UTAH STATE BULLETIN

OFFICIAL NOTICES OF UTAH STATE GOVERNMENT
Filed May 1, 1998 5:01 p.m. - May 15, 1998 5:00 p.m.

NUMBER 98-11
June 1, 1998

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The UTAH STATE BULLETIN is the official noticing publication of the executive branch of Utah State Government. The Department of Administrative Services, Division of Administrative Rules produces the Bulletin under authority of Section 63-46a-10, UTAH CODE ANNOTATED 1953.

Inquiries concerning administrative rules or other contents of the BULLETIN may be addressed to the responsible agency or to: Division of Administrative Rules, PO Box 141007, Salt Lake City, Utah 84114-1007, telephone (801) 538-3218, FAX (801) 538-1773. To view rules-related information, and on-line versions of these publications, visit the division's web site at: http://www.rules.state.ut.us/

The BULLETIN and its companion summary, the UTAH STATE DIGEST, are printed and distributed semi-monthly by Legislative Printing. Annual Subscription rates (24 issues) are $150 for the UTAH STATE BULLETIN and $35 for the UTAH STATE DIGEST. Inquiries concerning subscription, billing, or changes of address should be addressed to:

LEGISLATIVE PRINTING
PO BOX 140107
SALT LAKE CITY, UT 84114-0107
(801) 538-1103
FAX (801) 538-1728

ISSN 0882-4738

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SPECIAL NOTICES

DEPARTMENT OF ADMINISTRATIVE SERVICES
ARCHIVES AND RECORDS SERVICE

PUBLIC NOTICE
May 21, 1998

The Utah State Archives, Records Analysis Section hereby invites public comment in the records scheduling process. The State Records Committee (consisting of the State Auditor's designee, the Division of State History director, a records manager from the private sector, the Governor or his designee, a citizen member, an elected official representing political subdivisions, and an individual representing the news media) is statutorily mandated to "review and approve retention and disposal of records." Certain records from state and local government agencies are expected to be presented to the State Records Committee for retention and disposition approval. These retention schedules may be viewed on location in our Research Room or via our web page (http://www.archives.state.ut.us/recmanag/retsched.htm).

Comments from citizens are invited between June 8, 1998, and July 14, 1998. Contact the Utah State Archives at (801) 538-3012 for more information.

DEPARTMENT OF NATURAL RESOURCES
WILDLIFE RESOURCES

NOTICE OF EMERGENCY CHANGES TO THE 1998
UTAH FISHING REGULATIONS ESTABLISHED BY
THE WILDLIFE BOARD FOR TAKING
FISH AND CRAYFISH

I, John Kimball, by authority granted in Section 23-14-8 of the Wildlife Resources Code of Utah, declare an emergency amendment to the 1998 Utah Fishing Regulations. The following has been amended:

Golf Course Ponds in Green River State Park, Green River, Utah.

CLOSED to fishing.

This closure is being made to allow a new fishery time to develop. The water has been chemically renovated to remove a variety of undesirable species. New introductions of bluegill and largemouth bass are being made, and the population needs time to develop. This project is in cooperation with Utah State Parks, Utah Division of Wildlife Resources, and local bass clubs.

This amendment is effective May 15, 1998. All other rules, established in the 1998 Utah Fishing Regulations remain in effect.

UTAH DIVISION OF WILDLIFE RESOURCES
By: John Kimball, Director

DEPARTMENT OF ENVIRONMENTAL QUALITY
AIR QUALITY

NOTICE TO USERS OF AIR QUALITY RULES OF THE REORGANIZATION OF ALL RULES UNDER TITLE R307

The Air Quality Board is reorganizing all rules under Title R307. The purpose of the reorganization is to group similar materials into a coherent structure, and to shorten individual sections and rules so that important provisions can be more easily located. No substantive change in meaning is intended.

Over the past year, Air Quality staff members met with representatives of small business associations to determine how the structure of the rules could best meet businesses' needs. A draft outline was sent for review to about 15 large and 15 small businesses affected by Air Quality rules, and their comments were incorporated. When a draft of the text was ready, five individuals who represent industrial sources and environmental interests were asked to review the draft; their comments led to further changes in the structure.

The definitions now found in Section R307-1-1 which are used in only one new rule are moved to that rule. Definitions used in more than one rule are moved to Section R307-101-2. No definitions are deleted.

Many of these rules needed other improvements, such as updating citations to federal and state statutes, improving grammar and sentence structure, avoiding the use of parentheses within the text, and so forth. Making such corrections risks some change in the meaning, and we have chosen to postpone them until later in order that the changes proposed now can be entirely nonsubstantive. Additional improvements will be proposed in small chunks in the months to come.

Some of the current changes are made by filing amendments to current rules. Sections R307-1-1 through R307-1-4 are being deleted, and their replacements are being filed as new rules. The proposed amendments, repeals, and new rules (a total of 47) are under DAR No. 21100 through DAR No. 21145 in this *Bulletin*.

The reorganization is detailed in the following two tables. The first shows rule citations as they currently are, with notations showing the new location of each subsection. The second sets forth the new structure and identifies where each component came from.

DAQ staff would appreciate your comments, especially if you find changes which may be substantive. You may call Jan Miller at (801) 536-4042 or E-mail her at jmiller@deq.state.ut.us. by July 1, 1998.

OUTLINE FOR RULES REORGANIZATION

NOTE: The titles are the NEW titles. In some cases, there are no titles now in these locations.

Old Location	New Location	New Title
R307-1-1. Foreword and Definitions.		
R307-1-1	R307-101-1	Foreword and Applicability
R307-1-1	R307-101-2 & others	Definitions
R307-1-2. General Requirements.		
R307-1-2.1	R307-102-1	Air Pollution Prohibited
R307-1-2.2	R307-150-1	Authority and Application
R307-1-2.3	R307-102-4	Variances
R307-1-2.4, through (4)	R307-202-1	Exclusions
R307-1-2.4.1	R307-202-2	Community Waste Disposal
R307-1-2.4.2	R307-202-3	General Prohibitions

Old Location	New Location	New Title
R307-1-2.4.3	R307-202-4	Permissible Burning Without Permit
R307-1-2.4.4	R307-202-5	Permissible Burning With Permit
R307-1-2.4.5	R307-202-6	Special Conditions
R307-1-2.5, 1st para	R307-102-2	Confidentiality of Information
R307-1-2.5.1 - 2.5.4	R307-102-3	Administrative Procedures and Hearings
R307-1-3. Control of Installations.		
R307-1-3.1.1	R307-401-1	Notice of Intent Required
R307-1-3.1.6	R307-401-2	Notice of Intent Requirements
R307-1-3.1.2	R307-401-3	Review Period
R307-1-3.1.3	R307-401-4	Public Notice
R307-1-3.1.4	R307-401-5	Approval Order
R307-1-3.1.5	R307-401-11	Eighteen Month Review
R307-1-3.1.7.A	R307-413-2	Small Source Exemptions - Deminimis Emissions
R307-1-3.1.7.B	R307-413-3	Flexibility Changes
R307-1-3.1.7.C	R307-413-4	Other Exemptions
R307-1-3.1.7.C(6)	R307-150-2	Add new sentence to list items from R307-1-3.1.7.C(6)
R307-1-3.1.7.D	R307-413-5	Replacement-in-Kind Equipment
R307-1-3.1.7.E	R307-413-6	Reduction of Air Contaminants
R307-1-3.1.7.F	R307-150-2	Emissions from Exempt Sources
R307-1-3.1.7.G, H	R307-413-1	General Requirements
R307-1-3.1.8	R307-401-6	Conditions for Issuing Approval Order
R307-1-3.1.9	R307-401-7	Temporary Relocation
R307-1-3.1.10	R307-401-8	Nonattainment and Maintenance Areas
R307-1-3.1.11	R307-401-9	Relaxation of Limitations
R307-1-3.1.12	R307-401-10	Low Oxides of Nitrogen Burner Technology
R307-1-3.2.1	R307-305-5	Particulate Emission Limitations and Operating Parameters (TSP)
R307-1-3.2.2	R307-305-6	Compliance Schedule (TSP)
R307-1-3.2.3	R307-305-7	Compliance Testing (TSP)
R307-1-3.2.4	R307-305-2	Particulate Emission Limitations and Operating Parameters (PM10)
R307-1-3.2.5	R307-305-3	Compliance Testing (PM10)
R307-1-3.2.6	R307-305-4	Compliance Schedule (PM10)
R307-1-3.2.7.A	R307-307-1	Records
R307-1-3.2.7.B	R307-307-2	Content
R307-1-3.2.7.C	R307-307-3	Alternatives
R307-1-3.3.1	R307-403-2	Emission Limitations
R307-1-3.3.2	R307-403-3	Review of Major Sources of Air Quality Impact
R307-1-3.3.3.A	R307-403-4	General Requirements
R307-1-3.3.3.B	R307-403-5	PM10 Nonattainment Areas
R307-1-3.3.3.C	R307-403-6	Ozone Nonattainment Areas and Davis and Salt Lake Counties
R307-1-3.3.4	R307-403-9	Construction in Stages
R307-1-3.3.5	R307-403-7	Baseline for Determining Credit for Emission and Air Quality Offsets
R307-1-3.3.6	R307-403-8	Banking of Emission Offset Credit

Old Location	New Location	New Title
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R307-1-3.4.2	R307-165-2	Notification of DAQ
R307-1-3.4.3	R307-165-3	Test Conditions
R307-1-3.4.4	R307-165-4	Rejection of Test Results
R307-1-3.5.1	R307-155-1	Criteria Pollutant Inventory
R307-1-3.5.2	R307-155-2	Hazardous Air Pollutant Inventory
R307-1-3.5.3	R307-155-3	Emission Statement Inventory
R307-1-3.6.1	R307-405-2	Area Designations
R307-1-3.6.2	R307-405-3	Area Redesignations
R307-1-3.6.3	R307-405-4	Increments and Ceilings
R307-1-3.6.4	R307-405-5	Baseline Concentration and Date
R307-1-3.6.5	R307-405-6	PSD Area - New Sources and Modifications
R307-1-3.6.6	R307-405-7	Increment Violations
R307-1-3.6.7	R307-405-8	Banking of Emission Offset Credit in PSD Areas
R307-1-3.7.1	R307-410-2	Use of Dispersion Models
R307-1-3.7.2	R307-410-3	Modeling of Criteria Pollutant Impacts in Attainment Areas
R307-1-3.7.3	R307-410-4	Documentation of Ambient Air Impacts for Hazardous Air Pollutants
R307-1-3.8	R307-410-5	Stack Heights and Dispersion Techniques
R307-1-3.9, paragraph 1	R307-414-1	Fees Required
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R307-1-3.10.2	R307-406-3	Notification of Federal land Managers
R307-1-3.10.3	R307-406-4	Adverse Impact
R307-1-3.10.4	R307-406-5	Consideration in Review
R307-1-3.10.5	R307-406-6	Audits for Permitting

R307-1-4. Emissions Standards.

R307-1-4, paragraph 1	R307-102-6, 107-6, 201-1, 203-3, 206-5, 305-1	
R307-1-4.1, except 4.1.1	R307-201-1	Visible Emissions
R307-1-4.1.1	R307-305-1	Visible Emissions
R307-1-4.2	R307-203-1	Commercial and Industrial Sources
R307-1-4.4	R307-201-2	Automobile Emission Control Devices
R307-1-4.7, 1st paragraph	R307-107-1	Application
R307-1-4.7.1	R307-107-2	Reporting
R307-1-4.7.2	R307-107-3	Penalties
R307-1-4.7.3	R307-107-4	Procedures
R307-1-4.7.4	R307-107-5	Violation
R307-1-4.8	R307-102-5	No Reduction in Pay
R307-1-4.10.1	R307-206-2	Visible Emissions Standards
R307-1-4.10.2	R307-206-3	Visible Emission Evaluation Techniques
R307-1-4.10.3	R307-206-4	Performance Standards

Old Location	New Location	New Title
R307-1-5. Emergency Controls.		
R307-1-5.1.1 and 2	R307-105-2	Air Pollution Emergency Episodes
R307-1-5.1.3 and 4	R307-105-3	Emergency Actions
R307-1-6. Eligibility of Pollution Control Expenditures for Sales Tax Exemption and Income Tax Credits.		
R307-1-6.1.1	R307-120-1	Application
R307-1-6.1.2	R307-120-2	Certification
R307-1-6.1.3	R307-120-3	Review Period
R307-1-6.1.4	R307-120-4	Conditions for Eligibility
R307-1-6.1.5	R307-120-5	Limitations on Certification
R307-1-6.1.6	R307-120-6	Exemptions from Certification
R307-1-6.1.7	R307-120-7	Duty to Issue Certification
R307-1-6.1.8 & 9	R307-120-8	Appeal and Revocation
R307-1-6.2.1	R307-121-1	Definitions
R307-1-6.2.2	R307-121-2	Amount of Credit
R307-1-6.2.3	R307-121-3	Anti-tampering policy
R307-1-6.2.4	R307-121-4	Proof of Purchasefor New Vehicle
R307-1-6.2.5	R307-121-5	Proof of Purchase for Converted Vehicle
R307-1-6.2.6.A - C	R307-121-6	Procedures for Obtaining Certification by the Board for Fuel Conversion Systems
R307-1-6.2.6.D	R307-121-7	Revocation of Certification
R307-1-6.2.8	R307-121-8	Duty to Acknowledge Proof of Purchase
R307-1-6.3.1	R307-122-1	Definitions
R307-1-6.3.2	R307-122-2	Amount of Credit
R307-1-6.3.3	R307-122-3	Proof of Purchase
R307-1-6.3.4	R307-122-4	Duty to Acknowledge Proof of Purchase
R307-1-8. Asbestos Certification, Asbestos Work Practices, and Implementation of Toxic Substances Control Act, Title II.		
R307-1-8.1	R307-801-1	Definitions
R307-1-8.2	R307-801-3	Applicability
R307-1-8.3.1	R307-801-4a	Asbestos Contractor, Supervisor and Consultant Certification Requirements
R307-1-8.3.2	R307-801-4b	Asbestos Contractor
R307-1-8.3.3	R307-801-4c	Asbestos Supervisor
R307-1-8.3.4	R307-801-4d	Asbestos Worker
R307-1-8.3.5	R307-801-4e	Consultant and Consultant in Training
R307-1-8.3.6	R307-801-4f	Exemption of Supervisors from Certification as an Asbestos Worker
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R307-1-8.3.8	R307-801-4h	Suspension and Revocation
R307-1-8.3.9 and 10	R307-801-4i	Duration and Renewal of Certification
R307-1-8.4.1	R307-801-5a	Asbestos Worker Training
R307-1-8.4.2	R307-801-5b	Supervisor Training
R307-1-8.4.3	R307-80-15c	TSCA Accreditation
R307-1-8.4.4	R307-801-5d	Examination Required
R307-1-8.4.5	R307-801-5e	Approval of Training Courses

Old Location	New Location	New Title
R307-1-8.4.6	R307-801-5f	Approval of New Training Course Instructors
R307-1-8.5.1	R307-801-6a	NESHAP Size Asbestos Projects
R307-1-8.5.2	R307-801-6b	Other Asbestos Projects
R307-1-8.5.3	R307-801-6c	Change in Notification Date
R307-1-8.6.1, 1st para & R307-1-8.6.2, 1st para	R307-801-7a	NESHAP Size Asbestos Projects
R307-1-8.6.1.A	R307-801-7b	General Requirements
R307-1-8.6.1.B	R307-801-7c	Asbestos Removal
R307-1-8.6.1.C	R307-801-7d	Renovation
R307-1-8.6.1.D and E	R307-801-7e	Encapsulation and Enclosures
R307-1-8.6.1.F	R307-801-7f	Demolition
R307-1-8.6.1.G	R307-801-7g	Outdoor Work
R307-1-8.6.1.H	R307-801-7h	Disposal
R307-1-8.6.1.I	R307-801-7i	Planned Asbestos Projects
R307-1-8.6.2	R307-801-8	Work Practices for Other Asbestos Projects
R307-1-8.6.3	R307-801-11	Asbestos Projects Performed in a Single Family Residential Dwelling
R307-1-8.6.4	R307-801-12	Alternative Procedures
R307-1-8.6.5	R307-801-9	Asbestos Projects Subject to TSCA Title II
R307-1-8.6.6	R307-801-10	Activities Subject to Certification Requirements
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R307-1-8.7.1.B	R307-801-13b	Training
R307-1-8.8.1	R307-801-2	Adoption of TSCA Title II
R307-1-8.8.2	R307-801-14	Review and Disapproval of Management Plans
R307-2. Utah State Implementation Plan.		
R307-2-1	R307-110-1	Incorporation by Reference
R307-2-2	R307-110-2	Section I, Legal Authority
R307-2-3	R307-110-3	Section II, Review of New and Modified Air Pollution Sources
R307-2-4	R307-110-4	Section III, Source Surveillance
R307-2-5	R307-110-5	Section IV, Ambient Air Monitoring Program
R307-2-6	R307-110-6	Section V, Resources
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R307-2-11	R307-110-11	Section IX, Control Measures for Area and Point Sources, Part B, Sulfur Dioxide
R307-2-12	R307-110-12	Section IX, Control Measures for Area and Point Sources, Part C, Carbon Monoxide
R307-2-13	R307-110-13	Section IX, Control Measures for Area and Point Sources, Part D, Ozone
R307-2-14	R307-110-14	Section IX, Control Measures for Area and Point Sources, Part E, Nitrogen Dioxide

Old Location	New Location	New Title
R307-2-15	R307-110-15	Section IX, Control Measures for Area and Point Sources, Part F, Lead
R307-2-16	R307-110-16	Section IX, Control Measures for Area and Point Sources, Part G, Fluoride
R307-2-17	R307-110-17	Section IX, Control Measures for Area and Point Sources, Part H, Emission Limits
R307-2-18	R307-110-31	Section X, Basic Inspection and Maintenance, Part A, General Requirements and Applicability
R307-2-19	R307-110-19	Section XI, Other Control Measures for Mobile Sources
R307-2-20	R307-110-20	Section XII, Involvement
R307-2-21	R307-110-21	Section XIII, Analysis of Plan Impact
R307-2-22	R307-110-22	Section XIV, Comprehensive Emission Inventory
R307-2-23	R307-110-23	Section XV, Utah Code Title 19, Chapter 2, Air Conservation Act
R307-2-24	R307-110-24	Section XVI, Public Notification
R307-2-25	R307-110-25	Section XVII, Visibility Protection
R307-2-26	R307-110-25	R307-110-26 Section XVIII, Demonstration of GEP Stack Height
R307-2-27	R307-110-27	Section XIX, Small Business Assistance Program
	R307-110-28	(Reserved)
R307-2-29	R307-110-29	Section XXI, Diesel Inspection and Maintenance Program
R307-2-30	R307-110-30	Section XXII, General Conformity
R307-2-31	R307-110-32	Section X, Basic Inspection and Maintenance, Part B, Davis County
R307-2-32	R307-110-33	Section X, Basic Inspection and Maintenance, Part C, Salt Lake County
R307-2-33	R307-110-34	Section X, Basic Inspection and Maintenance, Part D, Utah County
R307-2-34	R307-110-35	Section X, Basic Inspection and Maintenance, Part E, Weber County

R307-3. Qualifications of Contractors, Test Procedures for Testing of Vapor Recovery Systems for Gasoline Delivery Tanks.

R307-3-1	R307-342-1	Background
R307-3-2	R307-342-2	General Applicability
R307-3-3	R307-342-3	General Requirements
R307-3-4	R307-342-4	Contractor Qualification Requirements
R307-3-5	R307-342-5	Equipment Requirements
R307-3-6	R307-342-6	Test Procedures and Preparations
R307-3-7	R307-342-7	Certification of a Delivery Tank

R307-4. Utah Air Quality Board Penalty Policy and AHERA Enforcement Response Policy.

R307-4-1	R307-130-1	Scope
R307-4-2	R307-130-2	Categories
R307-4-3	R307-130-3	Adjustments
R307-4-4	R307-130-4	Options
R307-4-5	R307-135-1	Definitions
R307-4-6	R307-135-2	Assessing Penalties Against a Local Education Agency

Old Location	New Location	New Title
R307-4-7	R307-135-3	Assessing Penalties Against Other Persons
R307-4-8	R307-135-4	Penalties Against Private Nonprofit Schools
R307-4-9	R307-135-5	Air Quality Board AHERA Enforcement Response Policy Penalties
R307-4-10	R307-135-6	Injunctive Relief
R307-4-11	R307-135-7	Criminal Penalties
R307-6. Policy of the Air Quality Board for De Minimis Emissions from Air Strippers and Soil Venting Projects.		
R307-6-1	R307-413-8 & 9	Air Strippers and Soil Venting Projects
R307-7. Exemption from Notice of Intent Requirements for Used Oil Fuel Burned for Energy Recovery		
R307-7-1, 2, 3	R307-413-7	Used Oil Burned for Energy Recovery
R307-8. Oxygenated Gasoline Program		
R307-8-1	R307-301-1	Definitions
R307-8-2	R307-301-2	Applicability and Control Period Start Dates
R307-8-3	R307-301-3	Average Oxygen Content Standard
R307-8-4	R307-301-4	Sampling, Testing and Oxygen Content Calculations
R307-8-5	R307-301-5	Alternative Compliance Options
R307-8-6	R307-301-6	Minimum Oxygen Content
R307-8-7	R307-301-7	Registration
R307-8-8.1	R307-301-8	Recordkeeping
R307-8-8.2	R307-301-9	Reports
R307-8-8.3	R307-301-10	Transfer Documents.
R307-8-9	R307-301-11	Prohibited Activities
R307-8-11	R307-301-12	Labeling of Pumps
R307-8-12	R307-301-13	Inspections
R307-8-13	R307-301-14	Public and Industry Education Program
R307-10. National Emission Standards for Hazardous Air Pollutants		
R307-10-1	R307-214-1	Part 61 Sources
R307-10-2	R307-214-2	Part 63 Sources
R307-11. Employer-Based Trip Reduction Program.		
R307-11-1	R307-320-1	Purpose
R307-11-2	R307-320-2	Applicability
R307-11-3	R307-320-3	Definitions
R307-11-4	R307-320-4	Employer Requirements
R307-11-5	R307-320-5	Recordkeeping
R307-11-6	R307-320-6	Violations
R307-11-7	R307-320-7	Exemptions
R307-12. Fugitive Emissions and Fugitive Dust.		
R307-12-1	R307-205-1	Applicability
R307-12-2	R307-205-2	Fugitive Emissions

Old Location	New Location	New Title
R307-12-3	R307-205-3	Fugitive Dust
R307-12-4	R307-205-4	Road Ways
R307-12-5	R307-205-5	Mining Activities
R307-12-6	R307-205-6	Tailings Piles and Ponds

R307-13. Continuous Emissions Monitoring Systems Program.

R307-13-1	R307-170-1	Definitions
R307-13-2	R307-170-2	Emission Monitoring Requirements
R307-13-3	R307-170-3	System Operational Audit Checks
R307-13-4	R307-170-4	Minimum Performance Specification
R307-13-5	R307-170-5	Applicability
R307-13-6	R307-170-6	Recordkeeping
R307-13-7	R307-170-7	Technical Requirements and Specifications
R307-13-8	R307-170-8	Reason Categories for Exceedances of Emission Limitations
R307-13-9	R307-170-9	Categories of Monitor Performance to be Used in the Quarterly Reports

R307-14. Requirements for Ozone Nonattainment Areas and Salt Lake and Davis Counties.

R307-14-1 through 1.C	R307-325-1	General
R307-14-1.D, E, F, G	R307-325-2	Existing Sources
R307-14-1.H	R307-325-3	New Sources
R307-14-2.A	R307-327-1	Applicability and Definitions
R307-14-2.B	R307-327-2	Installation and Maintenance
R307-14-2.C	R307-327-3	Retrofits for Floating Roof Tanks
R307-14-3.A	R307-328-2	Loading of Tank Trucks, Trailers, Railroad Tank Cars and Other Transport Vehicles
R307-14-3.B	R307-328-3	Stationary Source Container Loading
R307-14-3.C	R307-328-4	Transport Vehicles
R307-14-3.D	R307-328-5	Leak Tight Testing
R307-14-4.A	R307-326-2	Vacuum Producing Systems
R307-14-4.B	R307-326-3	Wastewater (Oil/Water) Systems
R307-14-4.C	R307-326-4	Process Unit Turnaround
R307-14-4.D	R307-326-5	Catalytic Cracking Units
R307-14-4.E	R307-326-6	Safety Pressure Relief Valves
R307-14-4.F	R307-326-7	Leaks from Petroleum Refinery Equipment
R307-14-5, paragraph 1	R307-335-1	Applicability
R307-14-5.A	R307-335-2	Cold Cleaning Facilities
R307-14-5.B	R307-335-3	Open Top Vapor Degreaser
R307-14-5.C	R307-335-4	Conveyorized Degreasers
R307-14-6.A	R307-341-2	Limitations on Content
R307-14-6.B	R307-341-3	Recordkeeping
R307-14-7.A	R307-340-2	General Provisions for Volatile Organic Compounds
R307-14-7.B	R307-340-3	Paper Coating
R307-14-7.C	R307-340-4	Fabric and Vinyl Coating
R307-14-7.D	R307-340-5	Metal Furniture Coating VOC Emissions
R307-14-7.E	R307-340-6	Large Appliance Surface Coating VOC Emissions

Old Location	New Location	New Title
R307-14-7.F	R307-340-7	Magnet Wire Coating VOC Emissions
R307-14-7.G	R307-340-8	Flat Wood Coating
R307-14-7.H	R307-340-9	Miscellaneous Metal Parts and Products VOC Emissions
R307-14-7.I	R307-340-10	Graphic Arts
R307-14-7.J	R307-340-11	Exemptions
R307-14-7.K	R307-340-12	Capture Systems
R307-14-7.L	R307-340-13	Testing and Monitoring
R307-14-9	R307-325-4	Compliance Schedule
R307-14-10.A	R307-332-1	Definitions
R307-14-10.B	R307-332-2	Stage II Vapor Recovery System Specifications and Approval
R307-14-10.C	R307-332-3	Applicability
R307-14-10.D	R307-332-4	Compliance Schedule
R307-14-10.E	R307-332-5	Installation of Stage II Vapor Recovery Systems
R307-14-10.F	R307-332-6	Installation Owner/Operator and Employee Training
R307-14-10.G	R307-332-7	Stage II Vapor Recovery System Operation and Maintenance
R307-14-10.H	R307-332-8	Records
R307-14-10.I	R307-332-9	Pump Labeling Requirements
R307-14-10-J	R307-332-10	Stage II Vapor Recovery System Self Inspections
R307-14-10.K	R307-332-11	Test Notification Requirements
R307-15. Operating Permit Requirements.		
R307-15-1	R307-415-1	Purpose
R307-15-2	R307-415-2	Authority
R307-15-3	R307-415-3	Definitions
R307-15-4	R307-415-4	Applicability
R307-15-5(1)	R307-415-5a	Applications: Duty to Apply
R307-15-5(2)	R307-415-5b	Applications: Duty to Supplement or Correct Application
R307-15-5(3)	R307-415-5c	Applications: Standard Application Requirements
R307-15-5(4)	R307-415-5d	Applications: Certification
R307-15-5(5)	R307-415-5e	Applications: Insignificant Activities and Emissions
R307-15-6(1)	R307-415-6a	Content: Standard Permit Requirements
R307-15-6(2)	R307-415-6b	Content: Federally-Enforceable Requirements
R307-15-6(3)	R307-415-6c	Content: Compliance Requirements
R307-15-6(4)	R307-415-6d	Content: General Permits
R307-15-6(5)	R307-415-6e	Content: Temporary Sources
R307-15-6(6)	R307-415-6f	Content: Permit Shield
R307-15-6(7)	R307-415-6g	Content: Emergency Provision
R307-15-7(1)	R307-415-7a	Issuance: Action on Application
R307-15-7(2)	R307-415-7b	Issuance: Requirement for a Permit
R307-15-7(3)	R307-415-7c	Renewal: Permit Renewal and Expiration
R307-15-7(4)	R307-415-7d	Revision: Changes That Do Not Require a Permit Revision
R307-15-7(5)	R307-415-7e	Revision: Administrative Permit Amendments
R307-15-7(6)	R307-415-7f	Revision: Permit Modification
R307-15-7(7)	R307-415-7g	Reopening for Cause

Old Location	New Location	New Title
R307-15-7(8)	R307-415-7h	Reopenings for Cause by EPA
R307-15-7(9)	R307-415-7i	Public Participation
R307-15-8	R307-415-8	Permit Review by EPA and Affected States
R307-15-9	R307-415-9	Fees for Operating Permits
R307-15-10	R307-415-10	Administrative Procedures and Appeals
R307-16. Acid Rain Requirements.		
R307-16-1	R307-417-1	Part 72 Requirements
R307-16-2	R307-215-1	Part 76 Requirements
R307-17. Emission Standards for Residential Solid Fuel Burning Devices and Fireplaces.		
R307-17-1	R307-203-2	Sulfur and Ash Content of Coal for Residential Use
R307-17-2	R307-201-3	Opacity for Residential Heating
R307-17-3	R307-302-2	No-Burn Periods for PM10
R307-17-4	R307-302-3	No-Burn Periods for Carbon Monoxide
R307-17-5	R307-302-4	Violations
R307-18. Stationary Sources.		
R307-18-1	R307-210-1	Standards of Performance of New Stationary Sources (NSPS)
R307-19. General Conformity.		
R307-19-1	R307-115-1	Determining Conformity
R307-20. Utah Plan for Designated Facilities		
R307-20-1	R307-220-1	Incorporation by Reference
R307-20-2	R307-220-2	Section I, Municipal Solid Waste Landfill
R307-21. Emission Controls for Existing Municipal Solid Waste Landfills		
R307-21-1	R307-221-1	Purpose and Applicability
R307-21-2	R307-221-2	Definitions and References
R307-21-3	R307-221-3	Emission Restrictions
R307-21-4	R307-221-4	Control Device Specifications
R307-21-5	R307-221-5	Compliance Schedule

STRUCTURE OF REORGANIZED AIR QUALITY RULES

R307-100 Series	**General Requirements**
R307-150 Series	**Inventories, Testing and Monitoring**
R307-200 Series	**Statewide Emission Standards**
R307-300 Series	**Requirements for Specific Locations**

R307-400 Series **Permits**

R307-800 Series **Asbestos and Lead Abatement***

* The 1998 Legislature authorized provisions for lead removal. Rules to implement these provisions are being written.

Outline for Rules Reorganization

New Location	New Title	Old Location
R307-100 Series. General Requirements		
R307-101. General Requirements.		
R307-101-1	Foreword and Applicability	R307-1-1
R307-101-2	Definitions	R307-1-1
R307-102. General Requirements: Broadly Applicable Requirements.		
R307-102-1	Air Pollution Prohibited	R307-1-2.1
R307-102-2	Confidentiality of Information	R307-1-2.5, 1st para
R307-102-3	Administrative Procedures and Hearings	R307-1-2.5.1 - 2.5.4
R307-102-4	Variances	R307-1-2.3
R307-102-5	No Reduction in Pay	R307-1-4.8
R307-102-6	Emission Standards	R307-1-4, paragraph 1
R307-105. General Requirements: Emergency Controls.		
R307-105-1	Air Pollution Emergency Episodes	R307-1-5.1.1 and 2
R307-105-2	Emergency Actions	R307-1-5.1.3 and 4
R307-107. General Requirements: Unavoidable Breakdown.		
R307-107-1	Application	R307-1-4.7, 1st paragraph
R307-107-2	Reporting	R307-1-4.7.1
R307-107-3	Penalties	R307-1-4.7.2
R307-107-4	Procedures	R307-1-4.7.3
R307-107-5	Violation	R307-1-4.7.4
R307-107-6	Emission Standards	R307-1-4, paragraph 1
R307-110. General Requirements: State Implementation Plan.		
R307-110-1	Incorporation by Reference	R307-2-1
R307-110-2	Section I, Legal Authority	R307-2-2
R307-110-3	Section II, Review of New and Modified Air Pollution Sources	R307-2-3
R307-110-4	Section III, Source Surveillance	R307-2-4
R307-110-5	Section IV, Ambient Air Monitoring Program	R307-2-5
R307-110-6	Section V, Resources	R307-2-6
R307-110-7	Section VI, Intergovernmental Cooperation	R307-2-7
R307-110-8	Section VII, Prevention of Air Pollution Emergency Episodes	R307-2-8
R307-110-9	Section VIII, Prevention of Significant Deterioration	R307-2-9
R307-110-10	Section IX, Control Measures for Area and Point Sources, Part A, Fine Particulate Matter	R307-2-10
R307-110-11	Section IX, Control Measures for Area and Point Sources, Part B, Sulfur Dioxide	R307-2-11
R307-110-12	Section IX, Control Measures for Area and Point Sources, Part C, Carbon Monoxide	R307-2-12

New Location	New Title	Old Location
R307-110-13	Section IX, Control Measures for Area and Point Sources, Part D, Ozone	R307-2-13
R307-110-14	Section IX, Control Measures for Area and Point Sources, Part E, Nitrogen Dioxide	R307-2-14
R307-110-15	Section IX, Control Measures for Area and Point Sources, Part F, Lead	R307-2-15
R307-110-16	Section IX, Control Measures for Area and Point Sources, Part G, Fluoride	R307-2-16
R307-110-17	Section IX, Control Measures for Area and Point Sources, Part H, Emission Limits	R307-2-17
R307-110-18	Reserved	
R307-110-19	Section XI, Other Control Measures for Mobile Sources	R307-2-19
R307-110-20	Section XII, Involvement	R307-2-20
R307-110-21	Section XIII, Analysis of Plan Impact	R307-2-21
R307-110-22	Section XIV, Comprehensive Emission Inventory	R307-2-22
R307-110-23	Section XV, Utah Code Title 19, Chapter 2, Air Conservation Act	R307-2-23
R307-110-24	Section XVI, Public Notification	R307-2-24
R307-110-25	Section XVII, Visibility Protection	R307-2-25
R307-110-25	R307-110-26 Section XVIII, Demonstration of GEP Stack Height	R307-2-26
R307-110-27	Section XIX, Small Business Assistance Program	R307-2-27
R307-110-28	Reserved	
R307-110-29	Section XXI, Diesel Inspection and Maintenance Program	R307-2-29
R307-110-30	Section XXII, General Conformity	R307-2-30
R307-110-31	Section X, Basic Inspection and Maintenance, Part A, General Requirements and Applicability	R307-2-18
R307-110-32	Section X, Basic Inspection and Maintenance, Part B, Davis County	R307-2-31
R307-110-33	Section X, Basic Inspection and Maintenance, Part C, Salt Lake County	R307-2-32
R307-110-34	Section X, Basic Inspection and Maintenance, Part D, Utah County	R307-2-33
R307-110-35	Section X, Basic Inspection and Maintenance, Part E, Weber County	R307-2-34
R307-115. General Conformity.		
R307-115-1	Determining Conformity	R307-19-1
R307-120. General Requirements: Tax Exemption for Control Equipment.		
R307-120-1	Application	R307-1-6.1.1
R307-120-2	Eligibility for Certification	R307-1-6.1.2
R307-120-3	Review Period	R307-1-6.1.3
R307-120-4	Conditions for Eligibility	R307-1-6.1.4
R307-120-5	Limitations on Certification	R307-1-6.1.5
R307-120-6	Exemptions from Certification	R307-1-6.1.6
R307-120-7	Duty to Issue Certification	R307-1-6.1.7
R307-120-8	Appeal and Revocation	R307-1-6.1.8 & 9

New Location	New Title	Old Location
R307-121. General Requirements: Income Tax Credit for Clean Vehicles.		
R307-121-1	Definitions	R307-1-6.2.1
R307-121-2	Amount of Credit	R307-1-6.2.2
R307-121-3	Anti-Tampering policy	R307-1-6.2.3
R307-121-4	Proof of Purchase for New Vehicle	R307-1-6.2.4
R307-121-5	Proof of Purchase for Converted Vehicle	R307-1-6.2.5
R307-121-6	Procedures for Obtaining Certification by the Board for Fuel Conversion Systems	R307-1-6.2.6A - C
R307-121-7	Revocation of Certification	R307-1-6.2.6.D
R307-121-8	Duty to Acknowledge Proof of Purchase	R307-1-6.2.7
R307-122. General Requirements: Tax Credit for Residential Fireplaces and Stoves.		
R307-122-1	Definitions	R307-1-6.3.1
R307-122-2	Amount of Credit	R307-1-6.3.2
R307-122-3	Proof of Purchase	R307-1-6.3.3
R307-122-4	Duty to Acknowledge Proof of Purchase	R307-1-6.3.4
R307-130. General Penalty Policies.		
R307-130-1	Scope	R307-4-1
R307-130-2	Categories	R307-4-2
R307-130-3	Adjustments	R307-4-3
R307-130-4	Options	R307-4-4
R307-135. AHERA Penalty Policy.		
R307-135-1	AHERA Penalty Policy Definitions	R307-4-5
R307-135-2	Assessing Penalties Against a Local Education Agency	R307-4-6
R307-135-3	Assessing Penalties Against Other Persons	R307-4-7
R307-135-4	Penalties Against Private Nonprofit Schools	R307-4-8
R307-135-5	Air Quality Board AHERA Enforcement Response Policy Penalties	R307-4-9
R307-135-6	Injunctive Relief	R307-4-10
R307-135-7	Criminal Penalties	R307-4-11
R307-150 Series. Inventories, Testing and Monitoring.		
R307-150. Periodic Inventories.		
R307-150-1	Periodic Reports of Emissions and Availability of Information	R307-1-2.2
R307-150-2	Emissions from Exempted Activities	R307-1-3.1.7.F
R307-150-2	Add new sentence to list items from R307-1-3.1.7.C(6)	R307-1-3.1.7.C(6)
R307-155. Emission Inventories.		
R307-155-1	Criteria Pollutant Inventory	R307-1-3.5.1
R307-155-2	Hazardous Air Pollutant Inventory	R307-1-3.5.2
R307-155-3	Emission Statement Inventory	R307-1-3.5.3

New Location	New Title	Old Location
R307-165. Emission Testing.		
R307-165-1	Testing Every Five Years	R307-1-3.4.1
R307-165-2	Notification of DAQ	R307-1-3.4.2
R307-165-3	Test Conditions	R307-1-3.4.3
R307-165-4	Rejection of Test Results	R307-1-3.4.4
R307-170. Continuous Emission Monitoring Program.		
R307-170-1	Definitions	R307-13-1
R307-170-2	Emission Monitoring Requirements	R307-13-2
R307-170-3	System Operational Audit Checks	R307-13-3
R307-170-4	Minimum Performance Specification	R307-13-4
R307-170-5	Applicability	R307-13-5
R307-170-6	Recordkeeping	R307-13-6
R307-170-7	Technical Requirements and Specifications	R307-13-7
R307-170-8	Reason Categories for Exceedances of Emission Limitations	R307-13-8
R307-170-9	Categories of Monitor Performance to be Used in the Quarterly Reports	R307-13-9
R307-200 Series. Statewide Emission Standards.		
R307-201. Emission Standards: General Emission Standards.		
R307-201-1	Emission Standards	R307-1-4.1, except 4.1.1
R307-201-2	Automobile Emission Control Devices	R307-1-4.4
R307-201-3	Opacity for Residential Heating	R307-17-2
R307-202. Emission Standards: General Burning.		
R307-202-1	Definitions and Exclusions	R307-1-2.4, through (4)
R307-202-2	Community Waste Disposal	R307-1-2.4.1
R307-202-3	General Prohibitions	R307-1-2.4.2
R307-202-4	Permissible Burning Without Permit	R307-1-2.4.3
R307-202-5	Permissible Burning With Permit	R307-1-2.4.4
R307-202-6	Special Conditions	R307-1-2.4.5
R307-203. Emission Standards: Sulfur Content of Fuels.		
R307-203-1	Commercial and Industrial Sources	R307-1-4.2
R307-203-2	Sulfur and Ash Content of Coal for Residential Use	R307-17-1
R307-203-3	Emission Standards.	R307-1-4, paragraph 1
R307-205. Emission Standards: Fugitive Emissions and Fugitive Dust.		
R307-205-1	Applicability and Definitions	R307-12-1
R307-205-2	Fugitive Emissions	R307-12-2
R307-205-3	Fugitive Dust	R307-12-3
R307-205-4	Road Ways	R307-12-4
R307-205-5	Mining Activities	R307-12-5
R307-205-6	Tailings Piles and Ponds	R307-12-6

New Location	New Title	Old Location
R307-206. Emission Standards: Abrasive Blasting.		
R307-206-1	Definitions	R307-1-1
R307-206-2	Visible Emission Standards	R307-1-4.10.1
R307-206-3	Visible Emission Evaluation Techniques	R307-1-4.10.2
R307-206-4	Performance Standards	R307-1-4.10.3
R307-206-5	Emission Standards	R307-1-4, paragraph 1
R307-210. Emission Standards: Stationary Sources.		
R307-210-1	Standards of Performance of New Stationary Sources (NSPS)	R307-18-1
R307-214. National Emission Standards for Hazardous Air Pollutants.		
R307-214-1	Part 61 Sources	R307-10-1
R307-214-2	Part 63 Sources	R307-10-2
R307-215. Emission Standards: Acid Rain Requirements.		
R307-215-1	Part 76 Requirements	R307-16-2
R307-220. Emission Standards: Plan for Designated Facilities.		
R307-220-1	Incorporation by Reference	R307-20-1
R307-220-2	Section I, Municipal Solid Waste Landfill	R307-20-2
R307-221. Emission Standards: Emission Controls for Existing Municipal Solid Waste Landfills.		
R307-221-1	Purpose and Applicability	R307-21-1
R307-221-2	Definitions and References	R307-21-2
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R307-221-4	Control Device Specifications	R307-21-4
R307-221-5	Compliance Schedule	R307-21-5
R307-300. Requirements for Specific Locations.		
R307-301. Utah and Weber Counties: Oxygenated Gasoline Program.		
R307-301-1	Definitions	R307-8-1
R307-301-2	Applicability and Control Period Start Dates	R307-8-2
R307-301-3	Average Oxygen Content Standard	R307-8-3
R307-301-4	Sampling, Testing and Oxygen Content Calculations	R307-8-4
R307-301-5	Alternative Compliance Options	R307-8-5
R307-301-6	Minimum Oxygen Content	R307-8-6
R307-301-7	Registration	R307-8-7
R307-301-8	Recordkeeping	R307-8-8.1
R307-301-9	Reports	R307-8-8.2
R307-301-10	Transfer Documents	
R307-301-11	Prohibited Activities	R307-8-9
R307-301-12	Labeling of Pumps	R307-8-11
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New Location	New Title	Old Location
R307-302. Davis, Salt Lake, Utah Counties: Residential Fireplaces and Stoves.		
R307-302-1	Definitions	R307-1-1
R307-302-2	No-Burn Periods for PM10	R307-17-3
R307-302-3	No-Burn Periods for Carbon Monoxide	R307-17-4
R307-302-4	Violations	R307-17-5
R307-305. Davis, Salt Lake, and Utah Counties and Ogden City and Nonattainment Areas for PM10: Particulates.		
R307-305-1	Visible Emissions	R307-1-4.1.1
R307-305-2	Particulate Emission Limitations and Operating Parameters (PM10)	R307-1-3.2.4
R307-305-3	Compliance Testing (PM10)	R307-1-3.2.5
R307-305-4	Compliance Schedule (PM10)	R307-1-3.2.6
R307-305-5	Particulate Emission Limitations and Operating Parameters (TSP)	R307-1-3.2.1
R307-305-6	Compliance Schedule (TSP)	R307-1-3.2.2
R307-305-7	Compliance Testing (TSP)	R307-1-3.2.3
R307-307. Davis, Salt Lake, and Utah Counties: Road Salting and Sanding.		
R307-307-1	Records	R307-1-3.2.7.A
R307-307-2	Content	R307-1-3.2.7.B
R307-307-3	Alternatives	R307-1-3.2.7.C
R307-309. Davis, Salt Lake and Utah Counties, Ogden City and Any Nonattainment Area for PM10: Fugitive Emissions and Fugitive Dust.		
R307-309-1	Applicability and Definitions	new
R307-309-2	Fugitive Emissions	R307-12-2.A
R307-309-3(1) & (2)	Storage, Hauling and Handling of Aggregate Materials	new
R307-309-3(3)		R307-12-3.A(2)
R307-309-4	Construction and Demolition Activities	new
R307-309-5	Road Ways	R307-12-4.A.
R307-320. Davis, Salt Lake, and Utah Counties, and Ogden City: Employee-Based Trip Reduction Program.		
R307-320-1	Purpose	R307-11-1
R307-320-2	Applicability	R307-11-2
R307-320-3	Definitions	R307-11-3
R307-320-4	Employer Requirements	R307-11-4
R307-320-5	Recordkeeping	R307-11-5
R307-320-6	Violations	R307-11-6
R307-320-7	Exemptions	R307-11-7
R307-325. Davis and Salt Lake Counties and Ozone Nonattainment Areas: Ozone Provisions.		
R307-325-1	Definitions, Applicability and General Requirements	R307-14-1 through 1.C
R307-325-2	Existing Sources	R307-14-1.D, E, F, G
R307-325-3	New Sources	R307-14-1.H
R307-325-4	Compliance Schedule	R307-14-9

New Location	New Title	Old Location
R307-326. Davis and Salt Lake Counties and Ozone Nonattainment Areas: Emissions in Refineries.		**Control of Hydrocarbon**
R307-326-1	Applicability and Definitions	R307-1-1
R307-326-2	Vacuum Producing Systems	R307-14-4.A
R307-326-3	Wastewater (Oil/Water) Systems	R307-14-4.B
R307-326-4	Process Unit Turnaround	R307-14-4.C
R307-326-5	Catalytic Cracking Units	R307-14-4.D
R307-326-6	Safety Pressure Relief Valves	R307-14-4.E
R307-326-7	Leaks from Petroleum Refinery Equipment	R307-14-4.F
R307-327. Davis and Salt Lake Counties and Ozone Nonattainment Areas:		**Petroleum Liquid Storage.**
R307-327-1	Applicability and Definitions	R307-14-2.A
R307-327-2	Installation and Maintenance	R307-14-2.B
R307-327-3	Retrofits for Floating Roof Tanks	R307-14-2.C
R307-328. Davis and Salt Lake Counties and Ozone Nonattainment Areas:		**Gasoline Transfer and Storage.**
R307-328-1	Applicability and Definitions	R307-1-1
R307-328-2	Loading of Tank Trucks, Trailers, Railroad Tank Cars and Other Transport Vehicles	R307-14-3.A
R307-328-3	Stationary Source Container Loading	R307-14-3.B
R307-328-4	Transport Vehicles	R307-14-3.C
R307-328-5	Leak Tight Testing	R307-14-3.D
R307-332. Davis and Salt Lake Counties and Ozone Nonattainment Areas: Systems.		**Stage II Vapor Recovery**
R307-332-1	Definitions	R307-14-10.A
R307-332-2	Specifications and Approval	R307-14-10.B
R307-332-3	Applicability	R307-14-10.C
R307-332-4	Compliance Schedule	R307-14-10.D
R307-332-5	Installation	R307-14-10.E
R307-332-6	Installation Owner/Operator and Employee Training	R307-14-10.F
R307-332-7	Operation and Maintenance	R307-14-10.G
R307-332-8	Records	R307-14-10.H
R307-332-9	Pump Labeling Requirements	R307-14-10.I
R307-332-10	Self Inspections	R307-14-10-J
R307-332-11	Test Notification Requirements	R307-14-10.K
R307-335. Davis and Salt Lake Counties and Ozone Nonattainment Areas: Cleaning Operations.		**Degreasing and Solvent**
R307-335-1	Applicability and Definitions	R307-14-5, para 1,& R307-1-1
R307-335-2	Cold Cleaning Facilities	R307-14-5.A
R307-335-3	Open Top Vapor Degreaser	R307-14-5.B
R307-335-4	Conveyorized Degreasers	R307-14-5.C

New Location	New Title	Old Location
R307-340. Davis and Salt Lake Counties and Ozone Nonattainment Areas: Surface Coating Processes.		
R307-340-1	Applicability and Definitions	R307-1-1
R307-340-2	General Provisions for Volatile Organic Compounds	R307-14-7.A
R307-340-3	Paper Coating	R307-14-7.B
R307-340-4	Fabric and Vinyl Coating	R307-14-7.C
R307-340-5	Metal Furniture Coating VOC Emissions	R307-14-7.D
R307-340-6	Large Appliance Surface Coating VOC Emissions	R307-14-7.E
R307-340-7	Magnet Wire Coating VOC Emissions	R307-14-7.F
R307-340-8	Flat Wood Coating	R307-14-7.G
R307-340-9	Miscellaneous Metal Parts and Products VOC Emissions	R307-14-7.H
R307-340-10	Graphic Arts	R307-14-7.I
R307-340-11	Exemptions	R307-14-7.J
R307-340-12	Capture Systems	R307-14-7.K
R307-340-13	Testing and Monitoring	R307-14-7.L
R307-341. Davis and Salt Lake Counties and Ozone Nonattainment Areas: Cutback Asphalt.		
R307-341-1	Definitions	R307-1-1
R307-341-2	Limitations on Content	R307-14-6.A
R307-341-3	Recordkeeping	R307-14-6.B
R307-342. Davis and Salt Lake Counties and Ozone Nonattainment Areas: Qualification of Contractors, Test Procedures, Testing of Vapor Recovery Systems for Gasoline Delivery Trucks.		
R307-342-1	Background	R307-3-1
R307-342-2	General Applicability	R307-3-2
R307-342-3	General Requirements	R307-3-3
R307-342-4	Contractor Qualification Requirements	R307-3-4
R307-342-5	Equipment Requirements	R307-3-5
R307-342-6	Test Procedures and Preparations	R307-3-6
R307-342-7	Certification of a Delivery Tank	R307-3-7
R307-400 Series. Permits.		
R307-401. Permit: Notice of Intent and Approval Order.		
R307-401-1	Notice of Intent Required	R307-1-3.1.1
R307-401-2	Notice of Intent Requirements	R307-1-3.1.6
R307-401-3	Review Period	R307-1-3.1.2
R307-401-4	Public Notice	R307-1-3.1.3
R307-401-5	Approval Order	R307-1-3.1.4
R307-401-6	Conditions for Issuing Approval Order	R307-1-3.1.8
R307-401-7	Temporary Relocation	R307-1-3.1.9
R307-401-8	Nonattainment and Maintenance Areas	R307-1-3.1.10
R307-401-9	Relaxation of Limitations	R307-1-3.1.11
R307-401-10	Low Oxides of Nitrogen Burner Technology	R307-1-3.1.12
R307-401-11	Eighteen Month Review	R307-1-3.1.5
R307-403. Permits: New and Modified Sources in Nonattainment Areas and Maintenance Areas.		
R307-403-1	Definitions	R307-1-1

New Location	New Title	Old Location
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R307-403-3	Review of Major Sources of Air Quality Impact	R307-1-3.3.2
R307-403-4	Offsets: General Requirements	R307-1-3.3.3.A
R307-403-5	Offsets: PM10 Nonattainment Areas	R307-1-3.3.3.B
R307-403-6	Offsets: Ozone Nonattainment Areas and Davis and Salt Lake Counties	R307-1-3.3.3.C
R307-403-7	Offsets: Baseline	R307-1-3.3.5
R307-403-8	Offsets: Banking of Emission Offset Credit	R307-1-3.3.6
R307-403-9	Construction in Stages	R307-1-3.3.4
R307-405. Permits: Prevention of Significant Deterioration (PSD).		
R307-405-1	Definitions	R307-1-1
R307-405-2	Area Designations	R307-1-3.6.1
R307-405-3	Area Redesignations	R307-1-3.6.2
R307-405-4	Increments and Ceilings	R307-1-3.6.3
R307-405-5	Baseline Concentration and Date	R307-1-3.6.4
R307-405-6	PSD Areas - New Sources and Modifications	R307-1-3.6.5
R307-405-7	Increment Violations	R307-1-3.6.6
R307-405-8	Banking of Emission Offset Credit in PSD Areas	R307-1-3.6.7
R307-406. Permits: Visibility.		
R307-406-1	Definitions.	R307-1-1
R307-406-2	Source Review	R307-1-3.10.1
R307-406-3	Notification of Federal Land Managers	R307-1-3.10.2
R307-406-4	Adverse Impact	R307-1-3.10.3
R307-406-5	Consideration in Review	R307-1-3.10.4
R307-406-6	Audits for Permitting	R307-1-3.10.5
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R307-410-4	Documentation of Ambient Air Impacts for Hazardous Air Pollutants	R307-1-3.7.3
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R307-413-1	Definitions and General Requirements	R307-1-1, R307-1-3.1.7.G and H
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R307-413-4	Other Exemptions	R307-1-3.1.7.C
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New Location	New Title	Old Location
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R307-414-2	Bills for Services	R307-1-3.9.A and B
R307-414-3	Request for Review	R307-1-3.9.C
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R307-415-3	Definitions	R307-15-3
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R307-415-5d	Applications: Certification	R307-15-5(4)
R307-415-5e	Applications: Insignificant Activities and Emissions	R307-15-5(5)
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R307-415-6b	Content: Federally-Enforceable Requirements	R307-15-6(2)
R307-415-6c	Content: Compliance Requirements	R307-15-6(3)
R307-415-6d	Content: General Permits	R307-15-6(4)
R307-415-6e	Content: Temporary Sources	R307-15-6(5)
R307-415-6f	Content: Permit Shield	R307-15-6(6)
R307-415-6g	Content: Emergency Provision	R307-15-6(7)
R307-415-7a	Issuance: Action on Application	R307-15-7(1)
R307-415-7b	Issuance: Requirement for a Permit	R307-15-7(2)
R307-415-7c	Renewal: Permit Renewal and Expiration	R307-15-7(3)
R307-415-7d	Revision: Changes That Do Not Require a Permit Revision	R307-15-7(4)
R307-415-7e	Revision: Administrative Permit Amendments	R307-15-7(5)
R307-415-7f	Revision: Permit Modification	R307-15-7(6)
R307-415-7g	Reopening for Cause	R307-15-7(7)
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R307-415-8	Permit Review by EPA and Affected States	R307-15-8
R307-415-9	Fees for Operating Permits	R307-15-9
R307-415-10	Administrative Procedures and Appeals	R307-15-10
R307-417. Permits: Acid Rain Sources.		
R307-417-1	Part 72 Requirements	R307-16-1
R307-800 Series. Asbestos and Lead Abatement		
R307-801. Asbestos.		
R307-801-1	Definitions	R307-1-8.1
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New Location	New Title	Old Location
R307-801-3	Applicability	R307-1-8.2
R307-801-4a	Asbestos Contractor, Supervisor and Consultant Certification Requirements	R307-1-8.3.1
R307-801-4b	Asbestos Contractor	R307-1-8.3.2
R307-801-4c	Asbestos Supervisor	R307-1-8.3.3
R307-801-4d	Asbestos Worker	R307-1-8.3.4
R307-801-4e	Consultant and Consultant in Training	R307-1-8.3.5
R307-801-4f	Exemption of Supervisors from Certification as an Asbestos Worker	R307-1-8.3.6
R307-801-4g	Action on Application	R307-1-8.3.7
R307-801-4h	Suspension and Revocation	R307-1-8.3.8
R307-801-4i	Duration and Renewal	R307-1-8.3.9 and 10
R307-801-5a	Asbestos Worker Training	R307-1-8.4.1
R307-801-5b	Supervisor Training	R307-1-8.4.2
R307-801-5c	TSCA Accreditation	R307-1-8.4.3
R307-801-5d	Examination Required	R307-1-8.4.4
R307-801-5e	Approval of Training Courses	R307-1-8.4.5
R307-801-5f	Approval of New Training Course Instructors	R307-1-8.4.6
R307-801-6a	NESHAP Size Asbestos Projects	R307-1-8.5.1
R307-801-6b	Other Asbestos Projects	R307-1-8.5.2
R307-801-6c	Change in Notification Date	R307-1-8.5.3
R307-812-7a	NESHAP Size Projects: Applicability	R307-1-8.6.1, 1st para & R307-1-8.6.2, 1st para
R307-801-7b	NESHAP Size Projects: General Requirements	R307-1-8.6.1.A
R307-801-7c	NESHAP Size Projects: Removal	R307-1-8.6.1.B
R307-801-7d	NESHAP Size Projects: Renovation	R307-1-8.6.1.C
R307-801-7e	NESHAP Size Projects: Encapsulation and Enclosures	R307-1-8.6.1.D and E
R307-801-7f	NESHAP Size Projects: Demolition	R307-1-8.6.1.F
R307-801-7g	NESHAP Size Projects: Outdoor Work	R307-1-8.6.1.G
R307-801-7h	NESHAP Size Projects: Disposal	R307-1-8.6.1.H
R307-801-7i	NESHAP Size Projects: Planned Asbestos Projects	R307-1-8.6.1.I
R307-801-8	Work Practices for Other Asbestos Projects	R307-1-8.6.2
R307-801-9	Asbestos Projects Subject to TSCA Title II	R307-1-8.6.5
R307-801-10	Activities Subject to Certification Requirements	R307-1-8.6.6
R307-801-11	Asbestos Projects Performed in a Single Family Residential Dwelling	R307-1-8.6.3
R307-801-12	Alternative Procedures	R307-1-8.6.4
R307-801-13a	Records Required	R307-1-8.7.1 through A
R307-801-13b	Training	R307-1-8.7.1.B
R307-801-14	Review and Disapproval of Management Plans	R307-1-8.8.2

NOTICES OF
PROPOSED RULES

A state agency may file a PROPOSED RULE when it determines the need for a new rule, a substantive change to an existing rule, or a repeal of an existing rule. Filings received between May 1, 1998, 5:01 p.m., and May 15, 1998, 5:00 p.m., are included in this, the June 1, 1998, 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 (e.g., example). Deletions made to existing rules are struck out with brackets surrounding them (e.g., [~~example~~]). Rules being repealed are completely struck out. A row of dots in the text (• • • • • •) indicates that unaffected text was removed to conserve space. If a PROPOSED RULE is too long to print, the Division of Administrative Rules will include only the RULE ANALYSIS. A copy of rules that are too long to print is available from the filing agency or from the Division 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 July 1, 1998. The agency may accept comment beyond this date and will list 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 to hold a hearing on a specific PROPOSED RULE. Section 63-46a-5 (1987) requires that a hearing request be received "in writing not more than 15 days after the publication date of the PROPOSED RULE."

From the end of the public comment period through September 29, 1998, the agency may notify the Division 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 31 days 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 Division of Administrative Rules does not receive a NOTICE OF EFFECTIVE DATE or a CHANGE IN PROPOSED RULE, the PROPOSED RULE filing lapses and the agency must start the process over.

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 UTAH CODE Section 63-46a-4 (1996); and UTAH ADMINISTRATIVE CODE Rule R15-2, and Sections R15-4-3, R15-4-4, R15-4-5, R15-4-9, and R15-4-10.

The Proposed Rules Begin on the Following Page.

Agriculture and Food, Plant Industry
R68-15-3
Areas Under Quarantine

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 21096
FILED: 05/11/98, 15:46
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Establish a quarantine for the control of Japanese Beetle, which attacks the roots, leaves and fruits of many plants.

SUMMARY OF THE RULE OR CHANGE: Changes the wording to make the rule more understandable. Also adds Colorado, Minnesota, Oklahoma, Texas, and Wisconsin to "Areas Under Quarantine."

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsections 4-2-2(1)(k) and 4-2-2(1)(1)(ii)

ANTICIPATED COST OR SAVINGS TO:
❖THE STATE BUDGET: None.
❖LOCAL GOVERNMENTS: None.
❖OTHER PERSONS: None.
COMPLIANCE COSTS FOR AFFECTED PERSONS: None.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: No fiscal impact on businesses.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
Agriculture and Food
Plant Industry
350 North Redwood Road
PO Box 146500
Salt Lake City, UT 84114-6500, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Dick Wilson at the above address, by phone at (801) 538-7180, by FAX at (801) 538-7126, or by Internet E-mail at agmain.dwilson@state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 07/01/98.

THIS RULE MAY BECOME EFFECTIVE ON: 07/02/98

AUTHORIZED BY: Van Burgess, Deputy Commissioner

R68. Agriculture, Plant Industry.
R68-15. Quarantine Pertaining to Japanese Beetle, (Popillia Japonica).
R68-15-3. Areas Under Quarantine.

A. The following states have been placed under a general quarantine to prohibit the entry of Japanese Beetle into Utah through the sale of plants and plant products: the entire states of Alabama, Colorado, Connecticut, Delaware, Georgia, Illinois, Indiana, Kentucky, Maine, Maryland, Massachusetts, Michigan, Minnesota, Missouri, New Hampshire, New Jersey, New York, North Carolina, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Vermont, Virginia, West Virginia, Wisconsin, and the District of Columbia.

B. [~~In~~]The same general quarantine shall apply to products from the following states in provinces of Canada:

1. In the Province of Ontario: Lincoln, Welland, and Wentworth.

2. In the Province of Quebec: Missiquoi and St. Jean.

C. Any areas not mentioned above [~~and~~]which are subsequently found to be infested with Japanese Beetle, shall also be placed under this same general quarantine.

KEY: quarantine
[~~1993~~]1998 **4-2-2**
Notice of Continuation March 5, 1998 **4-35-9**

Commerce, Occupational and Professional Licensing
R156-47b
Massage Practice Act Rules

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 21147
FILED: 05/14/98, 15:14
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The rules are being amended because of the 1998 legislative amendments to the Massage Therapy Practice Act, Title 58, Chapter 47b, which: (1) expanded the scope of practice for a person performing massage therapy; (2) removed the exemption for persons performing lymphatic massage, allowing those persons to become licensed as a massage therapist without the necessity of taking the massage theory examination; and (3) changed the name of the licensee from technician to therapist. (S.B. 28)
(**DAR Note:** S.B. 28 is found at 1998 Utah Laws 159, and will be effective July 1, 1998.)

SUMMARY OF THE RULE OR CHANGE: Title of rule was updated. Removed the International Myomassethics Federation, Inc. (IMF) approved curriculum from the rules because IMF went out of business and no longer approves school curriculums. Changed the name of the licensee from technician to therapist throughout the rule. Updated some statute citations.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 58-47b-101, and Subsections 58-1-106(1) and 58-1-202(1)

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: Because of the expanded scope of practice added to the statute, there was an added fiscal cost for additional enforcement that was part of the legislation. However, there is no increase or decrease in cost as a result of the technical revisions to these rules. The state budget will increase by a $50 application fee for each of the approximately 200 persons who were formerly exempt when performing lymphatic massage and who now choose to become licensed under the grandfather provisions of the statute.

❖LOCAL GOVERNMENTS: No costs or savings are anticipated as a result of the technical revisions to these rules

❖OTHER PERSONS: There are approximately 200 persons who were exempt when performing lymphatic massage under the prior law who are now eligible for licensure as a massage therapist. The cost for each person to become licensed will be a $50 license application fee. However, this is a cost associated with the change in the statute, not these rules. The deletion of the IMF curriculum accrediting agency which went out of business may have some differential cost impact to the schools who now choose to apply to become accredited by the Commission on Massage Training Accreditation/Approval (COMTAA) because COMTAA accreditation is more expensive than IMF, when IMP was operating. It is estimated that there was approximately $3,000 difference in cost. However, accreditation by COMTAA is voluntary.

COMPLIANCE COSTS FOR AFFECTED PERSONS: For those persons who were exempt when performing lymphatic massage under the prior statute and are now eligible for licensure as a massage therapist, there is a application fee cost of $50. The deletion of the IMF curriculum accrediting agency which went out of business may have some differential cost impact to the schools who now choose to apply to become accredited by COMTAA because COMTAA accreditation is more expensive than IMF, when IMP was operating. It is estimated that there was approximately $3,000 difference in cost. However, accreditation by COMTAA is voluntary.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Pursuant to the requirement of Section 63-46a-4, as amended, I have considered the proposed amendments to the Massage Therapy Practice Act Rules and agree with the impact review and fiscal analysis of the Division. The amendments primarily address the legislative revisions to the practice act which expanded the scope of practice for massage therapists and enlarged the number of persons regulated under the licensing act. The amendments also recognize the demise of the International Myomassethics Federation, Inc. (IMF) which had previously been authorized to approve school curriculums. The Legislature expanded the scope of practices enforced by the Division which will necessarily increase enforcement costs incurred by the Division as a result of the legislative amendments, but these additional expenses will not be as a result of or caused by these rules. The inclusion by the legislative amendment of approximately 200 persons previously exempt who are now required to be licensed will result in a fiscal impact on the new licensees of $50 per applicant, or $10,000 total. This cost is caused by the revision of the statute and not by these rules. Accreditation is voluntary and those schools seeking accreditation by the remaining accreditation agency will experience an increased one-time expense of approximately $3,000, being the difference in cost between that which was charged by the defunct International Myomassethics Federation, Inc. and the charge for accreditation by the Commission on Massage Training Accreditation/Approval (COMTAA). It is anticipated that schools choosing to become accredited will pass the expenses on to students but such accreditation will relieve the students from the requirement and expense of becoming nationally certified in order to obtain licensure, and the impact will not therefore be fully felt by the public or practitioners.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:

Commerce
Occupational and Professional Licensing
Fourth Floor, Heber M. Wells Building
160 East 300 South
PO Box 146741
Salt Lake City, UT 84114-6741, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

David Fairhurst at the above address, by phone at (801) 530-6621, by FAX at (801) 530-6511, or by Internet E-mail at brdopl.dfairhur@email.state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 07/01/1998; OR ATTENDING A PUBLIC HEARING SCHEDULED FOR 06/17/1998, 9:00 a.m., 160 East 300 South, Room 200, Salt Lake City, UT.

THIS RULE MAY BECOME EFFECTIVE ON: 07/02/1998

AUTHORIZED BY: J. Craig Jackson, Director

R156. Commerce, Occupational and Professional Licensing.
R156-47b. Massage Therapy Practice Act Rules.
R156-47b-101. Title.

These rules are known as the "Massage Therapy Practice Act Rules."

R156-47b-102. Definitions.

In addition to the definitions in Title 58, Chapters 1 and 47b, as used in Title 58, Chapters 1 and 47b, or these rules:

(1) "COMTAA" means the Commission on Massage Training Accreditation/Approval.

(2) "Direct supervision" as used in Subsection 58-47b-302(3)(d) means that the apprentice supervisor is in the facility where massage is being performed and is immediately available to the apprentice for advice, direction and consultation while the apprentice is engaged in performing massage.

(3) "Lymphatic massage" as used in Subsections 58-47b-302(4) and 58-47b-304(1)(i) means a method using light pressure applied by the hands to the skin in specific maneuvers to promote drainage of the lymphatic fluid from the tissue.

(4) "NCBTMB" means the National Certification Board for Therapeutic Massage and Bodywork.

(5) "Unprofessional conduct" as defined in Title 58, Chapters 1 and 47b, is further defined, in accordance with Subsection 58-1-203(5) in Section R156-47b-502.

R156-47b-302a. Qualifications for Licensure as a Massage [~~Technician~~]Therapist - Massage School Curriculum Standards - Equivalent Education and Training.

(1) In accordance with Subsection 58-47b-302(2)(d)(i)(A), an applicant must graduate from a school of massage with a curriculum, which at the time of graduation, meets the following standards:

(a) curriculums accredited by COMTAA;[

~~(b) curriculums approved by the International Myomassethics Federation, Inc. (IMF);~~] or

([~~c~~]b) curriculums approved by the Division prior to July 1, 1997, subject to the requirements of Subsection (3).

(2) In accordance with Subsection 58-47b-302(2)(d)(i)(B), an applicant who completes equivalent education and training must document that the education and training was approved by NCBTMB as evidenced by current NCBTMB certification.

