued to a vehicle that has successfully passed an Inspection that was conducted according to the requirements of this Chapter.

- a. Vehicles listed in the E.P.A. document E.P.A.-420-B-12-044 titled “OBD Readiness Testability issues”¹ that have failed an Inspection for the listed problem may be exempted following the suggested action provided in this document.
- B. Certificates of Waiver
 1. A Certificate of Waiver may be issued by the Division or a Division Representative for a vehicle that has failed an Emissions Inspection if the requirements of this section have been met.
 2. To obtain a Certificate of Waiver, the following requirements must be met:
 - a. Emissions Related Repairs must be performed in attempt to correct the condition causing the Emissions related failure.
 - i. Acceptable Emissions Related Repairs refers to those expenditures and costs associated with the adjustment, maintenance and repair of the Motor Vehicle which are directly related to the reduction of exhaust Emissions necessary to comply with the applicable Emissions Standards, Cut Points and procedures.
 - ii. Only labor charges accrued for repairs that were performed by a Certified Emissions Repair Facility or the specific vehicle manufacturer will be accepted.
 - iii. The cost of parts purchased to make the necessary repairs will be accepted.
 - iv. Proof of repair costs for the vehicle must be provided in the form of a dated, itemized statement in which Emissions related parts/repairs and labor are specifically identified.
 - v. Repairs must be performed no more than 60 days prior to an official test failure, and the repairs must be appropriate to the cause of the test failure.
 - vi. The catalyst readiness monitor must be operational and set as “ready” for passenger vehicle Model Years 1996 and newer to be eligible for a Certificate of Waiver eligibility.
 - vii. The vehicle may not produce any visible Emissions.
 - viii. Emissions readings must be at or below the maximum allowable Waiver Cutpoints for the Model Year of the vehicle.
 - ix. The Inspection failure may not be due to Tampering.
 - b. The dollar amount required to be spent on Emissions Related Repairs after an initial Inspection failure are as follows:
 - i. \$450.00 for 1996 and newer Model Year vehicles;
 - ii. \$350.00 for 1981 – 1995 Model Year vehicles;
 - iii. \$250.00 for 1968 – 1980 Model Year vehicles.
 - c. The following repairs will not be counted towards the dollar amount that is required to be spent:
 - i. Repairs to correct a condition of Tampering.
 - v. Repairs performed to the vehicle's exhaust system to correct problems with excessive exhaust dilution.
 - d. Any vehicle that experiences an increase in Emissions levels shall not be eligible for a Certificate of Waiver regardless of the amount spent in attempting to repair the vehicle.
 - e. The vehicle has been subjected to Engine Switching or engine modifications that do not comply with the applicable federal, state, or local laws.
 3. A vehicle may only receive one (1) Waiver in the vehicle’s lifetime. The Division may issue additional Waivers under certain circumstances.

¹ <https://nepis.epa.gov/Exe/ZyPdf.cgi?Dockey=P100EPD8.pdf>

4. Information regarding all performed repairs shall be entered into the appropriate database of the EIA prior to the vehicle being retested.
5. Gray Market Vehicles, Model Year 1995 and older, will not be eligible for a Waiver unless all Emissions devices meet the U.S. counterpart federal Certification for that Model Year of vehicle and are operational. If a U.S. counterpart does not exist then the following emission control devices may be required:
 - a. Catalytic Converter
 - b. Evaporative Emissions Control System
 - c. PCV System
 - d. EGR System
 - e. AIR System
6. Replica Vehicles, Kit Cars and other Specially Constructed Vehicles, Model Year 1995 and older, shall not receive a Waiver unless meeting all requirements of this Chapter.
7. Vehicles that have been subjected to Engine Switching as defined in 10.12.150(A) and/or engine modifications that do not comply with the applicable federal, state, or local laws will not be eligible for a Certificate of Waiver.

10.12.150 Engine Switching

- A. Engine switching shall be allowed only in accordance with E.P.A.'s Office of Enforcement and Compliance Assistance (OECA) Engine Switching Fact Sheet and Engine Switching Fact Sheet referenced Memorandum A². .
- B. Vehicles not meeting the requirements of Section 10.12.150 shall be deemed as tampered and dealt with in accordance with the Tampering provisions of this Chapter.
- C. If the engine has been converted to another type of fuel, the vehicle must comply with the laws governing the type of fuel which is being used in the vehicle.
- D. It is a violation of this Chapter to register a vehicle with a diesel engine as a vehicle using another type of fuel, or to register a vehicle with an engine that uses another type of fuel as a diesel.

10.12.160 Right to Appeal

- A. Within ten (10) calendar days after the Division has given a notice of violation(s), Permit denial, suspension or revocation, any person(s) aggrieved may request in writing a hearing before the Division. Only a written request for hearing shall be honored by the Division. The hearing shall take place within ten (10) calendar days after the request is received. A written notice of the Hearing Officer's final determination shall be given within ten (10) calendar days after adjournment of the hearing. The Hearing Officer may sustain, modify, enhance or reverse the action or order. The Division may negotiate a Consent Agreement in lieu or in addition to a Permit suspension.
- B. Use of the hearing process outlined in Section 10.12.180 of this Chapter does not preclude judicial review.

10.12.170 Recall

The Division reserves the right to recall any vehicle that is suspected of a fraudulent Inspection to be subjected to a challenge Inspection at the Davis County Testing Center. Any or all appropriate actions that are allowed by law may be taken against parties that have been involved in fraudulent actions

² <https://www.epa.gov/enforcement/engine-switching-fact-sheet>

during or subsequent to an Inspection.

10.12.180 Penalty

- A. Pursuant to Title 26A-1-123, Utah Code Annotated, 1953, as amended and the statutory authority of County Commissions to enact Ordinances, any person violating any of the provisions of this Chapter, either by acts of omission or commission, shall be guilty of a class B misdemeanor and penalized as provided in the Penalty Schedule, Section 10.12.280, in addition to any administrative or civil penalties provided by this Chapter and applicable state law.
 - 1. If a person is found guilty of a subsequent similar violation within two (2) years, he/she may be guilty of a class A misdemeanor and appropriate action may be taken.
- B. Each Occurrence and/or day a violation is committed or Permitted to continue shall constitute a separate violation.
 - 1. The imposition of a penalty under the provisions of this Chapter shall not prevent the revocation or the suspensions of any license or Permit granted under the provisions of this Chapter or preclude any other administrative or civil penalty.
- C. At the request of the Division, the County Attorney may initiate civil or criminal legal action against any person who violates this Chapter.
- D. In addition to other penalties imposed by a court of competent jurisdictions, any person(s) found guilty of violating any provision of this Chapter shall be liable for all expenses, including reasonable attorneys fees and costs of court, incurred by the Division and/or the County incurred arising from the violation or enforcement of this Chapter, whether civil or criminal.
- E. A Penalty Schedule, Section 10.12.280, lists specific violations of this Chapter by which Permits issued to person(s) under the provisions of this Chapter may receive a formal warning, probation, suspension or revocation of said Permit, including time-periods or fines issued. The Penalty Schedule may be amended by the Davis County Commission if deemed necessary to accomplish the purposes of this Chapter.
- F. The Division may, at its discretion, negotiate monetary penalties in lieu of some or all of the time of Permit suspensions allowed in Section 10.12.20 of this Chapter.

10.12.200 Quality Assurance

- A. Davis County may obtain an outside consultant to review test and Audit data and furnish E.P.A. required reports.
- B. The Division shall perform overt and Covert Audits of Stations and Technicians that shall conform with the reporting requirements as contained in 40 CFR 51.363.

10.12.210 Severability

If any provision, clause, sentence or paragraph of this Chapter or the application thereof to any person or circumstance shall be held to be invalid, such invalidity shall not affect the other provisions or applications of this Chapter. The valid part of any clause, sentence or paragraph of this Chapter shall be given independence from the invalid provisions or application and to this end the provisions of this Chapter are hereby declared to be severable.

10.12.240 Fee Schedule

The fees assessed by the Division shall be:

Permitting of a Certified Emissions Repair Facility and/or Basic Test Station	\$300.00
Annual Renewal of a Certified Emissions Repair Facility and/or Basic Test Station Permit	\$60.00
Annual Renewal of an Expired Certified Emissions Repair Facility and/or Basic Test Station Permit	\$120.00
Permitting a Certified Emissions Repair Facility and/or Basic Test Station at a New Location	\$50.00
Permitting a Certified Emissions Repair Facility and/or Basic Test Station Under a New Business Name	\$125.00
Transferring a Certified Emissions Repair Facility Permit to a Basic Test Station Permit or from a Basic Test Station Permit to a Repair Facility Permit	\$125.00
Permitting a Certified Repair Technician, or an Emissions Tester	\$30.00
Annual Renewal of a Certified Repair Technician or an Emissions Tester Permit	\$25.00
Annual Renewal of an Expired Certified Repair Technician or an Emissions Tester Permit	\$40.00
Duplicate Certified Repair Technician and/or Emissions Tester Permit	\$12.00
Refresher training for Certified Emissions Testers and/or Repair Technicians	\$30.00
Certified Emissions Tester Study Guide	\$40.00
Transferring a Certified Repair Technician Permit to an Emissions Tester Permit or an Emissions Tester Permit to a Certified Repair Technician Permit	\$15.00
Emissions Program Certificate of Compliance Numbers	\$3.25
Duplicate Emissions Program Certificate of Compliance	\$3.00
Emissions Inspection Fee	Set by Station
Air Pollution Control Fee (gasoline, diesel & other fuels--paid at time of Registration)	\$3.00
Chapter Copy	\$5.00

10.12.250 Emissions Standards

- A. The following schedule gives the maximum allowable concentrations for Carbon Monoxide (CO) and Hydrocarbons (HC) for both cars and trucks as determined by an approved analyzer using the prescribed procedures.

ALL PASSENGER VEHICLES 1978 AND OLDER LIGHT DUTY TRUCKS 6,000 POUNDS OR LESS GVWR 1979 TRUCKS AND NEWER 8,500 POUNDS OR LESS GVWR MAXIMUM CONCENTRATION STANDARDS		
Model Year	Percent Carbon Monoxide	Parts / Million Hydrocarbons
1968-1969	6.0	800
1970-1974	5.0	700
1975-1976	4.0	600
1977-1979	3.0	500
1980	2.0	300
1981-1995	1.2	220
1996 and newer passenger vehicles & light-duty trucks (8,500 lbs or less)	OBD II Only	OBD II Only
HEAVY DUTY TRUCKS AND VANS 1978 AND OLDER 6,001 POUNDS AND OVER GVWR 1979 AND NEWER 8,501 POUNDS AND OVER GVWR MAXIMUM CONCENTRATION STANDARDS		
Model Year	Percent Carbon Monoxide	Parts / Million Hydrocarbons
1968-1969	7.0	1500
1970-1978	5.0	1200
1979-1980	4.0	1000
1981-1995	3.5	800
1996-2007	1.2	220
2008-newer	OBDII Only	OBDII Only

NOTE: These should be considered as “Cut Points” for maximum allowable Emissions levels. Vehicles must never be reset to these Emissions levels when readjustments are made, but rather shall be adjusted using manufacturer's specifications. By using manufacturer's specifications, the Emissions levels should be well below the “Cut Points”.

- B. On-Board Diagnostics (OBDII) Standards: U.S.E.P.A. guidelines and standards will be followed.

10.12.260 Waiver Cut Points

- A. In order for a Waiver to be granted, the subject vehicle must first qualify by not exceeding the following maximum allowable concentrations for Carbon Monoxide (CO) for both cars and trucks as determined by an approved Emissions Inspection Analyzer (EIA) using the prescribed procedures. Vehicles with visible tailpipe Emissions (smoke) are not eligible for Waivers.

ALL PASSENGER VEHICLES 1978 AND OLDER LIGHT DUTY TRUCKS 6,000 POUNDS OR LESS GVWR 1979 TRUCKS AND NEWER 8,500 POUNDS OR LESS GVWR MAXIMUM CONCENTRATION STANDARDS		
Model Year	Percent Carbon Monoxide	Parts / Million Hydrocarbons
1968-1969	7.0	1000
1970-1974	6.0	800
1975-1976	5.0	700
1977-1979	4.0	600
1980	3.0	400
1981-1995	2.0	300
1996 and newer passenger vehicles & light-duty trucks (8,500 lbs or less)	1.2	220
HEAVY DUTY TRUCKS AND VANS 1978 AND OLDER 6,001 POUNDS AND OVER GVWR 1979 AND NEWER 8,501 POUNDS AND OVER GVWR MAXIMUM CONCENTRATION STANDARDS		
Model Year	Percent Carbon Monoxide	Parts / Million Hydrocarbons
1968-1969	8.0	1700
1970-1978	7.0	1500
1979-1980	5.0	1200
1981 and newer	4.0	1000

- B. The minimum dilution factor must also be reached as part of the testing requirement.

Note: These should be considered as “Cut Points” for maximum allowable Emissions levels. Vehicles must never be reset to these Emissions levels when readjustments are made, but rather shall be adjusted using manufacturer’s specifications. By using manufacturer’s specifications the Emissions levels should be well below the “Cut Points”.

10.12.270 Passing Versus Waiver Cut Point Comparison

ALL PASSENGER VEHICLES				
1978 AND OLDER LIGHT DUTY TRUCKS 6,000 POUNDS OR LESS GVWR				
1979 TRUCKS AND NEWER 8,500 POUNDS OR LESS GVWR				
MAXIMUM CONCENTRATION STANDARDS				
Model Year	% CO Passing	% CO Waiver	PPM HC Passing	PPM HC Waiver
1968 - 1969	6.0	7.0	800	1000
1970 - 1974	5.0	6.0	700	800
1975 - 1976	4.0	5.0	600	700
1977 - 1979	3.0	4.0	500	600
1980	2.0	3.0	300	400
1981 - 1995	1.2	2.0	220	300
1996 +	N/A	1.2	N/A	220

HEAVY DUTY TRUCKS AND VANS				
1978 AND OLDER LIGHT DUTY TRUCKS 6,001 POUNDS AND OVER GVWR				
1979 TRUCKS AND NEWER 8,501 POUNDS AND OVER GVWR				
MAXIMUM CONCENTRATION STANDARDS				
Model Year	% CO Passing	% CO Waiver	PPM HC Passing	PPM HC Waiver
1968 - 1969	7.0	8.0	1500	1700
1970 - 1978	5.0	7.0	1200	1500
1979 - 1980	4.0	5.0	1000	1200
1981 +	3.5	4.0	800	1000

NOTE: These should be considered as “Cut Points” for maximum allowable Emissions levels. Vehicles must never be reset to these Emissions levels when readjustments are made, but rather shall be adjusted using manufacturer's specifications. By using manufacturer's specifications, the Emissions levels should be well below the “Cut Points”.

10.12.280 Penalty Schedule

Violation (Resets after two (2) years of no similar violations unless Revoked)	1st Occurrence	2nd Occurrence	3rd Occurrence	4th Occurrence
Failure to Inspect or substituting a vehicle other than the vehicle on the test record (intentional pass)	Tech: 180 day suspension and mandatory retraining	Tech: Revocation of Permit for five (5) years		
	Station: 180 day suspension	Station: 270 day suspension	Station: Revocation of Inspection Station Permit for five (5) years	
Passing a failing vehicle or recording “pass” for Tampering on a tampered vehicle (gross negligence)	Tech: 30 day suspension and mandatory retraining	Tech: 60 day suspension and mandatory retraining	Tech: Revocation of Permit for five (5) years	
	Station: 15 day suspension	Station: 30 day suspension	Station: 60 day suspension	Station: Revocation of Permit for five (5) years
Falsifying an Inspection record or Emissions Certificate or failing a passing vehicle (intentional)	Tech: 180 day suspension and mandatory retraining	Tech: Revocation of Permit for five (5) years		
	Station: 180 day suspension	Station: 270 day suspension	Station: Revocation of Permit for five (5) years	
Non-Certified Person performing test (gross negligence)	Tech: 60 day suspension	Tech: 180 day suspension	Tech: Revocation of Permit for five (5) years	
	Station: 60 day suspension	Station: 180 day suspension	Station: Revocation of Permit for five (5) years	

Inaccurate or incomplete data entry <i>(incompetence)</i>	Tech: Formal warning and mandatory retraining	Tech 30 day suspension and mandatory retraining	Tech: 90 day suspension and mandatory retraining	Tech: Revocation of Permit for five (5) years
	Station: Formal warning	Station: 15 day suspension	Station: 45 day suspension	Station: Revocation of Permit for five (5) years
Failure to follow proper test procedures <i>(incompetence)</i>	Tech: Formal warning and mandatory retraining	Tech: 30 day suspension and mandatory retraining	Tech: 90 day suspension and mandatory retraining	Tech: Revocation of Permit for five (5) years
	Station: Formal warning	Station: 15 day suspension	Station: 45 day suspension	Station: Revocation of Inspection Station Permit for five (5) years
Failure of a Covert Audit <i>(incompetence)</i>	Tech: Formal warning and mandatory retraining	Tech: 30 day suspension and mandatory retraining	Tech: 90 day suspension and mandatory retraining	Tech: Revocation of Permit for five (5) years
	Station: Formal Warning	Station: 15 day suspension	Station: 45 day suspension	Station: Revocation of Inspection Station Permit for five (5) years

- A. These penalties apply to all Permits issued pursuant to this Chapter.
- B. Negotiated Consent Agreements: Inspector and/or Station suspensions may be reduced in length by a Negotiated Consent Agreement which may substitute monetary penalties for part or all of the suspension time.
- C. Violations that have been determined to be intentional or flagrant shall result in the maximum penalties of up to \$10,000 per violation. Permit revocations are not eligible for Negotiated Consent Agreements.
- D.
- E. The number of Occurrences for the Failure of a Covert Audit that a Station or Inspector has will reset to zero (0) if the Station or Technician successfully passes two (2) successive covert vehicle audits.

10.12.290 Conflicts

This Chapter supersedes all prior Ordinances, resolutions and policies of Davis County to the extent they are in conflict with the specific provisions hereof. In all other respects such prior Ordinances, resolutions and policies shall remain in full force and effect.

Effective Date

This Ordinance is necessary for the immediate preservation of the peace, health or safety of the County and its inhabitants and therefore shall take effect immediately upon publication in one issue of a newspaper published and having general circulation in Davis County.

This Ordinance shall be effective as of Oct 18, 2019 (date). All Ordinances and parts of Ordinances in conflict herewith shall not be and the same are here by repealed.

ENACTED AND ADOPTED this 1st day of Oct, 2019.

This Ordinance was duly passed, adopted, and/or approved by the Davis County Legislative Body on this 1st day of Oct, 2019 with Commissioners Randy B. Elliott Aye, Lorene Miner Kamalu Aye, and Bob J Stevenson Aye, all voting as documented herein.

