



6560-50-P

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

**EPA-R08-OAR-2014-0370; FRL-9918-98-Region 8**

**Approval and Promulgation of Air Quality Implementation Plans; State of Utah; Motor Vehicle Inspection and Maintenance and Associated Revisions**

**AGENCY:** Environmental Protection Agency.

**ACTION:** Proposed rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is proposing approval of State Implementation Plan (SIP) revisions submitted by the State of Utah. The revisions involve amendments to Section X, Part A, Vehicle Inspection and Maintenance Program, General Requirements and Applicability; the addition of Section X, Part F, Cache County Vehicle Inspection and Maintenance Program; and revisions to Utah Administrative Rules R307-110-1, R307-110-31, and R307-110-36. EPA is proposing approval of these SIP revisions in accordance with the requirements of section 110 of the Clean Air Act (CAA).

**DATES:** Comments must be received on or before **[insert date 30 days from the date of publication in the Federal Register]**.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-R08-OAR-2014-0370, by one of the following methods:

- <http://www.regulations.gov>. Follow the on-line instructions for submitting comments.
- E-mail: [russ.tim@epa.gov](mailto:russ.tim@epa.gov)
- Fax: (303) 312-6064 (please alert the individual listed in the **FOR FURTHER**

**INFORMATION CONTACT** if you are faxing comments).

- Mail: Carl Daly, Director, Air Program, EPA, Region 8, Mailcode 8P-AR, 1595 Wynkoop Street, Denver, Colorado 80202-1129.
- Hand Delivery: Carl Daly, Director, Air Program, EPA, Region 8, Mailcode 8P-AR, 1595 Wynkoop, Denver, Colorado 80202-1129. Such deliveries are only accepted Monday through Friday, 8:00 a.m. to 4:30 p.m., excluding federal holidays. Special arrangements should be made for deliveries of boxed information.

*Instructions:* Direct your comments to Docket ID No. EPA-R08-OAR-2014-0370.

EPA's policy is that all comments received will be included in the public docket without change and may be made available online at <http://www.regulations.gov>, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through <http://www.regulations.gov> or e-mail. The <http://www.regulations.gov> website is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA, without going through <http://www.regulations.gov>, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment.

Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional instructions on submitting comments, go to Section I, General Information of the **SUPPLEMENTARY INFORMATION** section of this document.

*Docket:* All documents in the docket are listed in the <http://www.regulations.gov> index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly-available docket materials are available either electronically in <http://www.regulations.gov> or in hard copy at the Air Program, EPA, Region 8, Mailcode 8P-AR, 1595 Wynkoop, Denver, Colorado 80202-1129. EPA requests that if at all possible, you contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section to view the hard copy of the docket. You may view the hard copy of the docket Monday through Friday, 8:00 a.m. to 4:00 p.m., excluding Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Tim Russ, Air Program, EPA, Region 8, Mailcode 8P-AR, 1595 Wynkoop, Denver, Colorado 80202-1129, (303) 312-6479, [russ.tim@epa.gov](mailto:russ.tim@epa.gov).

#### **SUPPLEMENTARY INFORMATION:**

##### **Definitions**

For the purpose of this document, we are giving meaning to certain words or initials as follows:

- (i) The words or initials Act or CAA mean or refer to the Clean Air Act, unless the context indicates otherwise.
- (ii) The initials BRHD mean Bear River Health Department.
- (iii) The words EPA, we, us or our mean or refer to the United States Environmental Protection

Agency.

- (iv) The initials DMV mean Department of Motor Vehicles.
- (v) The initials I/M mean inspection and maintenance.
- (vi) The initials NAAQS mean national ambient air quality standard.
- (vii) The initials NO<sub>x</sub> mean nitrogen oxides.
- (viii) The initials OBD mean On-Board Diagnostics.
- (ix) The initials PM<sub>2.5</sub> mean Particulate Matter equal to or less than 2.5 microns in diameter.
- (x) The initials RPM mean revolutions per minute.
- (xi) The initials SIP mean or refer to State Implementation Plan.
- (xii) The initials TSI mean Two Speed Idle.
- (xiii) The initials UAQB mean Utah Air Quality Board.
- (xiv) The initials UDAQ mean Utah Division of Air Quality.
- (xv) The words Utah and State mean the State of Utah.
- (xvi) The initials VOC mean volatile organic compound.

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1. *Submitting CBI.* Do not submit CBI to EPA through <http://www.regulations.gov> or e-mail. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD ROM that you mail to EPA, mark the outside of the disk or CD ROM as CBI and then identify electronically within the disk or CD ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for Preparing Your Comments.* When submitting comments, remember to:

- a. Identify the rulemaking by docket number and other identifying information (subject heading, Federal Register date and page number).
- b. Follow directions - The agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.
- c. Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.
- d. Describe any assumptions and provide any technical information and/or data that you used.

- e. If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.
- f. Provide specific examples to illustrate your concerns, and suggest alternatives.
- g. Explain your views as clearly as possible, avoiding the use of profanity or personal threats.
- h. Make sure to submit your comments by the comment period deadline identified.

## **II. Background**

### *a.) Utah's revisions to SIP section X, Vehicle Inspection and Maintenance Program, Part A, General Requirements and Applicability*

Section X of the Utah SIP addresses the provisions and requirements for the motor vehicle inspection and maintenance (I/M) programs that are administered by five counties in Utah. Section X of the SIP is divided into six subparts "A" through "F"; Part A addresses general requirements and applicability provisions that are common to each of the counties' I/M programs, Part B is the Davis County vehicle I/M program, Part C is the Salt Lake County vehicle I/M program, Part D is the Utah County vehicle I/M program, Part E is the Weber County vehicle I/M program, and Part F is the Cache County vehicle I/M program.

Section X, Part A is entitled "Vehicle Inspection and Maintenance Program, General Requirements and Applicability." The current version of Part A, last approved by EPA on November 2, 2005 (70 FR 66264), provides a discussion of the federal I/M requirements, the aspects of On-Board Diagnostics (OBD) tests, a brief history of the Utah I/M program and the State's general authority and general information regarding the applicability of the Utah SIP to such I/M program aspects as test frequency, enforcement, vehicle registration, and change in vehicle ownership. Although duplicative, each of the four counties' existing I/M programs,

found in Parts B, C, D, and E to Section X, contained very similar language as provided in Part A.

By a letter dated January 10, 2013, the Governor of Utah submitted a revision to Section X, Part A that updates and expands Part A to contain the relevant brief history of the Utah I/M program, the State's general authority, additional language on test types, general public information, general enforcement provisions which are relevant to the four counties implementing an existing I/M program, and the new I/M program in Cache County. As Part A is applicable to all five of the counties' I/M programs, this allows the removal of the duplicative general language in existing Section X and allows the consolidation of the common information and provisions in each counties' I/M program into Part A. Each of the counties' I/M programs contained in Section X, Parts B through F will then reference Part A.

b.) *Utah's revisions to SIP section X, to add Part F, Vehicle Inspection and Maintenance Program, Cache County*

On November 13, 2009 (74 FR 58688), EPA designated a portion of Cache County, Utah as nonattainment for the 2006 PM<sub>2.5</sub><sup>1</sup> 24-hour National Ambient Air Quality Standard (NAAQS). The Cache County portion includes the city of Logan, Utah. The nonattainment area, which also includes portions of Franklin County, Idaho, is identified by EPA as "Logan – UT/ID."