(3) Massage schools whose curriculums were approved by the Division prior to July 1, 1997 have until July 1, 2001 to have the curriculum accredited by COMTAA [~~or have the curriculum approved by IMF~~]without the necessity of having students who graduate from their program become certified by NCBTMB in order to qualify for licensure.

R156-47b-302b. Qualifications for Licensure - Examination Requirements.

In accordance with Subsections 58-47b-302(2)(e) and 58-47b-302(3)(e), the examination requirements for licensure are defined, clarified, or established as follows:

(1) Applicants for licensure as a massage [~~technician~~]therapist shall:

(a) pass the Utah Massage Law and Rule Examination; and

(b) pass the NCBTMB National Certification Examination; or

(c) pass the Utah Massage Theory Examination.

(2) Applicants for licensure as a massage apprentice shall pass the Utah Massage Law and Rule Examination.

R156-47b-302c. Apprenticeship Standards for a Supervisor.

In accordance with Subsection 58-47b-302(2)(d)(ii), an apprentice supervisor shall:

(1) not begin an apprenticeship program until:

(a) the apprentice is licensed; and

(b) the supervisor is approved by the division;

(2) not begin a new apprenticeship program until:

(a) the apprentice being supervised becomes licensed as a massage [~~technician~~]therapist, unless otherwise approved by the division in collaboration with the board; and

(b) the supervisor complies with subsection (1);

(3) supervise not more than one apprentice at one time, unless otherwise approved by the division in collaboration with the board;

(4) display a conspicuous sign near the work station of the apprentice stating "Apprentice in Training";

(5) keep a daily record which shall include the hours of instruction and training, and the hours of client services performed;

(6) make available to the division upon request the apprentice record of hours completed;

(7) verify the completion of the apprenticeship program on forms available from the division; and

(8) notify the division within ten working days if the apprenticeship program is terminated.

R156-47b-302d. Exemptions from Licensure.

(1) In accordance with Subsections 58-47b-302(4) and 58-47b-304(1)(i), the training standards for exemption for an individual to engage in lymphatic massage prior to July 1, 1998 are defined to include:

(a) graduation from a school registered in accordance with the Utah Post Secondary Proprietary School Act and rules which curriculum includes:

(i) 100 clock hours of anatomy and physiology;

(ii) 200 clock hours of training in lymphatic massage; and

(iii) 300 clock hours of training in skin care; or

(b) graduation from a post secondary school located outside the state of Utah which curriculum includes:

(i) 100 clock hours of anatomy and physiology;

(ii) 200 clock hours of training in lymphatic massage; and

(iii) 300 clock hours of training in skin care.

(2) In accordance with Subsection 58-47b-304(1)(h), students in training enrolled in an approved school are exempt only when performing massage as part of the approved school curriculum under supervision of a licensed massage [~~technician~~]therapist.

R156-47b-502. Unprofessional Conduct.

"Unprofessional conduct" includes engaging in any lewd, indecent, obscene or unlawful behavior while acting as a massage [~~technician~~]therapist.

KEY: licensing, massage*
[~~October 16, 1997~~]1998 **58-1-106(1)**
58-1-202(1)
58-47b-101

Commerce, Occupational and Professional Licensing

R156-53

Landscape Architects Licensing Act Rules

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 21148
FILED: 05/14/98, 15:14
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The rules are being amended because of the 1998 legislative amendments to the Landscape Architect Licensing Act, Title 58, Chapter 53, which redefined the scope of practice for landscape architects. (S.B. 149)
(**DAR Note:** S.B. 149 is found at 1998 Utah Laws 191, and was effective May 4, 1998.)

SUMMARY OF THE RULE OR CHANGE: Definitions of supervision as supervision applies to unlicensed employees, subordinates, associates, or drafters of the licensee was added. Education and experience requirements sections were combined. Added unprofessional conduct section which defines unprofessional conduct as failure to supervise and failure to submit final site plans to a client or building official. Updated the new name of the national examination and established an open book, take home Utah Law and Rule Examination. Amendments further define and clarify the seal requirements to include electronically produced seals.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 58-53-101, and Subsections 58-1-106(1) and 58-1-202(1)

ANTICIPATED COST OR SAVINGS TO:
❖THE STATE BUDGET: There was not a fiscal note attached to the amendments to the statute to increase or decrease the budget. Likewise, there are no costs or savings associated with these rule amendments. The more narrow definition of the scope of practice will not increase or decrease enforcement activities. The addition of a section on unprofessional conduct will not require additional costs for enforcement.
❖LOCAL GOVERNMENTS: No increase or decrease anticipated
❖OTHER PERSONS: The addition of the Utah Law and Rule Examination will not require an increase in cost to the applicant because the examination is included as part of the application for licensure as an open book, take home examination. Although the name of the national examination recently changed, there is no anticipated increase or decrease in cost to the applicant.
COMPLIANCE COSTS FOR AFFECTED PERSONS: The addition of the Utah Law and Rule Examination will not require an increase in cost to the applicant because the examination is included as part of the application for licensure as an open book, take home examination. Although the name of the national examination recently changed, there is no anticipated increase or decrease in cost to the applicant.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Pursuant to the requirement of Section 63-46a-4, as amended, I have considered the proposed amendments to the Landscape Architect Licensing Act Rules and agree with the impact review and fiscal analysis of the Division. The amendments primarily amend definitions, state the correct new name of the national examination required of landscape architects, and establish passage of a Utah Law and Rules Examination for applicants. The Utah Law and Rules Examination expense is absorbed in the current application fee and will not result in any additional expense to either the licensee or the state budget. Likewise, none of the other amendments will have any fiscal impact on the practitioners or the state budget either in additional costs or savings.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
Commerce
Occupational and Professional Licensing
Fourth Floor, Heber M. Wells Building
160 East 300 South
PO Box 146741
Salt Lake City, UT 84114-6741, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
David Fairhurst at the above address, by phone at (801) 530-6621, by FAX at (801) 530-6511, or by Internet E-mail at brdopl.dfairhur@email.state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 07/01/1998; OR ATTENDING A PUBLIC HEARING SCHEDULED FOR 06/15/1998, 9:00 a.m., 160 East 300 South, Room 457, Salt Lake City, UT.

THIS RULE MAY BECOME EFFECTIVE ON: 07/02/1998

AUTHORIZED BY: J. Craig Jackson, Director

R156. Commerce, Occupational and Professional Licensing.
R156-53. Landscape Architects Licensing Act Rules.
R156-53-102. Definitions.

In addition to the definitions in Title 58, Chapters 1 and 53, as used in Title 58, Chapters 1 and 53 or these rules:

(1) "Employee" or "employee, subordinate, associate, or drafter" of a landscape architect, as used in Subsections 58-53-

102(5) and 58-53-603(2) and these rules, means one or more individuals not licensed as a landscape architect who are working for, with, or providing landscape architect services under the supervision or direction of the licensed landscape architect.

(2) "Under the direction of the landscape architect" or "under the supervision of a licensee", as used in Subsection 58-53-102(5) and 58-53-603(2), means that the unlicensed employee, subordinate, associate, or drafter of the landscape architect engages in the practice of landscape architecture only on work initiated by the landscape architect, and only under the administration, charge, control, command, authority, oversight, guidance, jurisdiction, regulation, management, and authorization of the landscape architect.

(3) "Unprofessional conduct" as defined in Title 58, Chapters 1 and 53 is further defined, in accordance with Subsections 58-1-203(5) and 58-53-102(7), in Section R156-53-401.

R156-53-302a. Qualifications for Licensure - Education and Experience Requirements.

(1) In accordance with Subsections 58-53-302(1)(d)(i) and (ii), an applicant for licensure shall complete the following education or experience requirements:[~~58-1-203(2) and 58-1-301(3), the education requirements for licensure in Section 58-53-4 are defined, clarified, or established to include graduation from a four year college or university in a~~]

(a) the bachelors or masters degree in landscape architecture shall be from a curriculum accredited by the Landscape Architectural Accreditation[~~s~~] Board (LAAB); or

(b) the eight years of experience shall be full or part time employment for periods of time not less than ten weeks in length under the supervision of one or more licensed landscape architects.

(2) Current certification with the Council of Landscape Architectural Registration Boards (CLARB) is evidence of having completed the education and experience requirements set forth in Subsections (1)(a) and (b).

[~~**R156-53-302b. Qualifications for Licensure - Experience Requirements.**~~

~~In accordance with Subsections 58-1-203(2) and 58-1-301(3), the experience requirements for licensure in Section 58-53-4 are defined, clarified, or established as follows:~~

~~(1) Practical experience shall be performed under the direction of one or more landscape architects who are licensed in this state or any other state.~~

~~(2) In order to be approved by the division, the practical experience shall be full time paid employment.~~

~~(3) Practical experience performed in increments of less than three months shall not be approved toward completing the experience requirement.~~

~~(4) Current certification with the Council of Landscape Architectural Registration Boards (CLARB), shall satisfy the experience requirements necessary for licensure.~~]

R156-53-302[~~c~~]b. Qualifications for Licensure - Examination Requirements.

In accordance with Subsection[~~s 58-1-203(2), 58-1-301(3), and Section 58-1-309,~~] 58-53-302(1)(e), an applicant for licensure shall pass the following examinations[~~the examination requirement for licensure in Section 58-53-4 are defined, clarified, or established as follows~~]:

(1) [~~All applicants shall pass the following examinations:~~]the Landscape Architect Registration Examination (LARE) of the Council of Landscape Architectural Registration Boards; or

([~~a~~]2) the Uniform National Exam for Landscape Architects (UNE) of the Council of Landscape Architectural Registration Boards; and

([~~b~~]3) as part of the application for licensure, pass all questions on the open book, take home Utah [~~t~~]Law and [~~r~~]Rule[~~s~~] Examination[~~exam for landscape architects~~].

R156-53-401. Unprofessional Conduct.

"Unprofessional conduct" includes:

(1) submitting an incomplete final site plan to a client, when the licensee represents, or could reasonably expect the client to consider, the site plan to be complete and final;

(2) submitting an incomplete final site plan to a building official for the purpose of obtaining a building permit; or

(3) failing as a supervisor to exercise supervision of an employee, subordinate, associate or drafter.

R156-53-601. Landscape Architect Seal - [~~Required~~]Requirements.

In accordance with Section [~~58-53-7, every licensed landscape architect shall have a circular seal, 1-1/2" diameter minimum, which bears the licensee's name, license number, "STATE OF UTAH", and "LICENSED LANDSCAPE ARCHITECT". Any specifications, drawings and reports, prepared by a licensee or under the direct supervision of the licensee shall be stamped with the licensee's seal before submitting them to the licensee's client or filing them with public authorities. The original signature of the licensee named on the seal shall appear across the face of each original seal imprint.~~]58-53-601, all final site plans prepared by the licensee or prepared under the supervision or direction of the licensee, shall be sealed in accordance with the following:

(1) Each seal shall be a circular seal, 1 1/2 inches minimum diameter.

(2) Each seal shall include the licensee's name, license number, "State of Utah", and "Licensed Landscape Architect".

(3) Each seal shall be signed and dated with the signature and date appearing across the face of each seal imprint.

(4) Each original set of final site plans, as a minimum, shall have the original seal imprint, original signature and date placed on the cover or title sheet.

(5) A seal may be a wet stamp, embossed, or electronically produced.

(6) Copies of the original set of site plans which contain the original seal, original signature and date is permitted if the seal, signature and date is clearly recognizable.

KEY: landscape architects, licensing
[~~June 15, 1994~~]1998 **58-1-106(1)**
58-1-202(1)
58-53-101

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Commerce, Occupational and Professional Licensing

R156-72

Acupuncture Licensing Act Rules

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 21149
FILED: 05/14/98, 15:14
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Changes are being made to rules as a result of amendments made to Title 58, Chapter 72, Acupuncture Licensing Act, by the 1998 Legislature. (H.B. 57)
(**DAR Note:** H.B. 57 is found at 1998 Utah Laws 26, and was effective May 4, 1998.)

SUMMARY OF THE RULE OR CHANGE: Sections regarding definitions, education requirements, experience requirements and unprofessional conduct are being deleted due to amendments made to Title 58, Chapter 72 and that the information is no longer needed. Amendments specify that the examination required under Subsection 58-73-302(5) is the Utah Law and Rules Examination for Acupuncturists and provides a passing score for that examination. A new section on informed consent was added to clarify what is required under Subsection 58-72-302(6). The statute now requires that a person applying for licensure as an acupuncturist must meet the requirements for current active certification in acupuncture under guidelines established by the National Commission for the Certification of Acupuncturists (NCCA); therefore, the comprehensive written exam of NCCA, the NCCA clean needle test and NCCA practical examination are being deleted as these examinations will be included in the NCCA certification process.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 58-72-101, and Subsections 58-1-106(1) and 58-1-202(1)

ANTICIPATED COST OR SAVINGS TO:
❖THE STATE BUDGET: The Division has determined there is no costs or savings associated with these rule amendments
❖LOCAL GOVERNMENTS: The Division has determined there is no costs or savings associated with these rule amendments
❖OTHER PERSONS: The cost of taking the Utah Law and Rules Examination for Acupuncturists is $75 per applicant. The Division estimates it licenses about eight acupuncturists per year for a total amount of $600. No increase or decrease is anticipated regarding the deletion of the NCCA examinations requirement in these rules since the examinations will still be required by NCCA to obtain current certification. The informed consent requirements section may impose a small unknown cost to 34 currently licensed acupuncturists in changing their medical record forms. However, the Division believes that a majority of the acupuncturists already use the type of forms required.
COMPLIANCE COSTS FOR AFFECTED PERSONS: The cost of taking the Utah Law and Rules Examination for Acupuncturists is $75 per applicant. The informed consent requirements section may impose a small unknown cost to 34 currently licensed acupuncturists in changing their medical record forms. However, the Division believes that a majority of the acupuncturists already use the type of forms required.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Pursuant to the requirement of Section 63-46a-4, as amended, I have considered these proposed rules and agree with the review and fiscal analysis of the Division. The Acupuncture Licensing Act requires the passage of an examination which is designated by the Division as the Utah Law and Rules Examination for Acupuncturists. The one-time cost of this examination (if passed) will be $75 per applicant. With an average of eight applicants yearly, the total fiscal impact of the examination on business caused by this rule will be $600 per year. The licensing act requires that acupuncturists keeps patient charts and obtain informed consent for treatment. The rule implementing this provision may require some of the 34 currently licensed acupuncturists to change their forms. Since most practitioners already use a written consent form, the cost to the remaining practitioners to have new forms printed should be relatively small.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
Commerce
Occupational and Professional Licensing
Fourth Floor, Heber M. Wells Building
160 East 300 South
PO Box 146741
Salt Lake City, UT 84114-6741, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Karen Reimherr at the above address, by phone at (801) 530-6767, by FAX at (801) 530-6511, or by Internet E-mail at brdopl.kreimher@email.state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 07/01/1998.

THIS RULE MAY BECOME EFFECTIVE ON: 07/02/1998

AUTHORIZED BY: J. Craig Jackson, Director

R156. Commerce, Occupational and Professional Licensing.
R156-72. Acupuncture Licensing Act Rules.
R156-72-102. [~~Definitions.~~]Reserved.

Reserved.[~~In addition to the definitions in Title 58, Chapters 1 and 72, as used in Title 58, Chapters 1 and 72, or these rules:~~

~~(1) "Unprofessional conduct" as defined in Title 58, Chapters 1 and 72, is further defined, in accordance with Subsection 58-1-203(5), in Section R156-72-502.~~]

[**~~R156-72-302a. Qualifications for Licensure - Education Requirements.~~**

~~In accordance with Subsections 58-1-203(2) and 58-1-301(3), the education requirements for licensure in Subsections 58-72-301(4) and (5) and 58-72-302(1) are defined, clarified, or established as follows:~~

~~(1) Required post secondary education shall consist of the successful completion of not less than 60 semester hours, or the equivalent, including not less than three semester hours in each of the following subjects: biology, human anatomy and physiology. An applicant may fulfill the biology, human anatomy or physiology requirement by successfully completing an equivalent number of hours in biology, human anatomy, or physiology in the acupuncture school as defined in R156-72-302a(2).~~

~~(2) An applicant shall have completed an acupuncture program that includes all the coursework listed in Subsection 58-72-302(1). The acupuncture program shall be in a school that at the time the applicant completed school was accredited or a candidate for accreditation by the National Accreditation Commission for Schools and Colleges of Acupuncture and Oriental Medicine (NACSCAOM) established by the National Council of Acupuncture Schools and Colleges (NCASC), or consists of a program that includes a minimum of two years formal full time acupuncture education recognized by the National Commission for the Certification of Acupuncturists (NCCA) as earning full education credit toward establishing eligibility of the applicant to sit for the certification examination.~~

~~R156-72-302b. Qualifications for Licensure - Experience Requirements.~~

~~In accordance with Subsections 58-1-203(2) and 58-1-301(3), the experience requirement for licensure in Subsection 58-72-301(5) is defined, clarified, or established as follows:~~

~~(1) 500 clinical hours in an acupuncture program as defined in Subsection 58-72-301(5) may be substituted for the 500 hours of post graduate training in the field.~~]

R156-72-302a[c]. Qualifications for Licensure - Examination Requirements.

In accordance with Subsection 58-72-302(5), the examination required is [~~s 58-1-203(2) and 58-1-301(3), the examination requirements for licensure in Subsection 58-72-301(6) are defined, clarified, or established as follows:~~

~~(1) the comprehensive written examination of the National Commission for the Certification of Acupuncturists (NCCA);~~

~~(2) the NCCA clean needle test;~~

~~(3) the NCCA practical exam; and~~

~~(4)~~]the Utah Law and Rules [~~e~~]Examination for Acupuncturists with a passing score of at least 75 percent.

R156-72-302b. Informed Consent.

In accordance with Subsection 58-72-302(6), in order for patients to give informed consent to treatment, an acupuncturist shall have a patient chart for each patient which shall include:

(1) a written review of symptoms; and

(2) a statement, signed by that patient, that consent is given to provide acupuncture treatment.

[**~~R156-72-502. Unprofessional Conduct.~~**

~~"Unprofessional conduct" includes failure to keep patient records in the English language.~~]

KEY: acupuncture, licensing

[~~April 1, 1995~~]1998	**58-72-101**
Notice of Continuation May 12, 1997	**58-1-106(1)**
	58-1-202(1)

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Commerce, Real Estate
R162-106
Professional Conduct

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 21151
FILED: 05/15/98, 11:04
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: To clarify that only state-certified appraisers are to take responsibility for an appraisal for a federally related transaction; to define the requirements for affixing a signature to appraisal reports. Conforms rule to Federal mandate.

SUMMARY OF THE RULE OR CHANGE: Neither state-registered appraisers nor senior appraisers may take responsibility for an appraisal for a federally related transaction. It must be stated on appraisal reports prepared by a state-registered or senior certified appraiser that the report does not qualify for federally related transactions. Signature stamps may not be used to affix an appraiser's signature to an appraisal report. Digital signatures may be used only with software that has a security feature and that no one other than the appraiser has access to the digital signature.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 61-2b-27

ANTICIPATED COST OR SAVINGS TO:
❖THE STATE BUDGET: None.
❖LOCAL GOVERNMENTS: None.
❖OTHER PERSONS: None.
COMPLIANCE COSTS FOR AFFECTED PERSONS: None.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: None. This rule merely conforms the rule to existing practice and Federal mandate by the Appraisal Standards Board.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:

Commerce
Real Estate
Second Floor, Heber Wells Building
160 East 300 South
PO Box 146711
Salt Lake City, UT 84114-6711, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Karen Post at the above address, by phone at (801) 530-6753, by FAX at (801) 530-6749, or by Internet E-mail at kpost@br.state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 07/01/1998.

THIS RULE MAY BECOME EFFECTIVE ON: 07/02/1998

AUTHORIZED BY: Theodore "Ted" Boyer, Jr., Director

R162. Commerce, Real Estate.
R162-106. Professional Conduct.

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R162-106-3. Signatures, Size and Use of Seal.

106.3.1. State-Certified Appraiser's Seal.

106.3.1.1. When signing a certified appraisal report, State-Certified General Appraisers and State-Certified Residential Appraisers shall place on at least the certification page of the appraisal report, immediately below the appraiser's signature, the seal required by Section 61-2b-17(3)(e).

106.3.1.2. The seal to be affixed on reports prepared by state-certified appraisers shall contain the words "Utah State Certified Residential Appraiser" of "Utah State-Certified General Appraiser" along with the appraiser's certificate number and expiration date. the zeros preceding the certificate number may be deleted. The size of the seal, rectangular in shape, shall be no larger than two and seven-eighths inches long and five-eighths of an inch high including the border. An example of the seal shall be made available on request at the Division offices.

106.3.1.3. The seal may be reproduced as a stamp with ink that can be copied, or may be inserted by computer in an appraisal report at the appropriate place.

106.3.2. State-Registered Appraisers. A state-registered appraiser may not place a seal on an appraisal report or use a seal in any other manner likely to create the impressions that the appraiser is a state-certified appraiser.

106.3.2.1. If a State-Registered Appraiser prepares an appraisal report which exceeds the dollar amount permitted under the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, and related federal regulations, the appraiser shall include after the appraiser's signature the words, "This appraisal does not qualify for federally related transactions."

106.3.2.1.1. This requirement does not apply if the State-Registered Appraiser has prepared the report under the direct supervision of a state-certified appraiser and the state-certified appraiser has signed the appraisal report taking responsibility for the report.

106.3.3. Senior Appraisers. A Senior Appraiser is not required to place a seal on an appraisal report. If a Senior Appraiser places a seal on an appraisal report, the seal shall include the words, "This appraisal [~~may~~]does not qualify for federally related transactions." A Senior Appraiser may not use a seal in any misleading manner or in any manner likely to create the impression that the appraiser is a state-certified appraiser.

106.3.2. Signatures.

106.3 .2.1. Signature stamps. Appraisers may not affix their signatures to appraisal reports by means of a signature stamp.

106.3.2.2. Digital signatures. A digital signature may be used in place of a handwritten signature only if: a) the software program which generates the digital signature has a security feature; and b) the appraiser ensures that his signature is protected and that no one other than the appraiser has control of that signature.

. . . . . .

KEY: real estate appraisal, conduct
[~~July 2, 1997~~]1998 **61-2b-27**
Notice of Continuation April 1, 1997

Education, Administration
R277-436
Gang Prevention and Intervention Programs in the Schools

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 21159
FILED: 05/15/98, 16:40
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule was changed to streamline the application process for schools who have previously received gang prevention funding.

SUMMARY OF THE RULE OR CHANGE: Selected schools may submit an abbreviated application for gang prevention funds.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 53A-1-401(4)

ANTICIPATED COST OR SAVINGS TO:
❖THE STATE BUDGET: None.
❖LOCAL GOVERNMENTS: None.
❖OTHER PERSONS: None.
COMPLIANCE COSTS FOR AFFECTED PERSONS: None.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: I have reviewed this rule, and I see no fiscal impact on businesses.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:

Education
Administration
250 East 500 South
Salt Lake City, UT 84111, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Carol B. Lear at the above address, by phone at (801) 538-7835, by FAX at (801) 538-7768, or by Internet E-mail at clear@usoe.k12.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 07/01/1998.

THIS RULE MAY BECOME EFFECTIVE ON: 07/02/1998

AUTHORIZED BY: Carol B. Lear, School Law Specialist

R277. Education, Administration.
R277-436. Gang Prevention and Intervention Programs in the Schools.

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R277-436-3. Distribution of Applications and Funds.

A. Awards shall be made to individual schools and funds allocated to school districts to distribute to designated schools.

B. School districts may submit a single district-wide application for one or more schools within the district. The application shall:

(1) provide for distribution of funds to individual schools;

(2) require individual schools included within the application to satisfy criteria designated in law and rule; and

(3) provide explanations of program variation from school to school, if any.

[~~B~~]C. Applications shall be provided by the USOE.

[~~C~~]D. Schools shall submit applications to the Director of Services for At Risk Students or designee who shall make final funding recommendations to the USOE Finance Committee by [~~July 1~~]June 30 of the year prior to the fiscal year in which the money is available.

[~~D~~]E. Applicants shall provide evidence and intent of their ability to supply the required school contribution percentage as designated in 53A-15-601(5).

[~~E~~]F. In kind services shall be provided consistent with Section 53A-15-601(5) and R277-436-1G.

[~~F~~]G. Awards per school shall be based on funds available and specific funding limits shall be prescribed in the application provided by the USOE.

[~~G~~]H. Schools may submit joint applications.

[~~H~~]I. Priority shall be given to applications reflecting interagency collaboration.

[~~I~~]J. Projects receiving funding shall be notified by July 1.

K. Schools or joint school applications that were funded and complied with all requirements of law and rule may reapply in subsequent years using an abbreviated application form provided by the USOE At-Risk Director or designee.

. . . . . .

KEY: public schools, disciplinary problems, students at risk*, gangs*
199[~~4~~]8 **Art X Sec 3**
53A-1-401(4)
53A-15-601
53A-1-401(3)

◆ ◆

Education, Administration
R277-616
Education for Homeless and Emancipated Students and State Funding for Homeless and Economically Disadvantaged Ethnic Minority Students

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 21160
FILED: 05/15/98, 16:40
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule was amended to make the rule strictly consistent with the Utah statute.

SUMMARY OF THE RULE OR CHANGE: The formula for distributing funds for homeless students and economically disadvantaged students was changed to make the formula consistent with the law.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 53A-1-401(3)

ANTICIPATED COST OR SAVINGS TO:
❖THE STATE BUDGET: None.
❖LOCAL GOVERNMENTS: None.
❖OTHER PERSONS: None.
COMPLIANCE COSTS FOR AFFECTED PERSONS: None.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: I have reviewed this rule, and I see no fiscal impact on businesses.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:

Education
Administration
250 East 500 South
Salt Lake City, UT 84111, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Carol B. Lear at the above address, by phone at (801) 538-7835, by FAX at (801) 538-7768, or by Internet E-mail at clear@usoe.k12.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 07/01/1998.

THIS RULE MAY BECOME EFFECTIVE ON: 07/02/1998

AUTHORIZED BY: Carol B. Lear, School Law Specialist

R277. Education, Administration.
R277-616. Education for Homeless and Emancipated Students and State Funding for Homeless and Economically Disadvantaged Ethnic Minority Students.
R277-616-1. Definitions.

A. "Domicile" means the place which a person considers to be the permanent home, even though temporarily residing elsewhere.

B. "Economically disadvantaged" means a student who is eligible for reduced price or free school lunch.

C. "Emancipated minor" means:

(1) a child under the age of 18 who has become emancipated by order of a court or through marriage, or

(2) a child recommended for school enrollment as an emancipated or independent or homeless child by an authorized representative of the Utah State Department of Social Services.

D. "Homeless child" means a child who:

(1) lacks a fixed, regular, and adequate residence;

(2) has primary nighttime residence in a homeless shelter[~~s~~], welfare hotel[~~s~~], [~~conjugate~~]congregate shelter[~~s~~], or [~~spouse abuse centers~~]domestic violence shelter;

(3) sleeps in a public or private place not ordinarily used as a regular sleeping accommodation for human beings;

(4) is, out of necessity, living with relatives or friends usually on a temporary or emergency basis due to lack of housing; or

(5) is a runaway.

E. "Ethnic minority student" means non-[~~c~~]Caucasian students as identified below:

(1) American Indian or Alaskan native;

(2) Hispanic/Latino;

(3) Asian;

(4) Pacific Islander;

(5) Black/African American, not of Hispanic origin;

(6) Other;

([~~6~~]7) The total of ethnic minority students per school shall be determined annually on [~~March~~]October 1.

F. "Parent" means a parent or guardian having legal custody of a minor child.

G. "School district of residence for a homeless child" means the district in which [~~an emancipated minor or an unemancipated minor's parent is domiciled or currently residing~~]the student or the student's legal guardian or both currently resides for the period that the student or student's family satisfies the homeless criteria.

H. "Board" means the Utah State Board of Education.

I. "USOE" means the Utah State Office of Education.

R277-616-2. Authority and Purpose.

A. This rule is authorized under Article X, Section 3 of the Utah State Constitution, Section 53A-17a-121(4) which directs the Board to distribute to school districts an appropriation for homeless and ethnic minority students, Section 53A-1-401(3) which allows the Board to adopt rules in accordance with its responsibilities, Section 53A-11-101 which requires that minors between the ages of 6 and 18 attend school during the school year of the district of residence, and by Section 53A-2-201(3) which makes each school district responsible for providing educational services for all children of school age who reside in the district.

B. The purpose of this rule is to ensure that homeless children have the opportunity to attend school with as little disruption as reasonably possible and that funds for homeless and economically disadvantaged ethnic minority students are [~~dispersed~~]distributed equitably and efficiently to school districts.

R277-616-3. Criteria for Determining Where a Homeless or Emancipated Student Shall Attend School.

A. A homeless [~~child~~]student may:

(1) continue for the remainder of the school year, to attend the school which the child attended prior to becoming homeless, or

(2) transfer to the school district of residence as defined under Subsection R277-616-1G.

B. Determination of residence or domicile may include consideration of the following criteria:

(1) the place, however temporary, where the child actually sleeps;

(2) the place where an emancipated child or an unemancipated child's family keeps its belongings;

(3) the place which an emancipated child or an unemancipated child's parent considers to be home; or

(4) such recommendations concerning a child's domicile as made by the State Department of Human Services.

C. Determination of residence or domicile may not be based upon:

(1) rent or lease receipts for an apartment or home;

(2) the existence or absence of a permanent address; or

(3) a required length of residence in a given location.

D. If there is a dispute as to residence or the status of a child as an emancipated minor, the issue may be referred to the USOE[~~Special Needs Population Specialist~~] for resolution.

E. The purpose of federal homeless education legislation is to ensure that a child's education is not needlessly disrupted because of homelessness. (See P.L. 177, July 22, 1989, Stuart B. McKinney, Subtitle B, Education for Homeless Children and Youths, Sections 721 and 722) If a child's residence or eligibility is in question, the child shall be admitted to school until the issue is resolved.

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R277-616-5. School District Funding for Homeless Students and Economically Disadvantaged Ethnic Minority Students.

A. Funds appropriated for homeless and economically disadvantaged ethnic minority students shall be distributed as outlined under 53A-17a-12[~~2~~]1(4).[~~shall be dispersed as follows:~~

~~(1) A $1,000 base distribution shall be available to each school district that reports homeless or economically disadvantaged ethnic minority students, or both.~~

~~(2) Sixty five percent (65%) of funds allocated to districts for homeless students shall be dispersed according to the district's number of homeless students served in local shelters compared to the total number of homeless students served in shelters statewide.~~

~~(3) Thirty five percent (35%) of the funds allocated to districts for homeless students shall be dispersed according to a district's number of homeless students not in local shelters compared to the total number of homeless students not in shelters statewide.~~

~~B. Funds distributed to districts under this rule shall only be used to support the education needs of homeless or economically disadvantaged ethnic minority students or both.~~]

B. For purposes of determining the homeless student count, districts shall count annually the number of homeless students served in the district.

C. If a student satisfies the homeless criteria at more than one time during the school year in the same district, the student shall be counted once.

KEY: compulsory education, students' rights
[~~September 4,~~] 199[6]8 **Art X Sec 3**
Notice of Continuation January 1, 1996 **53A-1-401(3)**
53A-2-201(3)
53A-2-202
53A-17a-121(4)

Education, Administration
R277-907
ATC/ATCSR Membership Hour Accounting

NOTICE OF PROPOSED RULE
(New)
DAR FILE NO.: 21161
FILED: 05/15/98, 16:40
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This new rule was written to solve differences among Applied Technology Centers (ATCs) for counting "membership hours."

SUMMARY OF THE RULE OR CHANGE: This rule establishes definitions important for Applied Technology Centers (ATC) reporting consistency especially regarding the definition of "membership hours."

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 53A-1-401(3)

ANTICIPATED COST OR SAVINGS TO:
❖THE STATE BUDGET: None.
❖LOCAL GOVERNMENTS: None.
❖OTHER PERSONS: None.
COMPLIANCE COSTS FOR AFFECTED PERSONS: None.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: I have reviewed this rule, and I see no fiscal impact on businesses.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
Education
Administration
250 East 500 South
Salt Lake City, UT 84111, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Carol B. Lear at the above address, by phone at (801) 538-7835, by FAX at (801) 538-7768, or by Internet E-mail at clear@usoe.k12.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 07/01/1998.

THIS RULE MAY BECOME EFFECTIVE ON: 07/02/1998

AUTHORIZED BY: Carol B. Lear, School Law Specialist

R277. Education, Administration.
R277-907. ATC/ATCSR Membership Hour Accounting.
R277-907-1. Definitions.

A. "Applied technology center or ATC" means a facility approved by the Board and the Legislature to offer applied technology instruction and related services to secondary and non-degree seeking adult students.

B. "Applied technology center service region or ATCSR" means an entity provided facilities by school districts and/or higher education institutions(s), recognized by the Board and the Legislature, and coordinated with the State Board of Regents through the Joint Liaison Committee to offer applied technology instruction and related services to secondary and non-degree seeking adult students.

C. "ATC/ATCSR technical training" means subject area or skill training in a defined instructional program authorized by the USOE and the Commissioner of Higher Education using approved Classification of Instructional Program (CIP) codes.

D. "ATC/ATCSR non-technical training" means market-driven training skill areas related to technical courses designed to prepare students for entry-level employment requirements in a highly technical market. Courses may include:

(1) applied communications;
(2) blue print reading;
(3) computer literacy;

(4) principles of technology;

(5) applied chemistry;

(6) first-aid and emergency medical skills training; or

(7) other industry-based requirements approved by the USOE and Commissioner of Higher Education.

E. "Board" means the Utah State Board of Education/Utah State Board for Applied Technology Education.

F. "Membership" means the number of students on the current roll of a class or school as of a given date. A student is a member of a class or school from the date of entrance at the school and is placed on the current roll until official withdrawal from the class or school because of completion, dismissal, death, transfer, or administrative withdrawal. The date of withdrawal is the date on which it is officially known that the student has left school for one of the above reasons and is not necessarily the first day after the date of last attendance.

G. "Membership hour" means fifty minutes of actual training time provided by an ATC/ATCSR instructor/employee and charged at a tuition rate in accordance with R277-907-4.

H. "State Custom Fit Training Program" means a state-funded training program designed to meet the needs of business and industry through classroom, lab, and if appropriate, on-the-job training. Its purpose is to bring education and business together to provide training and assistance to company employees through ATCs/ATCSRs and post-secondary institutions in order to stimulate economic development, facilitate the creation of new jobs, coordinate with public schools, and provide businesses with trained workers.

I. "Employer and community services training" means a broad function of employer-required or community courses which incorporate both State and private custom fit training, and short-term intensive training.

J. "Short-term intensive training (STIT) programs" means customized, short-term training courses funded by higher education to support business and industry through training.

K. "Employer based training" means an extension of the classroom training and a continuation of the curriculum and competency development at the work site.

L. "Essential workplace remediation" means basic mathematics instruction that includes addition, subtraction, multiplication, division, fractions, decimals and percentages offered to students of specific skill levels, basic reading skills instruction usually taught to students whose reading test scores fall below the eight grade level, and other basic skills training needed to prepare a student for full participation in a technical training program.

M. "English as a second language (ESL)" means programs designed to bring the English proficiency of individuals to a level required to function in society and to meet skill level requirements for training and employment.

N. "Pre-enrollment services" means testing or evaluation services offered to students who apply for or are referred to an ATC/ATCSR for services.

O. "Career guidance/financial aid guidance" means a counseling program designed to assist students in identifying career strengths and goals.

P. "VSR/4 format" means the common ATC/ATCSR student scheduling database through which all reports of data to USOE are generated.

Q. "CIP Codes" means Classification of Instructional Program which are codes designated by the USOE for approved applied technology education courses and programs.

R277-907-2. Authority and Purpose.

A. This rule is authorized under Utah Constitutional Article X, Section 3 which vests general control and supervision over public education in the Board, by Section 53A-15-202(2) which allows the Board to distribute funds received by the Board to aid applied technology education, and Section 53A-1-401(3) which allows the Board to make rules in accordance with its responsibilities.

B. The purpose of this rule is to define membership hours for the purpose of allocating funds and documenting and tracking instructional time consistently for ATC/ATCSR students and to establish procedures for allocating, documenting and tracking membership hours.

R277-907-3. Membership Hour Recording and Reporting.

A. Membership hours shall be recorded and reported through the VSR/4 common student information and scheduling system. Common data reported to the USOE shall be generated through the VSR/4 software utility, called "Preparing State Enrollment Data".

B. ATC/ATCSRs shall record and report actual training time. Hours shall be factored by the USOE so that fifty minutes of training time for one student equals one membership hour.

C. ATC/ATCSR student schedules shall accurately reflect only instructional time and shall not include non-instructional time.

D. Student schedules and instructional time shall be supported by attendance rolls. Attendance rolls may be electronic in the VSR/4 format, or written, hard copy rolls. Rolls shall show student attendance and include other information required by the USOE, such as course title, instructor, periods held.

E. ATC/ATCSRs shall record and report data consistent with all common data elements provided by the USOE/ATE Division.

R277-907-4. Tuition Charges for Membership Hours.

A. Tuition shall not be charged to secondary students.

B. Tuition may be charged to adult students.

C. Tuition fee schedules for adult students shall not exceed eighty-five cents per membership hour except under the following conditions.

(1) Tuition fee schedules for part time adult students may be set on a sliding scale which increases with fewer hours, but fees shall be proportional to eighty-five cents per membership hour for a full-time adult student.

(2) A flat tuition rate may be charged for classes, but shall be based on a charge not to exceed eighty-five cents per hour for the hours the class is scheduled.

(3) The Board may provide exceptions for special circumstances, such as programs or courses leading to state licensure or certification.

R277-907-5. Technical Training.

Technical training programs operated at ATC/ATCSRs under authorization of the USOE and the Commissioner of Higher Education and using approved CIP codes shall be recorded and reported as membership hours and shall count for funding distribution within the ATC/ATCSR system.

R277-907-6. Training Related to Technical Training.

A. Students may take and the institution may generate membership hours for training related to students' technical training.

B. Related training may be offered in the student's technical program or in separate courses.

C. Related courses shall be approved by employer advisory committees and come under approved CIP codes or the ATC/ATCSR may apply for a new code.

D. These courses shall be tracked and recorded in a student's technical program.

R277-907-7. Employer and Community Services Training Programs.

A. Employer and community services training shall generate membership hours if the following criteria are met:

(1) Student is enrolled in a regular ATC/ATCSR program, under approved CIP code, delivered at an ATC/ATCSR classroom or lab facility;

(2) Training uses a portion or all of the regular specialty ATC/ATCSR program curriculum without customization or substantial alteration; and

(3) Training is provided by an approved or adjunct ATC/ATCSR instructor whose salary is paid using authorized ATC/ATCSR funding sources.

B. Tuition shall be paid to the ATC/ATCSR by Employer and Community Services at the standard tuition rate.

R277-907-8. Employer-Based Training.

A. All employer-based training shall take place under the general supervision and guidance of a faculty member or designee of the ATC/ATCSR.

B. Employer-based training may be counted in the technical training membership hour count of the program in which the student is enrolled if:

(1) an ATC/ATCSR student is enrolled in a technical training program and assigned to a work site by an ATC/ATCSR faculty member under an approved curriculum;

(2) an approved curriculum has a minimum of 80 percent training activities in classrooms or labs and employer-based training does not exceed 20 percent of total curriculum hours;

(3) the institution bears some of the instructional costs, supports the student on the job, and documents the student performance and attendance on the job; and

(4) employer-based training for all students is limited to 3.5 percent of the total institutional membership hours.

R277-907-9. Essential Workplace Remediation.

A. Basic mathematics:

(1) includes addition, subtraction, multiplication, division, fractions, decimals and percentages;

(2) directed at two populations:

(a) those students requiring review and limited instruction; and

(b) those students who never mastered basic math concepts as evidenced or evaluated by the student's inability to perform the basic math competencies which are part of the technical training requirements.

B. Basic reading skills instruction:

(1) directed at those students whose reading test scores fall below the eighth grade level;

(2) Uses a reading program applicable to the technical program in which the student is enrolled.

C. Essential Workplace Remediation may also include basic communications and other basic skills training needed to prepare a student for full participation in a technical training program.

D. Only the hours for adult and secondary students enrolled in technical programs at ATC/ATCSRs shall be counted in the essential workplace skills remediation membership category. These hours shall be counted separately from other ATC/ATCSR membership hours and reported under the essential workplace skills category.

E. A limit of 6.5 percent of the total of reported membership hours may be in assessment, assessment interpretation, and essential workplace skills remediation.

R277-907-10. Pre-Enrollment Services.

A. Each ATC/ATCSR shall document all students receiving testing services.

B. Documentation of student time for testing:

(1) shall be consistent among ATC/ATCSRs;

(2) shall be recorded in the VSR/4 format;

(3) shall be available for audit by the USOE.

C. Time recorded for testing:

(1) Testing time periods shall be test publishers' standard testing time when available.

(2) If a publisher's test time does not exist, each ATC/ATCSR testing official shall formally document the actual test time of a reasonable sample of students and develop testing time standards.

(3) When large numbers of tests are used, a sample of at least twenty-five students shall be required.

(4) Standards developed by the ATC/ATCSR shall be documented in an audit file for annual audits and reviewed every three years by members of an administrative team designated by the ATC/ATCSR executive officer.

D. Time recorded for testing interpretation shall be actual time used by testing or career guidance personnel for test interpretation and guidance with the customer.

E. Pre-enrollment services hours shall count under and be a part of the 6.5 percent limitation identified in Subsection R277-907-8E.

R277-907-11. English as a Second Language.

A. English as a second language (ESL) classes are not typically offered by ATC/ATCSRs.

B. If an ATC/ATCSR chooses to develop and fund an ESL program consistent with the institutional mission, ESL student membership hours may be counted, under the ESL category.

C. In order for ESL hours to be counted as membership hours, the student shall also be enrolled in technical training.

D. ESL hours shall count under and be part of the 6.5 percent remedial workplace skills hour limitation identified in Subsection R277-907-8E.

R277-907-12. Guidance/financial Aid Guidance.

Membership hours for students in counseling sessions or activities or both need not be documented and shall not be counted for purposes of any ATC/ATCSR funding.

R277-907-13. Transporting High School Students to and from ATC/ATCSR Classes and Programs.

A. Providing services to high school students necessitates that students may need to travel to ATC/ATCSR sites during regularly scheduled periods.

B. Travel time spent by students between their resident high schools and ATC/ATCSR sites shall not be counted as membership hours.

R277-907-14. Ten-Day Rule.

A. Membership at an institution shall end, as shall the accumulation of membership hours, if a student misses ten unexcused, as defined by the institution, consecutive days.

B. The ten-day termination policy may affect no more than 10 days when the absence period crosses two consecutive fiscal years.

C. Notwithstanding the ten-day rule, membership hours shall not be extended past the official withdrawal date or the program/course ending date.

KEY: education finance, school enrollment, applied technology education*
1998 **Art X, Sec 3**
53A-15-202(2)
53A-1-401(3)

◆ ◆

Environmental Quality, Air Quality
R307-1
Utah Air Conservation Rules

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 21100
FILED: 05/13/98, 11:56
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose is to change the numbering of Sections R307-1-1 through R307-1-4 to place them in new locations in R307. No substantive change is made.

SUMMARY OF THE RULE OR CHANGE: The language from Sections R307-1-1 through R307-1-4 is being reorganized and placed in new locations throughout R307.
(**DAR Note:** For complete information on these changes, see the reorganization table in the "Special Notices" section of this *Bulletin*.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 19-2-104

ANTICIPATED COST OR SAVINGS TO:
❖THE STATE BUDGET: A small cost for reorganizing the rules, learning new citations, and revising forms. In the long run, reduced cost in being able to find specific provisions more quickly.
❖LOCAL GOVERNMENTS: A small cost to learn new citations. In the long run, reduced cost in being able to find specific provisions more quickly.
❖OTHER PERSONS: A small cost to learn new citations. In the long run, reduced cost in being able to find specific provisions more quickly.
COMPLIANCE COSTS FOR AFFECTED PERSONS: A small cost to learn new citations. In the long run, reduced cost in being able to find specific provisions more quickly.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: A small cost to learn new citations. In the long run, reduced cost in being able to find specific provisions more quickly.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
Environmental Quality
Air Quality
150 North 1950 West
Box 144820
Salt Lake City, UT 84114-4820, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Jan Miller at the above address, by phone at (801) 536-4042, by FAX at (801) 536-4099, or by Internet E-mail at jmiller@deq.state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 07/01/1998; OR ATTENDING A PUBLIC HEARING SCHEDULED FOR 06/23/1998, 1:30 p.m., Room 201, Department of Environmental Quality (DEQ) Building, 168 North 1950 West, Salt Lake City, UT.

THIS RULE MAY BECOME EFFECTIVE ON: 08/06/1998

AUTHORIZED BY: Ursula K. Trueman, Director

{**DAR Note:** Because of publication constraints, the text of this rule is not printed in this *Bulletin*, but is published by reference to a copy on file at the Division of Administrative Rules. The text may also be inspected at the agency (address above) or in the *Utah Administrative Code* which is available at any state depository library. **Note:** This amendment deletes Sections R307-1-1 through R307-1-4 in their entirety.}

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Environmental Quality, Air Quality
R307-1-5
(Changed to R307-105)
Emergency Controls

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 21104
FILED: 05/13/98, 11:56
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose is to change this section to a new location fitting the new structure for all R307 rules. No substantive change is made.

SUMMARY OF THE RULE OR CHANGE: Section R307-1-5 is being changed to Rule R307-105. No air pollution emergency has ever been declared in Utah.
(**DAR Note:** For complete information on these changes, see the reorganization table in the "Special Notices" section of this *Bulletin*.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 19-2-104

ANTICIPATED COST OR SAVINGS TO:
❖THE STATE BUDGET: A small cost for reorganizing the rules, learning new citations, and revising forms. In the long run, reduced cost in being able to find specific provisions more quickly.
❖LOCAL GOVERNMENTS: A small cost to learn new citations. In the long run, reduced cost in being able to find specific provisions more quickly.
❖OTHER PERSONS: A small cost to learn new citations. In the long run, reduced cost in being able to find specific provisions more quickly.
COMPLIANCE COSTS FOR AFFECTED PERSONS: A small cost to learn new citations. In the long run, reduced cost in being able to find specific provisions more quickly.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: A small cost to learn new citations. In the long run, reduced cost in being able to find specific provisions more quickly.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
Environmental Quality
Air Quality
150 North 1950 West
Box 144820
Salt Lake City, UT 84114-4820, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
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THIS RULE MAY BECOME EFFECTIVE ON: 08/06/1998

AUTHORIZED BY: Ursula K. Trueman, Director

R307. Environmental Quality, Air Quality.
[~~R307-1. Utah Air Conservation Rules.~~]R307-105. General Requirements: Emergency Controls.
[~~R307-1-5. Emergency Controls.~~]R307-105-1. Air Pollution Emergency Episodes.

[~~5.1 Air Pollution Emergency Episodes.~~

~~5.1.1~~](1) Determination of an episode and its extent or stage shall be made by the Executive Secretary taking into consideration the levels of pollutant concentrations contained at 40 CFR Section 51.151 and 40 CFR Section 51, Appendix L, and summarized in the table below:

TABLE

AIR POLLUTION EPISODE CRITERIA
(values in micrograms/cubic meter unless stated otherwise)

POLLUTANT	ALERT	WARNING	EMERGENCY	NEVER TO BE EXCEEDED
SULFUR DIOXIDE 24-hour average	800 (0.3 ppm)	1,600 (0.6 ppm)	2,100 (0.8 ppm)	2,620 (1.0 ppm)
PM10 24-hour average	350	420	500	600
CARBON MONOXIDE				
8-hour average	17,000 (15 ppm)	34,000 (30 ppm)	46,000 (40 ppm)	57,500 (50 ppm)
4-hour average				86,300 (75 ppm)
1-hour average				144,000 (125 ppm)
OZONE				
1-hour average	400 (0.2 ppm)	800 (0.4 ppm)	1,000 (0.5 ppm)	
2-hour average				1,200 (0.6 ppm)
NITROGEN DIOXIDE 1-hour average	1130 (0.6 ppm)	2,260 (1.2 ppm)	3,000 (1.6 ppm)	3,750 (2.0 ppm)
NITROGEN DIOXIDE 24-hour average	282 (0.15 ppm)	565 (0.3 ppm)	750 (0.4 ppm)	938 (0.5 ppm)

An air pollution alert, air pollution warning, or air pollution emergency will be declared when any one of the above pollutants reaches the specified levels at any monitoring site.

In addition to the levels listed for the above pollutants, meteorological conditions are such that pollutant concentrations can be expected to remain at the above levels for twelve (12) or more hours or increase, or in the case of ozone, the situation is likely to reoccur within the next 24-hours unless control actions are taken.

ALERT The Alert level is that concentration at which first stage control action is to begin.

WARNING The warning level indicates that air quality is continuing to degrade and that additional control actions are necessary.

EMERGENCY The emergency level indicates that air quality is continuing to degrade toward a level of significant harm to the health of persons and that the most stringent control actions are necessary.

[~~5.1.2~~](2) The Executive Secretary shall also take into consideration, to determine an episode and its extent, rate of change of concentration, meteorological forecasts, and the geographical area of the episode, including a consideration of point and area sources of emission, where applicable.

R307-105-2. Emergency Actions.

[~~5.1.3~~](1) If an episode is determined to exist, the Executive Director, with concurrence of the Governor shall:

[~~A.~~](a) Make public announcements pertaining to the existence, extent and area of the episode.

[~~B.~~](b) Require corrective measures as necessary to prevent a further deterioration of air quality.

[~~5.1.4~~](2) Episode termination shall be announced by the Executive Director, with concurrence of the Governor, once monitored pollutant concentration data and meteorological forecasts determine the crisis is over.

KEY: air pollution, [~~major sources, motor vehicles~~]emergency powers, governor*, air pollution
[~~January 1,~~]1998 [~~19-2-104~~]19-2-107
Notice of Continuation June 2, 1997[~~19-2-109 19-2-124~~]

Environmental Quality, Air Quality
R307-1-6
(Changed to R307-120, R307-121, and R307-122)
Eligibility of Pollution Control Expenditures for Sales Tax Exemption and Income Tax Credit

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 21105
FILED: 05/13/98, 11:57
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose is to change the numbering from this section to new locations fitting the new structure for all R307 rules. No substantive change is made.

SUMMARY OF THE RULE OR CHANGE: Section R307-1-6 is being renumbered to create Rules R307-120, R307-121, and R307-122. (**DAR Note:** For complete information on these changes, see the reorganization table in the "Special Notices" section of this *Bulletin*.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 19-2-104

ANTICIPATED COST OR SAVINGS TO:
❖THE STATE BUDGET: A small cost for reorganizing the rules, learning new citations, and revising forms. In the long run, reduced cost in being able to find specific provisions more quickly.
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THIS RULE MAY BECOME EFFECTIVE ON: 08/06/1998

AUTHORIZED BY: Ursula K. Trueman, Director

R307. Environmental Quality, Air Quality.

[R307-1. Utah Air Conservation Rules.]R307-120. General Requirements: Tax Exemption for Air and Water Pollution Control Equipment.

[R307-1-6. Eligibility of Pollution Control Expenditures for Sales Tax Exemption and Income Tax Credit.]R307-120-1. Application.

[6.1 Eligibility of Pollution Control Expenditures for Sales Tax Exemption.

6.1.1]Application for certification shall be made on forms provided by the State Department of Environmental Quality, and shall include all information requested thereon and such additional reasonably necessary information as is requested by the executive secretary of the Air Quality Board or the executive secretary of the Water Quality Board.

R307-120-2. Eligibility for Certification.

[6.1.2]Certification shall be made only for taxpayers who are owners, operators (under a lease) or contract purchasers of a trade or business that utilizes Utah property with a pollution control facility to prevent or minimize pollution.

R307-120-3. Review Period.

[6.1.3]Date of filing shall be date of receipt of the final item of information requested and this filing date shall initiate the 120-day review period.

R307-120-4. Conditions for Eligibility.

[6.1.4](1) All materials, equipment and structures (or part thereof) purchased, leased or otherwise procured and services utilized for construction or installation in a water or air pollution control facility shall be eligible for certification, provided:

[A.](a) such materials, equipment, structures (or part thereof), and services installed, constructed, or acquired result in a demonstrated reduction of pollutant discharges or emission pollutant levels, and

[B.](b) the primary purpose of such materials, equipment, structures (or part thereof), and services is preventing, controlling, reducing, or disposing of water or air pollution.

(2) The above includes expenditures which reduce the amount of pollutants produced as well as expenditures which result in removal of pollutants from waste streams. The materials, equipment, structures (or part thereof), and services that are necessary for the proper functioning of air or water pollution control facilities meeting the requirements of [Subsections R307-1-6.1.4.A and R307-1-6.1.4.B](1)(a) and (b) above, including equipment required for compliance monitoring, shall be eligible for certification.

R307-120-5. Limitations on Certification.

[6.1.5]Applications for certification shall be certified by the executive secretary of the Air Quality Board or the executive secretary of the Water Quality Board after consultation with the State Tax Commission and only if:

[A.](1) Air Quality.

[(1)](a) the air pollution control facility in question has been reviewed and approved by the executive secretary of the Air Quality Board for those air pollution sources needing review in accordance with [Section R307-1-3.1 of these rules]R307-401, or

[(2)](b) the air pollution control facilities installed, constructed, or acquired are the result of the requirements of these rules (permits by rule) or the State Implementation Plan.

[B.](2) Water Quality.

[(1)](a) plans for the water pollution control facility in question require review and approval by the Water Quality Board and have been so approved, or

[(2)](b) the water pollution control facility is specifically required by the Water Quality Board, including facilities constructed for pretreatment of wastes prior to discharge to a public sewerage system in accordance with [Subsection]R317-8-8.1, but excluding facilities which are permitted by rule under [Subsection]R317-6-6.2 (Ground Water Discharge Permit by Rule) unless required to obtain an individual permit by the Water Quality Board, or

[(3)](c) the water pollution control facility is required and permitted by another statutory board within the Department of Environmental Quality, or

[(4)](d) the water pollution control facility eliminates or reduces the discharge of pollutants which would be regulated by the Water Quality Board, if such pollutants were discharged.

R307-120-6. Exemptions from Certification.

[6.1.6]The following items are specifically not eligible for certification:

[A.](1) materials and supplies used in the normal operation or maintenance of the water or air pollution control facilities;

[B.](2) materials, equipment, and services used to monitor ambient air or water, unless required for a permit or approval from a statutory board within the Department of Environmental Quality;

[C.](3) materials, equipment, and services for collection, treatment, and disposal of human wastes, unless the primary purpose of such materials, equipment and services is the treatment of industrial wastes;

[D.](4) materials, equipment and services used in removal, treatment, or disposal of pollutants from contaminated ground water, if the applicant caused the ground water contamination by failing to comply with applicable permits, approvals, rules, or standards existing at the time the contamination occurred; and

[E.](5) air conditioners.

R307-120-7. Duty to Issue Certification.

[6.1.7]Upon determination that facilities described in any application under [Subsection R307-1-6.1.1]R307-120-1 satisfy the requirements of these rules and Sections 19-2-123 through 19-2-127 the executive secretary of the Air Quality Board or the executive secretary of the Water Quality Board shall issue a certification of pollution control facility to the applicant.

R307-120-8. Appeal and Revocation.

[6.1.8](1) If the application is rejected, the applicant may appeal to the appropriate Board within 20 days for an informal hearing. The Board's decision will be final and conclusive on all parties unless appealed.

[6.1.9](2) Revocation of prior certification shall be made for any of the circumstances prescribed in Section 19-2-126, after consultation with the State Tax Commission.

KEY: air pollution, tax exemptions, equipment*
1998 19-2-124
Notice of Continuation June 2, 1997 19-2-125
19-2-126
19-2-127

R307. Environmental Quality, Air Quality.
R307-121. General Requirements: Eligibility of Expenditures for Purchase of Vehicles that Use Cleaner Burning Fuels or Conversion of Vehicles and Special Fuel Mobile Equipment to Use Cleaner Burning Fuels for Corporate and Individual Income Tax Credits.
R307-121-1. Definitions.

[~~6.2 Eligibility of Expenditures for Purchase of Vehicles that Use Cleaner Burning Fuels or Conversion of Vehicles and Special Fuel Mobile Equipment to Use Cleaner Burning Fuels for Corporate and Individual Income Tax Credits.~~

~~6.2.1~~]Definitions. The following additional definitions apply [~~only~~]to [~~R307-1-6.2~~]R307-121.

[~~B.~~]"Certified by the Board" is defined in Utah Code 59-7-605(1)(b) and 59-10-127(1)(b).

[~~A.~~]"Clean Fuel" means:

(1) propane, natural gas, or electricity;

(2) other fuel the Air Quality Board determines annually on or before July 1, to be at least as effective as fuels under [~~R307-1-6.2.1.A(1)~~](1) in reducing air pollution; or

(3) fuel that meets the clean fuel vehicle standards specified in Part C of Title II of the federal Clean Air Act.

[~~D.~~]"Conversion System" means a package which may include fuel, ignition, emissions control, and engine components that are modified, removed, or added during the process of modifying a motor vehicle or a special fuel mobile equipment to operate on a clean fuel.

[~~C.~~]"Special Fuel Mobile Equipment" is defined in Utah Code 59-7-605(1)(d) and 59-10-127(1)(d).

R307-121-2. Amount of Credit.

[~~6.2.2~~]As specified in Sections 59-7-605, and 59-10-127 for tax years beginning January 1, 1997, and ending December 31, 2001, there is a credit against tax otherwise due in an amount equal to:

[~~A.~~](1) 20%, up to a maximum of $500 per vehicle, of the cost of new motor vehicles being registered in Utah and for the first time that are fueled by a clean fuel;

[~~B.~~](2) 20%, up to a maximum of $400, of the cost of equipment for conversion, if certified by the Board, of a motor vehicle registered in Utah to be fueled by a clean fuel; and

[~~C.~~](3) 20%, up to a maximum of $500, of the cost of equipment for conversion, if certified by the Board, of a special fuel mobile equipment engine to be fueled by a clean fuel or a fuel substantially more effective in reducing air pollution than the fuel for which the engine was originally designed.

R307-121-3. Anti-Tampering Policy.

[~~6.2.3~~]No person may convert a motor vehicle to use a clean fuel in a manner that violates Section 203(a) of the Act or the "Interim Tampering Enforcement Policy" of the Environmental Protection Agency, June 15, 1974.

R307-121-4. Proof of Purchase for New Vehicle.

[~~6.2.4~~]Proof of purchase of an item for which a credit specified in [~~R307-1-6.2.2.A~~]R307-121-2(1) is allowed shall be made by submitting to the executive secretary:

[~~A.~~](1) a copy of the Manufacturer's Statement of Origin;

[~~B.~~](2) an original or copy of the purchase order, customer invoice, or receipt including the vehicle identification number (VIN); and

[~~C.(1)~~](3)(a) a copy of the Manufacturer's Suggested Retail Price document that includes a clean fuel option on the equipment list for that vehicle or

[~~(2)~~](b) in the case of vehicles certified as meeting the Clean Fleet Vehicle standards specified in Part C of the federal Clean Air Act, the owner must make the vehicle available for verification by a representative of the executive secretary of an under-hood decal on the vehicle for which the credit is requested stating "This vehicle (or engine, as applicable) conforms to California regulations applicable to (model-year) new (TLEV, LEV, ULEV, or ZEV) (specify motorcycles, passenger cars, light-duty trucks, medium-duty diesel engines, as applicable)."

R307-121-5. Proof of Purchase for Converted Vehicle.

[~~6.2.5.A.~~](1) Proof of purchase of an item for which a credit specified in [~~R307-1-6.2.2.B or C~~]R307-121-2(2) or (3) is allowed shall be made by submitting to the executive secretary a copy of the purchase order, customer invoice, or receipt.

[~~B.~~](2) The proof of purchase specified in [~~Subsection R307-1-6.2.5.A~~]R307-121-5(1) must be completed and signed by the person that converted the vehicle or the special fuel mobile equipment, and must include the following information:

[~~(1)~~](a) owner's name;

[~~(2)~~](b) owner's social security number or taxpayer identification number;

[~~(3)~~](c) vehicle VIN or identification number of the special fuel mobile equipment;

[~~(4)~~](d) fuel type before conversion;

[~~(5)~~](e) fuel type after conversion;

[~~(6)~~](f) conversion system manufacturer;

[~~(7)~~](g) conversion system model number;

[~~(8)~~](h) date of the conversion;

[~~(9)~~](i) name, address, and phone number of the person that converted the vehicle or the special fuel mobile equipment;

[~~(10)~~](j) documentation of compliance with all existing applicable technician certification requirements, as specified in 53-7-301 through 316, R710-6, and R714-400-7.P, for the person that performed the installation of the conversion system, by providing the technician's current valid certification number;

[~~(11)~~](k) documentation that the conversion system installed has been certified by the Board, by providing the current valid certification number issued by the executive secretary in accordance with [~~R307-6.2.6~~]R307-121-6; and

[~~(12)~~](l) for vehicle conversions, copies of the vehicle inspection reports (VIR) before and after the conversion, indicating that the vehicle passed the current applicable inspection and maintenance (I/M) emission test in the county where the vehicle is registered. The owner is exempt from the VIR submission requirements, only if a vehicle is registered and is converted in a county that does not implement any inspection and maintenance

program. If the vehicle is registered in a non-I/M county and is converted in an I/M county, VIR submission is required.

R307-121-6. Procedures for Obtaining Certification by the Board for Fuel Conversion Systems.

[~~6.2.6 Procedures for Obtaining Certification by the Board for Fuel Conversion Systems.~~

~~A.~~](1) For vehicles.

[~~(1)~~](a) The executive secretary will issue a certificate, stating that the fuel conversion system for a specific fuel, vehicle class, and engine type has been certified by the Board, if the system manufacturer submits the following information to the executive secretary and if the executive secretary decides the conversion system has met all applicable requirements:

[~~(a)~~](i) description of each conversion system, fuel used, vehicle certification class (including vehicle type and vehicle weight class), and engine type;

[~~(b)~~](ii) Federal Test Procedure (FTP) mass emissions test data which:

[~~(i)~~](A) is collected in high altitude conditions as defined by the Environmental Protection Agency (EPA) using EPA approved equipment, test procedures and practices, and meeting EPA emissions certification standards, as defined in 40 CFR Part 86;

[~~(ii)~~](B) shows that tests conducted before and after installation of the conversion system demonstrate a reduction in total emissions and that there is no increase in emissions for each regulated pollutant compared to emission levels when operated on the original fuel prior to the conversion;

[~~(iii)~~](C) is tested on two vehicles for each vehicle certification class which have accumulated at least 4,000 miles each;

[~~(c)~~](iii) system engineering specifications.

[~~(2)~~](b) The executive secretary will issue a certificate if the federal Environmental Protection Agency has certified the conversion system, or if the fuel conversion system has been certified by a state whose certification standards are recognized by the Board.

[~~(3)~~](c) Special provisions.

[~~(a)~~](i) After conversion, dual-fuel or flexible-fuel vehicles shall be required to undergo at least one Federal Test Procedure on conventional fuel and must demonstrate that the EPA emissions certification standards in 40 CFR Part 86 for that vehicle type and model year on the conventional fuel are being met.

[~~(b)~~](ii) The executive secretary may waive the requirement for testing to be conducted at high altitude, specified in [~~R307-1-6.2.6.A(1)(b)(i)~~](1)(a)(ii)(A) above, if the manufacturer demonstrates that the conversion system provides an equivalent emission reduction.

[~~(c)~~](iii) Acceptability of Canadian data will be determined on a case-by-case basis after demonstrating to the satisfaction of the executive secretary that the test is equivalent to the Federal Test Procedure.

[~~(d)~~](iv) Vehicle conversions must comply with EPA Mobile Source Enforcement Memorandum No. 1A., dated June 25, 1974.

[~~B.~~](2) For special fuel mobile equipment.

[~~(1)~~](a) The executive secretary will issue a certificate, stating that the fuel conversion system for a specific fuel and mobile equipment engine type has been certified by the Board, if the system manufacturer submits the following information to the executive secretary and if the executive secretary decides the conversion system has met all applicable requirements:

[~~(a)~~](i) description of each conversion system, fuel used, and mobile equipment engine type;

[~~(b)~~](ii) emissions test data showing that the conversion system results in an emission reduction of total emissions and that there is no increase in emissions for each regulated pollutant in comparison with emission levels when operated on the original fuel prior to the conversion; and

[~~(c)~~](iii) system engineering specifications.

[~~(2)~~](b) The executive secretary will issue a certificate if the federal Environmental Protection Agency has certified the conversion system or if the fuel conversion system has been certified by a state whose certification standards are recognized by the Board.

[~~(3)~~](c) The executive secretary shall evaluate the certification of conversion system for special fuel mobile equipment on a case-by-case basis as new technologies are improved.

[~~C.~~](3) Certification by other states may be accepted by the executive secretary if it meets the requirements specified in [~~R307-1-6.2.6.A and B~~](1) and (2) above.

R307-121-7. Revocation of Certification.

[~~D.~~]The executive secretary will revoke the certification of a conversion system if an investigation finds that a certified conversion system exceeds the level of emissions for which it was certified, taking into account deterioration because of age or other reasonable concern.

R307-121-8. Duty to Acknowledge Proof of Purchase.

[~~6.2.7~~]The executive secretary will acknowledge receipt of proofs specified in [~~R307-1-6.2~~]R307-121 by signing the relevant written statement provided on forms prescribed by the State Tax Commission.

KEY: air pollution, tax exemptions, motor vehicles
1998 19-2-104
Notice of Continuation June 2, 1997 59-7-605
59-10-127

R307. Environmental Quality, Air Quality.
R307-122. General Requirements: Eligibility of Expenditures for Purchase and Installation Costs of Fireplaces and Wood Stoves that Use Cleaner Burning Fuels.
R307-122-1. Definitions.

[~~6.3 Eligibility of Expenditures for Purchase and Installation Costs of Fireplaces and Wood Stoves that Use Cleaner Burning Fuels.~~

~~6.3.1~~]Definitions. The following additional definitions apply [~~only~~]to [~~Subsection R307-1-6.3~~]R307-122:

[~~A.~~]"Fireplaces and wood stoves" using clean burning fuels are:

(1) continual-feed wood pellet stoves

(2) high-mass wood stoves

(3) natural gas or propane free-standing fireplaces or inserts, but not including fireplace log systems, or

(4) any wood burning stove, fireplace, or fireplace insert that is certified by the Environmental Protection Agency in accordance with test procedures prescribed in 40 CFR Section 60.534.

R307-122-2. Amount of Credit.

[~~6.3.2~~]As specified in Subsection 59-7-110.8, and Section 59-10-128 for tax years beginning January 1, 1992, and ending December 31, 1997, there is a credit against tax otherwise due under this chapter in an amount equal to 10%, up to a maximum of $50, of the total of:

[~~A.~~](1) the purchase price or

[~~B.~~](2) both the purchase price and installation cost of each approved fireplace or wood stove.

R307-122-3. Proof of Purchase.

[~~6.3.3~~]Proof of purchase of an item for which a credit specified in [~~Subsection R307-1-6.3.2~~]R307-122-2 is allowed shall be made by submitting to the executive secretary, or representative appointed by the executive secretary:

[~~A.~~](1) a copy of the sales receipt clearly stating the make, model, and price paid for the equipment and installation, and

[~~B.~~](2) a completed copy of the "Clean Fuel Alternative Tax Credit Stoves/Fireplaces" form identifying the:

[~~(1)~~](a) owner's name and address;

[~~(2)~~](b) owner's social security number or taxpayer identification number;

[~~(3)~~](c) dealer's name and address;

[~~(4)~~](d) fireplace make and model;

[~~(5)~~](e) fireplace serial number;

[~~(6)~~](f) purchase price;

[~~(7)~~](g) installer's name and company name; and

[~~(8)~~](h) installation cost.