BOARD OF COUNTY COMMISSIONERS OF DAVIS COUNTY

By: _____

Randy B. Elliott, Chair

ATTEST: _____

Curtis Koch

Davis County Clerk/Auditor

Approved as to legal form and compatibility with state law:

Deputy Davis County Attorney

Publication Date: _____, 2019

Effective Date: _____, 2019

APPENDIX A

Emission Inspection Analyzer Specifications

- A. Only Division approved testing equipment will be used to perform Certified Emissions Inspections. The Emissions analyzers (EIA's) shall only be those approved and provided by contract through the current vendor. Refer to Appendix A for current EIA Specifications.
- B. The Division shall explore new technologies related to emissions inspections. As part of this exploration, the Division may perform studies, run pilot projects, collect and analyze data, and make recommendations to the commission. If a new technology can be shown to be as effective as current technologies in reducing emissions and preventing fraud, the Division shall present these findings to the E.P.A. The Division shall then work with the E.P.A. and the commission to seek approval to incorporate the new technology as a testing method.

COMPUTER HARDWARE/SOFTWARE

• 17" .28 Dot Pitch SVGA Color Monitor	• 700 MHz CPU speed or faster
• Flash Drive	• 128 Mb RAM
• 12X CD ROM Drive (or faster, optional)	• 40 Gb Hard Drive (or larger)
• 64 MPEG ready PCI Video Board w/1 Mb RAM	• 256 kb External Cache Memory
• 56k Internal Modem (or faster)	• 104 Enhanced Keyboard
• Standard Mouse/Pointer	• Enhanced RPM and I/O Board
• Bar Code Reader, High Intensity, Non- Contact	• Hewlett Packard LaserJet 2300 printer (or equivalent) or OKIPAGE B4200 printer (or equivalent)

ANALYTICAL SYSTEM

ITEM	METHOD	RANGE	ACCURACY	RESOLUTION
• HC	NDIR	0-2000ppm	+/- 3%	1 ppm
• CO	NDIR	0-10%	+/- 3%	0.01%
• CO ₂	NDIR	0-16%	+/- 3%	0.1%
• O ₂	Cell/NDIR/NDUV	0-25%	+/- 5%	0.1%
• Relative Humidity		5-95%	+/- 3%	
• Ambient Temperature		0-140F	+/- 3%	
• Barometer Pressure		24-32 in. Abs	+/- 3%	

REQUIREMENTS

- * Electric: 120 VAC 15 Amps
- * Shop Air: 80 - 90 PSI Compressed Air

CALIBRATION SYSTEM

- * Integrated Zero Air Generator
- * Automatic Zeroing and Gas Calibration
- * Automatic Leak Test, Dilution Test and

Low Flow

SAMPLE SYSTEM

- * Heavy-duty Sample System for High Throughput Performance w/Pressurized Sample Back Flush
- * Solid State Sample Chiller for Enhanced Water Separation (patent pending)

SUB-SYSTEM

- * OBD II Integrated Function
- * Integrated Fuel Cap Tester

APPENDIX B

Two Speed Idle Inspection Procedures

Each vehicle receiving a Two-Speed Idle (TSI) Test shall be allowed to reach normal operating temperature before performing the Inspection.

- A. The vehicle shall be tested as detailed in the Emissions Inspection Analyzer (EIA) specifications referenced in Appendix A and as programmed into the Emissions Inspection Analyzer (EIA) testing sequence. Vehicles failing because of excessive exhaust dilution shall repair the dilution problem prior to continuing the Emissions test. The dilution standard shall be contained in the Emissions Inspection Analyzer (EIA) specifications as referenced in Appendix A and adjusted when the Division determines by analysis that an adjustment is necessary to yield a more accurate level of Emissions readings.
- B. If a vehicles engine stalls during a Two-Speed Idle (TSI) Emissions Inspection, the test shall be restarted. If an Inspector cannot complete a test because of continuous stalling, fluctuating RPM measurements or RPM measurements that are not within the Division and manufacturer's specified parameters, then these problems shall be corrected before the Inspection is continued.

APPENDIX C

OBD II (Onboard Diagnostics Generation II) Inspection Procedures

The following test procedure is to be followed for 1996 and newer Model Year gasoline and Light Duty Diesel Powered Motor Vehicles and 2008 and newer Medium Duty Vehicles:

1. Verify vehicle information;
2. Accurately enter information into the analyzer at the required Prompts;
3. Review the information entered into the data review screens and make corrections as need;
4. Perform the visual Inspection of all applicable emission control devices;
5. Turn the ignition key to the **OFF** position;
6. Locate the Diagnostic Link Connector (DLC) in the vehicle and connect the OBD lead from the analyzer directly to the vehicles DLC;
 - a. A Simulator device may not be used or connected to the analyzer at any time during an official Emissions Inspection.
7. Turn the ignition to the **KOEO** position;
8. Visually inspect for the MIL function: indicate “YES” if the MIL is functioning or “NO” if the MIL is not functioning;
9. Start the vehicle;
10. Allow the analyzer to communicate with the vehicle;
11. Increase the vehicle RPM to 1000 RPM for 5 seconds;
12. When prompted, turn off the engine, switch the ignition to the **OFF** position and remove the OBD lead;
13. If the MIL is not functioning, the vehicle fails the OBDII Inspection and requires repair;
14. If the MIL is commanded **ON** the vehicle fails the OBDII Inspection. The vehicle has a malfunction and has stored a Diagnostic Trouble Code (DTC). The DTC will need to be investigated and the necessary repairs made;
15. If the Catalyst readiness monitor is “Not Ready” then the vehicle fails the Inspection.

APPENDIX D

Davis County Diesel I/M Program

11.12.010 Definitions

1. Diesel Emissions Standard: as defined in section 10.12.020 of the Ordinance and also including the maximum allowable smoke Opacity limits for a given weight class and Model Year of a Motor Vehicle.
2. Diesel I/M Program Fleet Station (Diesel Fleet Station): a private, public or government facility with a fleet of twenty five (25) or more vehicles that has a valid Permit, issued by the Division, to perform Diesel Opacity Inspections on their own vehicles in accordance with this Chapter.
3. Diesel I/M Program Station (Diesel Station): a Permitted facility meeting the requirements of this Chapter.
4. Diesel Opacity Inspector: an individual Permitted by the Division to perform Opacity Inspections on Diesel Vehicles, also referred to as a Technician.
5. Diesel Opacity Inspection: an Inspection of a Diesel Powered Motor Vehicle by a Diesel Opacity Inspector employed by a Diesel I/M Program Station, Fleet Station or the Division.
6. Diesel Opacity Inspector Permit: the Permit issued by the Division to an individual who has successfully completed the Division Diesel Opacity Inspection and training requirements.
7. Diesel Opacity Analyzer: an Opacity meter with any additional hardware or software required by the Division to perform an official Diesel Opacity Inspection in accordance with this Chapter and a type of Emissions Inspection Analyzer (EIA).
8. Diesel Powered Motor Vehicle: vehicles which are propelled by a compression-ignited engine using diesel fuels, bio-fuels, or a mixture of diesel and bio-fuels.
9. Diesel Vehicle Inspection/Maintenance Program: the Opacity Inspection and repair program for Diesel Powered Motor Vehicle established by the Division, pursuant to Section 41-6a-1644, Utah Code Annotated 1953, as amended.
10. Opacity: the degree to which the exhaust plume obscures the view expressed in percentage of obstruction or the degree expressed in percent to which transmittance of light is reduced by the exhaust plume.
11. Opacity Inspection: the Inspection of Diesel Powered Motor Vehicle using procedures prescribed in the Chapter in order to determine the magnitude (expressed as a percentage) of obscured light (Opacity) due to exhaust constituents, mainly fine particles.
12. Opacity Meter: an optical instrument which is designed to provide continuous real-time measurement of the Opacity of diesel exhaust gases and particulates which pass through the optical unit.
13. Technician: a Permitted Diesel Opacity Inspector.
14. Wide Open Throttle (WOT): accelerations used to purge the exhaust system of any residual exhaust prior to an Opacity Inspection applicable to Heavy Duty Diesel Vehicles.

11.12.030 Purpose

Refer to section 10.20.030

11.12.040 Jurisdiction of the Division

Refer to section 10.20.040

11.12.050 Powers and Duties

Refer to section 10.12.050

- A. The Division or a Division Representative is responsible for performing all Inspections on Light, Medium and Heavy Duty Diesel Powered Motor Vehicles.

11.12.060 Scope

Refer to section 10.12.050

11.12.070 General Provisions

Refer to section 10.12.070

- A. Reciprocity with other vehicle Emissions programs within the state will be allowed as long as Tampering, Opacity, OBDII or other standards meet or exceed those required by this Chapter in accordance with Section 41-6a-1643, Utah Code Annotated, 1953, as amended.
- B. The following vehicles are exempt from the requirements of this Chapter:
 - 1. Heavy Duty Diesel Powered Motor Vehicles that meet all of the following requirements:
 - a. Have an apportioned Registration;
 - b. Are 26,000 lbs. GVWR or greater;
 - c. Have logged more than 50% of their vehicle miles outside of the state; and
 - d. Are within the first three (3) Model Years.

11.12.080 Standards and Specifications for Diesel Emission Equipment

All diesel emission equipment must comply with the standards set forth in Appendix D-1

11.12.090 Requirements of the Vehicle Emission Inspection/Maintenance Program Stations

Refer to section 10.12.090

11.12.100 Testing and Permitting of Certified Diesel Opacity Inspectors

Refer to section 10.12.100

11.12.110 Diesel Emission Inspection Procedures

- A. A Division Representative will perform Diesel Opacity Inspections on light and Medium Duty Vehicles that are Model Year 2007 and older and are non OBD II compliant. This

Inspection is performed on a Dynamometer under load with the approved Opacity meter analyzer system. All Heavy Duty Diesel Powered Motor Vehicles 14,000 lbs. GVWR and up are required to have a J1667 snap-idle test performed by a licensed Station/contractor.

B. Loaded Opacity Inspection Procedures (Refer to Appendix B-2 for drive pattern illustration)

1. All steps in Section 10.12.110(A-L) shall be followed.
2. All facets of the official Vehicle Emissions I/M Program shall be performed by the Certified Diesel Opacity Inspector including:
 - a. Emissions Inspection Analyzer (EIA) preparation, Gas Calibration, leak checks and host communication diagnostics;
 - b. preparation of reports, forms and Certificates of Compliance;
 - c. accessing the official Emissions testing section of the analyzer;
 - d. performing fuel cap pressure tests;
 - e. exhaust sampling and analysis for the purpose of a diesel Opacity Inspection for issuance of a Certificate of Compliance; and
 - f. all other aspects of the official Vehicle Emissions Inspection, including but not limited to the Visual Inspection, inserting the exhaust probe, inserting or attaching the exhaust Opacity sampling equipment, hooking up the tachometer, entering data into the analyzer, preconditioning the vehicle and signing Certificates of Compliance and Vehicle Inspection Report Forms (VIRs).
3. Diesel I/M Program Station or Fleet Station shall employ and ensure at least one (1) Certified Diesel Opacity Inspector is routinely scheduled to work during the advertised operating hours of the facility.
4. To qualify for and obtain a Diesel Opacity Inspector Permit, an applicant shall demonstrate knowledge, skill and competence by passing a written and performance qualification test including, but not limited to, knowledge of the following:
 - a. The requirements of this Chapter;
 - b. Operation of and proper use, care, maintenance and Calibration of the Division approved Emissions Inspection Analyzer (EIA); and
 - c. Proper use and distribution of the required Inspection forms, Certificates of Compliance, Calibration records and supplemental documents.
5. For each vehicle receiving an Opacity Inspection:
 - a. visually inspect for the presence of single or dual exhaust. If the vehicle to be inspected is equipped with a dual exhaust system, only the darkest stack will be used for testing;
 - b. determine the appropriate Inspection procedure to follow, depending on the vehicle weight rating, type and Model Year, and then proceed with the Inspection procedures as outlined in this Chapter;
 - c. if a vehicle is unable to be inspected using a particular weight category Inspection procedure as outlined in this Chapter because of an unusual engine/chassis configuration, the Director at his/her discretion may select an alternate Inspection procedure to be performed on the vehicle;
 - d. verify for 1996 and newer Medium Duty Vehicles the Key On Engine Off (KOEO) Bulb Function and fail the vehicle if the MIL does not function; and
 - e. verify for 1996 and newer Medium Duty Vehicles the Key On Engine Running function that the MIL is extinguished. Fail the vehicle if the MIL is

illuminated.

C. Heavy-Duty Snap Idle Inspection Procedures

1. The snap idle test is based on the J 1667 protocol. All Diesel Powered Motor Vehicles 14,001 lbs. GVW and greater, will receive a snap idle test performed with the approved testing equipment. The Technician will follow all analyzer Prompts and screens as specified and upon completion of the test will issue the appropriate paperwork to the consumer. All safety considerations addressed in section 10.12.110(G) shall be followed.
2. Heavy Duty Diesel Powered Motor Vehicles that meet all of the following requirements:
 - a. Have an apportioned Registration;
 - b. Are 26,000 lbs. GVWR or greater;
 - c. Have logged more than 50% of their vehicle miles outside of the state; and
 - d. Are within the first three (3) Model Years.
3. Owners of Heavy Duty Diesel Powered Motor Vehicles may request that a Division Representative perform on-site Vehicle Emissions Inspections.
 - a. As a condition for Permitting a Certified Diesel Station or Diesel Fleet Station, the following tools, references and equipment shall be available for the performance of Inspection and maintenance of Diesel Powered Motor Vehicles:
 - i. a Division approved Diesel Opacity Analyzer that meets the minimum specifications as outlined in Appendix A of this Chapter;
 - ii. a handbook, approved by the Division, that includes Inspection procedures to be followed by the Diesel Opacity Inspector;
 - iii. reference manuals specified and approved by the Division that contain tune-up specifications, and information covering the Emissions control systems for the Model Years and makes of vehicles involved in the Diesel Inspection/Maintenance Program;
 - iv. sufficient hand tools for proper performance of Inspection and maintenance of the vehicle;
 - v. exhaust gas removal equipment approved by the Division;
 - vi. the Diesel Opacity Analyzer manufacturer's maintenance and Calibration manual, which must remain in the Inspection Area;
 - vii. all forms, Technical Bulletins, and other information materials provided by the Division; and
 - viii. all essential devices, connections, phone lines and software required by the Division.
 - b. Diesel Fleet Stations
 - i. Owners of vehicle fleets with twenty-five (25) or more Heavy Duty Diesel Powered Motor Vehicles may apply to the Division for a Diesel I/M Program Fleet Station Permit. This Permit would allow fleet owners to inspect only their own Heavy Duty Motor Vehicles that are Registered to the individual or corporation identified on the Permit. A fleet Station may be Permitted for Inspection of light and Medium Duty Vehicles with approval of the Division;
 - ii. The Fleet Station shall immediately notify the Division and surrender all unused Certificates of Compliance at such time as the Station no longer

- employs a Diesel Opacity Inspector; and
- iii. The Fleet Station shall notify the Division whenever five (5) or more consecutive Diesel Opacity Inspections are scheduled to be performed within an eight (8) hour period. The Director may dispatch a field Auditor to observe all or a portion of the Diesel Opacity Inspections performed.

11.12.120 Davis County Testing Center

- A. The Davis County Testing Center personnel or a Division Representative may conduct Diesel Emissions Inspections approved Inspection equipment, hardware and software as technology advances and new Inspection procedures become available.
- B. Loaded Diesel Opacity, OBDII and Diesel Snap Inspections will be performed following the procedures outlined in this Appendix.
- C. Developmental Emissions Inspections may be conducted.
 1. Vehicles inspected by this method shall comply with all the requirements of the latest U.S.E.P.A.'s Technical Guidance Documents and the requirements as outlined in this Appendix.
- D. Emission Inspection equipment will be checked, maintained, calibrated and serviced in accordance with the appropriate equipment manufacturer's procedures.
- E. The Davis County Testing Center may inspect a portion of the fleet on a voluntary basis for modeling, air quality assurances and public convenience.
- F. The Division may develop or modify all present and future I/M Program procedures.

11.12.130 Emission Standards

- A. The following schedule gives the maximum allowable concentration limits for Diesel Opacity Inspections:
 1. Heavy Duty Diesel Powered Motor Vehicles, 14,001 pounds GVWR or more – Snap Idle Test:
 - a. 20% Opacity for Diesel engines manufactured on or after January 1, 1996.
 - b. 40% Opacity for Diesel engines manufactured before January 1, 1996.
 2. Light Duty/Medium Duty Vehicles, 14,000 pounds GVWR and less – Dynamometer Inspection:
 - a. 20% Opacity for all Non-OBDII Compliant Vehicles, readings taken at cruise and Wide Open Throttle (WOT).
 3. Light/Medium Duty OBDII Compliant Diesel Powered Motor Vehicles will meet OBDII Standards listed in Section 10.12.250

11.12.140 Certificates of Compliance and Waivers

- A. Certificate of Compliance
 1. A Certificate of Compliance will be issued to Diesel Powered Motor Vehicles following the standards set in 10.12.140(A).
- B. Certificate of Waiver
 1. A Certificate of Waiver will be issued to Diesel Powered Motor Vehicles following the standards set in 10.12.140(B) with the following exceptions:

- a. Diesel Powered Motor Vehicles are exempt from the Waiver Cut Points established in section 10.12.260.
- b. For vehicles that support the catalyst monitor as originally certified, the catalyst readiness monitor must be operational and set as “Ready” for Light/Medium Duty Vehicles Model Years 1998 and newer to be eligible for a Certificate of Waiver eligibility.
- c. The dollar amount required to be spent on Emissions Related Repair fees for the following specified Diesel Powered Motor Vehicles shall be set at:
 - i. \$750.00 for 1968 and newer Model Year Light/Medium Duty Vehicles: and
 - ii. \$1,500.00 for 1968 and newer Model Year Heavy Duty Diesel Powered Motor Vehicles.
- d. Visible Emissions must be in compliance as defined in Utah Code 41-6a-1626.

11.12.150 Engine Switching

Refer to section 10.12.150

11.12.160 Right to Appeal

Refer to section 10.12.160

11.12.170 Recall

Refer to Section 10.12.170

11.12.180 Penalty

Refer to section 10.12.180

11.12.200 Quality Assurance

Refer to section 10.12.200

11.12.210 Severability

Refer to section 10.12.210

11.12.220 Auditing and Reporting

Refer to section 10.12.220

11.12.230 Emission Inspection Analyzer (EIA)

Only Division approved Inspection equipment will be used to perform Certified Emissions and Opacity Inspections. The Diesel Emissions analyzers (EIA's) shall only be those approved and

provided by contract through the current vendor. Refer to Appendix D-1 for Diesel EIA requirements.

11.12.240 Fee Schedule

Refer to section 10.12.240 for the applicable fees not listed in 11.12.240

Permitting of a Diesel I/M Program Station or Fleet Station	\$300.00
Annual Renewal of a Diesel I/M Program Station or Fleet Station	\$60.00
Annual Renewal of an Expired Diesel I/M Program Station or Fleet Station	\$120.00
Permitting a Diesel I/M Program Station or Fleet Station at a New Location	\$50.00
Permitting a Diesel I/M Program Station or Fleet Station Under a New Business Name	\$125.00
Permitting a Diesel Opacity Inspector	\$30.00
Annual Renewal of a Diesel Opacity Inspector Permit	\$25.00
Annual Renewal of an Expired Diesel Opacity Inspector Permit	\$40.00
Duplicate Diesel Opacity Inspector Permit	\$12.00
Refresher training for Diesel Opacity Inspectors	\$30.00
Diesel Opacity Inspector Study Guide	\$40.00
Diesel Emission Fee	Set by County

11.12.280 Penalty Schedule

Refer to section 10.12.280

11.12.290 Conflicts

Refer to section 10.12.290

Effective Date

This Ordinance is necessary for the immediate preservation of the peace, health or safety of the County and its inhabitants and therefore shall take effect immediately upon publication in one issue of a newspaper published and having general circulation in Davis County.