Through the course of the development of a dispersion modeled attainment demonstration for Utah's attainment plan, a motor vehicle inspection and maintenance program was identified by the State as a reasonable control strategy to achieve reductions of PM<sub>2.5</sub> precursor emissions of nitrogen oxides (NOx) and volatile organic compounds (VOC) necessary to support the SIP attainment demonstration for the Cache County portion of the Logan–UT/ID 2006 PM<sub>2.5</sub> 24-hour NAAQS nonattainment area. EPA notes, however, that under the applicable

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<sup>1</sup> PM<sub>2.5</sub> is Particulate Matter less than or equal to 2.5 microns in diameter.

subparts of Part D of Title I of the Act for PM<sub>2.5</sub> attainment plans, subparts 1 and 4, Cache County's I/M program is not a CAA mandatory or required I/M program and is therefore not held to the same level of applicable requirements as found in 40 CFR part 51, subpart S (hereafter "40 CFR 51, subpart S"), Inspection/Maintenance Program Requirements. As an example, a performance standard demonstration is not required for the Cache County I/M program. Part F of Section X, in conjunction with Section X, Part A as discussed above, was instead designed by the County and State to meet the minimum, applicable I/M provisions and requirements presented in 40 CFR 51, subpart S. It is also noted in Part F that although only a portion of Cache County was designated as nonattainment for the 2006 PM<sub>2.5</sub> 24-hour NAAQS, the I/M program will be implemented County-wide.

By a letter dated January 28, 2014, the Governor submitted a SIP revision to add Section X, Part F, for the new motor vehicle I/M program for Cache County. As described further below, the Cache County I/M program was designed with certain necessary components from 40 CFR 51, subpart S in order to have a viable I/M program to help reduce NO<sub>x</sub> and VOC precursor emissions of PM<sub>2.5</sub> and to also generate emission reductions suitable for use in a PM<sub>2.5</sub> attainment demonstration that will be submitted to EPA as a revision to the SIP.

*c.) Utah's revisions to Rules R307-110-1, R307-110-31, and R307-110-36*

As a background, the Utah Administrative Code is the body of all effective administrative rules as compiled and organized by the Utah Division of Administrative Rules, Utah Department of Administrative Services.<sup>2</sup> Utah's Administrative Rules are a portion of Utah's Codified Law; in Utah, statements written by State agencies which have the effect of law are called administrative rules. Unlike State statutes, which change only when the Utah Legislature is in

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<sup>2</sup> For further information and citations to the relevant Utah statutes that govern rulemaking, please refer to the website of the Division of Administrative Rules: <http://www.rules.utah.gov/>.

session, administrative rules change throughout the year. A Utah administrative rule serves at least two purposes; first, an enacted administrative rule has the binding effect of law, and second, an administrative rule informs citizens of actions a State government agency will take or how a State agency will conduct its business. In view of the above, after the Utah Air Quality Board (UAQB), under the authority of the Utah Air Conservation Act as provided in Utah Code Title 19, Chapter 2, adopts certain provisions and requirements into the Utah SIP, those particular SIP elements must then be incorporated by reference into the appropriate section of the Utah Administrative Rules (hereafter “Utah Rules”).

By letters dated January 10, 2013 and January 28, 2014, the Governor submitted SIP revisions involving updates to three sections of the R307-110 series air quality Utah Rules. The Governor’s submittals requested EPA to approve actions taken by the UAQB that updated three sections of Utah Rules R307-110 series for air quality which are entitled “General Requirements: State Implementation Plan.” The three rules are:

- 1.) R307-110-1 which incorporates by reference the Utah SIP into the Utah Administrative Rules and advises the public the SIP is available on the Utah Division of Air Quality’s (UDAQ) website.
- 2.) R307-110-31 which incorporates by reference Utah SIP Section X, Vehicle Inspection and Maintenance Program, Part A, General Requirements and Applicability.
- 3.) R307-110-36 which incorporates by reference Utah SIP Section X, Vehicle Inspection and Maintenance Program, Part F, Cache County.

The above SIP actions adopted by the UAQB, and subsequently submitted to EPA by the Governor of Utah for approval, are discussed in greater detail in sections III and IV below.

### **III. What Was the State’s Process?**

Section 110(a)(2) of the CAA requires that a state provide reasonable notice and public hearing before adopting a SIP revision and submitting it to us.

a.) *The Governor's January 10, 2013 SIP submittal*

On October 15, 2012, October 16, 2012, and October 17, 2012 the UAQB of the Utah Department of Environmental Quality conducted public hearings to consider the adoption of revisions and additions to the Utah SIP and the appropriate sections of the Utah Rules. The revisions affecting the SIP involved SIP Section X, Vehicle Inspection and Maintenance Program, Part A, General Requirements and Applicability; SIP Section X, Vehicle Inspection and Maintenance Program, Part F, Cache County; and Utah Rules R307-110-1, R307-110-31, and R307-110-36. After reviewing and responding to comments received before and during the public hearings, the UAQB adopted the proposed revisions on December 5, 2012. The SIP and Utah Rule revisions became State effective on December 6, 2012 and were submitted by the Governor to EPA by a letter dated January 10, 2013. By a subsequent letter dated February 25, 2013, Bryce Bird, Director, UDAQ submitted the necessary administrative documentation that supported the Governor's submittal.

We evaluated the Governor's January 10, 2013 submittal for SIP Section X, Vehicle Inspection and Maintenance Program, Part A, General Requirements and Applicability; SIP Section X, Vehicle Inspection and Maintenance Program, Part F, Cache County; and Rules R307-110-1, R307-110-31, and R307-110-36 and have determined that the State met the requirements for reasonable notice and public hearing under section 110(a)(2) of the CAA. By operation of law under section 110(k)(1)(B) of the CAA, the Governor's January 10, 2013 submittal was deemed complete on July 10, 2013.

b.) *The Governor's January 28, 2014 SIP submittal*

On August 7, 2013 the UAQB proposed for public comment amendments to the Utah SIP for Section X, Vehicle Inspection and Maintenance Program, Part F, Cache County and Utah Rule R307-110-36. These proposed revisions superseded and replaced those previous revisions to the SIP for Section X, Vehicle Inspection and Maintenance Program, Part F, Cache County and Utah Rule R307-110-36 that the Governor had submitted to EPA with his letter to EPA dated January 10, 2013. Included with the State's administrative documentation for these SIP and Rule revisions were letters dated October 23, 2013 and October 24, 2013 from Bryce Bird, Director, UDAQ to the UAQB. Both of these letters indicated that a public comment period was held from September 1 through October 1, 2013 regarding the proposed Cache County I/M program (ref. October 24, 2013 letter) and Utah Rule R307-110-36 (ref. October 23, 2013 letter) revisions, and that no public comments were received and no public hearings were requested. In consideration of these two letters, the UAQB subsequently adopted the proposed revisions on November 6, 2013. The SIP and Rule revisions became State effective on November 7, 2013, and were submitted by the Governor to EPA by a letter dated January 28, 2014. By a subsequent letter dated February 4, 2014, Bryce Bird, Director, UDAQ submitted the necessary administrative documentation that supported the Governor's submittal.

