

SWITCHER LOCOMOTIVES  
inland port

~

DIRECTIONS FOR DAQ  
inland port

~

CLARIFICATION ON AIR QUALITY BOARD  
representing Utah citizens

~

EFFECTIVE DATE OF PROPOSED DAQ RULES  
public comment periods

~

NO-COST VEHICLE INSPECTIONS  
reduce regulatory burdens

~

ECONOMIC REVIEW OF INSPECTION PROGRAMS  
"most cost effective ways"

Prepared by Kevin Cromar<sup>1</sup> and Jim Holtkamp<sup>2</sup> for the Air Quality Policy Advisory Committee

November 13, 2018

---

<sup>1</sup> Kevin Cromar, PhD, is the Director of the Air Quality Program at the Marron Institute of Urban Management at New York University, an associate professor of environmental medicine and population health at NYU School of Medicine, and a member of the Utah Air Quality Board. He can be reached at [kevin.cromar@nyu.edu](mailto:kevin.cromar@nyu.edu) for further information.

<sup>2</sup> Jim Holtkamp has worked for nearly 40 years as legal counsel on environmental, natural resource, and energy development issues and is an adjunct professor of law at the University of Utah S. J. Quinney College of Law. He can be reached at [jholtkamp@hollandhart.com](mailto:jholtkamp@hollandhart.com) for further information.

## **INLAND PORT**

The pending development of the inland port in the northwest portion of Salt Lake County will be required to meet federal air quality guidelines required of new emission sources in areas designated as serious nonattainment for fine particle pollution. These requirements will vary based on the classification of emission sources associated with the port. Specific recommendations on how to best control emissions in line with federal requirements and local priorities are difficult to anticipate without further clarification on the details of the project. However, there are two actions that can be taken prospectively to address critical air quality issues.

### **SWITCHER LOCOMOTIVES (see section 1, lines 64-65)**

Switcher locomotives are used to assemble, disassemble, and move railroad cars around a train yard. Many switcher cars in Utah use Tier 0 or 0+ engines which are ten times more polluting than modern switcher locomotive engines. This is partly why NO<sub>x</sub> emissions from railroad equipment in Salt Lake County is expected to be exceed emissions from passenger cars in the next 5 years. Emissions from these diesel-powered engines are expected to dramatically increase following development of the inland port. Given the limitations in Section 209(e) of the Clean Air Act, it is prudent that the Utah Legislature prospectively plan for how to best address the issue of switcher locomotives that will be operated at the inland port.

### **DIRECTION FOR DIVISION OF AIR QUALITY (see section 7, lines 366-373)**

The Division of Air Quality has extensive experience undertaking broad-based assessments on how to best reduce emissions from a wide range of pollution sources. Rather than attempting to tackle potential air quality management decisions one issue at a time, the legislature can provide direction to the Division of Air Quality in regards to the general approach by which air quality management decisions at the inland port should be made.

## **ADMINISTRATIVE ISSUES**

### **CLARIFICATION ON AIR QUALITY BOARD (see section 2, lines 97-98)**

The Utah Air Quality Board is comprised of eight voting members from a wide range of industries and backgrounds as required by statute. The diversity of perspectives afforded by this structure is one of the strengths of the board. However the current language of the statute addressing board composition is sufficiently vague—in regards to the responsibility of board members to represent the interests of the citizens of Utah—to merit clarification.

### **EFFECTIVE DATE OF PROPOSED DAQ RULES (see Section 3, 164-167)**

The Utah Administrative Rulemaking Act stipulates that a proposed rule must be promulgated within 120 days of publication of the proposed rule in the state bulletin otherwise the rule lapses. This limitation makes it difficult to have public comment periods longer than the minimum 30 days that are required by statute. For particularly complex rules there is a benefit to providing the

public, including industry representatives and public interest organizations, more than 30 days to provide substantive comments that can help guide the development of proposed rules. Extending the maximum limit from 120 to 160 days would provide the Division of Air Quality the possibility of longer public comment periods up to 60 days for particularly complex rules.

## **VEHICLE INSPECTION AND MAINTENANCE PROGRAMS**

Utah drivers spend approximately \$30 million every year on mandatory vehicle inspections. County legislative bodies have been negligent in controlling the costs of these programs despite a statutory responsibility to seek the "most cost effective means to achieve and maintain the maximum benefit with regard to ambient air quality standards and to meet federal air quality requirements as related to vehicle emissions" (see Utah Code 41-6a-1642-3(c)(ii)). While there are no strict economic cut-offs for considering air quality rules, the Division of Air Quality typically shies away from rules that cost more than a couple thousand dollars per ton of reduced pollutant emissions. In the case of vehicle inspection and maintenance programs, the costs spent only on inspections (not including the money to repair vehicles) are well over \$10,000 per ton pollutant of reduced pollutant emissions. Even without considering the costs of repairs (which is the only aspect of the program that actually improves air quality) these programs are among the most costly and cost-inefficient air quality rules in the state.

### **NO-COST VEHICLE INSPECTIONS (see sections 5 and 6, lines 341-343 and 362-364)**

It is important to note that vehicle testing is not performed by inspection stations but rather are completed by the vehicle's own on-board diagnostic computer. Since 1996, the role of the inspection station has been to retrieve test results from the on-board computer and transmit this information to the state. These inspections have not appreciably changed in the last 20 years despite dramatic improvements in communication technology, updates to the information stored in on-board computers, and the recent elimination of required safety inspections. Rather than attempting to modify entrenched county programs, the state should instead create a mechanism that can enable alternative no-cost vehicle inspections for drivers in the state.

### **ECONOMIC REVIEW OF INSPECTION PROGRAMS (see section 4, lines 270-271)**

The Air Quality Board already has the authority (see Utah Code 19-2-105) to order the director to perform an evaluation of inspection and maintenance programs, but guidance regarding these reviews should be updated to specify that these reviews should include an evaluation of the most cost effective ways to achieve air quality improvements.