This Ordinance shall be effective as of Oct 18, 2019 (date). All Ordinances and parts of Ordinances in conflict herewith shall not be and the same are here by repealed.

ENACTED AND ADOPTED this 1st day of Oct, 2019.

This Ordinance was duly passed, adopted, and/or approved by the Davis County Legislative Body on this 1st day of Oct, 2019 with Commissioners Randy B. Elliott Aye, Lorene Miner Kamalu Aye, and Bob J Stevenson Aye, all voting as documented herein.

BOARD OF COUNTY COMMISSIONERS OF DAVIS COUNTY

By: 

Randy B. Elliott, Chair

ATTEST:


Curtis Koch

Davis County Clerk/Auditor

Approved as to legal form and compatibility with state law:


Deputy Davis County Attorney

Publication Date: , 2019

Effective Date: , 2019

Appendix D-1 Diesel Emission Equipment Specifications

PRODUCT SPECIFICATIONS: Sensors LCS 2400 Opacity Meter

Operating Conditions

Temperature: 5 °C to 40 °C

Humidity: 0 to 95 %

Pressure: 0...10kPa \pm 0.2kPa

Characteristics

Optical path length: 364 mm (+/- 1 mm)

Tube Temp: 70...100 °C (75 °C typical)



Warm Up Time: \leq 3 min. @ 20 °C

Zero-Drift: $< 0.01 \text{ m}^{-1}$ over 15 min

Resolution: N: 0.1 % ; k: 0.01 m^{-1}

Gas Temperature Range: 10 – 150 °C

Storage Temperature: -32 °C to 55 °C

Pneumatic Stability: $\pm 1.0\%$

Acoustic Noise: 53 dba

Opacity Accuracy: $\pm 2\%$ absolute

Reliability: 20,000 hours (MTBF)

Dimensions (H x W x L): 23.5 cm x 38 cm x 9 cm

Weight: 4.5kg (10 lbs)

Software & Communications 9600/19200 Baud rate (selectable)

Communication: via RS-232 async

Power:

Input 230 Vac,, 115Vac or 100Vac available

Line Frequency: 50 or 60 Hz

Output 12Vdc @3A (via com port connector)

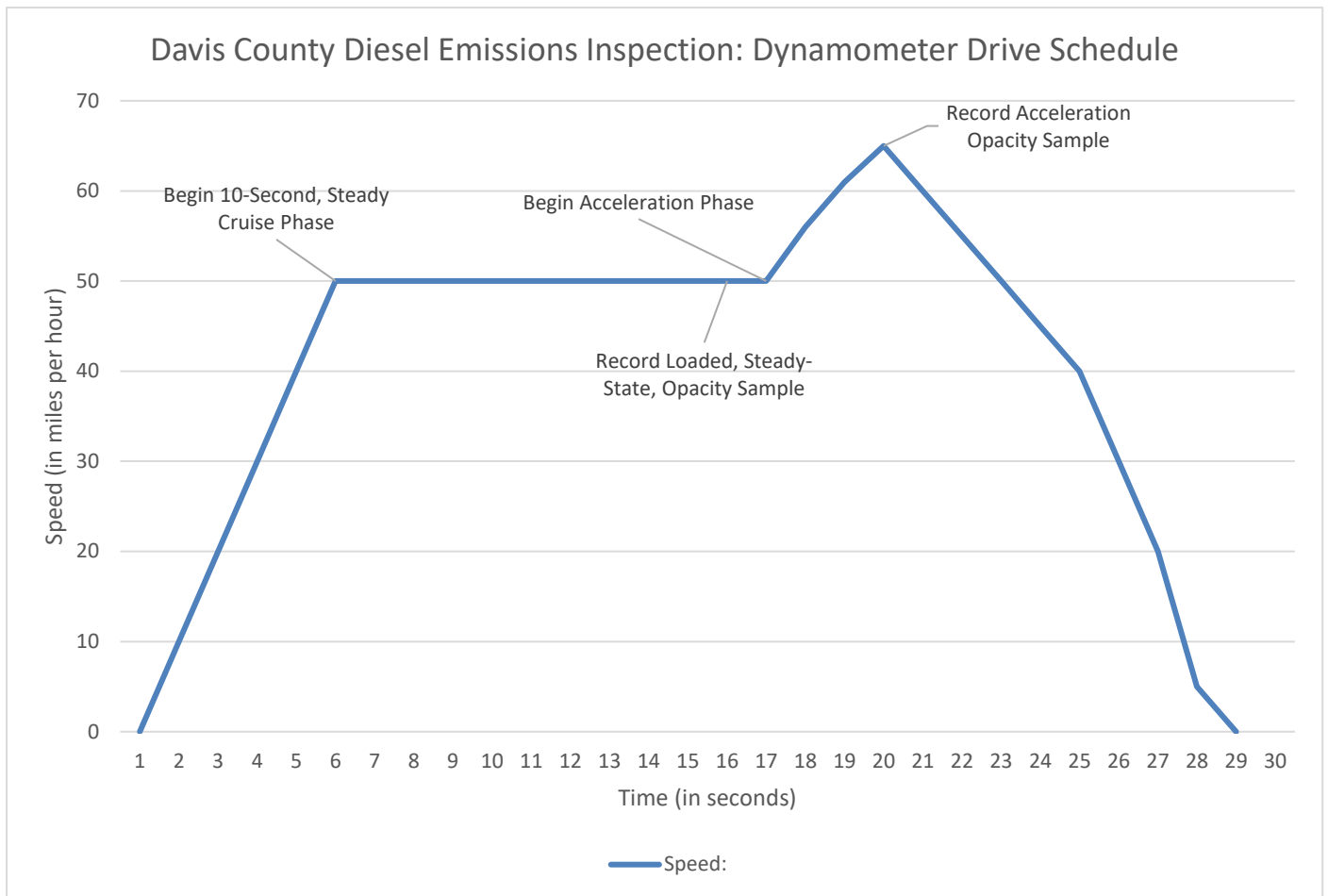
The computer/cabinet shall be based on the Worldwide EIS 7000

Diesel Exhaust Opacity Measurements

- Sensors Opacity Meter uses laser technology as an upgrade to the halogen technology used previously
- Opacity meter auto-zeros before each test
- Each opacity meter is validated at least once per week using 3 validation lenses, calibrated at 25%, 55%, and 75% opacity
- Opacity meter has many error codes that prohibit testing if set. Error codes include (but are not limited to):
 - Tube Temp Invalid
 - Transducer in Standby Mode
 - Dirty Lenses
 - Gas Temperature Too Cold
 - Ambient Temperature Invalid
 - Power Voltage Out of Tolerance



Appendix D-2 Loaded Opacity Inspection Drive Pattern



APPENDIX E
Compressed Natural Gas (CNG) Vehicle Inspection Procedures

- A. 1995 and older with switchable bi-fuel systems must comply with the appropriate County Inspection procedures using both fuels when possible, including the Visual Inspection.
- B. 1995 and older with non-switchable bi-fuel systems must on a case-by-case basis, comply with the appropriate County Inspection procedures using both fuels when possible, including the Visual Inspection.
- C. 1995 and older systems with a dedicated fuel (non-bi-fueled) must complete normal Inspection procedure using dedicated fuel, including the Visual Inspection.
- D. All 1996 through 2004 dedicated and bi-fueled systems shall receive a Visual Inspection: the MIL must illuminate while the key is on engine off (KOEO); the MIL must extinguish while the key is on with the engine running (KOER). Bi-fuel vehicles will receive a tailpipe test on each fuel.
- E. All 2005 and newer systems must have a conversion kit, be OBDII compatible, and comply with a Visual Inspection and prescribed OBDII and any other required testing.

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2
3
4 **UTAH STATE IMPLEMENTATION PLAN**

5
6 **SECTION X**

7
8 **VEHICLE INSPECTION AND**
9 **MAINTENANCE PROGRAM**

10
11 **Part E**

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13 **Weber County**
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35 Adopted by the Utah Air Quality Board
36 March 4, 2020

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Table of Contents

1. Applicability	1
2. Summary of Weber County I/M Program.....	1
3. I/M SIP implementation.....	3

SECTION X Part E
Weber County Emission Inspection/ Maintenance Program
APPENDICES

1. Weber County Emission Inspection/ Maintenance Program Regulation revised September 23, 2019
2. Weber County Audit Policies and Procedures

UTAH STATE IMPLEMENTATION PLAN
SECTION X, PART E
VEHICLE INSPECTION AND MAINTENANCE (I/M) PROGRAM

1. Applicability

Weber County Inspection and Maintenance (I/M) Program Requirements: Ogden City was designated nonattainment for the carbon monoxide (CO) National Ambient Air Quality Standard (NAAQS) on January 6, 1992 (56 FR 56694, November 6, 1991) and was classified as a "moderate" area. The Ogden City CO nonattainment area was redesignated to attainment for the CO NAAQS on November 14, 2005 (70 FR 54267, September 14, 2005). Parts of Weber County was designed as a 'marginal' nonattainment area for the 2015 8-hour ozone standard effective August 3, 2018(83 FR 25776), June 4, 2018). An I/M program is not required in marginal nonattainment areas; however, if Weber County is redesignated to a 'moderate' nonattainment area, an I/M program would be required by the Clean Air Act (CAA).

Utah was previously required by Sections 182 and 187 of the ~~[Clean Air Act]~~CAA to implement and maintain an I/M program in Weber County that met the minimum requirements of 40 CFR Part 51 Subpart S and that was at least as effective as the EPA's Basic Performance Standard as specified in 40 CFR 51.352. However, the Basic Performance Standard requirement is no longer applicable as the nonattainment area in Weber County has been redesignated to attainment / maintenance for the CO NAAQS. Parts A and E of Section X, together with the referenced appendices, continue to demonstrate compliance with the 40 CFR Part 51 provisions for I/M program requirements for Weber County and produce mobile source emission reductions that are sufficient to demonstrate continued maintenance of the CO NAAQS. In addition, the Weber County I/M program is a control measure included in the Salt Lake City 24- hour particulate Serious SIP submitted to EPA on February 15, 2019.

2. Summary of Weber County I/M Program

Below is a summary of Weber County's I/M program. Section X, Part E, Appendices 1 and 2 contain the essential documents for Weber County's I/M program.

Network Type: Weber County's I/M program is a decentralized, test-and-repair network, as approved by EPA on September 14, 2005 (70 FR 54267).

Test Convenience: There are approximately 105 permitted I/M stations within Weber County. Specific operating hours are not specified by the county; however, Weber County regulation requires that stations be open and available to perform inspections during a major portion of normal business hours of 8:00 a.m. to 5:00 pm Mondays through Fridays. There are also government and private fleet permitted stations that are not open to the public.

1
2 *Subject Fleet:* All model year 1968 and newer vehicles registered or principally-operated
3 in Weber County are subject to the I/M program except for exempt vehicles.
4

5 *Test Frequency:* Vehicles less than two years old as of January 1 on any given year are
6 exempt from an emissions inspection. Vehicles two years old and less than six years old as
7 of January 1 on any given year are inspected every other year as per Utah Code 41-6a-
8 1642(6). All vehicles six years old and older as of January 1 on any given year are
9 inspected annually.
10

11 *Station/Tester/Technician Audits:* Weber County's I/M program will regularly audit all
12 permitted I/M tester/technicians and stations to ensure compliance with county I/M
13 regulations, procedures, and policies. Particular attention will be given to identifying and
14 correcting any fraud or incompetence with respect to vehicle emissions inspections.
15 Compliance with recordkeeping, document security, analyzer maintenance, and program
16 security requirements will be scrutinized. The Weber County I/M program will have an
17 active covert audit program to minimize potential fraudulent testing. The Policies and
18 Procedures of the audit program are provided in Appendix 2 of this part of Section X.
19

20 *Waivers:* Weber County will take corrective action as needed to maintain a maximum waiver
21 rate of 5% of the initially failed vehicles or the Utah Air Quality Board will revise the SIP and
22 emission reductions claimed based on the actual waiver rate. The conditions for issuing
23 waivers legally authorized and specified in the Weber County I/M regulation meets the
24 minimum waiver issuance criteria specified in 40 CFR Subpart S 51.360.
25

26 *Test Equipment:* Specifications for Weber County's emission analyzer and its I/M test
27 procedures, standards and analyzers are provided in Weber County's I/M regulations
28 provided in Appendix 1. Test equipment and procedure were developed according to
29 good engineering practices to ensure test accuracy. Analyzer calibration specifications
30 and emissions test procedures meet the minimum standards established in Appendix A of
31 the EPA's I/M Guidance Program Requirements, 40 CFR Part 51 Subpart S.
32

33 *Test Procedures:*
34

- 35 • The following vehicles are subject to an OBD II inspection:
 - 36 ○ 1996 and newer light duty vehicles¹, and
 - 37 ○ 2008 and newer medium duty vehicles²
- 38
- 39

1 Light duty vehicles have a Gross Vehicle Weight of 8500 lbs or less.

2 Medium duty vehicles have a Gross Vehicle Weight greater than 8500 lbs but less than 14,000 lbs

- The following vehicles are subject to a two-speed idle test that is compatible with Section VI (Preconditioned Two Speed Idle Test) in Appendix B of the EPA I/M Guidance Program Requirements, 40 CFR 51, Subpart S:
 - 1995 and older vehicles,
 - 1996 and 2007 medium³ and heavy-duty vehicles⁴, and
 - 2008 and newer heavy-duty vehicles.

3. I/M SIP Implementation

The I/M program regulations, policies, procedures, and activities specified in this I/M SIP revision have been implemented and shall continue until a maintenance plan without an I/M program is approved by EPA in accordance with Section 175 of the Clean Air Act as amended.

³ Medium duty vehicles have a Gross Vehicle Weight greater than 8500 lbs but less than 14,000 lbs

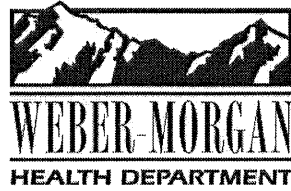
⁴ Heavy Duty vehicles have a Gross Vehicle Weight greater than 14,00[0]1 lbs

Appendix 1: Weber County

Emission Inspection/Maintenance

Program Regulation revised

September 23, 2019.



Weber-Morgan Health Department

Regulation for

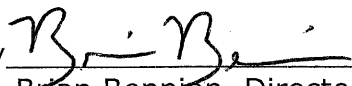
Motor Vehicle Inspection and Maintenance Program


Adopted by the Weber-Morgan Board of Health

September 23, 2019

Under Authority of Section 26A-1-121
Utah Code Annotated, 1953, as amended

Certified Official Copy
Weber-Morgan Health Department

By 
Brian Bennion, Director, Weber-Morgan Health Department

By 
Neil Garner, Chair, Weber-Morgan Board of Health

MOTOR VEHICLE INSPECTION AND MAINTENANCE PROGRAM

TABLE OF CONTENTS

	<u>Page</u>
1.0 Title and Definitions	3
2.0 Purpose.....	10
3.0 Authority and Jurisdiction.....	10
4.0 Powers and Duties	11
5.0 Scope	14
6.0 General Provisions	14
7.0 Standards and Specifications for Analyzers and Span Gases	17
8.0 Permit Requirements of the Vehicle Emissions Inspection and Maintenance Station	19
9.0 Inspection Procedures.....	24
10.0 Certificate of Waiver	28
11.0 Engine Switching.....	31
12.0 Certified Emissions Inspection and repair Technician / Certified Emissions Inspection Only Technician Permit	31
13.0 Emissions Standards for Motor Vehicles	34
14.0 Certificates of Compliance and Certificates of Compliance - Waiver.....	35
15.0 Adjudicative Proceedings	36
16.0 Penalty	36
17.0 Severability.....	37
18.0 Effective Date	37
Appendix A - Utah 2011 Analyzer Specifications.....	38
Appendix B - Fee Schedule.....	45
Appendix C - Weber County Emission Standards (Cut points)	46
Appendix D - Penalty Schedule.....	48
Appendix E - OBD IM Inspection Procedures.....	51
Appendix F – Diesel Fueled Vehicle Test Procedure	52
Appendix G- Adjustment Procedures.....	54
Appendix H - Engine Switching Fact Sheet.....	56

1.0 TITLE AND DEFINITIONS

These standards shall be known as the Motor Vehicle Inspection and Maintenance Program Regulation, hereinafter referred to as “this Regulation”.

For the purpose of this Regulation, the following words and phrases, when used herein, except as otherwise required by the context, have the following meanings.

1.1 “**Accreditation**” means Certification that the Analyzer and Analyzer manufacturer meet the operating criteria, specifications and requirements of Weber County and the Department;

1.2 “**Accuracy**” means the degree by which an instrument is able to determine the true concentration of pollutants of interest. Also means freedom from error especially as a result of care;

1.3 “**Air Intake Systems**” means systems that allow for the induction of ambient air, including preheated air into the engine combustion chamber for the purpose of mixing with a fuel for combustion;

1.4 “**A.I.R. (Air Injection Reaction System)**” means a system for providing supplementary air into a vehicle’s exhaust system to promote further oxidation of hydrocarbons (HC) and carbon monoxide (CO) gases and to assist catalytic reaction;

1.5 “**Analyzer**” See definition for UTAH 2011 Analyzer;

1.6 “**Audit**” means a procedure performed by Department personnel that includes but is not limited to, inspection of the Station, review of Station records, inspection of the Analyzer and related I/M equipment, and review of personnel working knowledge and records. The audit procedure is intended to ensure compliance with this Regulation and Department policies and procedures;

1.7 “**Bar 97**” Refers to California Bureau of Automotive Repair Exhaust Gas Analyzer Specifications, which became effective in 1997;

1.8 “**Basic Engine Systems**” means parts or assemblies that provide efficient conversion of a compressed air/fuel charge into useful power, including but not limited to valve train mechanisms, cylinder head to block integrity, piston ring-cylinder sealing integrity and post-combustion emissions control device integrity meeting OEM Standards;

1.9 “**Bench**” means the main sample processing assembly of the exhaust gas Analyzer including detectors, sampling tubes, processor boards, infrared sources and power supply;

1.10 “**Board of Health**” means the Weber-Morgan Board of Health;

1.11 “**Calibration**” means the process of establishing or verifying the accuracy of an exhaust gas Analyzer to perform an accurate and consistent evaluation of engine exhaust using calibration gases having precisely known concentrations;

1.12 “**Calibration [Span] Gases**” means gases of known concentration that are used as references for establishing or verifying the calibration curve of an exhaust gas Analyzer and which are traceable to the National Institute of Standards and Technology and are approved by the Department for use;

1.13 “**Carbon Monoxide**” A colorless, odorless, asphyxiating gas produced by the incomplete burning of fuels. Carbon monoxide may be referred to in these Regulations as CO;

1.14 “**Catalytic Converter**” A post-combustion device that oxidizes HC and CO gases and/or reduces oxides of nitrogen gases;

1.15 “**Certificate of Compliance**” means a serially numbered document issued to the vehicle upon passing an inspection or reinspection and is evidence that the motor vehicle complies with the standards and criteria of this Regulation and other requirements as adopted by the Board of Health. Beginning January 1, 2019 or another date as determined by the Department, all Certificates of Compliance will only be issued electronically and will be submitted by the Department directly to the Utah Division of Motor Vehicles and/or the Utah State Tax Commission;

1.16 “**Certificate of Compliance Numbers**” means numbers issued to Stations and entered into the approved Analyzer for the purpose of issuing Certificates of Compliance;

1.17 “**Certificate of Waiver or Waiver**” means a document issued by the Department used to verify that the vehicle for which it was issued has met the waiver requirements of this Regulation. Beginning January 1, 2019 or another date as determined by the Department, all Certificates of Waiver will only be issued electronically and will be submitted by the Department directly to the Utah Division of Motor Vehicles and/or the Utah State Tax Commission;

1.18 “**Certification**” means assurance by an authorized source, whether it is a laboratory, the manufacturer, the state, or the Department, that a specific product or statement is in fact true and meets all requirements;

1.19 “**Certified Emissions Inspection and Repair Technician or Technician**” means an individual who has successfully completed all permit requirements and has been issued a current, valid Emission Inspection and Repair Technician Permit by the Department. A person permitted by the Department who inspects vehicles, diagnoses emission related faults, and performs emissions related repairs and adjustments to bring vehicles into compliance with the requirements of this Regulation;

1.20 “**Certified Emissions Inspection Only Technician or Tester**” means an individual who has successfully completed all permit requirements and has been

issued a current, valid Emission Inspection Only Technician Permit by the Department;

1.21 **“CO”** means Carbon Monoxide;

1.22 **“Compliance”** means verification that certain data and hardware submitted by a manufacturer for accreditation consideration, meets all Department requirements; Also meeting the requirements of this Regulations;

1.23 **“County”** means Weber County, Utah;

1.24 **“Curb Idle”** means the manufacturer’s specified idle speed for the specific motor vehicle being tested (tolerance within 50 rpm) See also **Idle Mode**;

1.25 **“Cut-Points”** Same as Emission Standards;

1.26 **“Department”** means the Weber-Morgan Health Department, Division of Environmental Health;

1.27 **“Diesel Oxidation Catalyst (DOC)”** means a catalyst which promotes the oxidation process in diesel exhaust to reduce emissions.