We have evaluated Utah's January 28, 2014 submittal and have determined that the State met the requirements for reasonable notice and public hearing under section 110(a)(2) of the CAA. By a letter dated June 30, 2014, we advised the Governor that the SIP and Rule revisions submittal was deemed to have met the minimum "completeness" criteria found in 40 CFR part 51, Appendix V.

#### **IV. EPA's Evaluation of the State's Revisions to Section X, Vehicle Inspection and Maintenance Program, Part A, General Requirements and Applicability**

Section X of the Utah SIP addresses the provisions and requirements for the motor vehicle I/M programs administered by five counties in Utah. Section X of the SIP is divided into six subparts, “A” through “F,” with Part A addressing general requirements and applicability provisions that are common to each of the counties’ I/M programs. Section X, Part A is entitled “Vehicle Inspection and Maintenance Program, General Requirements and Applicability,” and its current provisions and requirements, as updated by the Governor’s SIP submittal of January 10, 2013, are presented below:

a.) Section 1 “Requirements” of SIP Section X, Part A provides information on:

1.) The history of I/M requirements in Utah and the relevant 40 CFR 51, subpart S applicable requirements.

2.) *OBD Checks*: By January 1, 2002, OBD checks and OBD related repairs were required as a routine component of Utah I/M programs on model year 1996 and newer light-duty vehicles and light-duty trucks equipped with certified onboard diagnostic systems.

3.) *Utah I/M program history and general authority*: The legal authority for Utah’s I/M Programs is found in Utah Code Annotated Section 41-6-163.6. Utah I/M was enacted during the First Special Session of the Utah legislature in 1983. I/M programs were initially implemented in Davis and Salt Lake counties in 1984, in Utah County in 1986, and in Weber County in 1990. The State Legislature made several changes and additions to Utah Code Annotated Section 41-6-163.6 in 1990, 1992, 1994, 1995, 2002, 2005, 2009, 2010, 2011, and 2012.

b.) Section 2 “Applicability” of SIP Section X, Part A provides information on:

1.) *General Applicability*: Utah Code Annotated 41-6a-1642 gives authority to each county to implement and manage an I/M program to attain and maintain any NAAQS. Davis,

Salt Lake, Utah, and Weber counties were required by Section 182 and 187 of the CAA to implement an I/M program to attain and maintain, as applicable, the ozone and carbon monoxide NAAQS. All of Utah's ozone and carbon monoxide maintenance areas are located in Davis, Salt Lake, Utah, and Weber counties. In addition, a motor vehicle I/M program is a control measure relied upon by the State for attaining the 2006 PM<sub>2.5</sub> 24-hour NAAQS in Cache, Davis, Salt Lake, Utah, and Weber counties. Utah's SIP for I/M is applicable county-wide in Cache, Davis, Salt Lake, Utah, and Weber counties.

c.) Section 3 “General Summary” of SIP Section X, Part A provides information on:

1.) *Network Type*: All Utah I/M programs are comprised of a decentralized, test-and-repair network.

2.) *I/M program funding requirements*: Counties with I/M programs allocate funding as needed to comply with the relevant requirements specified in Utah's SIP; the Utah statutes; county ordinances, regulations and policies; and the federal I/M program regulation.

3.) *Funding mechanisms*: Utah's I/M programs are funded through several mechanisms including, but not limited to, a fee which is collected at the time of registration by the Utah Tax Commission Division of Motor Vehicles or the respective County Assessor's Office.

4.) *Government fleet*: Section 41-6a-1642(1)(b) of the Utah Code requires that all vehicles owned or operated in the I/M counties by federal, state, or local government entities must comply with the I/M programs.

5.) *Vehicles owned by students and federal employees*: Section 41-6a-1642(5) provides that counties may require that federal employees and students attending universities and colleges located in Utah's I/M areas provide proof of compliance with the I/M program for vehicles that are permitted to park at facilities or on campus regardless of where the vehicle is registered.

Vehicles operated by federal employees and operated on a federal installation located within an I/M program area are also subject to the I/M program regardless of where they are registered.

6.) *Rental vehicles:* All vehicles available for rent or use in an I/M county are subject to the respective county I/M program.

7.) *Farm truck exemption:* Eligibility for the farm truck exemption from I/M programs is specified in Section 41-6a-1642(4).

8.) *Out-of-state exemption:* Vehicles registered in an I/M county but operated out-of-state are eligible for an exemption. The owner must complete Utah State Tax Commission form TC-81, and explain why the vehicle is unavailable for inspection, in order to be registered without inspection documentation.

9.) *Motorist Compliance Enforcement Mechanism:* The I/M programs are registration enforced on a county-wide basis.

10.) *Valid registration required:* A certificate of emissions inspection or a waiver or other evidence that the vehicle is exempt from the I/M program requirements must be presented at the time of registration or renewal of registration of a motor vehicles as specified in Section 41-6a-1642 and 41-1a-203(1)(c).

11.) *Change of ownership:* Vehicle owners are not able to avoid the I/M inspection program by changing ownership of the vehicle. Upon change of vehicle ownership the vehicle must be re-registered by the new owner. Vehicle registration requires the submittal of a valid I/M certificate of compliance, waiver, or verified evidence of exemption.

12.) *Utah Tax Commission, and County Assessor roles:* The Utah Tax Commission Motor Vehicle Division and respective County Assessors will deny applications for vehicle

registration or renewal of registration without submittal of a valid I/M certificate of compliance, waiver, or verified evidence of exemption.

13.) *Database quality assurance:* The vehicle registration database is maintained and quality assured by the Utah Division of Motor Vehicle (DMV). Each county's I/M inspection database is maintained and quality assured by the county I/M program staff.

14.) *Oversight provisions:* The oversight program includes verification of exempt vehicle status through inspection, data accuracy through automatic and redundant data entry for most data elements, an audit trail for program documentation to ensure control and tracking of enforcement documents, identification and verification of exemptions that trigger changes in registration data, and regular audits of I/M inspection records, I/M program databases, and the DMV database.

15.) *Enforcement staff quality assurance:* County I/M program auditors and DMV clerks involved in vehicle registration are subject to regular performance audits by their supervisors.

16.) *Quality Control:* The I/M counties maintain records regarding inspections, equipment maintenance, and the required quality assurance activities.

17.) *Analyzer data collection:* Each county's I/M analyzer data collection system meets the requirements specified under 40 CFR 51, subpart S.

18.) *Data analysis and reporting- Annual:* The I/M counties analyze and submit to EPA and UDAQ an annual report for January through December of the previous year, which includes all the data elements listed in 40 CFR 51.366, by July of each year.