R307-122-4. Duty to Acknowledge Proof of Purchase.

[~~6.3.4~~]An authorized representative of the executive secretary will acknowledge receipt of proofs specified in [~~Subsection R307-1-6.3.3~~]R307-122-3 by signing the relevant written statement provided on the State Tax Commission "Clean Fuel Alternative Tax Credit Stoves/Fireplaces" form.

KEY: air pollution, [~~motor vehicles, major sources *~~]tax exemptions, stove*, fireplace*

[~~January 1,~~]1998 **19-2-104**

Notice of Continuation June 2, 1997 **59-10-128[~~19-2-109 19-2-124~~]**

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Environmental Quality, Air Quality

R307-1-8

(Changed to R307-801)

Asbestos Certification, Asbestos Work Practices, and Implementation of Toxic Substances Control Act, Title II

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 21106

FILED: 05/13/98, 12:04

RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose is to change this section to a new location fitting the new structure for all R307 rules. No substantive change is made.

SUMMARY OF THE RULE OR CHANGE: Section R307-1-8 is being changed to Rule R307-801.

(**DAR Note:** For complete information on these changes, see the reorganization table in the "Special Notices" section of this *Bulletin*.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 19-2-104

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: A small cost for renumbering the rule, learning new citations, and revising forms. In the long run, reduced cost in being able to find specific provisions more quickly.

❖LOCAL GOVERNMENTS: A small cost to learn new citations. In the long run, reduced cost in being able to find specific provisions more quickly.

❖OTHER PERSONS: A small cost to learn new citations. In the long run, reduced cost in being able to find specific provisions more quickly.

COMPLIANCE COSTS FOR AFFECTED PERSONS: A small cost to learn new citations. In the long run, reduced cost in being able to find specific provisions more quickly.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: A small cost to learn new citations. In the long run, reduced cost in being able to find specific provisions more quickly.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:

Environmental Quality
Air Quality
150 North 1950 West
Box 144820
Salt Lake City, UT 84114-4820, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Jan Miller at the above address, by phone at (801) 536-4042, by FAX at (801) 536-4099, or by Internet E-mail at jmiller@deq.state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 07/01/1998; OR ATTENDING A PUBLIC HEARING SCHEDULED FOR 06/23/1998, 1:30 p.m., Room 201, Department of Environmental Quality (DEQ) Building, 168 North 1950 West, Salt Lake City, UT.

THIS RULE MAY BECOME EFFECTIVE ON: 08/06/1998

AUTHORIZED BY: Ursula K. Trueman, Director

R307. Environmental Quality, Air Quality.
~~[R307-1. Utah Air Conservation Rules.]~~R307-801. Asbestos.
~~[R307-1-8. Asbestos Certification, Asbestos Work Practices, and Implementation of Toxic Substances Control Act, Title II.]~~R307-801-1. Definitions.

[~~8.1 Definitions: The definitions in this subsection apply only to R307-1-8~~]The following additional definitions apply to R307-801.

"Adequately wet" means to sufficiently mix or penetrate with liquid to prevent the release of particulate. If visible emissions are observed coming from asbestos containing material, then that material has not been adequately wetted. However, the absence of visible emissions is not sufficient evidence of being adequately wet.

"AHERA" means the federal Asbestos Hazard Emergency Response Act of 1986 and the Environmental Protection Agency implementing regulations, 40 CFR Part 763, Subpart E - Asbestos-Containing Materials in Schools.

"Airlock" means a system for allowing access to an area with minimum air movement through the system. The airlock typically consists of two curtained doorways separated by a distance of at least 3 feet such that personnel pass through one doorway into the airlock, allowing the doorway sheeting to overlap and close off the opening before proceeding through the second doorway, thereby preventing flow-through of contaminated air.

"Amended water" means a mixture of water and a chemical surfactant or a wetting agent that provides equivalent control of asbestos fiber release.

"Asbestos" means the asbestiform varieties of serpentine (chrysotile), riebeckite (crocidolite), cummingtonite-grunerite (amosite), anthophyllite, and actinolite-tremolite.

"Asbestos-containing material" means any material containing more than one percent (1%) asbestos as determined using the method specified in Appendix A, Subpart F, 40 CFR Part 763 Section 1, Polarized Light Microscopy. If the asbestos content is less than 10% as determined by a method other than point counting using polarized light microscopy (PLM), verify the asbestos content by point counting using PLM.

"Asbestos contractor" means any person who contracts for hire to perform an asbestos project or an asbestos inspection.

"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. This term includes reinspections of the type described in AHERA, 40 CFR 763.85(b), of known or assumed asbestos-containing material which has been previously identified. The term does not include the following:

[~~1.~~](1) periodic surveillance of the type described in AHERA, 40 CFR 763.92(b), solely for the purpose of recording or reporting a change in the condition of known or assumed asbestos-containing material;

[~~2.~~](2) inspections performed by employees or agents of federal, state, or local government solely for the purpose of determining compliance with applicable statutes or regulations; or

[~~3.~~](3) visual inspections of the type described in AHERA, 40 CFR 763.90(i), solely for the purpose of determining completion of response actions.

"Asbestos project" means any activity, involving the removal, encapsulation, enclosure, renovation, repair, demolition, salvage, disposal, or other disturbance of friable asbestos-containing material.

"Asbestos project operator" means any asbestos contractor, any person responsible for the persons performing an asbestos project in an area to which the general public has unrestrained access, or any LEA responsible for the persons performing an asbestos project in a school building subject to AHERA.

"Asbestos removal" means the stripping of asbestos-containing materials from surfaces or components of a structure and to take out structural components that contain or are covered with friable asbestos-containing material from a structure.

"Asbestos waste" means mill tailings or any waste that contains commercial asbestos and is generated by a source subject to [~~R307-1-8~~]R307-801. This term includes filters from control devices, friable asbestos-containing waste material, and bags or other similar packaging contaminated with commercial asbestos. As applied to demolition and renovations, this term includes materials contaminated with asbestos including disposable equipment and clothing.

"Asbestos worker" means a person who,in a nonsupervisory capacity, performs an asbestos project.

"CFR" means Code of Federal Regulations.

"Certification" means an authorization issued by the executive secretary to persons who engage in asbestos projects or who act as asbestos workers, supervisors, inspectors, project designers, or management planners.

"Clean room" means an uncontaminated area or room which is part of the worker decontamination system and which has provisions for storage of workers' street clothes and clean protective equipment.

"Consultant" means a person who acts as an inspector, management planner, project designer, or any combination thereof.

"Delegated local agency" means a public agency having a memorandum of agreement with the Utah Department of Environmental Quality, Utah Air Quality Board, that assigns designated responsibilities for the administration of NESHAP Subpart M and/or [~~R307-1-8~~]R307-801 to the public agency.

"Demolition" means the wrecking or removal of any load-supporting structural member of a structure together with any related handling operations or the intentional burning of any structure.

"Emergency renovation operation" means any asbestos project which was not planned but results from a sudden, unexpected event that, if not immediately attended to, presents a safety or public health hazard, is necessary to protect equipment from damage, or is necessary to avoid imposing an unreasonable financial burden. This term includes operations necessitated by nonroutine failure of equipment.

"Encapsulation" means the application of an encapsulating agent to asbestos-containing materials to control the release of asbestos fibers into the air.

"Encapsulating agent" means a coating applied to the surface of friable asbestos-containing materials for the purpose of preventing the release of asbestos fibers. The encapsulating agent

creates a membrane over the surface (bridging encapsulant) or penetrates the material and binds its components together (penetrating encapsulant).

"Enclosure" means an airtight, impermeable, permanent barrier around asbestos containing material to prevent the release of asbestos fibers into the air.

"Equipment room" means a contaminated area or room which is part of the asbestos worker decontamination system with provisions for storage of contaminated clothing and equipment.

"Friable asbestos-containing material" means any asbestos-containing material that hand pressure can crumble, pulverize, or reduce to powder when dry.

"HEPA filtration" means the high efficiency particulate air filtration found in respirators and vacuum systems capable of filtering particles greater than 0.3 micron in diameter with 99.97% efficiency, for use in asbestos-contaminated environments.

"Inspector" means a person who performs an asbestos inspection.

"LEA" means a local education agency as defined in AHERA.

"Management planner" means a person who prepares a management plan for a school building subject to AHERA.

"Minor fiber release episode" means any uncontrolled or unintentional disturbance of asbestos-containing material resulting in a visible emission which involves the falling or dislodging of three square or linear feet or less of friable asbestos-containing material.

"Model Accreditation Plan" means 40 CFR Part 763, Subpart E, Appendix C, Asbestos Model Accreditation Plan.

"NESHAP" means the National Emission Standards for Hazardous Air Pollutants, 40 CFR Part 61, Subpart M, the National Emission Standard for Asbestos.

"NESHAP size asbestos project" means any asbestos project that involves at least:

[~~(a)~~](1) 260 linear feet (80 meters) of pipe covered with friable asbestos-containing material;

[~~(b)~~](2) 160 square feet (15 square meters) of friable asbestos-containing material used to cover or coat any duct, boiler, tank, reactor, turbine, equipment, structure, structural member, or structural component; or

[~~(c)~~](3) 35 cubic feet (one cubic meter) of friable asbestos-containing material removed from structural members or components where the length and area could not be measured previously.

"OSHA" means Occupational Safety and Health Administration.

"Planned asbestos project" means asbestos projects in which the amount of asbestos-containing material to be removed, stripped, or otherwise disturbed within a calendar year, January 1 through December 31, is the NESHAP size. This term includes nonscheduled renovation operations necessitated by the routine failure of equipment, which is expected to occur within a given period based on past operating experience.

"Project designer" means a person who designs an asbestos project other than:

[~~1.~~](1) a small-scale, short duration asbestos project; or

[~~2.~~](2) an asbestos project necessitated by a minor fiber release episode.

"Public and commercial building" means the interior space of any building which is not a school building, except that the term does not include any residential apartment building of fewer than 10 units or detached single-family homes.

"Public agency" means any federal or state department, bureau, institution or agency thereof, any municipal corporation, county, city, or other political or taxing subdivision of the state.

"Renovation" means altering in any way one or more structural components. Operations in which load-supporting structural members are wrecked or taken out are excluded.

"Response Action" means a method, including removal, encapsulation, enclosure, repair, and operation and maintenance, that protects human health and the environment from friable asbestos-containing material.

"Shower room" means a room between the clean room and equipment room in the worker decontamination system with hot and cold or warm running water controllable at the tap and suitably arranged for complete showering during worker decontamination.

"Single family residential dwelling" means any structure or portion of a structure whose primary use is for housing of one family. Residential portions of multi-unit dwellings such as apartment buildings, condominiums, duplexes and triplexes are also considered to be, for the purposes of [~~R307-1-8~~]R307-801, single family residential dwellings; common areas such as hallways, entryways, and boiler rooms are not single family residential dwellings.

"Site supervisor" means a person who meets the definition of a "competent person" as cited in 29 CFR 1926.1101 (OSHA) and has the authority to act as the agent of the asbestos project operator at the asbestos project work site.

"Small-scale, short-duration asbestos project" means an asbestos project such as, but not limited to:

(1) removal of asbestos-containing insulation on pipes;

(2) removal of small quantities of asbestos-containing insulation on beams or above ceilings;

(3) replacement of an asbestos-containing gasket on a valve;

(4) installation or removal of a small section of drywall;

(5) installation of electrical conduits through or proximate to asbestos-containing materials. Small-scale, short-duration asbestos projects can further be defined by the following considerations:

(6) removal and/or repair of small quantities of asbestos-containing materials only if required in the performance of another maintenance activity not intended as asbestos abatement;

(7) removal of asbestos-containing thermal system insulation not to exceed amounts greater than those which can be contained in a single glove bag;

(8) minor repairs to damaged thermal system insulation which do not require removal;

(9) repairs to a piece of asbestos-containing wallboard;

(10) repairs, involving removal, encapsulation or enclosure, to small amounts of friable asbestos-containing material only if required in the performance of emergency or routine renovation activity not intended solely as asbestos abatement. Such work may not exceed amounts greater than those which can be contained in a single prefabricated mini-enclosure. Such an enclosure shall conform spatially and geometrically to the localized work area, in order to perform its intended containment function.

"Strip" means to take off asbestos containing material from any part of a structure or structural component.

"Structural component" means any pipe, duct, boiler, tank, reactor, turbine, or furnace at or in a structure or any structural member of the structure.

"Structural member" means any load-supporting member of a structure, such as beams and load-supporting walls or any non-load-supporting member, such as ceilings and non-load-supporting walls.

"Structure" means, for the purposes of [~~R307-1-8~~]R307-801: any institutional, commercial, residential, or industrial building, equipment, building component, installation, or other construction.

"Supervisor" means a person who carries out or oversees an asbestos project.

"TSCA accreditation" means successful completion of training as an inspector, management planner, project designer, contractor/supervisor, or worker, as specified in the Toxic Substances Control Act, Title II.

"TSCA Title II" means 15 U.S.C. 2641 through 2656, Toxic Substances Control Act, Subchapter II - Asbestos Hazard Emergency Response, and 40 CFR Part 763, Subpart E - Asbestos-Containing Materials in Schools, including appendices.

"Waste generator" means any owner or operator of a source covered by [~~R307-1-8~~]R307-801 whose act or process produces asbestos waste.

"Waste shipment record" means the shipping document, that the waste generator originates and signs, and is used to track and substantiate the disposition of asbestos waste.

"Worker decontamination system" means an enclosed area, isolated from areas which are not contaminated with asbestos, consisting of a clean room, shower room, and equipment room, each separated from the other by airlocks and accessible through doorways protected with two overlapping polyethylene sheets.

"Working day" means Monday through Friday and includes holidays that fall on any of the days Monday through Friday.

R307-801-2. Implementation and Adoption of TSCA Title II.

[~~8.8 Implementation of TSCA Title II.~~

~~8.8.1 Adoption of TSCA Title II.~~

~~A.~~](1) The provisions of TSCA Title II are adopted and incorporated herewith by reference. The accreditation provisions of the Model Accreditation Plan are also adopted and incorporated herewith by reference as mandatory requirements.

[~~B.~~](2) Implementation of the provisions 40 CFR Part 763, Subpart E, except for the Model Accreditation Plan, shall be limited to those provisions for which the EPA has waived its requirements in accordance with 40 CFR Subpart 763.98, Waiver; delegation to State, as published at 52 FR 41826, (October 30, 1987).

R307-801-3. Applicability.

[~~8.2 Applicability.~~

~~8.2.1~~](1) Certification and Accreditation Requirements.

[~~A.~~](a) Asbestos project in a structure.

[~~(1)~~](i) The following persons shall be certified, as specified under [~~Subsection R307-1-8.3~~]R307-801-4a through 4i, prior to conducting an asbestos project in a structure:

[~~(a)~~](A) asbestos contractors; and

[~~(b)~~](B) inspectors.

[~~(2)~~](ii) The asbestos project operator shall ensure the following persons are trained or accredited, as specified in [~~Subsection R307-1-8.4~~]R307-801-5a through 5f, prior to conducting an asbestos project:

[~~(a)~~](A) supervisors;

[~~(b)~~](B) asbestos workers; and

[~~(c)~~](C) persons who disturb any amount of friable asbestos-containing material in areas to which the general public has unrestrained access.

[~~B.~~](b) Asbestos activity subject to TSCA Title II. The following persons shall be certified, as specified in [~~Subsection R307-1-8.3~~]R307-801-4a through 4i, prior to conducting an asbestos activity subject to TSCA Title II:

[~~(1)~~](i) asbestos contractors;

[~~(2)~~](ii) supervisors;

[~~(3)~~](iii) asbestos workers;

[~~(4)~~](iv) inspectors;

[~~(5)~~](v) management planners; and

[~~(6)~~](vi) project designers.

[~~8.2.2~~](2) Work Practice Requirements.

The work practice requirements of [~~Section R307-1-8~~]R307-801 apply to any asbestos project operator who performs an asbestos project; persons who disturb any amount of friable asbestos-containing material in an area where the general public has unrestrained access; and to asbestos workers, supervisors, and consultants who perform work on an asbestos project.

[~~8.2.3~~](3) The requirements of [~~R307-10-1~~]R307-214-1 (NESHAP 40 CFR Part 61 Subpart M, the National Emission Standard for Asbestos) apply to asbestos projects subject to [~~R307-1-8~~]R307-801.

R307-801-4a. Asbestos Contractor, Supervisor, and Consultant Certification Requirements.

[~~8.3 Certification and Accreditation Requirements~~

~~8.3.1 Asbestos Contractor, Supervisor, and Consultant Certification Requirements.~~

~~A.~~](1) Certificate required.

[~~(1)~~](a) The following persons shall obtain a certificate:

[~~(a)~~](i) Asbestos contractors, prior to engaging in an asbestos project in a structure;

[~~(b)~~](ii) inspectors, prior to contracting for hire to perform an asbestos inspection, performing an asbestos inspection in an area to which the general public has unrestrained access, or performing an asbestos inspection in a building subject to TSCA Title II (public and commercial building);

[~~(c)~~](iii) supervisors, asbestos workers, and project designers, prior to engaging in an asbestos project subject to the accreditation requirements of TSCA Title II; and

[~~(d)~~](iv) management planners, prior to preparing a management plan for a school building subject to AHERA.

[~~(2)~~](b) The requirements of [~~R307-1-8.3.1.A~~](1)(a) above shall not apply to a person who performs an asbestos project on a single family residential dwelling that is his primary residence.

[~~B.~~](2) Application for certification. Asbestos contractors, supervisors, asbestos workers, and consultants required to be certified under [~~Subsection R307-1-8.3.1.A(1)~~](1)(a) above shall:

[~~(1)~~](a) submit a completed application to the executive secretary on forms provided by the executive secretary;

[~~(2)~~](b) pay the authorized certification fee to the Division of Air Quality; and

[~~(3)~~](c) provide evidence that they have complied with the requirements of the applicable Subsections [~~R307-1-8.3.2, R307-1-8.3.3, R307-1-8.3.4, or R307-1-8.3.5 respectively,~~]R307-801-4b

through 4e below, and any additional information requested by the executive secretary.

R307-801-4b. Asbestos Contractor.

[~~8.3.2 Asbestos Contractor.~~

~~(A)~~](1) In order to be certified as required under [~~Subsection R307-1-8.3.1.A(1)~~]R307-801-4a(1)(a), an asbestos contractor shall submit:

[~~(1)~~](a) a master plan that describes in detail how the contractor will comply with [~~Section R307-1-8~~]R307-801 during asbestos projects or asbestos inspections, including the setup procedures, work practices, decontamination and cleanup practices, and equipment that will be typically used during asbestos projects;

[~~(2)~~](b) copies of medical surveillance records of employees and the contractor's respiratory protection program as required by 29 CFR 1926.1101 (OSHA);

[~~(3)~~](c) a list of the other states where the asbestos contractor is licensed or certified for asbestos project work, if applicable; and a list of all previous names used by the asbestos contractor;

[~~(4)~~](d) a description of past compliance history relating to asbestos activities, if applicable;

[~~(5)~~](e) evidence that all asbestos workers and supervisors who conduct work on an asbestos project:

[~~(a)~~](i) subject to TSCA Title II are certified as specified in [~~the applicable Subsections of R307-1-8.3~~]R307-801-4a through 4e; and

[~~(b)~~](ii) in a structure are TSCA accredited or passed a training course approved in accordance with [~~Subsection R307-1-8.4.5~~]R307-801-5e; and

[~~(6)~~](f) evidence that all asbestos inspectors are certified as specified in [~~Subsection R307-1-8.3~~]R307-801-4a through 4i.

[~~B.~~](2) Certificate transfer prohibited. The transfer of an asbestos contractor certificate is prohibited. Whenever there is a change in the controlling interest of the legal entity certified, a new certificate is required.

R307-801-4c. Asbestos Supervisor.

[~~8.3.3 Supervisor.~~

] In order to be certified as a supervisor as required under [~~Subsection R307-1-8.3.1.A~~]R307-801-4a(1), supervisors shall submit certificates of initial and current contractor/supervisor TSCA accreditation in a state that has a Contractor Accreditation Program that meets the Model Accreditation Plan or from a training course approved in accordance with [~~Subsection R307-1-8.4.5~~]R307-801-5e.

R307-801-4d. Asbestos Worker.

[~~8.3.4 Asbestos Worker.~~

] In order to be certified as an asbestos worker as required under [~~Subsection R307-1-8.3.1.A~~]R307-801-4a(1), asbestos workers shall submit certificates of initial and current asbestos worker TSCA accreditation in a state that has a Contractor Accreditation Program that meets the Model Accreditation Plan or from a training course approved in accordance with [~~Subsection R307-1-8.4.5~~]R307-801-5e.

R307-801-4e. Consultant and Consultant-in-Training.

[~~8.3.5 Consultant and Consultant-in-training.~~

] (1) A consultant may be certified to perform asbestos-related activities in one or more of the following disciplines: inspector; management planner; or project designer. A consultant-in-training may be certified in one or more of the following disciplines: inspector in training; management planner in training; or project designer in training.

[~~A.~~](2) Certified Consultant.

[~~(1)~~](a) In order to be certified as a consultant, an applicant shall submit:

[~~(a)~~](i) evidence from employers of the appropriate hours of experience as specified in [~~R307-1-8.3.5.A(2), (3) (4) and (5)~~](b) through (e) below in performing the duties outlined for the specific discipline in [~~Subsection R307-1-8.3.5.B.~~](3) below; and

[~~(b)~~](ii) certificates of initial and current TSCA accreditation for the specific discipline in a state that has a Contractor Accreditation Program that meets the Model Accreditation Plan or from a training course approved in accordance with [~~Subsection R307-1-8.4.5~~]R307-801-5e.

[~~(2)~~](b) The experience requirements specified under [~~Subsection R307-1-8.3.5.A(1)~~](a)(i) above may be gained working as a TSCA accredited consultant, by being responsible for persons accredited as consultants,by being under the direct supervision of a TSCA accredited consultant, or by working as a consultant-in-training under the direct supervision of a certified consultant, for the specific discipline.

[~~(3)~~](c) An applicant with a bachelor's degree in engineering, architecture, industrial hygiene, science or a related field must have at least 1,000 hours experience as specified under [~~Subsection R307-1-8.3.5.A(1)(a)~~](a)(i) above.

[~~(4)~~](d) An applicant with a two year associate degree in a field related to engineering, architecture, industrial hygiene, science, or a similar field must have at least 2,000 hours experience as specified under [~~Subsection R307-1-8.3.5.A(1)(a)~~](a)(i) above.

[~~(5)~~](e) An applicant with a high school degree must have at least 4,000 hours experience as specified under [~~Subsection R307-1-8.3.5.A(1)(a)~~](a)(i) above.

[~~B.~~](3) Applicable experience.

[~~(1)~~](a) Inspector: experience performing the field work portion of asbestos inspections, including collecting bulk samples, categorizing asbestos containing material, assessing asbestos containing material, and preparing inspection reports;

[~~(2)~~](b) Management Planner.[

~~(1)~~] In order to be a consultant certified as a management planner, an applicant shall submit[~~:~~

~~(a)~~] evidence from employers of experience evaluating inspection reports, selecting response actions, analyzing the cost of response actions, ranking response actions, preparing operations and maintenance plans, and preparing management plans. The inspector experience requirements as specified under [~~Subsection R307-1-8.3.5.B(1)~~](a) above may be substituted [~~for Subsection R307-1-8.3.5.B(2) ~~]to meet the management planner experience requirements.

[~~(3)~~](c) Project Designer: experience designing, preparing, and evaluating specifications for asbestos abatement projects; preparing bidding documents, architectural drawings and schematic drawings of asbestos project work sites; determining the methods of asbestos abatement; and assessing the health hazards associated with asbestos containing material in structures. Registration as a professional engineer, licensed architect, or certified industrial

hygienist may be substituted for experience as a project designer to meet the project designer experience requirements.

[~~C.~~](4) Consultant-in-training Certification. In order to be certified as a consultant-in-training, an applicant shall submit:

[~~(1)~~](a) certificates of initial and current TSCA accreditation for the specific discipline in a state that has a Contractor Accreditation Program that meets the Model Accreditation Plan or from a training course approved in accordance with [~~Subsection 8.4.5~~]R307-801-5e; and

[~~(2)~~](b) the name and certification number of the certified consultant(s) who will directly supervise and review the performance of all duties listed in [~~Subsection R307-1-8.3.5.B~~](3) above for the specific discipline.

R307-801-4f. Exemption of Supervisors from Certification as an Asbestos Worker.

[~~8.3.6 Exemption of Supervisors from Certification as an Asbestos Worker.~~]A certified supervisor may perform the duties of an asbestos worker without being certified or accredited as an asbestos worker.

R307-801-4g. Action on an Application.

[~~8.3.7 Action on an Application.~~

~~A.~~](1) Response to Application. Within 30 calendar days after receiving a completed application, including all additional information requested, the executive secretary will issue certification or deny the application.

[~~B.~~](2) Denial of Application.

[~~(1)~~](a) The executive secretary may deny an application if the executive secretary determines that the applicant has not demonstrated compliance and/or the ability to comply with the applicable requirements, procedures, and standards established by [~~Sections R307-1-8 and R307-10-1~~]R307-801 and R307-214-1, [~~(~~]NESHAP Subpart M, the National Emission Standard for Asbestos[~~)~~].

[~~(2)~~](b) Upon being denied certification, the applicant may request a hearing before the Utah Air Quality Board as provided by law.

R307-801-4h. Suspension and Revocation.

[~~8.3.8 Suspension and Revocation.~~

] The executive secretary may revoke or suspend any certification based upon violations of any requirement stated herein or in [~~Section R307-10-1~~]R307-214-1, [~~(~~]NESHAP[~~)~~]. Justifications for suspension or revocation may include, but are not limited to: falsification or knowing omission of any written submittals required as part of [~~Section R307-1-8~~]R307-801, omission or improper use of work practices, improper disposal of friable asbestos-containing materials, spread of asbestos beyond the containment area, use of untrained or unaccredited workers for asbestos projects, or use of improper respirators. Certification may be revoked or suspended if the certified person fails to have his certification at the work site, permits the duplication or use of his own certification or TSCA accreditation by another, performs work for which certification or TSCA accreditation has not been received, or obtains TSCA accreditation from a training provider that does not have approval for the specific discipline in accordance with the Model Accreditation Plan.

R307-801-4i. Duration and Renewal.

[~~8.3.9 Duration and Renewal of Certification.~~

~~A.~~](1) Duration. Unless revoked or suspended, a certification shall remain in effect:

[~~(1)~~](a) for a period of one year from the date of issuance of certification as an asbestos contractor, or

[~~(2)~~](b) until the expiration date of the current certificate of TSCA accreditation submitted with an asbestos worker's, supervisor's, or consultant's application for certification or recertification.

[~~B.~~](2) Renewal. The executive secretary shall renew a certification annually if:

[~~(1)~~](a) the asbestos contractor:

[~~(a)~~](i) submits a completed application for renewal on forms provided by the executive secretary not sooner than 90 days nor later than 30 days from the date of expiration;

[~~(b)~~](ii) has complied with all applicable requirements and rules.

[~~(2)~~](b) the consultant:

[~~(a)~~](i) submits a completed application for renewal on a form provided by the executive secretary no later than one year from the date of expiration of previous certification, and

[~~(b)~~](ii) submits a certificate of TSCA accreditation for initial or refresher training in the specific discipline.

[~~8.3.10~~](3) Procedure for Obtaining a Duplicate Certificate.[

~~]~~ The executive secretary may issue a duplicate certificate to replace a lost, stolen, or mutilated certificate. The certificate holder shall submit a completed application for a duplicate certificate on a form provided by the executive secretary. A duplicate certificate shall have "duplicate" stamped on the face and shall bear the same number and expiration date as the original certificate.

R307-801-5a. Asbestos Worker Training.

[~~8.4 Training.~~

~~8.4.1 Asbestos Worker Training.~~

] Each asbestos project operator shall ensure that each asbestos worker assigned to perform work on an asbestos project for the operator has had initial and annual review training at a course approved by the executive secretary. Asbestos workers on projects subject to TSCA Title II must have the appropriate TSCA accreditation. Training courses for TSCA accreditation shall meet the specifications for a worker course in the Model Accreditation Plan, including course length, instructor qualifications, hands-on training, and written examination. Training courses other than TSCA accreditation courses shall cover the following topics:

[~~A.~~](1) Initial Training. The initial training course for asbestos workers shall provide a minimum of 16 hours of training covering the topics specified below:

[~~(1)~~](a) physical characteristics of asbestos (fiber size, aerodynamics);

[~~(2)~~](b) methods of recognizing and identifying asbestos;

[~~(3)~~](c) health effects of asbestos exposure and methods used to recognize asbestos-related diseases;

[~~(4)~~](d) relationship between smoking and asbestos exposure in producing lung cancer;

[~~(5)~~](e) use of personal hygiene and protective equipment, storage and laundering of launderable clothing;

[~~(6)~~](f) purpose, proper use, fitting instructions, and limitations of respirators in accordance with OSHA 29 CFR 1926.1101;

[~~(7)~~](g) state-of-the-art work practices for performing asbestos abatement activities, including the purpose, proper construction, and maintenance of barriers and decontamination enclosure systems; posting of warning signs; electrical and ventilation system lockout; proper working techniques for minimizing fiber release; use of wet methods and surfactants; use of negative pressure ventilation equipment; use of glove bags; use of HEPA vacuums; and proper cleanup and disposal procedures;

[~~(8)~~](h) OSHA medical surveillance program requirements;

[~~(9)~~](i) OSHA air monitoring procedures and requirements;

[~~(10)~~](j) review of [~~R307-1-8~~]R307-801, NESHAP, and OSHA requirements, including information disclosure requirements, and how to contact the agencies responsible for enforcing them;

[~~(11)~~](k) individual instruction consisting of an individual qualitative respirator fit test and an opportunity to use respirators; and

[~~(12)~~](l) additional safety hazards encountered during abatement activities and how to deal with them, including electrical hazards, heat stress, air contaminants other than asbestos, fire and explosion hazards, slips, trips, and falls, and confined spaces.

[~~B.~~](2) Annual Training. Asbestos workers shall attend refresher training annually. The annual refresher course must be approved by a state that has a Contractor Accreditation Program that meets the Model Accreditation Plan or be approved in accordance with [~~Subsection R307-1-8.4.5~~]R307-801-5e. The training course shall meet the specifications for a worker refresher course in the Model Accreditation Plan.

R307-801-5b. Supervisor Training.

[~~8.4.2 Supervisor Training:~~

~~A.~~](1) Initial Training. Supervisors shall complete a contractor/supervisor TSCA accreditation course in a state that has a Contractor Accreditation Program that meets the Model Accreditation Plan or from a training course approved in accordance with [~~Subsection R307-1-8.4.5~~]R307-801-5e. The training course shall meet the specifications for a contractor/supervisor course in the Model Accreditation Plan, including course length, instructor qualifications, hands-on training, and written examination.

[~~B.~~](2) Annual Training. Supervisors shall attend a 1-day refresher training course annually. The annual refresher course must be approved by a state that has a Contractor Accreditation Program that meets the Model Accreditation Plan or be approved in accordance with [~~Subsection R307-1-8.4.5~~]R307-801-5e. The training course shall meet the specifications for a contractor/supervisor refresher course in the Model Accreditation Plan.

R307-801-5c. TSCA Accreditation.

[~~8.4.3 TSCA Accreditation.~~

] Each person seeking TSCA accreditation shall complete the initial and refresher training outlined in the Model Accreditation Plan.

R307-801-5d. Examination Required.

[~~8.4.4 Examination Required.~~]

[~~A.~~](1) The asbestos project operator shall ensure that each person who has completed the initial training specified in [~~Subsection R307-1-8.4~~]R307-801-5a has taken and passed a written closed book examination that adequately covers the topics included in the training course. A passing score for the examination is 70 percent or above. The person conducting the training course shall administer the examination.

[~~B.~~](2) Each person seeking TSCA accreditation shall pass a written closed book examination as specified in the Model Accreditation Plan. The accreditation examination required for any course approved under this subsection shall be administered by the person conducting the training course.

R307-801-5e. Approval of Training Courses.

[~~8.4.5 Approval of Training Courses.~~

] [~~A.~~](1) Initial Training Courses: Persons desiring approval of courses conducted for the purpose of providing the initial training required under [~~Section R307-1-8~~]R307-801 shall submit the following to the executive secretary for review:

[~~(1)~~](a) name, address, phone number, and institutional affiliation of person sponsoring the course;

[~~(2)~~](b) a list of States that currently approve the training course;

[~~(3)~~](c) the course curriculum;

[~~(4)~~](d) a letter that clearly indicates how the course meets the applicable Model Accreditation Plan and [~~Subsection R307-1-8~~]R307-801 requirements for:

[~~(a)~~](i) length of training in hours or days, as applicable;

[~~(b)~~](ii) amount and type of hands-on training, if applicable;

[~~(c)~~](iii) examinations (length, format, example of examination or questions, and passing scores);

[~~(d)~~](iv) topics covered in the course;

[~~(5)~~](e) a copy of all course materials (student manuals, instructor notebooks, handouts, etc.);

[~~(6)~~](f) a detailed statement about the development of the examination used in the course;

[~~(7)~~](g) names and qualifications of all course instructors, who must have academic credentials and/or field experience in asbestos abatement; and

[~~(8)~~](h) description and an example of numbered certificates issued to students who attend the course and pass the examination. The numbered certificate shall include a unique certificate number, the name of the student and the course completed, the dates of the course and the examination, an expiration date 1 year from the date the student completed the course and examination, the name, address, and telephone number of the training provider that issued the certificate, and a statement that the person receiving the certificate has completed the requisite training for TSCA accreditation.

[~~B.~~](2) Refresher training. Persons desiring approval of refresher training courses shall send the following information to the executive secretary:

[~~(1)~~](a) length of training;

[~~(2)~~](b) topics covered in the course;

[~~(3)~~](c) a copy of all course materials;

[~~(4)~~](d) names and qualifications of all course instructors;

[~~(5)~~](e) description and an example of numbered certificates issued to students who attend the course. The numbered certificate shall include a unique number, the name of the student, the course completed, the date of the course, and an expiration date 1 year from the date the student completed the course, the name, address, and telephone number of the training provider that issued the certificate, and a statement that the person receiving the certificate has completed the requisite training for TSCA accreditation.

[~~C.~~](3) The executive secretary shall issue approval of a training course if the person conducting the course:

[~~(1)~~](a) submits the written notification required in [~~Subsection R307-1-8.4.5.A or R307-1-8.4.5.B~~](1) or (2) above;

[~~(2)~~](b) demonstrates to the satisfaction of the executive secretary that the course provides the minimum training specified in [~~the applicable Subsections of R307-1-8.4.1, R307-1-8.4.2, and R307-1-8.4.3~~]R307-801-5a through 5c;

[~~(3)~~](c) agrees to:

[~~(a)~~](i) provide the executive secretary with the names, social security numbers, and certificate numbers of all persons successfully completing the course;

[~~(b)~~](ii) provide the executive secretary with an up-to-date course schedule stating all times and locations at which the course will be presented;

[~~(c)~~](iii) provide the executive secretary with the name and qualifications of any new course instructor prior to the new instructor presenting a training course;

[~~(d)~~](iv) keep the records specified for training providers in the Model Accreditation Plan; and

[~~(e)~~](v) permit the executive secretary or his authorized representative to attend, evaluate and monitor any training course without receiving advance notice from the executive secretary and without charge to the executive secretary.

[~~D.~~](4) The executive secretary may revoke or suspend approval of a training course if the course does not provide training that meets the requirements of [~~Section R307-1-8~~]R307-801 or the Model Accreditation Plan.

[~~E.~~](5) Training courses shall be reviewed annually by the executive secretary to determine their acceptability for continued approval.

[~~F.~~](6) Training obtained from a course which has not been approved by the executive secretary may be accepted if the executive secretary determines that the course provided training equivalent to that required in [~~R307-1-8~~]R307-801. TSCA accreditation courses already approved in a state that has a Contractor Accreditation Program that meets the TSCA Title II Appendix C Model Plan, or approved by EPA under TSCA Title II are considered to be equivalent to the TSCA accreditation training required in [~~Section R307-1-8~~]R307-801.

R307-801-5f. Approval of New Training Course Instructors.

[~~8.4.6 Approval of New Training Course Instructors.~~

] [~~A.~~](1) Each course provider approved under [~~Subsection R307-1-8.4.5~~]R307-801-5e shall obtain approval for any course instructor not included in the initial course approval. To obtain approval of an instructor, the course provider shall submit:

[~~(1)~~](a) the name and qualifications of the course instructor, who must have academic credentials and/or field experience in the discipline for which they are an instructor; and

[~~(2)~~](b) a list of the courses and specific topics which will be taught by the instructor.

[~~B.~~](2) Each course instructor must be approved by the executive secretary before teaching any course for TSCA accreditation purposes.

R307-801-6a. NESHAP Size Asbestos Project.

[~~8.5 Notification.~~

~~8.5.1 NESHAP Size Asbestos Projects.~~]

] (1) After November 20, 1990, an asbestos project operator shall submit a written notification, in accordance with [~~this subsection~~]R307-801, for each NESHAP size asbestos project he performs.

[~~A.~~](2) If the NESHAP size asbestos project will be performed at a location:

[~~(1)~~](a) that is within the jurisdiction of a delegated local agency, submit the written notification and pay the appropriate notification fee to the delegated local agency; or

[~~(2)~~](b) that is not within the jurisdiction of a delegated local agency, submit the written notification to the executive secretary and pay the authorized notification fee to the Division of Air Quality.

[~~B.~~](3) Send original and revised written notices by U.S. Postal Service, commercial delivery service, or hand delivery.

[~~C.~~](4) Postmark or deliver the written notice within the following time periods:

[~~(1)~~](a) If the operation is a NESHAP size asbestos project, notify the appropriate agency at least ten working days before disturbing asbestos containing material.

[~~(2)~~](b) If the operation is a planned asbestos project, notify the appropriate agency at least ten working days before the beginning of the calendar year, January 1, during which the project(s) will occur.

[~~(3)~~](c) If the operation is an emergency asbestos project, notify the appropriate agency as early as possible, but not later than, the following working day.

[~~D.~~](5) Update the written notice, as necessary, including when the amount of asbestos affected changes by at least 20 percent.

[~~E.~~](6) Written notifications must include the following information:

[~~(1)~~](a) the type of notification: original or revised;

[~~(2)~~](b) the name, address, and telephone number of the owner of the structure, removal contractor, and any other contractor working on the project, and the removal contractor identification number;

[~~(3)~~](c) the type of operation: demolition or renovation;

[~~(4)~~](d) a description of the structure that includes:

[~~(a)~~](i) the size (in square feet or square meters);

[~~(b)~~](ii) the number of floors;

[~~(c)~~](iii) the age; and

[~~(d)~~](iv) the present and prior uses;

[~~(5)~~](e) the procedures, including analytical methods, used to inspect for the presence of asbestos containing material when the asbestos project is performed in a structure subject to NESHAP;

[~~(6)~~](f) an estimate of the approximate amount of asbestos containing material to be stripped using the appropriate units;

[~~(7)~~](g) an estimate of the amount of nonfriable asbestos containing material in the affected part of the structure that will not be removed before demolition;

[~~(8)~~](h) the location and address, including building number or name and floor or room number, if appropriate, street address, city, county, state, and zip code of the structure being demolished or renovated;

[~~(9)~~](i) the scheduled starting and completion dates of asbestos removal work in a renovation or demolition, with the exception of government ordered demolitions;

[~~(10)~~](j) the beginning and ending dates of the report period for planned renovation operations;

[~~(11)~~](k) a description of procedures for handling the finding of unexpected asbestos containing material or nonfriable asbestos containing material that has become friable;

[~~(12)~~](l) a description of planned demolition or renovation work including the demolition and renovation techniques to be used and a description of the affected structural components;

[~~(13)~~](m) a description of work practices and engineering controls to be used to prevent emissions of asbestos at the demolition or renovation work site;

[~~(14)~~](n) the name and location of the waste disposal site where the asbestos waste will be deposited, including the name and telephone number of waste disposal site contact; and

[~~(15)~~](o) the name, address, person to contact, and telephone number of the waste transporter;

[~~(16)~~](p) If the structure will be demolished under an order of a state or local government agency, include in the written notification the name, title, and authority of the government representative ordering the demolition, the date the order was issued, the date the demolition was ordered to commence. Attach a copy of the order to the notification.

[~~(17)~~](q) If an emergency asbestos project will be performed, include in the written notification the date and hour the emergency occurred, a description of the event and an explanation of how the event has caused unsafe conditions or would cause equipment damage, or unreasonable financial burden.

R307-801-6b. Other Asbestos Projects.

[~~8.5.2 Other Asbestos Projects:~~]

[~~A.~~](1) If an asbestos project operator performs demolition activities in a structure involving asbestos containing material in a quantity less than the NESHAP size, even if no asbestos is present, submit a written notification in accordance with [~~Subsections R307-1-8.5.1.A, R307-1-8.5.1.B, R307-1-8.5.1.D, R307-1-8.5.1.E(1) through (8), R307-1-8.5.1.E(10), and R307-1-8.5.1.E(11)~~]R307-801-6a(2), (3), (5), (6)(a) through (6)(h), (6)(j), and (6)(k) at least ten days before commencement of the demolition.

[~~B.~~](2) If demolition of a structure is ordered by a state or local government agency because the structure is unsound and in danger of imminent collapse, submit written notification in accordance with [~~Subsections R307-1-8.5.1.A, R307-1-8.5.1.B, and R307-1-8.5.1.E~~]R307-801-6a(2), (3) and (6) as early as possible, but not later than, the following working day.

R307-801-6c. Change in Notification Date.

[~~8.5.3 Change in Notification Date.~~

] [~~A.~~](1) If a NESHAP size asbestos project, except for a planned asbestos project, will commence on a date other than the date submitted in the original written notification, notify the appropriate agency of the new starting date according to the following schedule:

[~~(1)~~](a) If the new starting date is later than the original starting date, provide notice by telephone as soon as possible before the original starting date and submit a revised notice in accordance with [~~Subsection R307-1-8.5.1.B~~]R307-801-6a(3) as soon as possible before, but no later than, the original starting date.

[~~(2)~~](b) If the new starting date is earlier than the original starting date,submit a written notice in accordance with [~~Subsection R307-1-8.5.1.B~~]R307-801-6a(3) at least ten working days before the NESHAP size asbestos project commences.

[~~B.~~](2) If a demolition operation as specified in [~~Subsection R307-1-8.5.2.A~~]R307-801-6b(1) commences on a date other than the date submitted in the original written notification, notify the appropriate agency at least ten working days before commencing of the demolition of the structure.

[~~C.~~](3) In no event shall an asbestos project covered by this subsection commence on a date other than the new starting date submitted in the revised written notice.

R307-801-7a. NESHAP Size Projects: Applicability.

[~~8.6 Work Practice Requirements.~~

~~8.6.1~~]NESHAP Size Asbestos Projects. After September 1, 1987 each asbestos project operator conducting a NESHAP size asbestos project shall comply with the [~~following~~]work practice requirements outlined in R307-801-7b through R307-801-7i.[~~:~~]

R307-801-7b. NESHAP Size Projects: General Requirements.

[~~A. General (including removal, demolition, renovation, encapsulation and enclosure)~~

] (1) Remove friable asbestos-containing materials before commencing any activity which would break up the materials or prevent access to them for subsequent removal.

(2) Ensure that a site supervisor trained in accordance with [~~Subsection R307-1-8.4~~]R307-801-5a through 5f is responsible for the construction of the containment, supervision, and inspection of each asbestos project conducted by an asbestos project operator.

(3) Maintain a sufficient inventory of equipment and supplies at the project work site to ensure ability to continuously comply with [~~Section R307-1-8~~]R307-801.

(4) Provide barriers to isolate contaminated areas from uncontaminated areas. Barriers shall be constructed of polyethylene sheeting, or equivalent, attached securely in place, and sealed with waterproof tape or equivalent.

(a) Provide a worker decontamination system. Enter and leave asbestos contaminated work areas only through the worker decontamination system.

(b) Repair tears in the isolation barriers immediately.

(5) Provide protective outerwear to all asbestos workers and others entering asbestos contaminated areas.

(a) Remove protective outerwear and leave in a contaminated part of the work area, such as the equipment room, before leaving the contaminated area.

(b) Place nondisposable protective outerwear in a labeled, sealed impermeable plastic bag, or equivalent container, before removing it from the work area.

(c) Treat disposable protective outerwear as asbestos waste.

(6) Provide respiratory protection to all asbestos workers and others entering asbestos contaminated areas. Respiratory protection shall consist of a half-mask air-purifying respirator equipped with HEPA filters, or other appropriate respirator specified in OSHA 29 CFR 1926.1101(h).

(7) Display caution signs in accordance with OSHA 29 CFR 1926.1101 at all approaches to any location where airborne asbestos fiber levels can be expected to exceed background levels.

(8) Adequately wet all asbestos waste before sealing into containers for disposal.

(9) Place asbestos waste in sealed, leak-tight impermeable containers for disposal, using one of the following containment methods:

(a) If asbestos waste contains sharp edged components, use metal or fiber drums with locking-ring tops.

(b) Double polyethylene bags, each of at least 6-mil thickness and which can be securely sealed, may be used for asbestos waste, provided it does not contain sharp edged components.

(c) Large components or structural members covered or coated with friable asbestos-containing materials may be removed intact and wrapped in two layers of 6-mil polyethylene sheeting secured with tape for disposal.

(d) Alternative containment methods may be used if written approval is obtained in advance from the executive secretary.

(10) All drums, bags, and wrapped components specified in [~~Subsection R307-1-8.6.1.A(9)~~]R307-801-7b(9) shall be labeled as follows:

DANGER
CONTAINS ASBESTOS FIBERS
AVOID CREATING DUST
CANCER AND LUNG DISEASE HAZARD.

(a) The warning labels as specified above shall be printed in letters of sufficient size and contrast so as to be readily visible and legible; and

(b) for asbestos waste transported off the structure site, label all drums, bags, and wrapped components with the name of the waste generator and the location where the waste was generated.

(11) Clean asbestos contamination from the outside of disposal containers before removing them from the work area. Clean asbestos from other objects to be removed from the work area, or contain the objects to prevent release of asbestos fibers when removed from the area.

(12) Attach permanent asbestos hazard warning labels to salvaged structural components or members which are covered or coated with friable asbestos-containing materials.

(13) Filter all asbestos containing waste water to five micrometers prior to discharging to a sewer system.

(14) Apply a coating of encapsulating agent to friable asbestos-containing materials exposed but not removed during renovation, and to porous surfaces that have been stripped of asbestos-containing materials.

(15) Following asbestos abatement and before dismantling isolation barriers, drop cloths and/or at least one layer of floor and wall sheeting, perform cleanup procedures using HEPA vacuuming and wet cleaning techniques. Perform wet cleaning, using an amended water solution, followed by HEPA vacuuming after the surfaces have been allowed to dry. Repeat the sequence of wet cleaning and HEPA vacuuming until no visible asbestos residue is observed in the work area.

R307-801-7c. NESHAP Size Projects: Asbestos Removal.

[~~B. Asbestos Removal.~~]

(1) Adequately wet all friable asbestos-containing material prior to removal.

(2) Whenever practicable, remove structural components which are coated or covered with friable asbestos-containing material intact or in large sections and carefully lower them to the floor or ground.

(3) Remove asbestos-containing material in small sections and containerize while wet. Do not allow asbestos-containing material to accumulate and become dry before containerizing.

(4) Wet structural components thoroughly with amended water prior to wrapping in polyethylene sheeting for disposal in accordance with [~~Subsection R307-1-8.6.1.A(9)(c)~~]R307-801-7b(9)(c).

(5) Do not drop or throw asbestos-containing materials to the floor or ground level. Asbestos-containing material may be dropped to a raised scaffold or containerized at elevated levels for disposal. Drop asbestos materials removed at greater than 15 feet above the floor onto inclined chutes or scaffolding or containerize at elevated levels for eventual disposal. If friable asbestos-containing materials are removed or stripped more than 50 feet above floor or ground level, transport to the floor or ground level via dust-tight chutes or containers.

R307-801-7d. NESHAP Size Projects: Renovation.

[~~C. Renovation.~~](1) Unless specifically excluded, the provisions of this section apply to encapsulation [~~(Subsection R307-1-8.6.1.D)~~]and enclosure [~~(Subsection R307-1-8.6.1.E)~~] projects under R307-801-7e and 7f as well as other renovation projects.

[~~(1)~~](2) Remove all movable objects from the work area. Perform cleaning of items and surfaces contaminated with asbestos. Cover all nonmovable objects in the work area with 4-mil polyethylene sheeting secured into place. Seal all openings between the work area and uncontaminated areas, as required in [~~Subsection R307-1-8.6.1.A(4)~~]R307-801-7b(4).

[~~(2)~~](3) Shut down and lock out all HVAC equipment servicing the work area. Seal all intake and exhaust openings and any seams in system components with 6-mil polyethylene sheeting or equivalent, and/or tape. Replace all system filters at the completion of the asbestos project and dispose of old filters as asbestos waste. Clean asbestos-contaminated ventilation system ductwork interiors.

[~~(3)~~](4) Cover floors with at least 2 layers of 6-mil polyethylene sheeting or equivalent, securely attached with waterproof duct tape or equivalent. Floor sheeting shall extend up walls at least 12 inches and be sized to minimize seams. No seams shall be located at wall/floor joints.

[~~(4)~~](5) Cover walls and other surfaces with at least 2 layers of 4-mil polyethylene sheeting or equivalent, securely attached and sealed with waterproof duct tape or equivalent. Wall sheeting shall be installed to minimize joints and shall overlap the floor sheeting at least 12 inches. No seams shall be located at wall/wall joints.

[~~(5)~~](6) Operate negative pressure ventilation units with HEPA filtration in sufficient numbers to provide one workplace air change every 15 minutes continuously from the time barrier construction is completed through the time final cleanup is completed in accordance with [~~Subsections R307-1-8.6.1.A(15)~~]R307-801-7b(15) and the barriers can be dismantled. These units shall exhaust filtered air to the outside of the building wherever practicable. Procedures for operation as detailed in EPA document No. EPA 560/5-85-024 "Guidance for Controlling Asbestos-Containing Materials in Buildings" (the purple book) Appendix J, shall be utilized.

R307-801-7e. NESHAP Size Projects: Encapsulation and Enclosures.

[~~D.~~](1) Encapsulation.

[~~(1)~~](a) Prior to application of an encapsulating agent, remove loose and hanging friable asbestos-containing material in accordance with [~~Subsection R307-1-8.6.1.B~~]R307-801-7c.

[~~(2)~~](b) Filler material applied to gaps in existing material shall contain no asbestos, adhere well to the substrate, and provide an adequate base for the encapsulating agent.

[~~(3)~~](c) Apply sprayed-on encapsulating agents using airless spray equipment with nozzle pressure adjusted to minimize disturbance of friable asbestos-containing materials.

[~~(4)~~](d) After encapsulation, use signs, labels, color coding, or some other mechanism to indicate the presence of encapsulated friable asbestos-containing materials.

[~~(5)~~](e) Encapsulating agents shall not be applied to friable asbestos-containing materials which are water damaged or structurally deteriorating, show poor adhesion to the surface to which they are applied, or which are in locations subject to frequent physical damage.

[~~E.~~](2) Enclosures. Enclosures constructed for the purpose of permanently containing and protecting friable asbestos-containing materials shall be specially designated by signs, labels, color coding, or some other mechanism to warn individuals who may be required to enter or disturb the enclosure of the presence of asbestos.

R307-801-7f. NESHAP Size Projects: Demolition.

[~~F. Demolition.~~

] (1) Remove all friable asbestos-containing materials according to the requirements of [~~Subsections R307-1-8.6.1.A (General)and R307-1-8.6.1.B (Removal)~~]R307-801-7b and 7c before demolition of any structure or portion of a structure which contains structural members or components composed of or covered by friable asbestos-containing material. Friable asbestos-containing materials must be removed before commencing any activity which would break up the materials or preclude access for subsequent removal.

(2) Before beginning asbestos removal seal off all doors, windows, floor drains, vents, and other openings to the outside of the building, and to areas within the building that do not contain asbestos materials, with 6-mil polyethylene sheeting and waterproof tape or equivalent that is acceptable to the executive secretary.

(3) If a structure is to be partially demolished, HVAC equipment in the demolition area or passing through it but servicing areas of the building which will remain, shall be shut down and locked out and thoroughly sealed with 6-mil polyethylene sheeting and waterproof tape.

(4) Use a disposable drop cloth to catch asbestos waste if the physical condition of the ground or other collection surface is such that it cannot be cleaned of visible asbestos residue. Dispose of the drop cloth as asbestos waste.

(5) Removal of friable asbestos-containing material prior to demolition is not required if:

(a) The asbestos is encased in concrete or similar material, or

(b) A structure is being demolished under an order of a state or local governmental agency issued because the structure is unsound and in danger of imminent collapse.

(6) If friable asbestos-containing material is not removed before demolition, adequately wet the portion of the structure containing the asbestos before demolition, and keep adequately wet during subsequent demolition, handling, and disposal.

R307-801-7g. NESHAP Size Projects: Outdoor Work.

[~~G. Outdoor Work.~~

] (1) The provisions of [~~Subsections R307-1-8.6.1.Aand R307-1-8.6.1.B~~]R307-801-7b and 7c apply to asbestos projects conducted outdoors, with the following exceptions:

(a) Construction of barriers to isolate asbestos projects performed outdoors is not required if friable asbestos-containing materials are adequately wetted during removal, handling, and disposal.

(b) In lieu of constructing a worker decontamination system, workers' outerwear may be removed, wet cleaned or HEPA vacuumed before the workers leave the work area. Outerwear removed for cleaning or disposal shall be transported from the work area in a sealed, impermeable plastic bag or equivalent container labeled in accordance with [~~Subparagraph 8.6.1.A(10)~~]R307-801-7b(10).

(2) Access to the work area shall be restricted by use of a physical obstruction to limit traffic through the area.

(3) A disposable drop cloth shall be used to catch asbestos waste if the physical condition of the ground or other collection surface is such that it cannot be cleaned of visible asbestos residue. Dispose of the drop cloth as asbestos waste.

R307-801-7h. NESHAP Size Projects: Disposal.

[~~H. Disposal.~~

] (1) Transport and dispose of asbestos waste in a manner that will not permit the release of asbestos fibers into the air.

(2) Dispose of asbestos waste at a location approved for handling asbestos waste by the appropriate authority having jurisdiction over the chosen landfill.

(3) Ensure that friable asbestos waste not containerized in accordance with [~~Subsection R307-1-8.6.1.A(9)~~]R307-801-7b(9) is buried immediately upon deposit at the disposal site.

(4) If asbestos waste is transported by vehicle to a disposal site, mark the transport vehicle with clearly visible signs during the loading and unloading of the asbestos waste. The signs shall be securely attached and displayed in such a manner and location that a person can easily read the legend. The signs shall conform to the requirements specified in 29 CFR 1910.145(d)(4).

(5) For off structure site disposal, provide a copy of the waste shipment record as specified under [~~Subsection R307-1-8.7.1.A(5)~~]R307-801-13a(5), to the disposal site owner or operator at the same time as the asbestos waste is delivered to the disposal site.

R307-801-7i. NESHAP Size Projects: Planned Asbestos Projects.

[~~I. Planned Asbestos Projects:~~]Planned asbestos projects for which a NESHAP notification is required, but which consist of individual, nonscheduled abatements each of which is smaller than a NESHAP sized asbestos project, occurring during an extended period of time, may be conducted according to the provisions of [~~Subsection R307-1-8.6.2~~]R307-801-8 below if approved by the executive secretary.

R307-801-8. Work Practices for Other Asbestos Projects.

[~~8.6.2 Work Practices for Other Asbestos Projects.~~

] (1) After September 1, 1987 each asbestos project operator shall comply with the following work practices:

[~~A.~~](2) Any asbestos project operator conducting a less than NESHAP size asbestos project shall take precautions to prevent the release of asbestos fibers to the environment. Precautions shall include but not be limited to the following measures:

[~~(1)~~](a) Construct barriers to contain asbestos fibers released within the work area.

[~~(2)~~](b) Adequately wet friable asbestos-containing materials with amended water prior to and during removal. Keep the asbestos-containing materials adequately wet until containerized.

[~~(3)~~](c) Use a disposable drop cloth to collect asbestos waste if the physical condition of the floor or collection surface is such that the work area cannot be cleaned of visible asbestos residue. Dispose of the drop cloth as asbestos waste.

[~~(4)~~](d) Glove bags may be used instead of the barriers and drop cloths specified in [~~Subsections R307-1-8.6.2.A(1) and R307-1-8.6.2.A(3)~~](a) and (c) above.

[~~(5)~~](e) Use HEPA vacuum equipment and wet cleaning techniques to clean up the work area until no visible asbestos residue remains. Perform cleanup before dismantling asbestos fiber containment barriers.

[~~(6)~~](f) Promptly place asbestos waste in appropriately labeled sealed impermeable containers (polyethylene sheeting, bags and/or fiber or metal drums).

[~~(7)~~](g) Clean visible asbestos residue from the outside of containers before removing them from the work area. Clean asbestos off other objects to be removed from the work area, or contain them to prevent release of asbestos fibers when removed from the area.

[~~(8)~~](h) Prevent the discharge of visible amounts of asbestos to any sewer.

[~~(9)~~](i) Apply an encapsulating agent to friable asbestos-containing materials exposed but not removed during renovation, and to porous surfaces from which friable asbestos-containing materials have been stripped.

[~~(10)~~](j) Remove, wet clean, or HEPA vacuum workers' outerwear before workers leave the work area. Seal outerwear removed in the work area into impermeable plastic bags, labeled in accordance with Subsection R307-1-8.6.1.A(10), before taking away from the work area. Treat disposable outerwear as asbestos waste.

[~~(11)~~](k) Transport and dispose of asbestos waste as specified under [~~Subsection R307-1-8.6.1(H)~~]R307-801-7h.

[~~(12)~~](l) If removal of friable asbestos-containing materials is not practicable before demolition, adequately wet the asbestos materials or the structure containing the asbestos materials before demolition and keep it adequately wet during subsequent handling and disposal.

[~~(13)~~](m) Permanently attach asbestos hazard warning labels to salvaged structural components which are covered or coated with friable asbestos-containing materials.

[~~B.~~](3) Construction of barriers to contain asbestos fibers is not required for asbestos projects conducted outdoors if the friable asbestos-containing material is adequately wetted and access to the work area is limited to asbestos workers only.

[~~C.~~](4) Asbestos Inspection.

Persons taking samples for the purpose of identification of asbestos-containing materials shall comply with the following requirements:

[~~(1)~~](a) Minimize contamination of the surrounding area by use of a sampling method which will minimize disturbance of friable materials, such as sampling at places where the material is exposed or damaged, wetting the material to be sampled, or using a drop cloth or other provision for catching gross contamination.

[~~(2)~~](b) Promptly clean the sampling area using wet methods or HEPA vacuuming so that no visible friable materials remain.

[~~(3)~~](c) Apply an encapsulating agent or otherwise seal friable materials exposed during sampling.

[~~(4)~~](d) Place samples in containers and tightly seal them. Wet wipe the exterior surfaces of the containers. Place sample containers in plastic bags.

[~~(5)~~](e) After sample collection, place protective clothing, wet wipes, rags, cartridge filters, drop cloths, and other disposable equipment in a 6-mil polyethylene bag that is labeled as specified under [~~Subsection R307-1-8.6.1.A(10)~~]R307-801-7b(10).

[~~(6)~~](f) If laboratory analysis reports one or more samples as asbestos containing material, dispose of all material described in [~~Subsection R307-18.6.2.C(5)~~](e) above as asbestos waste at a state approved landfill.

[~~(7)~~](g) Ensure that samples are analyzed by a method approved by the executive secretary.

[~~(8)~~](h) Any person required to be certified as an inspector in training under [~~Subsection R307-1-8.3~~]R307-801-4a through 4i shall work under the direct supervision of an inspector certified in accordance with [~~Subsection R307-1-8.3.5.A~~]R307-801-4e(2).

R307-801-9. Asbestos Projects Subject to TSCA Title II.

[~~8.6.5 Asbestos Projects Subject to TSCA Title II.~~

] Asbestos project operators or other persons who perform an asbestos project subject to TSCA Title II must ensure that at least one certified site supervisor is present at the work site at all times while the asbestos project is in progress. Asbestos workers must have access to certified supervisors throughout the duration of the asbestos project.

R307-801-10. Activities Subject to Certification Requirements.

[~~8.6.6 Activities Subject to Certification Requirements.~~

] [~~A.~~](1) Each person required under [~~Subsection R307-1-8.3~~]R307-801-4a through 4i to have TSCA accreditation and to obtain certification shall be in physical possession of their certification card whenever performing work for which the certification is required.

[~~B.~~](2) Any person who does not have current, unexpired certification shall not perform work for which TSCA accreditation

and certification under [~~Subsection R307-1-8.3~~]R307-801-4a through 4i is required.

R307-801-11. Asbestos Projects Performed in a Single Family Residential Dwelling.

[~~8.6.3 Asbestos Projects Performed in a Single Family Residential Dwelling.~~]

Persons who perform an asbestos project in a single family residential dwelling which is his primary residence, shall comply with [~~Subsections R307-1-8.6.1.A(9), R307-1-8.6.1.A(10), R307-1-8.6.1.H(1), and R307-1-8.6.1.H(2)~~]R307-801-7b(9) and (10), and R307-801-7h(1) and (2).

R307-801-12. Alternative Procedures.

[~~8.6.4 Alternative Procedures.~~

] The executive secretary may approve in writing an alternative procedure for control of emissions from an asbestos project provided that:

[~~A.~~](1) the asbestos project operator submits the alternative procedure to the executive secretary in writing;

[~~B.~~](2) the operator demonstrates to the satisfaction of the executive secretary that compliance with the prescribed procedures is not practical or not feasible or that the proposed alternative procedures provide equivalent control of asbestos; and

[~~C.~~](3) the executive secretary determines that the procedure will minimize the emission of asbestos fibers.

R307-801-13a. Asbestos Project Contractor Records.

[~~8.7 Records.~~

~~8.7.1 Records Required.~~

] [~~A.~~]Certified asbestos project contractors shall maintain records of all asbestos projects that he performs and shall make these records available to the executive secretary upon request. The records shall be retained for at least two years. Information recorded shall include the following:

(1) names and social security numbers of the asbestos workers and supervisors who performed the project;

(2) location and description of the project and amount of friable asbestos-containing material removed or area encapsulated or enclosed;

(3) starting and completion dates of the asbestos project;

(4) summary of the procedures used to comply with applicable requirements including copies of all notifications; and

(5) waste shipment records maintained in accordance with 40 CFR Part 61, Subpart M, NESHAP.

R307-801-13b. Training Provider Records.

[~~B.~~]Each person conducting a training course approved in accordance with [~~Subsection R307-1-8.4.5~~]R307-801-5e shall maintain records of:

(1) training course materials: copies of all course materials;

(2) instructor qualifications: instructor resumes, documents from the executive secretary approving each instructor, and the instructors who taught each particular course and the dates the instructor taught;

(3) examinations: document that each person who receives initial accreditation has achieved a passing score on the examination, the date of the examination, the training course and discipline for which the examination was given, the name of the person who proctored the exam, a copy of the exam, and the name and test score of each person taking the exam;

(4) accreditation certificates: document all persons who have been awarded certificates, their certificate numbers, their accredited disciplines, training and expiration dates, and the training location. The records must be maintained in a manner that allows verification by telephone.

(5) records access: records required in [~~Subsection R307-1-8.7.1~~]R307-801-13a and 13b shall be made available to the executive secretary upon request. The records shall be retained for at least three years. If a course provider ceases to provide training, the course provider shall contact the executive secretary and give the executive secretary the opportunity to take possession of all asbestos training records.

R307-801-14. Review and Disapproval of Management Plans.

[~~8.8.2 Review and Disapproval of Management Plans.~~

] [~~A.~~](1) Unless a deferral request under [~~Subsection R307-1-8.8.2.B~~](2) below has been approved by the executive secretary, each LEA shall submit the asbestos management plans required by AHERA to the executive secretary on or before October 12, 1988. A "Required Elements for LEA Asbestos Management Plan" shall be completely filled out and submitted by the LEA with each management plan.

[~~B.~~](2) The executive secretary may approve a request by an LEA for deferral of submittal of a management plan until May 9, 1989 if the LEA submits a complete request for deferral as required by AHERA. The executive secretary shall approve or disapprove a deferral request, and explain why any request was disapproved, within 30 days of receipt of a deferral request.

[~~C.~~](3) The executive secretary shall review each management plan and return comments to the LEA within 90 days of receipt of the plan. The executive secretary may disapprove a management plan if the plan does not meet the requirements of AHERA or if the "Required Elements for LEA Asbestos Management Plans" form is not completely filled out and submitted with the plan.

[~~D.~~](4) The LEA shall revise any management plan disapproved by the executive secretary and resubmit the plan within 30 days after receipt of a notice of disapproval. The LEA may request that the Executive Secretary extend the 30-day plan revision period to 90 days, provided the plan is revised and submitted before July 9, 1989.

KEY: air pollution, [~~motor vehicles, major sources*~~]asbestos, asbestos hazard emergency response*, schools

[~~January 1,~~]1998 **[~~19-2-104~~]19-2-104(1)(d**

Notice of Continuation June 2, 1997 **[~~19-2-109~~]19-2-104(3)(r)**

[~~19-2-124~~]19-2-104(3)(s)

19-2-104(3)(t)

◆ ◆

Environmental Quality, Air Quality

R307-2

(Changed to R307-110)

State Implementation Plan

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 21107
FILED: 05/13/98, 12:04
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose is to change this rule to a new location fitting the new structure for all R307 rules. No substantive change is made.

SUMMARY OF THE RULE OR CHANGE: Rule R307-2 is being changed to Rule R307-110. A list showing new and old locations will be inserted with the table of contents of the State Implementation Plan so that internal citations can be tracked.
(**DAR Note:** For complete information on these changes, see the reorganization table in the "Special Notices" section of this *Bulletin*.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 19-2-104

ANTICIPATED COST OR SAVINGS TO:
❖THE STATE BUDGET: A small cost for renumbering the rule, learning new citations, and revising forms. In the long run, reduced cost in being able to find specific provisions more quickly.
❖LOCAL GOVERNMENTS: A small cost to learn new citations. In the long run, reduced cost in being able to find specific provisions more quickly.
❖OTHER PERSONS: A small cost to learn new citations. In the long run, reduced cost in being able to find specific provisions more quickly.
COMPLIANCE COSTS FOR AFFECTED PERSONS: A small cost to learn new citations. In the long run, reduced cost in being able to find specific provisions more quickly.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: A small cost to learn new citations. In the long run, reduced cost in being able to find specific provisions more quickly.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
Environmental Quality
Air Quality
150 North 1950 West
Box 144820
Salt Lake City, UT 84114-4820, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Jan Miller at the above address, by phone at (801) 536-4042, by FAX at (801) 536-4099, or by Internet E-mail at jmiller@deq.state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 07/01/1998; OR ATTENDING A PUBLIC HEARING SCHEDULED FOR 06/23/1998, 1:30 p.m., Room 201, Department of Environmental Quality (DEQ) Building, 168 North 1950 West, Salt Lake City, UT.

THIS RULE MAY BECOME EFFECTIVE ON: 08/06/1998

AUTHORIZED BY: Ursula K. Trueman, Director

R307. Environmental Quality, Air Quality.
R307-[~~2~~]110. General Requirements: State Implementation Plan.
R307-[~~2~~]110-1. Incorporation by Reference.
To meet requirements of the Federal Clean Air Act, the Utah State Implementation Plan must be incorporated by reference into these rules. Copies of the Utah State Implementation Plan are available at the Utah Department of Environmental Quality, Division of Air Quality.