1.28 **“Diesel Particulate Filter (DPF)”** means a system which is designed to capture diesel exhaust particulate matter. The DPF must be cleaned at specific intervals.

1.29 **“Director”** means the Environmental Health Division Director of the Weber-Morgan Health Department or for the purpose of program administration means the I/M Program Manager or I/M Auditor.

1.30 **“Domiciled”** means County in which primary residence is located;

1.31 **“E.G.R. System (Exhaust Gas Recirculation System)”** means an emissions control system that recycles or recirculates a portion of the exhaust gases back to the engine combustion chambers;

1.32 **“Emissions”** means substances expelled into the atmosphere from a motor vehicle; particularly, air contaminants produced by combustion and/or incomplete combustion, hydrocarbon evaporation from the fuel system and/or the crankcase, and particulate matter from the crankcase;

1.33 **“Emission Control Systems”** means any device or combination of parts, originally installed by the manufacturer to control the emissions of a motor vehicle;

1.34 **“Emissions Inspection or Inspection”** means a motor vehicle inspection performed for the purpose of determining whether the vehicle qualifies for issuance of a Certificate of Compliance or Certificate of Waiver, carried out in compliance with this Regulation;

1.35 “**Emissions Repair or Repair**” means repair of a motor vehicle for the purpose of such vehicle passing or attempting to pass an emissions inspection;

1.36 “**Emissions Inspection and Repair Technician Permit or Technician Permit**” means a permit issued by the Department authorizing an individual to conduct emission inspections, repair failed vehicles and issue Certificates of Compliance while under the auspices of a Station;

1.37 “**Emissions Inspection Only Technician Permit or Tester Permit**” means a permit issued by the Department authorizing an individual to perform emission inspections and issue certificates of compliance while under the auspices of a Station;

1.38 “**Emissions Standards (Cut-Points)**” means the maximum allowable concentration of regulated emissions for a given weight class and model year of a motor vehicle, as allowed by this Regulation, using an approved Analyzer;

1.39 “**Emissions Test**” means the process dictated by the official test mode of the Utah 2011 Analyzer;

1.40 “**Engine Switching**” means an engine is removed from a vehicle and is replaced by an engine that is not identical to the original engine;

1.41 “**EPA**” means the United States Environmental Protection Agency;

1.42 “**Evaporative Control System**” means an emission control system that prevents the escape of fuel vapors from the fuel system and/or air cleaner and stores them to be burned in the combustion chamber;

1.43 “**Federal Installation**” means any property or facility subject to the jurisdiction of any department, agency, or instrumentality of the executive, legislative, and judicial branches of the Federal government;

1.44 “**Fleet Facility**” means a corporation or other business entity permitted by the Department to perform the functions of the inspection program for a privately owned fleet of ten or more motor vehicles;

1.45 “**Fuel Control Systems**” means the mechanical, electro mechanical, galvanic or electronic parts or assemblies that regulate the air/fuel ratio in an engine to provide a combustible charge;

1.46 “**Gaseous Fuel**” means, but is not limited to, liquefied petroleum gases and natural gases in liquefied or gaseous forms;

1.47 “**HC**” means hydrocarbons;

1.48 “**Hangup**” means hydrocarbons that cling to the surface of the sampling and Analyzer systems in contact with the exhaust gas sample stream resulting in errors in HC readings;

1.49 “**Heavy Duty Vehicles**” means a vehicle 1978 and older with a weight of more than 6000 pounds or 1979 and newer with a weight of more than 8501 pounds GVW (gross vehicle weight);

1.50 “**Hydrocarbons**” means unburned fuel;

1.51 “**Idle Mode**” means a condition where the vehicle’s engine is at proper operating temperature and running at the rate specified by the manufacturer’s curb idle, where the engine is not propelling the vehicle, and where the throttle is in the closed or idle stop position. This condition achieved without placing a load on the vehicle to decrease its RPM to the specified rate (See also **Curb Idle**);

1.52 “**Ignition Systems**” the means parts or assemblies that are designed to cause and time the ignition of a compressed air/fuel charge;

1.53 “**I/M Clearance**” means a stamp placed on the motor vehicle registration form by an employee of the Utah State Motor Vehicle Office or the Department indicating that the motor vehicle represented by the registration form is in compliance with the inspection program requirements in that the motorist has presented a valid Certificate of Compliance or Certificate of Waiver for the motor vehicle and paid applicable fees;

1.54 “**I/M Program**” means the Vehicle Emissions Inspection and Maintenance Program established by the Board of Health and this Regulation;

1.55 “**I/M Program Test and Repair Station**” means a business permitted by the Department which engages in emissions testing and emissions related repairs to motor vehicles, and which meets the requirements of this Regulation for test and repair facilities;

1.56 “**I/M Program Test Only Station**” means a business permitted by the Department which engages only in emissions related inspections of motor vehicles, and which meets the requirements of this Regulation for test only facilities;

1.57 “**Inspection Area**” means the Department approved area that is occupied by the Analyzer, sample hose, and the vehicle being inspected;

1.58 “**Inspection Report**” means a document used to record information generated by the Tester/Technician during an emissions inspection other than a Certificate of Compliance;

1.59 “**Instrument**” means the complete UTAH 2011 Analyzer system that samples and displays the concentration of emission gases and also performs OBD IM test procedures. The instrument includes the sample handling system, the exhaust gas Analyzer associated computer equipment and the enclosure cabinet;

1.60 “**Light Duty Motor Vehicle**” means all passenger vehicles, 1978 and older; light duty trucks 6000 GVW rating or less; 1979 trucks and newer 8500 pounds GVW rating or less;

1.61 “**Lock-Out**” means when the UTAH 2011 Analyzer automatically prohibits access to the testing portion of the UTAH 2011 Analyzer;

1.62 “**Motor Vehicle or Vehicle**” means any equipment or mechanical device propelled primarily on land by an internal combustion powered engine that is driven on public roads and/or streets. Motor vehicles exempted from the inspection requirements of this Regulation as listed in Section 6.4 of this Regulation;

1.63 “**Motorcycle**” means every motor vehicle having a saddle for the use of the rider and designed to travel with not more than three wheels in contact with the ground, but excluding a farm tractor;

1.64 “**Non-Permitted Person**” means any person who has not been certified by the Department to perform official emissions inspections;

1.65 “**OBD**” means Vehicle On-Board Diagnostics;

1.66 “**OBDII**” means the On-Board Diagnostics Generation II Standard effective in 1996 and newer light duty car and light duty trucks sold in the United States;

1.67 “**OEM**” means Original Equipment Manufacturer;

1.68 “**Off-Highway Vehicles**” means a vehicle licensed to operate exclusively off public highways and roads;

1.69 “**Original Condition**” means the condition of the emission control system(s) as installed by the manufacturer, but not necessarily to the original level of effectiveness;

1.70 “**Other Entity**” may include Fleet Facilities, I/M Technical Centers, and reciprocity agreements with EPA approved I/M Programs;

1.71 “**PCV System (Positive Crankcase Ventilation System)**” means an emissions control system that returns crankcase vapors and blowby gases to the combustion chamber to be burned;

1.72 “**Person**” means an individual, corporation, association, firm, partnership, joint stock company, public or municipal corporation, political subdivision, the state or any agency thereof, or the federal government or any agency thereof;

1.73 “**Prompts**” means instructions and/or data fields, requiring data input to the Analyzer from a Tester/Technician performing an emission inspection;

1.74 “**Publicly-Owned Vehicles**” means a motor vehicle owned by a government entity, including but not limited to the federal government or any agency thereof, the State of Utah or any agency or political subdivision thereof;

1.75 “**Readiness**” means an indicator that identifies when the related emission control system’s operational status has been determined;

1.76 “**Registered or Registration**” means the process by which a motor vehicle receives a license so that it can be legally operated on public streets and highways;

1.77 “**Reinspection**” means any emissions inspection performed on a motor vehicle after it has undergone an initial emissions inspection that did not qualify the motor vehicle for a Certificate of Compliance;

1.78 “**Selective Catalyst Reduction (SCR)**” is a means of reducing NOx in diesel exhaust gases by introducing nitrogen containing compounds such as urea;

1.79 “**Smoking Vehicle**” means a motor vehicle emitting visible emissions after the engine has reached normal operating temperature;

1.80 “**Station**” means an I/M Program Station including all station personnel, employees, and owner(s);

1.81 “**Station Permit**” means the document issued by the Department that authorizes a person to operate a Station;

1.82 “**Tampering**” means the intentional or accidental altering of or removal of emission control systems, and/or emissions-related equipment. Also, the use of fuels other than those required by the manufacturer’s specification as found in the motor vehicle’s owner’s manual. Also, engine modification which may include, but is not limited to, exhaust systems, air intake systems, ignition systems, internal engine modifications, engine switching, etc.;

1.83 “**Technical Bulletin**” means a document issued to Tester/Technicians and Stations by the Department to update, clarify or establish policies and/or procedures for their implementation in the Vehicle Emissions Inspection and Maintenance Program;

1.84 “**Tester/Technician**” means a Department Certified and Permitted Emissions Tester or Department Certified and Permitted Emissions Repair Technician;

1.85 “**Training Program**” means a formal program administered, conducted, or approved by the Department for the education of Testers/Technicians in basic emission control technology, inspection procedures, diagnosis and repair of emission related problems, Vehicle Emissions Inspection and Maintenance Program policies, procedures and this Regulation; it may also include the promotion of training for all mechanics;

1.86 “**TSI**” means Two Speed Idle Test Procedure;

1.87 “**UTAH 2011 Analyzer or Analyzer**” means the official computerized engine exhaust analyzer and associated test equipment approved by the Department for use in the areas of Utah requiring inspections as specified in Section 41-6a-1642, Utah Code Annotated, 1953, as amended;

1.88 “**Vehicle Emissions Inspection and Maintenance Program**” means the program established by the Board of Health pursuant to Section 41-6a-1642, Utah Code Annotated 1953, as amended and Weber County Ordinance Section 28-1-4;

1.89 “**Waiver**” see Certificate of Waiver.

2.0 PURPOSE

It is the purpose of this Regulation to reduce air pollution levels in Weber County by requiring inspection of in-use motor vehicles and by requiring emission related repairs and adjustments for those vehicles that fail to meet prescribed standards so as to:

2.1 Protect and promote the public health, safety and welfare;

2.2 Improve air quality;

2.3 Comply with Federal Regulations contained in the Clean Air Act of 1970, and amendments to the Act;

2.4 Comply with the law enacted by the Legislature of the State of Utah, Sections 41-6a-1642 and 41-6a-1643 Utah Code Annotated, 1953, as amended; and

2.5 Comply with Weber County Ordinance 28 Chapter 1. – Motor Vehicle Emissions Inspection

3.0 AUTHORITY AND JURISDICTION OF THE DEPARTMENT

3.1 Under Section 28-1-3 of the Weber County Ordinance the Weber County Commission authorizes and directs the Weber-Morgan Board of Health and the Director of Health to adopt and promulgate rules and regulations to ensure compliance with EPA and State requirements with respect to Emissions Standards and delegates its authority as an administrative body 41-6a-1642 Utah Code Annotated, 1953, as amended, to the Weber-Morgan Board of Health, to address all issues pertaining to the adoption and administration of the Vehicle Emissions I/M Program, and authorizes a fee to be assessed upon every motorized vehicle registered in Weber County at the time of registration, to be known as the Air Pollution Control Fee.

3.2 Section 28-1-4 of the Weber County Ordinance, directs the Weber-Morgan Health Department to adopt regulations and set fees for I/M Stations and

Mechanic Permits and Emission and Waiver Certificates as necessary to sustain and operate an I/M Program.

3.3 The Weber-Morgan Board of Health is authorized to make standards and regulations pursuant to Section 26A-1-121(1) of the Utah Code Annotated, 1953 as amended.

3.4 The Weber-Morgan Board of Health is authorized to establish and collect fees pursuant to Section 26A-1-114(1)(h)(i) of the Utah Code Annotated, 1953 as amended.

3.5 All aspects of the Vehicle Emissions Inspections and Maintenance Program within Weber County enumerated in Section 2.0 shall be subject to the direction and control of the Weber-Morgan Health Department.

4.0 POWERS AND DUTIES

4.1 General Powers and Duties. The Department shall be responsible for the enforcement and administration of this Regulation and any other powers vested in it by law and shall:

4.1.1 Require the submission of information reports, plans and specifications from Stations as necessary to implement the provisions and requirements of this Regulation;

4.1.2 Issue permits, certifications and charge fees as necessary to implement this Regulation;

4.1.3 Perform audits of any Station and Tester/Technician and issue orders and/or notices, hold hearings, levy administrative penalties and negotiate consent agreements as necessary to effect the purposes of this Regulation;

4.1.4 When necessary take samples and make analysis to ensure that the provisions of this Regulation are met; and

4.1.5 Adopt policies and procedures necessary to ensure that the provisions of this Regulation are met and that the purposes of this Regulation are accomplished.

4.2 Suspension, Revocation, or Denial of Station Permits. The Department may suspend, revoke or deny a Station Permit of a Station and/or negotiate a monetary penalty in lieu of suspending a permit under a consent agreement, and/or require the surrender of the Station Permit and unused Certificates of Compliance and other official documents of such Station upon showing that:

4.2.1 A Tester/Technician or other individual at the Station is in violation of this regulation and:

4.2.2 A vehicle was inspected and issued a Certificate of Compliance by Station personnel who did not, at the time of inspection, comply with all applicable policies, procedures, Technical Bulletins, and this Regulation;

4.2.3 A vehicle was inspected and rejected by the Station when, it can be demonstrated, as determined by the Department that the vehicle was in such condition that it did comply with the requirements of this Regulation;

4.2.4 A vehicle was inspected and issued a Certificate of Compliance when it can be proven, as determined by the Department that the vehicle did not at the time of inspection comply with the requirements of Section 9.11 regarding tampering inspection;

4.2.5 A vehicle was passed and issued a Certificate of Compliance without being present for inspection or substituting a vehicle other than the vehicle entered into the test record;

4.2.6 The Station is not open and available to perform Inspections during a major portion of the normal business hours of 8:00 a.m. to 5:00 p.m., Mondays through Fridays, (except Fleet Facilities);

4.2.7 The Station has violated any provisions of this Regulation, or any Rule, Regulation, or Department policy properly promulgated for the operation of a Station;

4.2.8 The Station was or is not equipped as required by Section 8.0 of this Regulation;

4.2.9 The Station is not operating within the property boundaries of the location specified on the Permit;

4.2.10 A Non-Permitted Person has gained access to the official testing portion of the analyzer, conducted any portion of an official inspection, or signed an Inspection Report;

4.2.11 The approved analyzer has been tampered with or altered in any way contrary to the certification and maintenance requirements of the Analyzer;

4.2.12 The Station denies access to a representative of the Department to conduct an audit or other necessary business during regular business hours;

4.2.13 The Station denies access to or conceals pertinent information from a representative of the Department during an audit or while conducting other necessary business during regular business hours;

4.2.14 The Station performed unnecessary repairs not justified by the results of the inspection;

4.2.15 In accordance with 41-6a-1642 and 41-6a-1643 Utah Code Annotated, 1953, As amended, an emissions inspection for a Salt Lake, Utah, Davis, Cache, or Weber County resident was performed but not as required by the Regulations adopted by the applicable county and/or the UTAH 2011 Analyzer prompts.

4.2.16 The vehicle being tested has been altered or tampered with in any way so that it will either pass or fail the emissions test when it would not otherwise.

4.2.17 In accordance with 40 CFR § 51.364(b)(2), The Weber-Morgan Health Department shall have the authority to impose penalties against the licensed Station, as well as the Tester/Technician, even if the Station had no direct knowledge of the violation but was found to be careless in oversight of Tester/Technicians or has a history of violations. Stations shall be held fully responsible for Tester/Technician performance in the course of duty.

4.3 Suspension, Revocation, or Denial of Tester/Technician Permit. The Department may suspend, revoke, or deny the Permit of a Tester/Technician and require the surrender of the Tester/Technician Permit upon showing that:

4.3.1 The Tester/Technician caused any of the violations listed in section 4.2 to occur;

4.3.2 The Tester/Technician issued or caused a Certificate of Compliance to be issued to an owner/operator without an approved inspection being made;

4.3.3 The Tester/Technician denied the issuance of a Certificate of Compliance to the owner/operator of a vehicle that, at the time of the inspection, complied with the law for issuance of said certificate;

4.3.4 The Tester/Technician issued a Certificate of Compliance to a vehicle that, at the time of issuance, was in such condition that it did not comply with this Regulation;

4.3.5 The Tester/Technician inspected, recorded and passed the tampering inspection, for a vehicle that did not, at the time of inspection, comply with the tampering requirements of the tampering inspection detailed in Section 9.11, regardless of whether a Certificate of Compliance was issued or not;

4.3.6 Inspections were performed by the Tester/Technician but not in accordance with applicable policies, procedures, technical bulletins, and this Regulation;

4.3.7 The Tester/Technician allowed a Non Permitted Person to perform any portion of an inspection or gain access to the official testing portion of the Analyzer;

4.3.8 The Tester/Technician signed an inspection report stating that he/she had performed the emissions test when, in fact, he/she did not;

4.3.9 The Tester/Technician falsified any inspection or official document of the Vehicle Emissions Inspection and Maintenance Program;

4.3.10 The Tester/Technician performed unnecessary repairs not justified by the results of the inspection; or

4.3.11 In accordance with Sections 41-6a-1642 and 41-6a-1643 Utah Code Annotated, 1953, as amended, an emissions inspection for a Weber, Salt Lake, Davis, Cache or Utah County resident was performed but not as required by the Regulations/Ordinances adopted by the applicable county.