19.) *General enforcement provisions:* The county I/M programs are responsible for enforcement actions against incompetent or dishonest stations and inspectors. In addition, each county I/M ordinance or regulation includes a penalty schedule.

20.) *General public information:* The I/M counties must have comprehensive public education and programs.

21.) *County I/M technical centers:* Each I/M county operates an I/M technical center staffed with trained auditors and capable of performing emissions tests. A major function of the I/M technical centers is to serve as a referee station to resolve conflicts between permitted I/M inspectors, stations, and motorists.

22.) *Vehicle inspection report:* A vehicle inspection report (VIR) is printed and provided to the motorist after each vehicle inspection.

23.) *Reciprocity between County I/M programs:* Utah I/M programs are conducted using the same test procedures (Two Speed Idle, or TSI, and OBD) and thereby agree to recognize the validity of a certificate granted by any Utah I/M program.

EPA has reviewed Utah's revisions to SIP Section X, Vehicle Inspection and Maintenance Program, Part A, General Requirements and Applicability and has concluded that our approval is warranted. Based on our review, and as compared to our prior approval of this section of the SIP (see 70 FR 66264, November 2, 2005) and applicable sections of 40 CFR 51, subpart S (sections 51.350 to 51.372), we have determined that the revisions to Section X, Vehicle Inspection and Maintenance Program, Part A, General Requirements and Applicability sufficiently address the applicable sections of 40 CFR 51, subpart S for these particular aspects of Utah's five counties' I/M programs.

#### **V. EPA's Evaluation of the State's Revisions to Section X, Part F, Cache County Motor Vehicle Inspection and Maintenance Program**

Section X, Part F of the Utah SIP addresses the provisions and requirements for the implementation of the motor vehicle I/M program in Cache County, Utah. Section X, Part F of

the SIP contains three main components for the Cache County I/M program; (a.) the SIP language for Section X Part F that addresses applicability, a general description of the Cache I/M program, and the time frame for implementation of the I/M program, (b.) the Cache County Emission Inspection/Maintenance Program Ordinance 2013-4, and (c.) the Bear River Health Department's Regulation 2013-1. We note that the Cache County Ordinance 2013-4 contains language which delegates the implementation of the Cache County I/M program to the Bear River Health Department (BRHD). All of the above documents were adopted by the UAQB on November 6, 2013, were included with the Governor's SIP submittal of January 28, 2014, were supplemented by the February 4, 2014, UDAQ submittal of the administrative documentation, and are discussed in further detail below.

a.) Section X, Vehicle Inspection and Maintenance Program, Part F, Cache County;

Applicability, Description of the Cache I/M Program, and I/M SIP Implementation:

1.) *Applicability.* The SIP states the following: "Cache County was designated nonattainment for the PM<sub>2.5</sub> NAAQS on December 14, 2009 (74 FR 58688, November 13, 2009). Accordingly, Cache County must implement control strategies to attain the PM<sub>2.5</sub> NAAQS. A motor vehicle emission I/M program has been identified by the PM<sub>2.5</sub> SIP as a necessary control strategy to attain the PM<sub>2.5</sub> NAAQS as expeditiously as practicable. Therefore, pursuant to Utah Code Annotated 41-6a-1642, Cache County must implement an I/M program that complies with the minimum requirements of 40 CFR 51 Part Subpart S. Cache County will implement its I/M program county-wide. Parts A and F of Section X demonstrate compliance with 40 CFR Part 51, Subpart S for Cache County."

2.) *Description of Cache County I/M Program.* The SIP provides information regarding the TSI and OBD components of the Cache County I/M program. Below is a summary of Cache

County's I/M program. In addition, we note that Section X, Part F, Appendices 1 and 2 contain the essential documents for the authority and implementation of Cache County's I/M program.

*Network Type:* Cache County's I/M program will comprise a decentralized test-and-repair network.

*Test Convenience:* Cache County will make every effort to ensure that its citizens will have stations conveniently located throughout Cache County.

*Subject fleet:* All model year 1969 and newer vehicles registered or principally-operated in Cache County are subject to the I/M program except for exempt vehicles.

*Station/inspector Audits:* Cache County's I/M program will regularly audit all permitted I/M inspectors and stations to ensure compliance with county I/M ordinances, regulations, and policies.

*Waivers:* Cache County's I/M program allows for the issuance of waivers under limited circumstances.

*Test frequency:* Vehicles less than six years old as of January 1 on any given year will be exempt from an emissions inspection. All model year 1969 and newer vehicles are subject to a biennial test.

*Test Equipment:* For the Cache County I/M program, specifications for the I/M test procedures, standards and analyzers are described in Appendix 2 of the SIP.

*Test Procedures:* The following vehicles are subject to an OBD II inspection: 1996 and newer light duty vehicles and 2008 and newer medium duty vehicles. The following vehicles are subject to a two-speed idle test: 1995 and older vehicles, 1996 to 2007 medium and heavy duty vehicles, and 2008 and newer heavy duty vehicles. Test procedures are outlined in Appendix 2 of this part of the SIP.

3.) *I/M SIP Implementation.* The SIP states the following: “The I/M program ordinance, regulations, policies, procedures, and activities specified in this I/M SIP revision shall be implemented by January 1, 2014 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.”

b.) Section X, Vehicle Inspection and Maintenance Program, Part F, Cache County; Appendix 1, Cache County Emission Inspection/Maintenance Program Ordinance 2013-4: This section of the SIP provides the County’s I/M ordinance which includes section 1, *Purpose*, section 2, *Powers and Duties*, section 3, *General Provisions*, section 4, *Guidelines to be Followed by the Bear River Board of Health in Implementing a Vehicle Emission Inspection and Maintenance Program in Cache County*, section 5, *Review of Need for Program*, and section 6, *Effective Date*. Of particular note is section 2.3, which delegates implementation of the I/M program to the BRHD, and section 4, which sets some parameters for BRHD’s implementation, including test schedules, fees, and waivers.

c.) Section X, Vehicle Inspection and Maintenance Program, Part F, Cache County; Appendix 2, Bear River Health Department Regulation 2013-1: This section of the SIP provides the BRHD’s I/M regulation. The Cache County I/M program is not a CAA mandated program and is, therefore, allotted a certain amount of flexibility in the level of applicable requirements as compared to a CAA or otherwise required mandatory I/M program. As the purpose of the Cache County I/M program is to achieve reductions in PM<sub>2.5</sub> NAAQS precursor emissions of NO<sub>x</sub> and VOCs, to improve air quality and for the use of such emission reductions in a dispersion modeled SIP attainment demonstration, EPA’s analysis of the BRHD’s Regulation 2013-1 included a comparison of the BRHD’s Regulation 2013-1 to applicable sections of 40 CFR 51,

subpart S “Inspection/Maintenance Program Requirements.” EPA’s analysis of the BRHD’s Regulation 2013-1 is as follows below.