R307-[~~2~~]110-2. Section I, Legal Authority.
The Utah State Implementation Plan, Section I, Legal Authority, as most recently amended by the Air Quality Board on December 18, 1992, pursuant to Section 19-2-104, is hereby incorporated by reference and made a part of these rules.

R307-[~~2~~]110-3. Section II, Review of New and Modified Air Pollution Sources.
The Utah State Implementation Plan, Section II, Review of New and Modified Air Pollution Sources, as most recently amended by the Utah Air Quality Board on December 18, 1992, pursuant to Section 19-2-104, is hereby incorporated by reference and made a part of these rules.

R307-[~~2~~]110-4. Section III, Source Surveillance.
The Utah State Implementation Plan, Section III, Source Surveillance, as most recently amended by the Utah Air Quality Board on December 18, 1992, pursuant to Section 19-2-104, is hereby incorporated by reference and made a part of these rules.

R307-[~~2~~]110-5. Section IV, Ambient Air Monitoring Program.
The Utah State Implementation Plan, Section IV, Ambient Air Monitoring Program, as most recently amended by the Utah Air Quality Board on December 18, 1992, pursuant to Section 19-2-104, is hereby incorporated by reference and made a part of these rules.

R307-[~~2~~]110-6. Section V, Resources.
The Utah State Implementation Plan, Section V, Resources, as most recently amended by the Utah Air Quality Board on December 18, 1992, pursuant to Section 19-2-104, is hereby incorporated by reference and made a part of these rules.

R307-[~~2~~]110-7. Section VI, Intergovernmental Cooperation.
The Utah State Implementation Plan, Section VI, Intergovernmental Cooperation, as most recently amended by the Utah Air Quality Board on December 18, 1992, pursuant to Section

19-2-104, is hereby incorporated by reference and made a part of these rules.

R307-[2]110-8. Section VII, Prevention of Air Pollution Emergency Episodes.

The Utah State Implementation Plan, Section VII, Prevention of Air Pollution Emergency Episodes, as most recently amended by the Utah Air Quality Board on December 18, 1992, pursuant to Section 19-2-104, is hereby incorporated by reference and made a part of these rules.

R307-[2]110-9. Section VIII, Prevention of Significant Deterioration.

The Utah State Implementation Plan, Section VIII, Prevention of Significant Deterioration, as most recently amended by the Utah Air Quality Board on December 18, 1992, pursuant to Section 19-2-104, is hereby incorporated by reference and made a part of these rules.

R307-[2]110-10. Section IX, Control Measures for Area and Point Sources, Part A, Fine Particulate Matter.

The Utah State Implementation Plan, Section IX, Control Measures for Area and Point Sources, Part A, Fine Particulate Matter, as most recently amended by the Utah Air Quality Board on February 5, 1997, pursuant to Section 19-2-104, is hereby incorporated by reference and made a part of these rules.

R307-[2]110-11. Section IX, Control Measures for Area and Point Sources, Part B, Sulfur Dioxide.

The Utah State Implementation Plan, Section IX, Control Measures for Area and Point Sources, Part B, Sulfur Dioxide, as most recently amended by the Utah Air Quality Board on December 18, 1992, pursuant to Section 19-2-104, is hereby incorporated by reference and made a part of these rules.

R307-[2]110-12. Section IX, Control Measures for Area and Point Sources, Part C, Carbon Monoxide.

The Utah State Implementation Plan, Section IX, Control Measures for Area and Point Sources, Part C, Carbon Monoxide, as most recently amended by the Utah Air Quality Board on August 7 and September 4, 1996, pursuant to Section 19-2-104, is hereby incorporated by reference and made a part of these rules.

R307-[2]110-13. Section IX, Control Measures for Area and Point Sources, Part D, Ozone.

The Utah State Implementation Plan, Section IX, Control Measures for Area and Point Sources, Part D, Ozone, as most recently amended by the Utah Air Quality Board on July 1, 1998, pursuant to Section 19-2-104, is hereby incorporated by reference and made a part of these rules.

R307-[2]110-14. Section IX, Control Measures for Area and Point Sources, Part E, Nitrogen Dioxide.

The Utah State Implementation Plan, Section IX, Control Measures for Area and Point Sources, Part E, Nitrogen Dioxide, as most recently amended by the Utah Air Quality Board on December 18, 1992, pursuant to Section 19-2-104, is hereby incorporated by reference and made a part of these rules.

R307-[2]110-15. Section IX, Control Measures for Area and Point Sources, Part F, Lead.

The Utah State Implementation Plan, Section IX, Control Measures for Area and Point Sources, Part F, Lead, as most recently amended by the Utah Air Quality Board on December 18, 1992, pursuant to Section 19-2-104, is hereby incorporated by reference and made a part of these rules.

R307-[2]110-16. Section IX, Control Measures for Area and Point Sources, Part G, Fluoride.

The Utah State Implementation Plan, Section IX, Control Measures for Area and Point Sources, Part G, Fluoride, as most recently amended by the Utah Air Quality Board on December 18, 1992, pursuant to Section 19-2-104, is hereby incorporated by reference and made a part of these rules.

R307-[2]110-17. Section IX, Control Measures for Area and Point Sources, Part H, Emissions Limits.

The Utah State Implementation Plan, Section IX, Control Measures for Area and Point Sources, Part H, Emissions Limits, as most recently amended by the Utah Air Quality Board on February 5, 1997, pursuant to Section 19-2-104, is hereby incorporated by reference and made a part of these rules.

R307-[2]110-18. Reserved.

Reserved.

R307-110-31. Section X, Basic Inspection and Maintenance, Part A, General Requirements and Applicability.

The Utah State Implementation Plan, Section X, Vehicle Inspection and Maintenance Program, Part A, General Requirements and Applicability, as most recently amended by the Utah Air Quality Board on February 5, 1997, pursuant to Section 19-2-104, is hereby incorporated by reference and made a part of these rules.

R307-[2]110-19. Section XI, Other Control Measures for Mobile Sources.

The Utah State Implementation Plan, Section XI, Other Control Measures for Mobile Sources, as most recently amended by the Utah Air Quality Board on September 30, 1993, pursuant to Section 19-2-104, is hereby incorporated by reference and made a part of these rules.

R307-[2]110-20. Section XII, Involvement.

The Utah State Implementation Plan, Section XII, Involvement, as most recently amended by the Utah Air Quality Board on December 18, 1992, pursuant to [~~Section~~]19-2-104, is hereby incorporated by reference and made a part of these rules.

R307-[2]110-21. Section XIII, Analysis of Plan Impact.

The Utah State Implementation Plan, Section XIII, Analysis of Plan Impact, as most recently amended by the Utah Air Quality Board on December 18, 1992, pursuant to Section 19-2-104, is hereby incorporated by reference and made a part of these rules.

R307-[~~2~~]110-22. Section XIV, Comprehensive Emission Inventory.

The Utah State Implementation Plan, Section XIV, Comprehensive Emission Inventory, as most recently amended by the Utah Air Quality Board on December 18, 1992, pursuant to Section 19-2-104, is hereby incorporated by reference and made a part of these rules.

R307-[~~2~~]110-23. Section XV, Utah Code Title 19, Chapter 2, Air Conservation Act.

Section XV of the Utah State Implementation Plan contains Utah Code Title 19, Chapter 2, Air Conservation Act.

R307-[~~2~~]110-24. Section XVI, Public Notification.

The Utah State Implementation Plan, Section XVI, Public Notification, as most recently amended by the Utah Air Quality Board on December 18, 1992, pursuant to Section 19-2-104, is hereby incorporated by reference and made a part of these rules.

R307-[~~2~~]110-25. Section XVII, Visibility Protection.

The Utah State Implementation Plan, Section XVII, Visibility Protection, as most recently amended by the Utah Air Quality Board on March 26, 1993, pursuant to Section 19-2-104, is hereby incorporated by reference and made a part of these rules.

R307-[~~2~~]110-26. R307-110-26 Section XVIII, Demonstration of GEP Stack Height.

The Utah State Implementation Plan, Section XVIII, Demonstration of GEP Stack Height, as most recently amended by the Utah Air Quality Board on December 18, 1992, pursuant to Section 19-2-104, is hereby incorporated by reference and made a part of these rules.

R307-[~~2~~]110-27. Section XIV, Small Business Assistance Program.

The Utah State Implementation Plan, Section XIX, Small Business Assistance Program, as most recently amended by the Utah Air Quality Board on December 18, 1992, pursuant to Section 19-2-104, is hereby incorporated by reference and made a part of these rules.

R307-110-28. Reserved.

Reserved.

R307-[~~2~~]110-29. Section XXI, Diesel Inspection and Maintenance Program.

The Utah State Implementation Plan, Section XXI, Diesel Inspection and Maintenance Program, as most recently amended by the Utah Air Quality Board on July 12, 1995, pursuant to Section 19-2-104, is hereby incorporated by reference and made a part of these rules.

R307-[~~2~~]110-30. Section XXII, General Conformity.

The Utah State Implementation Plan, Section XXII, General Conformity, as adopted by the Utah Air Quality Board on October 4, 1995, pursuant to Section 19-2-104, is hereby incorporated by reference and made a part of these rules.

R307-[~~2-31~~]110-32. Section X, Basic Inspection and Maintenance, 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 February 5, 1997, pursuant to Section 19-2-104, is hereby incorporated by reference and made a part of these rules.

R307-[~~2-32~~]110-33. Section X, Basic Inspection and Maintenance, Part C, Salt Lake County.

The Utah State Implementation Plan, Section X, Vehicle Inspection and Maintenance Program, Part C, Salt Lake County, as most recently amended by the Utah Air Quality Board on February 5, 1997, pursuant to Section 19-2-104, is hereby incorporated by reference and made a part of these rules.

R307-[~~2-33~~]110-34. Section X, Basic Inspection and Maintenance, Part D, Utah County.

The Utah State Implementation Plan, Section X, Vehicle Inspection and Maintenance Program, Part D, Utah County, as most recently amended by the Utah Air Quality Board on February 5, 1997, pursuant to Section 19-2-104, is hereby incorporated by reference and made a part of these rules.

R307-[~~2-34~~]110-35. Section X, Basic Inspection and Maintenance, 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 February 5, 1997, pursuant to Section 19-2-104, is hereby incorporated by reference and made a part of these rules.

KEY: air pollution,[~~environmental protection,~~] small business assistance program*, particulate matter*, ozone
[~~November 6, 1997~~]1998 19-2-104(3)(e)
Notice of Continuation June 2, 1997

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Environmental Quality, Air Quality
R307-3
(Changed to R307-342)
Qualification of Contractors, Test Procedures for Testing of Vapor Recovery Systems for Gasoline Delivery Tanks

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 21108
FILED: 05/13/98, 12:05
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose is to change this rule to a new location fitting the new structure for all R307 rules. No substantive change is made.

SUMMARY OF THE RULE OR CHANGE: Rule R307-3 is being changed to Rule R307-342.
(**DAR Note:** For complete information on these changes, see the reorganization table in the "Special Notices" section of this *Bulletin*.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 19-2-104

ANTICIPATED COST OR SAVINGS TO:
❖THE STATE BUDGET: A small cost for renumbering the rule, learning new citations, and revising forms. In the long run, reduced cost in being able to find specific provisions more quickly.
❖LOCAL GOVERNMENTS: A small cost to learn new citations. In the long run, reduced cost in being able to find specific provisions more quickly.
❖OTHER PERSONS: A small cost to learn new citations. In the long run, reduced cost in being able to find specific provisions more quickly.
COMPLIANCE COSTS FOR AFFECTED PERSONS: A small cost to learn new citations. In the long run, reduced cost in being able to find specific provisions more quickly.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: A small cost to learn new citations. In the long run, reduced cost in being able to find specific provisions more quickly.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
Environmental Quality
Air Quality
150 North 1950 West
Box 144820
Salt Lake City, UT 84114-4820, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Jan Miller at the above address, by phone at (801) 536-4042, by FAX at (801) 536-4099, or by Internet E-mail at jmiller@deq.state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 07/01/1998; OR ATTENDING A PUBLIC HEARING SCHEDULED FOR 06/23/1998, 1:30 p.m., Room 201, Department of Environmental Quality (DEQ) Building, 168 North 1950 West, Salt Lake City, UT.

THIS RULE MAY BECOME EFFECTIVE ON: 08/06/1998

AUTHORIZED BY: Ursula K. Trueman, Director

R307. Environmental Quality, Air Quality.
R307-3<u>42</u>. <u>Davis and Salt Lake Counties and Ozone Nonattainment Areas:</u> Qualification of Contractors, Test Procedures for Testing of Vapor Recovery Systems for Gasoline Delivery Tanks.
R307-3<u>42</u>-1. Background.

An important part of the plan to reduce hydrocarbon emissions in the non-attainment area requires that gasoline delivery tanks be vapor tight during loading, unloading and transport. The gasoline vapors can only be recovered from the storage containers if the vacuum seals on the tanks are functioning. The vapors expelled during transport loading are forced into a vapor processor only when the pressure seal is functioning. Therefore, to prevent excessive gasoline vapor losses during the two transfer operations and during transport, the delivery tanks and associated vapor systems must be leak tight.

[~~Subparagraph 4.9.2.C of R307-1-4 (Utah Air Conservation Regulations (UACR)),~~]R307-328-4 requires that the gasoline delivery tanks and associated vapor recovery systems be tested for leakage at least annually by a qualified contractor approved by the Executive Secretary, Utah Air Conservation Committee.

The following is the appropriate method to become a qualified contractor including an approvable test procedure.

R307-3<u>42</u>-2. General Applicability.

These procedures are applicable to anyone who wishes to become qualified by the Executive Secretary to perform vapor tightness tests on gasoline transport vessels which are required to be equipped with gasoline vapor recovery equipment and to be tested in accordance with [~~subparagraph 4.9.2.C of R307-1-4 (Utah Air Conservation Regulations (UACR))~~]R307-328-4.

R307-3<u>42</u>-3. General Requirements.

<u>(1)</u>[~~1.~~] A vapor recovery system is required on all gasoline delivery tanks loading at a terminal or nonexempt bulk plant and/or off-loading at a stationary storage container in the Salt Lake County and Davis County area.

<u>(2)</u>[~~2.~~] The design of the vapor recovery system is to be such that when the delivery tank is connected to an approved storage tank vapor recovery system or loading terminal, 90% vapor recovery efficiencies are realized. The connectors of the delivery tanks need to be compatible with the fittings on the fill pipes and vapor vents at the storage containers and gasoline loading terminals where the delivery tank will service or be serviced. Adapters may be used to achieve compatibility.

<u>(3)</u>[~~3.~~] Also, no person may operate a gasoline delivery tank in the Salt Lake and/or Davis County area, unless the tank is certified leak tight. The owner/operator of any delivery tank must insure that the tank is vapor tight according to the requirements of [~~subparagraph 4.9.2.C of R307-1-4~~]R307-328-4, by having the tank satisfactorily pass the test requirements described in these procedures or other procedures approved by the Executive Secretary when performed by a contractor who has been qualified by the Executive Secretary. Each tank must be certified at least annually.

(4) The regulation requires, "the tank shall not sustain a pressure change of more than 750 pascals (3 inches of H_2O) in five minutes when pressurized (by air or inert gas) to 4500 pascals (18 inches of H_2O), or evacuated to 1500 pascals (6 inches of H_2O)"

during the annual certification test for vapor tightness. ([~~subparagraph 4.9.2.C of R307-1-4~~]R307-328-4)

R307-3~~4~~2-4. Contractor Qualification Requirements.

[~~1.~~](1) The Executive Secretary has determined that any company/person may become qualified to perform delivery tank vapor tightness tests by:

[~~A.~~](a) Preparing a written, detailed and approvable procedure by which the company/person proposes to conduct the pressure/vacuum test. The minimum test performance requirements are described in R307-3~~4~~2-6 and R307-3~~4~~2-7.

[~~B.~~](b) Submitting the procedure with a letter requesting approval of the procedure and qualification of the company/person as a qualified testing contractor.

[~~C.~~](c) Having the necessary facilities, equipment and expertise to perform a satisfactory test.

[~~D.~~](d) Performing an acceptable demonstration test(s) with the Executive Secretary or a member of his staff in attendance.

[~~2.~~](2) The company/person determined qualified to perform the tests will be issued a letter of qualification by the Executive Secretary valid for one year.

[~~3.~~](3) Requalification will be accomplished by:

[~~A.~~](a) Requesting by letter to be requalified by the Executive Secretary; and

[~~B.~~](b) Performing an acceptable demonstration test(s) with the Executive Secretary or a member of his staff in attendance after which a letter of requalification will be sent.

R307-3~~4~~2-5. Equipment Requirements.

[~~1.~~](1) Pressure Source[~~:~~]. An air pump, shop compressed air, compressed gas tanks of air or inert gas, or other approved air pressure producing source or procedure sufficient to pressurize the tank to 18 inches of water above atmospheric pressure is required. Some models of reversible tank-type shop vacuum cleaners will perform adequately.

[~~2.~~](2) Vacuum Source[~~:~~]. A vacuum pump or other approved vacuum producing procedure capable of evacuating the tank to 6 inches of water is required. For example, some models of shop vacuum cleaners can accomplish this function.

[~~3.~~](3) Pressure - Vacuum Supply Hose(s)[~~:~~]. A hose of sufficient length and wall strength to reach from the tank to the pressure vacuum source.

[~~4.~~](4) Manometer[~~:~~]. A liquid manometer or equivalent instrument capable of measuring up to 25 inches of water with scale division of 0.1 inches of water. A 1/4 inch hose to connect the manometer to the adapter tap is recommended.

[~~5.~~](5) Stopwatch[~~:~~]. A stopwatch with scale division to one second is required.

[~~6.~~](6) Adapter[~~:~~]. An adapter to connect the pressure vacuum hose to the tank with a shutoff valve to isolate the tank from the required pressure vacuum equipment is required. The adapter requires a shutoff valve, a tap to attach the manometer, and a bleed valve for adjusting pressure/vacuum to specified levels prior to start of timed period. However, each contractor must use an adapter compatible with his equipment.

[~~7.~~](7) Caps[~~:~~]. Dust caps with good gaskets are required on all outlets during the test.

[~~8.~~](8) Pressure/Vacuum Relief Valves[~~:~~]. The test apparatus should be equipped with an in line pressure/vacuum relief valve set to activate at 25 inches of water above atmospheric and 12 inches of water below if the pressure/vacuum equipment has greater capacity than the set points to prevent possible tank damage.

R307-3~~4~~2-6. Test Procedures and Preparations.

[~~1.~~](1) Location[~~:~~]. The delivery tank must be tested in a location where it will not be subject to direct sunlight. Shop heaters/air conditioners must be turned off during the test as they will affect the tank stability.

[~~2.~~](2) Purging the Tank[~~:~~]. A [~~G~~]good [~~P~~]purge is [~~N~~]necessary.

[~~A.~~](a) The tank must be emptied of gasoline and vapors before testing to minimize "vapor growth" problems. Hauling a load of diesel fuel is recommended.

[~~B.~~](b) A steam purge to degas the tank is acceptable.

[~~C.~~](c) An alternate method is to purge with a high volume of air. For this purge, the hatches are to be opened and purge air or inert gas should be blown through the tank for 30 minutes or more to degas the tank. This method is not as effective and often requires a much longer time for stabilization during the test.

[~~3.~~](3) Visual Inspection[~~:~~]. While the tank is being purged, or prior to the test, the entire tank should be visually inspected for evidence of wear, damage or misadjustments that could be a source of potential leaks. Areas to check are domes, dome vents, cargo tank piping, hose connections, hoses and delivery elbows. Any part found defective should be adjusted, repaired or replaced as necessary before the pressure test is started.

[~~4.~~](4) Vents, Valves, and Outlets[~~:~~].

[~~A.~~](a) The emergency valves in the bottom of the tank must be opened during the purge and then closed to test.

[~~B.~~](b) Open the top vents. If the top vents are the pneumatic type, then a shop air line connection must be provided as the vents must be in the open position during the purge and then closed to test.

[~~C.~~](c) In order to complete the test, some types of dome vents may have to be replaced.

[~~D.~~](d) During the test, all compartments must be interconnected so that the tank may be tested as a single unit. If this cannot be done, each compartment must be tested as a separate tank.

[~~E.~~](e) Dust caps with good gaskets must be installed on all outlets.

[~~5.~~](5) Pretest Preparation and Procedure[~~:~~].

[~~A.~~](a) Open and close each dome cover.

[~~B.~~](b) Connect the static electric ground connections to tank, attach the liquid delivery and vapor return hoses, remove liquid delivery elbows and seal the liquid delivery hose fitting, install dust caps on all outlets except the vapor return hose.

[~~C.~~](c) Attach the test adapter to the vapor return hose of the tank under test with the shutoff valve closed.

[~~D.~~](d) Connect the pressure supply hose to the adapter.

[~~E.~~](e) Connect the 1/4 inch hose to the adapter tap and the manometer (if applicable) and position of the manometer or gauge at eye level.

[~~F.~~](f) Open all internal vents and valves if possible. If not possible, each compartment must be tested as if each compartment was a separate tank.

[~~6.~~](6) The Pressure Test[~~:~~].

[~~A.~~](a) With all preparations complete, turn on the pressure source and open the shutoff valve in the adapter to apply air pressure slowly. Pressurize the tank to 18 inches of water.

[~~B.~~](b) Close the shutoff valve and allow the pressure in the tank to stabilize. When the pressure has stabilized, read and record the time and initial pressure on the manometer.

[~~C.~~](c) Allow five minutes to elapse, then read and record the final time and pressure.

[~~D.~~](d) Disconnect the pressure source from the adapter and slowly open the shutoff valve to bring the tank to atmospheric pressure.

[~~E.~~](e) Subtract the final pressures from the initial pressures.

[~~F.~~](f) If the sustained pressure drop is greater than 3.0 inches of water, repair the leaks and then repeat [~~6.A through 6.E~~]the steps in (a) through (e).

[~~G.~~](g) Repeat [~~steps 6.A through 6.F~~]the steps in (a) through (f) until the change in pressure for two consecutive runs agrees within 1/2 inch of water. Calculate the arithmetic average of the two results.

[~~7.~~](7) The Vacuum Test[~~:~~].

[~~A.~~](a) Connect the vacuum source to the adapter. Start the vacuum source and slowly open the shutoff valve to evacuate the tank to six inches of water and close the shutoff valve.

[~~B.~~](b) Allow the pressure in the tank to stabilize, adjust as necessary to maintain six inches of water vacuum until the pressure stabilizes.

[~~C.~~](c) Read and record the time and the initial vacuum reading on the manometer. Allow five minutes to elapse, then read and record the final manometer reading.

[~~D.~~](d) Disconnect the vacuum source from the adapter, and slowly open the shutoff valve to bring the tank to atmospheric pressure.

[~~E.~~](e) Subtract the final reading from the initial reading.

[~~F.~~](f) If the sustained vacuum loss is greater than three inches of water, the leakage source must be located and repaired. [~~Steps 7.A through 7.E~~]The steps in(a) through (e) must be repeated.

[~~G.~~](g) Repeat [~~steps 7.A through 7.F~~]the steps in (a) through (f) until the change in vacuum for two consecutive runs agree within 1/2 inches of water. Calculate the arithmetic average of the two results.

[~~8.~~](8) When the calculated average pressure change in five minutes for both the pressure test and the vacuum test are three inches of water or less, the requirements of the test are satisfied and the tested tank may be certified leak tight.

R307-3~~4~~2-7. Certification of a Delivery Tank.

[~~1.~~](1) The approved contractor will upon satisfactory completion of the vapor tightness test complete the documentation of certification in two copies. If desired, each contractor may prepare his own certificate as long as the following items are included:

[~~A.~~](a) Gasoline delivery tank pressure test.

[~~B.~~](b) Tank owner and address.

[~~C.~~](c) Tank ID number.

[~~D.~~](d) Testing location.

[~~E.~~](e) Date of test.

[~~F.~~](f) Tester name and signature.

[~~G.~~](g) Company or affiliation of testers.

[~~H.~~](h) Test data results.

[~~I.~~](i) Date of next required test.

[~~2.~~](2) The contractor will keep one copy which will be made available for inspection by the Executive Secretary for two years. The tank owner/operator will keep the other copy of the certification with the delivery tank for two years for inspection by the Executive Secretary.

[~~3.~~](3) The approved contractor will mark the certified tank below the DOT test marking with "V.R. TESTED" followed by the month and year of the current certified test. The vapor recovery test marking shall be at least 1-1/4" high black permanent letters on a white background. The letters and numbers must be of a type that will remain legible from a distance of 20 feet for at least one year (painted or printed sticker is acceptable).

KEY: air pollution,[~~, air quality,~~] ozone, gasoline transport*[~~pollution measurement~~]
1998 [~~26-13-6~~]19-2-104
Notice of Continuation June 26, 1997

◆ ◆

Environmental Quality, Air Quality
R307-4
(Changed to R307-130 and R307-135)
Air Quality Board Penalty Policy and AHERA Enforcement Response Policy

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 21109
FILED: 05/13/98, 12:05
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose is to change this rule to new locations fitting the new structure for all R307 rules. No substantive change is made.

SUMMARY OF THE RULE OR CHANGE: Rule R307-4 is being renumbered to create Rules R307-130 and R307-135. (**DAR Note:** For complete information on these changes, see the reorganization table in the "Special Notices" section of this *Bulletin*.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 19-2-104

ANTICIPATED COST OR SAVINGS TO:
❖THE STATE BUDGET: A small cost for renumbering the rule, learning new citations, and revising forms. In the long run, reduced cost in being able to find specific provisions more quickly.
❖LOCAL GOVERNMENTS: A small cost to learn new citations. In the long run, reduced cost in being able to find specific provisions more quickly.

❖OTHER PERSONS: A small cost to learn new citations. In the long run, reduced cost in being able to find specific provisions more quickly.
COMPLIANCE COSTS FOR AFFECTED PERSONS: A small cost to learn new citations. In the long run, reduced cost in being able to find specific provisions more quickly.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: A small cost to learn new citations. In the long run, reduced cost in being able to find specific provisions more quickly.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
Environmental Quality
Air Quality
150 North 1950 West
Box 144820
Salt Lake City, UT 84114-4820, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Jan Miller at the above address, by phone at (801) 536-4042, by FAX at (801) 536-4099, or by Internet E-mail at jmiller@deq.state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 07/01/1998; OR ATTENDING A PUBLIC HEARING SCHEDULED FOR 06/23/1998, 1:30 p.m., Room 201, Department of Environmental Quality (DEQ) Building, 168 North 1950 West, Salt Lake City, UT.

THIS RULE MAY BECOME EFFECTIVE ON: 08/06/1998

AUTHORIZED BY: Ursula K. Trueman, Director

R307. Environmental Quality, Air Quality.
~~[R307-4. Air Quality Board Penalty Policy and AHERA Enforcement Response Policy.]~~R307-130. General Penalty Policy.
~~[R307-4-1.]~~R307-130-1. Scope.

This policy provides guidance to the executive secretary of the Air Quality Board in negotiating with air pollution sources penalties for consent agreements to resolve non-compliance situations. It is designed to be used to determine a reasonable and appropriate penalty for the violations based on the nature and extent of the violations, consideration of the economic benefit to the sources of non-compliance, and adjustments for specific circumstances.[~~Sections R307-4-5 through R307-4-11 apply to enforcement of the federal Asbestos Hazard Emergency Response Act.~~]

~~[R307-4-2]~~R307-130-2. Categories.

Violations are grouped in four general categories based on the potential for harm and the nature and extent of the violations. Penalty ranges for each category are listed.

[~~1.~~](1) Category A. $7,000-10,000 per day: Violations with high potential for impact on public health and the environment including:

[~~A.~~](a) Violation of emission standards and limitations of NESHAP.

[~~B.~~](b) Emissions contributing to nonattainment area or PSD increment exceedences.

[~~C.~~](c) Emissions resulting in documented public health effects and/or environmental damage.

[~~2.~~](2) Category B. $2,000-7,000 per day.

Violations of the Utah Air Conservation Act, applicable state and federal regulations, and orders to include:

[~~A.~~](a) Significant levels of emissions resulting from violations of emission limitations or other regulations which are not within Category A.

[~~B.~~](b) Substantial non-compliance with monitoring requirements.

[~~C.~~](c) Significant violations of approval orders, compliance orders, and consent agreements not within Category A.

[~~D.~~](d) Significant and/or knowing violations of "notice of intent" and other notification requirements, including those of NESHAP.

[~~E.~~](e) Violations of reporting requirements of NESHAP.

[~~3.~~](3) Category C. Up to $2,000 per day.

Minor violations of the Utah Air Conservation Act, applicable state and federal regulations and orders having no significant public health or environmental impact to include:

[~~A.~~](a) Reporting violations

[~~B.~~](b) Minor violations of monitoring requirements, orders and agreements

[~~C.~~](c) Minor violations of emission limitations or other regulatory requirements.

[~~4.~~](4) Category D. Up to $299.00.

Violations of specific provisions of R307[~~R307-1 (the Utah Air Conservation Regulations)~~] which are considered minor to include:

[~~A.~~](a) Violation of automobile emission standards and requirements

[~~B.~~](b) Violation of wood-burning regulations by private individuals

[~~C.~~](c) Open burning violations by private individuals.

~~[R307-4-3]~~R307-130-3. Adjustments.

The amount of the penalty within each category may be adjusted and/or suspended in part based upon the following factors:

[~~1.~~](1) Good faith efforts to comply or lack of good faith. Good faith takes into account the openness in dealing with the violations, promptness in correction of problems, and the degree of cooperation with the State to include accessibility to information and the amount of state effort necessary to bring the source into compliance.

[~~2.~~](2) Degree of wilfulness and/or negligence. In assessing wilfulness and/or negligence, factors to be considered include how much control the violator had over and the foreseeability of the events constituting the violation, whether the violator made or could have made reasonable efforts to prevent the violation, and whether the violator knew of the legal requirements which were violated.

[~~3.~~](3) History of compliance or non-compliance. History of non-compliance includes consideration of previous violations and the resource costs to the State of past and current enforcement actions.

[~~4.~~](4) Economic benefit of non-compliance. The amount of economic benefit to the source of non-compliance would be added to any penalty amount determined under this policy.

[~~5.~~](5) Inability to pay. An adjustment downward may be made or a delayed payment schedule may be used based on a documented inability of the source to pay.

[~~R307-4-4~~]R307-130-4. Options.

Consideration may be given to suspension of monetary penalties in trade-off for expenditures resulting in additional controls and/or emissions reductions beyond those not required to meet existing requirements. Consideration may be given to an increased amount of suspended penalty as a deterrent to future violations where appropriate.

KEY: air pollution, penalty
1998 19-2-104
Notice of Continuation June 26, 1997 19-2-115

R307. Environmental Quality, Air Quality.
R307-135. Enforcement Response Policy for Asbestos Hazard Emergency Response Act.
[~~R307-4-5.~~]R307-135-1. AHERA Penalty Policy Definitions.

The following additional definitions apply to R307-135:

[~~1.~~]"AHERA" means the federal Asbestos Hazard Emergency Response Act of 1986 and 40 CFR Part 763, Subpart E, Asbestos-Containing Materials in Schools.

[~~2.~~]"Local Education Agency" means:

[~~A.~~](1) any local education agency as defined in section 198 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 3381),

[~~B.~~](2) the owner of any nonpublic, nonprofit elementary or secondary school building, or

[~~C.~~](3) the governing authority of any school operated under the defense dependents' education system provided for under the Defense Dependents' Education Act of 1978 (20 U.S.C. 921 et seq.).

[~~3.~~]"Other Person" means any nonprofit school that does not own its own building, or any employee or designated person of a Local Education Agency who violates the AHERA regulations, or any person other than the Local Education Agency who:

[~~A.~~](1) inspects the property of Local Education Agencies for asbestos-containing building materials for the purpose of the Local Education Agency's AHERA inspection requirements;

[~~B.~~](2) prepares management plans for the purpose of the Local Education Agency's AHERA management plan requirements;

[~~C.~~](3) designs or conducts response actions at Local Education Agency properties;

[~~D.~~](4) analyzes bulk samples or air samples for the purpose of the compliance of the Local Education Agency with the AHERA requirements; or

[~~E.~~](5) contracts with the Local Education Agency to perform any other AHERA-related function.

[~~4.~~]"Private Nonprofit School" means any nonpublic, nonprofit elementary or secondary school.

[~~R307-4-6~~]R307-135-2. Assessing Penalties Against a Local Education Agency.

[~~1.~~](1) A Notice of Noncompliance may be issued to a Local Education Agency for a violation of AHERA. After a Notice of Noncompliance has been issued, the Local Education Agency must submit documentation to the executive secretary within 60 days demonstrating that the violations listed in the Notice of Noncompliance have been corrected. Failure to submit complete documentation within 60 days is a violation of this rule.

[~~2.~~](2) A Notice of Violation may be issued to a Local Education Agency for:

[~~A.~~](a) first-time level 1 or 2 violations as specified in [~~R307-4-9~~]R307-135-5,

[~~B.~~](b) subsequent level 3, 4, 5, or 6 violations as specified in [~~R307-4-9~~]R307-135-5,

[~~C.~~](c) failure to inspect and submit a management plan within 60 days of issuance of a Notice of Noncompliance,

[~~D.~~](d) not conducting an inspection and/or submitting a plan by the statutory deadline after non-compliance has been verified by an authorized agent of the executive secretary.

[~~3.~~](3) In accordance with Section 19-2-115, and with Section 207(a) of AHERA, the maximum penalty that may be assessed against a Local Education Agency for any and all violations in a single school building is $5,000 per day. Total penalties for a single school building which exceed $5,000 per day are to be reduced to $5,000 per day.

[~~4.~~](4) Violations of AHERA by a Local Education Agency will be considered one-day violations, except that, in cases in which a Local Education Agency violates AHERA regulations after a Notice of Violation has been issued, additional penalties may be assessed on a per-day basis and injunctive relief may be sought.

[~~5.~~](5) The Board may use discretion in assessing penalties. The base penalty shall be determined by assessing the circumstances and the extent of the violation, as specified in [~~R307-4-9~~]R307-135-5.

[~~6.~~](6) In determining adjustments to a base penalty assessed against a Local Education Agency in accordance with [~~R307-4-9~~]R307-135-5, the Board may consider the culpability of the violator, including any history of non-compliance; ability to pay the penalty; ability to continue to provide educational services to the community; and the violator's good faith efforts to comply or lack of good faith.

[~~a.~~](a) If it can be shown that the Local Education Agency did not know of its AHERA responsibilities, or if the violations are voluntarily disclosed by the Local Education Agency, or if the Local Education Agency did not have control over the violations, the penalty may be reduced by 25%.

[~~b.~~](b) If violations are voluntarily disclosed by the Local Education Agency within 30 days of discovery, the penalty will be reduced by an additional 25%.

[~~c.~~](c) If it can be shown that the Local Education Agency made reasonable efforts to assure compliance, the Notice of Violation may be eliminated.

[~~d.~~](d) If the Local Education Agency has a demonstrated history of violations, the penalty may be increased.

[~~e.~~](e) The attitude of the violator may be considered in increasing or decreasing the penalty by 15%.

[~~7.~~](7) Civil penalties collected against a Local Education Agency shall be used by that Local Education Agency for the purposes of complying with AHERA. The executive secretary will defer payment of the penalty until the Local Education Agency has completed the requirements in the compliance schedule by the deadline in the schedule. When the compliance schedule expires, the Local Education Agency must present the executive secretary with a strict accounting of the cost of compliance in the form of notarized receipts, an independent accounting, or equivalent proof.

[~~8.~~](8) If the cost of compliance equals or exceeds the amount of the civil penalty, the Local Education Agency will not be required to pay any money. If the cost of compliance is less than the amount of the penalty, the Local Education Agency shall pay the difference to the Asbestos Trust Fund.

[~~R307-4-7~~]R307-135-3. Assessing Penalties Against Other Persons.

[~~1.~~](1) In accordance with Section 19-2-115, the Board may assess and collect civil penalties of up to $10,000 per day for each violation from Other Persons who violate the AHERA regulations. The penalties will be issued against the company, if there is one. Generally penalties which exceed $10,000 per day in a single school building are to be reduced to $10,000 per day.

[~~2.~~](2) Criminal penalties for willful violations of up to $25,000 may be assessed against Other Persons. All penalties assessed against Other Persons are to be sent to the Division for the State General Fund.

[~~3.~~](3) The base penalty shall be determined by assessing the circumstances and the extent of the violation, as specified in [~~R307-4-9~~]R307-135-5.

[~~4.~~](4) The Board may show discretion in making adjustments to the gravity-based penalty considering factors such as culpability of the Other Person, including a history of such violations; the Other Person's ability to pay; the Other Person's ability to stay in business; and other matters as justice may require, such as voluntary disclosure and attitude of the violator.

[~~5.~~](5) The maximum penalty that may be assessed is $10,000, per day, per violation, except that a knowing or willful violation of the regulations may be assessed at $25,000, per day.

[~~6.~~](6) If the Other Person continues to violate after a Notice of Violation has been issued, the Notice of Violation may be amended and additional penalties assessed. Injunctive relief, criminal penalties and per-day penalties may also be pursued.

[~~7.~~](7) Penalties for a first-time violation may be remitted if the Other Person corrects the violations in all schools in which the Other Person has and may have violated. In some cases of unknowing violations by an Other Person who is not typically involved with asbestos, some or all of the penalty may be remitted if the Other Person takes mandatory AHERA training.

[~~R307-4-8~~]R307-135-4. Penalties Against Private Nonprofit Schools.

[~~1.~~](1) The owner of the building that contains a private nonprofit elementary school is considered a Local Education Agency. If the private non-profit school does not own its own building, it is considered an Other Person and will be treated as such.

[~~2.~~](2) The school is liable for up to $5,000, per day, per violation of AHERA, and penalties may be returned to the school for the purposes of complying with AHERA. The owner of the private nonprofit school building will be assessed penalties in the same manner as other Local Education Agencies.

[~~R307-4-9~~]R307-135-5. Air Quality Board AHERA Enforcement Response Policy Penalties.

[~~1.~~](1) Gravity Based Penalty. A base penalty based on the gravity of the violation will be determined by addressing the circumstances and the extent of the violation. Table 1 specifies penalties for Local Education agencies and Table 2 specifies penalties for Other Persons.

[~~2.~~](2) Circumstances. The circumstances reflect the probability that harm will result from a particular violation. The probability of harm increases as the potential for environmental harm or asbestos exposure to school children and employees increases. Tables 1 and 2 provide the following levels for measuring circumstances:

[~~A.~~](a) Levels 1 and 2 (High): It is probable that the violation will cause harm.

[~~B.~~](b) Levels 3 and 4 (Medium): There is a significant chance the violation will cause harm.

[~~C.~~](c) Levels 5 and 6 (Low): There is a small chance the violation will result in harm.

[~~3.~~](3) The circumstance levels that are to be attached for each provision of AHERA may be found in Appendix A (Local Education Agency violations) and Appendix B (Other Person violations) of EPA's AHERA Enforcement Response Policy.

[~~4.~~](4) Extent. The extent reflects the potential harm caused by a violation. Harm is determined by the quantity of asbestos-containing building materials involved in the violation through inspection, removal, enclosure, encapsulation, or repair in violation of the regulation.

[~~5.~~](5) For the purposes of this Enforcement Response Policy, the extent levels are specified in Tables 1 and 2 and are as follows:

[~~A.~~](a) Major: violations involving more than 3,000 square feet or 1,000 linear feet of ACBM.

[~~B.~~](b) Significant: violations involving more than 160 square feet or 260 linear feet but less than or equal to 3,000 square feet or 1,000 linear feet.

[~~C.~~](c) Minor: violations involving less than or equal to 160 square feet or 260 linear feet.

[~~6.~~](6) In situations where the quantity of asbestos involved in the AHERA violation cannot be readily determined, the base penalty will generally be calculated using the major extent category.

TABLE 1

BASE PENALTY FOR LOCAL EDUCATION AGENCIES

CIRCUMSTANCES		EXTENT		
(Levels)		A	B	C
		MAJOR	SIGNIFICANT	MINOR
High Range	1	$5,000	$3,400	$1,000
	2	$4,000	$2,400	$ 600
Mid Range	3	$3,000	$2,000	$ 300*
	4	$2,000	$1,200	$ 200*

Low Range	5	$1,000	$ 600	$ 100*
	6	$ 400*	$ 260*	$ 40*

[~~—~~]*Issue Notices of Noncompliance for the first citation of violations that fall within these cells if that is the only violation

TABLE 2

BASE PENALTY FOR OTHER PERSONS

CIRCUMSTANCES		EXTENT		
(Levels)		A MAJOR	B SIGNIFICANT	C MINOR
High Range	1	$10,000	$6,800	$2,000
	2	$ 8,000	$4,800	$1,200
Mid Range	3	$ 6,000	$4,000	$ 600
	4	$ 4,000	$2,800	$ 400
Low Range	5	$ 2,000	$1,200	$ 200
	6	$ 800	$ 520	$ 80

[~~R307-4-10~~]R307-135-6. Injunctive Relief.

[~~1.~~](1) In accordance with Sections 19-2-116 and 117, the Board may seek injunctive relief:

[~~A.~~](a) in cases of imminent and substantial endangerment to human health and environment;

[~~B.~~](b) where a Local Education Agency's non-compliance will significantly undermine the intent of the AHERA regulations; and

[~~C.~~](c) for violations including, but not limited to:

[~~a.~~](i) failure or refusal to make a management plan available to the public without cost or restriction;

[~~b.~~](ii) failure or refusal to conduct legally sufficient air monitoring following a response action; or

[~~c.~~](iii) the initiation of a response action without accredited personnel; or

[~~D.~~](d) to restrain any violation of Title 19, Chapter 2 or R307 or any final order issued by the Board, the executive secretary when it appears to be necessary for the protection of health or welfare.

[~~R307-4-11~~]R307-135-7. Criminal Penalties.

In accordance with Section 19-2-115, knowing, willful, or continuing violations of AHERA regulation by a Local Education Agency, Local Education Agency employee, or Other Person will be referred to the Office of the Attorney General. Knowing, willful, or continuing violations may result in the issuance of a criminal penalty of $25,000 per day, per violation for such violations.

KEY: air pollution[~~control~~], [~~air quality, emission controls,~~]hazardous pollutant, asbestos, schools
[~~March 21, 1995~~]1998 **19-2-104(1)(d)**
Notice of Continuation June 26, 1997 **19-2-115**
19-2-116
19-2-117

Environmental Quality, Air Quality
R307-7
Exemption from Notice of Intent Requirements for Used Oil Fuel Burned for Energy Recovery

NOTICE OF PROPOSED RULE
(Repeal)
DAR FILE NO.: 21101
FILED: 05/13/98, 11:56
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose is to organize the language from this rule in a new location fitting the new structure for all R307 rules. No substantive change is made.

SUMMARY OF THE RULE OR CHANGE: This rule is repealed in its entirety.
(**DAR Note:** The language from R307-7 is being organized to form Section R307-413-7. The proposed new rule for R307-413 is under DAR No. 21145 in this *Bulletin*. For complete information on these changes, see the reorganization table in the "Special Notices" section of this *Bulletin*.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 19-2-104

ANTICIPATED COST OR SAVINGS TO:
❖THE STATE BUDGET: A small cost for renumbering the rule, learning new citations, and revising forms. In the long run, reduced cost in being able to find specific provisions more quickly.
❖LOCAL GOVERNMENTS: A small cost to learn new citations. In the long run, reduced cost in being able to find specific provisions more quickly.
❖OTHER PERSONS: A small cost to learn new citations. In the long run, reduced cost in being able to find specific provisions more quickly.
COMPLIANCE COSTS FOR AFFECTED PERSONS: A small cost to learn new citations. In the long run, reduced cost in being able to find specific provisions more quickly.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: A small cost to learn new citations. In the long run, reduced cost in being able to find specific provisions more quickly.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
Environmental Quality
Air Quality
150 North 1950 West
Box 144820
Salt Lake City, UT 84114-4820, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Jan Miller at the above address, by phone at (801) 536-4042, by FAX at (801) 536-4099, or by Internet E-mail at jmiller@deq.state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 07/01/1998; OR ATTENDING A PUBLIC HEARING SCHEDULED FOR 06/23/1998, 1:30 p.m., Room 201, Department of Environmental Quality (DEQ) Building, 168 North 1950 West, Salt Lake City, UT.

THIS RULE MAY BECOME EFFECTIVE ON: 08/06/1998

AUTHORIZED BY: Ursula K. Trueman, Director

{**DAR Note:** Because of publication constraints, the text of this rule is not printed in this *Bulletin*, but is published by reference to a copy on file at the Division of Administrative Rules. The text may also be inspected at the agency (address above) or in the *Utah Administrative Code* which is available at any state depository library.}

Environmental Quality, Air Quality
R307-8
(Changed to R307-301)
Oxygenated Gasoline Program

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 21110
FILED: 05/13/98, 12:06
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose is to change this rule to a new location fitting the new structure for all R307 rules. No substantive change is made.

SUMMARY OF THE RULE OR CHANGE: Rule R307-8 is being changed to Rule R307-301.
(**DAR Note:** For complete information on these changes, see the reorganization table in the "Special Notices" section of this *Bulletin*.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 19-2-104

ANTICIPATED COST OR SAVINGS TO:
❖THE STATE BUDGET: A small cost for renumbering the rule, learning new citations, and revising forms. In the long run, reduced cost in being able to find specific provisions more quickly.
❖LOCAL GOVERNMENTS: A small cost to learn new citations. In the long run, reduced cost in being able to find specific provisions more quickly.
❖OTHER PERSONS: A small cost to learn new citations. In the long run, reduced cost in being able to find specific provisions more quickly.
COMPLIANCE COSTS FOR AFFECTED PERSONS: A small cost to learn new citations. In the long run, reduced cost in being able to find specific provisions more quickly.

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R307. Environmental Quality, Air Quality.
R307-[~~8~~]301. Utah and Weber Counties: Oxygenated Gasoline Program.
R307-[~~8~~]301-1. Definitions.

The following additional definitions apply [~~only~~]to [~~Rule R307-8~~]R307-301.

"Averaging period" is the control period and means the period of time over which all gasoline sold or dispensed for use in a control area by any control area responsible party or blender control area responsible party must comply with the average oxygen content standard.

"Blender control area responsible party (blender CAR)" means a person who owns oxygenated gasoline which is sold or dispensed from a control area oxygenate blending installation.

"Blending Allowance" means the amount of oxygen a gasoline blend is allowed above its upper oxygen content limit. Any gasoline blended under the provisions of 42 U.S.C. 7545(f)(1) addressing substantially similar fuels are permitted a blending allowance of 0.2% oxygen by weight. Blending allowances are not

given to gasoline blends granted a waiver by the Administrator under 42 U.S.C. 7545(f)(4).

"Carrier" means any person who transports, stores or causes the transportation or storage of gasoline at any point in the gasoline distribution network, without taking title to or otherwise having ownership of the gasoline, and without altering the quality or quantity of the gasoline.

"Control area" means a geographic area in which only gasoline under the oxygenated gasoline program may be sold or dispensed during the control period.

"Control area oxygenate blending installation" means any installation or truck at which oxygenate is added to gasoline or gasoline blendstock which is intended for use in any control area, and at which the quality or quantity of the gasoline or gasoline blendstock is not otherwise altered, except through the addition of deposit-control additives.

"Control area responsible party (CAR)" means a person who owns oxygenated gasoline which is sold or dispensed from a control area terminal.

"Control area terminal" means either a terminal which is capable of receiving gasoline in bulk, i.e., by pipeline, marine vessel or barge, or a terminal at which gasoline is altered either in quantity or quality, excluding the addition of deposit control additives, or both. Gasoline which is intended for use in any control area is sold or dispensed into trucks at these control area terminals.

"Control period" means November 1 through the last day of February, during which time only oxygenated gasoline may be sold and dispensed in any control area.

"Destination" means:

[~~A.~~](1) for all control periods prior to the trigger date:

([~~1~~]a) the Provo-Orem Metropolitan Statistical Area (MSA), all of Utah County or

([~~2~~]b) anywhere except Utah County; and

[~~B.~~](2) for all control periods subsequent to the trigger date:

([~~1~~]a) Utah County, the Provo-Orem Metropolitan Statistical Area,

([~~2~~]b) Weber County, or

([~~3~~]c) anywhere except Utah County and Weber County.

"Distributor" means any person who transports or stores or causes the transportation or storage of gasoline at any point between any gasoline refiner's installation and any retail outlet or wholesale purchaser-consumer's installation. A distributor is a blender CAR if the distributor alters the oxygen content of gasoline intended for use in any control area through the addition of one or more oxygenates, or lowers its oxygen content below the minimum oxygen content specified in [~~Section~~]R307-[~~8~~]301-6.

"Gasoline" means any fuel sold for use in motor vehicles and motor vehicle engines, and commonly or commercially known or sold as gasoline.

"Gasoline blendstock" means a hydrocarbon material which by itself does not meet specifications for finished gasoline, but which can be blended with other components, including oxygenates, to produce a blended gasoline fully meeting the American Society for Testing and Materials (ASTM) or state specifications.

"Non-oxygenated gasoline" means any gasoline which does not meet the definition of oxygenated gasoline.

"Oxygen content of gasoline blends" means percentage of oxygen by weight contained in a gasoline blend, based upon the percent by volume of each type of oxygenate contained in the gasoline blend, excluding denaturants and other non-oxygen-containing compounds. All measurements shall be adjusted to 60 degrees Fahrenheit.

"Oxygenate" means any substance, which when added to gasoline, increases the amount of oxygen in that gasoline blend. Lawful use of any combination of these substances requires that they be substantially similar as provided for under 42 U.S.C. 7545(f)(1), or be permitted under a waiver granted by the Administrator of the Environmental Protection Agency under the authority of 42 U.S.C. 7545(f)(4).

"Oxygenate blender" means a person who owns, leases, operates, controls, or supervises a control area oxygenate blending installation.

"Oxygenated gasoline" means any gasoline which contains at least 2.0% oxygen by weight, or 2.6% oxygen by weight if the average oxygen content standard is 3.1%, that was produced through the addition of one or more oxygenates to a gasoline and has been included in the oxygenated gasoline program accounting by a control area responsible party or blender control area responsible party and which is intended to be sold or dispensed for use in any control area. Notwithstanding the foregoing, if the Board determines that the requirement of 2.0% oxygen by weight, or 2.6% oxygen by weight if the average oxygen content standard is 3.1%, will prevent or interfere with attainment of the PM_{10} National Ambient Air Quality Standard and the State requests and is granted a waiver from the Administrator of the Environmental Protection Agency under 42 U.S.C. 7545, the waiver amount granted by the Administrator of the Environmental Protection Agency shall apply. Oxygenated gasoline containing lead is required to conform to the same waiver conditions or substantially similar ruling as unleaded gasoline as described in the definition of oxygenate.

"Refiner" means any person who owns, leases, operates, controls, or supervises a refinery which produces gasoline for use in a control area during the applicable control period.

"Refinery" means a plant at which gasoline is produced.

"Reseller" means any person who purchases gasoline and resells or transfers it to a retailer or a wholesale purchaser-consumer.

"Retail outlet" means any establishment at which gasoline is sold or offered for sale to the ultimate consumer for use in motor vehicles.

"Retailer" means any person who owns, leases, operates, controls, or supervises a retail outlet.

"Terminal" means an installation at which gasoline is sold, or dispensed into trucks for transportation to retail outlets or wholesale purchaser-consumer installations.

"Trigger date" means the date on which is triggered the Contingency Action Level specified in Section IX.C.8.h of the state implementation plan.

"Wholesale purchaser-consumer" means any organization that:

[~~A.~~](1) is an ultimate consumer of gasoline;

[~~B.~~](2) purchases or obtains gasoline from a supplier for use in motor vehicles; and

[~~C.~~](3) receives delivery of that product into a storage tank of at least 550-gallon capacity substantially under the control of that organization.

"Working day" means Monday through Friday, excluding observed federal and Utah state holidays.

R307-[~~8~~]301-2. Applicability and Control Period Start Dates.

[~~1.~~](1) Unless waived under authority of 42 U.S.C. 7545(m)(3) by the Administrator of the Environmental Protection Agency, [~~Rule~~]R307-[~~8~~]301 is applicable in Utah and Weber Counties.

[~~2.~~](2) The first control period for areas for which [~~Rule~~]R307-[~~8~~]301 is applicable begins:

[~~A.~~](a) November 1, 1992, for the entire Provo-Orem Metropolitan Statistical Area which includes all of Utah County; and

[~~B.~~](b) November 1 following the trigger date for Weber County.

R307-[~~8~~]301-3. Average Oxygen Content Standard.

[~~1.~~](1) All gasoline sold or dispensed during the control period, for use in each control area, by each CAR or blender CAR as defined in [~~Section~~]R307-[~~8~~]301-1, shall be blended for each averaging period to contain an average oxygen content of not less than 2.7% oxygen by weight, except that:

[~~A.~~](a) if the Board determines that the 2.7% oxygen by weight requirement will prevent or interfere with attainment of the PM_{10} National Ambient Air Quality Standards and the State requests and is granted a waiver from the Administrator of the Environmental Protection Agency under 42 U.S.C. 7545, the waiver amount granted by the Administrator of the Environmental Protection Agency, shall apply;

[~~B.~~](b) if the enhanced inspection and maintenance program specified in Section IX, Part C.6.j(2)(b) of the state implementation plan is not implemented by January 1, 1996 (or if an equivalent automotive improvement program is not implemented that results in emissions factors equal to or less than the emission factors in Table IX.C.23 of the state implementation plan), all gasoline sold or dispensed during the control period beginning November 1, 1996, and subsequent control periods, for use in the Provo-Orem MSA, by each CAR or blender CAR as defined in [~~Section~~]R307-[~~8~~]301-1, shall be blended to contain an average oxygen content of not less than 3.1% by weight until the next full control period following one year after the implementation of an enhanced inspection and maintenance program with mobile source emission factors equal to or less than every emission factor in the matrix in Table IX.C.23 of the state implementation plan and the enhanced inspection and maintenance performance standards of 40 CFR 51.351 or until the next full control period following implementation of a program that would result in emission factors equal to or less than the mobile source emission factors in the matrix contained in Table IX.C.23 of the state implementation plan;

[~~C.~~](c) if triggered as a contingency measure, as specified in Section IX, Part C.6.f of the state implementation plan, all gasoline sold or dispensed during the control period for use in the Provo-Orem MSA, by each CAR or blender CAR as defined in [~~Section~~]R307-[~~8~~]301-1, shall be blended to contain an average oxygen content of not less than 3.1% by weight until it is shown to be unnecessary in the maintenance demonstration required by the Clean Air Act or until it is replaced with other control measures in a state implementation plan revision that demonstrates attainment of the National Ambient Air Quality Standard.

[~~2.~~](2) The averaging period over which all gasoline sold or dispensed in the control area is to be averaged shall be equal to the control period.

[~~3.~~](3) All gasoline, both leaded and unleaded, shall be blended in compliance with 40 CFR Part 79 (1991) - Registration of Fuels and Fuel Additives and 40 CFR Part 80 (1991) - Regulation of Fuels and Fuel Additives.

[~~4.~~](4) Any gasoline blended under 42 U.S.C. 7545(f)(1) dealing with substantially similar fuels must be blended in compliance with the criteria specified in the substantially similar ruling. Any extra volume of oxygenate or oxygenates added to gasoline blended under a substantially similar ruling as provided for under 42 U.S.C. 7545(f)(1) in excess of the criteria specified in 42 U.S.C. 7545(f)(1) may not be included in the compliance calculations specified in [~~Subsections R307-8-5.2 and 5.3~~]R307-301-5(2) and (3).

[~~5.~~](5) Any gasoline blended under a waiver granted by the Environmental Protection Agency under the provisions of 42 U.S.C. 7545(f)(4) must be blended in compliance with the criteria specified in the appropriate waiver. Gasoline blends waived to oxygen content above 2.7% oxygen by weight are not permitted a blending allowance for blending tolerance purposes. Any extra volume of oxygenate in excess of the criteria specified in the appropriate waiver may not be included in the compliance calculations specified in [~~Subsection R307-8-5.2 or Subsection R307-8-5.3~~]R307-301-5(2) or (3).

[~~6.~~](6) Oxygen content shall be determined in accordance with [~~Section~~]R307-[~~8~~]301-4.

R307-[~~8~~]301-4. Sampling, Testing, and Oxygen Content Calculations.

[~~1.~~](1) For the purpose of determining compliance with the requirements of [~~Rule~~]R307-[~~8~~]301, the oxygen content of gasoline shall be determined by one or both of the two following methods.

[~~A.~~](a) Volumetric Method. Oxygen content may be calculated by the volumetric method specified in the Environmental Protection Agency Guidelines for Oxygenated Gasoline Credit Programs under Section 211(m) of the Clean Air Act as Amended - Supplementary Information - Oxygen Content Conversions, published in the Federal Register on October 20, 1992.

[~~B.~~](b) Chemical Analysis Method.

([~~1~~]i) Use the sampling methodologies detailed in 40 CFR Part 80 (1993), Appendix D, to obtain a representative sample of the gasoline to be tested;

([~~2~~]ii) Determine the oxygenate content of the sample by use of:

([~~a~~]A) the test method specified in ASTM Designation D4815-93, Testing Procedures--Method--ASTM Standard Test Method for Determination of C1 to C4 Alcohols and MTBE in Gasoline by Gas Chromatography,

([~~b~~]B) the test method specified in Appendix C of Environmental Protection Agency Guidelines for Oxygenated Gasoline Credit Programs under Section 211(m) of the Clean Air Act as Amended - Test Procedure Test for the Determination of Oxygenates in Gasoline as published in the Federal Register on October 20, 1992, or

([~~c~~]C) an alternative test method approved by the executive secretary.

([~~3~~]iii). Calculate the oxygen content of the gasoline sampled by multiplying the mass concentration of each oxygenate in the gasoline sampled by the oxygen molecular weight contribution of the oxygenate set forth in [~~Subsection R307-8-4.3~~](3) below.

[~~2.~~](2) All volume measurements required in [~~Section~~]R307-[~~8~~]301-4 shall be adjusted to 60 degrees Fahrenheit.

[~~3.~~](3) For the purposes of [~~Rule~~]R307-[~~8~~]301, the oxygen molecular weight contributions and specific gravities of oxygenates currently approved for use in the United States by the U.S. Environmental Protection Agency are the following:

TABLE[~~1~~]

Specific Gravity and Weight Percent Oxygen of Common Oxygenates

oxygenate	weight fraction oxygen	specific gravity at 60 degrees F
ethyl alcohol	0.3473	0.7939
normal propyl alcohol	0.2662	0.8080
isopropyl alcohol	0.2662	0.7899
normal butyl alcohol	0.2158	0.8137
isobutyl alcohol	0.2158	0.8058
secondary butyl alcohol	0.2158	0.8114
tertiary butyl alcohol	0.2158	0.7922
methyl tertiary-butyl ether (MTBE)	0.1815	0.7460
tertiary amyl methyl ether (TAME)	0.1566	0.7752
ethyl tertiary-butyl ether (ETBE)	0.1566	0.7452

[~~4.~~](4) Sampling, testing, and oxygen content calculation records shall be maintained for not less than two years after the end of each control period for which the information is required.

[~~5.~~](5) Every refiner must determine the oxygen content of all gasoline produced for use in a control area by use of the methodology specified in [~~Subsection R307-8-4.1~~](1) above. Documentation shall include the percent oxygen by weight, each type of oxygenate, the purity of each oxygenate, and the percent oxygenate by volume for each oxygenate. If a CAR or blender CAR alters the oxygen content of a gasoline intended for use within a control area during a control period, the CAR or blender CAR must determine the oxygen content of the gasoline by use of the methodology specified in [~~Subsection R307-8-4.1~~](1) above.

R307-[~~8~~]301-5. Alternative Compliance Options.

[~~1.~~](1) Each CAR or blender CAR shall comply with the standard specified in [~~Section~~]R307-[~~8~~]301-3 by means of the method set forth in either [~~Subsection R307-8-5.2 or Subsection R307-8-5.3~~](2) or (3) below and shall specify which option will be used at the time of the registration required under [~~Section~~]R307-[~~8~~]301-7.

[~~2.~~](2) Compliance calculation on average basis.

[~~A.~~](a) The CAR or blender CAR shall determine compliance with the standard specified in [~~Section~~]R307-[~~8~~]301-3 for each averaging period and for each control area by:

([~~1~~]i) Calculating the total volume of gasoline labeled as oxygenated that is sold or dispensed, not including volume dispensed or sold to another CAR or blender CAR, for use in the control area which is the sum of:

([~~a~~]A) the volume of each separate batch or truckload of gasoline labeled as oxygenated that is sold or dispensed;

([~~b~~]B) minus the volume of each separate batch or truckload of gasoline labeled as oxygenated that is sold or dispensed for use in a different control area;

([~~c~~]C) minus the volume of each separate batch or truckload of gasoline labeled as oxygenated that is sold or dispensed for use in any non-control area.

([~~2~~]ii) Calculating the required total oxygen credit units. Multiply the total volume in gallons of gasoline labeled as oxygenated that is sold or dispensed for use in the control area, as determined by [~~Subsection R307-8-5.2.A(1)~~](i) above, by the oxygen content standard specified in [~~Subsection R307-8-3.1~~]R307-301-3(1).

([~~3~~]iii) Calculating the actual total oxygen credit units generated. The actual total oxygen credit units generated is the sum of the volume of each batch or truckload of gasoline labeled as oxygenated that was sold or dispensed for use in the control area as determined by [~~Subsection R307-8-5.2.A(1)~~](i) above, multiplied by the actual oxygen content by weight percent associated with each batch or truckload. If a batch or truckload of gasoline is blended under the substantially similar provisions of 42 U.S.C. 7545(f)(1) or under a waiver granted by the Environmental Protection Agency under the provisions of 42 U.S.C. 7545(f)(4), any extra volume of oxygenate in excess of the substantially similar criteria including the blending tolerance of 0.2% oxygen by weight, or in excess of the appropriate waiver, cannot be included in the calculation of oxygen credit units.

([~~4~~]iv) Calculating the adjusted actual total oxygen credit units. The adjusted actual total oxygen content units is the sum of the actual total oxygen credit units generated, as determined by [~~Subsection R307-8-5.2.A(3)~~](iii) above;

([~~a~~]A) plus the total oxygen credit units purchased, acquired through trade and received; and

([~~b~~]B) minus the total oxygen credit units sold,given away and provided through trade.

([~~5~~]v) Comparing the adjusted actual total oxygen credit units with the required total oxygen credit units. If the adjusted actual total content oxygen credit units is greater than or equal to the required total oxygen credit units, then the standard in [~~Section~~]R307-[~~8~~]301-3 is met. If the adjusted actual total oxygen credit units is less than the required total oxygen credit units, then the purchase of oxygen credit units is required in order to achieve compliance.

([~~6~~]vi) In transferring oxygen credit units, the transferor shall provide the transferee with information as to how the credits were calculated, including the volume and oxygen content by weight percent of the gasoline associated with the credits.

[~~B.~~](b) To determine the oxygen credit units associated with each batch or truck load of oxygenated gasoline sold or dispensed into the control area, use the running weighted oxygen content (RWOC) of the tank from which and at the time the batch or truckload was received (see [~~SubSection R307-8-5.2.C~~](c) below). In the case of batches or truckloads of gasoline to which oxygenate was added outside of the terminal storage tank from which it was received, use the weighted average of the RWOC and the oxygen content added as a result of the volume of the additional oxygenate added.

[~~C.~~](c) Running weighted oxygen content. The RWOC accounts for the volume and oxygen content of all gasoline, including transfers to or from another CAR or blender CAR, which enters or leaves a terminal storage tank, and the oxygen contribution of all oxygenates which are added to the tank. The RWOC must be calculated each time gasoline enters or leaves the tank or whenever oxygenates are added to the tank. The RWOC is calculated weighing the following:

([~~1~~]i) the volume and oxygen content by weight percent of the gasoline in the storage tank at the beginning of the averaging period;

([~~2~~]ii) the volume and oxygen content by weight percent of gasoline entering the storage tank;

([~~3~~]iii) the volume and oxygen content by weight percent of gasoline leaving the storage tank; and

([~~4~~]iv) the volume, type, purity and oxygen content by weight percent of the oxygenates added to the storage tank.

[~~D.~~](d) Credit transfers. Credits may be used in the compliance calculation in [~~Subsection R307-8-5.2.A(1)~~](2)(a)(i) above, provided that:

([~~1~~]i) the credits are generated in the same control area as they are used, i.e., no credits may be transferred between nonattainment areas;

([~~2~~]ii) the credits are generated in the same averaging period as they are used;

([~~3~~]iii) the ownership of credits is transferred only between CARs or blender CARs registered under the averaging compliance option specified in [~~Section~~]R307-[~~8~~]301-7;

([~~4~~]iv) the credit transfer agreement is made no later than 30 working days, as defined in [~~Section~~]R307-[~~8~~]301-1, after the final day of the averaging period in which the credits are generated; and

([~~5~~]v) the credits are properly created.

[~~E.~~](e) Improperly created credits.

([~~1~~]i) No party may transfer any credits to the extent such a transfer would result in the transferor having a negative credit balance at the conclusion of the averaging period for which the credits were transferred. Any credits transferred in violation of this paragraph are improperly created credits.

([~~2~~]ii) Improperly created credits may not be used, regardless of a credit transferee's good faith belief that the transferee was receiving valid credits.

[~~3.~~](3) Compliance calculation on a per gallon basis. Each gallon of gasoline sold or dispensed by a CAR or blender CAR for use within each control area during the averaging period as defined in [~~Section~~]R307-[~~8~~]301-1 shall have an oxygen content of at least the average oxygen content standard specified in [~~Subsection R307-8-3.1~~]R307-301-3(1). The maximum oxygen content which may be used to calculate compliance is the average oxygen content standard specified in [~~Section~~]R307-[~~8~~]301-3. In addition, the CAR or blender CAR is prohibited from selling, trading or providing oxygen credits based on gasoline for which compliance is calculated under this alternative per-gallon method.

R307-[~~8~~]301-6. Minimum Oxygen Content.

[~~1.~~](1) Any gasoline which is sold or dispensed by a CAR, blender CAR, carrier, distributor, or reseller for use within a control area, as defined in [~~Section~~]R307-[~~8~~]301-1, during the control period, shall contain not less than 2.0% oxygen by weight, or 2.6% oxygen by weight if the average oxygen content standard is 3.1%, unless it is sold or dispensed to another registered CAR or blender CAR. This requirement shall begin five working days, as defined in [~~Section~~]R307-[~~8~~]301-1, before the applicable control period and shall apply until the end of that period.

[~~2.~~](2) This requirement shall apply to all parties downstream of the CAR or blender CAR unless the gasoline will be sold or dispensed to another CAR or blender CAR. Any gasoline which is offered for sale, sold or dispensed to an ultimate consumer within a control area during a control period, as defined in [~~Section~~]R307-[~~8~~]301-1, shall not contain less than 2.0% oxygen by weight, or 2.6% oxygen by weight if the average oxygen content standard is 3.1%. This requirement shall apply during the entire applicable control period.

[~~3.~~](3) Every refiner must determine the oxygen content of all gasoline produced by use of the methodologies described in [~~Section~~]R307-[~~8~~]301-4. This determination shall include the oxygen content by weight percent, each type of oxygenate, and percent oxygenate by volume for each type of oxygenate.

[~~4.~~](4) Any gasoline sold or dispensed by a CAR or blender CAR for use within a control area and for which compliance is demonstrated using the method specified in [~~Subsection R307-8-5.3~~](3) shall contain not less than the average oxygen content standard specified in [~~Subsection R307-8-3.1~~]R307-301-3(1), unless the gasoline is sold or dispensed to another registered CAR or blender CAR.