4.4 Administrative Penalty: in lieu of suspending a Permit under Sections 4.2 and 4.3, the Department may agree to an administrative monetary settlement such as a negotiated consent agreement.

4.5 The Department shall respond according to policies, procedures and this regulation, to public complaints regarding the fairness and integrity of inspections they receive. The Department shall provide a method for inspection results to be challenged if there is a reason to believe them to be inaccurate. To challenge the results of an inspection or reinspection, a motorist must present his or her vehicle within 2 days (excluding Saturday, Sunday and Holidays) of the inspection being challenged for another emissions inspection at the Weber-Morgan Health Department Emissions Technical Center.

4.6 The Department is authorized to take any and all necessary measures to ensure or facilitate a smooth transition from the UTAH 2000 Analyzer testing program to the new UTAH 2011 Analyzer testing program required by this Regulation.

5.0 SCOPE

It shall be unlawful for any person not to comply with any policy, procedure, technical bulletin, regulation or ordinance promulgated by the County and/or the Department unless expressly waived by this Regulation.

6.0 GENERAL PROVISIONS

Subject to the exemptions described in Section 6.4 and pursuant to the schedule in Section 6.1, motor vehicles of model years 1968 and newer that are owned and/or operated by a person domiciled in Weber County, shall be subject to an annual or biennial emission inspection performed by a Station or Other Entity approved by the Department. Registration of a vehicle owned and operated by a Weber County resident in a County other than Weber is a violation of this Regulation. Fraudulent registration of a vehicle as a farm truck, diesel, or other exempted vehicle is also a violation of this Regulation.

6.1 Beginning 1 January 1992 a Certificate of Compliance, Certificate of Waiver or evidence that the motor vehicle is exempt from the Inspection and Maintenance Program requirements (as defined in section 6.4) shall be presented to the Weber County Assessor or the Utah State Tax Commission and the Air Pollution Control Fee paid (See section 6.8.2) as conditions precedent to annual registration or annual renewal of registration of a motor vehicle. Certificates of Compliance from other EPA approved I/M Programs may be accepted, if approved by the Director, provided those I/M Programs are equally effective in reducing emissions.

6.2 A Certificate of Compliance issued to a dealer licensed with the State of Utah and issued in the dealer's name, shall be valid for registration purposes for a period of eleven months as specified in Section 14-6a-1642 (10) b-ii Utah Code Annotated, 1953, as amended. The purchaser's name, address, and phone number shall be recorded by the dealer on the back of the Certificate.

6.3 Publicly-Owned Vehicles. Owners of publicly-owned vehicles shall comply with the Vehicle Emissions Inspections/Maintenance program requirements in accordance with this Regulation on an annual or biennial basis pursuant to a schedule determined by the Department. Federally-owned vehicles and vehicles of employees regularly operated on a federal installation located in the county that do not require registration in the State of Utah shall comply with the emissions testing requirements on an annual or biennial basis pursuant to a schedule determined by the Department and as required by Section 118 of the Clean Air Act (1990 amendment).

6.4 Vehicle Exemption. The following vehicles are exempt from the annual or biennial emissions inspection:

6.4.1 Any motor vehicle of model year 1967 or older;

6.4.2 All agricultural implements of husbandry and any motor vehicle that qualifies for an exemption under Section 41-6a-1642, Utah Code Annotated, 1953, as amended;

6.4.3 Any vehicle used for maintenance or construction and not designed or licensed to operate on the highway;

6.4.4 Any motorcycle or motor driven cycle (including vehicles which operate with an engine normally used in a motorcycle);

6.4.5 Any vehicle that operates exclusively on electricity;

6.4.6 Any new motor vehicle being sold for the first time that has a valid Manufacturer's Statement of Origin form;

6.4.7 Any vehicle with an engine smaller than forty (40) cubic inch displacement (655 cc); and

6.4.8 Tactical military vehicles.

6.4.9 Any diesel fueled vehicle 1997 and older.

6.4.10 Any diesel fueled vehicle with a GVW greater than 14,000 pounds.

6.5 It shall be the responsibility of the Tester/Technician to determine if a motor vehicle is exempted from Section 6.4 of this Regulation when presented to the Tester/Technician for an inspection. It shall be the Tester/Technician's responsibility to inform the owner/operator of the vehicle that the vehicle is not required to have an inspection for vehicle registration purposes.

6.6 Official Signs.

6.6.1 All Stations, except fleet facilities, shall display in a conspicuous location on the premises;

6.6.1.1 An official sign provided and approved by the Department;

6.6.1.2 The emissions standards, as promulgated under authority of Section 13.0 and Appendix C, and

6.6.1.3 The fees charged by that station for performing an emissions inspection.

6.7 Equipment Available for Inspection

6.7.1 Required tools, materials, publications (see Section 8.1.8.3.c) supplies, records, unused Certificates of Compliance, other required forms, records of completed inspections, and a complete copy of this Regulation, shall be kept at the station at all times and shall be available for inspection and collection by the Department at any time the station is open for business.

6.7.2 A periodic inspection and audit shall be made by a representative of the Department to verify compliance with this Regulation for each Station.

6.7.2.1 During the time of the inspection and audit, the Department representative shall have exclusive access to the approved testing Analyzer(s).

6.7.2.2 The Department representative may check the accuracy of the Analyzer using Department gas to verify that the Analyzer is reading within the tolerances established by the Department. Analyzers not reading within the acceptable tolerances shall be calibrated to acceptable tolerances or placed out of service.

6.8 Fees

6.8.1 The fees assessed Stations and Testers/Technicians shall be determined according to a fee schedule adopted by the Board of Health. The fee schedule is referenced in Appendix B of this Regulation.

6.8.2 The following fee is hereby assessed upon every motor vehicle registered in Weber County annually at the time of registration of the vehicle:

6.8.2.1 Air Pollution Control Fee -- See Appendix B of this Regulation.

6.8.2.2 This fee assessment is included upon all motorized vehicles unless exempted by Utah State Rule.

6.8.2.2.a This includes the vehicles that are exempted from the inspection requirements of this Regulation by Section 6.4

6.8.2.3 Additional fees may be assessed on motor vehicles by other Health Regulations.

6.8.3 Stations may charge a fee for the required service. The fee may not exceed, for each vehicle inspected, the amount set by the Board of Health and referenced in Appendix B of this Regulation:

6.8.3.1 The inspection fee pays for a complete inspection regardless of test results. The owner is entitled to one (1) free reinspection if the vehicle requires a TSI test or two (2) free reinspections if the vehicle requires an OBD test if he/she returns to the station that performed the original inspection within thirty (30) days from the date of the initial inspection. The emissions inspection fee shall be the same regardless of the test results.

6.9 These fees are subject to change and may be amended as deemed necessary by the Board of Health to accomplish the purposes of this Regulation.

7.0 STANDARDS AND SPECIFICATIONS FOR ANALYZERS AND CALIBRATION GASES

7.1 Approval of Analyzers

7.1.1 No emissions inspection or emissions test required by this Regulation shall be performed after January 31, 2012 unless the type of instrument used for determining compliance with this Regulation is the UTAH2011Analyzer. The Analyzer shall meet the requirements of the Analyzer specifications referenced in Appendix A of this Regulation.

7.1.2 Analyzer Registration

Any Analyzer used by a Station shall be registered with and approved by the Department and shall be issued an analyzer identification number. Identification numbers are not transferable. Any new or used Analyzer put in use after station approval must be approved by the Department before use.

7.1.3 Running Changes

Any changes to the design characteristics or component specifications that may affect the performance of an Analyzer to be used as an official test instrument in the Vehicle Emissions Inspection and Maintenance Program shall be approved by the Department. It shall be the Analyzer manufacturer's responsibility to verify that the changes have no detrimental effect on the performance of the Analyzer.

7.1.3.1 It shall be a violation of this Regulation for any person to alter or modify the hardware or software of an approved Analyzer without written application and formal written approval by the Department.

7.1.3.2 It shall be a violation of this Regulation for any person to gain access to any Department controlled portions of an approved Analyzer without written approval by the Department.

7.1.4 Documentation, Logistics, and Warranty Requirements

7.1.4.1 Instrument Manual

An instrument manual shall be provided by the Analyzer manufacturer. The instruction manual shall be conveyed to the purchaser at the time of sale and shall contain at least the following information for the Analyzer:

- (a) A complete technical description;
- (b) The accessories and options that are included and/or available;
- (c) The location of the model number and identification markings;
- (d) Operating maintenance schedule including daily, weekly, and monthly accommodations and procedures for maintaining sample system integrity including, but not limited to, leak check, hang up, calibration and filters. The services to be performed only by the manufacturer shall be clearly identified;

7.1.4.2 Analyzer Maintenance.

The Analyzer shall be maintained in accordance with the manufacturer's recommended maintenance schedule and records of this maintenance service shall be maintained for examination by the Department.

7.1.4.3 Analyzer printers shall be maintained in such a manner that the printing of the Certificates, inspection reports and documents are accurate and legible. If any printer fails to properly function, then the Station shall discontinue testing until the required repairs have been performed or a replacement printer is installed.

7.1.4.4 No person may engage in repair of the Analyzer unless approved by the Department.

7.2 Gas Calibration and Leak Check.

7.2.1 The Analyzer instruction manual and other Department approved information shall be reviewed by the Tester/Technician to ensure that proper procedures are being used for performing the gas calibration.

7.2.2 A Tester/Technician shall perform a leak check and a gas calibration of the Analyzer, with an approved calibration gas, within 72 hours prior to performing any emission test. The gas calibration and leak test must be performed in accordance with the Analyzer specifications as contained in Appendix A.

7.2.3 The Analyzer shall lock-out of the TSI test mode when calibrations and leak tests are not performed within prescribed time frames.

7.2.4 The Department shall use and require for use in the calibration of Analyzers, calibration and span gases and containers meeting the following guidelines.

7.2.4.1 The analyzer manufacturer and/or manufacturer designated marketing vendor shall, supply at a reasonable cost calibration gases approved by the Department to any ultimate purchaser of the Analyzer. Each new or used Analyzer sold by the manufacturer or marketing vendor shall have when deemed necessary by the Department, approved full calibration gas containers installed and operational at the time of delivery.

7.2.4.2 The calibration/Span gases supplied to any I/M Station shall conform to the specifications of the Department. All calibration gases shall meet all requirements for

emissions warranty coverage. Only gas blends approved by the Department shall be used to calibrate the Analyzers.

8.0 PERMIT REQUIREMENTS OF THE VEHICLE EMISSIONS STATION

8.1 Permit Required.

8.1.1 No person shall operate a Station without a valid Permit issued by the Department. A person desiring to operate a Station shall submit to the Department a written application for a Permit on a form provided by the Department. To qualify for a Permit, an applicant shall:

8.1.1.1 Be an owner of the proposed Station or an officer of the legal ownership;

8.1.1.2 Comply with the requirements of this Regulation;

8.1.1.3 Agree to allow Department access to the Station and to provide required information;

8.1.1.4 Pay the permit application fee at the time the application is submitted;

8.1.1.5 Present a copy of a current business license relating to the Station; and

8.1.1.6 Other information required by the Department.

8.1.2 The application shall Include:

8.1.2.1 The name, mailing address, telephone number, and signature of the person applying for the Permit and the name, mailing address, and permanent location of the Station;

8.1.2.2 Information specifying whether the Station is owned by an association, corporation, individual, partnership, or other legal entity;

8.1.2.3 The name, title, address, and telephone number of the person directly responsible for the Station;

8.1.2.4 The name, title, address, and telephone number of the person who functions as the immediate supervisor of the person specified under 8.1.2.3 of this section such as zone, district, or regional supervisor;

8.1.2.5 A statement signed by the applicant that attests to the accuracy of the information provided in the application, and affirms

that the applicant will comply with this Regulation, and allow the Department access to the Station; and

8.1.2.6 Other information required by the Department.

8.1.3 No person shall in any way represent any place as a Station unless the Station is operated under a valid Permit issued by the Department.

8.1.4 The Department is authorized to issue or deny Permits for Stations.

8.1.5 A Permit may not be transferred from one person to another person, from one Station to another Station or from one type of operation to another, unless approved in writing by the Department.

8.1.6 The Permit shall be posted in a conspicuous place within public view on the premises.

8.1.7 The Department may renew a Permit for an existing Station or may issue a Permit to a new owner of an existing Station after a properly completed renewal form is submitted, reviewed, and approved, the fees are paid, and an inspection shows that the Station is in compliance with this Regulation.

8.1.7.1 The Department shall not approve any application for issuance or renewal of a Permit for an existing Station that is under suspension until the date that the suspension has expired.

8.1.7.2 The Department shall not issue a Permit to a new owner of any Station where a Permit has been revoked prior to twelve months from the date of revocation.

8.1.7.3 If the property referenced in 8.1.7.1 or 8.1.7.2 is sold or leased to a new person that wants to open as an approved Station, the new owner or lessee may follow the Adjudicative Procedures in Section 15.0 to seek a waiver from Sections 8.1.7.1 or 8.1.7.2 above based on a Departmental approved consent agreement. If a waiver is recommended the new owner or lessee may negotiate a consent agreement with the Department for the remainder of the suspension referenced in 8.1.7.1 or the twelve month waiting period as required in Section 8.1.7.2.

8.1.8 No Permit shall be issued unless the Department finds that the facilities, tools, and equipment of the applicant comply with the requirements of this Regulation and that competent personnel, certified under the provisions of Section 12.0, are employed and available to make inspections and adjustments, and the operation thereof will be properly conducted in accordance with this Regulation.

8.1.8.1 A Station shall immediately notify the Department if the station does not have a Tester/Technician employed.

8.1.8.2 A Station shall comply with all terms stated in the permit application and all the requirements of this Regulation.

8.1.8.3 As a condition for permitting all Stations, the following tools and materials shall be available for performance of the inspection and maintenance of motor vehicles unless specifically exempted by the Department:

- (a) A Department approved Analyzer and connection to the Vehicle Information Database;
- (b) An ignition timing light (test and repair only);
- (c) Reference manuals approved by the Department that are readily accessible to the emissions Tester/Technician at any time that an emissions test is conducted. Reference manuals shall contain information covering the emissions control systems for the model years and makes of vehicles involved in the Vehicle Emissions Inspection and Maintenance Program;
- (d) Sufficient hand tools for proper performance of the inspection and minimum repairs and maintenance as required by the Department;
- (e) Department approved calibration gases;
- (f) The Analyzer manufacturer's maintenance and calibration manual;
- (g) All forms, technical bulletins, a copy of this Regulation, and other information materials provided by the Department;
- (h) A suitable non-reactive tailpipe extender or suitable probe adapter for inspecting vehicles with screened or baffled exhaust systems; and
- (i) Suitable tools to interface with onboard vehicle computers for computer controlled vehicles which are intended to receive official repairs.

8.2 Duties of Testers/Technicians Working in Permitted Stations:

8.2.1 All facets of the Vehicle Emissions Inspection and Maintenance Program shall be performed by the Tester/Technicians including, but not limited to:

8.2.1.1 Analyzer preparation, calibration checks, and leak checks;

8.2.1.2 Exhaust gas sampling and analysis for purposes of an official emissions test for issuance of a Certificate of Compliance;

8.2.1.3 Preparation of reports, forms, and certificates;

8.2.1.4 Accessing the official emissions testing section of the Analyzer; and

8.2.1.5 All other aspects of the official emissions test, including but not limited to, the tampering inspection, inserting the exhaust probe, hooking up the tachometer, hooking up the OBDII data link connector, entering data into the Analyzer, verifying that the engine is at normal operating temperature, ensuring that accessories are off, preconditioning the vehicle, and signing Inspection Reports, etc., unless otherwise approved in writing by the Director.

8.3 Safety. A Station facility shall be kept in good repair, free of obstructions and hazards and in a safe condition for inspection purpose. No inspection shall be conducted if unsafe conditions exist.

8.3.1 All applicable Occupation Safety and Health Administration (OSHA), and other applicable health and safety rules and regulations must be followed in the station.

8.4 Fleet Facility.

A person may establish a fleet facility that is exempt from conducting business at regular hours, or displaying program signs as long as only vehicles owned or controlled by the fleet facility owner are inspected at the station. All other requirements of this Regulation apply.

8.5 Permit Duration and Renewal.

8.5.1 The Permit for Stations shall be issued annually and shall expire on December 31st of each year. The Permit is renewable within sixty (60) days prior to the date of expiration.

8.5.2 It is the responsibility of the owner/operator of the Station to pursue the Permit renewal through appropriate channels,

8.5.3 The Station Permit fee shall be paid annually to the Department by the billing due date set by the Department.

8.5.4 Prior to the date on which the Station Permit fee is due the Department shall attempt to notify each regulated Station of the amount of

the fee. Fees unpaid after the billing due date will be assessed a late fee which shall be added to the original fee amount.

8.6 Station Permit Revocation and Suspension.

8.6.1 Station Permits may be suspended by the Department for violations of this Regulation.

8.6.2 Station Permits may be revoked by the Department for severe and/or repeated violations of this Regulation.

8.6.3 Suspension or Revocation of Station Permits shall follow the provisions of Appendix D of this Regulation.

8.6.4 Station Permits are and remain the property of the Department, only their use and the license they represent is tendered.

8.6.5 A Station Permit may be suspended or revoked by the Department because of returned checks and may not be reinstated until repayment is confirmed. All returned checks will be charged a returned check handling fee (referenced in Appendix B).

8.6.6 Failure to pay the Station Permit fee and any additional charges after the due date may result in suspension and/or revocation of the Permit and the right to operate as a Station.

8.7 Reinstatement of Revoked Station Permit. The Department may issue a Station Permit to a station operator that has had a Permit revoked after the following conditions have been met:

8.7.1 A minimum of five years has passed since the date of revocation for the previous Permit;

8.7.2 The station operator has not previously had 2 or more Permits revoked. Operators with 2 or more revoked permits are not eligible to make application for a Station Permit;

8.7.3 The station operator agrees to a 2 year probationary period.

8.7.3.1 During the probationary period, the operator agrees to surrender their permit should any violations occur that result in suspension or revocation. Failure to surrender the Permit will result in immediate revocation of the Permit by the Department;

8.7.3.2 During the probationary period, the operator agrees to an increased frequency of overt and covert audits as deemed necessary by the department;

8.7.4 The station operator will pay a non-refundable, Revoked Station Reinstatement Fee of \$2,500.00 to the department.

- 8.8 The Station shall hold the Department harmless in making application for a Permit or for its renewal, such action shall constitute a declaration by the applicant that the Department shall be held harmless from liability incurred due to action or inaction of the Station owner or their employees.