EPA has reviewed the BRHD’s Regulation 2013-1 for consistency with appropriate sections of the federal I/M regulations, as applicable to a non-mandatory I/M program, as codified in 40 CFR 51, subpart S, sections 51.350 through 51.373. We have summarized the applicable federal requirements and have referenced the particular sections of the BRHD’s Regulation 2013-1 that we have determined satisfy those requirements:

1.) 40 CFR 51.350 – Applicability.

The SIP needs to describe the applicable areas in detail and must also include the legal authority or rules necessary to establish program boundaries. See 40 CFR 51.350(b). The Cache County I/M program will be implemented county-wide as described in the BRHD Regulation 2013-1, Section 4 “Powers and Duties.” The legal authority for the Cache County I/M program and BRHD Regulation 2013-1 is as authorized by sections 41-6a-1642, 41-1a-1223, 41-1a-215, 26A-1-121, 26A-1-114, all as from the Utah Code Annotated 1953, as amended. In addition, this aspect of the Cache County I/M program is further addressed in Section X, Part F, Vehicle Inspection and Maintenance Program, “Applicability” and in Section X, Part F, Appendix 1, Cache County Ordinance 2013-4, Section 4. Finally, SIP Section X, Part F, provides that the Cache County I/M program will continue until a maintenance plan without an I/M program is approved by EPA. See 40 CFR 51.350(c).

2.) 40 CFR 51.351 Enhanced I/M Performance Standard and 40 CFR 51.352 - Basic I/M Performance Standard.

As the Cache County I/M program is not a CAA mandatory or otherwise required I/M program, the program is not required to meet these federal I/M requirements. These provisions

were not addressed in the SIP and are not considered by EPA as applicable requirements for the Cache County I/M program. The emissions standards for the Cache County I/M program are specified in BRHD Regulation 2013-1, Appendix B. The cutpoints in Appendix B became effective January 1, 2014.

3.) 40 CFR 51.353 - Network Type.

The SIP needs to include a description of the network to be employed, and the required legal authority. See 40 CFR 51.353(d). The Cache County I/M program will be implemented as a decentralized test-and-repair network involving a TSI test for 1995 and older vehicles and an OBD test for 1996 and newer vehicles. The network to be employed is described in the BRHD Regulation 2013-1, Section 6 “General Provisions.” The legal authority for the Cache County I/M program and BRHD Regulation 2013-1 is as authorized by sections 41-6a-1642, Utah Code Annotated, 1953, as amended. In addition, this aspect of the Cache County I/M program is further addressed in Section X, Part F, Vehicle Inspection and Maintenance Program, “Description of Cache I/M Program” and in Section X, Part F, Appendix 1, Cache County Ordinance 2013-4, Section 4.

4.) 40 CFR 51.354 - Adequate Tools and Resources.

The SIP needs to include a description of the resources that will be used for program operation, which include: (1) a detailed budget plan which describes the source of funds for personnel, program administration, program enforcement, purchase of necessary equipment, and any other requirements and, (2) a description of personnel resources, overt and covert auditing, data analysis, program administration, enforcement, and other necessary functions. See 40 CFR 51.354(d). These aspects of the Cache County I/M program are described in the BRHD Regulation 2013-1. For fees to operate the program, Section 3 “Authority and Jurisdiction of the

Department,” (section 3.4), and Section 6 “General Provisions,” (section 6.7), address this requirement. With regard to personnel, audits, and enforcement, these aspects are addressed in Section 8.0 “Training and Certification of Inspectors” and Section 12 “Quality Assurance.” In addition, this aspect of the Cache County I/M program is further addressed in Section X, Part F, Vehicle Inspection and Maintenance Program, “Description of Cache I/M Program” and in Section X, Part F, Appendix 1, Cache County Ordinance 2013-4, Section 4.

5.) 40 CFR 51.355 - Test Frequency and Convenience.

The SIP needs to include the test schedule in detail, including the test year selection scheme if testing is other than annual. See 40 CFR 51.355(a). These aspects of the Cache County I/M program are described in the BRHD Regulation 2013-1, Section 6 “General Provisions,” (section 6.1) and in Section 9 “Inspection Procedure.” In addition, this aspect of the Cache County I/M program is further addressed in Section X, Part F, Vehicle Inspection and Maintenance Program, “Description of Cache I/M Program” and in Section X, Part F, Appendix 1, Cache County Ordinance 2013-4, Section 4. As mentioned above, the test schedule for the Cache County I/M program is biennial.

6.) CFR 51.356 - Vehicle Coverage.

The SIP needs to include a detailed description of the number and types of vehicles covered by the County-run program. See 40 CFR 51.356(b). All vehicles model year 1969 and newer are subject to the Cache County I/M program except those specifically exempted. These aspects of the Cache County I/M program are described in the BRHD Regulation 2013-1, Section 6 “General Provisions,” in sections 6.0, 6.1, and 6.2, with the vehicle exemptions provided in section 6.4; in addition, Section 9 “Inspection Procedure” addresses the vehicle testing procedures. We note this aspect of the Cache County I/M program is further addressed in

Section X, Part F, Vehicle Inspection and Maintenance Program, “Description of Cache I/M Program” and in Section X, Part F, Appendix 1, Cache County Ordinance 2013-4, Section 4.

7.) 40 CFR 51.357 - Test Procedures and Standards.

The SIP needs to include a description of each test procedure used, and a rule, ordinance, or law describing and establishing the test procedures. See 40 CFR 51.357(e). These aspects of the Cache County I/M program are described in the BRHD Regulation 2013-1, Section 9 “Inspection Procedure,” Section 11 “Specifications for Certified Testing Equipment and Calibration Gases,” and Appendix D “Test Procedures.” In addition, this aspect of the Cache County I/M program is further addressed in Section X, Part F, Vehicle Inspection and Maintenance Program, “Description of Cache I/M Program.”

These documents include detailed descriptions of the types of tests and vehicles to be covered by the County-run program. Essentially, as applicable, 1995 and older vehicles will be subject to a TSI test and 1996 and newer vehicles will be subject to an OBD test. A TSI test involves the insertion of probe into the tailpipe of a vehicle to measure pollutant emissions at two engine idle speeds; one measurement at a normal idle of around 700 revolutions per minute (RPM) and one measurement at a high idle speed of 2,500 RPM. An OBD test connects to the vehicle’s on-board computer and polls the information stored in the vehicle’s computer. The OBD procedures also address (among other things) “not ready” codes, data link connectors, stored Diagnostic Trouble Codes, and additional OBD test standards.

8.) 40 CFR 51.358 - Test Equipment.

The SIP needs to include written technical specifications for all test equipment used in the program. The specifications need to describe the emission analysis process, the necessary test equipment, the required features, and written acceptance testing criteria and procedures. See

40 CFR 51.358(c). These aspects of the Cache County I/M program are described in the BRHD Regulation 2013-1, Section 9 “Inspection Procedure,” Section 11 “Specifications for Certified Testing Equipment and Calibration Gases,” Appendix D “Test Procedures,” and Appendix E “Technical Specifications and Calibration Gas.” In addition, this aspect of the Cache County I/M program is further addressed in Section X, Part F, Vehicle Inspection and Maintenance Program, “Description of Cache I/M Program.” Appendix E contains the technical specifications for test equipment; OBD inspection equipment and TSI analyzers must meet all federal requirements.