R307-[~~8~~]301-7. Registration.

[~~1.~~](1) All persons who sell or dispense gasoline directly or indirectly to persons who sell or dispense to ultimate consumers in a control area during a control period, including CARs, blender CARs, carriers, resellers, and distributors, shall petition the executive secretary for registration not less than one calendar month in advance of such sales or transfers of gasoline into the control area during the control period.

[~~2.~~](2) This petition for registration shall be on forms prescribed by the executive secretary and shall include the following information:

[~~A.~~](a) the name and business address of the CAR, blender CAR, carrier, reseller, or distributor;

[~~B.~~](b) in the case of a CAR, the address and physical location of each of the control area terminals from which the CAR operates;

[~~C.~~](c) in the case of a blender CAR, the address and physical location of each control area oxygenate blending installation which is owned, leased, operated, or controlled, or supervised by a blender CAR;

[~~D.~~](d) in the case of a carrier, distributor, or reseller, the names and addresses of retailers they supply;

[~~E.~~](e) the address and physical location where documents which are required to be retained by [~~Rule~~]R307-[~~8~~]301 shall be kept; and

[~~F.~~](f) in the case of a CAR or blender CAR, the compliance option chosen under provisions of [~~Section~~]R307-[~~8~~]301-5 and a list of oxygenates which will be used.

[~~3.~~](3) If the registration information previously supplied by a registered party under the provisions of [~~Subsections R307-8-7.A through E~~](2)(a) through (e) becomes incomplete or inaccurate, that party shall submit updated registration information to the executive secretary within 15 working days as defined in [~~Section~~]R307-[~~8~~]301-1. If the information required under [~~Subsection R307-8-7.F~~](2)(f) is to change, the updated registration information must be submitted to the executive secretary before the change is made.

[~~4.~~](4) No person shall participate in the oxygenated gasoline program as a CAR, blender CAR, carrier, reseller, or distributor until such person has been notified by the executive secretary that such person has been registered as a CAR, blender CAR, carrier, reseller, or distributor. Registration shall be valid for the time period specified by the executive secretary. The executive secretary

shall issue each CAR, blender CAR, carrier, reseller, or distributor a unique identification number within one calendar month of the petition for registration.

R307-[8]301-8. Recordkeeping[~~and Reporting~~].

[~~1.~~](1) Records. All parties in the gasoline distribution network, as described below, shall maintain records containing compliance information enumerated or described below. These records shall be retained by the regulated parties for a period of two years after the end of each control period for which the information is required.

[~~A.~~](a) Refiners. Refiners shall, for each separate quantity of gasoline produced or imported for use in a control area during a control period, maintain records containing the following information:

([~~1~~]i) results of the tests utilized to determine the types of oxygenates and percent by volume;

([~~2~~]ii) percent oxygenate content by volume of each oxygenate;

([~~3~~]iii) oxygen content by weight percent;

([~~4~~]iv) purity of each oxygenate;

([~~5~~]v) total volume of gasoline; and

([~~6~~]vi) the name and address of the party to whom each separate quantity of oxygenated gasoline was sold or transferred.

[~~B.~~](b) Control area terminal operators. Persons who own, lease, operate or control gasoline terminals which serve control areas, or any truck- or terminal-lessee who subleases any portion of a leased tank or terminal to other persons, shall maintain a copy of the transfer document for each batch or truckload of gasoline received, purchased, sold or dispensed, and shall maintain records containing the following information:

([~~1~~]i) the owner of each batch of gasoline handled by each regulated installation if known, or the storage customer of record;

([~~2~~]ii) volume of each batch or truckload of gasoline going into or out of the terminal;

([~~3~~]iii) for all batches or truckloads of gasoline leaving the terminal, the RWOC of the batch or truckload;

([~~4~~]iv) for each oxygenate, the type of oxygenate, purity if available, and percent oxygenate by volume;

([~~5~~]v) oxygen content by weight percent of all batches or truckloads received at the terminal;

([~~6~~]vi) destination, as defined in [~~Section~~]R307-[~~8~~]301-1, of each tank truck sale or batch of gasoline as declared by the purchaser of the gasoline;

([~~7~~]vii) the name and address of the party to whom the gasoline was sold or transferred and the date of the sale or transfer, and

([~~8~~]viii) the results of the tests for oxygenates, if performed, of each sale or transfer, and who performed the tests.

[~~C.~~](c) CARs and blender CARs. Each CAR must maintain records containing the information listed in [~~Subsection R307-8-8.1.B~~](b) above. Each CAR and blender CAR must maintain a copy of the transfer document for each shipment of gasoline received, purchased, sold or dispensed, as well as the records containing the following information:

([~~1~~]i) CAR or blender CAR identification number;

([~~2~~]ii) the name and address of the person from whom each shipment of gasoline was received, and the date when it was received;

([~~3~~]iii) data on each shipment of gasoline received, including:

([~~a~~]A) the volume of each shipment;

([~~b~~]B) type of oxygenate or oxygenates, and percentage by volume; and

([~~c~~]C) oxygen content by weight percent;

([~~4~~]iv) the volume of each receipt of bulk oxygenates;

([~~5~~]v) the name and address of the parties from whom bulk oxygenate was received;

([~~6~~]vi) the date and destination, as defined in [~~Section~~]R307-[~~8~~]301-1, of each sale of gasoline;

([~~7~~]vii) data on each shipment of gasoline sold or dispensed including:

([~~a~~]A) the volume of each shipment;

([~~b~~]B) type of each oxygenate, and percent by volume for each oxygenate, and

([~~c~~]C) oxygen content by weight percent;

([~~8~~]viii) documentation of the results of all tests done regarding the oxygen content of gasoline;

([~~9~~]ix) the names, addresses and CAR or blender CAR identification numbers of the parties to whom any gasoline was sold or dispensed, and the dates of these transactions; and

([~~10~~]x) in the case of CARs or blender CARs that elect to comply with the average oxygen content standard specified in [~~Section~~]R307-[~~8~~]301-3 by means of the compliance option specified in [~~Subsection R307-8-5.2~~]R307-301-5(2) must also maintain records containing the following information:

([~~a~~]A) records supporting and demonstrating compliance with the averaging standard specified in [~~Section~~]R307-[~~8~~]301-3; and

([~~b~~]B) for any credits bought, sold, traded, or transferred, the dates of the transactions, the names, addresses and CAR or bl ender CAR identification numbers of the CARs and blender CARs involved in the individual transactions, and the amount of credits transferred. Any credits transferred must be accompanied by a demonstration of how those credits were calculated. Adequate documentation that both parties have agreed to all credit transfers within 30 working days, as defined in [~~Section~~]R307-[~~8~~]301-1, following the close of the averaging period must be included.

[~~D.~~](d) Retailers and wholesale purchaser-consumers within a control area must maintain the following records:

([~~1~~]i) the names, addresses and CAR, blender CAR, carrier, distributor, or reseller identification numbers of the parties from whom all shipments of gasoline were purchased or received, and the dates when they were received and for each shipment of gasoline bought, sold or transported:

([~~a~~]A) the transfer document as specified in [~~Subsection R307-8-8.3~~]R307-301-8(3) and

([~~b~~]B) a copy of each contract for delivery of oxygenated gasoline and

([~~2~~]ii) data on every shipment of gasoline bought, sold or transported, including:

([~~a~~]A) volume of each shipment;

([~~b~~]B) for each oxygenate, the type, percent by volume and purity (if available);

([~~c~~]C) oxygen content by weight percent; and

([~~d~~]D) destination, as defined in [~~Section~~]R307-[~~8~~]301-1, of each sale or shipment of gasoline; and

([~~3~~]iii) the name and telephone number of the person responsible for maintaining the records and the address where the

records are located, if the location of the records is different from the station or outlet location.

[~~E.~~](e) Carriers, distributors, resellers, terminal operators, and oxygenate blenders must keep a copy of the transfer document for each truckload or shipment of gasoline received, obtained, purchased, sold or dispensed.

R307-301-9. Reports.

[~~2. Reports.~~

~~A.~~](1) Each CAR or blender CAR that elects to comply with the average oxygen content standard specified in [~~Section~~]R307-[~~8~~]301-3 by the compliance option specified in [~~Subsection R307-8-5.2~~]R307-301-5(2) shall submit a report to the executive secretary for each control period for each control area as defined in [~~Section~~]R307-[~~8~~]301-1 reflecting the compliance information detailed in [~~Subsection R307-8-5.2~~]R307-301-5(2).

[~~B.~~](2) Each CAR or blender CAR that elects to comply with the average oxygen content standard specified in [~~Section~~]R307-[~~8~~]301-3 shall submit a report to the executive secretary for each control period for each control area as defined in [~~Section~~]R307-[~~8~~]301-1 reflecting the compliance information detailed in [~~Subsection R307-8-5.3~~]R307-301-5(3), including the volume of oxygenated gasoline sold or dispensed into each control area during the control period.

[~~C.~~](3) The report is due 30 working days, as defined in [~~Section~~]R307-[~~8~~]301-1, after the last day of the control period for which the information is required. The report shall be filed using forms provided by the executive secretary.

R307-301-10. Transfer Documents.

[~~3. Transfer documents.~~]Each time that physical custody or title of gasoline destined for a control area changes hands other than when gasoline is sold or dispensed for use in motor vehicles at a retail outlet or wholesale purchaser-consumer installation, the transferor shall provide to the transferee, in addition to, or as part of, normal bills of lading, invoices, etc., a document containing information regarding that shipment. This document shall accompany every shipment of gasoline to a control area after it has been dispensed by a terminal, or the information shall be included in the normal paperwork which accompanies every shipment of gasoline. The information shall legibly and conspicuously contain the following information:

[~~A.~~](1) the date of the transfer;

[~~B.~~](2) the name, address, and CAR, blender CAR, carrier, distributor, or reseller identification number, if applicable, of the transferor;

[~~C.~~](3) the name, address, and CAR, blender CAR, carrier, distributor, or reseller identification number, if applicable, of the transferee;

[~~D.~~](4) the volume of gasoline which is being transferred;

[~~E.~~](5) identification of the gasoline as oxygenated or, if non-oxygenated, with a statement labeling it as "Non-oxygenated gasoline, not for sale to ultimate consumer in a control area during a control period";

[~~F.~~](6) the location of the gasoline at the time of the transfer;

[~~G.~~](7) type of each oxygenate and percentage by volume for each oxygenate;

[~~H.~~](8) oxygen content by weight percent; and

[~~I.~~](9) for gasoline which is in the gasoline distribution network between the refinery or import installation and the control area terminal, for each oxygenate used, the type of oxygenate, its purity and percentage by volume and the oxygen content by weight percent.

R307-[~~8-9~~]301-11. Prohibited Activities.

[~~1.~~](1) During the control period, no refiner, oxygenate blender, CAR, blender CAR, control area terminal operator, carrier, distributor or reseller may manufacturer, sell, offer for sale, dispense, supply, offer for supply, store, transport, or cause the transport of:

[~~A.~~](a) gasoline which contains less than 2.0% oxygen by weight, or 2.6% oxygen by weight if the average oxygen content standard is 3.1% oxygen, for use during the control period, in a control area unless clearly marked documents accompany the gasoline labeling it as "Non-oxygenated gasoline, not for sale to ultimate consumer in a control area during a control period"; or

[~~B.~~](b) gasoline represented as oxygenated which has an oxygen content which is improperly stated in the documents which accompany such gasoline.

[~~2.~~](2) No retailer or wholesale purchaser-consumer may dispense, offer for sale, sell or store, for use during the control period, gasoline which contains less than 2.0% oxygen by weight, or 2.6% oxygen by weight if the average oxygen content standard is 3.1% in a control area.

[~~3.~~](3) No person may operate as a CAR or blender CAR or hold themselves out as such unless they have been properly registered by the executive secretary. No CAR or blender CAR may offer for sale or store, sell, or dispense gasoline, to any person not registered as a CAR or blender CAR for use in a control area, unless:

[~~A.~~](a) the average oxygen content of the gasoline during the averaging period meets the standard established in [~~Section~~]R307-[~~8~~]301-3; and

[~~B.~~](b) the gasoline contains at least 2.0% oxygen by weight, or 2.6% oxygen by weight if the average oxygen content standard is 3.1% on a per-gallon basis.

[~~4.~~](4) For terminals which sell or dispense gasoline intended for use in a control area during a control period, the terminal owner or operator may not accept gasoline into the terminal unless:

[~~A.~~](a) transfer documentation containing the information specified in [~~Subsection R307-8-8.3~~]R307-301-8(3) accompanies the gasoline and

[~~B.~~](b) the terminal owner or operator conducts a quality assurance program to verify the accuracy of this information.

[~~5.~~](5) No person may sell or dispense non-oxygenated gasoline for use in any control area during the control period, unless:

[~~A.~~](a) the non-oxygenated gasoline is segregated from oxygenated gasoline;

[~~B.~~](b) clearly marked documents accompany the non-oxygenated gasoline labeling it as "non-oxygenated gasoline, not for sale to ultimate consumer in a control area during a control period," and

[~~C.~~](c) the non-oxygenated gasoline is in fact not sold or dispensed to ultimate consumers during the control period in the control area.

[~~6.~~](6) No named person may fail to comply with the recordkeeping and reporting requirements contained in [~~Section~~]R307-[~~8~~]301-8 through 10.

[~~7.~~](7) No person may sell, dispense or transfer oxygenated gasoline, except for use by the ultimate consumer at a retail outlet or wholesale purchaser-consumer installation, without transfer documents which accurately contain the information required by [~~Subsection R307-8-8.3~~]R307-301-10).

[~~8.~~](8) Liability for violations of the prohibited activities.

[~~A.~~](a) Where the gasoline contained in any storage tank at any installation owned, leased, operated, controlled or supervised by any retailer, wholesale purchaser-consumer, distributor, reseller, carrier, refiner, or oxygenate blender is found in violation of the prohibitions described in [~~Subsection R307-8-9.1.A or Subsection R307-8-9.2~~](1)(a) or (2) above, the following persons shall be in violation:

([~~1~~]i) the retailer, wholesale purchaser-consumer, distributor, reseller, carrier, refiner, or oxygenate blender who owns, leases, operates, controls or supervises the installation where the violation is found; and

([~~2~~]ii) each oxygenate blender, distributor, reseller, and carrier who, downstream of the control area terminal, sold, offered for sale, dispensed, supplied, offered for supply, stored, transported, or caused the transportation of any gasoline which is in the storage tank containing gasoline found to be in violation.

[~~B.~~](b) Where the gasoline contained in any storage tank at any installation owned, leased, operated, controlled or supervised by any retailer, wholesale purchaser-consumer, distributor, reseller, carrier, refiner, or oxygenate blender is found in violation of the prohibitions described in [~~Subsections R307-8-9.1.B or Subsection R307-8-9.2~~](1)(b) or (2) above, the following persons shall be in violation:

([~~1~~]i) the retailer, wholesale purchaser-consumer, distributor, reseller, carrier, refiner, or oxygenate blender who owns, leases, operates, controls or supervises the installation where the violation is found; and

([~~2~~]ii) each refiner, oxygenate blender, distributor, reseller, and carrier who manufactured, imported, sold, offered for sale, dispensed, supplied, offered for supply, stored, transported, or caused the transportation of any gasoline which is in the storage tank containing gasoline found to be in violation.

[~~9.~~](9) Defenses for prohibited activities.

[~~A.~~](a) In any case in which a refiner, oxygenate blender, distributor, reseller or carrier would be in violation under [~~Subsection R307-8-9.1~~](1) above, that person shall not be in violation if they can demonstrate that they meet all of the following:

([~~1~~]i) that the violation was not caused by the regulated party or its employee or agent;

([~~2~~]ii) that refiner, oxygenate blender, distributor, reseller or carrier possesses documents which should accompany the gasoline, which contain the information required by [~~Section~~]R307-[~~8~~]301-8; and

([~~3~~]iii) that refiner, oxygenate blender, distributor, reseller or carrier conducts a quality assurance sampling and testing program as described in [~~Subsection R307-8-9.10~~](10) below.

[~~B.~~](b) In any case in which a retailer or wholesale purchaser-consumer would be in violation under [~~Subsection R307-8-9.2~~](2) above, the retailer or wholesale purchaser-consumer shall not be in violation if it can demonstrate that they meet all of the following:

([~~1~~]i) that the violation was not caused by the regulated party or its employee or agent; and

([~~2~~]ii) that the retailer or wholesale purchaser-consumer possess documents which should accompany the gasoline, which contain the information required by [~~Section~~]R307-[~~8~~]301-8 through 10.

[~~C.~~](c) Where a violation is found at an installation which is operating under the corporate, trade or brand name of a refiner, that refiner must show, in addition to the defense elements required by [~~Subsection R307-8-9.9.A~~](a) above, that the violation was caused by any of the following:

([~~1~~]i) an act in violation of law (other than the Clean Air Act or [~~Rule~~]R307-[~~8~~]301), or an act of sabotage or vandalism, or

([~~2~~]ii) the action of a reseller, distributor, oxygenate blender, carrier, or a retailer, or wholesale purchaser-consumer which is supplied by any of the persons listed in [~~Subsection R307-8-9.9.A~~](a) above, in violation of a contractual undertaking imposed by the refiner designed to prevent such action, and despite periodic sampling and testing by the refiner to ensure compliance with such contractual obligation; or

([~~3~~]iii) the action of any carrier or other distributor not subject to a contract with the refiner but engaged by the refiner for transportation of gasoline, despite specification or inspection of procedures and equipment by the refiner or periodic sampling and testing which are reasonably calculated to prevent such action.

[~~D.~~](d) In [~~Section~~]R307-[~~8-9~~]301-8 through 11, the term "was caused" means that the party must demonstrate by specific showings or by direct evidence, that the violation was caused or must have been caused by another.

[~~10.~~](10) Quality Assurance Program. In order to demonstrate an acceptable quality assurance program, a party must conduct periodic sampling and testing to determine if the oxygenated gasoline has oxygen content which is consistent with the product transfer documentation.[

~~R307-8-10. Reserved.~~]

R307-[~~8-11~~]301-12. Labeling of Pumps.

[~~1.~~](1) Any person selling or dispensing oxygenated gasoline pursuant to [~~Rule~~]R307-[~~8~~]301 is required to label the fuel dispensing system with one of the following notices.

[~~A.~~](a) "The gasoline dispensed from this pump is oxygenated and will reduce carbon monoxide pollution from motor vehicles. This fuel contains up to (specify maximum percent by volume) (specific oxygenate or specific combination of oxygenates in concentrations of at least one percent)."

[~~B.~~](b) "The gasoline dispensed from this pump is oxygenated and will reduce carbon monoxide pollution from motor vehicles. This fuel contains up to (specify maximum percent by volume) (specific oxygenate or combination of oxygenates present in concentrations of at least one percent) from November 1 through February 29."

[~~2.~~](2) The label letters shall be block letters of no less than 20-point type, at least 1/16 inch stroke (width of type), and of a color that contrasts with the label background color. The label letters that specify maximum percent oxygenate by volume and that disclose the specific oxygenate shall be at least 1/2 inch in height, 1/16 inch stroke (width of type).

[~~3.~~](3) The label must be affixed to the upper one-half of the vertical surface of the pump on each side with gallonage and dollar amount meters from which gasoline can be dispensed and must be clearly readable to the public.

[~~4.~~](4) The retailer or wholesale purchaser-consumer shall be responsible for compliance with [~~Section~~]R307-[~~8-11~~]301-12.

R307-[~~8-12~~]301-13. Inspections.

Inspections of registered parties, control area retailers, refineries, control area terminals, oxygenate blenders and control area wholesale purchaser-consumers may include the following:

[~~1.~~](1) physical sampling, testing, and calculation of oxygen content of the gasoline as specified in [~~Section~~]R307-[~~8~~]301-4;

[~~2.~~](2) review of documentation relating to the oxygenated gasoline program, including but not limited to records specified in [~~Section~~]R307-[~~8~~]301-8; and

[~~3.~~](3) in the case of control area retailers and wholesale purchaser-consumers, verification that gasoline dispensing pumps are labeled in accordance with [~~Section~~]R307-[~~8-11~~]301-12.

R307-[~~8-13~~]301-14. Public and Industry Education Program.

The executive secretary shall provide to the affected public, mechanics, and industry information regarding the benefits of the program and other issues related to oxygenated gasoline.

KEY: air pollution control, motor vehicles, gasoline, petroleum
[~~October 10, 1996~~]1998 19-2-101
Notice of Continuation June 9, 1997 19-2-104

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Environmental Quality, Air Quality
R307-10
(Changed to R307-214)
National Emission Standards for Hazardous Air Pollutants

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 21111
FILED: 05/13/98, 12:07
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose is to change this rule to a new location fitting the new structure for all R307 rules. No substantive change is made.

SUMMARY OF THE RULE OR CHANGE: Rule R307-10 is being changed to Rule R307-214.
(**DAR Note:** For complete information on these changes, see the reorganization table in the "Special Notices" section of this *Bulletin*.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 19-2-104

ANTICIPATED COST OR SAVINGS TO:
❖THE STATE BUDGET: A small cost for renumbering the rule, learning new citations, and revising forms. In the long run, reduced cost in being able to find specific provisions more quickly.
❖LOCAL GOVERNMENTS: A small cost to learn new citations. In the long run, reduced cost in being able to find specific provisions more quickly.
❖OTHER PERSONS: A small cost to learn new citations. In the long run, reduced cost in being able to find specific provisions more quickly.
COMPLIANCE COSTS FOR AFFECTED PERSONS: A small cost to learn new citations. In the long run, reduced cost in being able to find specific provisions more quickly.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: A small cost to learn new citations. In the long run, reduced cost in being able to find specific provisions more quickly.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
Environmental Quality
Air Quality
150 North 1950 West
Box 144820
Salt Lake City, UT 84114-4820, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Jan Miller at the above address, by phone at (801) 536-4042, by FAX at (801) 536-4099, or by Internet E-mail at jmiller@deq.state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 07/01/1998; OR ATTENDING A PUBLIC HEARING SCHEDULED FOR 06/23/1998, 1:30 p.m., Room 201, Department of Environmental Quality (DEQ) Building, 168 North 1950 West, Salt Lake City, UT.

THIS RULE MAY BECOME EFFECTIVE ON: 08/06/1998

AUTHORIZED BY: Ursula K. Trueman, Director

R307. Environmental Quality, Air Quality.
R307-[~~10~~]214. National Emission Standards for Hazardous Air Pollutants.
R307-[~~10~~]214-1. Part 61 Sources.

The provisions of 40 Code of Federal Regulations (CFR) Part 61, National Emission Standards for Hazardous Air Pollutants, effective as of October 20, 1994, are incorporated into these rules by reference. For source categories delegated to the State, references in 40 CFR Part 61 to "the Administrator" shall refer to the Executive Secretary.

R307-[~~10~~]214-2. Part 63 Sources.

The provisions listed below of 40 CFR Part 63, National Emission Standards for Hazardous Air Pollutants for Source Categories, effective as of January 1, 1998, are incorporated into these rules by reference. References in 40 CFR Part 63 to "the Administrator" shall refer to the Executive Secretary, unless by federal law the authority is specific to the Administrator and cannot be delegated.

([~~a~~]1) 40 CFR Part 63, Subpart A, General Provisions.

([~~b~~]2) 40 CFR Part 63, Subpart B, Requirements for Control Technology Determinations for Major Sources in Accordance with 42 U.S.C. 7412(g) and (j).

([~~c~~]3) 40 CFR Part 63, Subpart F, National Emission Standards for Organic Hazardous Air Pollutants from the Synthetic Organic Chemical Manufacturing Industry.

([~~d~~]4) 40 CFR Part 63, Subpart G, National Emission Standards for Organic Hazardous Air Pollutants from the Synthetic Organic Chemical Manufacturing Industry for Process Vents, Storage Vessels, Transfer Operations, and Wastewater.

([~~e~~]5) 40 CFR Part 63, Subpart H, National Emission Standards for Organic Hazardous Air Pollutants for Equipment Leaks.

([~~f~~]6) 40 CFR Part 63, Subpart I, National Emission Standards for Organic Hazardous Air Pollutants for Certain Processes Subject to the Negotiated Regulation for Equipment Leaks.

([~~g~~]7) 40 CFR Part 63, Subpart L, National Emission Standards for Coke Oven Batteries.

([~~h~~]8) 40 CFR Part 63, Subpart M, National Perchloroethylene Air Emission Standards for Dry Cleaning Facilities.

([~~i~~]9) 40 CFR Part 63, Subpart N, National Emission Standards for Chromium Emissions From Hard and Decorative Chromium Electroplating and Chromium Anodizing Tanks.

([~~j~~]10) 40 CFR Part 63, Subpart O, National Emission Standards for Hazardous Air Pollutants for Ethylene Oxide Commercial Sterilization and Fumigation Operations.

([~~k~~]11) 40 CFR Part 63, Subpart Q, National Emission Standards for Hazardous Air Pollutants for Industrial Process Cooling Towers.

([~~l~~]12) 40 CFR Part 63, Subpart R, National Emission Standards for Gasoline Distribution Facilities (Bulk Gasoline Terminals and Pipeline Breakout Stations).

([~~m~~]13) 40 CFR Part 63, Subpart T, National Emission Standards for Halogenated Solvent Cleaning.

([~~n~~]14) 40 CFR Part 63, Subpart CC, National Emission Standards for Hazardous Air Pollutants from Petroleum Refineries.

([~~o~~]15) 40 CFR Part 63, Subpart DD, National Emission Standards for Hazardous Air Pollutants from Off-Site Waste and Recovery Operations.

([~~p~~]16) 40 CFR Part 63, Subpart EE, National Emission Standards for Magnetic Tape Manufacturing Operations.

([~~q~~]17) 40 CFR Part 63, Subpart GG, National Emission Standards for Aerospace Manufacturing and Rework Facilities.

([~~r~~]18) 40 CFR Part 63, Subpart JJ, National Emission Standards for Wood Furniture Manufacturing Operations.

([~~s~~]19) 40 CFR Part 63, Subpart KK, National Emission Standards for the Printing and Publishing Industry.

([~~t~~]20) 40 CFR Part 63, Subpart OO, National Emission Standards for Tanks - Level 1.

([~~u~~]21) 40 CFR Part 63, Subpart PP, National Emission Standards for Containers.

([~~v~~]22) 40 CFR Part 63, Subpart QQ, National Emission Standards for Surface Impoundments.

([~~w~~]23) 40 CFR Part 63, Subpart RR, National Emission Standards for Individual Drain Systems.

([~~x~~]24) 40 CFR Part 63, Subpart VV, National Emission Standards for Oil-Water Separators and Organic-Water Separators.

KEY: air pollution, hazardous air pollutant[s]*, MACT[s]*
[~~April 15, 1997~~]1998 19-2-104(1)(a)

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Environmental Quality, Air Quality
R307-11
(Changed to R307-320)
Employer-Based Trip Reduction Program

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 21112
FILED: 05/13/98, 12:08
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose is to change this rule to a new location fitting the new structure for all R307 rules. No substantive change is made.

SUMMARY OF THE RULE OR CHANGE: Rule R307-11 is being changed to Rule R307-320.
(**DAR Note:** For complete information on these changes, see the reorganization table in the "Special Notices" section of this *Bulletin*.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 19-2-104

ANTICIPATED COST OR SAVINGS TO:
❖THE STATE BUDGET: A small cost for renumbering the rule, learning new citations, and revising forms. In the long run, reduced cost in being able to find specific provisions more quickly.
❖LOCAL GOVERNMENTS: A small cost to learn new citations. In the long run, reduced cost in being able to find specific provisions more quickly.
❖OTHER PERSONS: A small cost to learn new citations. In the long run, reduced cost in being able to find specific provisions more quickly.
COMPLIANCE COSTS FOR AFFECTED PERSONS: A small cost to learn new citations. In the long run, reduced cost in being able to find specific provisions more quickly.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: A small cost to learn new citations. In the long run, reduced cost in being able to find specific provisions more quickly.

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Salt Lake City, UT 84114-4820, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Jan Miller at the above address, by phone at (801) 536-4042, by FAX at (801) 536-4099, or by Internet E-mail at jmiller@deq.state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 07/01/1998; OR ATTENDING A PUBLIC HEARING SCHEDULED FOR 06/23/1998, 1:30 p.m., Room 201, Department of Environmental Quality (DEQ) Building, 168 North 1950 West, Salt Lake City, UT.

THIS RULE MAY BECOME EFFECTIVE ON: 08/06/1998

AUTHORIZED BY: Ursula K. Trueman, Director

R307. Environmental Quality, Air Quality.
R307-[~~11~~]320. Davis, Salt Lake and Utah Counties, and Ogden City: Employer-Based Trip Reduction Program.
R307-[~~11~~]320-1. Purpose.

The purpose of this program is to reduce the number of measurable vehicle miles driven by employees commuting to and from work by requiring employers with work sites within Davis and Salt Lake Counties to implement strategies designed to reduce the employee drive-alone rate. Under the authority of 19-2-104(1)(h) and (2), an employer-based trip reduction program is a state implementation plan control strategy to reduce ambient measures of air pollution. An added benefit of the program is reducing the number of cars on increasingly congested roadways.

R307-[~~11~~]320-2. Applicability.

(1) R307-[~~11~~]320 applies to any federal, state, or local entity, or any other public department, district (including public universities and public school districts), or agency in Davis or Salt Lake County.

(2) If the Contingency Requirements for fine particulate are triggered as outlined in Section IX.A.8.b of the State Implementation Plan, R307-[~~11~~]320 applies to any federal, state, or local entity, or any other public department, district (including public universities and public school districts), or agency in Utah County.

(3) If the Contingency Requirements for carbon monoxide are triggered as outlined in Section IX.C.8.h of the State Implementation Plan, R307-[~~11~~]320 applies to any federal, state, or local entity, or any other public department, district (including public universities and public school districts), or agency in Ogden City.

R307-[~~11~~]320-3. Definitions.

The following additional definitions apply to R307-320:

"Compressed Work Week" means any work schedule which eliminates at least one commute trip to a work site in each two week period.

"Drive-alone Rate" means the number of single-occupancy vehicles divided by the sum of single-occupancy vehicles, plus employees using mass transit, ridesharing, biking, walking, telecommuting or having credit for a compressed work week. The drive-alone rate calculation must be based on a typical Monday through Friday work week.

Drive-alone Rate = single-occupancy vehicles/(single-occupancy vehicles + mass transit users + rideshare participants + bikers + walkers + telecommuters + credit for compressed work week).

"Employee" means any person including persons employed by public universities or school districts, who works at or reports to a single work site at least three days per week for at least six months of the year.

"Employee Transportation Coordinator" means a person assigned the responsibility of developing, implementing, monitoring, tracking, and marketing the trip reduction plan for the employer.

"Employer" means federal, state, or local entity, or any other public department, district (including public universities or public school districts), or agency.

"Peak Travel Period" means the period beginning at 6 a.m. and ending at 10 a.m., Mondays through Fridays.

"Ridesharing" means transportation of more than one person for commute purposes in a vehicle.

"Single-occupancy Vehicles" means vehicles traveling to the work site with a driver and no passengers during the peak travel period.

"Target Drive-alone Rate" means a twenty percent reduction in the drive alone rate based on the 1990 census data for modes of travel in each county. The target drive-alone rate schedule is as follows:

TABLE[~~1~~]
TARGET DRIVE-ALONE RATE SCHEDULE

	Davis County Drive-Alone Rate	Salt Lake County Drive-Alone Rate
From 1990 Census Data	0.76	0.77
1st year interim target drive-alone rate	0.72	0.73
2nd year interim target drive-alone rate	0.68	0.69
3rd year interim target drive-alone rate	0.67	0.67
4th year interim target drive-alone rate	0.65	0.65
5th year interim target drive-alone rate	0.63	0.64

6th year interim target drive-alone rate	0.61	0.62
Target drive-alone rate	0.61	0.62

"Telecommuting" means working at home or at a satellite work site, provided the employee does not use a single-occupancy vehicle to travel to the satellite work site.

"Trip Reduction Plan" means a set of strategies designed to reduce the drive-alone rate.

"Vehicle" means motorcycles and on-road vehicles powered by a gasoline or diesel internal combustion engine with nine or less seating positions for adults.

"Work Site" means a building and any group of buildings which are on physically contiguous parcels of land or on parcels separated solely by private or public roadways or rights-of way.

R307-[~~11~~]320-4. Employer Requirements.

(1) Each employer shall assign an employee trip reduction coordinator within 30 days after the effective date of [~~this rule~~]R307-320.

(2) Each employer shall determine the drive-alone rate per work site on an annual basis for a typical Monday through Friday work week during the peak travel period. The drive-alone rate can be determined by one of the following methods in (a), (b) or (c) below.

(a) Information from an annual employee survey.

(i) The employer must use a standardized survey approved by the executive secretary. The survey shall ask the travel distance from the employee's home to the work site, what frequency and mode of transportation the employee used to get to work, and how often the employee participates in a telecommuting program or compressed work week schedule.

(ii) The employer shall administer the survey and shall capture, at a minimum, 75% of the employee population arriving at the work site during the peak travel period.

(b) Verifiable information, less than one year old of the submittal due date, from employer records including:

(i) employee work schedules;

(ii) employee participation in telecommuting schedules;

(iii) employee participation of mass transit;

(iv) employee participation in rideshare arrangements; and

(v) employee participation in non-vehicular transit.

(c) Another method of the employer's choosing, with written approval from the executive secretary.

(3) Each employer shall design and submit to the executive secretary an approvable trip reduction plan for each work site to meet the target drive-alone rate as specified by the target drive-alone rate schedule in R307-[~~11~~]320-3.

(a) An employer may combine more than one work site in a trip reduction plan submittal.

(i) The target drive-alone rate for a multi-work site submission shall be a weighted average of the drive-alone rates for the individual work sites.

(ii) The employer may combine a trip reduction plan for any work site within the same county.

(b) The trip reduction plan submittal shall adhere to the following schedule:

(i) Submittal of a trip reduction plan shall be annually on or before the anniversary of the initial due date.

(ii) For employers within Salt Lake and Davis Counties:

(A) The trip reduction plan must be submitted for approval within 90 days after the employer has been notified.

(B) If the employer has not been notified, then the trip reduction plan must be submitted no later than 360 days after the effective date of this rule.

(iii) For employers within Utah County, the trip reduction plan must be submitted within 90 days after notification by the Division of Air Quality following triggering of contingency measures for PM10 under the provisions of Section IX.A.8.b of the State Implementation Plan.

(c) Materials and information submitted to the executive secretary shall include:

(i) A letter of commitment to fully implement an approved trip reduction plan signed by an authorized employee at the work site.

(ii) The name and signature of the employee transportation coordinator;

(iii) The drive-alone rate for the work site;

(iv) General work site information including name and address of organization; general layout of buildings and parking areas; location of major streets; location of nearby mass transit stops; number of total employees; number of employees arriving at the work site during peak travel periods; current and planned incentives, disincentives, and facilities available encouraging alternatives to single-occupant vehicle commuting; the type of activities conducted at the work site; and the time spent by the employee transportation coordinator in complying with the plan.

(d) A trip reduction plan designed to meet the target drive-alone rate schedule may include but is not limited to employer involvement in the following:

(i) Subsidized bus passes;

(ii) Rideshare matching programs;

(iii) Vanpool leasing programs;

(iv) Telecommuting programs;

(v) Compressed work week schedule programs and flexible work schedule programs;

(vi) Work site parking fee programs;

(vii) Preferential parking for rideshare participants;

(viii) Transportation for business related activities;

(ix) A guaranteed ride home program;

(x) On-site facility improvements;

(xi) Soliciting feedback from employees;

(xii) On-site daycare facilities;

(xiii) Coordination with local transit authorities for improved mass transit service and information on mass transit programs; and

(xiv) Recognition and rewards for employee participation.

(e) An approvable plan shall contain all the information required in R307-[~~11~~]320-4. The executive secretary shall approve or request revision of the trip reduction plan within 60 days of the plan submittal.

(4) Each employer shall implement a trip reduction plan approved by the executive secretary.

(5) Each employer shall inform employees of the trip reduction plan and options available to them for participation.

R307-[~~11~~]320-5. Recordkeeping.

(1) The employer shall keep records of all documents necessary to prove compliance with and verify implementation of an approved trip reduction plan for at least two years from the plan approval date.

(2) Approved trip reduction plans shall be kept for five years from date of approval.

(3) Employer trip reduction records are subject to review by representatives of the executive secretary.

R307-[~~11~~]320-6. Violations.

(1) The following are violations of this rule:

(a) failure to submit an approvable employer-based trip reduction plan as specified in R307-[~~11~~]320-4;

(b) providing false information;

(c) failure to submit a revised employer-based trip reduction plan when requested by the executive secretary;

(d) failure to implement an approved trip reduction plan;

(e) failure to maintain records as specified in R307-[~~11~~]320-5;

(f) upon receipt of the second disapproval notice and until a revised plan is submitted and approved, the employer is in violation of this rule.

(2) Failure to achieve the target drive-alone rate is not a violation of this rule.

R307-[~~11~~]320-7. Exemptions.

(1) An employer with less than 100 employees at a work site is exempt from the requirements of this rule.

(2) An employer who has met the target drive-alone rate is exempt from requirements stated in R307-[~~11~~]320-4[~~-~~](3) and (4). The employer must still submit the drive-alone rate information to the executive secretary annually.

(3) Employees using vehicles for commute purposes as part of their job responsibility for emergency response are exempt from the drive-alone rate determination if they do not have the option, because of employer policies, to participate in telecommuting programs, compressed work week schedules, or as a rideshare driver, as approved by the executive secretary.

(a) An employer seeking exemption status shall comply with all requirements of the rule until an exemption is granted.

(b) The executive secretary shall approve or deny a request for exemption within 90 days of application.

(4) Other exemptions may be granted on a case by case basis and must be approved by the executive secretary.

(a) The employer seeking exemption must be able to demonstrate that the trip reduction program causes an adverse impact on the employer's ability to provide services or creates an undue hardships.

(b) The employer may also seek an exemption by providing an alternative to the Trip Reduction Program that shows, at a minimum, for the work site seeking exemption, a reduction in oxides of nitrogen equivalent to that achieved by the Trip Reduction Program when implemented to the target drive-alone rate schedule in [~~Table 1 of this rule~~]the table in R307-320-3. The employer shall provide all substantiating information and calculations.

(c) An employer seeking exemption status shall comply with all requirements of the rule until an exemption is granted.

(d) The executive secretary shall approve or deny a request for exemption within 90 days of application.

KEY: air pollution, motor vehicles, trip reduction*
[~~September 16, 1996~~]1998 19-2-104

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Environmental Quality, Air Quality
R307-13
(Changed to R307-170)
Continuous Emission Monitoring Systems Program

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 21113
FILED: 05/13/98, 12:11
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose is to change this rule to a new location fitting the new structure for all R307 rules. No substantive change is made.

SUMMARY OF THE RULE OR CHANGE: Rule R307-13 is being changed to Rule R307-170.
(**DAR Note:** For complete information on these changes, see the reorganization table in the "Special Notices" section of this *Bulletin*.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 19-2-104

ANTICIPATED COST OR SAVINGS TO:
❖THE STATE BUDGET: A small cost for renumbering the rule, learning new citations, and revising forms. In the long run, reduced cost in being able to find specific provisions more quickly.
❖LOCAL GOVERNMENTS: A small cost to learn new citations. In the long run, reduced cost in being able to find specific provisions more quickly.
❖OTHER PERSONS: A small cost to learn new citations. In the long run, reduced cost in being able to find specific provisions more quickly.
COMPLIANCE COSTS FOR AFFECTED PERSONS: A small cost to learn new citations. In the long run, reduced cost in being able to find specific provisions more quickly.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: A small cost to learn new citations. In the long run, reduced cost in being able to find specific provisions more quickly.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
Environmental Quality
Air Quality
150 North 1950 West

Box 144820
Salt Lake City, UT 84114-4820, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Jan Miller at the above address, by phone at (801) 536-4042, by FAX at (801) 536-4099, or by Internet E-mail at jmiller@deq.state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 07/01/1998; OR ATTENDING A PUBLIC HEARING SCHEDULED FOR 06/23/1998, 1:30 p.m., Room 201, Department of Environmental Quality (DEQ) Building, 168 North 1950 West, Salt Lake City, UT.

THIS RULE MAY BECOME EFFECTIVE ON: 08/06/1998

AUTHORIZED BY: Ursula K. Trueman, Director

R307. Environmental Quality, Air Quality.
R307-[~~13~~]170. Continuous Emission Monitoring Systems Program.
R307-[~~13~~]170-1. Definitions[~~Applicable to R307-13~~].

The following additional definitions apply to R307-170:

[~~(A)~~]"Accuracy" means the exactness of a continuous emission monitoring system to correlate gaseous emissions or concentration to applicable EPA reference methods; 40 CFR 60 Appendix A.

[~~(B)~~]"Calibration Drift" means the difference in the continuous emission monitoring system output reading:

(1) For opacity monitors - from the calibration values after a stated period of normal continuous operation during which no unscheduled maintenance, repair, or adjustments took place; and

(2) For gas monitors - from the established reference value after a stated period of operation during which no unscheduled maintenance, repairs, or adjustments took place.

[~~(C)~~]"Clear Stack Calibration" means the off stack calibration of an opacity monitor under laboratory (clear) conditions, which simulate actual stack configurations.

[~~(D)~~]"Computer Enhancement" means computer manipulation of a monitor's response to a zero (low level) and span (high level) gas cell, cylinder gas, or neutral density filter value to correct for monitor drift.

[~~(E)~~]"Continuous Emission Monitoring System" (CEMS) means the total equipment required for the determination of opacity, or gaseous emission rate on a continuous basis.

[~~(F)~~]"Cylinder Gas Audit" (CGA) means the testing of a continuous emission monitoring system to determine its precision using an EPA protocol 1 or certified reference method gas.

[~~(G)~~]"EER" means excessive emission report. This applies to all sources required to report emissions to the executive secretary for other than compliance.

[~~(H)~~]"Excess Emissions" means an exceedance or exceedances of an emission limitation as outlined in these regulations, approval orders, consent decrees, administrative orders and agreements, or federal new source performance standards.

[~~(I)~~]"Monitor" means only the equipment in a continuous emission monitoring system that analyzes the concentration of the emission and transfers a signal to a recording device.

[~~(J)~~]"Monitor Tampering" means the unauthorized manipulation of a continuous emission monitoring system which results in the alteration of emission values from their true value.

[~~(K)~~]"Nonexempt Exceedance" means any exceedance which results from:

(1) failure to curtail production during an emission excursion when there is no threat to personnel safety or damage to equipment;

(2) bypassing control equipment in conditions other than start-up, shutdown, malfunction, or emergencies; or

(3) failure to maintain control equipment in good operational condition.

[~~(L)~~]"Notice of Violation" (NOV) means a notice issued pursuant to Section 19-2-110.

[~~(M)~~](1) "Out-of-Control Period" means:

(a) that period of time corresponding to the completion of the fifth consecutive daily calibration drift check with a calibration drift in excess of two times the allowable (performance specification 1 or 2) limit;

(b) the time corresponding to the completion of the daily calibration drift check that resulted in a calibration drift in excess of four times the allowable (performance specification 1 or 2) limit; or

(c) that period of time corresponding to the completion of sampling:

(i) for a relative accuracy test audit or relative accuracy audit, 20% opacity or 10% of the applicable standard, whichever is greater; or

(ii) for a cylinder gas audit, 15% error or 7.5% of the applicable standard, whichever is greater.

(2) The end of the out-of-control period is the time corresponding to the completion of the calibration drift check following corrective action that results in the calibration drift within the corresponding allowable calibration (performance specification 1 or 2) limit (i.e., either two times or four times the allowable performance specification 1 or 2 limit in 40 CFR 60 Appendix B).

(3) The end of an out-of-control period is after corrective actions taken that result in the calibration of the instrument corresponding with the completion of the subsequent successful relative accuracy test audit, relative accuracy audit, or cylinder gas audit.

[~~(N)~~]"Performance Specification" means the acceptable operational tolerances that a continuous emission monitoring system is required to respond to as outlined in 40 CFR 60.

[~~(O)~~]"Precision" means the exactness of a continuous emission monitoring system to identify the true value of a neutral density filter or calibration gas.

[~~(P)~~]"Quarterly Compliance Report" (QCR) means a quarterly report required to be submitted to the executive secretary. A Quarterly Compliance Report applies to all sources required under the Code of Federal Regulations, State Implementation Plan, approval orders, consent decrees, administrative orders, and agreements to show continuous compliance with emission limitations based on continuous emission monitoring system data.

[~~(Q)~~]"Quarterly Report" means any report required to be submitted by a source to the executive secretary on a quarterly basis throughout a calendar year to document emissions recorded by a continuous emission monitoring system. A quarterly report may be either an excessive emission report or a quarterly compliance report.

[~~(R)~~]"Raw Monitor Data" means the response generated by a monitor after it has evaluated the concentration of a pollutant or a diluent flue gas, gas cell, cylinder gas, or neutral density filter.

[~~(S)~~]"Relative Accuracy Audit" (RAA) means the testing of a continuous emission monitoring system using EPA reference methods 40 CFR 60 Appendix A (3 runs) to determine its precision.

[~~(T)~~]"Relative Accuracy Test Audit" (RATA) means the testing of a continuous emissions monitoring system using EPA reference methods 40 CFR 60 Appendix A (9 runs) to determine its accuracy.

[~~(U)~~]"Six Minute Period" means any one of 10 equal parts of one hour used in averaging opacity emissions.

[~~(V)~~]"Standard" means any operational requirement or calibration tolerances required in these regulations or 40 CFR 60 as referenced.

[~~(W)~~]"System Operational Audit" means the inspection of a source's maintenance records; continuous emissions monitoring system operational logbook, strip charts, data log, air pollution control equipment operational records and approval order; quarterly report and audit of the continuous emissions monitoring system. This audit is conducted to see what correlation exists between the quarterly report and the continuous emissions monitoring system data.

[~~(X)~~]"Trending" means the evaluation of quarterly reports (EER and QCR) over a two-year period to identify recurring problems.

R307-[~~13~~]170-2. Emission Monitoring Requirements.

The owner or operator of the following types of stationary air pollution sources shall install, calibrate, operate and maintain equipment, approved by the executive secretary, for the continuous monitoring and recording of emission data as specified below:

TABLE 1

EMISSION MONITORING REQUIREMENTS

SOURCE CATEGORY	EMISSIONS MONITORING REQUIREMENT
A. Fossil Fuel Fired Steam Generators (250 million BTU/hr for each boiler)	Opacity (excluded where only gaseous fuel is used or where no visible emissions standard is applicable). Sulfur dioxide (if sulfur dioxide control equipment has been installed).
B. Nitric Acid Plants (Production capacity 300 tons per day, expressed as 100% acid)	Nitrogen oxides.
C. Sulfur Burning Production Sulfuric Acid Plants (Production capacity 300 tons per day, 100% acid) average.	Sulfur dioxide (for each acid producing plant within the installation). Emission monitoring and reporting for sulfur dioxide will be based on 3 hour rolling expressed as
D. Fluid Bed Catalytic Cracking Unit Catalyst Regenerators.	Opacity (for each regeneration unit to which a visible emissions standard is applicable).

R307-[~~13~~]170-3. System Operational Audit Checks.

In determining the compliance status of all stationary sources which are required to install continuous emission monitoring systems, the executive secretary shall review and analyze Excess Emission Reports or Quarterly Compliance Reports. The compliance program will also utilize system operational audit checks of all continuous monitoring systems required to be installed and operated in the State of Utah. System operational audit checks shall be conducted on an annual basis, or more frequently if required by the executive secretary, to insure that real and accurate data are collected and reported as required by this regulation and federal regulations.

R307-[~~13~~]170-4. Minimum Performance Specifications.

Minimum performance specifications for all continuous monitoring systems are those contained in 40 CFR, Part 60, Appendix B and 40 CFR, Part 51, Appendix P.

R307-[~~13~~]170-5. Applicability.

[~~5.A.~~](1) This rule applies to sources required to install continuous emission monitoring system equipment and report to the executive secretary any emissions or operating parameters as required by the following documents:

([~~1~~]a) Federal, New Source Performance Standards (NSPS);

([~~2~~]b) State Implementation Plan;

([~~3~~]c) Approval Orders;

([~~4~~]d) Consent Decrees; or

([~~5~~]e) Administrative Orders and Agreements.

[~~5.B.~~](2) Any source that constructs after the promulgation of this regulation two or more emission point sources, which may interfere with visible emissions observations, shall install an opacity monitor on each stack, duct or vent that has a visible emission limitation. Such sources are required to show compliance to visible emission limitations using an opacity monitor.

R307-[~~13~~]170-6. Recordkeeping.

All continuous monitoring data shall be kept by the source for a minimum period of two years after the date on which emissions occurred and shall be made available to the executive secretary upon request.

R307-[~~13~~]170-7. Technical Requirements and Specifications.

[~~7.A~~](1) Calibration drift - Precision.

([~~1~~]a) Daily zero (low level) and precision span (high level) adjustment checks shall be made using procedures recommended by the monitor manufacturer. Daily records shall be kept of all 24-hour precision instrument adjustment checks. Monitors installed prior to the promulgation of this regulation that cannot perform a zero adjustment may be used. However, when these monitors are replaced, they shall be replaced with monitors that can perform a zero adjustment.

([~~2~~]b) All calibration drift shall be calculated from raw monitor data. Computer enhancements to correct for excessive monitor drift are not considered to be monitor calibrations. Any monitor which exceeds the calibration drift values in [~~R307-13-7.A(2)(a) or R307-13-7.A(2)(b)~~](i) or (ii) below shall be considered out of control.

([~~a~~]i) Equation A - The calibration drift exceeds two times the performance specification number for five consecutive days, or

([~~b~~]ii) Equation B - The calibration drift exceeds four times the performance specification number for any 24-hour period.

[~~7.B.~~](2) Audit/Test Procedures - Accuracy. All sources required to install an opacity monitor shall conduct a clear stack calibration as directed by the executive secretary. A zero bias greater than a plus or minus 4% is unacceptable. All clear stack calibration test data shall be kept for two years and made available to the executive secretary on request. Monitors installed prior to the promulgation of this regulation that can not perform a clear stack calibration are exempt from the clear stack calibration requirement. However, when the monitors are replaced, they shall be replaced with monitors that can meet this requirement. All sources required to install a gaseous continuous emission monitoring system shall conduct an annual calibration. This calibration may be incorporated with testing requirements found in [~~Section R307-1-3.4~~]R307-165 (Emission Testing)[~~of these regulations~~], or as directed by the executive secretary. The three acceptable calibration procedures are found in Table [~~1~~]2 below. Sources required to demonstrate compliance to emission limitations with gaseous continuous emission monitoring system shall conduct quarterly calibration audits. At no time shall a relative accuracy test audit be separated by more than three quarters of either cylinder gas audits or relative accuracy audits by a source required to conduct quarterly calibration audits. If a continuous emission monitoring system does not demonstrate acceptable calibration during the audit, the instrument will be declared out of control.

TABLE [~~1~~]2

CALIBRATION PROCEDURES

PROCEDURES	# OF RUNS	STANDARD
Relative Accuracy Test Audit (RATA)	9	(1)20%
Relative Accuracy Audit (RAA)	3	20%
Cylinder Gas Audit (CGA)	3	15%

[~~——~~](1)Subject to 40 CFR 60 Requirements

[~~7.C~~](3) When a monitor is out of control, the source shall notify the executive secretary, within 24 hours and document the problem in that quarter's quarterly report (EER or QCR). Data collected during out-of-control periods shall not be averaged in the quarterly report emission data. The source shall recalibrate the monitor to the appropriate calibration drift performance specification. The date and time the monitor is calibrated shall be documented in that quarter's quarterly report (EER or QCR) comment section for continuous emission monitoring failures.

[~~7.D~~](4) Notification. The source shall notify the executive secretary in writing, at least 30 days prior to conducting a Relative Accuracy Test Audit.

[~~7.E~~](5) Monitor Tampering. Tampering with monitoring equipment is a violation of this regulation.

[~~7.F~~](6) Monitoring Bypass. If emissions are bypassed from a continuous emission monitoring system, emission data shall be obtained using an appropriate reference method; Appendix A, 40 CFR 60.

R307-[~~13~~]170-8. Reason Categories for Exceedances of Emission Limitations.

[~~8.A~~](1) Control Equipment Failures. The control equipment failure category includes on-site failures of control equipment. It does not include fuel, conveying equipment, boilers, or other industrial process equipment failures. Operational problems (e.g., load change) are not included. When distinguishing between process and control equipment, any equipment necessary for the process would be considered as process equipment even though it may have a role in emissions control (i.e., I.D. fan).

[~~8.B~~](2) Downtime. "Downtime" means the period of time between shutdown and start-up in which the affected source has temporarily ceased operation.

[~~8.C~~](3) Start-up. As defined in 40 CFR 60.2, "start-up" means "the setting in operation of an affected source for any purpose." Excess emissions which occur during start-up that are caused by air pollution control equipment failure or a process problem should be reported either as a control equipment failure or as a process problem. All other excess emissions during start-up should be reported under "start-up" even though there may have been some additional intervening cause.

[~~8.D~~](4) Malfunctions. Under 40 CFR 60.11(c)a source is excused for noncompliance with opacity standards during malfunctions. However, 40 CFR 60.11(d) requires that such a source must still comply with good air pollution control practices to minimize emissions. Effective implementation of 40 CFR 60.11(d), in this regard, will normally require further review of the underlying report and communication with the source.

[~~8.E~~](5) Operator Error. Emissions which exceed the standard as a result of operator error are non-exempt.

[~~8.F~~](6) Other Known Causes. This category is intended to cover other causes of excess emissions not already covered, such as excess emissions during control equipment maintenance.

[~~8.G~~](7) Process Problems. The "process problem" category is intended to cover on-site equipment failures other than control equipment. Operational problems (e.g., load change) would also be covered. When distinguishing between process and control equipment, any equipment necessary for the process would be considered process equipment, even though it may have a role in emissions control (e.g., I.D. fan).

[~~8.H~~](8) Shutdown. As defined in 40 CFR 60.2, "shutdown" means "the cessation of operation of an affected source for any purpose." Excess emissions which occur during shutdown that are caused by air pollution control equipment failure should be reported as a control equipment failure. The process of shutting down should not be confused with periods of downtime after the completion of the actual shutdown. All excess emissions occurring during periods of downtime should be reported and corrective actions taken by the company to prevent their recurrence.

[~~8.I~~](9) Unknown Causes. The "unknown causes" category is intended to apply to all excess emissions for which the operator must guess at the reason (even though his guess might be a good one). It would not apply to an equipment failure when the reason for failure is not known.

R307-[~~13~~]170-9. Categories of Monitor Performance to Be Used in the Quarterly Reports.

[~~9.A~~](1) Monitor Equipment Malfunctions. The "monitor equipment malfunction" category refers only to the monitor equipment, and not to accessory equipment such as the computer data log or strip chart recorder. "Malfunction" refers to any period during which the monitor is not operating or is producing inaccurate data, except during periods of calibration, maintenance, or other quality assurance activities.

[~~9.B~~](2) Non-Monitor Equipment Malfunctions. The "non-monitor equipment malfunction" category refers to all equipment other than the monitor equipment that is necessary to transfer, interpret, and record data sent from the monitor.

[~~9.C~~](3) Other Known Causes. The "other known causes" category includes all other known reasons for monitoring downtime or inaccuracy.

[~~9.D~~](4) Unknown Causes. The "unknown causes" category includes circumstances in which there is inaccurate or no data without an apparent explanation. For example, a data recorder fails and produces inaccurate data, and the reason for failure is not known, this would be categorized under "non-monitor equipment malfunction." However, if data is clearly inaccurate, and a data recorder failure is suspected but cannot be determined, it should be classified as "Unknown Causes".

KEY: air pollution, monitoring*
[~~August 15, 1995~~]1998 **19-2-101**
19-2-104(1)(c)

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Environmental Quality, Air Quality
R307-14
Requirements for Ozone Nonattainment Areas and Davis and Salt Lake Counties

NOTICE OF PROPOSED RULE
(Repeal)
DAR FILE NO.: 21102
FILED: 05/13/98, 11:56
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose is to organize the language from this rule in a new location fitting the new structure for all R307 rules. No substantive change is made.

SUMMARY OF THE RULE OR CHANGE: This rule is repealed in its entirety.

(**DAR Note:** The language from Rule R307-14 is being organized to form the new Rules R307-325 (DAR No. 21132), R307-326 (DAR No. 21133), R307-327 (DAR No. 21134), R307-328 (DAR No. 21135), R307-332 (DAR No. 21136), R307-335 (DAR No. 21137), R307-340 (DAR No. 21138), and R307-341 (DAR No. 21139) in this *Bulletin.* For complete information on these changes, see the reorganization table in the "Special Notices" section of this *Bulletin.*)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 19-2-104

ANTICIPATED COST OR SAVINGS TO:
❖THE STATE BUDGET: A small cost for renumbering the rule, learning new citations, and revising forms. In the long run, reduced cost in being able to find specific provisions more quickly.
❖LOCAL GOVERNMENTS: A small cost to learn new citations. In the long run, reduced cost in being able to find specific provisions more quickly.
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COMPLIANCE COSTS FOR AFFECTED PERSONS: A small cost to learn new citations. In the long run, reduced cost in being able to find specific provisions more quickly.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: A small cost to learn new citations. In the long run, reduced cost in being able to find specific provisions more quickly.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
Environmental Quality
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150 North 1950 West
Box 144820
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DIRECT QUESTIONS REGARDING THIS RULE TO:
Jan Miller at the above address, by phone at (801) 536-4042, by FAX at (801) 536-4099, or by Internet E-mail at jmiller@deq.state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 07/01/1998; OR ATTENDING A PUBLIC HEARING SCHEDULED FOR 06/23/1998, 1:30 p.m., Room 201, Department of Environmental Quality (DEQ) Building, 168 North 1950 West, Salt Lake City, UT.

THIS RULE MAY BECOME EFFECTIVE ON: 08/06/1998

AUTHORIZED BY: Ursula K. Trueman, Director

{**DAR Note:** Because of publication constraints, the text of this rule is not printed in this *Bulletin*, but is published by reference to a copy on file at the Division of Administrative Rules. The text may also be inspected at the agency (address above) or in the *Utah Administrative Code* which is available at any state depository library.}

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Environmental Quality, Air Quality
R307-15
(Changed to R307-415)
Operating Permit Requirements

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 21114
FILED: 05/13/98, 12:11
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose is to change this rule to a new location fitting the new structure for all R307 rules. No substantive change is made.

SUMMARY OF THE RULE OR CHANGE: Rule R307-15 is being changed to Rule R307-415.
(**DAR Note:** For complete information on these changes, see the reorganization table in the "Special Notices" section of this *Bulletin*.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 19-2-104
FEDERAL REQUIREMENT FOR THIS RULE: 40 CFR 70

ANTICIPATED COST OR SAVINGS TO:
❖THE STATE BUDGET: A small cost for renumbering the rule, learning new citations, and revising forms. In the long run, reduced cost in being able to find specific provisions more quickly.
❖LOCAL GOVERNMENTS: A small cost to learn new citations. In the long run, reduced cost in being able to find specific provisions more quickly.
❖OTHER PERSONS: A small cost to learn new citations. In the long run, reduced cost in being able to find specific provisions more quickly.
COMPLIANCE COSTS FOR AFFECTED PERSONS: A small cost to learn new citations. In the long run, reduced cost in being able to find specific provisions more quickly.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: A small cost to learn new citations. In the long run, reduced cost in being able to find specific provisions more quickly.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
Environmental Quality
Air Quality
150 North 1950 West
Box 144820
Salt Lake City, UT 84114-4820, or
at the Division of Administrative Rules.

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AUTHORIZED BY: Ursula K. Trueman, Director

R307. Environmental Quality, Air Quality.
R307-415. Permits: Operating Permit Requirements.
R307-415-1. Purpose.

Title V of the Clean Air Act (the Act) requires states to develop and implement a comprehensive air quality permitting program. Title V of the Act does not impose new substantive requirements. Title V does require that sources subject to [~~this rule~~]R307-415 pay a fee and obtain a renewable operating permit that clarifies, in a single document, which requirements apply to a source and assures the source's compliance with those requirements. The purpose of [~~this rule~~]R307-415 is to establish the procedures and elements of such a program.

R307-415-2. Authority.

[~~This rule~~]R307-415 is required by Title V of the Act and 40 Code of Federal Regulations (CFR) Part 70, and is adopted under the authority of Section 19-2-104.

R307-415-3. Definitions.

(1) The definitions contained in [~~R307-1-1~~]R307-101-2 apply throughout [~~this rule~~]R307-415, except as specifically provided in (2).

(2) The following additional definitions apply to R307-415.

"Act" means the Clean Air Act, as amended, 42 U.S.C. 7401, et seq.

"Administrator" means the Administrator of EPA or his or her designee.

"Affected States" are all states:

(a) Whose air quality may be affected and that are contiguous to Utah; or

(b) That are within 50 miles of the permitted source.

"Air Pollutant" means an air pollution agent or combination of such agents, including any physical, chemical, biological, or radioactive (including source material, special nuclear material, and

byproduct material) substance or matter which is emitted into or otherwise enters the ambient air. Such term includes any precursors to the formation of any air pollutant, to the extent the Administrator has identified such precursor or precursors for the particular purpose for which the term air pollutant is used.

"Applicable requirement" means all of the following as they apply to emissions units in a Part 70 source, including requirements that have been promulgated or approved by the Board or by the EPA through rulemaking at the time of permit issuance but have future-effective compliance dates:

(a) Any standard or other requirement provided for in the State Implementation Plan;

(b) Any term or condition of any approval order issued under [~~R307-1-3~~]R307-401;

(c) Any standard or other requirement under Section 111 of the Act, Standards of Performance for New Stationary Sources, including Section 111(d);

(d) Any standard or other requirement under Section 112 of the Act, Hazardous Air Pollutants, including any requirement concerning accident prevention under Section 112(r)(7) of the Act;

(e) Any standard or other requirement of the Acid Rain Program under Title IV of the Act or the regulations promulgated thereunder;

(f) Any requirements established pursuant to Section 504(b) of the Act, Monitoring and Analysis, or Section 114(a)(3) of the Act, Enhanced Monitoring and Compliance Certification;

(g) Any standard or other requirement governing solid waste incineration, under Section 129 of the Act;

(h) Any standard or other requirement for consumer and commercial products, under Section 183(e) of the Act;

(i) Any standard or other requirement of the regulations promulgated to protect stratospheric ozone under Title VI of the Act, unless the Administrator has determined that such requirements need not be contained in an operating permit;

(j) Any national ambient air quality standard or increment or visibility requirement under part C of Title I of the Act, but only as it would apply to temporary sources permitted pursuant to Section 504(e) of the Act;

(k) Any standard or other requirement under rules adopted by the Board.

"Area source" means any stationary source that is not a major source.

"Designated representative" shall have the meaning given to it in Section 402 of the Act and in 40 CFR Section 72.2, and applies only to Title IV affected sources.

"Draft permit" means the version of a permit for which the Executive Secretary offers public participation under [~~R307-15-7(9)~~]R307-415-7i or affected State review under R307-415-8(2).

"Emissions allowable under the permit" means a federally-enforceable permit term or condition determined at issuance to be required by an applicable requirement that establishes an emissions limit, including a work practice standard, or a federally-enforceable emissions cap that the source has assumed to avoid an applicable requirement to which the source would otherwise be subject.

"Emissions unit" means any part or activity of a stationary source that emits or has the potential to emit any regulated air pollutant or any hazardous air pollutant. This term is not meant to alter or affect the definition of the term "unit" for purposes of Title IV of the Act, Acid Deposition Control.

"Final permit" means the version of an operating permit issued by the Executive Secretary that has completed all review procedures required by R307-415-7a through 7i and R307-415-8.

"General permit" means an operating permit that meets the requirements of [~~R307-15-6(4)~~]R307-415-6d.

"Hazardous Air Pollutant" means any pollutant listed by the Administrator as a hazardous air pollutant under Section 112(b) of the Act.

"Major source" means any stationary source (or any group of stationary sources that are located on one or more contiguous or adjacent properties, and are under common control of the same person (or persons under common control)) belonging to a single major industrial grouping and that are described in paragraphs (a), (b), or (c) of this definition. For the purposes of defining "major source," a stationary source or group of stationary sources shall be considered part of a single industrial grouping if all of the pollutant emitting activities at such source or group of sources on contiguous or adjacent properties belong to the same Major Group (all have the same two-digit code) as described in the Standard Industrial Classification Manual, 1987. Emissions resulting directly from an internal combustion engine for transportation purposes or from a non-road vehicle shall not be considered in determining whether a stationary source is a major source under this definition.

(a) A major source under Section 112 of the Act, Hazardous Air Pollutants, which is defined as: for pollutants other than radionuclides, any stationary source or group of stationary sources located within a contiguous area and under common control that emits or has the potential to emit, in the aggregate, ten tons per year or more of any hazardous air pollutant or 25 tons per year or more of any combination of such hazardous air pollutants. Notwithstanding the preceding sentence, emissions from any oil or gas exploration or production well, with its associated equipment, and emissions from any pipeline compressor or pump station shall not be aggregated with emissions from other similar units, whether or not such units are in a contiguous area or under common control, to determine whether such units or stations are major sources.

(b) A major stationary source of air pollutants, as defined in Section 302 of the Act, that directly emits or has the potential to emit, 100 tons per year or more of any air pollutant, including any major source of fugitive emissions or fugitive dust of any such pollutant as determined by rule by the Administrator. The fugitive emissions or fugitive dust of a stationary source shall not be considered in determining whether it is a major stationary source for the purposes of Section 302(j) of the Act, unless the source belongs to any one of the following categories of stationary source:

(i) Coal cleaning plants with thermal dryers;

(ii) Kraft pulp mills;

(iii) Portland cement plants;

(iv) Primary zinc smelters;

(v) Iron and steel mills;

(vi) Primary aluminum ore reduction plants;

(vii) Primary copper smelters;

(viii) Municipal incinerators capable of charging more than 250 tons of refuse per day;

(ix) Hydrofluoric, sulfuric, or nitric acid plants;

(x) Petroleum refineries;

(xi) Lime plants;

(xii) Phosphate rock processing plants;

(xiii) Coke oven batteries;

(xiv) Sulfur recovery plants;
(xv) Carbon black plants, furnace process;
(xvi) Primary lead smelters;
(xvii) Fuel conversion plants;
(xviii) Sintering plants;
(xix) Secondary metal production plants;
(xx) Chemical process plants;
(xxi) Fossil-fuel boilers, or combination thereof, totaling more than 250 million British thermal units per hour heat input;
(xxii) Petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels;
(xxiii) Taconite ore processing plants;
(xxiv) Glass fiber processing plants;
(xxv) Charcoal production plants;
(xxvi) Fossil-fuel-fired steam electric plants of more than 250 million British thermal units per hour heat input;
(xxvii) All other stationary source categories regulated by a standard promulgated under Section 111 of the Act, Standards of Performance for New Stationary Sources, or Section 112 of the Act, Hazardous Air Pollutants, but only with respect to those air pollutants that have been regulated for that category.

(c) A major stationary source as defined in part D of Title I of the Act, Plan Requirements for Nonattainment Areas, including:

(i) For ozone nonattainment areas, sources with the potential to emit 100 tons per year or more of volatile organic compounds or oxides of nitrogen in areas classified as "marginal" or "moderate," 50 tons per year or more in areas classified as "serious," 25 tons per year or more in areas classified as "severe," and 10 tons per year or more in areas classified as "extreme"; except that the references in this paragraph to 100, 50, 25, and 10 tons per year of nitrogen oxides shall not apply with respect to any source for which the Administrator has made a finding, under Section 182(f)(1) or (2) of the Act, that requirements under Section 182(f) of the Act do not apply;

(ii) For ozone transport regions established pursuant to Section 184 of the Act, sources with the potential to emit 50 tons per year or more of volatile organic compounds;

(iii) For carbon monoxide nonattainment areas that are classified as "serious" and in which stationary sources contribute significantly to carbon monoxide levels as determined under rules issued by the Administrator, sources with the potential to emit 50 tons per year or more of carbon monoxide;

(iv) For PM-10 particulate matter nonattainment areas classified as "serious," sources with the potential to emit 70 tons per year or more of PM-10 particulate matter.