9.0 INSPECTION PROCEDURE

9.1 The official emission inspection shall be solely performed by a Tester/Technician who has been permitted at the station where the inspection is being performed and Department approved inspection procedures are being followed.

9.2 If the Tester/Technician is unable, unqualified, or unwilling to make the required repairs or adjustments, should the vehicle fail the inspection, he shall notify the owner/operator of the vehicle before the inspection is administered.

9.3 Prior to conducting any portion of the inspection, the Tester/Technician shall log into the official testing portion of the analyzer and the vehicle shall be located within full view of the analyzer camera unless a one-time-use camera bypass code has been issued by the department;

9.4 The temperature of the inspection area shall be between 41⁰ Fahrenheit and 110⁰ Fahrenheit (2⁰ Celsius and 43⁰ Celsius) during the inspection.

9.5 The Analyzer shall be kept in an area that provides adequate protection from the weather, wind, moisture, and extreme temperatures or any other damaging environmental exposure.

9.6 The electrical supply to the Analyzer shall be able to meet the Analyzer manufacturer's requirements for voltage and frequency stability.

9.7 The Tester/Technician shall not inspect or test any motor vehicle with a mechanical condition which may cause injury to personnel or damage to the Station or test equipment or which may affect the validity of the inspection, until such condition is corrected. Such conditions included but are not limited to: coolant, oil, or fuel leaks, low oil or low fluid levels, carburetor gas overflow, vehicle electronic instrument panel malfunction.

9.8 The Tester/Technician shall not inspect or test any motor vehicle with visible emissions and the vehicle shall be reported to the Department. Smoking Vehicles must be deemed by the Department to be in compliance with the Department Regulation for Visible Exhaust Emission Enforcement Program prior to testing.

9.9 Any time an engine stalls during an Emission Test, the Emission Test shall be restarted. If a Tester/Technician cannot complete an Emission Test because of continuous stalling, then the stalling problem shall be corrected before the test is performed.

9.10 The Tester/Technician shall verify the vehicle license plate and Vehicle Identification Number (VIN) on the vehicle and shall enter them in the Analyzer at the appropriate prompt.

9.10.1 The Tester/Technician shall enter completely and accurately all the information required as part of the data entry procedure for the official vehicle Emission Test on the approved Analyzer at the appropriate prompt sequence.

9.10.2 All data entries to the Analyzer during the inspection shall be true and factual.

9.11 The Tester/Technician shall:

9.11.1 Conduct the inspection in accordance with the prompts from the Analyzer and the requirements of this Regulation.

9.11.2 Examine the emissions/tune-up specification decal (sticker) and/or the Vehicle Emission Control Information (VECI) label under the hood and/or check an approved reference manual to determine if the vehicle was manufactured with the following Emission Control Systems:

- Catalytic Converter(s)
- Air Injection Reaction System (AIR System)
- Exhaust Gas Recirculation System (EGR System)
- Evaporative Control System (EVAP System)
- Positive Crankcase Ventilation System (PCV System)
- On-Board Diagnostics System (OBD System)
- Diesel Particulate System (DPF System)
- Urea System
- Gas cap

etc., as prompted by the Analyzer.

9.11.3 On 1996 and newer model year vehicles follow the OBD IM test procedures in accordance with Appendix E.

9.11.4 On 1990 through 1995 vehicles, visually inspect for the presence and apparent operability of the AIR system, catalytic converter, EGR system, Fuel Evaporative Control system, PCV system, and gas cap in accordance with Department procedures and record the information in the Analyzer. If these parts or systems have been removed, or are inoperable, the vehicle fails and the owner shall repair or replace the parts or systems before the emissions test may be continued.

9.11.5 On 1968 through 1989 vehicles, visually inspect for the presence and apparent operability of the AIR system, PCV system, EGR system, Fuel Evaporate Control System, catalytic converter and gas cap etc. in accordance with Department procedures and record the information on the emissions Analyzer.

9.11.6 2001 and older gasoline vehicles require a functional gas cap test following department approved procedures.

9.11.7 All diesel fueled vehicles 14,000 GVW and under and model year 1998 and newer shall be tested as specified in Appendix F, Diesel Test Procedures.

9.12 Prior to performing the exhaust gas sampling portion of an emissions test each vehicle shall be at normal operating temperature.

9.13 The inspection shall be performed with the transmission in 'park' or 'neutral' and with all accessories off, the emergency brake applied and the vehicle in Idle Mode (the vehicle may not be placed in gear to drop idle speed, headlights may be turned on).

9.14 The Analyzer probe shall be inserted into the exhaust pipe at least twelve inches (12") or as recommended by the Analyzer manufacturer, whichever is greater.

9.15 If a baffle or screen prevents probe insertion of at least twelve inches, a suitable probe adapter or snug fitting, non-reactive hose which effectively lengthens the exhaust pipe shall be used.

9.16 For all vehicles equipped with a dual exhaust system that does not originate from a common point, both sides shall be tested simultaneously with an approved adaptor.

9.17 When inspecting a vehicle under windy conditions, the tailpipe shall be shielded from the wind with a suitable cover.

9.18 For Vehicles requiring a Two Speed Idle Test:

9.18.1 With the tachometer properly attached to the vehicle being tested;

9.18.2 The vehicle shall be tested according to the testing sequence as programmed into the Analyzer. Vehicles failing because of excessive exhaust dilution shall repair the dilution problem prior to continuing the emissions test. The dilution standard shall be contained in the Analyzer specifications.

9.19 A Certificate of Compliance shall be issued if:

9.19.1 For 1968 through 1989 model year vehicles, the vehicle emissions levels measured during the TSI test are the same as or less than the applicable emissions standards;

9.19.2 For 1990 through 1995 model year vehicles, the vehicle passes the visual inspection described in Section 9.11 and the vehicle emissions

levels measured during the TSI test are the same as or less than the applicable emissions standards;

9.19.3 For 1996 and newer model year OBDII vehicles, the vehicle passes the visual inspection described in Section 9.11 and the On-Board Diagnostics (OBD) test requirements as specified in Appendix E of this Regulation.

9. 20 If the vehicle does not pass the initial Inspection, the owner shall have thirty (30) days to have repairs or adjustments made and return the vehicle to the Station that performed the initial Inspection for one (1) free reinspection for a TSI test, or two (2) free reinspections for a OBD test. The vehicle that did not pass the initial inspection shall then be issued a Certificate of Compliance only when all of the following are met:

9.20.1 The vehicle is reinspected;

9.20.2 The vehicle's emission levels are the same or less than the applicable Emission Standards and;

9.20.3 For 1990 through 1995 model year vehicles, the vehicle passes the visual Inspection as provided for in Section 9.10.

9.20.4 For 1996 and newer model year vehicles, the vehicle passes the On-Board Diagnostics (OBD) test requirements as specified in Appendix E of this Regulation.

9.21 The Inspection Report shall be signed and provided to the customer.

9.22 Vehicles capable of being operated on both gaseous and liquid petroleum fuels shall be tested for both fuels in accordance with the Analyzer specifications as referenced in Appendix A of this Regulation.

9.23 When a vehicle owner requests an Inspection, the Tester/Technician shall perform the inspection in the testing mode of the approved Analyzer. Performing a screening test (or pre-test) in the manual mode of the approved Analyzer or on a non-approved analyzer shall be a violation of this Regulation if the vehicle owner requested an emissions inspection. Adjustments or repairs shall not be made prior to a requested inspection.

9.24 If a vehicle fails the inspection and is within the time and mileage requirements of the federal emissions warranty contained in the Federal Clean Air Act, the Tester/Technician shall inform the owner/operator that he may qualify for warranty coverage of emission related repairs as provided by the vehicle manufacturer and mandated by the Federal Environmental Protection Agency.

10.0 CERTIFICATE OF WAIVER

10.1 Prior to referring the vehicle owner/operator to the Department for a Certificate of Waiver, the tester/technician or Station shall verify the repair and eligibility requirements of this Section have been met.

10.2 A Certificate of Waiver shall be issued only under the following conditions;

10.2.1 For all vehicles, an initial inspection was performed that did not pass,

10.2.2 For all vehicles, a second inspection was performed that did not pass after completion of any qualifying repair work. For 1995 or older vehicles, the second test result must demonstrate that the repaired vehicle meets the waiver cut-points specified in Appendix C.

10.2.3 For all vehicles, air pollution control devices applicable and specified for the make, model and year of the vehicle as specified in Section 9.11 of this Regulation are in place and operable on the vehicle. If the devices have been removed or rendered inoperable, they shall be replaced or repaired before a Waiver is granted.

10.2.4 For 1968 to 1980 model year motor vehicles, if the vehicle continues to exceed applicable emissions standards after two hundred fifty dollars (\$250) of acceptable emissions related repairs have been performed and the adjustments required by Appendix G have been performed by a Certified and Permitted Emissions Repair Technician as part of the two hundred fifty dollars (\$250) in emissions related repairs. Proof of repair costs, for that specific vehicle, shall be provided to the Department in the form of an itemized bill, invoice, work order, manifest or statement in which emissions related parts and labor are specifically identified. If repairs are made by the vehicle owner or by someone who does not possess a valid Emission Repair Technician Permit, or is not an ASE Master Technician Certificate holder, or a manufacturer specific master technician certificate holder, employed by an I/M Program Inspection and Repair Station, the cost of labor may not be included in the two hundred fifty dollars (\$250).

10.2.5 For 1981 to 1995 model year motor vehicles, at least three hundred fifty dollars (\$350) of acceptable emissions related repairs have been performed and the adjustments (where applicable) required by Appendix G have been performed by a Certified and Permitted Emissions Repair Technician as part of the three hundred dollars (\$350) in emissions related repairs. Proof of repair costs, for that specific vehicle, shall be provided to the Department in the form of an itemized bill, invoice, work order, manifest or statement in which emission related parts and labor are specifically identified. If repairs are made by the vehicle owner or by someone who does not possess a valid Emissions Repair Technician Permit or is not an ASE Master Technician Certificate holder, or a

manufacturer specific master technician certificate holder, employed by an I/M Program Inspection and Repair Station, the cost of labor may not be included in the three hundred fifty dollars (\$350).

10.2.6 For 1996 and newer model year vehicles, at least four hundred fifty dollars (\$450) of acceptable emissions related repairs have been performed by a Certified and Permitted Emissions Repair Technician as part of the four hundred fifty dollars (\$450) in emissions related repairs. Proof of repair costs, for that specific vehicle, shall be provided to the Department in the form of an itemized bill, invoice, work order, manifest or statement in which emissions related parts and labor are specifically identified. If repairs are made by the vehicle owner or by someone who does not possess a valid Emissions Repair Technician Permit, or is not an ASE Master Technician Certificate, or a manufacturer specific master technician certificate holder, employed by an I/M Program Inspection and Repair Station, the cost of labor may not be included in the four hundred fifty dollars (\$450). Any repair costs eligible under the federal emissions warranties shall not be eligible to be applied to the repair cost waiver limits.

10.2.7 Any vehicle that experiences an increase in any emissions levels shall not be eligible for a certificate of waiver regardless of the amount spent in attempting to repair the vehicle.

10.2.8 As used in this section acceptable emissions related repairs:

10.2.8.1 Refers to those expenditures and costs associated with the adjustment, maintenance, and repair of the motor vehicle which are directly related to reduction of exhaust emissions necessary to comply with the applicable emissions standards, cut-points, and procedures.

10.2.8.2 Refers to repairs and maintenance of the following systems, if done according to manufacturer's specifications, to the extent that the purpose is to reduce emissions:

- (a) Air Intake Systems;
- (b) Ignition Systems;
- (c) Fuel Control Systems;
- (d) Emission Control Systems
- (e) Basic Engine Systems; and
- (f) Repair of problems identified by On-Board Diagnostic (OBD) fault codes.

10.2.9 Does not include adjustments, maintenance, or repairs performed 60 days prior to the official emissions inspection.

10.2.10 Does not include the fee paid for the inspection.

10.2.11 Does not include costs associated with the repairs or replacement required by Section 9.11 or the replacement, and/or repair of air pollution control equipment on the vehicle if the need for such adjustment, maintenance, replacement, or repair is due to disconnection of, tampering with, or abuse of the emissions control systems, or costs incurred due to engine switching and/or modifications.

10.2.12 Does not include repairs performed to the vehicle's exhaust system to correct problems with excessive exhaust dilution.

10.2.13 Does not include any diagnostics performed or any chemical additives.

10.2.14 A Certificate of Waiver shall only be issued once to any vehicle that qualifies, throughout the lifetime of the vehicle.

10.3 Information regarding all performed repairs shall be entered into the appropriate data base of the Analyzer when prompted.

10.4 A Certificate of Waiver shall only be issued by the Department. A Waiver shall only be issued after determining that the vehicle complies with the requirements of this section.

10.5 A Waiver shall not be issued to a vehicle with an inoperable check engine light.

11.0 ENGINE SWITCHING

11.1 All vehicles which qualify for testing under this section shall be tested by the Department.

11.2 Vehicles qualifying for testing under this Section shall not be eligible for a Certificate of Waiver.

11.3 Engine switching shall be allowed only in accordance with EPA policy, referenced in Appendix H.

11.4 Vehicles not meeting the requirements of Section 11.0 shall be deemed as tampered and dealt with in accordance with the tampering provisions of this Regulation.

11.5 All vehicles with switched engines shall be verified to meet EPA requirements by the Department prior to issuance of a Certificate of Compliance.

11.6 For 1968 to 1989 vehicles, having an engine other than the original engine and emissions control configuration are deemed as tampered. These vehicles must meet the HC and CO standards for the Model Year of the vehicle in order to receive a Certificate of Compliance, and are not eligible for a Certificate of Waiver, unless they are restored to the original engine and emissions control configuration or a configuration approved by the Department.

12.0 CERTIFIED EMISSIONS INSPECTION AND REPAIR TECHNICIAN / CERTIFIED EMISSIONS INSPECTION ONLY TECHNICIAN PERMIT

12.1 Certified Emissions Inspection and Repair Technician or Certified Emissions Inspection Only Permit is required.

12.1.1 Inspection for the issuance of a Certificate of Compliance shall only be performed by a person possessing a valid Certified Emissions Inspection and Repair Technician or a Certified Emissions Inspection Only Technician Permit issued by the Department.

12.1.2 Application for permit shall be made upon an application form prescribed by the Department. No Permit shall be issued unless:

12.1.2.1 For a Certified Emissions Inspection and Repair Technician Permit, the applicant shall show evidence of an associate degree or equivalent in automotive technology, or an ASE Master Technician Certificate or other Department approved prerequisites.

12.1.2.2 The applicant has shown adequate competence by successfully completing the written and practical portions of the Tester/Technician Permit requirements as specified in this Regulation.

12.1.2.3 The applicant has paid the required permit fees as set by the Board of Health (reference in Appendix B).

12.1.3 An applicant shall comply with all of the terms stated in the permit application and with all the requirements of this Regulation.

12.1.4 An applicant shall complete a Department approved training course and shall demonstrate knowledge and skill in the performance of Inspections and use of the approved Analyzer. Such knowledge and skill shall be shown by passing:

12.1.4.1 A written qualification test including but not limited to the following:

(a) Operation and purposes of emission control systems;

- (b) Inspection procedures as outlined in this Regulation and prompted by the Analyzer;
- (c) Operation of the Analyzer including the performance of gas calibration and leak check;
- (d) The provisions of Section 207(b) Warranty provisions of the Federal Clean Air Act; and
- (e) The provisions of this Regulation and other applicable Department policies and procedures.

12.1.4.2 A performance qualification test including but not limited to the following:

- (a) Visual inspection and knowledge of the required emission control equipment;
- (b) Demonstration of skill in proper use, care, maintenance, calibration and leak testing of the Analyzer;

12.1.5 A signed Hands-on Performance check sheet shall be necessary for successful completion of the performance qualification test. The hands-on Performance check sheet shall be signed by an instructor or other person approved by the Department.

12.1.6 The Department shall issue a Tester/Technician Permit to an applicant upon successful completion of the requirements of this Section.

12.1.7 The Tester/Technician Permit shall be valid only at the Station where the Tester/Technician is presently employed. If the Tester/Technician transfers from one Station to another, they shall notify the Department of the location change. The Permit shall be transferred by the Department prior to the Tester/Technician performing any inspections. The Permit will expire on the same date as the original. A transfer fee or duplicate fee will be charged, as set by the Board of Health and referenced in Appendix B of this Regulation.

12.1.8 Tester/Technician Permits are and remain the property of the Department, only their use and the license they represent is tendered.

12.2 Tester/Technician Permit Suspension and Revocation.

12.2.1 Tester/Technician Permit may be suspended by the Department for violations of this Regulation.

12.2.2 Tester/Technician Permit may be revoked by the Department for severe and/or repeated violations of this Regulation.

12.2.3 Suspension or revocation of Tester/Technician Permit shall follow the provisions of Appendix D of this Regulation.

12.2.4 Tester/Technician Permit may be suspended or revoked by the Department because of returned checks and may not be reinstated until repayment is confirmed. All returned checks will be charged a returned check handling fee (referenced in Appendix B).

12.3 Re-Qualification Requirements for all Tester/Technician Permits.

12.3.1 Tester/Technician Permits shall not be transferred from one person to another person. Tester/Technician Permits may not be transferred from one Station to another or from one status to another, i.e., from test and repair to test only, without a written request and Department approval.

12.3.2 The Department may renew a permit for an existing Tester/Technician after the permit renewal requirements have been completed, the fees are paid and the Tester/Technician has complied with this Regulation.

12.3.3 Upon determination by the Department of the necessity of updating the qualification for Tester/Technician, they shall be required to re-qualify.

12.3.4 The Tester/Technician shall be required to re-qualify within a specified time period determined by the Department (from the date of written notification by the Department). The notice shall be mailed to the address of record in the office of the Department. Failure to re-qualify within the required period of time shall result in suspension or revocation of the Tester/Technician Permit as described in this Regulation.

12.4 Tester/Technician Permit Expiration.

12.4.1 The Tester/Technician Permit shall be issued annually and shall expire one year from the date of issuance. The Permit shall be renewable within sixty (60) days prior to the date of expiration.

12.4.2 It is the responsibility of the Tester/Technician to pursue the renewal of the Tester/Technician Permit.

12.4.3 Permits that have expired for more than 90 days are not renewable.

12.5 Reinstatement of Revoked Tester/Technician Permit. The Department may issue a Tester/Technician Permit to a Tester/Technician that has had a permit revoked after the following conditions have been met:

12.5.1 A minimum of five years has passed since the date of revocation for the previous Tester/Technician Permit;

12.5.2 The Tester/Technician has not previously had 2 or more Permits revoked. Tester/Technicians with 2 or more revoked Permits are not eligible to make application for a Tester/Technician Permit;

12.5.3 A complete review of the Tester/Technician testing history will be conducted. A finding of 25 or more test records that indicate a failure to inspect or substitution of a vehicle other than the vehicle on the test record will result in the denial of the application.

12.5.4 The Tester/Technician agrees to a 2 year probationary period.

12.5.4.1 During the probationary period, the Tester/Technician agrees

to surrender their Permit should any violations occur that result in suspension or revocation. Failure to surrender the permit will result in immediate revocation of the permit by the Department;

12.5.4.2 During the probationary period, the Tester/Technician agrees to participate in a testing record and overt testing procedure review once a quarter for the first year, and on six month intervals the second year;

12.5.4.3 During the probationary period, the Tester/Technician agrees to participate in additional trainings or audit procedures deemed necessary by the Department;

12.5.5 The Tester/Technician will pay a Revoked Tester/Technician Permit reinstatement fee of \$400.00 to the Department.