9.) 40 CFR 51.359 - Quality Control.

The SIP needs to include a description of quality control and recordkeeping procedures. The SIP also needs to include the procedures manual, rule, and ordinance or law describing and establishing the quality control procedures and requirements. See 40 CFR 51.359(f). These aspects of the Cache County I/M program are described in the BRHD Regulation 2013-1, Section 4 “Powers and Duties,” Section 8 “Training and Certification of Inspectors,” and Section 12 “Quality Assurance.” In addition, this aspect of the Cache County I/M program is further addressed in Section X, Part F, Vehicle Inspection and Maintenance Program, “Description of Cache I/M Program” and in Section X, Part F, Appendix 1, Cache County Ordinance 2013-4, Section 2, “Powers and Duties.”

10.) 40 CFR 51.360 – Waivers.

The SIP needs to describe the waiver criteria and procedures, including cost limits, quality assurance methods and measures, and administration. The SIP needs to include the necessary legal authority, ordinance, or rules to issue waivers, set and adjust cost limits as

required, and carry out any other functions necessary to administer the waiver system, including enforcement of the waiver provisions. See 40 CFR 51.360(d).

These aspects of the Cache County I/M program are described in the BRHD Regulation 2013-1, Section 9 “Inspection Procedure,” with details regarding the waiver procedures, allowable costs, and timeframe of the waiver appearing in section 9.6 “Certificate of Waiver.” In addition, this aspect of the Cache County I/M program is further addressed in Section X, Part F, Vehicle Inspection and Maintenance Program, “Description of Cache I/M Program” and in Section X, Part F, Appendix 1, Cache County Ordinance 2013-4, Section 4. The BRHD draws its legal authority from Sections 41-6a-1642, 26A-1-114(1)(h)(i), and 26A-1-121(1) from the Utah Code Annotated, 1953, as amended. In particular, a certificate of waiver will not be granted unless at least 200 dollars have been spent on repairs, and can only be granted once during the lifetime of a vehicle.

11.) 40 CFR 51.361 - Motorist Compliance Enforcement.

The SIP needs to provide information concerning the enforcement process and legal authority to implement and enforce the program. See 40 CFR 51.361(c). These aspects of the Cache County I/M program are described in the BRHD Regulation 2013-1, Section 6 “General Provisions.” In addition, this aspect of the Cache County I/M program is further addressed in Section X, Part F, Appendix 1, Cache County Ordinance 2013-4, Section 4. The BRHD draws its legal authority from Sections 41-6a-1642, 26A-1-114(1)(h)(i), and 26A-1-121(1) from the Utah Code Annotated, 1953, as amended. The motorist compliance enforcement program will be implemented, in part, by the Utah Tax Commission DMV, which will take the lead in ensuring that owners of all subject vehicles are denied registration unless they provide valid proof of

having received a certificate indicating they passed an emissions test or were granted a compliance waiver.

12.) 40 CFR 51.362 - Motorist Compliance Enforcement Program Oversight.

The SIP needs to include a description of enforcement program oversight and information management activities. See 40 CFR 51.362(c). These aspects of the Cache County I/M program are similar to those noted above for our evaluation of 40 CFR 51.361 and are described in the BRHD Regulation 2013-1, Section 6 “General Provisions.” The BRHD will be reviewing the registration data, as appropriate, as provided by the DMV. In addition, this aspect of the Cache County I/M program is further addressed in Section X, Part F, Appendix 1, Cache County Ordinance 2013-4, Section 4. The BRHD draws its legal authority from Sections 41-6a-1642, 26A-1-114(1)(h)(i), and 26A-1-121(1) from the Utah Code Annotated, 1953, as amended.

13.) 40 CFR 51.363 - Quality Assurance.

The SIP needs to include a description of the quality assurance program, and written procedures manuals covering both overt and covert performance audits, record audits, and equipment audits. See 40 CFR 51.363(e). These aspects of the Cache County I/M program are described in the BRHD Regulation 2013-1, Section 4 “Powers and Duties,” Section 12 “Quality Assurance,” Section 15 “Penalty,” and Appendix C “Penalty Schedule.” In addition, this aspect of the Cache County I/M program is further addressed in Section X, Part F, Vehicle Inspection and Maintenance Program, “Description of Cache I/M Program” and in Section X, Part F, Appendix 1, Cache County Ordinance 2013-4, Section 4. The BRHD draws its legal authority from Sections 41-6a-1642, 26A-1-114(1)(h)(i), and 26A-1-121(1) from the Utah Code Annotated, 1953, as amended.

14.) 40 CFR 51.364 - Enforcement against contractors, stations, and inspectors.

The SIP needs to provide for enforcement against stations, contractors, and inspectors with effective and consistent penalties for a violation of the program requirements. See 40 CFR 51.364(d). Applicable provisions include a description of the imposition of penalties with a penalty schedule, types of potential penalties such as suspension and fines, requirements for inspectors found to be incompetent, the legal authority to invoke these types of enforcement activities, and proper record keeping provisions to document such enforcement actions.

These aspects of the Cache County I/M program are described in the BRHD Regulation 2013-1, Section 4 “Powers and Duties” (see especially sections 4.2 and 4.3), Section 12 “Quality Assurance,” Section 14 “Disciplinary Penalties and Right to Appeal,” Section 15 “Penalty,” and Appendix C “Penalty Schedule.” In addition, this aspect of the Cache County I/M program is further addressed in Section X, Part F, Vehicle Inspection and Maintenance Program, “Description of Cache I/M Program.” In particular, the penalty schedule in Appendix C sets minimum penalties for first, second, and subsequent violations, including mandatory six month suspensions for both the inspector and the test station for intentionally and improperly passing a vehicle, shorter suspensions for gross negligence, and mandatory retraining for inspector incompetence. The BRHD draws its legal authority from Sections 41-6a-1642, 26A-1-114(1)(h)(i), and 26A-1-121(1) from the Utah Code Annotated, 1953, as amended.

15.) 40 CFR 51.365 - Data collection.

The SIP needs to describe the provisions for data collection on vehicles evaluated by the I/M program. EPA notes that accurate data collection is essential to the management, evaluation, and enforcement of an I/M program. Examples of data to be collected include test date, test record number, vehicle identification number, license plate number, category of test performed

(TSI or OBD), values of emissions from test (for TSI), results of an OBD test, and quality control of the data gathered.

The appropriate data for both the TSI and OBD tests will be collected by Cache County I/M program and these provisions are described in the BRHD Regulation 2013-1, Section 12 “Quality Assurance,” Appendix B “Emission Standards Cutpoints,” Appendix D “Test Procedures,” and Appendix E “Technical Specifications and Calibration Gas.” In addition, this aspect of the Cache County I/M program is further addressed in Section X, Part F, Vehicle Inspection and Maintenance Program, “Description of Cache I/M Program.”