"Non-Road Vehicle" means a vehicle that is powered by an internal combustion engine (including the fuel system), that is not a self-propelled vehicle designed for transporting persons or property on a street or highway or a vehicle used solely for competition, and is not subject to standards promulgated under Section 111 of the Act (New Source Performance Standards) or Section 202 of the Act (Motor Vehicle Emission Standards).

"Operating permit" or "permit," unless the context suggests otherwise, means any permit or group of permits covering a Part 70 source that is issued, renewed, amended, or revised pursuant to these rules.

"Part 70 Source" means any source subject to the permitting requirements of [~~this rule~~]R307-415, as provided in R307-415-4.

"Permit modification" means a revision to an operating permit that meets the requirements of [~~R307-15-7(6)~~]R307-415-7f.

"Permit revision" means any permit modification or administrative permit amendment.

"Permit shield" means the permit shield as described in [~~R307-15-6(6)~~]R307-415-6f.

"Proposed permit" means the version of a permit that the Executive Secretary proposes to issue and forwards to EPA for review in compliance with R307-415-8.

"Regulated air pollutant" means any of the following:

([~~1~~]a) Nitrogen oxides or any volatile organic compound;

([~~2~~]b) Any pollutant for which a national ambient air quality standard has been promulgated;

([~~3~~]c) Any pollutant that is subject to any standard promulgated under Section 111 of the Act, Standards of Performance for New Stationary Sources;

([~~4~~]d) Any Class I or II substance subject to a standard promulgated under or established by Title VI of the Act, Stratospheric Ozone Protection;

([~~5~~]e) Any pollutant subject to a standard promulgated under Section 112, Hazardous Air Pollutants, or other requirements established under Section 112 of the Act, including Sections 112(g), (j), and (r) of the Act, including any of the following:

(i) Any pollutant subject to requirements under Section 112(j) of the Act, Equivalent Emission Limitation by Permit. If the Administrator fails to promulgate a standard by the date established pursuant to Section 112(e) of the Act, any pollutant for which a subject source would be major shall be considered to be regulated on the date 18 months after the applicable date established pursuant to Section 112(e) of the Act;

(ii) Any pollutant for which the requirements of Section 112(g)(2) of the Act (Construction, Reconstruction and Modification) have been met, but only with respect to the individual source subject to Section 112(g)(2) requirement.

"Renewal" means the process by which a permit is reissued at the end of its term.

"Responsible official" means one of the following:

([~~1~~]a) For a corporation: a president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation, or a duly authorized representative of such person if the representative is responsible for the overall operation of one or more manufacturing, production, or operating facilities applying for or subject to a permit and either:

(i) the operating facilities employ more than 250 persons or have gross annual sales or expenditures exceeding $25 million in second quarter 1980 dollars; or

(ii) the delegation of authority to such representative is approved in advance by the Executive Secretary;

([~~2~~]b) For a partnership or sole proprietorship: a general partner or the proprietor, respectively;

([~~3~~]c) For a municipality, State, Federal, or other public agency: either a principal executive officer or ranking elected official. For the purposes of [~~this rule~~]R307-415, a principal executive officer of a Federal agency includes the chief executive officer having responsibility for the overall operations of a principal geographic unit of the agency;

([~~4~~]d) For Title IV affected sources:

(i) The designated representative in so far as actions, standards, requirements, or prohibitions under Title IV of the Act, Acid Deposition Control, or the regulations promulgated thereunder are concerned;

(ii) The responsible official as defined above for any other purposes under [~~this rule~~]R307-415.

"Stationary source" means any building, structure, facility, or installation that emits or may emit any regulated air pollutant or any hazardous air pollutant.

"Title IV Affected source" means a source that contains one or more affected units as defined in Section 402 of the Act and in 40 CFR, Part 72.

R307-4415-4. Applicability.

(1) Part 70 sources. All of the following sources are subject to the permitting requirements of [~~this rule~~]R307-415, and unless exempted under [~~paragraph~~](2) below are required to submit an application for an operating permit:

(a) Any major source;

(b) Any source, including an area source, subject to a standard, limitation, or other requirement under Section 111 of the Act, Standards of Performance for New Stationary Sources;

(c) Any source, including an area source, subject to a standard or other requirement under Section 112 of the Act, Hazardous Air Pollutants, except that a source is not required to obtain a permit solely because it is subject to regulations or requirements under Section 112(r) of the Act, Prevention of Accidental Releases;

(d) Any Title IV affected source.

(2) Source category exemptions. The following source categories are exempted from the requirement to obtain an operating permit.

(a) All sources and source categories that would be required to obtain a permit solely because they are subject to 40 CFR Part 60, Subpart AAA - Standards of Performance for New Residential Wood Heaters;

(b) All sources and source categories that would be required to obtain a permit solely because they are subject to 40 CFR Part 61, Subpart M - National Emission Standard for Hazardous Air Pollutants for Asbestos, Section 61.145, Standard for Demolition and Renovation. For Part 70 sources, demolition and renovation activities within the source under 40 CFR 61.145 shall be treated as a separate source for the purpose of [~~this rule~~]R307-415.

(3) Emissions units and Part 70 sources.

(a) For major sources, the Executive Secretary shall include in the permit all applicable requirements for all relevant emissions units in the major source.

(b) For any area source subject to the operating permit program under R307-415-4(1) or (2), the Executive Secretary shall include in the permit all applicable requirements applicable to emissions units that cause the source to be subject to the operating permit program.

(4) Fugitive emissions. Fugitive emissions and fugitive dust from a Part 70 source shall be included in the permit application and the operating permit in the same manner as stack emissions, regardless of whether the source category in question is included in the list of source categories contained in the definition of major source.

(5) Control requirements. [~~This rule~~]R307-415 does not establish any new control requirements beyond those established by applicable requirements, but may establish new monitoring, recordkeeping, and reporting requirements.

(6) Synthetic minors. An existing source that wishes to avoid designation as a major Part 70 source under [~~this rule~~]R307-415, must obtain federally-enforceable conditions which reduce the potential to emit, as defined in [~~R307-1-1~~]R307-101-2, to less than the level established for a major Part 70 source. Such federally-enforceable conditions may be obtained by applying for and receiving an approval order under [~~R307-1-3~~]R307-401. The approval order shall contain periodic monitoring, recordkeeping, and reporting requirements sufficient to verify continuing compliance with the conditions which would reduce the source's potential to emit.

R307-4415-5a. Permit Applications: Duty to Apply.

[~~(1) Duty to apply.~~]For each Part 70 source, the owner or operator shall submit a timely and complete permit application. A pre-application conference may be held at the request of a Part 70 source or the Executive Secretary to assist a source in submitting a complete application.

([~~a~~]1) Timely application.

([~~i~~]a) Except as provided in the transition plan under [~~R307-15-5(1)(c)~~](3) below, a timely application for a source applying for an operating permit for the first time is one that is submitted within 12 months after the source becomes subject to the permit program.

([~~ii~~]b) Except as provided in the transition plan under [~~R307-15-5(1)(c)~~](3) below, any Part 70 source required to meet the requirements under Section 112(g) of the Act, Hazardous Air Pollutant Modifications, or required to receive an approval order to construct a new source or modify an existing source under [~~R307-1-3~~]R307-401, shall file a complete application to obtain an operating permit or permit revision within 12 months after commencing operation of the newly constructed or modified source. Where an existing operating permit would prohibit such construction or change in operation, the source must obtain a permit revision before commencing operation.

([~~iii~~]c) For purposes of permit renewal, a timely application is one that is submitted by the renewal date established in the permit. The Executive Secretary shall establish a renewal date for each permit that is at least six months and not greater than 18 months prior to the date of permit expiration. A source may submit a permit application early for any reason, including timing of other application requirements.

([~~b~~]2) Complete application.

([~~i~~]a) To be deemed complete, an application must provide all information sufficient to evaluate the subject source and its application and to determine all applicable requirements pursuant to [~~R307-15-5(3)~~]R307-415-5c. Applications for permit revision need supply such information only if it is related to the proposed change. A responsible official shall certify the submitted information consistent with [~~R307-15-5(4)~~]R307-415-5d.

([~~ii~~]b) Unless the Executive Secretary notifies the source in writing within 60 days of receipt of the application that an application is not complete, such application shall be deemed to be complete. A completeness determination shall not be required for minor permit modifications. If, while processing an application that has been determined or deemed to be complete, the Executive Secretary determines that additional information is necessary to evaluate or take final action on that application, the Executive

Secretary may request such information in writing and set a reasonable deadline for a response. The source's ability to operate without a permit, as set forth in [~~R307-15-7(2)(b)~~]R307-415-7b(2), shall be in effect from the date the application is determined or deemed to be complete until the final permit is issued, provided that the applicant submits any requested additional information by the deadline specified in writing by the Executive Secretary.

([~~c~~]3) Transition Plan. A timely application under the transition plan is an application that is submitted according to the following schedule:

([~~i~~]a) All Title IV affected sources shall submit an operating permit application as well as an acid rain permit application in accordance with the date required by 40 CFR Part 72 effective April 11, 1995, Subpart C-Acid Rain Permit Applications;

([~~ii~~]b) All major Part 70 sources operating as of July 10, 1995, except those described in ([~~i~~]a) above, and all solid waste incineration units operating as of July 10, 1995, that are required to obtain an operating permit pursuant to 42 U.S.C. Sec. 7429(e) shall submit a permit application by October 10, 1995.

([~~iii~~]c) Area sources.

([~~A~~]i) The Executive Secretary shall develop general permits and application forms for area source categories.

([~~B~~]ii) After a general permit has been issued for a source category, the Executive Secretary shall establish a due date for permit applications from all area sources in that source category.

([~~C~~]iii) The Executive Secretary shall provide at least six months notice that the application is due for a source category.

([~~D~~]iv) Except as provided in ([~~i~~]a) and ([~~ii~~]b) above, all area sources are required to submit a permit application by July 10, 2000, unless required earlier as provided in ([~~B~~]ii) above.

([~~iv~~]d) Extensions. The owner or operator of any Part 70 source may petition the Executive Secretary for an extension of the application due date for good cause. The due date for major Part 70 sources shall not be extended beyond July 10, 1996. The due date for an area source shall not be extended beyond July 10, 2000.

([~~v~~]e) Application shield. If a source submits a timely and complete application under this transition plan, the application shield under [~~R307-15-7(2)(b)~~]R307-415-7b(2) shall apply to the source. If a source submits a timely application and is making sufficient progress toward correcting an application determined to be incomplete, the Executive Secretary may extend the application shield under [~~R307-15-7(2)(b)~~]R307-415-7b(2) to the source when the application is determined complete. The application shield shall not be extended to any major source that has not submitted a complete application by July 10, 1996, or to any area source that has not submitted a complete application by July 10, 2000.

([~~vi~~]f) Permit issuance. The Executive Secretary shall take final action on all complete applications from major Part 70 sources by July 10, 1998.

([~~d~~]4) Confidential information. Claims of confidentiality on information submitted to EPA may be made pursuant to applicable federal requirements. Claims of confidentiality on information submitted to the Department shall be made and governed according to Section 19-1-306. In the case where a source has submitted information to the Department under a claim of confidentiality that also must be submitted to the EPA, the Executive Secretary shall either submit the information to the EPA under Section 19-1-306, or require the source to submit a copy of such information directly to EPA.

([~~e~~]5) Late applications. An application submitted after the deadlines established in [~~R307-15-5(1)~~]R307-415-5a shall be accepted for processing, but shall not be considered a timely application. Submitting an application shall not relieve a source of any enforcement actions resulting from submitting a late application.

R307-415-5b. Permit Applications: Duty to Supplement or Correct Application.

[~~(2) Duty to supplement or correct application.~~]Any applicant who fails to submit any relevant facts or who has submitted incorrect information in a permit application shall, upon becoming aware of such failure or incorrect submittal, promptly submit such supplementary facts or corrected information. In addition, an applicant shall provide additional information as necessary to address any requirements that become applicable to the source after the date it filed a complete application but prior to release of a draft permit.

R307-415-5c. Permit Applications: Standard Requirements.

[~~(3) Standard application requirements.~~]Information as described below for each emissions unit at a Part 70 source shall be included in the application except for insignificant activities and emissions levels under [~~R307-15-5(5)~~]R307-415-5e. The operating permit application shall include the elements specified below:

([~~a~~]1) Identifying information, including company name, company address, plant name and address if different from the company name and address, owner's name and agent, and telephone number and names of plant site manager or contact.

([~~b~~]2) A description of the source's processes and products by Standard Industrial Classification Code, including any associated with each alternate scenario identified by the source.

([~~c~~]3) The following emissions-related information:

([~~i~~]a) A permit application shall describe the potential to emit of all air pollutants for which the source is major, and the potential to emit of all regulated air pollutants and hazardous air pollutants from any emissions unit, except for insignificant activities and emissions under [~~R307-15-5(5)~~]R307-415-5e. For emissions of hazardous air pollutants under 1,000 pounds per year, the following ranges may be used in the application: 1-10 pounds per year, 11-499 pounds per year, 500-999 pounds per year. The mid-point of the range shall be used to calculate the emission fee under R307-415-9 for hazardous air pollutants reported as a range.

([~~ii~~]b) Identification and description of all points of emissions described in [~~R307-15-5(3)(c)(i)~~](a) above in sufficient detail to establish the basis for fees and applicability of applicable requirements.

([~~iii~~]c) Emissions rates in tons per year and in such terms as are necessary to establish compliance with applicable requirements consistent with the applicable standard reference test method.

([~~iv~~]d) The following information to the extent it is needed to determine or regulate emissions: fuels, fuel use, raw materials, production rates, and operating schedules.

([~~v~~]e) Identification and description of air pollution control equipment and compliance monitoring devices or activities.

([~~vi~~]f) Limitations on source operation affecting emissions or any work practice standards, where applicable, for all regulated air pollutants and hazardous air pollutants at the Part 70 source.

([~~vii~~]g) Other information required by any applicable requirement, including information related to stack height limitations developed pursuant to Section 123 of the Act.

([~~viii~~]h) Calculations on which the information in items ([~~i~~]a) through ([~~vii~~]g) above is based.

([~~d~~]4) The following air pollution control requirements:

([~~i~~]a) Citation and description of all applicable requirements, and

([~~ii~~]b) Description of or reference to any applicable test method for determining compliance with each applicable requirement.

([~~e~~]5) Other specific information that may be necessary to implement and enforce applicable requirements or to determine the applicability of such requirements.

([~~f~~]6) An explanation of any proposed exemptions from otherwise applicable requirements.

([~~g~~]7) Additional information as determined to be necessary by the Executive Secretary to define alternative operating scenarios identified by the source pursuant to [~~R307-15-6(1)(i)~~]R307-415-6a(9) or to define permit terms and conditions implementing emission trading under [~~R307-15-7(4)(a)(iii) or R307-15-6(1)(j)~~]R307-415-7d(1)(c) or R307-415-6a(10).

([~~h~~]8) A compliance plan for all Part 70 sources that contains all of the following:

([~~i~~]a) A description of the compliance status of the source with respect to all applicable requirements.

([~~ii~~]b) A description as follows:

([~~A~~]i) For applicable requirements with which the source is in compliance, a statement that the source will continue to comply with such requirements.

([~~B~~]ii) For applicable requirements that will become effective during the permit term, a statement that the source will meet such requirements on a timely basis.

([~~C~~]iii) For requirements for which the source is not in compliance at the time of permit issuance, a narrative description of how the source will achieve compliance with such requirements.

([~~iii~~]c) A compliance schedule as follows:

([~~A~~]i) For applicable requirements with which the source is in compliance, a statement that the source will continue to comply with such requirements.

([~~B~~]ii) For applicable requirements that will become effective during the permit term, a statement that the source will meet such requirements on a timely basis. A statement that the source will meet in a timely manner applicable requirements that become effective during the permit term shall satisfy this provision, unless a more detailed schedule is expressly required by the applicable requirement.

([~~C~~]iii) A schedule of compliance for sources that are not in compliance with all applicable requirements at the time of permit issuance. Such a schedule shall include a schedule of remedial measures, including an enforceable sequence of actions with milestones, leading to compliance with any applicable requirements for which the source will be in noncompliance at the time of permit issuance. This compliance schedule shall resemble and be at least as stringent as that contained in any judicial consent decree or administrative order to which the source is subject. Any such schedule of compliance shall be supplemental to, and shall not sanction noncompliance with, the applicable requirements on which it is based.

([~~iv~~]d) A schedule for submission of certified progress reports every six months, or more frequently if specified by the underlying applicable requirement or by the Executive Secretary, for sources required to have a schedule of compliance to remedy a violation.

([~~v~~]e) The compliance plan content requirements specified in this paragraph shall apply and be included in the acid rain portion of a compliance plan for a Title IV affected source, except as specifically superseded by regulations promulgated under Title IV of the Act, Acid Deposition Control, with regard to the schedule and methods the source will use to achieve compliance with the acid rain emissions limitations.

([~~i~~]9) Requirements for compliance certification, including all of the following:

([~~i~~]a) A certification of compliance with all applicable requirements by a responsible official consistent with [~~R307-15-5(4)~~]R307-415-5d and Section 114(a)(3) of the Act, Enhanced Monitoring and Compliance Certification.

([~~ii~~]b) A statement of methods used for determining compliance, including a description of monitoring, recordkeeping, and reporting requirements and test method.

([~~iii~~]c) A schedule for submission of compliance certifications during the permit term, to be submitted annually, or more frequently if specified by the underlying applicable requirement or by the Executive Secretary.

([~~iv~~]d) A statement indicating the source's compliance status with any applicable enhanced monitoring and compliance certification requirements of the Act.

([~~j~~]10) Nationally-standardized forms for acid rain portions of permit applications and compliance plans, as required by regulations promulgated under Title IV of the Act, Acid Deposition Control.

R307-415-5d. Permit Applications: Certification.

[~~(4) Certification.~~]Any application form, report, or compliance certification submitted pursuant to [~~this rule~~]R307-415 shall contain certification by a responsible official of truth, accuracy, and completeness. This certification and any other certification required under [~~this rule~~]R307-415 shall state that, based on information and belief formed after reasonable inquiry, the statements and information in the document are true, accurate, and complete.

R307-415-5e. Permit Applications: Insignificant Activities and Emissions.

[~~(5) Insignificant Activities and Emissions.~~]An application may not omit information needed to determine the applicability of, or to impose, any applicable requirement, or to evaluate the fee amount required under R307-415-9. The following lists apply only to operating permit applications and do not affect the applicability of R307-415 to a source, do not affect the requirement that a source receive an approval order under [~~R307-1-3~~]R307-401, and do not relieve a source of the responsibility to comply with any applicable requirement.

([~~a~~]1) The following insignificant activities and emission levels are not required to be included in the permit application.

([~~i~~]a) Exhaust systems for controlling steam and heat that do not contain combustion products, except for systems that are subject to an emission standard under any applicable requirement.

([~~ii~~]b) Air contaminants that are present in process water or non-contact cooling water as drawn from the environment or from municipal sources, or air contaminants that are present in compressed air or in ambient air, which may contain air pollution, used for combustion.

([~~iii~~]c) Air conditioning or ventilating systems not designed to remove air contaminants generated by or released from other processes or equipment.

([~~iv~~]d) Disturbance of surface areas for purposes of land development, not including mining operations or the disturbance of contaminated soil.

([~~v~~]e) Brazing, soldering, or welding operations.

([~~vi~~]f) Aerosol can usage.

([~~vii~~]g) Road and parking lot paving operations, not including asphalt, sand and gravel, and cement batch plants.

([~~viii~~]h) Fire training activities that are not conducted at permanent fire training facilities.

([~~ix~~]i) Landscaping, janitorial, and site housekeeping activities, including fugitive emissions from landscaping activities.

([~~x~~]j) Architectural painting.

([~~xi~~]k) Office emissions, including cleaning, copying, and restrooms.

([~~xii~~]l) Wet wash aggregate operations that are solely dedicated to this process.

([~~xiii~~]m) Air pollutants that are emitted from personal use by employees or other persons at the source, such as foods, drugs, or cosmetics.

([~~xiv~~]n) Air pollutants that are emitted by a laboratory at a facility under the supervision of a technically qualified individual as defined in 40 CFR 720.3(ee); however, this exclusion does not apply to specialty chemical production, pilot plant scale operations, or activities conducted outside the laboratory.

([~~xv~~]o) Maintenance on petroleum liquid handling equipment such as pumps, valves, flanges, and similar pipeline devices and appurtenances when purged and isolated from normal operations.

([~~xvi~~]p) Portable steam cleaning equipment.

([~~xvii~~]q) Vents on sanitary sewer lines.

([~~xviii~~]r) Vents on tanks containing no volatile air pollutants, e.g., any petroleum liquid, not containing Hazardous Air Pollutants, with a Reid Vapor Pressure less than 0.05 psia.

([~~b~~]2) The following insignificant activities are exempted because of size or production rate and a list of such insignificant activities must be included in the application. The Executive Secretary may require information to verify that the activity is insignificant.

([~~i~~]a) Emergency heating equipment, using coal, wood, kerosene, fuel oil, natural gas, or LPG for fuel, with a rated capacity less than 50,000 BTU per hour.

([~~ii~~]b) Individual emissions units having the potential to emit less than one ton per year per pollutant of PM10 particulate matter, nitrogen oxides, sulfur dioxide, volatile organic compounds, or carbon monoxide, unless combined emissions from similar small emission units located within the same Part 70 source are greater than five tons per year of any one pollutant. This does not include emissions units that emit air contaminants other than PM10 particulate matter, nitrogen oxides, sulfur dioxide, volatile organic compounds, or carbon monoxide.

([~~iii~~]c) Petroleum industry flares, not associated with refineries, combusting natural gas containing no hydrogen sulfide except in amounts less than 500 parts per million by weight, and having the potential to emit less than five tons per year per air contaminant.

([~~iv~~]d) Road sweeping.

([~~v~~]e) Road salting and sanding.

([~~vi~~]f) Unpaved public and private roads, except unpaved haul roads located within the boundaries of a stationary source. A haul road means any road normally used to transport people, livestock, product or material by any type of vehicle.

([~~vii~~]g) Non-commercial automotive (car and truck) service stations dispensing less than 6,750 gal. of gasoline/month

([~~viii~~]h) Hazardous Air Pollutants present at less than 1% concentration, or 0.1% for a carcinogen, in a mixture used at a rate of less than 50 tons per year, provided that a National Emission Standards for Hazardous Air Pollutants standard does not specify otherwise.

([~~ix~~]i) Fuel-burning equipment, in which combustion takes place at no greater pressure than one inch of mercury above ambient pressure, with a rated capacity of less than five million BTU per hour using no other fuel than natural gas, or LPG or other mixed gas distributed by a public utility.

([~~x~~]j) Comfort heating equipment (i.e., boilers, water heaters, air heaters and steam generators) with a rated capacity of less than one million BTU per hour if fueled only by fuel oil numbers 1 - 6.

([~~c~~]3) Any person may petition the Board to add an activity or emission to the list of Insignificant Activities and Emissions which may be excluded from an operating permit application under [~~R307-15-5(5)(a) or (b)~~](1) or (2) above upon a change in the rule and approval of the rule change by EPA. The petition shall include the following information:

([~~i~~]a) A complete description of the activity or emission to be added to the list.

([~~ii~~]b) A complete description of all air contaminants that may be emitted by the activity or emission, including emission rate, air pollution control equipment, and calculations used to determine emissions.

([~~iii~~]c) An explanation of why the activity or emission should be exempted from the application requirements for an operating permit.

([~~d~~]4) The executive secretary may determine on a case-by-case basis, insignificant activities and emissions for an individual Part 70 source that may be excluded from an application or that must be listed in the application, but do not require a detailed description. No activity with the potential to emit greater than two tons per year of any criteria pollutant, five tons of a combination of criteria pollutants, 500 pounds of any hazardous air pollutant or one ton of a combination of hazardous air pollutants shall be eligible to be determined an insignificant activity or emission under [~~R307-15-5(5)(d)~~]this subsection (4).

R307-~~4~~15-6~~a~~. Permit Content: Standard Requirements.

[~~(1) Standard permit requirements. ~~]Each permit issued under [~~this rule~~]R307-415 shall include the following elements:

([~~a~~]1) Emission limitations and standards, including those operational requirements and limitations that assure compliance with all applicable requirements at the time of permit issuance;

([~~i~~]a) The permit shall specify and reference the origin of and authority for each term or condition, and identify any difference in

form as compared to the applicable requirement upon which the term or condition is based.

([~~ii~~]b) The permit shall state that, where an applicable requirement is more stringent than an applicable requirement of regulations promulgated under Title IV of the Act, Acid Deposition Control, both provisions shall be incorporated into the permit.

([~~iii~~]c) If the State Implementation Plan allows a determination of an alternative emission limit at a Part 70 source, equivalent to that contained in the State Implementation Plan, to be made in the permit issuance, renewal, or significant modification process, and the Executive Secretary elects to use such process, any permit containing such equivalency determination shall contain provisions to ensure that any resulting emissions limit has been demonstrated to be quantifiable, accountable, enforceable, and based on replicable procedures.

([~~b~~]2) Permit duration. Except as provided by Section 19-2-109.1(3), the Executive Secretary shall issue permits for a fixed term of five years.

([~~c~~]3) Monitoring and related recordkeeping and reporting requirements.

([~~i~~]a) Each permit shall contain the following requirements with respect to monitoring:

([~~A~~]i) All emissions monitoring and analysis procedures or test methods required under the applicable requirements, including any procedures and methods promulgated pursuant to Sections 504(b) of the Act, Monitoring and Analysis, or Section 114(a)(3) of the Act, Enhanced Monitoring and Compliance Certification;

([~~B~~]ii) Where the applicable requirement does not require periodic testing or instrumental or noninstrumental monitoring, which may consist of recordkeeping designed to serve as monitoring, periodic monitoring sufficient to yield reliable data from the relevant time period that are representative of the source's compliance with the permit, as reported pursuant to [~~R307-15-6(1)(c)(iii)~~](3)(c) below. Such monitoring requirements shall assure use of terms, test methods, units, averaging periods, and other statistical conventions consistent with the applicable requirement. Recordkeeping provisions may be sufficient to meet the requirements of this paragraph;

([~~C~~]iii) As necessary, requirements concerning the use, maintenance, and, where appropriate, installation of monitoring equipment or methods.

([~~ii~~]b) With respect to recordkeeping, the permit shall incorporate all applicable recordkeeping requirements and require, where applicable, the following:

([~~A~~]i) Records of required monitoring information that include the following:

([~~I~~]A) The date, place as defined in the permit, and time of sampling or measurements;

([~~II~~]B) The dates analyses were performed;

([~~III~~]C) The company or entity that performed the analyses;

([~~IV~~]D) The analytical techniques or methods used;

([~~V~~]E) The results of such analyses;

([~~VI~~]F) The operating conditions as existing at the time of sampling or measurement;

([~~B~~]ii) Retention of records of all required monitoring data and support information for a period of at least five years from the date of the monitoring sample, measurement, report, or application. Support information includes all calibration and maintenance records and all original strip-chart recordings for continuous monitoring instrumentation, and copies of all reports required by the permit.

([~~iii~~]c) With respect to reporting, the permit shall incorporate all applicable reporting requirements and require all of the following:

([~~A~~]i) Submittal of reports of any required monitoring every six months, or more frequently if specified by the underlying applicable requirement or by the Executive Secretary. All instances of deviations from permit requirements must be clearly identified in such reports. All required reports must be certified by a responsible official consistent with [~~R307-15-5(4)~~]R307-415-5d.

([~~B~~]ii) Prompt reporting of deviations from permit requirements including those attributable to upset conditions as defined in the permit, the probable cause of such deviations, and any corrective actions or preventive measures taken. The Executive Secretary shall define "prompt" in relation to the degree and type of deviation likely to occur and the applicable requirements. Deviations from permit requirements due to unavoidable breakdowns shall be reported according to the unavoidable breakdown provisions of [~~R307-1-4.7~~]R307-107. The Executive Secretary may establish more stringent reporting deadlines if required by the applicable requirement.

([~~iv~~]d) Claims of confidentiality shall be governed by Section 19-1-306.

([~~d~~]4) Acid Rain Allowances. For Title IV affected sources, a permit condition prohibiting emissions exceeding any allowances that the source lawfully holds under Title IV of the Act or the regulations promulgated thereunder.

([~~i~~]a) No permit revision shall be required for increases in emissions that are authorized by allowances acquired pursuant to the Acid Rain Program, provided that such increases do not require a permit revision under any other applicable requirement.

([~~ii~~]b) No limit shall be placed on the number of allowances held by the source. The source may not, however, use allowances as a defense to noncompliance with any other applicable requirement.

([~~iii~~]c) Any such allowance shall be accounted for according to the procedures established in regulations promulgated under Title IV of the Act.

([~~e~~]5) A severability clause to ensure the continued validity of the various permit requirements in the event of a challenge to any portions of the permit.

([~~f~~]6) Standard provisions stating the following:

([~~i~~]a) The permittee must comply with all conditions of the operating permit. Any permit noncompliance constitutes a violation of the Air Conservation Act and is grounds for any of the following: enforcement action; permit termination; revocation and reissuance; modification; denial of a permit renewal application.

([~~ii~~]b) Need to halt or reduce activity not a defense. It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.

([~~iii~~]c) The permit may be modified, revoked, reopened, and reissued, or terminated for cause. The filing of a request by the permittee for a permit modification, revocation and reissuance, or termination, or of a notification of planned changes or anticipated noncompliance does not stay any permit condition, except as provided under [~~R307-15-7(6)(a)~~]R307-415-7f(1) for minor permit modifications.

([~~iv~~]d) The permit does not convey any property rights of any sort, or any exclusive privilege.

([~~v~~]e) The permittee shall furnish to the Executive Secretary, within a reasonable time, any information that the Executive Secretary may request in writing to determine whether cause exists for modifying, revoking and reissuing, or terminating the permit or to determine compliance with the permit. Upon request, the permittee shall also furnish to the Executive Secretary copies of records required to be kept by the permit or, for information claimed to be confidential, the permittee may furnish such records directly to EPA along with a claim of confidentiality.

([~~g~~]7) Emission fee. A provision to ensure that a Part 70 source pays fees to the Executive Secretary consistent with R307-415-9.

([~~h~~]8) Emissions trading. A provision stating that no permit revision shall be required, under any approved economic incentives, marketable permits, emissions trading and other similar programs or processes for changes that are provided for in the permit.

([~~i~~]9) Alternate operating scenarios. Terms and conditions for reasonably anticipated operating scenarios identified by the source in its application as approved by the Executive Secretary. Such terms and conditions:

([~~(i)~~]a) Shall require the source, contemporaneously with making a change from one operating scenario to another, to record in a log at the permitted facility a record of the scenario under which it is operating;

([~~(ii)~~]b) Shall extend the permit shield to all terms and conditions under each such operating scenario; and

([~~(iii)~~]c) Must ensure that the terms and conditions of each such alternative scenario meet all applicable requirements and the requirements of [~~this rule~~]R307-415.

([~~j~~]10) Emissions trading. Terms and conditions, if the permit applicant requests them, for the trading of emissions increases and decreases in the permitted facility, to the extent that the applicable requirements provide for trading such increases and decreases without a case-by-case approval of each emissions trade. Such terms and conditions:

([~~i~~]a) Shall include all terms required under [~~R307-15-6(1) and (3)~~]R307-415-6a and 6c to determine compliance;

([~~ii~~]b) Shall extend the permit shield to all terms and conditions that allow such increases and decreases in emissions; and

([~~iii~~]c) Must meet all applicable requirements and requirements of [~~this rule~~]R307-415.

R307-415-6b. Permit Content: Federally-Enforceable Requirements.

[~~(2) Federally-enforceable requirements.~~

] ([~~a~~]1) All terms and conditions in an operating permit, including any provisions designed to limit a source's potential to emit, are enforceable by EPA and citizens under the Act.

([~~b~~]2) Notwithstanding [~~paragraph (a)~~](1) above, applicable requirements that are not required by the Act or implementing federal regulations shall be included in the permit but shall be specifically designated as being not federally enforceable under the Act and shall be designated as "state requirements." Terms and conditions so designated are not subject to the requirements of R307-415-7a through 7i and R307-415-8 that apply to permit review by EPA and affected states. The Executive Secretary shall determine which conditions are "state requirements" in each operating permit.

R307-415-6c. Permit Content: Compliance Requirements.

[~~(3) Compliance requirements.~~]All operating permits shall contain all of the following elements with respect to compliance:

([~~a~~]1) Consistent with [~~R307-15-6(1)(c)~~]R307-415-6a(3), compliance certification, testing, monitoring, reporting, and recordkeeping requirements sufficient to assure compliance with the terms and conditions of the permit. Any document, including any report, required by an operating permit shall contain a certification by a responsible official that meets the requirements of [~~R307-15-5(4)~~]R307-415-5d;

([~~b~~]2) Inspection and entry requirements that require that, upon presentation of credentials and other documents as may be required by law, the permittee shall allow the Executive Secretary or an authorized representative to perform any of the following:

([~~i~~]a) Enter upon the permittee's premises where a Part 70 source is located or emissions-related activity is conducted, or where records must be kept under the conditions of the permit;

([~~ii~~]b) Have access to and copy, at reasonable times, any records that must be kept under the conditions of the permit;

([~~iii~~]c) Inspect at reasonable times any facilities, equipment (including monitoring and air pollution control equipment), practices, or operations regulated or required under the permit;

([~~iv~~]d) Sample or monitor at reasonable times substances or parameters for the purpose of assuring compliance with the permit or applicable requirements;

([~~v~~]e) Claims of confidentiality on the information obtained during an inspection shall be made pursuant to Section 19-1-306;

([~~c~~]3) A schedule of compliance consistent with [~~R307-15-5(3)(h)~~]R307-415-5c(8);

([~~d~~]4) Progress reports consistent with an applicable schedule of compliance and [~~R307-15-5(3)(h)~~]R307-415-5c(8) to be submitted semiannually, or at a more frequent period if specified in the applicable requirement or by the Executive Secretary. Such progress reports shall contain all of the following:

([~~i~~]a) Dates for achieving the activities, milestones, or compliance required in the schedule of compliance, and dates when such activities, milestones or compliance were achieved;

([~~ii~~]b) An explanation of why any dates in the schedule of compliance were not or will not be met, and any preventive or corrective measures adopted;

([~~e~~]5) Requirements for compliance certification with terms and conditions contained in the permit, including emission limitations, standards, or work practices. Permits shall include all of the following:

([~~i~~]a) Annual submission of compliance certification, or more frequently if specified in the applicable requirement or by the Executive Secretary;

([~~ii~~]b) In accordance with [~~R307-15-6(1)(c)~~]R307-415-6a(3), a means for monitoring the compliance of the source with its emissions limitations, standards, and work practices;

([~~iii~~]c) A requirement that the compliance certification include all of the following:

([~~A~~]i) The identification of each term or condition of the permit that is the basis of the certification;

([~~B~~]ii) The compliance status;

([~~C~~]iii) Whether compliance was continuous or intermittent;

([~~D~~]iv) The methods used for determining the compliance status of the source, currently and over the reporting period consistent with [~~R307-15-6(1)(c)~~]R307-415-6a(3);

([~~E~~]v) Such other facts as the Executive Secretary may require to determine the compliance status of the source;

([~~iv~~]d) A requirement that all compliance certifications be submitted to the EPA as well as to the Executive Secretary;

([~~v~~]e) Such additional requirements as may be specified pursuant to Section 114(a)(3) of the Act, Enhanced Monitoring and Compliance Certification, and Section 504(b) of the Act, Monitoring and Analysis;

([~~f~~]6) Such other provisions as the Executive Secretary may require.

R307-415-6d. Permit Content: General Permits.

[~~(4) General permits.~~

] ([~~a~~]1) The Executive Secretary may, after notice and opportunity for public participation provided under [~~R307-15-7(9)~~]R307-415-7i, issue a general permit covering numerous similar sources. Any general permit shall comply with all requirements applicable to other operating permits and shall identify criteria by which sources may qualify for the general permit. To sources that qualify, the Executive Secretary shall grant the conditions and terms of the general permit. Notwithstanding the permit shield, the source shall be subject to enforcement action for operation without an operating permit if the source is later determined not to qualify for the conditions and terms of the general permit. General permits shall not be issued for Title IV affected sources under the Acid Rain Program unless otherwise provided in regulations promulgated under Title IV of the Act.

([~~b~~]2) Part 70 sources that would qualify for a general permit must apply to the Executive Secretary for coverage under the terms of the general permit or must apply for an operating permit consistent with [~~R307-15-5~~]R307-415-5a through 5e. The Executive Secretary may, in the general permit, provide for applications which deviate from the requirements of [~~R307-15-5~~]R307-415-5a through 5e, provided that such applications meet the requirements of Title V of the Act, and include all information necessary to determine qualification for, and to assure compliance with, the general permit. Without repeating the public participation procedures required under [~~R307-15-7(9)~~]R307-415-7i, the Executive Secretary may grant a source's request for authorization to operate under a general permit, but such a grant to a qualified source shall not be a final permit action for purposes of judicial review.

R307-415-6e. Permit Content: Temporary Sources.

[~~(5) Temporary sources.~~]The owner or operator of a permitted source may temporarily relocate the source for a period not to exceed that allowed by [~~R307-1-3.1.9~~]R307-401-7. A permit modification is required to relocate the source for a period longer than that allowed by [~~R307-1-3.1.9~~]R307-401-7. No Title IV affected source may be permitted as a temporary source. Permits for temporary sources shall include all of the following:

([~~a~~]1) Conditions that will assure compliance with all applicable requirements at all authorized locations;

([~~b~~]2) Requirements that the owner or operator receive approval to relocate under [~~R307-1-3.1.9~~]R307-401-7 before operating at the new location;

([~~c~~]3) Conditions that assure compliance with all other provisions of [~~this rule~~]R307-415.

R307-415-6f. Permit Content: Permit Shield.

[~~(6) Permit shield.~~

] ([~~a~~]1) Except as provided in [~~this rule~~]R307-415, the Executive Secretary shall include in each operating permit a permit shield provision stating that compliance with the conditions of the permit shall be deemed compliance with any applicable requirements as of the date of permit issuance, provided that:

([~~i~~]a) Such applicable requirements are included and are specifically identified in the permit; or

([~~ii~~]b) The Executive Secretary, in acting on the permit application or revision, determines in writing that other requirements specifically identified are not applicable to the source, and the permit includes the determination or a concise summary thereof.

([~~b~~]2) An operating permit that does not expressly state that a permit shield exists shall be presumed not to provide such a shield.

([~~c~~]3) Nothing in this paragraph or in any operating permit shall alter or affect any of the following:

([~~i~~]a) The emergency provisions of Section 19-1-202 and Section 19-2-112, and the provisions of Section 303 of the Act, Emergency Orders, including the authority of the Administrator under that Section;

([~~ii~~]b) The liability of an owner or operator of a source for any violation of applicable requirements under Section 19-2-107(2)(g) and Section 19-2-110 prior to or at the time of permit issuance;

([~~iii~~]c) The applicable requirements of the Acid Rain Program, consistent with Section 408(a) of the Act;

([~~iv~~]d) The ability of the Executive Secretary to obtain information from a source under Section 19-2-120, and the ability of EPA to obtain information from a source under Section 114 of the Act, Inspection, Monitoring, and Entry.

R307-415-6g. Permit Content: Emergency Provision.

[~~(7) Emergency provision.~~

] ([~~a~~]1) Emergency. An "emergency" is any situation arising from sudden and reasonably unforeseeable events beyond the control of the source, including acts of God, which situation requires immediate corrective action to restore normal operation, and that causes the source to exceed a technology-based emission limitation under the permit, due to unavoidable increases in emissions attributable to the emergency. An emergency shall not include noncompliance to the extent caused by improperly designed equipment, lack of preventative maintenance, careless or improper operation, or operator error.

([~~b~~]2) Effect of an emergency. An emergency constitutes an affirmative defense to an action brought for noncompliance with such technology-based emission limitations if the conditions of [~~R307-15-6(7)(c)~~](3) below are met.

([~~c~~]3) The affirmative defense of emergency shall be demonstrated through properly signed, contemporaneous operating logs, or other relevant evidence that:

([~~i~~]a) An emergency occurred and that the permittee can identify the causes of the emergency;

([~~ii~~]b) The permitted facility was at the time being properly operated;

([~~iii~~]c) During the period of the emergency the permittee took all reasonable steps to minimize levels of emissions that exceeded the emission standards, or other requirements in the permit; and

([~~iv~~]d) The permittee submitted notice of the emergency to the Executive Secretary within two working days of the time when emission limitations were exceeded due to the emergency. This notice fulfills the requirement of [~~R307-15-6(1)(c)(iii)(B)~~]R307-415-6a(3)(c)(ii). This notice must contain a description of the emergency, any steps taken to mitigate emissions, and corrective actions taken.

([~~d~~]4) In any enforcement proceeding, the permittee seeking to establish the occurrence of an emergency has the burden of proof.

([~~e~~]5) This provision is in addition to any emergency or upset provision contained in any applicable requirement.

R307-415-7a. Permit Issuance: Action on Application.

[~~(1) Action on application.~~

] ([~~a~~]1) A permit, permit modification, or renewal may be issued only if all of the following conditions have been met:

([~~i~~]a) The Executive Secretary has received a complete application for a permit, permit modification, or permit renewal, except that a complete application need not be received before issuance of a general permit;

([~~ii~~]b) Except for modifications qualifying for minor permit modification procedures under [~~R307-15-7(6)(a) and (b)~~]R307-415-7f(1)and (2), the Executive Secretary has complied with the requirements for public participation under [~~R307-15-7(9)~~]R307-415-7i;

([~~iii~~]c) The Executive Secretary has complied with the requirements for notifying and responding to affected States under R307-415-8(2);

([~~iv~~]d) The conditions of the permit provide for compliance with all applicable requirements and the requirements of [~~this rule~~]R307-415;

([~~v~~]e) EPA has received a copy of the proposed permit and any notices required under R307-415-8(1) and (2), and has not objected to issuance of the permit under R307-415-8(3) within the time period specified therein.

([~~b~~]2) Except as provided under the initial transition plan provided for under [~~R307-15-5(c)~~]R307-415-5a(3) or under regulations promulgated under Title IV of the Act for the permitting of Title IV affected sources under the Acid Rain Program, the Executive Secretary shall take final action on each permit application, including a request for permit modification or renewal, within 18 months after receiving a complete application.

([~~c~~]3) The Executive Secretary shall promptly provide notice to the applicant of whether the application is complete. Unless the Executive Secretary requests additional information or otherwise notifies the applicant of incompleteness within 60 days of receipt of an application, the application shall be deemed complete. A completeness determination shall not be required for minor permit modifications.

([~~d~~]4) The Executive Secretary shall provide a statement that sets forth the legal and factual basis for the draft permit conditions, including references to the applicable statutory or regulatory provisions. The Executive Secretary shall send this statement to EPA and to any other person who requests it.

([~~e~~]5) The submittal of a complete application shall not affect the requirement that any source have an approval order under [~~R307-1-3~~]R307-401.

R307-415-7b. Permit Issuance: Requirement for a Permit.

[~~(2) Requirement for a permit.~~

] ([~~a~~]1) Except as provided in [~~R307-15-7(4)~~]R307-415-7d and [~~paragraphs R307-15-7(6)(a)(vi) and (6)(b)(v)~~]R307-415-7f(1)(f)and 7f(2)(e), no Part 70 source may operate after the time that it is required to submit a timely and complete application, except in compliance with a permit issued under these rules.

([~~b~~]2) Application shield. If a Part 70 source submits a timely and complete application for permit issuance, including for renewal, the source's failure to have an operating permit is not a violation of [~~this rule~~]R307-415 until the Executive Secretary takes final action on the permit application. This protection shall cease to apply if, subsequent to the completeness determination made pursuant to [~~R307-15-7(1)(c)~~]R307-415-7a(3), and as required by [~~R307-15-5(1)(b)~~]R307-415-5a(2), the applicant fails to submit by the deadline specified in writing by the Executive Secretary any additional information identified as being needed to process the application.

R307-415-7c. Permit Renewal and Expiration.

[~~(3) Permit renewal and expiration.~~

] ([~~a~~]1) Permits being renewed are subject to the same procedural requirements, including those for public participation, affected State and EPA review, that apply to initial permit issuance.

([~~b~~]2) Permit expiration terminates the source's right to operate unless a timely and complete renewal application has been submitted consistent with [~~R307-15-7(2)~~]R307-415-7b and [~~R307-15-5(1)(a)(iii~~]R307-415-5a(1)(c).

([~~c~~]3) If a timely and complete renewal application is submitted consistent with [~~R307-15-7(2)~~]R307-415-7b and [~~R307-15-5(1)(a)(iii~~]R307-415-5a(1)(c)and the Executive Secretary fails to issue or deny the renewal permit before the end of the term of the previous permit, then all of the terms and conditions of the permit, including the permit shield, shall remain in effect until renewal or denial.

R307-415-7d. Permit Revision: Changes That Do Not Require a Revision.

[~~(4) Changes that do not require a permit revision.~~

] ([~~a~~]1) Operational Flexibility.

([~~i~~]a) A Part 70 source may make changes that contravene an express permit term if all of the following conditions have been met:

([~~A~~]i) The source has obtained an approval order, or has met the exemption requirements under [~~R307-1-3~~]R307-402;

([~~B~~]ii) The change would not violate any applicable requirements or contravene any federally enforceable permit terms and conditions for monitoring, including test methods, recordkeeping, reporting, or compliance certification requirements;

([~~C~~]iii) The changes are not modifications under any provision of Title I of the Act; and the changes do not exceed the emissions allowable under the permit, whether expressed therein as a rate of emissions or in terms of total emissions.

([~~D~~]iv) For each such change, the source shall provide written notice to the Executive Secretary and send a copy of the notice to EPA at least seven days before implementing the proposed change. The seven-day requirement may be waived by the Executive Secretary in the case of an emergency. The written notification shall include a brief description of the change within the permitted facility, the date on which the change will occur, any change in emissions, and any permit term or condition that is no longer applicable as a result of the change. The permit shield shall not apply to these changes. The source, the EPA, and the Executive Secretary shall attach each such notice to their copy of the relevant permit.

([~~ii~~]b) Emission trading under the State Implementation Plan. Permitted sources may trade increases and decreases in emissions in the permitted facility, where the State Implementation Plan provides for such emissions trades, without requiring a permit revision provided the change is not a modification under any provision of Title I of the Act, the change does not exceed the emissions allowable under the permit, and the source notifies the Executive Secretary and the EPA at least seven days in advance of the trade. This provision is available in those cases where the permit does not already provide for such emissions trading.

([~~A~~]i) The written notification required above shall include such information as may be required by the provision in the State Implementation Plan authorizing the emissions trade, including at a minimum, when the proposed change will occur, a description of each such change, any change in emissions, the permit requirements with which the source will comply using the emissions trading provisions of the State Implementation Plan, and the pollutants emitted subject to the emissions trade. The notice shall also refer to the provisions with which the source will comply in the State Implementation Plan and that provide for the emissions trade.

([~~B~~]ii) The permit shield shall not extend to any change made under this paragraph. Compliance with the permit requirements that the source will meet using the emissions trade shall be determined according to requirements of the State Implementation Plan authorizing the emissions trade.

([~~iii~~]c) If a permit applicant requests it, the Executive Secretary shall issue permits that contain terms and conditions, including all terms required under [~~R307-15-6(1) and (3)~~]R307-415-6a and 6c to determine compliance, allowing for the trading of emissions increases and decreases in the permitted facility solely for the purpose of complying with a federally-enforceable emissions cap that is established in the permit independent of otherwise applicable requirements. Such changes in emissions shall not be allowed if the change is a modification under any provision of Title I of the Act or the change would exceed the emissions allowable under the permit. The permit applicant shall include in its application proposed replicable procedures and permit terms that ensure the emissions trades are quantifiable and enforceable. The Executive Secretary shall not include in the emissions trading provisions any emissions units for which emissions are not quantifiable or for which there are no replicable procedures to enforce the emissions trades. The permit shall also require compliance with all applicable requirements, and shall require the source to notify the Executive Secretary and the EPA in writing at least seven days before making the emission trade.

([~~A~~]i) The written notification shall state when the change will occur and shall describe the changes in emissions that will result and how these increases and decreases in emissions will comply with the terms and conditions of the permit.

([~~B~~]ii) The permit shield shall extend to terms and conditions that allow such increases and decreases in emissions.

([~~b~~]2) Off-permit changes. A Part 70 source may make changes that are not addressed or prohibited by the permit without a permit revision, unless such changes are subject to any requirements under Title IV of the Act or are modifications under any provision of Title I of the Act.

([~~i~~]a) Each such change shall meet all applicable requirements and shall not violate any existing permit term or condition.

([~~ii~~]b) Sources must provide contemporaneous written notice to the Executive Secretary and EPA of each such change, except for changes that qualify as insignificant under [~~R307-15-5(5)~~]R307-415-5e. Such written notice shall describe each such change, including the date, any change in emissions, pollutants emitted, and any applicable requirements that would apply as a result of the change.

([~~iii~~]c) The change shall not qualify for the permit shield.

([~~iv~~]d) The permittee shall keep a record describing changes made at the source that result in emissions of a regulated air pollutant subject to an applicable requirement, but not otherwise regulated under the permit, and the emissions resulting from those changes.

([~~v~~]e) The off-permit provisions do not affect the requirement for a source to obtain an approval order under [~~R307-1-3~~]R307-401.

R307-415-7e. Permit Revision: Administrative Amendments.

[~~(5) Administrative permit amendments.~~

] ([~~a~~]1) An "administrative permit amendment" is a permit revision that:

([~~i~~]a) Corrects typographical errors;

([~~ii~~]b) Identifies a change in the name, address, or phone number of any person identified in the permit, or provides a similar minor administrative change at the source;

([~~iii~~]c) Requires more frequent monitoring or reporting by the permittee;

([~~iv~~]d) Allows for a change in ownership or operational control of a source where the Executive Secretary determines that no other change in the permit is necessary, provided that a written agreement containing a specific date for transfer of permit responsibility, coverage, and liability between the current and new permittee has been submitted to the Executive Secretary;

([~~v~~]e) Incorporates into the operating permit the requirements from an approval order issued under [~~R307-1-3~~]R307-401, provided that the procedures for issuing the approval order were substantially equivalent to the permit issuance or modification procedures of [~~R307-15-7 and R307-15-8~~]R307-415-7a through 7i and R307-415-8, and compliance requirements are substantially equivalent to those contained in [~~R307-15-6~~]R307-415-6a through 6g;

([~~b~~]2) Administrative permit amendments for purposes of the acid rain portion of the permit shall be governed by regulations promulgated under Title IV of the Act.

([~~c~~]3) Administrative permit amendment procedures. An administrative permit amendment may be made by the Executive Secretary consistent with the following:

([~~i~~]a) The Executive Secretary shall take no more than 60 days from receipt of a request for an administrative permit amendment to take final action on such request, and may incorporate such changes without providing notice to the public or affected States provided that the Executive Secretary designates any such permit revisions as having been made pursuant to this paragraph. The Executive Secretary shall take final action on a request for a change in ownership or operational control of a source under [~~R307-15-7(5)(a)(iv)~~](1)(d) above within 30 days of receipt of a request.

([~~ii~~]b) The Executive Secretary shall submit a copy of the revised permit to EPA.

([~~iii~~]c) The source may implement the changes addressed in the request for an administrative amendment immediately upon submittal of the request.

([~~d~~]4) The Executive Secretary shall, upon taking final action granting a request for an administrative permit amendment, allow coverage by the permit shield for administrative permit amendments made pursuant to[~~R307-15-7(5)(a)(v)~~](1)(e) above which meet the relevant requirements of [~~R307-15-6, R-307-15-7, and R307-15-8~~]R307-415-6a through 6g, 7 and 8 for significant permit modifications.

R307-415-7f. Permit Revision: Modification.

[~~(6) Permit modification.~~]The permit modification procedures described in [~~this section~~]R307-415-7f shall not affect the requirement that a source obtain an approval order under [~~R307-1-3~~]R307-401 before constructing or modifying a source of air pollution. A modification not subject to the requirements of [~~R307-1-3~~]R307-401 shall not require an approval order in addition to the permit modification as described in this section. A permit modification is any revision to an operating permit that cannot be accomplished under the program's provisions for administrative permit amendments under [~~R307-15-7(5)~~]R307-415-7e. Any permit modification for purposes of the acid rain portion of the permit shall be governed by regulations promulgated under Title IV of the Act.

([~~a~~]1) Minor permit modification procedures.

([~~i~~]a) Criteria. Minor permit modification procedures may be used only for those permit modifications that:

([~~A~~]i) Do not violate any applicable requirement or require an approval order under [~~R307-1-3~~]R307-401;

([~~B~~]ii) Do not involve significant changes to existing monitoring, reporting, or recordkeeping requirements in the permit;

([~~C~~]iii) Do not require or change a case-by-case determination of an emission limitation or other standard, or a source-specific determination for temporary sources of ambient impacts, or a visibility or increment analysis;

([~~D~~]iv) Do not seek to establish or change a permit term or condition for which there is no corresponding underlying applicable requirement and that the source has assumed to avoid an applicable requirement to which the source would otherwise be subject. Such term or condition would include a federally enforceable emissions cap assumed to avoid classification as a modification under any provision of Title I or an alternative emissions limit approved pursuant to regulations promulgated under Section 112(i)(5) of the Act, Early Reduction; and

([~~E~~]v) Are not modifications under any provision of Title I of the Act.

([~~ii~~]b) Notwithstanding [~~R307-15-7(6)(a)(i) and R307-15-7(6)(b)(i)~~](1)(a)above and (2)(a) below, minor permit modification procedures may be used for permit modifications involving the use of economic incentives, marketable permits, emissions trading, and other similar approaches, to the extent that such minor permit modification procedures are explicitly provided for in the State Implementation Plan or an applicable requirement.

([~~iii~~]c) Application. An application requesting the use of minor permit modification procedures shall meet the requirements of [~~R307-15-5(3)~~]R307-415-5c and shall include all of the following:

([~~A~~]i) A description of the change, the emissions resulting from the change, and any new applicable requirements that will apply if the change occurs;

([~~B~~]ii) The source's suggested draft permit;

([~~C~~]iii) Certification by a responsible official, consistent with [~~R307-15-5(4)~~]R307-415-5d, that the proposed modification meets the criteria for use of minor permit modification procedures and a request that such procedures be used;

([~~D~~]iv) Completed forms for the Executive Secretary to use to notify EPA and affected States as required under R307-4~~1~~5-8.

([~~iv~~]d) EPA and affected State notification. Within five working days of receipt of a complete permit modification application, the Executive Secretary shall notify EPA and affected States of the requested permit modification. The Executive Secretary promptly shall send any notice required under R307-4~~1~~5-8(2)(b) to EPA.

([~~v~~]e) Timetable for issuance. The Executive Secretary may not issue a final permit modification until after EPA's 45-day review period or until EPA has notified the Executive Secretary that EPA will not object to issuance of the permit modification, whichever is first. Within 90 days of the Executive Secretary's receipt of an application under minor permit modification procedures or 15 days after the end of EPA's 45-day review period under R307-4~~1~~5-8(3), whichever is later, the Executive Secretary shall:

([~~A~~]i) Issue the permit modification as proposed;

([~~B~~]ii) Deny the permit modification application;

([~~C~~]iii) Determine that the requested modification does not meet the minor permit modification criteria and should be reviewed under the significant modification procedures; or

([~~D~~]iv) Revise the draft permit modification and transmit to EPA the new proposed permit modification as required by R307-4~~1~~5-8(1).

([~~vi~~]f) Source's ability to make change.[———] A Part 70 source may make the change proposed in its minor permit modification application immediately after it files such application if the source has received an approval order under [~~R307-1-3~~]R307-401 or has met the approval order exemption requirements under [~~R307-1-3~~]R307-413-1 through 6. After the source makes the change allowed by the preceding sentence, and until the Executive Secretary takes any of the actions specified in [~~R307-15-7(6)(a)(v)(A) through (C)~~](1)(e)(i) through (iii) above, the source must comply with both the applicable requirements governing the change and the proposed permit terms and conditions. During this time period, the source need not comply with the existing permit terms and conditions it seeks to modify. However, if the source fails to comply with its proposed permit terms and conditions during this time period, the existing permit terms and conditions it seeks to modify may be enforced against it.

([~~vii~~]g) Permit shield. The permit shield under [~~R307-15-6(6)~~]R307-415-6f shall not extend to minor permit modifications.

([~~b~~]2) Group processing of minor permit modifications. Consistent with this paragraph, the Executive Secretary may modify the procedure outlined in [~~R307-15-7(6)(a)~~](1) above to process groups of a source's applications for certain modifications eligible for minor permit modification processing.

([~~i~~]a) Criteria. Group processing of modifications may be used only for those permit modifications:

([~~A~~]i) That meet the criteria for minor permit modification procedures under [~~R307-15-7(6)(a)(i)~~](1)(a) above; and

([~~B~~]ii) That collectively are below the following threshold level: 10 percent of the emissions allowed by the permit for the emissions unit for which the change is requested, 20 percent of the applicable definition of major source in R307-415-3, or five tons per year, whichever is less.

([~~ii~~]b) Application. An application requesting the use of group processing procedures shall meet the requirements of [~~R307-15-5(3)~~]R307-415-5c and shall include the following:

([~~A~~]i) A description of the change, the emissions resulting from the change, and any new applicable requirements that will apply if the change occurs.

([~~B~~]ii) The source's suggested draft permit.

([~~C~~]iii) Certification by a responsible official, consistent with [~~R307-15-5(4)~~]R307-415-5d, that the proposed modification meets the criteria for use of group processing procedures and a request that such procedures be used.

([~~D~~]iv) A list of the source's other pending applications awaiting group processing, and a determination of whether the requested modification, aggregated with these other applications, equals or exceeds the threshold set under [~~paragraph (5)(b)(i)(B) of this Section~~]R307-415-7e(2)(a)(ii).

([~~E~~]v) Certification, consistent with [~~R307-15-5(4)~~]R307-415-5d, that the source has notified EPA of the proposed modification. Such notification need only contain a brief description of the requested modification.

([~~F~~]vi) Completed forms for the Executive Secretary to use to notify EPA and affected States as required under R307-415-8.

([~~iii~~]c) EPA and affected State notification. On a quarterly basis or within five business days of receipt of an application demonstrating that the aggregate of a source's pending applications equals or exceeds the threshold level set under [~~R307-15-7(6)(b)(i)(B)~~](2)(a)(ii) above, whichever is earlier, the Executive Secretary shall notify EPA and affected States of the requested permit modifications. The Executive Secretary shall send any notice required under R307-415-8(2)(b)to EPA.

([~~iv~~]d) Timetable for issuance. The provisions of [~~paragraph R307-15-7(6)(a)(v)~~](1)(e) above shall apply to modifications eligible for group processing, except that the Executive Secretary shall take one of the actions specified in [~~R307-15-7(6)(a)(v)(A) through (D)~~](1)(e)(i) through (iv) above within 180 days of receipt of the application or 15 days after the end of EPA's 45-day review period under R307-415-8(3), whichever is later.

([~~v~~]e) Source's ability to make change. The provisions of [~~R307-15-7(6)(a)(vi)of this Section~~](1)(f) above shall apply to modifications eligible for group processing.

([~~vi~~]f) Permit shield. The provisions of [~~paragraph R307-15-7(6)(a)(vii)~~](1)(g) above shall also apply to modifications eligible for group processing.

([~~c~~]3) Significant modification procedures.

([~~i~~]a) Criteria. Significant modification procedures shall be used for applications requesting permit modifications that do not qualify as minor permit modifications or as administrative amendments. Every significant change in existing monitoring permit terms or conditions and every relaxation of reporting or recordkeeping permit terms or conditions shall be considered significant. Nothing herein shall be construed to preclude the permittee from making changes consistent with [~~this rule~~]R307-415 that would render existing permit compliance terms and conditions irrelevant.

([~~ii~~]b) Significant permit modifications shall meet all requirements of [~~this rule~~]R307-415, including those for applications, public participation, review by affected States, and review by EPA, as they apply to permit issuance and permit renewal. The Executive Secretary shall complete review on the majority of significant permit modifications within nine months after receipt of a complete application.

R307-415-7g. Permit Revision: Reopening for Cause.

[~~(7) Reopening for cause.~~

] ([~~a~~]1) Each issued permit shall include provisions specifying the conditions under which the permit will be reopened prior to the expiration of the permit. A permit shall be reopened and revised under any of the following circumstances:

([~~i~~]a) New applicable requirements become applicable to a major Part 70 source with a remaining permit term of three or more years. Such a reopening shall be completed not later than 18 months after promulgation of the applicable requirement. No such reopening is required if the effective date of the requirement is later than the date on which the permit is due to expire, unless the terms and conditions of the permit have been extended pursuant to [~~R307-15-7(3)(c)~~]R307-415-7c(3).

([~~ii~~]b) Additional requirements, including excess emissions requirements, become applicable to an Title IV affected source under the Acid Rain Program. Upon approval by EPA, excess emissions offset plans shall be deemed to be incorporated into the permit.

([~~iii~~]c) The Executive Secretary or EPA determines that the permit contains a material mistake or that inaccurate statements were made in establishing the emissions standards or other terms or conditions of the permit.

([~~iv~~]d) EPA or the Executive Secretary determines that the permit must be revised or revoked to assure compliance with the applicable requirements.

([~~v~~]e) Additional applicable requirements are to become effective before the renewal date of the permit and are in conflict with existing permit conditions.

([~~b~~]2) Proceedings to reopen and issue a permit shall follow the same procedures as apply to initial permit issuance and shall affect only those parts of the permit for which cause to reopen exists. Such reopening shall be made as expeditiously as practicable.

([~~c~~]3) Reopenings under [~~R307-15-7(7)(a)~~](1) above shall not be initiated before a notice of such intent is provided to the Part 70 source by the Executive Secretary at least 30 days in advance of the date that the permit is to be reopened, except that the Executive Secretary may provide a shorter time period in the case of an emergency.

R307-415-7h. Permit Revision: Reopenings for Cause by EPA.

[~~(8) Reopenings for cause by EPA.~~]The Executive Secretary shall, within 90 days after receipt of notification that EPA finds that cause exists to terminate, modify or revoke and reissue a permit, forward to EPA a proposed determination of termination, modification, or revocation and reissuance, as appropriate. The Executive Secretary may request a 90-day extension if a new or revised permit application is necessary or if the Executive Secretary determines that the permittee must submit additional information.

R307-415-7i. Public Participation.

[~~(9) Public participation.~~]The Executive Secretary shall provide for public notice, comment and an opportunity for a hearing on initial permit issuance, significant modifications, reopenings for cause, and renewals, including the following procedures:

([~~a~~]1) Notice shall be given: by publication in a newspaper of general circulation in the area where the source is located; to persons on a mailing list developed by the Executive Secretary, including those who request in writing to be on the list; and by other means if necessary to assure adequate notice to the affected public.

([~~b~~]2) The notice shall identify the Part 70 source; the name and address of the permittee; the name and address of the Executive Secretary; the activity or activities involved in the permit action; the emissions change involved in any permit modification; the name, address, and telephone number of a person from whom interested persons may obtain additional information, including copies of the permit draft, the application, all relevant supporting materials, including any compliance plan or compliance and monitoring certification, and all other materials available to the Executive Secretary that are relevant to the permit decision; a brief description of the comment procedures; and the time and place of any hearing that may be held, including a statement of procedures to request a hearing, unless a hearing has already been scheduled.

([~~c~~]3) The Executive Secretary shall provide such notice and opportunity for participation by affected States as is provided for by R307-415-8.

([~~d~~]4) Timing. The Executive Secretary shall provide at least 30 days for public comment and shall give notice of any public hearing at least 30 days in advance of the hearing.

([~~e~~]5) The Executive Secretary shall keep a record of the commenters and also of the issues raised during the public participation process, and such records shall be available to the public and to EPA.

R307-415-8. Permit Review by EPA and Affected States.

(1) Transmission of information to EPA.

(a) The Executive Secretary shall provide to EPA a copy of each permit application, including any application for permit modification, each proposed permit, and each final operating permit, unless the Administrator has waived this requirement for a category of sources, including any class, type, or size within such category. The applicant may be required by the Executive Secretary to provide a copy of the permit application, including the compliance plan, directly to EPA. Upon agreement with EPA, the Executive Secretary may submit to EPA a permit application summary form and any relevant portion of the permit application and compliance plan, in place of the complete permit application and compliance plan. To the extent practicable, the preceding information shall be provided in computer-readable format compatible with EPA's national database management system.

(b) The Executive Secretary shall keep for five years such records and submit to EPA such information as EPA may reasonably require to ascertain whether the Operating Permit Program complies with the requirements of the Act or of 40 CFR Part 70.

(2) Review by affected States.

(a) The Executive Secretary shall give notice of each draft permit to any affected State on or before the time that the Executive Secretary provides this notice to the public under [~~R307-15-7(9)~~]R307-415-7i, except to the extent [~~R307-15-7(6)(a) or (b)~~]R307-415-7f(1) or (2) requires the timing to be different, unless the Administrator has waived this requirement for a category of sources, including any class, type, or size within such category.

(b) The Executive Secretary, as part of the submittal of the proposed permit to EPA, or as soon as possible after the submittal for minor permit modification procedures allowed under [~~R307-15-7(6)(a) or (b)~~]R307-415-7f(1) or (2), shall notify EPA and any affected State in writing of any refusal by the Executive Secretary to accept all recommendations for the proposed permit that the affected State submitted during the public or affected State review period. The notice shall include the Executive Secretary's reasons for not accepting any such recommendation. The Executive Secretary is not required to accept recommendations that are not based on applicable requirements or the requirements of [~~this rule~~]R307-415.

(3) EPA objection. If EPA objects to the issuance of a permit in writing within 45 days of receipt of the proposed permit and all necessary supporting information, then the Executive Secretary shall not issue the permit. If the Executive Secretary fails, within 90 days after the date of an objection by EPA, to revise and submit a proposed permit in response to the objection, EPA may issue or deny the permit in accordance with the requirements of the Federal program promulgated under Title V of the Act.

(4) Public petitions to EPA. If EPA does not object in writing under [~~paragraph~~]R307-415-8(3), any person may petition EPA under the provisions of 40 CFR 70.8(d) within 60 days after the expiration of EPA's 45-day review period to make such objection. If EPA objects to the permit as a result of a petition, the Executive Secretary shall not issue the permit until EPA's objection has been resolved, except that a petition for review does not stay the effectiveness of a permit or its requirements if the permit was issued after the end of the 45-day review period and prior to an EPA objection. If the Executive Secretary has issued a permit prior to receipt of an EPA objection under this paragraph, EPA may modify, terminate, or revoke such permit, consistent with the procedures in 40 CFR 70.7(g) except in unusual circumstances, and the Executive Secretary may thereafter issue only a revised permit that satisfies EPA's objection. In any case, the source will not be in violation of the requirement to have submitted a timely and complete application.

(5) Prohibition on default issuance. The Executive Secretary shall not issue an operating permit, including a permit renewal or modification, until affected States and EPA have had an opportunity to review the proposed permit as required under this Section.

R307-4[1]15-9. Fees for Operating Permits.

(1) Definitions. The following definitions apply only to [~~this section~~]R307-415-9.