12.5.5.1 The fee will include tuition costs and associated materials for required trainings.

13.0 EMISSIONS STANDARDS FOR MOTOR VEHICLES

13.1 In order to obtain a valid Certificate of Compliance, a motor vehicle subject to an Emissions Inspection shall not exceed the maximum concentrations for carbon monoxide (CO), and Hydrocarbons (HC) specified in Appendix C of this Regulation, or pass an approved OBD test as specified in Appendix E of this Regulation.

13.2 The Board of Health may establish more stringent Emissions Standards than specified in Appendix C. Any change in Emissions Standards shall be effective upon the first day of any calendar month designated by the Board of Health. The Board of Health shall consider the following factors before establishing more stringent Emissions Standards:

13.2.1 The existing ambient air quality;

13.2.2 The required stringency necessary to meet air quality standards;

13.2.3 The requirements for air quality programs currently in effect as promulgated by the EPA, the Utah Department of Environmental Quality, the County and the Board of Health; The Cut-Points established shall be part of an overall program, in accordance with EPA guidelines, to achieve the required tailpipe reductions, of CO and HC from motor vehicles measured from the date this program is implemented;

13.2.4 The general level of emission control technology on vehicles registered in the County;

13.2.5 Population growth and other factors which may reasonably be expected to impact CO and HC concentrations in the atmosphere;

13.2.6 The likelihood of a particular Cut-Point to achieve desired air quality goals; and

13.2.7 The ability to ensure compliance with the requirements of Section 41-6a-1642 and Section 41-6a-1643, Utah Code Annotated, 1953, as amended.

13.3 The Board of Health shall notify the Utah Department of Environmental Quality of any change to the Emissions Standards within 30 days of adopting changes.

13.4 Notwithstanding the foregoing, the Board of Health understands and acknowledges that following EPA approval of this regulation as part of the Utah State Implementation Plan, no changes to the Cut-points specified in Appendix C, shall be effective to alter the Cut-points for federal purposes absent EPA approval of the change as a revision to the Utah State Implementation Plan.

14.0 CERTIFICATE OF COMPLIANCE, CERTIFICATE OF COMPLIANCE NUMBERS AND CERTIFICATE OF WAIVER

14.1 No person shall make, issue or knowingly use any imitation or counterfeit of a Certificate of Compliance, Certificate of Compliance Numbers or Certificate of Waiver.

14.1.1 No person shall use a stolen Certificate of Compliance.

14.2 Certificate of Compliance Numbers shall be obtained only from the Department.

14.3 No refund or credit shall be allowed for unused certificates/numbers, except as provided in Section 14.7.

14.4 Certificate of Compliance Numbers shall be issued in lots to be determined by the Department.

14.4.1 Certificates of Compliance Numbers shall not be sold, loaned, transferred, or given to any other Station, or any unauthorized individual.

14.5 Certificates of Compliance shall not be issued until an inspection has been performed as required by this Regulation.

14.6 Completion of Certificates of Compliance by other means than the Analyzer by any person or station other than the Department is strictly prohibited.

14.7 Upon final cancellation, or revocation of the Permit, the Station owner, manager or other responsible person shall immediately surrender all unused Certificates of Compliance Numbers to the Department. The Department may receipt and refund the fee paid for unused certificates of Compliance Numbers to the Station owner according to the Weber County Clerk/Auditor's procedures. Upon transfer or termination of business ownership, the Station Permit and all Certificate of Compliance Numbers shall be immediately surrendered to the Department. Any person acquiring a business that has been permitted as an official Station, is prohibited from using any Permit, Certificate of Compliance Numbers or emissions documents issued to the former business; and

14.7.1 Any Analyzer manufacturer or their authorized representative who repossesses or otherwise removes an Analyzer from a Station shall immediately notify the Department and shall immediately surrender any Certificate of Compliance Numbers to the Department.

15.0 ADJUDICATIVE PROCEEDINGS

In accordance with the Weber-Morgan Health Department Adjudicative Proceedings, a Departmental Conference may be requested in writing within ten (10) days of any action in which a party is aggrieved.

16.0 PENALTY

16.1 Any person who is found guilty of violating any of the provisions of this Regulation, either by failing to do those acts required herein or by doing a prohibited act, shall be guilty of a class B misdemeanor pursuant to Section 26a-1-123, Utah Code Annotated, 1953, as amended. If a person is found guilty of a subsequent similar violation within two years, he shall be guilty of a class A misdemeanor pursuant to Section 26a-1-123, Utah Code annotated, 1953, as amended.

16.2 Each day that a violation is committed or permitted to continue shall constitute a separate violation. Also, each improperly issued Certificate of Compliance constitutes a separate violation.

16.3 The County Attorney may initiate legal action, civil or criminal, requested by the Department to abate any condition that exists in violation of this Regulation.

16.4 In addition to other penalties imposed by a court of competent jurisdiction, any person(s) found guilty of violating any of this Regulation shall be liable for all expenses incurred by the Department in prosecuting and/or abating the violation.

16.5 The Penalty Schedule for Permits warning, Permits suspension, Permits revocation, and/or negotiated consent agreements as adopted by the Board of Health shall be referenced in Appendix D of this Regulation and may be changed and updated by the Board of Health as deemed necessary to accomplish the purposes of this Regulation.

16.6 Enforcement of any criminal penalties does not preclude imposition of administrative or civil penalties and vice-versa.

17.0 SEVERABILITY

If any provision, clause, sentence, or paragraph of this Regulation or the application thereof to any person or circumstances shall be held to be invalid, such invalidity shall not affect the other provisions or applications of this Regulation. The valid part of any clause, sentence, or paragraph of this Regulation shall be given independence from the invalid provisions or application and to this end the provisions of this Regulation are hereby declared to be severable.

18.0 EFFECTIVE DATE

This Regulation including Appendix A through F shall become effective the day of its adoption by the Board of Health. Appendices may be modified by the Board of Health without affecting the rest of this Regulation. Appendices when amended by the Board shall become effective on the day of adoption of amendments by the Board of Health.

Adopted by the Weber-Morgan Board of Health on September 24, 2018

ANALYZER SPECIFICATIONS

1 EQUIPMENT SPECIFICATIONS

1.1 Computer.

Each workstation will be equipped with the same computer. The computer will be selected to minimize the obsolescence nature of personal computers. It will contain the following components as a minimum. Newer or faster components may be substituted if they become available and the older components can no longer be obtained.

- Windows 7 Professional.
- Intel Core 2 Duo E7500 processor.
- 2 GB RAM
- Onboard graphics controller capable of supporting 1024x768 resolution.
- Onboard LAN Ethernet controller.
- I/O ports: 6 USB 2.0/1.1 ports, 1 RJ45 LAN port, 3 DB-9 serial ports, 1 DB-15 VGA port, 1 DB-25 parallel port, audio jacks: line-out, line in, and mic in.

1.2 Printer

Each workstation will contain a monochrome laser printer (or equivalent) including a paper tray with a 250 sheet capacity loaded with normal letter sized paper capable of printing 27 pages per minute and first pages within 5 seconds.

1.3 OBD Interface

The OBD interface shall be a full OBD, SAE J1978, SAE J1979, SAE HS-3000 Scan Tool Compliant device that reads emission related codes on model year 1996 and newer vehicles. It supports all protocols including CAN, VPW, PWN, ISO, and KEYWORD (KWP). The hardware interface itself will be mounted inside the enclosure. It will be connected to a 5 meter heavy duty cable which will run from the cabinet to the connector used to plug into the vehicle's DLC. The OBD system will meet the following requirements:

- The interface cable has a plug that conforms to the J1962 Diagnostic Connector specification.
- Capable of communicating with the standard data link connector (DLC) of vehicles with certified OBD systems.
- Capable of checking for the monitors supported by the on-board diagnostic system and the evaluation status of supported monitors (test complete/test not complete) in Mode \$01 PID \$01, as well as be able to request the diagnostic trouble codes, as specified in SAE J1979.

In addition, the OBD system will have the ability to capture other information such as PID counts, PCM IDs, and OBD VINs if they are available which can be used to perform OBD “fingerprinting”.

The enclosure containing the hardware interface will supply the interface with an alternate power supply and ground. This will be used to successfully test vehicles which have either power or grounding issues.

1.4 Gas Cap Tester

The gas cap tester used for pressure testing the vehicle gas caps will be mounted inside of the cabinet. The tester uses a 20 foot coiled hose connected to the outside of the cabinet. The gas cap tester will meet the following specifications:

- Measurement:
 - Flow Rate Method: Comparative reference
 - Test Pressure Regulation: 30" H₂O gauge +/- 1"
 - Flow Rate Pass/Fail Point 60 cc/minute +/- 3 cc/minute
- Operating Conditions:
 - Temperature Range: 15-110° F
 - Altitude Range: - 60–7000'
 - Humidity Range: 0-100% (non-condensing)
- PASS/FAIL Adapter:
 - Pass Setting Flow Range: 52–56 cc/min.
 - Fail Setting Flow Range: 64–68 cc/min.

1.5 Gas and OBDII Units

1.5.1 Gas Analyzer

The system used for the TSI exhaust test will contain heavy duty sample and water filtration system designed to handle high throughput and a durable pump for rapid flow rate and sample delivery. The analyzer will meet the following specifications:

- Measurement Method is NDIR (non-dispersive infrared) for HC, CO, CO₂, electrochemical cell for O₂
- Measured Gases
 - HC, as either n-hexane or propane
 - CO, carbon monoxide
 - CO₂, carbon dioxide

- O₂, oxygen
- Measurement Range
 - HC: 0 to 30,000 ppm, (n-hexane)
 - CO: 0 to 15%
 - CO₂: 0 to 20%
 - O₂: 0 to 25%
- Operating Environment
 - 0° to 50°C (32° to 122°F)
 - 5 to 95% humidity
 - -300 to 3,000 m (-1,000 to 9,750 ft)
- Measurement Resolution
 - HC: 1 ppm
 - CO: 0.001%
 - CO₂: 0.01%
 - O₂: 0.01%
- Measurement Accuracy shall meet or exceed BAR97 accuracy standards.

The analyzer system will be contained in the standard cabinet. The cabinet will contain the following items on it for the analyzer:

- A fused AC power inlet.
- A connector for the sample probe.
- Three external ports for calibration.

1.5.2 Tachometer

The tachometer used for RPM pickup will make use of existing RPM measurement technologies. It will have a resolution of +/-1 RPM and will be connected to the vehicle using the following methods:

- Number one cylinder using inductive probe.
- Primary circuit using inductive probe.
- Battery tachometer using battery clamps or cigarette lighter.

The tachometer leads will hang on a hook on the outside of the cabinet and the tachometer boards themselves will be mounted inside the cabinet.

1.6 Optional Components

1.6.1 Barcode Scanner

The workstation will contain a barcode scanner capable of reading both 1D and 2D barcodes. The barcode scanner will meet the following specifications:

- IP54-rated sealing protects against elements, industrial design withstands multiple 6.5 foot (2 meter) drops to concrete, reducing downtime and costs for maintenance and repairs.
- Ability to read both 1D and 2D barcodes.
- Omni-directional scanning.
- UPC, EAN, Code 39, Code 128, Codabar, Interleaved 2 of 5, Code 93
- PDF417, microPDF417, MaxiCode, DataMatrix (ECC 2000), Composite Codes, QR Code

The barcode scanner will be connected to the cabinet via a USB cable and will be powered by the same cable.

1.6.2 Camera

The workstation will contain one or more USB cameras to be used for taking video recordings during an inspection.

2 FUNCTIONAL SPECIFICATION

2.1 Analyzer System.

This section describes the equipment functional specifications for the Utah Analyzer System. These specifications include the maintenance functions to be performed by the analyzers and the operating conditions.

2.1.1 Operating Conditions

The gas analyzer shall operate in a temperature range from 40 °F to 110 °F. Within this range, the analyzer must operate within the performance specification described above. A proper environment will be created in order to keep the analyzer operation within these ranges except under the most extreme circumstances. Proper air flow to the gas analyzer will be provided to prevent overheating and condensation of water vapor which could reduce the reliability and durability of the analyzer.

The input power required for proper operation of the analyzer will be 115 VAC at 60 Hz. External fuses or circuit breakers will be used to protect the analyzer from power fluctuations. The operation of the analyzer should not be affected by

electrical noise or voltage surges which would be found in a typical garage environment.

2.1.2 Warm-up

The gas analyzer shall be stable and ready for operation within 35 seconds of being turned on when at normal operating temperatures. If a test is started while the analyzer is in warm-up, a message will be displayed stating the analyzer is not ready and the test will not be able to proceed.

2.1.3 Sampling System

The sampling system will consist of a tailpipe probe attached to a flexible sample line at least 25 feet long, a water removal system, a particulate trap, sample pump, and other flow control components. A second probe and sampling line will be available to test vehicles with dual exhaust systems. The sampling system will be durable to withstand a heavy use system, be free from leaks, and be able to be easily maintained. The system must be able to resist corrosive elements it comes in contact with and be able to withstand typical vehicle exhaust temperatures.

2.1.4 Analyzer Response Time

The response time from the probe to the display shall not exceed eight seconds to ninety percent (90%) of a step change in input nor shall it exceed twelve seconds of a ninety-five percent (95%) step change in input. The response time for the O₂ sensor may be as long as fifteen seconds to ninety percent (90%) of full scale.

2.1.5 Gas Calibration

The gas analyzer will automatically require a gas calibration for HC, CO, CO₂, and O₂ every 72 hours (this time will be configurable). If the gas analyzer does not pass the calibration, the system will automatically lock out any more TSI emissions tests from being run.

The gas calibration will ensure that accuracy specifications are satisfied and that linearity is correct at both of the required span points. The gases used for the calibration must use BAR97 approved gases and they will be introduced into the analyzer through calibration ports on the gas analyzer enclosure. These gases will be within 2% of the required span points.

The calibration procedure will be designed to minimize the amount of calibration gas used. The procedure will not use more than two liters per span point. In addition, the procedure will be designed to take less than five minutes.

The span points used for the gas analyzer calibration will be as close as possible to the following gases.

Low Point	High Point
Propane – 200 ppm	Propane – 3200 ppm
CO – 0.5%	CO – 8.0%

CO2 – 6.0%	CO2 – 12.0%
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2.1.6 Single-Point Calibration Check / Audit

A single-point calibration check will be required as recommended by the manufacturer. This calibration check will use any pre-approved gas values in order to verify the calibration curve. The analyzer enclosure will be designed to allow hooking up the additional calibration gases/bottles but they will not be a permanent part of the analyzer and may be brought in as needed.

2.1.7 Leak Check

The gas analyzer will automatically require a leak check for the sampling system at a frequency determined by the department. If the gas analyzer does not pass the leak check, the system will automatically lock out any more TSI emissions tests from being run. A probe tip cap will be provided in order to perform the vacuum decay method of leak check.

2.1.8 Hang-up Check

Before every idle test performed by the system, a HC hang-up check will be performed. This check will be done immediately prior to the actual emission testing portion of the test. During the check, the HC value will be monitored and will automatically complete when the HC value is 20 PPM or less. If the HC value does not drop below this limit within 2 minutes, the inspector will be asked to verify the probe is not in the tailpipe. If the HC value continues to remain high, the test will abort. This check should be performed in the background while the vehicle information is being verified in order to minimize the length of the test.

2.1.9 Dilution Check

While the test is being performed, the readings will be monitored to verify that excessive dilution is not being introduced to the system. This is done by adding the CO and CO2 readings and verifying that they are greater than or equal to 6%. If the sum falls below 6%, too much oxygen is entering the system and the test will need to be restarted after verifying that the probe has not fallen out of the vehicle's tailpipe.

2.1.10 Gas Cap Tester Check

The analyzer will automatically require a check for the gas cap tester every 72 hours or at a frequency determined by the department. If the analyzer does not pass the gas cap tester check, the system will automatically lock out any more TSI and OBD emissions tests from being run if the gas cap test would be applicable for the vehicle being tested. A pass/fail standard device will be provided in order to perform the check.

2.1.11 Information Display

The software will contain a location(s) where the following information is displayed to the inspector:

- Date of last calibration

- Date of last leak check
- Date of next required calibration check
- Gas analyzer related lockout

2.2 OBDII System

2.2.1 Operating Conditions

The OBD interface and associated components shall operate in a temperature range from 40 °F to 110 °F. Within this range, the OBD interface must operate within the performance specification described above. A proper environment will be created in order to keep the OBDII system operation within these ranges except under the most extreme circumstances. The input power required for proper operation of the OBDII enclosure will be 12 VDC. External fuses or circuit breakers will be used to protect the analyzer from power fluctuations. The operation of the OBDII system should not be affected by electrical noise or voltage surges which would be found in a typical garage environment.

2.2.2 DLC Connector

The OBDII connector will be compliant with the SAE J1978 specification and will allow the inspector the ability to connect to a vehicle easily. The attached cable will allow the system to connect to a vehicle located 15 feet away from the OBDII system.

2.2.3 General

The OBDII system will be compatible with most types of automotive service operating environments. The analyzer shall operate under the conditions and performance requirements listed here and in 40 CFR 51. The equipment design and operation must meet all Federal requirements (contained in 40 CFR 85.2207-2231) and recommended SAE practices (i.e., J1962, J1978 and J1979) for OBDII system inspections.

APPENDIX B

FEE SCHEDULE

The fees for implementing the requirements of the Vehicle Emission Inspection and Maintenance Program are contained in the current Weber-Morgan Health Department Fee Schedule available at 477 23rd Street, Ogden, Utah or online at the Department Web Page: www.webermorganhealth.org

47
APPENDIX C

MOTOR VEHICLE EMISSIONS Inspection and Maintenance PROGRAM

The following schedule gives the maximum allowable concentration for carbon monoxide (CO) and hydrocarbons (HC) for both cars and trucks as determined by an approved Analyzer using the prescribed procedures. The effective date for these cut-points is 1 November 1991.

ALL PASSENGER VEHICLES 1978 AND OLDER LIGHT DUTY TRUCKS 6,000 POUNDS GVWR OR LESS 1979 TRUCKS AND NEWER 8,500 POUNDS GVWR OR LESS MAXIMUM CONCENTRATION STANDARDS		
<u>MODEL YEAR</u>	<u>PERCENT CARBON MONOXIDE</u>	<u>PARTS/MILLION HYDROCARBONS</u>
1968 - 1969	6.0	800
1970 - 1974	5.0	700
1975 - 1976	4.0	600
1977 - 1979	3.0	500
1980	2.0	300
1981-1995	1.2	220

HEAVY DUTY TRUCKS AND VANS 1978 AND OLDER 6,001 OR GREATER 1979-2007 OVER 8,500 POUNDS GVWR 2008 AND NEWER OVER 14000 POUNDS GVWR MAXIMUM CONCENTRATION STANDARDS		
<u>MODEL YEAR</u>	<u>PERCENT CARBON MONOXIDE</u>	<u>PARTS/MILLION HYDROCARBONS</u>
1968 - 1969	7.0	1500
1970 - 1978	5.0	1200
1979 - 1980	4.0	1000
1981 AND NEWER	3.5	800

Note: These should be considered as "cut-points" for maximum allowable emissions levels. Vehicles must never be reset to these emission levels when readjustments are made, but rather shall be adjusted using manufacturer's specifications. By using manufacturer's specifications, the emission levels should be well below the "cut-points".