16.) 40 CFR 51.366 - Data Analysis and Reporting.

The SIP needs to indicate that the data analysis and reporting provisions are included with respect to applicable items as listed in 40 CFR 51.366. See 40 CFR 51.166(f). These aspects of the Cache County I/M program are essentially addressed in the Cache County I/M SIP Section X, Part F, the Cache County’s Ordinance 2013-4, and the BRHD’s regulation 2013-1 as they all reference the provisions in 40 CFR 51, subpart S. Further reference, to address this I/M program provision, is as described in the BRHD Regulation 2013-1, Section 2 “Purpose,” Section 4 “Powers and Duties,” and Section 12 “Quality Assurance.” This aspect of the Cache County I/M program is further addressed in Section X, Part F, Vehicle Inspection and Maintenance Program, “Applicability” and “Description of Cache I/M program”, and in Section X, Part F, Appendix 1, Cache County Ordinance 2013-4, Section 1 “Purpose.” In addition, as required by Section X, Part A, Cache County will need to provide this I/M program annual data reporting information: “*Data analysis and reporting- Annual: The I/M counties analyze and submit to EPA and UDAQ an annual report for January through December of the previous year, which includes all the data elements listed in 40 CFR Subpart S 51.366, by July of each year.*”

17.) 40 CFR 51.367 - Inspector Training and Licensing or Certification.

The SIP needs to include a description of the training program, the written and hands-on tests, and the licensing or certification process. See 40 CFR 51.367(c). These aspects of the Cache County I/M program are described in the BRHD Regulation 2013-1, Section 8 “Training and Certification of Inspectors.” The BRHD has responsibility for certification, recertification, and certification suspension and revocation.

18.) 40 CFR 51.368 – Public Information and Consumer Protection.

The SIP needs to include information for the public on an ongoing basis throughout the life of the I/M program regarding such aspects as the air quality problem, the requirements of federal and state law, the role of motor vehicles in the air quality problem, the need for and benefits of an inspection program, how to maintain a vehicle, how to find a qualified repair technician, and the requirements of the I/M program. See 40 CFR 51.368(a). In addition, the SIP needs to address consumer protection, which involves procedures and mechanisms to protect the public from fraud and abuse by inspectors, mechanics, and others involved in the I/M program. See 40 CFR 51.368(b).

These aspects of the Cache County I/M program are described in the BRHD Regulation 2013-1, Section 2 “Purpose,” Section 4 “Powers and Duties,” Section 6.0 “General Provisions,” Section 8 “Training and Certification of Inspectors,” Section 12 “Quality Assurance,” Section 14 “Disciplinary Penalties and Right to Appeal,” and Section 15 “Penalty.” In addition, these aspects of the Cache County I/M program are further addressed in Section X, Part F, Vehicle Inspection and Maintenance Program, “Applicability,” and “Description of Cache I/M Program,” and in Section X, Part F, Appendix 1, Cache County Ordinance 2013-4, Sections 1 through 4.

Also, these aspects of the Cache County I/M program are further addressed in Section X, Part A, “General Requirements,” “Applicability,” and “General Summary.”

19.) 40 CFR 51.369 - Improving Repair Effectiveness.

The Cache County I/M program is only in its first calendar year of operation (2014) and will not see all required vehicles until the end of 2015. Therefore, necessary data to address this provision are not currently available. In addition, as the Cache County I/M program is not a CAA mandatory or otherwise required I/M program, the program does not need to meet these federal I/M requirements. These provisions were not addressed in the SIP and are not considered by EPA as applicable requirements for the Cache County I/M program.

20.) 40 CFR 51.370 – Compliance with Recall Notices.

This section of 40 CFR 51, subpart S applies to mandatory I/M programs that evaluate vehicles that are subject to an enhanced I/M program. As the Cache County I/M program is not a CAA mandatory or otherwise required I/M program, the program is not required to meet these federal I/M requirements. These provisions were not specifically addressed in the SIP and are not considered by EPA as applicable requirements for the Cache County I/M program.

However, we note that as a matter of course, recall notices or other technical bulletins that are applicable to a vehicle which failed the applicable Cache County I/M test (i.e., TSI or OBD) would need to be evaluated by the vehicle owner prior to applying for a retest. Also, this type of evaluation would need to be applied to any vehicle seeking a waiver from the Cache County I/M program.

21.) 40 CFR 51.371 – On-road Testing.

As the Cache County I/M program is not a CAA mandatory or otherwise required I/M program, the program is not required to meet these federal I/M requirements. These provisions

were not addressed in the SIP and are not considered by EPA as applicable requirements for the Cache County I/M program.

22.) 40 CFR 51.372 - State Implementation Plan Submittals.

The Cache County I/M program is not a CAA mandatory or otherwise required I/M program. However, we have determined that the Governor's January 28, 2014 SIP submittal and the UDAQ's February 4, 2014 submittal of necessary SIP administrative documentation sufficiently address the requirements in 40 CFR 51.372 to the extent necessary for a SIP revision for a non-mandatory I/M program.

23.) 40 CFR 51.373 – Implementation Deadlines.

This section of 40 CFR 51, subpart S contains several implementation deadlines for particular mandatory I/M programs. As we have noted above, the Cache County I/M program is not a CAA mandatory or otherwise required I/M program. We, therefore, find acceptable the implementation date of January 1, 2014, as stated in the BRHD Regulation 2013-1, Section 6 "General Provisions." In addition, this aspect of the Cache County I/M program is further addressed in Section X, Part F, Vehicle Inspection and Maintenance Program, "I/M SIP Implementation," and in Section X, Part F, Appendix 1, Cache County Ordinance 2013-4, Section 4.

d.) Conclusion: Our review, as presented above, involved; (a.) Section X, Part F, Vehicle Inspection and Maintenance Program, (b.) Section X, Part F, Appendix 1, which is the Cache County Ordinance 2013-4, and (c.) Appendix 2, which is the BRHD's Regulation 2013-1, all as compared to the applicable provisions of 40 CFR 51, subpart S for a non-mandatory I/M program. Based on our review, we have determined that the SIP revisions sufficiently address the applicable provisions in 40 CFR 51, subpart S for a non-mandatory I/M program and that our

approval is warranted. We are, therefore, proposing approval of the Cache County I/M program as described and authorized in Section X, Part F, Vehicle Inspection and Maintenance Program, Section X, Part F, Appendix 1 which is the Cache County Ordinance 2013-4, and Appendix 2 which is the BRHD's Regulation 2013-1.

e.) Special Consideration of the Diesel I/M Provisions in the BRHD's Regulation 2013-1.

As we have noted above, the Cache County I/M program is not a CAA mandatory or otherwise required I/M program. EPA takes note of the provisions in the BRHD's Regulation 2013-1, Section 9.4.6, which states that "All diesel powered vehicles model year 1998 and newer shall be tested as specified in Appendix D, Diesel Test Procedures." Appendix D of Regulation 2013-1 is entitled "Test Procedures" and contains test procedures for OBDII, TSI, and for Diesel Powered Vehicles.