(a) "Allowable emissions" are emissions based on the potential to emit stated by the Executive Secretary in an approval order, the State Implementation Plan or an operating permit.

(b) "Chargeable pollutant" means any "regulated air pollutant" except the following:

(i) carbon monoxide;

(ii) any pollutant that is a regulated air pollutant solely because it is a Class I or II substance subject to a standard promulgated or established by Title VI of the Act, Stratospheric Ozone Protection;

(iii) any pollutant that is a regulated air pollutant solely because it is subject to a standard or regulation under Section 112(r) of the Act, Prevention of Accidental Releases.

(2) Applicability. As authorized by Section 19-2-109.1, all Part 70 sources must pay an annual fee, based on annual emissions of all chargeable pollutants.

(a) Any Title IV affected source that has been designated as a "Phase I Unit" in a substitution plan approved by the Administrator under 40 CFR Section 72.41 shall be exempted from the requirement to pay an emission fee from January 1, 1995 to December 31, 1999.

(3) Calculation of Annual Emission Fee for a Part 70 Source.

(a) The emission fee shall be calculated for all chargeable pollutants emitted from a Part 70 major source, even if only one unit or one chargeable pollutant triggers the applicability of [~~this rule~~]R307-415 to the source.

(i) Fugitive emissions and fugitive dust shall be counted when determining the emission fee for a Part 70 source.

(ii) An emission fee shall not be charged for emissions of any amount of a chargeable pollutant if the emissions are already accounted for within the emissions of another chargeable pollutant.

(iii) An emission fee shall not be charged for emissions of any one chargeable pollutant from any one Part 70 source in excess of 4,000 tons per year.

(iv) Emissions resulting directly from an internal combustion engine for transportation purposes or from a non-road vehicle shall not be counted when calculating chargeable emissions for a Part 70 source.

(b) The emission fee for an existing source prior to the issuance of an operating permit, shall be based on the most recent emission inventory available unless a Part 70 source elected, prior to July 1, 1992, to base the fee for one or more pollutants on allowable emissions established in an approval order or the State Implementation Plan.

(c) The emission fee after the issuance or renewal of an operating permit shall be based on the most recent emission inventory available unless a Part 70 source elects, prior to the issuance or renewal of the permit, to base the fee for one or more chargeable pollutants on allowable emissions for the entire term of the permit.

(d) When a new Part 70 source begins operating, it shall pay an emission fee for that fiscal year, prorated from the date the source begins operating. The emission fee for a new Part 70 source shall be based on allowable emissions until that source has been in operation for a full calendar year, and has submitted an inventory of actual emissions.

(e) When a Part 70 source ceases operation, is redesignated as a non-Part 70 source, or is otherwise exempted from the emission fee requirements, the emission fee shall be prorated to the date that the source ceased operation or was reclassified. If the Part 70 source has already paid an emission fee that is greater than the prorated fee, the balance will be credited to the source's account, but will not be refunded. When that Part 70 source resumes operation or again becomes subject to the emission fee requirements, it shall pay an emission fee for that fiscal year prorated from the date the source resumed operation or was reclassified. The fee shall be based on the emission inventory during the last full year of operation for that Part 70 source minus any credit in the source's account.

(i) The emission fee for a Part 70 source that has resumed operation shall continue to be based on actual emissions reported for the last full calendar year of operation before the shutdown until that source has been in operation for a full calendar year and has submitted an updated inventory of actual emissions.

(ii) If a Part 70 source has chosen to base the emission fee on allowable emissions, then the prorated fee or credit shall be calculated using allowable emissions.

(iii) Temporary shut downs of less than three months, or other normal shut downs due to seasonal work or regularly scheduled maintenance shall not qualify for an emission fee credit.

(f) Modifications. The method for calculating the emission fee for a source shall not be affected by modifications at that source, unless the source demonstrates to the Executive Secretary that another method for calculating chargeable emissions is more representative of operations after the modification has been made.

(g) The Executive Secretary may presume that potential emissions of any chargeable pollutant for the source are equivalent to the actual emissions for the source if recent inventory data are not available.

(4) Collection of Fees.

(a) The emission fee is due on October 1 of each calendar year or 45 days after the source has received notice of the amount of the fee, whichever is later.

(b) The Executive Secretary may require any person who fails to pay the annual emission fee by the due date to pay interest on the fee and a penalty under 19-2-109.1(7)(a).

(c) A person may contest an emission fee assessment, or associated penalty, under 19-2-109.1(8).

R307-4[1]15-10. Administrative Procedures and Appeals.

(1) Designation of proceedings as formal or informal. The following proceedings and actions are designated to be conducted either formally or informally in accordance with the applicable provisions of Administrative Procedures Act, Title 63, Chapter 46b.

(a) Calculation and assessment of annual emission fees shall be processed informally using the procedures identified in R307-415-9.

(b) Permit issuance, modification, revocation, reissuance and renewal shall be processed informally using the procedures identified in R307-415-2 through R307-415-8.

(c) Appeal of a permit denial or a final permit, as that term is defined in R307-415-[~~1~~]3, shall be conducted formally in accordance with Sections 63-46b-6 through 63-46b-13.

(d) A formal adjudicative proceeding may be converted to an informal proceeding or an informal adjudicative proceeding may be

converted to a formal proceeding in accordance with Subsection 63-46b-4(3).

(2) Appeals.

(a) The applicant, or any person meeting the requirements of Section 63-46b-9, may appeal a final permit or permit denial by submitting to the Executive Secretary within 30 days of final permit issuance or denial:

(i) a Request for Agency Action in accordance with Section 63-46b-3, and,

(ii) where the person appealing a final permit is not the applicant, a Petition to Intervene in accordance with Section 63-46b-9.

(b) Where appeal of a final permit is based solely on grounds arising after the 30-day deadline for filing an appeal, such requests may be filed no later than 30 days after the new grounds arise.

(3) Judicial Review.

(a) After exhaustion of administrative procedures, judicial review of final agency action shall be in accordance with Sections 63-46b-14 through 63-46b-18, except as provided in (b) below.

(b) Judicial review of the Executive Secretary's failure to act on any operating permit application or renewal shall be in accordance with Section 19-2-109.1(11).

KEY: air pollution, environmental protection, operating permit*, emission fee*

[~~September 4, 1997~~]1998 **19-2-109.1**
19-2-104

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Environmental Quality, Air Quality

R307-16

(Changed to R307-215 and R307-417)

Acid Rain Requirements

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 21115
FILED: 05/13/98, 12:11
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose is to change the numbering of this rule to new locations fitting the new structure for all R307 rules. No substantive change is made.

SUMMARY OF THE RULE OR CHANGE: Rule R307-16 is being renumbered to create Rules R307-215 and R307-417. (**DAR Note:** For complete information on these changes, see the reorganization table in the "Special Notices" section of this *Bulletin*.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 19-2-104

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: A small cost for renumbering the rule, learning new citations, and revising forms. In the long run, reduced cost in being able to find specific provisions more quickly.

❖LOCAL GOVERNMENTS: A small cost to learn new citations. In the long run, reduced cost in being able to find specific provisions more quickly.

❖OTHER PERSONS: A small cost to learn new citations. In the long run, reduced cost in being able to find specific provisions more quickly.

COMPLIANCE COSTS FOR AFFECTED PERSONS: A small cost to learn new citations. In the long run, reduced cost in being able to find specific provisions more quickly.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: A small cost to learn new citations. In the long run, reduced cost in being able to find specific provisions more quickly.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:

Environmental Quality
Air Quality
150 North 1950 West
Box 144820
Salt Lake City, UT 84114-4820, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Jan Miller at the above address, by phone at (801) 536-4042, by FAX at (801) 536-4099, or by Internet E-mail at jmiller@deq.state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 07/01/1998; OR ATTENDING A PUBLIC HEARING SCHEDULED FOR 06/23/1998, 1:30 p.m., Room 201, Department of Environmental Quality (DEQ) Building, 168 North 1950 West, Salt Lake City, UT.

THIS RULE MAY BECOME EFFECTIVE ON: 08/06/1998

AUTHORIZED BY: Ursula K. Trueman, Director

R307. Environmental Quality, Air Quality.
[~~R307-16. Acid Rain Requirements.~~]R307-417. Permits: Acid Rain Sources.
R307-[~~16~~]417-1. Part 72 Requirements.

The provisions of 40 CFR Part 72, as in effect on May 17, 1995, for purposes of implementing an acid rain program that meets the requirements of Title IV of the Clean Air Act, are incorporated into these rules by reference. The term "permitting authority" shall mean the Executive Secretary of the Air Quality Board, and the term "Administrator" shall mean the Administrator of the Environmental Protection Agency. If the provisions or requirements of 40 CFR Part 72 conflict with or are not included in R307-15, Operating Permit Requirements, provisions and requirements of 40 CFR Part 72 shall apply and take precedence.

KEY: acid rain, air quality, permitting authority*, operating permits*
1998 **19-2-101**
19-2-104(3)(q)

R307. Environmental Quality, Air Quality.
R307-215. Emission Standards: Acid Rain Requirements.
R307-[~~16-2~~]215-1. Part 76 Requirements.

The provisions of 40 CFR Part 76, as in effect on December 19, 1996, for purposes of implementing an acid rain program that meets the requirements of Title IV of the Clean Air Act, are incorporated into these rules by reference. The term "permitting authority" shall mean the Executive Secretary of the Air Quality Board, and the term "Administrator" shall mean the Administrator of the Environmental Protection Agency. If the provisions or requirements of 40 CFR Part 76 conflict with or are not included in R307-15, Operating Permit Requirements, provisions and requirements of 40 CFR Part 76 shall apply and take precedence.

KEY: acid rain, air quality, permitting authority*, operating permits*
[~~September 4, 1997~~]1998 **19-2-101**
19-2-104(3)(q)

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Environmental Quality, Air Quality
R307-17
Emissions Standards for Residential Solid Fuel Burning Devices and Fireplaces

NOTICE OF PROPOSED RULE
(Repeal)
DAR FILE NO.: 21103
FILED: 05/13/98, 11:56
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose is to reorganize the language from this rule in a new location fitting the new structure for all R307 rules. No substantive change is made.

SUMMARY OF THE RULE OR CHANGE: This rule is repealed in its entirety.
(**DAR Note:** The language from Rule R307-17 is being organized to form Sections R307-201-3 (DAR No. 21125), R307-203-2 (DAR No. 21127), and Rule R307-302 (DAR No. 21129) in this *Bulletin.* For complete information on these changes, see the reorganization table in the "Special Notices" section of this *Bulletin.*)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 19-2-104

ANTICIPATED COST OR SAVINGS TO:
❖THE STATE BUDGET: A small cost for renumbering the rule, learning new citations, and revising forms. In the long run, reduced cost in being able to find specific provisions more quickly.
❖LOCAL GOVERNMENTS: A small cost to learn new citations. In the long run, reduced cost in being able to find specific provisions more quickly.
❖OTHER PERSONS: A small cost to learn new citations. In the long run, reduced cost in being able to find specific provisions more quickly.
COMPLIANCE COSTS FOR AFFECTED PERSONS: A small cost to learn new citations. In the long run, reduced cost in being able to find specific provisions more quickly.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: A small cost to learn new citations. In the long run, reduced cost in being able to find specific provisions more quickly.

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150 North 1950 West
Box 144820
Salt Lake City, UT 84114-4820, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
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INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 07/01/1998; OR ATTENDING A PUBLIC HEARING SCHEDULED FOR 06/23/1998, 1:30 p.m., Room 201, Department of Environmental Quality (DEQ) Building, 168 North 1950 West, Salt Lake City, UT.

THIS RULE MAY BECOME EFFECTIVE ON: 08/06/1998

AUTHORIZED BY: Ursula K. Trueman, Director

{**DAR Note:** Because of publication constraints, the text of this rule is not printed in this *Bulletin*, but is published by reference to a copy on file at the Division of Administrative Rules. The text may also be inspected at the agency (address above) or in the *Utah Administrative Code* which is available at any state depository library.}

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Environmental Quality, Air Quality
R307-19
(Changed to R307-115)
General Conformity

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 21116
FILED: 05/13/98, 12:11
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose is to change this rule to a new location fitting the new structure for all R307 rules. No substantive change is made.

SUMMARY OF THE RULE OR CHANGE: Rule R307-19 is being changed to Rule R307-115.
(**DAR Note:** For complete information on these changes, see the reorganization table in the "Special Notices" section of this *Bulletin*.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 19-2-104

ANTICIPATED COST OR SAVINGS TO:
❖THE STATE BUDGET: A small cost for renumbering the rule, learning new citations, and revising forms. In the long run, reduced cost in being able to find specific provisions more quickly.
❖LOCAL GOVERNMENTS: A small cost to learn new citations. In the long run, reduced cost in being able to find specific provisions more quickly.
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COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: A small cost to learn new citations. In the long run, reduced cost in being able to find specific provisions more quickly.

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THIS RULE MAY BECOME EFFECTIVE ON: 08/06/1998

AUTHORIZED BY: Ursula K. Trueman, Director

R307. Environmental Quality, Air Quality.
R307-[~~19~~]115. General Conformity.
R307-[~~19~~]115-1. Determining Conformity.

The provisions of 40 CFR Part 93, Subpart B, Determining Conformity of General Federal Actions to State or Federal Implementation Plans, effective on November 30, 1992, are hereby incorporated by reference into these rules.

KEY: environmental protection, air pollution, general conformity*
[~~October 12, 1995~~]1998 **19-2-104**

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Environmental Quality, Air Quality
R307-20
(Changed to R307-220)
Emission Standards: Plan for Designated Facilities

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 21117
FILED: 05/13/98, 12:11
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose is to change this rule to a new location fitting the new structure for all R307 rules. No substantive change is made.

SUMMARY OF THE RULE OR CHANGE: Rule R307-20 is being changed to Rule R307-220.
(**DAR Note:** For complete information on these changes, see the reorganization table in the "Special Notices" section of this *Bulletin*.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 19-2-104

ANTICIPATED COST OR SAVINGS TO:
❖THE STATE BUDGET: A small cost for renumbering the rule, learning new citations, and revising forms. In the long run, reduced cost in being able to find specific provisions more quickly.
❖LOCAL GOVERNMENTS: A small cost to learn new citations. In the long run, reduced cost in being able to find specific provisions more quickly.
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COMPLIANCE COSTS FOR AFFECTED PERSONS: A small cost to learn new citations. In the long run, reduced cost in being able to find specific provisions more quickly.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: A small cost to learn new citations. In the long run, reduced cost in being able to find specific provisions more quickly.

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Salt Lake City, UT 84114-4820, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
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INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 07/01/1998; OR ATTENDING A PUBLIC HEARING SCHEDULED FOR 06/23/1998, 1:30 p.m., Room 201, Department of Environmental Quality (DEQ) Building, 168 North 1950 West, Salt Lake City, UT.

THIS RULE MAY BECOME EFFECTIVE ON: 08/06/1998

AUTHORIZED BY: Ursula K. Trueman, Director

R307. Environmental Quality, Air Quality.
R307-220. Emission Standards: Plan for Designated Facilities.
R307-220-1. Incorporation by Reference.

([~~a~~]1) To meet requirements of 42 U.S.C. 7411(d), the Federal Clean Air Act Section 111(d), the Utah plan for designated facilities must be incorporated by reference into these rules. Copies of the plan are available at the Utah Department of Environmental Quality, Division of Air Quality.

([~~b~~]2) Definitions. The following additional definitions apply to R307-220:

[~~(1)~~]"Designated Facility" means any existing source which emits a designated pollutant and which would be subject to a standard of performance for a new source if construction of the designated facility had begun after the effective date of the standard of performance issued under 40 CFR Part 60.

[~~(2)~~]"Designated Pollutant" means any air contaminant, the emission of which:

([~~i~~]a) is subject to a standard of performance for a new source; and

([~~ii~~]b) is not subject to a National Ambient Air Quality Standard; and

([~~iii~~]c) is not a hazardous air pollutant as defined in R307-1-1.

R307-220-2. Section I, Municipal Waste Landfills.

The Utah Plan for Designated Facilities, Section I, Municipal Solid Waste Landfills, as most recently adopted by the Air Quality Board on September 3, 1997, pursuant to Section 19-2-104, is hereby incorporated by reference and made a part of these rules.

KEY: air pollution, landfills, environmental protection
[~~September 4 1997~~]1998 19-2-104

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Environmental Quality, Air Quality
R307-21
(Changed to R307-221)
Emission Standards: Emission Controls for Existing Municipal Solid Waste Landfills

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 21118
FILED: 05/13/98, 12:11
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose is to change this rule to a new location fitting the new structure for all R307 rules. No substantive change is made.

SUMMARY OF THE RULE OR CHANGE: Rule R307-21 is being changed to Rule R307-221.
(**DAR Note:** For complete information on these changes, see the reorganization table in the "Special Notices" section of this *Bulletin*.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 19-2-104

ANTICIPATED COST OR SAVINGS TO:
❖THE STATE BUDGET: A small cost for renumbering the rule, learning new citations, and revising forms. In the long run, reduced cost in being able to find specific provisions more quickly.

❖LOCAL GOVERNMENTS: A small cost to learn new citations. In the long run, reduced cost in being able to find specific provisions more quickly.
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COMPLIANCE COSTS FOR AFFECTED PERSONS: A small cost to learn new citations. In the long run, reduced cost in being able to find specific provisions more quickly.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: A small cost to learn new citations. In the long run, reduced cost in being able to find specific provisions more quickly.

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Box 144820
Salt Lake City, UT 84114-4820, or
at the Division of Administrative Rules.

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INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 07/01/1998; OR ATTENDING A PUBLIC HEARING SCHEDULED FOR 06/23/1998, 1:30 p.m., Room 201, Department of Environmental Quality (DEQ) Building, 168 North 1950 West, Salt Lake City, UT.

THIS RULE MAY BECOME EFFECTIVE ON: 08/06/1998

AUTHORIZED BY: Ursula K. Trueman, Director

R307. Environmental Quality, Air Quality.
R307-221. Emission Standards: Emission Controls for Existing Municipal Solid Waste Landfills.
R307-221-1. Purpose and Applicability.

([~~a~~]1) To meet the requirements of 42 U.S.C. 7411(d) and 40 CFR 60.30c through 60.36c, and to meet the requirements of the plan for Municipal Solid Waste Landfills, incorporated by reference at [~~Section~~]R307-220-2, [~~Rule~~]R307-221 regulates emissions from existing municipal solid waste landfills.

([~~b~~]2) [~~Rule~~]R307-221 applies to each existing municipal solid waste landfill for which construction, reconstruction or modification was commenced before May 30, 1991. Municipal solid waste landfills which closed prior to November 8, 1987, are not subject to [~~Rule~~]R307-221. Physical or operational changes made solely to comply with the plan for Municipal Solid Waste Landfills are not considered a modification or reconstruction and do not subject the landfill to the requirements of 40 CFR 60 Subpart WWW.

([~~c~~]3) Municipal solid waste landfills with a design capacity greater than or equal to 2.5 million megagrams(2,755,750 tons) and 2.5 million cubic meters (3,270,000 cubic yards) are subject to the emission inventory requirements of [~~Subsection R307-1-3.5~~]R307-155, except that the date on which the annual inventory is due shall be March 1 of each calendar year.

R307-221-2. Definitions and References.

[~~Definitions in Section R307-21-2 apply only to Rule R307-21.~~]Definitions found in 40 CFR Part 60.751, effective March 12, 1996, are adopted and incorporated by reference, with the exclusion of the definitions of closed landfill, design capacity, and NMOC. The following additional definitions apply to R307-221:

"Closed Landfill" means a landfill in which solid waste is no longer being placed, and in which no additional solid wastes will be placed. A landfill is considered closed after meeting the criteria specified in Subsection R315-301-2(12).

"Design Capacity" means the maximum amount of solid waste a landfill can accept, as specified in an operating permit issued under [~~Rule~~]R307-415 or a solid waste permit issued under Rule R315-310.

"Modification" means an increase in the landfill design capacity through a physical or operational change, as reported in the initial Design Capacity Report.

"NMOC" means nonmethane organic compounds.

R307-221-3. Emission Restrictions.

([~~a~~]1) The requirements found in 40 CFR 60.752 through 60.759, including Appendix A, effective March 12, 1996, are adopted and incorporated by reference, with the following exceptions and the substitutions listed in R307-221-3[~~(b),(c),(d)and (e)~~](2) through (5):

([~~1~~]a) Substitute "executive secretary" for all federal regulation references to "Administrator."

([~~2~~]b) Substitute "State of Utah" for all federal regulation references to "State, local or Tribal agency."

([~~3~~]c) Substitute "[~~Rule~~]R307-221" for all references to "This subpart" or "this part."

([~~4~~]d) Substitute "40 CFR" for all references to "This title."

([~~5~~]e) Substitute "Title 19, Chapter 6" for all references to "RCRA" or the "Resource Conservation and Recovery Act," 42 U.S.C. 6921, et seq.

([~~6~~]f) Substitute "Rules R315-301 through 320" for all references to 40 CFR 258.

([~~b~~]2) Instead of 40 CFR 60.757(a)(1),substitute the following: The initial design capacity report must be submitted within 90 days after the date on which EPA approves the state plan incorporated by reference under R307-220-2.

([~~c~~]3) Instead of 40 CFR 60.757(a)(3), substitute the following: An amended design capacity report shall be submitted to the Executive Secretary providing notification of any increase in the design capacity of the landfill, whether the increase results from an increase in the permitted area or depth of the landfill, a change in the operating procedures, or any other means which results in an increase in the maximum design capacity of the landfill. The amended design capacity report shall be submitted within 90 days of the earliest of the following events:

([~~1~~]a) the issuance of an amended operating permit;

([~~2~~]b) submittal of application for a solid waste permit under R315-310; or

([~~3~~]c) the change in operating procedures which will result in an increase in design capacity.

([~~d~~]4) Instead of 40 CFR 60.757(b)(1)(i), substitute the following: The initial emission rate report for nonmethane organic compounds must be submitted within 90 days after EPA approval of the state plan incorporated by reference under R307-220-2.

([~~e~~]5) Instead of 40 CFR 60.752(b)(2)(ii)(B)(2), substitute the following: The liner shall be installed with liners on the bottom and all sides in all areas in which gas is to be collected, or as approved by the executive secretary. The liner shall meet the requirements of Subsection R315-303-4(3).

R307-221-4. Control Device Specifications.

Control devices meeting the following requirements, shall be used to control collected municipal solid waste landfill emissions:

([~~a~~]1) an open flare designed and operated in accordance with the parameters established in Section 40 CFR Part 60.18, which is adopted and incorporated by reference into this rule; or

([~~b~~]2) a control system designed and operated to reduce nonmethane organic compounds by 98 weight percent; or

([~~c~~]3) an enclosed combustor designed and operated to reduce the outlet nonmethane organic compounds concentration to 20 parts per million as hexane by volume, dry basis at 3 percent oxygen, or less.

R307-221-5. Compliance Schedule.

([~~a~~]1) Except as provided in [~~Subsection R307-21-5(b)~~](2) below, planning, awarding of contracts, and installation of municipal solid waste landfill air emission collection and control equipment capable of meeting the emission standards established under [~~Subsection~~]R307-221-3([~~a~~]1) shall be accomplished within 30 months after the date on which EPA approves the state plan incorporated by reference under R307-220-2.

([~~b~~]2) For each existing municipal solid waste landfill meeting the conditions in [~~Subsection~~]R307-221-1([~~b~~]2) whose emission rate for nonmethane organic compounds is less than 50 megagrams (55 tons) per year on the date EPA approves the state plan incorporated by reference under R307-220-2, installation of collection and control systems capable of meeting emissions standards in [~~Subsection~~]R307-221-1([~~b~~]2) shall be accomplished within 30 months of the date when the landfill has an emission rate of nonmethane organic compounds of 50 megagrams (55 tons) per year or more.

([~~c~~]3) The owner or operator of each landfill with a design capacity greater than or equal to 2.5 million megagrams (2,755,750 tons) and 2.5 million cubic meters (3,270,000 cubic yards) shall submit by April 1, 1997, an inventory of nonmethane organic compounds. The calculations for this inventory shall use emission factors which obtain the most accurate representation of actual emissions from the landfill.

([~~d~~]4) The owner or operator of a landfill requiring controls shall notify the executive secretary of the awarding of contracts for the construction of the collection and control system or the order to purchase components for the system. This notification shall be submitted within 18 months after reporting a nonmethane organic compound emission equal to or greater than 50 megagrams (55 tons) per year.

([~~e~~]5) The owner or operator shall notify the executive secretary of the initiation of construction or installation of the collection and control system. This notification shall be submitted to the executive secretary within 22 months after reporting a nonmethane organic compound emission rate equal to or greater than 50 megagrams (55 tons) per year. Landfills with commingled asbestos and municipal solid waste may include the submittals required under R307-[~~10~~]214-1 with this notice.

KEY: air pollution, municipal landfills*
[~~September 4, 1997~~]1998 **19-2-104**

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Environmental Quality, Air Quality
R307-101
General Requirements

NOTICE OF PROPOSED RULE
(New)
DAR FILE NO.: 21119
FILED: 05/13/98, 12:11
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose is to reorganize all R307 rules to make shorter sections and bring out important provisions. No substantive change is made.

SUMMARY OF THE RULE OR CHANGE: Foreword and definitions have been in Section R307-1-1. Many definitions apply to only one rule and are being moved to that rule. No definitions are being deleted entirely. See separate filing which deletes R307-1-1.
(**DAR Note:** The proposed amendment to R307-1, which is under DAR No. 21100 in this *Bulletin*, deletes Sections R307-1-1 through R307-1-4 and the language is reorganized in other locations throughout R307. For complete information on these changes, see the reorganization table in the "Special Notices" section of this *Bulletin*.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 19-2-104

ANTICIPATED COST OR SAVINGS TO:
❖THE STATE BUDGET: A small cost for renumbering the rule, learning new citations, and revising forms. In the long run, reduced cost in being able to find specific provisions more quickly.
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COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: A small cost to learn new citations. In the long run, reduced cost in being able to find specific provisions more quickly.

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Salt Lake City, UT 84114-4820, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Jan Miller at the above address, by phone at (801) 536-4042, by FAX at (801) 536-4099, or by Internet E-mail at jmiller@deq.state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 07/01/1998; OR ATTENDING A PUBLIC HEARING SCHEDULED FOR 06/23/1998, 1:30 p.m., Room 201, Department of Environmental Quality (DEQ) Building, 168 North 1950 West, Salt Lake City, UT.

THIS RULE MAY BECOME EFFECTIVE ON: 08/06/1998

AUTHORIZED BY: Ursula K. Trueman, Director

R307. Environmental Quality, Air Quality.
R307-101. General Requirements.
R307-101-1. Foreword.

Chapter 19-2 and the rules adopted by the Air Quality Board constitute the basis for control of air pollution sources in the state. These rules apply and will be enforced throughout the state, and are recommended for adoption in local jurisdictions where environmental specialists are available to cooperate in implementing rule requirements.

National Ambient Air Quality Standards (NAAQS), National Standards of Performance for New Stationary Sources (NSPS), National Prevention of Significant Deterioration of Air Quality (PSD) standards, and the National Emission Standards for Hazardous Air Pollutants (NESHAPS) apply throughout the nation and are legally enforceable in Utah.

R307-101-2. Definitions.

Except where specified in individual rules, definitions in R307-101-2 are applicable to all rules adopted by the Air Quality Board.

"Actual Area of Nonattainment" means an area which is shown by monitored data or modeling actually to exceed the National Ambient Air Quality Standards (Boundaries are established in the Utah State Implementation Plan).

"Actual Emissions" means the actual rate of emissions of a pollutant from a source determined as follows:

(1) In general, actual emissions as of a particular date shall equal the average rate, in tons per year, at which the source actually emitted the pollutant during a two-year period which precedes the particular date and which is representative of normal source operations. The Executive Secretary shall allow the use of a different time period upon a determination that it is more representative of normal source operation. Actual emissions shall be calculated using the source's actual operating hours, production rates, and types of materials processed, stored, or combusted during the selected time period.

(2) The Executive Secretary may presume that source-specific allowable emissions for the source are equivalent to the actual emissions of the source.

(3) For any source which has not begun normal operations on the particular date, actual emissions shall equal the potential to emit of the source on that date.

"Acute Hazardous Air Pollutant" means any noncarcinogenic hazardous air pollutant for which a threshold limit value - ceiling (TLV-C) has been adopted by the American Conference of Governmental Industrial Hygienists in its "Threshold Limit Values for Chemical Substances and Physical Agents - Biological Exposure Indices, pages 15 - 40 (1997)."

"Air Contaminant" means any particulate matter or any gas, vapor, suspended solid or any combination of them, excluding steam and water vapors (Section 19-2-102(1)).

"Air Contaminant Source" means any and all sources of emission of air contaminants whether privately or publicly owned or operated (Section 19-2-102(2)).

"Air Pollution" means the presence in the ambient air of one or more air contaminants in such quantities and duration and under conditions and circumstances, as is or tends to be 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 standards, rules and regulations adopted by the Air Quality Board (Section 19-2-104).

"Air Quality Related Values" means, as used in analyses under R307-401-4(1), Public Notice, those special attributes of a Class I area, assigned by a federal Land Manager, that are adversely affected by air quality.

"Allowable Emissions" means the emission rate of a source calculated using the maximum rated capacity of the source (unless the source is subject to enforceable limits which restrict the operating rate, or hours of operation, or both) and the emission limitation established pursuant to R307-401-6.

"Ambient Air" means the surrounding or outside air (Section 19-2-102(4)).

"Appropriate Authority" means the governing body of any city, town or county.

"Asphalt or Asphalt Cement" means the dark brown to black cementitious material (solid, semisolid, or liquid in consistency) of which the main constituents are bitumens which occur naturally or as a residue of petroleum refining.

"Atmosphere" means the air that envelops or surrounds the earth and includes all space outside of buildings, stacks or exterior ducts.

"Authorized Local Authority" means a city, county, city-county or district health department; a city, county or combination fire department; or other local agency duly designated by appropriate authority, with approval of the state Department of Health; and other lawfully adopted ordinances, codes or regulations not in conflict therewith.

"Baseline Date":

(1) Major source baseline date means:

(a) In the case of particulate matter and sulfur dioxide, January 6, 1975, and

(b) In the case of nitrogen dioxide, February 8, 1988.

(2) Minor source baseline date means the earliest date after the trigger date on which the first complete application under 40 CFR 52.21 or R307-405 is submitted by a major source or major modification subject to the requirements of 40 CFR 52.21 or R307-405. The minor source baseline is the date after which emissions from all new or modified sources consume or expand increment, including emissions from major and minor sources as well as any or all general commercial, residential, industrial, and other growth. The trigger date is:

(a) In the case of particulate matter and sulfur dioxide, August 7, 1977, and

(b) In the case of nitrogen dioxide, February 8, 1988.

"Best Available Control Technology (BACT)" means an emission limitation and/or other controls to include design, equipment, work practice, operation standard or combination thereof, based on the maximum degree or reduction of each pollutant subject to regulation under the Clean Air Act and/or the Utah Air Conservation Act emitted from or which results from any emitting installation, which the Air Quality Board, on a case-by-case basis taking into account energy, environmental and economic impacts and other costs, determines is achievable for such installation through application of production processes and available methods, systems and techniques, including fuel cleaning or treatment or innovative fuel combustion techniques for control of each such pollutant. In no event shall applications of BACT result in emissions of any pollutants which will exceed the emissions allowed by Section 111 or 112 of the Clean Air Act.

"Board" means Air Quality Board. See Section 19-2-102(6)(a).

"Breakdown" means any malfunction or procedural error, to include but not limited to any malfunction or procedural error during start-up and shutdown, which will result in the inoperability or sudden loss of performance of the control equipment or process equipment causing emissions in excess of those allowed by approval order or Title R307.

"BTU" means British Thermal Unit, the quantity of heat necessary to raise the temperature of one pound of water one degree Fahrenheit.

"Calibration Drift" means the change in the instrument meter readout over a stated period of time of normal continuous operation when the VOC concentration at the time of measurement is the same known upscale value.

"Carbon Adsorption System" means a device containing adsorbent material (e.g., activated carbon, aluminum, silica gel), an inlet and outlet for exhaust gases, and a system for the proper disposal or reuse of all VOC adsorbed.

"Carcinogenic Hazardous Air Pollutant" means any hazardous air pollutant that is classified as a known human carcinogen (A1) or suspected human carcinogen (A2) by the American Conference of Governmental Industrial Hygienists in its "Threshold Limit Values for Chemical Substances and Physical Agents - Biological Exposure Indices, pages 15 - 40 (1997)."

"Chronic Hazardous Air Pollutant" means any noncarcinogenic hazardous air pollutant for which a threshold limit value - time weighted average (TLV-TWA) having no threshold limit value - ceiling (TLV-C) has been adopted by the American Conference of Governmental Industrial Hygienists in its "Threshold Limit Values for Chemical Substances and Physical Agents - Biological Exposure Indices, pages 15 - 40 (1997)."

"Clean Air Act" means federal Clean Air Act as amended in 1990.

"Clearing Index" means an indicator of the predicted rate of clearance of ground level pollutants from a given area. This number is calculated by the National Weather Service from daily measurements of temperature lapse rates and wind speeds from ground level to 10,000 feet. The State has been divided into three separate air quality areas for purposes of the clearing index system:

(1) Area 1 includes those valleys below 6500 feet above sea level and west of the Wasatch Mountain Range and extending south through the Wasatch and Aquarius Plateaus to the Arizona border. Included are the Salt Lake, Utah, Skull and Escalante Valleys and valleys of the Sevier River Drainage.

(2) Area 2 includes those valleys below 6500 feet above sea level and east of the Wasatch Mountain Range. Included are Cache Valley, the Uintah Basin, Castle Valley and valleys of the Green, Colorado, and San Juan Rivers.

(3) Area 3 includes all valleys and areas above 6500 feet above sea level.

"Commence" as applied to construction of a major source or major modification means that the owner or operator has all necessary pre-construction approvals or permits and either has:

(1) Begun, or caused to begin, a continuous program of actual on-site construction of the source, to be completed within a reasonable time; or

(2) Entered into binding agreements or contractual obligations, which cannot be canceled or modified without substantial loss to the owner or operator, to undertake a program of actual construction of the source to be completed within a reasonable time.

"Compliance Schedule" means a schedule of events, by date, which will result in compliance with these regulations.

"Construction" means any physical change or change in the method of operation including fabrication, erection, installation, demolition, or modification of a source which would result in a change in actual emissions.

"Control Apparatus" means any device which prevents or controls the emission of any air contaminant directly or indirectly into the outdoor atmosphere.

"Department" means Utah State Department of Environmental Quality. See Section 19-1-103(1).

"Emission" means the act of discharge into the atmosphere of an air contaminant or an effluent which contains or may contain an air contaminant; or the effluent so discharged into the atmosphere.

"Emissions Information" means, with reference to any source operation, equipment or control apparatus:

(1) Information necessary to determine the identity, amount, frequency, concentration, or other characteristics related to air

quality of any air contaminant which has been emitted by the source operation, equipment, or control apparatus;

(2) Information necessary to determine the identity, amount, frequency, concentration, or other characteristics (to the extent related to air quality) of any air contaminant which, under an applicable standard or limitation, the source operation was authorized to emit (including, to the extent necessary for such purposes, a description of the manner or rate of operation of the source operation), or any combination of the foregoing; and

(3) A general description of the location and/or nature of the source operation to the extent necessary to identify the source operation and to distinguish it from other source operations (including, to the extent necessary for such purposes, a description of the device, installation, or operation constituting the source operation).

"Emission Limitation" means a requirement established by the Board or the Administrator, EPA, which limits the quantity, rate or concentration of emission of air pollutants on a continuous emission reduction including any requirement relating to the operation or maintenance of a source to assure continuous emission reduction (Section 302(k)).

"Enforceable" means all limitations and conditions which are enforceable by the Administrator, including those requirements developed pursuant to 40 CFR Parts 60 and 61, requirements within the State Implementation Plan and R307, any permit requirements established pursuant to 40 CFR 52.21 or R307-401.

"EPA" means Environmental Protection Agency.

"Executive Director" means the Executive Director of the Utah Department of Environmental Quality. See Section 19-1-103(2).

"Executive Secretary" means the Executive Secretary of the Board.

"Existing Installation" means an installation, construction of which began prior to the effective date of any regulation having application to it.

"Facility" means machinery, equipment, structures of any part or accessories thereof, installed or acquired for the primary purpose of controlling or disposing of air pollution. It does not include an air conditioner, fan or other similar device for the comfort of personnel.

"Fireplace" means all devices both masonry or factory built units (free standing fireplaces) with a hearth, fire chamber or similarly prepared device connected to a chimney which provides the operator with little control of combustion air, leaving its fire chamber fully or at least partially open to the room. Fireplaces include those devices with circulating systems, heat exchangers, or draft reducing doors with a net thermal efficiency of no greater than twenty percent and are used for aesthetic purposes.

"Fugitive Dust" means particulate, composed of soil and/or industrial particulates such as ash, coal, minerals, etc., which becomes airborne because of wind or mechanical disturbance of surfaces. Natural sources of dust and fugitive emissions are not fugitive dust within the meaning of this definition.

"Fugitive Emissions" means emissions from an installation or facility which are neither passed through an air cleaning device nor vented through a stack or could not reasonably pass through a stack, chimney, vent, or other functionally equivalent opening.

"Garbage" means all putrescible animal and vegetable matter resulting from the handling, preparation, cooking and consumption of food, including wastes attendant thereto.

"Gasoline" means any petroleum distillate, used as a fuel for internal combustion engines, having a Reid vapor pressure of 4 pounds or greater.

"Hazardous Air Pollutant (HAP)" means any pollutant listed by the EPA as a hazardous air pollutant in conformance with Section 112(b) of the Clean Air Act. A list of these pollutants is available at the Division of Air Quality.

"Heavy Fuel Oil" means a petroleum product or similar material with a boiling range higher than that of diesel fuel.

"Household Waste" means any solid or liquid material normally generated by the family in a residence in the course of ordinary day-to-day living, including but not limited to garbage, paper products, rags, leaves and garden trash.

"Incinerator" means a combustion apparatus designed for high temperature operation in which solid, semisolid, liquid, or gaseous combustible wastes are ignited and burned efficiently and from which the solid and gaseous residues contain little or no combustible material.

"Indirect Source" means a building, structure or installation which attracts or may attract mobile source activity that results in emission of a pollutant for which there is a national standard.

"Installation" means a discrete process with identifiable emissions which may be part of a larger industrial plant. Pollution equipment shall not be considered a separate installation or installations.

"LPG" means liquified petroleum gas such as propane or butane.

"Major Modification" means any physical change in or change in the method of operation of a major source that would result in a significant net emissions increase of any pollutant. A net emissions increase that is significant for volatile organic compounds shall be considered significant for ozone. Within Salt Lake and Davis Counties or any nonattainment area for ozone, a net emissions increase that is significant for nitrogen oxides shall be considered significant for ozone. Within areas of nonattainment for PM10, a significant net emission increase for any PM10 precursor is also a significant net emission increase for PM10. A physical change or change in the method of operation shall not include:

(1) routine maintenance, repair and replacement;

(2) use of an alternative fuel or raw material by reason of an order under section 2(a) and (b) of the Energy Supply and Environmental Coordination Act of 1974, or by reason of a natural gas curtailment plan pursuant to the Federal Power Act;

(3) use of an alternative fuel by reason of an order or rule under section 125 of the federal Clean Air Act;

(4) use of an alternative fuel at a steam generating unit to the extent that the fuel is generated from municipal solid waste;

(5) use of an alternative fuel or raw material by a source:

(a) which the source was capable of accommodating before January 6, 1975, unless such change would be prohibited under any enforceable permit condition; or

(b) which the source is otherwise approved to use;

(6) an increase in the hours of operation or in the production rate unless such change would be prohibited under any enforceable permit condition;

(7) any change in ownership at a source.

"Major Source" means, to the extent provided by the federal Clean Air Act as applicable to R307:

(1) any stationary source of air pollutants which emits, or has the potential to emit, one hundred tons per year or more of any pollutant subject to regulation under the Clean Air Act; or

(a) any source located in a nonattainment area for carbon monoxide which emits, or has the potential to emit, carbon monoxide in the amounts outlined in Section 187 of the federal Clean Air Act with respect to the severity of the nonattainment area as outlined in Section 187 of the federal Clean Air Act; or

(b) any source located in Salt Lake or Davis Counties or in a nonattainment area for ozone which emits, or has the potential to emit, VOC or nitrogen oxides in the amounts outlined in Section 182 of the federal Clean Air Act with respect to the severity of the nonattainment area as outlined in Section 182 of the federal Clean Air Act; or

(c) any source located in a nonattainment area for PM10 which emits, or has the potential to emit, PM10 or any PM10 precursor in the amounts outlined in Section 189 of the federal Clean Air Act with respect to the severity of the nonattainment area as outlined in Section 189 of the federal Clean Air Act.

(2) any physical change that would occur at a source not qualifying under subpart 1 as a major source, if the change would constitute a major source by itself;

(3) the fugitive emissions and fugitive dust of a stationary source shall not be included in determining for any of the purposes of these R307 rules whether it is a major stationary source, unless the source belongs to one of the following categories of stationary sources:

(a) Coal cleaning plants (with thermal dryers);

(b) Kraft pulp mills;

(c) Portland cement plants;

(d) Primary zinc smelters;

(e) Iron and steel mills;

(f) Primary aluminum or reduction plants;

(g) Primary copper smelters;

(h) Municipal incinerators capable of charging more than 250 tons of refuse per day;

(i) Hydrofluoric, sulfuric, or nitric acid plants;

(j) Petroleum refineries;

(k) Lime plants;

(l) Phosphate rock processing plants;

(m) Coke oven batteries;

(n) Sulfur recovery plants;

(o) Carbon black plants (furnace process);

(p) Primary lead smelters;

(q) Fuel conversion plants;

(r) Sintering plants;

(s) Secondary metal production plants;

(t) Chemical process plants;

(u) Fossil-fuel boilers (or combination thereof) totaling more than 250 million British Thermal Units per hour heat input;

(v) Petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels;

(w) Taconite ore processing plants;

(x) Glass fiber processing plants;

(y) Charcoal production plants;

(z) Fossil fuel-fired steam electric plants of more than 250 million British Thermal Units per hour heat input;

(aa) Any other stationary source category which, as of August 7, 1980, is being regulated under section 111 or 112 of the federal Clean Air Act.

"Modification" means any planned change in a source which results in a potential increase of emission.

"National Ambient Air Quality Standards (NAAQS)" means the allowable concentrations of air pollutants in the ambient air specified by the Federal Government (Title 40, Code of Federal Regulations, Part 50).

"Net Emissions Increase" means the amount by which the sum of the following exceeds zero:

(1) any increase in actual emissions from a particular physical change or change in method of operation at a source; and

(2) any other increases and decreases in actual emissions at the source that are contemporaneous with the particular change and are otherwise creditable. For purposes of determining a "net emissions increase":

(a) An increase or decrease in actual emissions is contemporaneous with the increase from the particular change only if it occurs between the date five years before construction on the particular change commences; and the date that the increase from the particular change occurs.

(b) An increase or decrease in actual emissions is creditable only if it has not been relied on in issuing a prior approval for the source which approval is in effect when the increase in actual emissions for the particular change occurs.

(c) An increase or decrease in actual emission of sulfur dioxide, nitrogen oxides or particulate matter which occurs before an applicable minor source baseline date is creditable only if it is required to be considered in calculating the amount of maximum allowable increases remaining available. With respect to particulate matter, only PM10 emissions will be used to evaluate this increase or decrease.

(d) An increase in actual emissions is creditable only to the extent that the new level of actual emissions exceeds the old level.

(e) A decrease in actual emissions is creditable only to the extent that:

(i) The old level of actual emissions or the old level of allowable emissions, whichever is lower, exceeds the new level of actual emissions;

(ii) It is enforceable at and after the time that actual construction on the particular change begins; and

(iii) It has approximately the same qualitative significance for public health and welfare as that attributed to the increase from the particular change.

(iv) It has not been relied on in issuing any permit under R307-401 nor has it been relied on in demonstrating attainment or reasonable further progress.

(f) An increase that results from a physical change at a source occurs when the emissions unit on which construction occurred becomes operational and begins to emit a particular pollutant. Any replacement unit that requires shakedown becomes operational only after a reasonable shakedown period, not to exceed 180 days.

"New Installation" means an installation, construction of which began after the effective date of any regulation having application to it.

"Nonattainment Area" means for any pollutant, "an area which is shown by monitored data or which is calculated by air quality modeling (or other methods determined by the Administrator, EPA

to be reliable) to exceed any National Ambient Air Quality Standard for such pollutant" (Section 171, Clean Air Act). Such term includes any area designated as nonattainment under Section 107, Clean Air Act.

"Offset" means an amount of emission reduction, by a source, greater than the emission limitation imposed on such source by these regulations and/or the State Implementation Plan.

"Opacity" means the capacity to obstruct the transmission of light, expressed as percent.

"Open Burning" means any burning of combustible materials resulting in emission of products of combustion into ambient air without passage through a chimney or stack.

"Owner or Operator" means any person who owns, leases, controls, operates or supervises a facility, an emission source, or air pollution control equipment.

"PSD" Area means an area designated as attainment or unclassifiable under section 107(d)(1)(D) or (E) of the federal Clean Air Act.

"PM10 Nonattainment Area" means Salt Lake County, Utah County, or Ogden City.

"PM10 Particulate Matter" means particulate matter with an aerodynamic diameter less than or equal to a nominal 10 micrometers as measured by an EPA reference or equivalent method.

"PM10 Precursor" means any chemical compound or substance which, after it has been emitted into the atmosphere, undergoes chemical or physical changes that convert it into particulate matter, specifically PM10. It includes sulfur dioxide and nitrogen oxides.

"Part 70 Source" means any source subject to the permitting requirements of R307-415.

"Peak Ozone Season" means June 1 through August 31, inclusive.

"Person" means an individual, trust, firm, estate, company, corporation, partnership, association, state, state or federal agency or entity, municipality, commission, or political subdivision of a state. (Subsection 19-2-103(4)).

"Potential to Emit" means the maximum capacity of a source to emit a pollutant under its physical and operational design. Any physical or operational limitation on the capacity of the source to emit a pollutant including air pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored, or processed shall be treated as part of its design if the limitation or the effect it would have on emissions is enforceable. Secondary emissions do not count in determining the potential to emit of a stationary source.

"Process Level" means the operation of a source, specific to the kind or type of fuel, input material, or mode of operation.

"Process Rate" means the quantity per unit of time of any raw material or process intermediate consumed, or product generated, through the use of any equipment, source operation, or control apparatus. For a stationary internal combustion unit or any other fuel burning equipment, this term may be expressed as the quantity of fuel burned per unit of time.

"Production Equipment Exhaust System" means a device for collecting and directing out of the work area VOC fugitive emissions from reactor openings, centrifuge openings, and other vessel openings for the purpose of protecting employees from excessive VOC exposure.

"Reactor" means any vat or vessel, which may be jacketed to permit temperature control, designed to contain chemical reactions.

"Reasonable Further Progress" means annual incremental reductions in emission of an air pollutant which are sufficient to provide for attainment of the NAAQS by the date identified in the State Implementation Plan.

"Refuse" means solid wastes, such as garbage and trash.

"Residence" means a dwelling in which people live, including all ancillary buildings.

"Residential Solid Fuel Burning" device means any residential burning device except a fireplace connected to a chimney that burns solid fuel and is capable of, and intended for use as a space heater, domestic water heater, or indoor cooking appliance, and has an air-to-fuel ratio less than 35-to-1 as determined by the test procedures prescribed in 40 CFR 60.534. It must also have a useable firebox volume of less than 20 cubic feet, a minimum burn rate less than 5 kg/hr as determined by test procedures prescribed in 40 CFR 60.534, and weigh less than 800 kg. Appliances that are described as prefabricated fireplaces and are designed to accommodate doors or other accessories that would create the air starved operating conditions of a residential solid fuel burning device shall be considered as such. Fireplaces are not included in this definition for solid fuel burning devices.

"Salvage Operation" means any business, trade or industry engaged in whole or in part in salvaging or reclaiming any product or material, including but not limited to metals, chemicals, shipping containers or drums.

"Secondary Emissions" means emissions which would occur as a result of the construction or operation of a major source or major modification, but do not come from the major source or major modification itself.

Secondary emissions must be specific, well defined, quantifiable, and impact the same general area as the source or modification which causes the secondary emissions. Secondary emissions include emissions from any off-site support facility which would not be constructed or increase its emissions except as a result of the construction or operation of the major source or major modification. Secondary emissions do not include any emissions which come directly from a mobile source such as emissions from the tailpipe of a motor vehicle, from a train, or from a vessel.

Fugitive emissions and fugitive dust from the source or modification are not considered secondary emissions.

"Significant" means:

(1) In reference to a net emissions increase or the potential of a source to emit any of the following pollutants, a rate of emissions that would equal or exceed any of the following rates:

Carbon monoxide: 100 ton per year (tpy)

Nitrogen oxides: 40 tpy

Sulfur dioxide: 40 tpy

PM10 Particulate matter: 15 tpy

Particulate matter: 25 tpy

Ozone: 40 tpy of volatile organic compounds

Lead: 0.6 tpy

(2) For purposes of R307-405 it shall also additionally mean for:

(a) A rate of emissions that would equal or exceed any of the following rates:

Asbestos: 0.007 tpy
Beryllium: 0.0004 tpy
Mercury: 0.1 tpy
Vinyl Chloride: 1 tpy
Fluorides: 3 tpy
Sulfuric acid mist: 7 tpy
Hydrogen Sulfide: 10 tpy
Total reduced sulfur (including H2S): 10 tpy
Reduced sulfur compounds (including H2S): 10 tpy

(b) In reference to a net emissions increase or the potential of a source to emit a pollutant subject to regulation under the Clean Air Act not listed in (1) and (2) above, any emission rate.

(c) Notwithstanding the rates listed in (1) and (2) above, any emissions rate or any net emissions increase associated with a major source or major modification, which would construct within 10 kilometers of a Class I area, and have an impact on such area equal to or greater than 1 ug/cubic meter, (24-hour average).

"Solid Fuel" means wood, coal, and other similar organic material or combination of these materials.

"Solvent" means organic materials which are liquid at standard conditions (Standard Temperature and Pressure) and which are used as dissolvers, viscosity reducers, or cleaning agents.

"Source" means any structure, building, facility, or installation which emits or may emit any air pollutant subject to regulation under the Clean Air Act and which is located on one or more continuous or adjacent properties and which is under the control of the same person or persons under common control. A building, structure, facility, or installation means all of the pollutant-emitting activities which belong to the same industrial grouping. Pollutant-emitting activities shall be considered as part of the same industrial grouping if they belong to the same "Major Group" (i.e. which have the same two-digit code) as described in the Standard Industrial Classification Manual, 1972, as amended by the 1977 Supplement (US Government Printing Office stock numbers 4101-0065 and 003-005-00176-0, respectively).

"Stack" means any point in a source designed to emit solids, liquids, or gases into the air, including a pipe or duct but not including flares.

"Standards of Performance for New Stationary Sources" means the Federally established requirements for performance and record keeping (Title 40 Code of Federal Regulations, Part 60).

"State" means Utah State.

"Synthesized Pharmaceutical Manufacturing" means the manufacture of pharmaceutical products by chemical synthesis.

"Temporary" means not more than 180 calendar days.

"Threshold Limit Value - Ceiling (TLV-C)" means the airborne concentration of a substance which may not be exceeded, as adopted by the American Conference of Governmental Industrial Hygienists in its "Threshold Limit Values for Chemical Substances and Physical Agents - Biological Exposure Indices (1997), pages 15 - 40."

"Threshold Limit Value - Time Weighted Average (TLV-TWA)" means the time-weighted airborne concentration of a substance adopted by the American Conference of Governmental Industrial Hygienists in its "Threshold Limit Values for Chemical Substances and Physical Agents - Biological Exposure Indices (1997), pages 15 - 40."

"Total Suspended Particulate (TSP)" means minute separate particles of matter, collected by high volume sampler.

"Toxic Screening Level" means an ambient concentration of an air contaminant equal to a threshold limit value - ceiling (TLV- C) or threshold limit value -time weighted average (TLV-TWA) divided by a safety factor.

"Trash" means solids not considered to be highly flammable or explosive including, but not limited to clothing, rags, leather, plastic, rubber, floor coverings, excelsior, tree leaves, yard trimmings and other similar materials.

"Vertically Restricted Emissions Release" means the release of an air contaminant through a stack or opening whose flow is directed in a downward or horizontal direction due to the alignment of the opening or a physical obstruction placed beyond the opening, or at a height which is less than 1.3 times the height of an adjacent building or structure, as measured from ground level.

"Vertically Unrestricted Emissions Release" means the release of an air contaminant through a stack or opening whose flow is directed upward without any physical obstruction placed beyond the opening, and at a height which is at least 1.3 times the height of an adjacent building or structure, as measured from ground level.

"Volatile Organic Compound (VOC)" as defined in 40 CFR Subsection 51.100(s)(1), as amended on September 24, 1997,and published at 62 Fed. Reg. 164 (August 25, 1997) is hereby adopted and incorporated by reference.

"Waste" means all solid, liquid or gaseous material, including, but not limited to, garbage, trash, household refuse, construction or demolition debris, or other refuse including that resulting from the prosecution of any business, trade or industry.

"Zero Drift" means the change in the instrument meter readout over a stated period of time of normal continuous operation when the VOC concentration at the time of measurement is zero.

KEY: air pollution, definitions*
1998 **19-2-104**

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Environmental Quality, Air Quality
R307-102
General Requirements: Broadly Applicable Requirements

NOTICE OF PROPOSED RULE
(New)
DAR FILE NO.: 21120
FILED: 05/13/98, 12:12
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose is to reorganize all R307 rules to make shorter sections and bring out important provisions. No substantive change is made.

SUMMARY OF THE RULE OR CHANGE: These provisions are presently found in Subsections R307-1-2.1, R307-1-2.3, R307-1-2.5, Section R307-1-4 first paragraph, and Subsection R307-1-4.8.
(**DAR Note:** The proposed amendment to R307-1, which is under DAR No. 21100 in this *Bulletin*, deletes Sections R307-1-1 through R307-1-4 and the language is reorganized in other locations throughout R307. For complete information on these changes, see the reorganization table in the "Special Notices" section of this *Bulletin*.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 19-2-104

ANTICIPATED COST OR SAVINGS TO:
❖THE STATE BUDGET: A small cost for renumbering the rule, learning new citations, and revising forms. In the long run, reduced cost in being able to find specific provisions more quickly.
❖LOCAL GOVERNMENTS: A small cost to learn new citations. In the long run, reduced cost in being able to find specific provisions more quickly.
❖OTHER PERSONS: A small cost to learn new citations. In the long run, reduced cost in being able to find specific provisions more quickly.
COMPLIANCE COSTS FOR AFFECTED PERSONS: A small cost to learn new citations. In the long run, reduced cost in being able to find specific provisions more quickly.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: A small cost to learn new citations. In the long run, reduced cost in being able to find specific provisions more quickly.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
Environmental Quality
Air Quality
150 North 1950 West
Box 144820
Salt Lake City, UT 84114-4820, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Jan Miller at the above address, by phone at (801) 536-4042, by FAX at (801) 536-4099, or by Internet E-mail at jmiller@deq.state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 07/01/1998; OR ATTENDING A PUBLIC HEARING SCHEDULED FOR 06/23/1998, 1:30 p.m., Room 201, Department of Environmental Quality (DEQ) Building, 168 North 1950 West, Salt Lake City, UT.

THIS RULE MAY BECOME EFFECTIVE ON: 08/06/1998

AUTHORIZED BY: Ursula K. Trueman, Director

R307. Environmental Quality, Air Quality.
R307-102. General Requirements: Broadly Applicable Requirements.
R307-102-1. Air Pollution Prohibited.

Emission of air contaminants in sufficient quantities to cause air pollution as defined in R307-101-2 is prohibited. The State statute provides for penalties up to $50,000/day for violation of State statutes, regulations, rules or standards (See Section 19-2-115 for further details).

R307-102-2. Confidentiality of Information.

Any person submitting information pursuant to these regulations may request that such information be treated as a trade secret or on a confidential basis, in which case the executive secretary and Board shall so treat such information. If no claim is made at the time of submission, the executive secretary may make the information available to the public without further notice. Information required to be disclosed to the public under State or Federal law may not be requested to be kept confidential. Justification supporting claims of confidentiality shall be provided at the time of submission on the information. Each page claimed "confidential" shall be marked "confidential business information" by the applicant and the confidential information on each page shall be clearly specified. Claims of confidentiality for the name and address of applicants for an approval order will be denied. Confidential information or any other information or report received by the executive secretary or Board shall be available to EPA upon request and the person who submitted the information shall be notified simultaneously of its release to EPA.

R307-102-3. Administrative Procedures and Hearings.

(1) The following proceedings and actions are designated to be conducted either formally or informally as required by Section 63-46b-4:

(a) Notices of Intent and Approval Orders shall be processed informally using the procedures identified in R307-401 through 414. Appeals of denials of or conditions in an approval order shall be conducted formally.

(b) Issuance of Notices of Violations and Orders are exempt under Section 63-46b-1(2)(k). Appeals of Notices of Violation and Orders shall be processed as formal proceedings.

(c) Requests for variances shall be processed informally using the procedures in Section 19-2-113 and R307-102-4.

(d) Qualification for Tank Vapor Tightness Testing shall be conducted informally using the procedures identified in R307-329-4.

(e) Certification of Asbestos Contractors shall be conducted informally using the procedures identified in R307-801.

(f) Certification and accreditation under R307-840, Lead-Based Paint, as well as revocation, denial and modification of such certification shall be conducted as informal proceedings.

(g) Any other request or approvals for experiments, testing, control plans, etc., shall be conducted informally using the procedures identified in R307-401.

(2) At any time before a final order is issued, the Board or appointed hearing officer may convert proceedings which are designated to be informal to formal, and proceedings which are designated as formal to informal if conversion is in the public interest and rights of all parties are not unfairly prejudiced.

(3) Rules for conducting formal proceedings shall be as provided in Section 63-46b-3 and in Sections 63-46b-6 through 63-46b-13. In addition to the procedures referenced in (1) above, the procedures in Sections 63-46b-3 and 63-46b-5 apply to informal proceedings.

(4) Declaratory Orders. In accordance with the provisions of Section 63-46b-21, any person may file a request for a declaratory order. The request shall be titled a petition for declaratory order and shall specifically identify the issues requested to be the subject of the order. Requests for declaratory order, if set for adjudicative hearing, will be processed informally using the procedures identified in Sections 63-46b-3 and 63-46b-5 unless converted to a formal proceeding under (2) above. No declaratory orders will be issued in the circumstances described in Subsection 63-46b-21(3)(a). Intervention rights and other procedures governing declaratory orders are outlined in Section 63-46b-21.

R307-102-4. Variances Authorized.

(1) Variance from these regulations may be granted by the Board as provided by law (See Section 19-2-113) unless prohibited by the Clean Air Act:

(a) to permit operation of an air pollution source for the time period involved in installing or constructing air pollution control equipment in accordance with a compliance schedule negotiated by the Executive Secretary and approved by the Board.

(b) to permit operation of an air pollution source where there is no practicable means known or available for adequate prevention, abatement or control of the air pollutants involved. Such a variance shall be only until the necessary means for prevention, abatement or control becomes known and available, subject to the use of substitute or alternate measures the Board may prescribe.

(c) to permit operation of an air pollution source where the control measures, because of their extent or cost, must be spread over a considerable period of time.

(2) Variance requests, as set forth in Section 19-2-113, may be submitted by the owner or operator who is in control of any plant, building, structure, establishment, process or equipment.

R307-102-5. No Reduction in Pay.

In accordance with paragraph 110(a)(6), Clean Air Act as amended August 1977, owners or operators may not temporarily reduce the pay of any employee by reason of the use of a supplemental or intermittent or other dispersion dependent control system for the purposes of meeting any air pollution requirement adopted pursuant to the Clean Air Act as amended August 1977.

R307-102-6. Emissions Standards.

Other provisions of R307 may require more stringent controls than listed herein, in which case those requirements must be met.

KEY: air pollution, confidentiality of information, administrative procedure, hearings*
1998 **19-2-104**
63-46b-4
19-2-113

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Environmental Quality, Air Quality
R307-107
General Requirements: Unavoidable Breakdown

NOTICE OF PROPOSED RULE
(New)
DAR FILE NO.: 21121
FILED: 05/13/98, 12:13
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose is to reorganize all R307 rules to make shorter sections and bring out important provisions. No substantive change is made.

SUMMARY OF THE RULE OR CHANGE: The language for Sections R307-107-1 through R307-107-5 is presently found in Subsection R307-1-4.7. The language for Section R307-107-6 is presently in the first paragraph of Section R307-1-4. (**DAR Note:** The proposed amendment to R307-1, which is under DAR No. 21100 in this *Bulletin*, deletes Sections R307-1-1 through R307-1-4 and the language is reorganized in other locations throughout R307. For complete information on these changes, see the reorganization table in the "Special Notices" section of this *Bulletin*.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 19-2-104

ANTICIPATED COST OR SAVINGS TO:
❖THE STATE BUDGET: A small cost for renumbering the rule, learning new citations, and revising forms. In the long run, reduced cost in being able to find specific provisions more quickly.
❖LOCAL GOVERNMENTS: A small cost to learn new citations. In the long run, reduced cost in being able to find specific provisions more quickly.
❖OTHER PERSONS: A small cost to learn new citations. In the long run, reduced cost in being able to find specific provisions more quickly.
COMPLIANCE COSTS FOR AFFECTED PERSONS: A small cost to learn new citations. In the long run, reduced cost in being able to find specific provisions more quickly.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: A small cost to learn new citations. In the long run, reduced cost in being able to find specific provisions more quickly.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
Environmental Quality
Air Quality
150 North 1950 West
Box 144820

Salt Lake City, UT 84114-4820, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Jan Miller at the above address, by phone at (801) 536-4042, by FAX at (801) 536-4099, or by Internet E-mail at jmiller@deq.state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 07/01/1998; OR ATTENDING A PUBLIC HEARING SCHEDULED FOR 06/23/1998, 1:30 p.m., Room 201, Department of Environmental Quality (DEQ) Building, 168 North 1950 West, Salt Lake City, UT.

THIS RULE MAY BECOME EFFECTIVE ON: 08/06/1998

AUTHORIZED BY: Ursula K. Trueman, Director

R307. Environmental Quality, Air Quality.
R307-107. General Requirements: Unavoidable Breakdown.
R307-107-1. Application.

R307-107 applies to all regulated pollutants including those for which there are National Ambient Air Quality Standards. Except as otherwise provided in R307-107, emissions resulting from an unavoidable breakdown will not be deemed a violation of these regulations. If excess emissions are predictable, they must be authorized under the variance procedure in R307-102-4. Breakdowns that are caused entirely or in part by poor maintenance, careless operation, or any other preventable upset condition or preventable equipment breakdown shall not be considered unavoidable breakdown.

R307-107-2. Reporting.

A breakdown for any period longer than 2 hours must be reported to the executive secretary within 3 hours of the beginning of the breakdown if reasonable, but in no case longer than 18 hours after the beginning of the breakdown. During times other than normal office hours, breakdowns for any period longer than 2 hours shall be initially reported to the Environmental Health Emergency Response Coordinator, Telephone (801) 536-4123. Within 7 calendar days of the beginning of any breakdown of longer than 2 hours, a written report shall be submitted to the executive secretary which shall include the cause and nature of the event, estimated quantity of pollutant (total and excess), time of emissions and steps taken to control the emissions and to prevent recurrence. The submittal of such information shall be used by the executive secretary in determining whether a violation has occurred and/or the need of further enforcement action.

R307-107-3. Penalties.

Failure to comply with the reporting procedures of R307-107-2 will constitute a violation of these regulations.

R307-107-4. Procedures.

The owner or operator of an installation suffering an unavoidable breakdown shall assure that emission limitations and visible emission limitations are exceeded for only as short a period of time as reasonable. The owner or operator shall take all reasonable measures which may include but are not limited to the immediate curtailment of production, operations, or activities at all installations of the source if necessary to limit the total aggregate emissions from the source to no greater than the aggregate allowable emissions averaged over the periods provided in the source's approval orders or R307. In the event that production, operations or activities cannot be curtailed so as to so limit the total aggregate emissions without jeopardizing equipment or safety or measures taken would result in even greater excess emissions, the owner or operator of the source shall use the most rapid, reasonable procedure to reduce emissions. The owner or operator of any installation subject to a SIP emission limitation pursuant to these rules shall be deemed to have complied with the provisions of R307-107 if the emission limitation has not been exceeded.

R307-107-5. Violation.

Failure to comply with curtailment actions required by R307-107-4 will constitute a violation of R307-107.

R307-107-6. Emissions Standards.

Other provisions of R307 may require more stringent controls than listed herein, in which case those requirements must be met.

KEY: air pollution, breakdown*, excess emissions*
1998 19-2-104

Environmental Quality, Air Quality
R307-150
Periodic Inventories

NOTICE OF PROPOSED RULE
(New)
DAR FILE NO.: 21122
FILED: 05/13/98, 12:13
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose is to reorganize all R307 rules to make shorter sections and bring out important provisions. No substantive change is made.

SUMMARY OF THE RULE OR CHANGE: The language for Section R307-150-1 is presently found in Subsection R307-1-2.2. The language for Section R307-150-2 is presently found in Subsections R307-1-3.1.7.F and R307-1-3.1.7.C(6).
(**DAR Note:** The proposed amendment to R307-1, which is under DAR No. 21100 in this *Bulletin*, deletes Sections R307-1-1 through R307-1-4 and the language is reorganized in other locations throughout R307. For complete information on these changes, see the reorganization table in the "Special Notices" section of this *Bulletin*.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 19-2-104

ANTICIPATED COST OR SAVINGS TO:
❖THE STATE BUDGET: A small cost for renumbering the rule, learning new citations, and revising forms. In the long run, reduced cost in being able to find specific provisions more quickly.
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COMPLIANCE COSTS FOR AFFECTED PERSONS: A small cost to learn new citations. In the long run, reduced cost in being able to find specific provisions more quickly.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: A small cost to learn new citations. In the long run, reduced cost in being able to find specific provisions more quickly.

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Environmental Quality
Air Quality
150 North 1950 West
Box 144820
Salt Lake City, UT 84114-4820, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Jan Miller at the above address, by phone at (801) 536-4042, by FAX at (801) 536-4099, or by Internet E-mail at jmiller@deq.state.ut.us.

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THIS RULE MAY BECOME EFFECTIVE ON: 08/06/1998

AUTHORIZED BY: Ursula K. Trueman, Director

R307. Environmental Quality, Air Quality.
R307-150. Periodic Inventories.
R307-150-1. Periodic Reports of Emissions and Availability of Information.

The owner or operator of any stationary air-contaminant source in Utah shall furnish to the Board the periodic reports required under Section 19-2-104(1)(c) and any other information as the Board may deem necessary to determine whether the source is in compliance with Utah and Federal regulations and standards. The information thus obtained will be correlated with applicable emission standards or limitations and will be available to the public during normal business hours at the Division of Air Quality.

R307-150-2. Emissions from Exempted Activities.

Any owner or operator of a source submitting an inventory as required in R307-155 shall include in that inventory an estimate of all emissions from activities exempted in R307-413-2 through 6 from the requirement to obtain an approval order, using appropriate emission factors and estimating techniques.

Sources emitting 10 tons per year or more of 1,1,1-trichloroethane, trichlorofluoromethane, dichlorodifluoromethane, chlorodifluoromethane, trifluoromethane, 1,1,2-trichloro-1,2,2-trifluoroethane, 1,2-dichloro-1,1,2,2-tetrafluoroethane, methane, ethane, and chloropentafluoroethane are required to submit an annual emissions report.