The following schedule gives the maximum allowable concentration for carbon monoxide (CO) and hydrocarbons (HC) for both cars and trucks as determined by an approved Analyzer using the prescribed procedures in order to qualify for a waiver. The effective date for these cut-points is September 24, 2018.

ALL PASSENGER VEHICLES 1978 AND OLDER LIGHT DUTY TRUCKS 6,000 POUNDS GVWR OR LESS 1979 TRUCKS AND NEWER 8,500 POUNDS GVWR OR LESS MAXIMUM CONCENTRATION STANDARDS FOR WAIVERS		
<u>MODEL YEAR</u>	<u>PERCENT CARBON MONOXIDE</u>	<u>PARTS/MILLION HYDROCARBONS</u>
1968 - 1969	7.0	1000
1970 - 1974	6.0	800
1975 - 1976	5.0	700
1977 - 1979	4.0	600
1980	3.0	400
1981-1995	2.0	300
HEAVY DUTY TRUCKS AND VANS 1978 AND OLDER 6,001 OR GREATER 1979 AND NEWER OVER 8,500 POUNDS GVWR MAXIMUM CONCENTRATION STANDARDS FOR WAIVERS		
<u>MODEL YEAR</u>	<u>PERCENT CARBON MONOXIDE</u>	<u>PARTS/MILLION HYDROCARBONS</u>
1968 - 1969	8.0	1700
1970 - 1978	7.0	1500
1979 - 1980	5.0	1200
1981 - 1995	4.0	1000

Note: These should be considered as “cut-points” for maximum allowable emissions levels. Vehicles must never be reset to these emission levels when readjustments are made, but rather shall be adjusted using manufacturer’s specifications. By using manufacturer’s specifications, the emission levels should be well below the “cut-points”.

49
APPENDIX D

PENALTY SCHEDULE

VIOLATION *	1 ST OCCURRENCE *	2 ND OCCURRENCE *	3 RD OCCURRENCE *	4 TH OCCURRENCE *
Failure to inspect or substituting a vehicle or vehicle simulator other than the vehicle entered in test record.	6 Month Suspension Station	9 Month Suspension Station	Revocation Station if within 2 years of 1 st occurrence	
	6 Month Suspension and mandatory training Tester/Technician	Revocation Tester/Technician if within 2 years of 1 st occurrence		
Non-permitted Tester/Technician performing inspection_or gained access to the official testing portion of the Analyzer.	2 Month Suspension Station	6 Month Suspension Station	Revocation Station if within 2 years of 1 st occurrence	
	2 Month Suspension Tester/Technician	6 Month Suspension Tester/Technician	Revocation Tester/Technician if within 2 years of 1 st occurrence	
Pass a Failing Vehicle (including tampering portion of inspection).	15 Day Suspension Stations	1 month Suspension Station	2 month Suspension Station	Revocation Station if within 2 years of 1 st occurrence
	1 month Suspension and mandatory training Tester/Technician	2 Month Suspension and mandatory training Tester/Technician	Revocation Tester/Technician if within 2 years of 1 st occurrence	
Failure to Comply with Proper Test Procedures.	Formal Warning Station	15 Day Suspension Station	45 Day Suspension Station	Revocation Station if within 2 years of 1 st occurrence
	Formal Warning and mandatory training Tester/Technician	30 Day Suspension and mandatory training Tester/Technician	90 Day Suspension and mandatory training Tester/Technician	Revocation Tester/Technician if within 2 years of 1 st occurrence
Passing Covert Audit Vehicle † (see Covert Audit – Station Responsibility) †† (Covert Audit Occurrence Reset)	Formal Warning and mandatory training Tester/Technician	3 Month Suspension and mandatory training Tester/Technician	Revocation Tester/Technician	
The station was or is not equipped as required by Section 8.0 of the Regulation.	Formal Warning Station	Suspension Station until properly equipped		
Performing Unnecessary or Unrelated Repairs.	Formal Warning Station	3 Month Suspension Station	Revocation Station if within 2 years of 1 st occurrence	
	Formal Warning and mandatory training Tester/Technician	3 Month Suspension and mandatory training Tester/Technician	Revocation Tester/Technician	

Falsifying any inspection or official document of the Vehicle Emissions Inspection and Maintenance Program or Fail a Passing Vehicle.	6 Month Suspension Station	9 Month Suspension Station	Revocation Station if within 2 years of 1 st occurrence	
	6 Month Suspension and mandatory training Tester/Technician	Revocation Tester/Technician if within 2 years of 1 st occurrence		
The Station or Technician denies access to a representative of the Department to conduct an audit or other necessary business during regular business hours.	6 Month Suspension Station	Revocation Station		
	6 Month Suspension Tester/Technician	Revocation Tester/Technician		
Station or Tester/Technician has violated any other provisions of the I/M Regulation, any State Rule or Law, County Ordinance or Department policy dealing with the I/M Program.	Up to 6 Month Suspension Station	6 Month Suspension Station	Revocation Station if within 2 years of 1 st occurrence	
	Up to 6 Month Tester/Technician	6 Month Suspension Tester/Technician	Revocation Tester/Technician if within 2 years of 1 st occurrence	
Inaccurate or Incomplete Data.	Formal Warning Station	15 Day Suspension Station	45 Day Suspension Station	Revocation Station if within 2 years of 1 st occurrence
	Formal Warning and mandatory training Tester/Technician	1 Month Suspension and mandatory training Tester/Technician	3 Month Suspension Tester/Technician	<u>Revocation Tester/Technician if within 2 years of 1st occurrence</u>

*Other appropriate warnings, suspensions, negotiated consent agreements, and/or revocations as deemed necessary and prudent by the department. Violations that have been determined to be intentional or flagrant shall result in the maximum penalties.

Negotiated Consent Agreements

Initial Tester/Technician and/or Station suspensions may be reduced in length by a Negotiated Consent Agreement that may substitute monetary settlements for part or all of the suspension time for each violation incurred under the penalty schedule. Consent Agreements for stations shall be based on 50% of the maximum emission inspection fee multiplied by the actual number of Certificates of Compliance issued during the equivalent suspension time frame prior to the violation. Consent agreements shall not exceed \$1,667.00 for every 30 day period contained within a suspension, and shall have a maximum amount of \$10,000.00 for a six month suspension. Consent agreements for the tester/technician shall be based on \$100 increments for any 7 day period or portion thereof up to a maximum of 180 days. Negotiated Consent Agreements are only applicable in relation to suspension.

Subsequent violations under each violation category are not eligible for negotiated consent agreements.

†Covert Audit – Station Responsibility

The owner/operator has a responsibility to provide a working environment to the tester/technician conducive to performing complete and thorough emissions tests as required in sections 4.3.5 and 9.0. Owner/Operators whose technicians fail to perform correctly on covert audit inspections will receive a written warning for each violation and will receive a three month suspension after three written warnings. Subsequent violations may result in additional suspensions or revocation.

††Resets Based on Successful Completion of Covert Audits

A covert audit violation occurrence will be removed from a station record when two sequential covert audits are completed successfully and without deficiencies.

A covert audit violation occurrence will be removed from a technician record when two sequential covert audits are completed successfully and without deficiencies by that technician.

Explanation of Occurrence Resets Based on Time Allowance

The penalty schedule allows for some types of violations to be removed from a Station record 2 years after the date of that occurrence. When an occurrence is removed, subsequent occurrences will be moved back on the penalty schedule in the appropriate category (i.e. second occurrence now becomes the first occurrence). A Station will clear its' record in a specified category by going two consecutive years without committing any of that type of violation.

Section 4.2

The Department encourages each I/M Station to develop a Quality Assurance Program within their organization. This program should implement a process designed to minimize the station's exposure under the penalty schedule by providing oversight of the Tester/Technician's activities and verifying that each emissions test is conducted according to this regulation.

OBD IM TEST PROCEDURES

The following test procedure is to be followed for 1996 model year vehicles or newer with a GVWR of less than 8,501 pounds and 2008 and newer vehicles with a GVWR less than 14,001:

1. Verify vehicle information;
2. Accurately enter information into analyzer at the required prompts;
3. Review the information entered into data review screens and make corrections if needed;
4. **Perform Visual Tampering Inspection of all emission control systems;**
5. Turn ignition key to the off position;
6. Locate the Diagnostic Link Connector (DLC) and connect the OBD lead from the analyzer;
7. **Check for the correct operation of the Malfunction Indicator Light (MIL);**
8. Follow analyzer prompts and continue test;
9. The analyzer will communicate with the vehicle and read fault codes and readiness status;
10. When prompted, turn off the engine, put ignition in the off position, and remove OBD lead;
11. If the MIL is functioning correctly and the readiness monitors are set correctly, the vehicle passes the OBDII test.
12. If the MIL is not functioning the vehicle fails the OBDII test and requires repair;
13. If the MIL is commanded **ON** the vehicle fails. The vehicle has a problem and has stored a Diagnostic Trouble Code (DTC). This DTC needs to be diagnosed for repairs.
14. If the test results say **Not Ready**, the vehicle needs to complete one or more drive cycles to reset and run the readiness monitors.

DIESEL FUELED VEHICLE TEST PROCEDURE

1.0 All diesel fueled vehicles 2007 and newer shall be tested in accordance with the following procedure;

- 1.1 Verify vehicle information;
- 1.2 Accurately enter information into analyzer at the required prompts;
- 1.3 Review the information entered into data review screens and make corrections if needed;
- 1.4 **Perform Visual Tampering Inspection of all emission control systems**
- 1.5 Turn ignition key to the off position;
- 1.6 Locate the Diagnostic Link Connector (DLC) and connect the OBD lead from the analyzer;
- 1.7 **Check for the correct operation of the Malfunction Indicator Light (MIL)**
- 1.8 Follow analyzer prompts and continue test;
- 1.9 The analyzer will communicate with the vehicle and read fault codes and readiness status;
- 1.10 When prompted, turn off the engine, put ignition in the off position, and remove OBD lead;
- 1.11 If the MIL is functioning correctly and the readiness monitors are set correctly, the vehicle passes the OBDII test.
- 1.12 If the MIL is not functioning the vehicle fails the OBDII test and requires repair;
- 1.13 If the MIL is commanded **ON** the vehicle fails. The vehicle has a problem and has stored a Diagnostic Trouble Code (DTC). This DTC needs to be diagnosed for repairs.
- 1.14. If the test results say **Not Ready**, the vehicle needs to complete one or more drive cycles to reset and run the readiness monitors.

2.0 All diesel powered vehicles 1998-2006 shall be subject to a visual anti-tampering inspection. The emission control systems identified in the emissions decal shall be in place and apparently operable on the vehicle.

2.1 The emission control systems listed on the emissions decal must be present and apparently operable to pass the emissions inspection.

2.2 If the OBDII system is identified in the emissions decal, the procedure in Section 1.1 through 1.10 shall be followed.

2.3 If the emissions decal is missing the Tester/Technician shall check an approved reference manual to determine what emission control systems the vehicle was manufactured with.

2.4 If the emissions decal is missing and the vehicle meets the requirements of Section 2.3, the following emissions control systems shall be present and apparently operable if factory equipped:

- Catalyst;
- Exhaust Gas Recirculation System (EGR);
- Diesel Particulate System (DPF);
- Air Injection Reaction System (AIR);
- Urea System (SCR); and
- OBD II System.

2.5 A Certificate of Compliance shall be issued if the emissions control devices are in place and apparently operable. An inspection of the OBD II system as referenced in Section 2.2 shall be for informational purposes only and will not determine whether a vehicle passes or fails the emission inspection.

APPENDIX G

ADJUSTMENT PROCEDURES

The adjustments should be performed on all 1980 and older vehicles (where applicable) that failed the I/M test. These adjustments must be performed by an emissions repair technician before a vehicle will be eligible for a waiver.

ADJUSTMENT PROCEDURES (Vehicles without computer Controlled Engine Systems)

1. The following adjustments should be performed on all 1981 and older vehicles (where applicable) that failed the I/M test. These adjustments must be performed by a Technician before a vehicle will be eligible for Certificate Of Waiver.
2. The Emissions Inspection and Repair Technician shall refer to the emissions tune-up specifications. Adjustments shall be made according to manufacturer's specifications. The adjustment procedures shall be as follows:
 - 2.1 The dwell if applicable, shall be checked with a dwell meter to determine if it is within the recommended tolerance of 2 degrees of specifications. The dwell shall be reset if it exceeds this tolerance;
 - 2.2 The idle speed shall be checked with a tachometer to determine if it is within 50 rpm of the manufacturer's specifications. If it is not, it shall be set to within 50 rpm of the manufacturer's specifications;
 - 2.3 The ignition timing shall be checked, using a timing light or engine analyzer, to determine if it is within +4 degrees to -2 degrees of the recommended settings while the engine is idling at the specified speed. If the timing exceeds this tolerance, it shall be adjusted until it falls within +4 degrees to -2 degrees of the recommended setting;
 - 2.4 The idle air/fuel ratio shall be adjusted according to manufacturer's suggested procedures and/or specifications using an infrared analyzer, propane enrichment kit, or tachometer;
 - 2.5 The choke shall be checked for normal operation and, if appropriate, adjusted according to manufacturer's suggested procedures and/or specifications;
 - 2.6 After completing the preceding steps, the idle speed shall be readjusted to manufacturer's specifications; and
 - 2.7 The performed adjustments shall be entered in the required data base of the Analyzer.

APPENDIX H



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

ENGINE SWITCHING FACT SHEET

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460
March 13, 1991
OFFICE OF AIR AND RADIATION

Pursuant to frequent requests for information received by the U.S. Environmental Protection Agency (EPA) regarding the legality and effects of engine switching, this document will summarize federal law and policy pertaining to this matter, and will discuss other related issues.

A. Federal Law

The federal tampering prohibition is contained in section 203(a)(3) of the Clean Air Act (Act), 42 U.S.C. 7522(a)(3). Section 203(a)(3)(A) of the Act prohibits any person from removing or rendering inoperative any emission control device or element of design installed on or in a motor vehicle or motor vehicle engine prior to its sale and delivery to an ultimate purchaser and prohibits any person from knowingly removing or rendering inoperative any such device or element of design after such sale and delivery, and the causing thereof. The maximum civil penalty for a violation of this section by a manufacturer or dealer is \$25,000; for any other person, \$2,500. Section 203(a)(3)(B) of the Act prohibits any person from manufacturing or selling, or offering to sell, or installing, any part or component intended for use with, or as part of, any motor vehicle or motor vehicle engine where a principal effect of the part or component is to bypass, defeat, or render inoperative any device or element of design installed on or in a motor vehicle or motor vehicle engine, and where the person knows or should know that such part or component is being offered for sale or is being installed for such use. The maximum civil penalty for a violation of this section is \$2,500.

EPA received many questions regarding the application of this law to a situation where one engine is removed from a vehicle and another engine is installed in its place. EPA's policy regarding "engine switching" is covered under the provisions of Mobile Source Enforcement Memorandum No. 1A (Attachment 1). This policy states that EPA will not consider any modification to a "certified configuration" to be a violation of federal law if there is a reasonable basis for knowing that emissions are not adversely affected. In many cases, proper emission testing according to the Federal Test Procedure would be necessary to make this determination.

A "certified configuration" is an engine or engine chassis design which has been "certified" (approved) by EPA prior to the production of vehicles with that design. Generally, the manufacturer submits an application for certification of the designs of each engine or vehicle it proposes to manufacture prior to production. The application includes design requirements for all emission related parts, engine calibrations, and other design parameters for each different type of engine (in heavy-duty vehicles), or engine chassis combination (in light-duty vehicles). EPA then "certifies" each acceptable design for use, in vehicles of the upcoming model year.

For light-duty vehicles, installation of a light-duty engine into a different light-duty vehicle by any person would be considered tampering unless the resulting vehicle is identical (with regard to all emission related parts, engine design parameters, and engine calibrations) to a certified configuration of the same or newer model year as the vehicle chassis, or if there is a reasonable basis for knowing that emissions are not adversely affected as described in Memo 1A. The appropriate source for technical information regarding the certified configuration of a vehicle of a particular model year is the vehicle manufacturer.

For heavy-duty vehicles, the resulting vehicle must contain a heavy-duty engine which is identical to a certified configuration of a heavy-duty engine of the same model year or newer as the year of the installed engine. Under no circumstances, however, may a heavy-duty engine ever be installed in a light-duty vehicle.

The most common engine replacement involves replacing a gasoline engine in a light-duty vehicle with another gasoline engine. Another type of engine switching which commonly occurs, however, involves diesel powered vehicles where the diesel engine is removed and replaced with a gasoline engine. Applying the above policy, such a replacement is legal only if the resulting engine-chassis configuration is equivalent to a certified configuration of the same model year or newer as the chassis. If the vehicle chassis in question has been certified with gasoline, as well as diesel engines (as is common), such a conversion could be done legally.

Another situation recently brought to EPA's attention involves the offering for sale of used foreign-built engines. These engines are often not covered by a certified configuration for any vehicle sold in this country. In such a case, there is no way to install such an engine legally. EPA has recently brought enforcement actions against certain parties who have violated the tampering prohibition by performing illegal engine switches.

It should be noted that while EPA's policy allows engine switches as long as the resulting vehicle matches exactly to any certified configuration of the same or newer model year as the chassis, there are some substantial practical limitations to performing such a replacement. Vehicle chassis and engine designs of one vehicle manufacturer are very distinct from those of another, such that it is generally not possible to put an engine into a chassis of a different manufacturer and have it match up to a certified configuration. Therefore, practical considerations will generally limit engine switches to installation of another

engine which was certified to be used in that same make and model (or a "twin" of that make and model, e.g., Pontiac Grand Am and Oldsmobile Calais). In addition, converting a vehicle into a different certified configuration is likely to be very difficult, and the cost may prove prohibitive.

B. State Laws

Many states also have statutes or regulations prohibiting tampering in general. Most of these laws specifically prohibit tampering by individuals. A few specifically prohibit engine switching, using provisions similar to those stated in EPA's policy. To determine the state law in any given state, the state's Attorney General's office should be contacted. In addition, many states have state or local antitampering inspection programs which require a periodic inspection of vehicles in that area, to determine the integrity of emission control systems. Many programs have established policies for vehicles which have been engine switched. While EPA does not require these programs to fail engine switched vehicles which are not in compliance with federal policy, the Agency does strongly recommend that these programs set their requirements so as to be consistent with the federal law. State or local programs which pass illegally engine switched vehicles may mislead federally regulated parties into believing that engine switching is allowed by federal law.

Certification

I, Liam O. Thrailkill, Rules Coordinator for the Utah Division of Air Quality, do hereby certify that the public comment periods held to receive comments regarding R307-110-32 (OAR #52414) and R307-110-35 (OAR #52415) were held in accordance with the information provided in the published public notices and as defined in Utah Code 19-2-109. The changes regarding R307-204 were adopted by the Utah Air Quality Board on September 4, 2019.

Signed this ____21__ day of May 2020.