At this point in time, EPA has not promulgated specific I/M requirements for diesel I/M programs. We have, to date, only issued policy guidance regarding the gathering of OBD information from OBD-equipped diesel vehicles<sup>3</sup>. As such, we do not have regulatory language in 40 CFR 51, subpart S to compare, for potential SIP approval and SIP credit, the diesel I/M requirements in the BRHD's Regulation 2013-1. However, EPA does believe the above noted diesel I/M provisions in the BRHD's Regulation 2013-1 do have potential merit for evaluating diesel vehicles and for reducing emissions from diesel vehicles. We are therefore proposing approval of the diesel I/M provisions in the BRHD's Regulation 2013-1; however, our proposed approval is only for the purposes of strengthening the SIP and we are not proposing approval of the provisions as a diesel I/M program nor assigning any SIP credit.

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<sup>3</sup> See EPA Office of Transportation and Air Quality: "Best Practices for Addressing OBD Readiness in IM Testing of Diesel Vehicles Under 14,000 Pounds Gross Vehicle Weight Rating", March 07, 2013.

## **VI. EPA's Evaluation of the State's Associated Revisions to Utah Rules R307-110-1, R307-110-31, and R307-110-36**

### a.) Revisions to Utah Rule R307-110-1; Incorporation by Reference.

The purpose of the revisions to R307-110-1 is to incorporate by reference the Utah SIP into this section of the Utah Administrative Rules and to advise the public the SIP is available on the UDAQ's website. EPA finds this a non-controversial revision which merely incorporates the Utah SIP into the State's Rules, which are a portion of Utah's Codified Law, along with providing the public information that the SIP can be accessed via the internet on the UDAQ's website. The revisions to R307-110-1 were adopted by the UAQB on December 5, 2012, became State-effective on December 6, 2012, and were as submitted by the Governor by a letter dated January 10, 2013. By a subsequent letter dated February 25, 2013, Bryce Bird, Director, UDAQ, submitted the necessary administrative documentation that supported the Governor's submittal.

### b.) Revisions to Utah Rule R307-110-31; Section X, Vehicle Inspection and Maintenance Program, Part A, General Requirements and Applicability.

The purpose of the revisions to R307-110-31 is to incorporate by reference into the Utah Rules, SIP Section X, Vehicle Inspection and Maintenance Program, Part A, General Requirements and Applicability, as adopted by the UAQB on December 5, 2012, and which became State-effective on December 6, 2012. The revisions to SIP Section X, Part A, were those as we discussed above in sections III and IV of this action and were as submitted by the Governor by a letter dated January 10, 2013. By a subsequent letter dated February 25, 2013, Bryce Bird, Director, UDAQ, submitted the necessary administrative documentation that supported the Governor's submittal.

c.) Revisions to Utah Rule R307-110-36; Section X, Vehicle Inspection and Maintenance Program, Part F, Cache County.

The purpose of the revisions to R307-110-36 is to incorporate by reference into the Utah Rules, SIP Section X, Vehicle Inspection and Maintenance Program, Part F, Cache County, as initially adopted by the UAQB on December 5, 2012, and as superseded by the revisions as adopted by the UAQB on November 6, 2013. Those revisions that were adopted by the UAQB on November 6, 2013, became State-effective on November 7, 2013, and are the revisions to SIP Section X, Part F that we discussed above in sections III and V of this action. The November 7, 2013, effective revisions were submitted by the Governor by a letter dated January 28, 2014 and were supported by a subsequent letter, dated February 4, 2014, from Bryce Bird, Director, UDAQ, which submitted the necessary administrative documentation.

The revisions to Utah Rules R307-110-1, R307-110-31, and R307-110-36, as discussed above, incorporate by reference the applicable SIP revisions into the Utah Administrative Rules which then codifies them in the Utah Administrative Code. This is acceptable to EPA and we are, therefore, proposing to approve these revisions to Utah Rules R307-110-1, R307-110-31, and R307-110-36.

## **VII. Consideration of Section 110(1) of the Clean Air Act**

Section 110(1) of the CAA states that a SIP revision cannot be approved if the revision would interfere with any applicable requirement concerning attainment and reasonable further progress towards attainment of a NAAQS or any other applicable requirement of the CAA. The provisions of Utah SIP Section X, Part A contain I/M provisions that were previously approved by the EPA and were also simultaneously contained in the Utah's SIP Section X for each of the county's I/M programs (i.e., Part B, Part C, Part D, and Part E.) The proposed SIP revisions to

Section X do not weaken the previously approved requirements and provisions in Section X of the SIP, nor do they reduce the emission reductions achieved by the original program areas. Instead, the revisions to SIP Section X reorganize and expand the existing Part A requirements and provisions, to reflect the redundant language that previously appeared in Parts B, C, D, and E, and to expand SIP Section X to include the Cache County I/M program (Part F). The revisions to SIP Section X, Part F incorporate a new I/M program for Cache County that will help to reduce PM<sub>2.5</sub> precursor emissions of NO<sub>x</sub> and VOCs. The revisions to Utah Rules R307-110-1, R307-110-31, and R307-110-36 merely incorporate by reference the applicable SIP revisions into the Utah Administrative Rules which then codifies them in the Utah Administrative Code. In view of the above, EPA proposes to find that the revisions to Utah SIP Section X, Part A, Utah SIP Section X Part F, and Utah Rules R307-110-1, R307-110-31, and R307-110-36 will not interfere with attainment, reasonable further progress, or any other applicable requirement of the CAA.

### **VIII. Proposed Action**

EPA is proposing approval of the January 10, 2013 submitted SIP revisions to Utah's SIP Section X, Vehicle Inspection and Maintenance Program, Part A, General Requirements and Applicability, and to Utah Rules R307-110-1 and R307-110-31. In addition, EPA is proposing approval of the January 28, 2014 submitted SIP revisions to Utah's SIP Section X, Vehicle Inspection and Maintenance Program, Part F, Cache County, with clarification below, and to Utah Rule R307-110-36. EPA clarifies that with its proposed approval of Utah's SIP Section X, Vehicle Inspection and Maintenance Program, Part F, Cache County, Appendix 2, the provisions in the BRHD's Regulation 2013-1, Section 9.4.6 and the diesel test procedures as specified in BRHD's Regulation 2013-1, Appendix D are being proposed for approval only for purposes of

strengthening the SIP. These provisions are not being proposed for approval as a diesel I/M program and are not being assigned any SIP credit.

### **IX. Statutory and Executive Order Reviews**

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this action merely proposes to approve state law as meeting federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this proposed action:

- Is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);

- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this proposed rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

**List of Subjects in 40 CFR Part 52**

Environmental protection, Air pollution control, Carbon monoxide, Intergovernmental relations, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, and Volatile organic compounds.

**Authority:** 42 U.S.C. 7401 *et seq.*

Dated: October 20, 2014.

Shaun L. McGrath,  
Regional Administrator,  
Region 8.

[FR Doc. 2014-26630 Filed 11/07/2014 at 8:45 am; Publication Date: 11/10/2014]