KEY: inventories, authority*, reporting*
1998 19-2-104(1)(c)

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Environmental Quality, Air Quality
R307-155
Emission Inventories

NOTICE OF PROPOSED RULE
(New)
DAR FILE NO.: 21123
FILED: 05/13/98, 12:14
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose is to reorganize all R307 rules to make shorter sections and bring out important provisions. No substantive change is made.

SUMMARY OF THE RULE OR CHANGE: The language for the new Rule R307-155 is presently found in Subsection R307-1-3.5. (**DAR Note:** The proposed amendment to R307-1, which is under DAR No. 21100 in this *Bulletin*, deletes Sections R307-1-1 through R307-1-4 and the language is reorganized in other locations throughout R307. For complete information on these changes, see the reorganization table in the "Special Notices" section of this *Bulletin*.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 19-2-104

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THIS RULE MAY BECOME EFFECTIVE ON: 08/06/1998

AUTHORIZED BY: Ursula K. Trueman, Director

R307. Environmental Quality, Air Quality.
R307-155. Emission Inventories.
R307-155-1. Criteria Pollutant Inventory.

(1) The requirements of R307-155 replace any annual inventory reporting requirements in approval orders issued prior to April 1, 1998.

(a) Report Every Third Year. The owner or operator of each of the following sources is required to submit a report of actual emissions every third year. The first report shall be due in 2000 for calendar year 1999 for:

(i) any Part 70 source located in Davis, Salt Lake, Utah or Weber Counties;

(ii) any Part 70 temporary source;

(iii) any Part 70 source located outside Davis, Salt Lake, Utah or Weber Counties with 25 tons per year or more of combined allowable emissions of PM10, sulfur dioxide, oxides of nitrogen, volatile organic compounds or carbon monoxide; or

(iv) any stationary source:

(I) located in Davis, Salt Lake, Utah or Weber County with allowable emissions of PM10, sulfur oxides, or oxides of nitrogen of 25 tons per year or more;

(II) located in Davis or Salt Lake County with allowable emissions of volatile organic compounds of 10 tons per year or more;

(III) located in Davis, Salt Lake, or Utah County with allowable emissions of carbon monoxide of 100 tons per year or more;

(IV) that actually emits 100 tons per year or more of PM10, sulfur oxides, volatile organic compounds, carbon monoxide or oxides of nitrogen; or

(V) that actually emits 5 tons per year or more of lead.

(b) Report Every Sixth Year. Any Part 70 source not included in (a) above shall submit an emissions inventory every sixth year. The inventory for calendar year 1996 suffices as the first inventory.

(c) Additional Reports of Actual Emissions Required Under Specified Circumstances. This subsection is applicable to sources identified in (a)(i) through (iv) above.

(i) A source that initially achieves compliance at any time with any requirement of an applicable state implementation plan shall submit an inventory for the calendar year in which compliance is achieved.

(ii) A source specified in (a)(iv)(I), (II), (III), or (V) above and whose actual emissions of any of the individual pollutants specified in(a)(iv)(I), (II), (III), or (V) above increase or decrease by five percent or more from the most recently submitted inventory information shall submit an inventory for the calendar year in which the increase or decrease occurred.

(iii) A source with actual or allowable emissions of 100 or more tons per year of carbon monoxide, PM10, sulfur oxides, volatile organic compounds, or oxides of nitrogen, and whose actual emissions of any of these pollutants increase or decrease by five percent or more from the most recently submitted inventory shall submit an inventory for the calendar year in which the increase or decrease occurred.

(iv) A source operating temporarily in Davis, Salt Lake, Utah or Weber County shall submit an inventory for the calendar year in which the source operated in those counties.

(v) A source that ceases operations shall submit a report of actual emissions for the partial year and a report for the previous calendar year.

(vi) A new or modified source that receives approval to construct or begins operating shall submit a report for the initial partial year of operation and a report for the subsequent calendar year.

(d) In addition to the required inventories, any source may choose to submit an inventory for any calendar year. The executive secretary may require at any time a full or partial year inventory on reasonable notice to affected sources.

(e) Due Date. Emission inventories shall be submitted on or before April 15 of each calendar year following any calendar year in which an inventory is required under R307-155-1 or 3.

(f) Reports. Emission inventory reports shall include the rate and period of emission, excess or breakdown emissions, specific plant source of air pollution, composition of air contaminant, type and efficiency of air pollution control equipment and other information necessary to quantify operation and pollution emission, and to evaluate pollution control.

R307-155-2. Hazardous Air Pollutant Inventory.

The owner or operator of a stationary source, either "major source" or "area source" as defined in the Federal Clean Air Act (Title I, Part A, Section 112), which emits one or more hazardous air pollutant shall submit, at the request of the Executive Secretary, but not more than once per year, a Hazardous Air Pollutant Inventory. The inventory shall be submitted no later than July 1 of each year following any calendar year for which the hazardous air pollutant inventory is required. The required submittal shall be limited to hazardous air pollutants and shall include a report of the rate and period of emission, excess or breakdown emissions, the specific plant source of the emissions, the composition of the emission, the type and efficiency of air pollution control equipment, and any other information determined necessary by the Executive Secretary for the issuance of permits, the verification of compliance, and the determination of the effectiveness of control technology relative to the source's maximum achievable control technology (MACT).

R307-155-3. Emission Statement Inventory.

(1) Applicability. The owner or operator of a stationary source of either volatile organic compounds or oxides of nitrogen that is located in Salt Lake or Davis Counties or a nonattainment area for ozone and which emits or has the potential to emit 25 tons or more per year of either volatile organic compounds or oxides of nitrogen is required to submit an emission statement for the emissions released directly or indirectly into the outdoor atmosphere in the calendar years specified in (2) below. Such emission statement shall include information concerning both volatile organic compounds and oxides of nitrogen even if the source's emissions or its potential to emit equaled or exceeded 25 tons per year for only volatile organic compounds or oxides of nitrogen. Compliance with the emission statement requirements does not relieve any owner or operator of a source from the responsibility to comply with any other applicable reporting requirements set forth in any federal or state law or in the conditions of approval of any order or certificate in effect.

(2) Timing of Submittals.

(a) An emission statement shall be submitted for calendar year 1999 and every third year thereafter.

(b) A report for the calendar year in which any of the following conditions occurs must be submitted by any source:

(i) whose actual emissions of volatile organic compounds or oxides of nitrogen increase or decrease by five percent or more from the most recently submitted inventory information;

(ii) that initially achieves compliance at any time with any requirement of an applicable state implementation plan; or

(iii) for which the executive secretary requests submittal.

(c) A source that ceases operations shall submit a report for the partial year and a report for the previous calendar year.

(d) A new or modified source that receives approval to construct or begins operating during the reporting period shall submit a report for the initial partial year of operation and the subsequent calendar year.

(3) Procedure for submitting an emission statement. Emission statements shall be submitted in accordance with the following provisions:

(a) Emission statements shall be submitted on or before April 15 of each calendar year following any calendar year in which the source is subject to this rule.

(b) Emission statements shall be submitted to the Division of Air Quality on a form obtainable from the Division of Air Quality.

(4) Required contents of an emission statement. Any person who submits an emission statement shall include, as an integral part of the report:

(a) Certification, signed by the highest ranking individual with direct knowledge and overall responsibility for the information contained in the certified documents, that the information provided is true, accurate and complete. Such certification should be submitted with the understanding that submittal of false, inaccurate or incomplete information is subject to civil and criminal penalties.

(b) The date of the signature of certification and the telephone number of the certifying individual shall be included.

(c) The following source identification information shall be included:

(i) full name of the source;

(ii) parent company name, if applicable;

(iii) physical location of the source (i.e., the street address);

(iv) mailing address of the source;

(v) SIC code(s) of the source;

(vi) UTM coordinates or latitude and longitude of the source; and

(vii) the calendar year of the emissions.

(d) The following operating data for each source operation which has the potential to emit volatile organic compounds or oxides of nitrogen shall be included:

(i) annual and peak ozone season throughput;

(ii) average days of operation per week;

(iii) average hours of operation per day; and

(iv) total hours of operation for the year.

(e) The following information at the process level for oxides of nitrogen (expressed as molecular weight of nitrogen dioxide) and volatile organic compounds shall be included:

(i) Emissions information, including:

(A) the actual emissions of volatile organic compounds and oxides of nitrogen in tons per year;

(B) the average actual emissions of volatile organic compounds and oxides of nitrogen in pounds per day of operation during the peak ozone season;

(C) the code for the method used to quantify the actual emissions (from Table 1 included with the filing form in (2)(b) above); and

(D) any emission factor used to determine actual emissions.

(ii) Control apparatus information, including current primary and secondary control apparatus identification codes (from Table 2 included with the filing form in (2)(b)); and the actual control efficiency achieved by the control apparatus. If the actual control efficiency is unavailable, the control apparatus design efficiency shall be used.

(iii) Process rate data, including the annual process rate and the average process rate per day of operation during the peak ozone season.

(f) In place of the information required in (4)(d) and (e) above, any source which has the potential to emit less than one ton per year of either volatile organic compounds or nitrogen oxides but which is subject to this rule shall include:

(i) a description of each source operation and actual emissions of each air contaminant emitted from each source operation shall be estimated at one ton per year, or

(ii) a description of each source operation; estimated actual emission in tons per year; the code for the method used to quantify the actual emissions (from Table 1 included with the filing form in (2)(b); and any emission factor used to determine actual emissions.

(g) Emission statements shall include cumulative total fugitive emissions for the stationary source for all fugitive emissions that cannot be reported in the information pursuant to (4)(d) through (f) above. Such fugitive emissions shall be expressed in tons per year and in average pounds per day of operation during the peak ozone season.

(h) The method used for quantifying actual emissions for a source operation for use in preparing emission information required in (4)(e)(i) or (4)(f)(ii) above above shall be the method which is reasonably available and which best estimates the actual emissions from the source operation, unless an operating permit pursuant to Title V of the federal Clean Air Act has been issued for the stationary source. In such case, the method used shall be the method specified in the operating permit.

(5) Recordkeeping requirements.

(a) Each owner or operator of a stationary source subject to this rule shall maintain for a period of four years from the due date of each emission statement a copy of the emission statement submitted to the Division of Air Quality and records indicating how the information submitted in the emission statement was determined, including any calculations, data, measurements, and estimates used.

(b) Upon the request of the Executive Secretary, the owner or operator of the stationary source shall make these records available at the stationary source for inspection by any representative of the Division of Air Quality during normal business hours.

KEY: inventory, air pollution
1998 **19-2-104**
40 CFR 51 Subpart Q

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Environmental Quality, Air Quality
R307-165
Emission Testing

NOTICE OF PROPOSED RULE
(New)
DAR FILE NO.: 21124
FILED: 05/13/98, 12:14
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose is to reorganize all R307 rules to make shorter sections and bring out important provisions. No substantive change is made.

SUMMARY OF THE RULE OR CHANGE: The language for the new Rule R307-165 is presently found in Subsection R307-1-3.4. (**DAR Note:** The proposed amendment to R307-1, which is under DAR No. 21100 in this *Bulletin*, deletes Sections R307-1-1 through R307-1-4 and the language is reorganized in other locations throughout R307. For complete information on these changes, see the reorganization table in the "Special Notices" section of this *Bulletin*.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 19-2-104

ANTICIPATED COST OR SAVINGS TO:
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COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: A small cost to learn new citations. In the long run, reduced cost in being able to find specific provisions more quickly.

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THIS RULE MAY BECOME EFFECTIVE ON: 08/06/1998

AUTHORIZED BY: Ursula K. Trueman, Director

R307. Environmental Quality, Air Quality.
R307-165. Emission Testing.
R307-165-1. Testing Every 5 Years.

(1) Emission testing will be required of all sources with established emission limitations at least once every five years. For sources located in nonattainment areas, emission testing will be required at least once every five years or more frequently as specified in Section IX, Part H of the Utah State Implementation Plan (SIP) adopted by the Air Quality Board, or by the Executive Secretary if he has reason to believe that the source is not meeting its emission limitation. Sources approved in accordance with R307-401 will be tested within six months of start-up. Sources for which emission limitations are established by R307-305-5 which do not require modification will be tested within one year of the effective date of these regulations. In addition, if the Executive Secretary has reason to believe that an applicable emission limitation is being exceeded (i.e., through visible emission observations and monitoring data, etc.) he may require the owner or operator to perform such emission testing as is necessary to determine actual compliance status. The Board may grant exceptions to the mandatory testing requirements of R307-165-1 which are not inconsistent with the purposes of R307.

R307-165-2. Notification of DAQ.

At least 30 days prior to conducting any emission testing required under any part of R307, the owner or operator shall notify the Executive Secretary of the date, time and place of such testing and, if determined necessary by the Executive Secretary, the owner or operator shall attend a pretest conference.

R307-165-3. Test Conditions.

All tests shall be conducted while the source is operating at the maximum production or combustion rate at which such source will be operated. During the tests, the source shall burn fuels or combustion of fuels, use raw materials, and maintain process conditions representative of normal operations, and shall operate under such other relevant conditions as the Executive Secretary shall specify.

R307-165-4. Rejection of Test Results.

The Executive Secretary may reject emissions test data if they are determined to be incomplete, inadequate, not representative of operating conditions specified for the test, or if the State was not provided an opportunity to have an observer present at the test.

KEY: air pollution, emission testing*
1998 **19-2-104(1)**

Environmental Quality, Air Quality
R307-201
Emission Standards: General Emission Standards

NOTICE OF PROPOSED RULE
(New)
DAR FILE NO.: 21125
FILED: 05/13/98, 12:14
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose is to reorganize all R307 rules to make shorter sections and bring out important provisions. No substantive change is made.

SUMMARY OF THE RULE OR CHANGE: The language for Section R307-201-1 is presently in Subsection R307-1-4.1. The language for Section R307-201-2 is presently in Subsection R307-1-4.4. The language for Section R307-201-3 is presently in Section R307-17-2.
(**DAR Note:** The proposed amendment to R307-1, which is under DAR No. 21100 in this *Bulletin*, deletes Sections R307-1-1 through R307-1-4 and the language is reorganized in other locations throughout R307. The proposed repeal to R307-17 is found under DAR No. 21103 in this *Bulletin*, and the language from the repealed rule is also reorganized in other locations throughout R307. For complete information on these changes, see the reorganization table in the "Special Notices" section of this *Bulletin*.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 19-2-104

ANTICIPATED COST OR SAVINGS TO:
❖THE STATE BUDGET: A small cost for renumbering the rule, learning new citations, and revising forms. In the long run, reduced cost in being able to find specific provisions more quickly.
❖LOCAL GOVERNMENTS: A small cost to learn new citations. In the long run, reduced cost in being able to find specific provisions more quickly.
❖OTHER PERSONS: A small cost to learn new citations. In the long run, reduced cost in being able to find specific provisions more quickly.
COMPLIANCE COSTS FOR AFFECTED PERSONS: A small cost to learn new citations. In the long run, reduced cost in being able to find specific provisions more quickly.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: A small cost to learn new citations. In the long run, reduced cost in being able to find specific provisions more quickly.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:

Environmental Quality
Air Quality
150 North 1950 West
Box 144820
Salt Lake City, UT 84114-4820, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Jan Miller at the above address, by phone at (801) 536-4042, by FAX at (801) 536-4099, or by Internet E-mail at jmiller@deq.state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 07/01/1998; OR ATTENDING A PUBLIC HEARING SCHEDULED FOR 06/23/1998, 1:30 p.m., Room 201, Department of Environmental Quality (DEQ) Building, 168 North 1950 West, Salt Lake City, UT.

THIS RULE MAY BECOME EFFECTIVE ON: 08/06/1998

AUTHORIZED BY: Ursula K. Trueman, Director

R307. Environmental Quality, Air Quality.
R307-201. Emission Standards: General Emission Standards.
R307-201-1. Emissions Standards.

Other provisions of R307 may require more stringent controls than listed herein, in which case those requirements must be met.

(1) Visible Emissions. Opacity limitations in R307-201-1 and R307-305-1 shall not apply to any sources for which emission limitations are assigned pursuant to R307-305-2 through 7 and R307-307. The provisions of (7) through (9) below shall apply to such sources except as otherwise provided in R307-305-2 through 7 and R307-307.

(2) Visible emissions from installations constructed after April 25, 1971, except internal combustion engines, or any incinerator shall be of a shade or density no darker than 20% opacity, except as otherwise provided in these regulations.

(3) No owner or operator of a gasoline powered engine or vehicle shall allow, cause or permit the emissions of visible contaminants except for starting motion no farther than 100 yards, or for stationary operation not exceeding 3 minutes in any hour.

(4) Emissions from diesel engines manufactured after January 1, 1973, shall be of a shade or density no darker than 20% opacity, except for starting motion no farther than 100 yards or for stationary operation not exceeding 3 minutes in any hour.

(5) Emissions from diesel engines manufactured before January 1, 1973, shall be of a shade or density no darker than 40% opacity, except for starting motion no farther than 100 yards or for stationary operation not exceeding 3 minutes in any hour.

(6) Upon application, exceptions to (4) and (5) above may be granted by the Board on a case by case basis for diesel locomotives operating above 6000 feet MSL.

(7) Visible emissions exceeding the opacity standards for short time periods as the result of initial warm-up, soot blowing, cleaning of grates, building of boiler fires, cooling, etc., caused by start-up or shutdown of a facility, installation or operation, or unavoidable combustion irregularities which do not exceed three minutes in length (unavoidable combustion irregularities which exceed three minutes in length must be handled in accordance with R307-107), shall not be deemed in violation provided that the executive secretary finds that adequate control technology has been applied. The owner or operator shall minimize visible and non-visible emissions during start-up or shutdown of a facility, installation, or operation through the use of adequate control technology and proper procedures.

(8) Compliance Method. Emissions shall be brought into compliance with these requirements by reduction of the total weight of contaminants discharged per unit of time rather than by dilution of emissions with clean air.

(9) Opacity Observation. Opacity observations of emissions from stationary sources shall be conducted in accordance with EPA Method 9, "Visual Determination of Opacity of Emissions from Stationary Sources", 40 CFR Part 60, Appendix A. Opacity observers of mobile sources and intermittent sources shall use procedures similar to Method 9, but the requirement for observations to be made at 15 second intervals over a 6-minute period shall not apply.

R307-201-2. Automobile Emission Control Devices.

Any person owning or operating any motor vehicle or motor vehicle engine registered in the State of Utah on which is installed or incorporated a system or device for the control of crankcase emissions or exhaust emissions in compliance with the Federal motor vehicle rules, shall maintain the system or device in operable condition and shall use it at all times that the motor vehicle or motor vehicle engine is operated. No person shall remove or make inoperable within the State of Utah the system or device or any part thereof, except for the purpose of installing another system or device, or part thereof, which is equally or more effective in reducing emissions from the vehicle to the atmosphere.

R307-201-3. Opacity for Residential Heating.

Visible emissions from residential solid fuel burning devices and fireplaces shall be limited to a shade or density no darker than 20% opacity as measured by EPA Method 9, except for the following:

(1) An initial fifteen minute start up period, and

(2) A period of fifteen minutes in any three hour period in which emissions may exceed the 20% opacity limitation for refueling, and

(3) during the no-burn periods required by R307-302-1.

KEY: air pollution, woodburning*, fireplace*, stove*
1998 **19-2-101**
19-2-104

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Environmental Quality, Air Quality
R307-202
Emission Standards: General Burning

NOTICE OF PROPOSED RULE
(New)
DAR FILE NO.: 21126
FILED: 05/13/98, 12:15
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose is to reorganize all R307 rules to make shorter sections and bring out important provisions. No substantive change is made.

SUMMARY OF THE RULE OR CHANGE: These provisions are presently found in Subsection R307-1-2.4.
(**DAR Note:** The proposed amendment to R307-1, which is under DAR No. 21100 in this *Bulletin*, deletes Sections R307-1-1 through R307-1-4 and the language is reorganized in other locations throughout R307. For complete information on these changes, see the reorganization table in the "Special Notices" section of this *Bulletin*.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 19-2-104

ANTICIPATED COST OR SAVINGS TO:
❖THE STATE BUDGET: A small cost for renumbering the rule, learning new citations, and revising forms. In the long run, reduced cost in being able to find specific provisions more quickly.
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COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: A small cost to learn new citations. In the long run, reduced cost in being able to find specific provisions more quickly.

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at the Division of Administrative Rules.

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THIS RULE MAY BECOME EFFECTIVE ON: 08/06/1998

AUTHORIZED BY: Ursula K. Trueman, Director

R307. Environmental Quality, Air Quality.
R307-202. Emission Standards: General Burning.
R307-202-1. Definitions and Exclusions.

As provided in Section 19-2-114, the provisions of R307-202 are not applicable to:

(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 is above 500.

See also Section 11-7-1(2)(a).

R307-202-2. Community Waste Disposal.

No open burning shall be done at sites used for disposal of community trash, garbage and other wastes except as authorized through a variance or as authorized for a specific period of time by the Board on the basis of justifiable circumstances reviewed and weighed in terms of pollution effects and other relevant considerations at an appropriate hearing following written application.

R307-202-3. General Prohibitions.

No person shall burn any trash, garbage or other wastes, or shall conduct any salvage operation by open burning except in conformity with the provisions of R307-202-4 and 5.

R307-202-4. Permissible Burning - Without Permit.

When not prohibited by other laws or by other officials having jurisdiction and provided that a nuisance as defined in Section 76-10-803 is not created, the following types of open burning are permissible without the necessity of securing a permit:

(1) in devices for the primary purpose of preparing food such as outdoor grills and fireplaces;

(2) campfires and fires used solely for recreational purposes where such fires are under control of a responsible person;

(3) in indoor fireplaces and residential solid fuel burning devices except as provided in R307-302-2;

(4) properly operated industrial flares for combustion of flammable gases; and

(5) burning, on the premises, of combustible household wastes generated by occupants of dwellings of four family units or less in those areas only where no public or duly licensed disposal service is available.

R307-202-5. Permissible Burning - With Permit.

(1) Open burning is authorized by the issuance of a permit as specified in (3) below when not prohibited by other laws or other officials having jurisdiction, and when a nuisance as defined in Section 76-10-803 is not created.

(2) Individual permits for the types of burning listed in (3) below may be issued by an authorized local authority under the "clearing index" system approved and coordinated by the Department of Environmental Quality.

(3) Types of burning for which a permit may be granted are:

(a) open burning of tree cuttings and slash in forest areas where the cuttings accrue from pulping, lumbering, and similar operations, but excluding waste from sawmill operations such as sawdust and scrap lumber;

(b) open burning of trees and brush within railroad rights-of-way provided that dirt is removed from stumps before burning, and that tires, oil more dense than #2 fuel oil or other materials which can cause severe air pollution are not used to start fires or keep fires burning;

(c) open burning of solid or liquid fuels or structures for removal of hazards or eyesores;

(d) open burning, in remote areas, of highly explosive or other hazardous materials, for which there is no other known practical method of disposal;

(e) open burning of clippings, bushes, plants and prunings from trees incident to property clean-up activities provided that the following conditions have been met:

(i) in any area of the state, the local county fire marshall has established a 30 day period between March 30 and May 30 for such burning to occur and notified the executive secretary of the open burning period prior to the commencement of the 30 day period, or, in areas which are located outside of Salt Lake, Davis, Weber, and Utah Counties, the local county fire marshall has established, if allowed by the state forester under Section 65A-8-9, a 30 day period between September 15 and October 30 for such burning to occur and has notified the executive secretary of the opening burning period prior to the commencement of the 30 day period;

(ii) such burning occurs during the period established by the local county fire marshall;

(iii) materials to be burned are thoroughly dry;

(iv) no trash, rubbish, tires, or oil are used to start fires or included in the material to be burned.

(4) The Board may grant a permit for types of open burning not specified in (3) above on written application if the Board finds that the burning is not inconsistent with the State Implementation Plan.

R307-202-6. Special Conditions.

Open burning for special purposes, or under unusual or emergency circumstances, may be approved by the executive secretary.

KEY: air pollution, open burning*, fire marshal*
1998 **19-2-104**
11-7-1(2)(a)
65A-8-9

◆ ◆

Environmental Quality, Air Quality
R307-203
Emission Standards: Sulfur Content of Fuels

NOTICE OF PROPOSED RULE
(New)
DAR FILE NO.: 21127
FILED: 05/13/98, 12:15
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose is to reorganize all R307 rules to make shorter sections and bring out important provisions. No substantive change is made.

SUMMARY OF THE RULE OR CHANGE: The language for Section R307-203-1 is presently in Subsection R307-1-4.2. The language for Section R307-203-2 is presently in Section R307-17-1. The language for Section R307-203-3 is presently in Section R307-1-4, paragraph 1.
(**DAR Note:** The proposed amendment to R307-1, which is under DAR No. 21100 in this *Bulletin*, deletes Sections R307-1-1 through R307-1-4 and the language is reorganized in other locations throughout R307. The proposed repeal to R307-17 is found under DAR No. 21103 in this *Bulletin*, and the language from the repealed rule is also reorganized in other locations throughout R307. For complete information on these changes, see the reorganization table in the "Special Notices" section of this *Bulletin*.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 19-2-104

ANTICIPATED COST OR SAVINGS TO:
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COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: A small cost to learn new citations. In the long run, reduced cost in being able to find specific provisions more quickly.

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Environmental Quality
Air Quality
150 North 1950 West
Box 144820
Salt Lake City, UT 84114-4820, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Jan Miller at the above address, by phone at (801) 536-4042, by FAX at (801) 536-4099, or by Internet E-mail at jmiller@deq.state.ut.us.

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THIS RULE MAY BECOME EFFECTIVE ON: 08/06/1998

AUTHORIZED BY: Ursula K. Trueman, Director

R307. Environmental Quality, Air Quality.
R307-203. Emission Standards: Sulfur Content of Fuels.
R307-203-1. Commercial and Industrial Sources.

(1) Any coal, oil, or mixture thereof, burned in any fuel burning or process installation not covered by New Source Performance Standards for sulfur emissions shall contain no more than 1.0 pound sulfur per million gross BTU heat input for any mixture of coal nor .85 pounds sulfur per million gross BTU heat input for any oil.

(a) In the case of fuel oil, it shall be sufficient to record the following specifications for each purchase of fuel oil from the vendor: weight percent sulfur, gross heating value (btu per unit volume), and density. These parameters shall be ascertained in accordance with the methods of the American Society for Testing and Materials.

(b) In the case of coal, it shall be necessary to obtain a representative grab sample for every 24 hours of operation and the sample shall be tested in accordance with the methods of the American Society for Testing and Materials.

(c) All sources located in the SO_2 nonattainment area covered by Section IX, Part H of the Utah State Implementation Plan which are required to comply with specific fuel (oil or coal) sulfur content limitations must demonstrate compliance with their limitations in accordance with (a) and (b) above.

(d) Records of fuel sulfur content shall be kept for all periods when the plant is in operation and shall be made available to the executive secretary upon request, and shall include a period of two years ending with the date of the request.

(e) If the owner/operator of the source can demonstrate to the executive secretary that the inherent variability of the coal they are receiving from the vendor is low enough such that the testing requirements outlined above may be deemed excessive, then an alternative testing plan may be approved for use with the same source of coal.

(f) Any person may apply to the executive secretary for approval of an alternative test method, an alternative method of control, an alternative compliance period, an alternative emission limit, or an alternative monitoring schedule. The application must include a demonstration that the proposed alternative produces an equal or greater air quality benefit than that required by R307-203, or that the alternative test method is equivalent to that required by R307-203. The executive secretary shall obtain concurrence from EPA when approving an alternative test method, an alternative method of control, an alternative compliance period, an alternative emission limit, or an alternative monitoring schedule.

(2) Any person engaged in operating fuel burning equipment using coal or fuel oil, which is not covered by New Source Performance Standards for sulfur emissions, may apply for an exemption from the sulfur content restrictions of (1) above. The applicant shall furnish evidence, that the fuel burning equipment is operating in such a manner as to prevent the emission of sulfur dioxide in amounts greater than would be produced under the limitations of (1) above. Control apparatus to continuously prevent the emission of sulfur greater than provided by (1) above must be specified in the application for an exemption.

(3) In case an exemption is granted, the operator shall install continuous emission monitoring devices approved by the executive secretary. The operator shall provide the executive secretary with a monthly summary of the data from such monitors. This summary shall be such as to show the degree of compliance with (1) above. It shall be submitted no later than the calendar month succeeding its recording. When exemptions from (1) above are granted, the source's application for such exemption must specify the test method for determining sulfur emissions. The test method must agree with the NSPS test method for the same industrial category.

(4) Methods for determining sulfur content of coal and fuel oil shall be those methods of the American Society for Testing and Materials.

(a) For determining sulfur content in coal, ASTM Methods D3177-75 or D4239-85 are to be used.

(b) For determining sulfur content in oil, ASTM Methods D2880-71 or D4294-89 are to be used.

(c) For determining the gross calorific (or BTU) content of coal, ASTM Methods D2015-77 or D3286-85 are to be used.

R307-203-2. Sulfur and Ash Content of Coal for Residential Use.

(1) After July 1, 1987, no person shall sell, distribute, use or make available for use any coal or coal containing fuel for direct space heating in residential solid fuel burning devices and fireplaces

which exceeds the following limitations as measured by the American Society for Testing Materials Methods:

(a) 1.0 pound sulfur per million BTU's, and

(b) 12% volatile ash content.

(2) Any person selling coal or coal containing fuel used for direct residential space heating within the State of Utah shall provide written documentation to the coal consumer of the sulfur and volatile ash content of the coal being purchased.

R307-203-3. Emissions Standards.

Other provisions of R307 may require more stringent controls than listed herein, in which case those requirements must be met.

KEY: air pollution, fuel composition*, fuel oil*
1998 **19-2-104**

Environmental Quality, Air Quality
R307-206
Emission Standards: Abrasive Blasting

NOTICE OF PROPOSED RULE
(New)
DAR FILE NO.: 21128
FILED: 05/13/98, 12:15
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose is to reorganize all R307 rules to make shorter sections and bring out important provisions. No substantive change is made.

SUMMARY OF THE RULE OR CHANGE: The language for Section R307-206-1 is presently found in Section R307-1-1. The language for Sections R307-206-2 through R307-206-4 is presently found in Subsection R307-1-4.10. The language for Section R307-206-5 is presently found in Section R307-1-4, paragraph 1.

(**DAR Note:** The proposed amendment to R307-1, which is under DAR No. 21100 in this *Bulletin*, deletes Sections R307-1-1 through R307-1-4 and the language is reorganized in other locations throughout R307. For complete information on these changes, see the reorganization table in the "Special Notices" section of this *Bulletin*.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 19-2-104

ANTICIPATED COST OR SAVINGS TO:

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COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: A small cost to learn new citations. In the long run, reduced cost in being able to find specific provisions more quickly.

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THIS RULE MAY BECOME EFFECTIVE ON: 08/06/1998

AUTHORIZED BY: Ursula K. Trueman, Director

R307. Environmental Quality, Air Quality.
R307-206. Emission Standards: Abrasive Blasting.
R307-206-1. Definitions.

(1) The following additional definitions apply to R307-206:

"Abrasive Blasting" means the operation of cleaning or preparing a surface by forcibly propelling a stream of abrasive material against the surface.

"Abrasive Blasting Equipment" means any equipment utilized in abrasive blasting operations.

"Abrasives" means any material used in abrasive blasting operations including but not limited to sand, slag, steel shot, garnet or walnut shells.

"Confined Blasting" means any abrasive blasting conducted in an enclosure which significantly restricts air contaminants from being emitted to the ambient atmosphere, including but not limited to shrouds, tanks, drydocks, buildings and structures.

"Hydroblasting" means any abrasive blasting using high pressure liquid as the propelling force.

"Multiple Nozzles" means a group of two or more nozzles being used for abrasive cleaning of the same surface in such close proximity that their separate plumes are indistinguishable.

"Unconfined Blasting" means any abrasive blasting which is not confined blasting as defined above.

"Wet Abrasive Blasting" means any abrasive blasting using compressed air as the propelling force and sufficient water to minimize the plume.

R307-206-2. Visible Emission Standards.

(1) No person shall, if he complies with performance standards outlined in R307-206-4 or if he is not located in an area of nonattainment for particulates, discharge into the atmosphere from any abrasive blasting any air contaminant for a period or periods aggregating more than three minutes in any one hour which is a shade or density darker than 40% opacity.

(2) No person shall, if he is not complying with an applicable performance standard in R307-206-4 and is in an area of nonattainment, discharge into the atmosphere from any abrasive blasting any air contaminant for a period or periods aggregating more than three minutes in any one hour which is of a shade or density no darker than 20% opacity.

R307-206-3. Visible Emission Evaluation Techniques.

Visible emission evaluation of abrasive blasting operations shall be conducted in accordance with the following provisions:

(1) Emissions from unconfined blasting shall be read at the densest point of the emission after a major portion of the spent abrasive has fallen out, at a point not less than five feet nor more than twenty-five feet from the impact surface from any single abrasive blasting nozzle.

(2) Emissions from unconfined blasting employing multiple nozzles shall be judged as a single source unless it can be demonstrated by the owner or operator that each nozzle, evaluated separately, meets the emission and performance standards provided for in R307-206-2 through 4.

(3) Emissions from confined blasting shall be read at the densest point after the air contaminant leaves the enclosure.

R307-206-4. Performance Standards.

(1) To satisfy the requirements of R307-206-2, any abrasive blasting operation may use at least one of the following performance standards:

(a) Confined blasting;

(b) Wet abrasive blasting;

(c) Hydroblasting; or

(d) Unconfined blasting using abrasives as defined in (2) below.

(2) Abrasives.

(a) Abrasives used for dry unconfined blasting referenced in (1) above shall comply with the following performance standards:

(i) Before blasting the abrasive shall not contain more than 1% by weight material passing a #70 U.S. Standard sieve.

(ii) After blasting the abrasive shall not contain more than 1.8% by weight material 5 micron or smaller.

(b) Abrasives reused for dry unconfined blasting are exempt from (a)(ii) above, but must conform with (a)(i) above.

(3) Abrasive Certification. Sources using the performance standard of (1)(d) above to meet the requirements of R307-206-2 must demonstrate they have obtained abrasives from persons which have certified (submitted test results) to the executive secretary at least annually that such abrasives meet the requirements of(2) above.

R307-206-5. Emissions Standards.

Other provisions of R307 may require more stringent controls than listed herein, in which case those requirements must be met.

KEY: air pollution, abrasive blasting*
1998 **19-2-104**

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Environmental Quality, Air Quality
R307-302
Davis, Salt Lake, Utah Counties: Residential Fireplaces and Stoves

NOTICE OF PROPOSED RULE
(New)
DAR FILE NO.: 21129
FILED: 05/13/98, 12:16
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose is to reorganize all R307 rules to make shorter sections and bring out important provisions. No substantive change is made.

SUMMARY OF THE RULE OR CHANGE: The language for Section R307-302-1 is presently found in Section R307-1-1. The language for Sections R307-302-2 through R307-302-4 is presently found in Sections R307-17-3 through R307-17-5. (**DAR Note:** The proposed amendment to R307-1, which is under DAR No. 21100 in this *Bulletin*, deletes Sections R307-1-1 through R307-1-4 and the language is reorganized in other locations throughout R307. The proposed repeal to R307-17 is found under DAR No. 21103 in this *Bulletin*, and the language from the repealed rule is also reorganized in other locations throughout R307. For complete information on these changes, see the reorganization table in the "Special Notices" section of this *Bulletin*.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 19-2-104

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: A small cost for renumbering the rule, learning new citations, and revising forms. In the long run, reduced cost in being able to find specific provisions more quickly.

❖LOCAL GOVERNMENTS: A small cost to learn new citations. In the long run, reduced cost in being able to find specific provisions more quickly.

❖OTHER PERSONS: A small cost to learn new citations. In the long run, reduced cost in being able to find specific provisions more quickly.

COMPLIANCE COSTS FOR AFFECTED PERSONS: A small cost to learn new citations. In the long run, reduced cost in being able to find specific provisions more quickly.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: A small cost to learn new citations. In the long run, reduced cost in being able to find specific provisions more quickly.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:

Environmental Quality
Air Quality
150 North 1950 West
Box 144820
Salt Lake City, UT 84114-4820, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Jan Miller at the above address, by phone at (801) 536-4042, by FAX at (801) 536-4099, or by Internet E-mail at jmiller@deq.state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 07/01/1998; OR ATTENDING A PUBLIC HEARING SCHEDULED FOR 06/23/1998, 1:30 p.m., Room 201, Department of Environmental Quality (DEQ) Building, 168 North 1950 West, Salt Lake City, UT.

THIS RULE MAY BECOME EFFECTIVE ON: 08/06/1998

AUTHORIZED BY: Ursula K. Trueman, Director

R307. Environmental Quality, Air Quality.
R307-302. Davis, Salt Lake, Utah Counties: Residential Fireplaces and Stoves.
R307-302-1. Definitions.

The following additional definition applies to R307-302:

"Sole Source of Heat" means the residential solid fuel burning device is the only available source of heat for the entire residence, except for small portable heaters.

R307-302-2. No-Burn Periods for PM10.

(1) R307-302-2 shall apply only in areas in Utah County which are north of the southernmost border of Payson City, and east of State Route 68, all of Salt Lake County, and areas in Davis County which are south of the southern-most border of Kaysville.

(2) By September 1, 1992, all sole source residential solid fuel burning devices must be registered with the Executive Secretary or local health district office in order to be exempt during mandatory no-burn periods as detailed below.

(3) After September 1, 1992, whenever the ambient concentration of PM10, as measured by the monitoring sites in Salt Lake, Davis, or Utah Counties reaches the level of 120 ug/cubic meter and the forecasted weather for the specific area includes a temperature inversion which is predicted to continue for at least 24 hours, the Executive Secretary will issue a public announcement and will distribute such announcement to the local media notifying the public that a mandatory no-burn period for residential solid fuel burning devices and fireplaces is in effect. The mandatory no-burn periods will only apply to those areas or counties impacting the real-time monitoring site registering the 120 ug/cubic meter concentration. Residents of Salt Lake County or the affected areas of Davis and Utah Counties shall not use residential solid fuel burning devices or fireplaces except those which are the sole source of heat for the entire residence and registered with the Executive Secretary or the local health district office or those having no visible emissions.

(4) PM10 Contingency Plan. If the PM10 Contingency Plan described in Section IX, Part A, of the State Implementation Plan has been implemented, the following actions will be implemented immediately:

(a) The trigger level for no-burn periods as specified in (3) above will be 110 micrograms per cubic meter for that area where the PM10 Contingency Plan has been implemented; and

(b) In Salt Lake, Davis and Utah County nonattainment areas and in any other nonattainment area, it shall be unlawful to sell or install for use as a solid fuel burning device any used solid fuel burning device that is not approved by the Environmental Protection Agency.

R307-302-3. No-Burn Periods for Carbon Monoxide.

(1) R307-302-3 shall apply only within the city limits of Provo and Orem in Utah County.

(2) Beginning on November 1 and through March 1 in any years after 1993, the executive secretary will issue a public announcement and will distribute such announcement to the local media notifying the public that a mandatory no-burn period for residential solid fuel burning devices and fireplaces is in effect when the running eight-hour average carbon monoxide concentration as monitored by the state at 4:00 PM reaches a value of 6.0 ppm or more.

(3) In addition to the conditions contained in (2) above, the executive secretary may use meteorological conditions to initiate a no-burn period. These conditions are:

(a) a national weather service forecasted clearing index value of 250 or less;

(b) forecasted wind speeds of three miles per hour or less;

(c) passage of a vigorous cold front through the Wasatch Front; or

(d) arrival of a strong high pressure system into the area.

(4) During the no-burn periods specified in (2) and (3) above, residents of Provo and Orem Cities shall not use residential solid fuel burning devices or fireplaces except those which are the sole source of heat for the entire residence and are registered with the executive secretary or the local health district office, or those having no visible emissions.

R307-302-4. Violations.

It shall be a violation of R307-302 for any person to operate a residential solid fuel burning device or fireplace during the mandatory no-burn periods except as stated in R307-302-2 or 3.

KEY: air pollution, woodburning*, fireplace*, stove*
1998 **19-2-101**
19-2-104

Environmental Quality, Air Quality
R307-305
Davis, Salt Lake and Utah Counties and Ogden City, and Nonattainment Areas for PM10: Particulates

NOTICE OF PROPOSED RULE
(New)
DAR FILE NO.: 21130
FILED: 05/13/98, 12:17
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose is to reorganize all R307 rules to make shorter sections and bring out important provisions. No substantive change is made.

SUMMARY OF THE RULE OR CHANGE: The language for Section R307-305-1 is presently found in Subsection R307-1-4.1.1. The language for Sections R307-305-2 through R307-305-7 is presently found in Subsection R307-1-3.2.
(**DAR Note:** The proposed amendment to R307-1, which is under DAR No. 21100 in this *Bulletin*, deletes Sections R307-1-1 through R307-1-4 and the language is reorganized in other locations throughout R307. For complete information on these changes, see the reorganization table in the "Special Notices" section of this *Bulletin*.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 19-2-104

ANTICIPATED COST OR SAVINGS TO:
❖THE STATE BUDGET: A small cost for renumbering the rule, learning new citations, and revising forms. In the long run, reduced cost in being able to find specific provisions more quickly.
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COMPLIANCE COSTS FOR AFFECTED PERSONS: A small cost to learn new citations. In the long run, reduced cost in being able to find specific provisions more quickly.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: A small cost to learn new citations. In the long run, reduced cost in being able to find specific provisions more quickly.

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Box 144820
Salt Lake City, UT 84114-4820, or
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THIS RULE MAY BECOME EFFECTIVE ON: 08/06/1998

AUTHORIZED BY: Ursula K. Trueman, Director

R307. Environmental Quality, Air Quality.
R307-305. Davis, Salt Lake and Utah Counties and Ogden City, and Nonattainment Areas for PM10: Particulates.
R307-305-1. Visible Emissions.

(1) In PM10 Nonattainment Areas, visible emissions from existing installations except gasoline powered internal combustion engines, shall be of a shade or density no darker than 20% opacity. Installations in other areas of the State which were constructed before April 25, 1971, except internal combustion engines, shall be of a shade or density no darker than 40% opacity except as provided in these regulations.

(2) Emissions Standards. Other provisions of R307 may require more stringent controls than R307-305, in which case those requirements must be met.

R307-305-2. Particulate Emission Limitations and Operating Parameters (PM10).

All sources with emissions of 25 tons per year or more (combinations of sulfur dioxide, oxides of nitrogen, and PM10) in areas located in or affecting PM10 Nonattainment Areas in Salt Lake and Utah Counties shall meet the emission limitations and operating parameters contained in Section IX, Part H, of the Utah State Implementation Plan (SIP). Existing sources located in or affecting PM10 Nonattainment Areas shall use reasonably available control measures to the extent necessary to insure the attainment and maintenance of the National Ambient Air Quality Standards (NAAQS). The emission limitations specified in the SIP constitute, in the judgment of the Board, reasonably available control measures necessary to insure attainment and maintenance of the NAAQS not later than December 31, 1994. Specific limitations for installations within a source listed in the SIP which are not specified will be set by order of the Board. Specific limitations for installations within a source may be adjusted by order of the Board provided the adjustment does not adversely affect achieving the applicable NAAQS.

R307-305-3. Compliance Testing (PM10).

Compliance testing for the PM10, sulfur dioxide, and oxides of nitrogen emission limitations shall be done in accordance with Section IX, Part H of the SIP. PM10 compliance shall be determined from the results of EPA test method 201 or 201a. A backhalf analysis shall be performed for each PM10 compliance test in accordance with a method approved by the Executive Secretary for inventory purposes. For sources not requiring changes to their process or air pollution control devices to achieve compliance with the emission limitations contained in these regulations, compliance testing shall be scheduled with the Executive Secretary within three months after promulgation of R307-305-3. For Utah County sources listed in Section IX, Part H.1, of the SIP which need to make major changes to comply, a construction/installation schedule for demonstration of compliance with limitations contained in the SIP, shall be submitted by the owner/operator by February 15, 1991. Those sources located in Salt Lake and Davis County listed in Section IX, Part H.2, of the SIP which need to make major changes to comply shall submit to the Executive Secretary a construction/installation schedule for demonstration of compliance with limitations contained in the SIP within three months after the effective date of R307-305-3 for approval. Those sources making major changes of process equipment or air pollution control equipment shall submit a notice in accordance with R307-401, for the purpose of meeting the emissions limitations contained in Section IX, Part H of the SIP and receive approval from the Executive Secretary. The schedule indicated above shall result in demonstration of compliance with the limitations by December 31, 1992, unless an alternate schedule has been approved by the Executive Secretary. The alternate schedule shall be approved by the Executive Secretary if the owner/operator demonstrates that the schedule or implementation of control measures is as expeditious as practicable, but extends beyond December 31, 1992. Any submittal requesting an alternate schedule shall be done in accordance with the requirements of the Federal Clean Air Act, and shall be consistent with the SIP demonstration of attainment by December 31, 1994.

R307-305-4. Compliance Schedule (PM10).

The owner or operator of an existing installation listed in the SIP is required to achieve the emission limitation or other requirements established by the SIP as expeditiously as practicable, but no later than December 31, 1992. For those sources granted an alternate schedule in accordance with R307-305-3, compliance with the limitations shall be demonstrated as provided in the approved schedule. Until the time a source is required to demonstrate compliance with the limitations in the SIP, the source shall comply with the applicable provisions of the existing total suspended particulate (TSP) limitations and operating parameters listed in the Utah Air Conservation Regulations dated April 1, 1990, or existing approval orders.

R307-305-5. Particulate Emission Limitations and Operating Parameters (TSP).

(1) Existing sources located in or affecting areas of nonattainment shall use reasonably available control measures to the extent necessary to insure the attainment and maintenance of the National Ambient Air Quality Standards (NAAQS). The emission limitations specified in this paragraph constitute, in the judgment of the Board, reasonably available control measures necessary to insure attainment and maintenance of the NAAQS as of the date of promulgation of these regulations. Specific limitations for installations within a source listed below which are not specified will be set by order of the Board. Specific limitations for installations within a source listed below may be adjusted by order of the Board provided the adjustment does not adversely affect achieving the applicable NAAQS.

(2) The owner or operator of any source listed in this paragraph shall not allow exceedance of the emission limitation or violation of any other listed requirement (See schedule for compliance listed in R307-305-6). The requirements listed for the sources in Weber County apply unless modified by an approval order or compliance order issued after February 16, 1982.

TABLE

IDENTIFICATION OF SOURCE (SOURCES 25 TONS/YEAR OR GREATER ACTUAL EMISSIONS)	EMISSION LIMITATIONS
WEBER COUNTY (TSP)	
1. Farmers Grain Coop unloading/loading/ cleaning and grinding stacks/vents	20% opacity each stack/vent
2. Fife Rock Products Asphalt Plant (Hot mix dryer)	0.040 gr/dscf, 20% opacity (stack and fugitive emissions)
3. Interpace Corporation - 4/2/81 Grinding and screening	20% opacity (vents and fugitive emissions)
4. Parsons Asphalt Plant	0.040 gr/dscf, 20% opacity (stack and fugitive emissions)
5. Pillsbury Co. Loading, milling, unloading	20% opacity each vent
6. Teledyne Incinerator	0.080 gr/dscf, 20% opacity
7. Gibbons and Reed Asphalt Plant - 4/2/81	0.030 gr/dscf, 20% opacity

R307-305-6. Compliance Schedule (TSP).

The owner or operator of an existing installation which is a source of a pollutant in a nonattainment area for the pollutant, or which has significant impact (Based on the increment levels in R307-403-3(1)) upon a nonattainment area, is required to achieve the established emission limitation or other requirements established by these regulations as expeditiously as practicable but no later than December 31, 1982, or such later date as may be specified by Congress or EPA under the Clean Air Act. Within 180 days after the effective date of a regulation establishing a standard of pollutant control pursuant to an emission limitation under R307-305-1 or 5, the owner or operator of an existing installation not meeting these requirements must submit a notice of intent as outlined in R307-401 together with a compliance schedule. The compliance schedule shall contain proposed interim measures to control and identify the degree of emission reduction to be achieved by each such interim measure of control.

R307-305-7. Compliance Testing (TSP).

(1) Testing Methodology.

(a) Except as otherwise provided in R307-305-7, compliance testing for gravimetric emission limitations for particulate shall be pursuant to EPA reference Method 5 or EPA reference Method 17 where appropriate and approved by the Executive Secretary. Where EPA reference Method 5 is used for compliance testing, determination of compliance with gravimetric emission limitations shall be made through the use of front half catch. The Executive Secretary may require that Method 5 full train analysis be conducted and that back half data also be submitted but only for information purposes. Such information shall not be used to determine compliance with gravimetric emission limitations. EPA reference Method 1 shall be used to select the sampling site and number of traverse sampling points. Where necessary for determination of stack gas velocities, EPA reference Method 2 shall be used. Where necessary for determination of dry molecular weight, EPA reference Method 3 shall be used. Where necessary for determination of moisture content in stack gases EPA reference Method 4 shall be used. All EPA reference methods referred to in R307-305-7 are those found in 40 CFR 60, Appendix A.

(b) Except as provided below in these regulations any alternate test methods or sampling methods may be used with the approval of the Executive Secretary, provided, however, that if such reference tests or sampling methods are used to test compliance with federal law they may be used only if approved, in writing, by the Administrator of EPA or his representative.

(2) Special Sampling and Compliance Testing Requirements for Fossil-Fuel Fired Power Plants. Method 5 or EPA reference Method 17 where appropriate (only when stack temperatures do not exceed 320 degrees F) and approved by the Executive Secretary shall be run for fossil-fuel fired power plants as modified by 40 CFR 60, subpart D or Da whichever is applicable. Method 9 shall be run for opacity.

(3) Exceptions for Special Sampling and Testing Conditions for Performance for Incinerators. Method 5 shall be run for incinerators as modified by 40 CFR 60, Subpart E.

(4) Special Conditions for Sampling for Portland Cement Plants. Method 5 or EPA Reference Method 17 where appropriate and approved by the Executive Secretary shall be run for Portland Cement Plants. If compliance is tested by use of Method 5, Method 5 shall be modified as provided in 40 CFR 60, Subpart F.

KEY: air pollution, particulate matter*, PM10*
1998 **19-2-104**

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Environmental Quality, Air Quality
R307-307
Davis, Salt Lake, and Utah Counties: Road Salting and Sanding

NOTICE OF PROPOSED RULE
(New)
DAR FILE NO.: 21131
FILED: 05/13/98, 12:17
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose is to reorganize all R307 rules to make shorter sections and bring out important provisions. No substantive change is made.

SUMMARY OF THE RULE OR CHANGE: These provisions are presently found in Subsection R307-1-3.2.7.
(**DAR Note:** The proposed amendment to R307-1, which is under DAR No. 21100 in this *Bulletin*, deletes Sections R307-1-1 through R307-1-4 and the language is reorganized in other locations throughout R307. For complete information on these changes, see the reorganization table in the "Special Notices" section of this *Bulletin*.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 19-2-104

ANTICIPATED COST OR SAVINGS TO:
❖THE STATE BUDGET: A small cost for renumbering the rule, learning new citations, and revising forms. In the long run, reduced cost in being able to find specific provisions more quickly.
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COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: A small cost to learn new citations. In the long run, reduced cost in being able to find specific provisions more quickly.

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Environmental Quality
Air Quality
150 North 1950 West
Box 144820
Salt Lake City, UT 84114-4820, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Jan Miller at the above address, by phone at (801) 536-4042, by FAX at (801) 536-4099, or by Internet E-mail at jmiller@deq.state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 07/01/1998; OR ATTENDING A PUBLIC HEARING SCHEDULED FOR 06/23/1998, 1:30 p.m., Room 201, Department of Environmental Quality (DEQ) Building, 168 North 1950 West, Salt Lake City, UT.

THIS RULE MAY BECOME EFFECTIVE ON: 08/06/1998

AUTHORIZED BY: Ursula K. Trueman, Director

R307. Environmental Quality, Air Quality.
R307-307. Davis, Salt Lake, and Utah Counties: Road Salting and Sanding.
R307-307-1. Records.

Any person who applies salt, crushed slag, or sand to roads in Salt Lake, Davis or Utah Counties shall maintain records of the material applied. For salt, the records shall include the quantity applied, the percent by weight of insoluble solids in the salt, and the percentage of the material that is sodium chloride. For sand or crushed slag the records shall include the quantity applied and the percent by weight of fine material which passes the number 200 sieve in a standard gradation analysis. All records shall be maintained for a period of at least two years, and the records shall be made available to the Executive Secretary or his designated representative upon request.

R307-307-2. Content.

After October 1, 1993, any salt applied to roads in Salt Lake, Davis, or Utah Counties must be at least 92% sodium chloride (NaCl).

R307-307-3. Alternatives.

(1) After October 1, 1993, any person who applies crushed slag, sand, or salt that is less than 92% sodium chloride to roads in Salt Lake, Davis, or Utah Counties must either:

(a) demonstrate to the Board that the material applied has no more PM10 emissions than salt which is at least 92% sodium chloride; or

(b) vacuum sweep every arterial roadway (principle and minor) to which the material was applied within three days of the end of the storm for which the application was made. For the purpose of this rule, the term "arterial roadway" shall have the meaning outlined in U.S. DOT Federal Highway Administration Publication No. FHWA-ED-90-006, Revised March 1989, "Highway Functional Classification: Concepts, Criteria, and Procedures" as interpreted by Utah Department of Transportation and shown in the following maps: Salt Lake Urbanized Area, Provo-Orem Urbanized Area, and Ogden Urbanized Area (1992 or later).

(2) In the interest of public safety, any person who applies crushed slag and/or sand to arterial roadways because salt alone would not ensure safe driving conditions due to steepness of grade, extreme weather, or other reasons, may petition the Board for a variance from the sweeping requirements in. Specifically excluded from these sweeping requirements are all canyon roads and the portion of Interstate 15 near Point of the Mountain.

KEY: air pollution, roads, particulate
1998 **19-2-104**

Environmental Quality, Air Quality
R307-325
Davis and Salt Lake Counties and Ozone Nonattainment Areas: Ozone Provisions

NOTICE OF PROPOSED RULE
(New)
DAR FILE NO.: 21132
FILED: 05/13/98, 12:18
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose is to reorganize all R307 rules to make shorter sections and bring out important provisions. No substantive change is made.

SUMMARY OF THE RULE OR CHANGE: These provisions are presently found in Section R307-14-1.
(**DAR Note:** The proposed repeal to R307-14 is found under DAR No. 21102 in this *Bulletin*, and the language from the repealed rule is reorganized in other locations throughout R307. For complete information on these changes, see the reorganization table in the "Special Notices" section of this *Bulletin*.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 19-2-104

ANTICIPATED COST OR SAVINGS TO:
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COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: A small cost to learn new citations. In the long run, reduced cost in being able to find specific provisions more quickly.

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THIS RULE MAY BECOME EFFECTIVE ON: 08/06/1998

AUTHORIZED BY: Ursula K. Trueman, Director

R307. Environmental Quality, Air Quality.
R307-325. Davis and Salt Lake Counties and Ozone Nonattainment Areas: Ozone Provisions.
R307-325-1. Definitions, Applicability and General Requirements.

(1) R307-325 applies to all sources in R307-326 through 341, major sources as defined and outlined in section 182 of the Clean Air Act and non-major sources located in Davis and Salt Lake Counties and in any nonattainment area for ozone as defined in the State Implementation Plan. For permitting of any new source or modification of any existing source, see R307-401; for operating permits, see R307-415.

(2) No person may permit or cause volatile organic compounds (VOCs) to be spilled, discarded, stored in open containers, or handled in any other manner, which would result in evaporation in excess of that which would result from the application of reasonably available control technology (RACT) (as defined in 40 CFR 51.100(o)).

(3) Any person may apply to the executive secretary for approval of an alternative test method, an alternative method of control, an alternative compliance period, an alternative emission limit, or an alternative monitoring schedule. The application must include a demonstration that the proposed alternative produces an equal or greater air quality benefit than those required by R307-325 through 341, or that the alternative test method is equivalent to that required by these regulations. The executive secretary shall obtain concurrence from EPA when approving an alternative test method, an alternative method of control, an alternative compliance period, an alternative emission limit, or an alternative monitoring schedule.

(4) Manufacturer's operational specifications, records, and testings of any control system shall use the applicable EPA Reference Methods of 40 CFR Part 60, the most recent EPA test methods, or EPA-approved state methods, to determine the efficiency of the control device. In addition, any control device must meet the applicable requirements, (including record keeping) of R307-340-2 and 13. A record of all tests, monitoring, and inspections required by R307-325 through 341 shall be maintained by the owner or operator for a minimum of 2 years and shall be made available to the executive secretary or his representative upon request. Any malfunctioning control device shall be repaired within 15 calendar days of when it was found by the owner or operator to be malfunctioning, unless otherwise approved by the executive secretary.

(5) For purposes of determining compliance with emission limits, VOCs and nitrogen oxides will be measured by the test methods identified in federal regulation or approved by the executive secretary. Where such a method also inadvertently measures compounds with negligible photochemical reactivity, an owner or operator may exclude these negligibly reactive compounds when determining compliance with an emissions standard.

R307-325-2. Existing Sources.

(1) Existing Major Sources.

(a) Any source of VOCs as of June 14, 1995, for which no specific emission limitations or other control requirement has been set forth in R307-325 through 341 and which is classified as a major source as defined and outlined in section 182 of the Clean Air Act shall utilize reasonably available control technology (RACT) as defined in 40 CFR 51.100(o).

(b) Existing sources of nitrogen oxides for which no specific emission limitations or other control requirement has been set forth in R307-325 through 341 and which are classified as a major source as defined and outlined in Section 182 of the federal Clean Air Act shall utilize Reasonably Available Control Technology (RACT) as outlined in R307-325 through 341 for specific source categories or as defined in 40 CFR 51.100(o). RACT determinations shall be made on a case by case basis and may, to the extent allowable by the executive secretary, be applied on a regionally averaged basis for the pertinent nonattainment area. Application of RACT to sources of oxides of nitrogen within the area of nonattainment for ozone and in Davis and Salt Lake Counties may, in some instances, have been predicated on other requirements of state or federal rule. In such instances, the executive secretary may determine that such prior application of RACT has satisfied all applicable requirements, regardless of whether or not the level of controlled emissions due to application of RACT for one purpose meet the presumptive level of RACT for another. In other instances, where RACT may also be required for reasons other than Section 182 of the Act, the executive secretary may require the most stringent level of control which satisfies RACT.

(c) The uncontrolled emissions of such sources shall be based upon design capacity or maximum production rate, whichever is greater, at 8760 hours/year operation, and before add-on controls. The emissions from all emission points within the source which are not specifically regulated in R307-325 through 341, and which are not pending regulation as per Section 183 of the Clean Air Act, are combined to determine capacity.

(d) Sources with potential uncontrolled emissions of VOC or nitrogen oxides in excess of the threshold for a major source outlined in Section 182 of the federal Clean Air Act, but with actual emissions of a lesser amount, may avoid the requirement to apply RACT as defined in 40 CFR 51.100(o) by obtaining an enforceable

approval order limiting emissions to actual rates, by restriction of production capacity or hours of operation.

(2) For sources subject to specific rules which have a cutoff limit for applicability, including (1) above, once a source exceeds the cutoff limit, future operation at emission limits below the cutoff does not preclude RACT (as defined in 40 CFR 51.100(o)) requirements and rule applicability as stated in R307-401.

(3) For unknown sources existing on June 14, 1995, which are major or Control Techniques Guidance applicable sources and which are found by either the State or EPA in the future, the State will expeditiously develop a specific RACT determination based on the existing Control Techniques Guidance or as defined in 40 CFR 51.100(o) for such sources within a reasonable time after their discovery and submit such determination to EPA for approval as specific SIP revisions.

R307-325-3. New Sources.

(1) New Sources. When determining best available control technology (BACT) under R307-401-6(1) for a new or modified source in an ozone nonattainment area or Salt Lake and Davis Counties, the executive secretary shall review EPA guidance, including Control Technique Guidance (CTG) documents and Alternative Control Technique (ACT) documents that are applicable to the source. Best available control technology shall be at least as stringent as any published CTG that is applicable to the source.

R307-325-4. Compliance Schedule.

By September 29, 1981, 180 days after the effective date of R307-325 through 341, all sources shall be in compliance.

KEY: air pollution, emission controls, ozone, RACT*
1998 **19-2-101**
19-2-104

Environmental Quality, Air Quality
R307-326
Davis and Salt Lake Counties and Ozone Nonattainment Areas: Control of Hydrocarbon Emissions in Refineries

NOTICE OF PROPOSED RULE
(New)
DAR FILE NO.: 21133
FILED: 05/13/98, 12:18
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose is to reorganize all R307 rules to make shorter sections and bring out important provisions. No substantive change is made.

SUMMARY OF THE RULE OR CHANGE: The language for Section R307-326-1 is presently found in Section R307-1-1. The language for Sections R307-326-2 through R307-326-7 is presently found in Section R307-14-4.
(**DAR Note:** The proposed amendment to R307-1, which is under DAR No. 21100 in this *Bulletin*, deletes Sections R307-1-1 through R307-1-4 and the language is reorganized in other locations throughout R307. The proposed repeal to R307-14 is found under DAR No. 21102 in this *Bulletin*, and the language from the repealed rule is also reorganized in other locations throughout R307. For complete information on these changes, see the reorganization table in the "Special Notices" section of this *Bulletin*.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 19-2-104

ANTICIPATED COST OR SAVINGS TO:
❖THE STATE BUDGET: A small cost for renumbering the rule, learning new citations, and revising forms. In the long run, reduced cost in being able to find specific provisions more quickly.
❖LOCAL GOVERNMENTS: A small cost to learn new citations. In the long run, reduced cost in being able to find specific provisions more quickly.
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COMPLIANCE COSTS FOR AFFECTED PERSONS: A small cost to learn new citations. In the long run, reduced cost in being able to find specific provisions more quickly.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: A small cost to learn new citations. In the long run, reduced cost in being able to find specific provisions more quickly.

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Environmental Quality
Air Quality
150 North 1950 West
Box 144820
Salt Lake City, UT 84114-4820, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Jan Miller at the above address, by phone at (801) 536-4042, by FAX at (801) 536-4099, or by Internet E-mail at jmiller@deq.state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 07/01/1998; OR ATTENDING A PUBLIC HEARING SCHEDULED FOR 06/23/1998, 1:30 p.m., Room 201, Department of Environmental Quality (DEQ) Building, 168 North 1950 West, Salt Lake City, UT.

THIS RULE MAY BECOME EFFECTIVE ON: 08/06/1998

AUTHORIZED BY: Ursula K. Trueman, Director

R307. Environmental Quality, Air Quality.
R307-326. Davis and Salt Lake Counties and Ozone Nonattainment Areas: Control of Hydrocarbon Emissions in Refineries.
R307-326-1. Applicability and Definitions.

(1) R307-325 establishes applicability and general requirements for R307-326.

(2) The following additional definitions apply to R307-326:

"Accumulator" means the reservoir of a condensing unit receiving the condensate from the condenser.

"Condensor" means any device which removes condensable vapors by a reduction in the temperature of the captured gases.

"Control System" means any number of control devices, including condensors, which are designed and operated to reduce the quantity of VOC emitted to the atmosphere.

"Hot Well" means the reservoir of a condensing unit receiving the warm condensate consisting primarily of water from the condenser.

"Petroleum Refinery Complex" means any source or installation engaged in producing gasoline, aromatics, kerosene, distillate fuel oils, residual fuel oils, lubricants, asphalt, or other products through distillation of petroleum or through redistillation, cracking, rearrangement, or reforming of unfinished petroleum derivatives.

"Process Drain" means any drain used in a refinery complex on equipment which processes, transfers a volatile organic compound or mixture of volatile organic compounds.

"Process Unit Turnaround" means the procedure of shutting a refinery unit down after a run to do necessary maintenance and repair work and putting the unit back in operation.

"Vacuum Producing System" means any reciprocating, rotary, or centrifugal blower or compressor, or any jet ejector or device that takes suction from a pressure below atmospheric and discharges against atmospheric pressure.

R307-326-2. Vacuum Producing Systems.

The emission of noncondensable volatile organic compounds from the condensers, hot wells, or accumulators of vacuum producing systems shall be controlled by:

(1) piping the noncondensable vapors to a firebox or incinerator, or

(2) compressing the vapors and adding them to the refinery fuel gas, or

(3) other equally effective means provided the design and effectiveness of such means are documented and submitted to and approved by the executive secretary.

R307-326-3. Wastewater (Oil/Water) Systems.

Any wastewater separator handling volatile organic compounds shall be equipped with:

(1) covers and seals approved by the executive secretary on all separators and forebays,

(2) lids or seals on all openings in covers, separators, and forebays. Such lids or seals shall be in the closed position at all times except when in actual use.

R307-326-4. Process Unit Turnaround.

The owner or operator of a petroleum refinery shall insure that a minimum of volatile organic compounds (VOC) are emitted to the atmosphere during process unit turnarounds. The owner or operator shall develop and submit to the executive secretary for approval a procedure for minimizing VOC emissions during turnarounds. The procedure shall be submitted by April 1, 1990. As a minimum the procedure shall provide for:

(1) venting of the process unit or vessel during depressurization and purging to a vapor recovery system, flare or firebox, and

(2) preventing discharge to the atmosphere of emissions of volatile organic compounds from a process unit or vessel until its internal pressure is 136 kPa (19.7 psia) or less; or

(3) an equally effective system provided the design and effectiveness of such system are documented and submitted to and approved by the executive secretary.

(4) keeping records of the following items:

(a) every date that each process unit or vessel is shut down;

(b) the approximate vessel VOC concentration when the VOCs were first discharged to the atmosphere; and

(c) the approximate total quantity of VOCs emitted to the atmosphere.

(5) maintaining records. The records required in (4) above shall be kept for at least two years and shall be made available for review by the executive secretary or his representative.

R307-326-5. Catalytic Cracking Units.

Flue gas produced by catalytic cracker catalyst regeneration units shall be vented to a waste heat boiler, a process heater firebox, incinerated, or controlled by other methods provided the design and effectiveness of such methods are documented and submitted to and approved by the executive secretary.

R307-326-6. Safety Pressure Relief Valves.

All safety pressure relief valves handling organic material shall be vented to a flare, firebox, or vapor recovery system, or controlled by the inspection, monitoring, and repair requirements described in R307-326-7.

R307-326-7. Leaks from Petroleum Refinery Equipment.

(1) The owner or operator of a petroleum refinery complex shall develop and conduct a VOC monitoring program and shall follow the recording, reporting, and operating requirements consistent with R307-326-7. The monitoring program shall be submitted 30 days prior to start up of the petroleum refinery complex or as determined necessary by the executive secretary.

(2) Any affected component within a petroleum refinery complex found to be leaking shall be repaired and retested as soon as practicable, but not later than fifteen (15) days after the leak is detected. A leaking component is defined as one which has a VOC concentration exceeding 10,000 parts per million by volume (ppmv) when tested by a VOC detection instrument at the leak source in the manner described in 40 CFR 60, Appendix A, Reference Method 21, using methane or hexane as calibration gas. Components not subject to New Source Performance Standards Subpart GGG shall use methane or hexane as calibration gas, provided a relative response factor for each individual instrument is determined for the calibration gas used. Those leaks that cannot be repaired until the unit is shut down for turnaround shall be identified with a tag and recorded as per (6) below and shall be reported as required by (7) below. The executive secretary, in coordination with the refinery

owner or operator, may require early unit turnaround based on the number and severity of tagged leaks awaiting turnaround.

(3) Monitoring Requirements.

(a) In order to ensure that all existing VOC leaks are identified and that new VOC leaks are located as soon as practicable, the refinery owner or operator shall perform necessary monitoring using visual observations when specified or the method described in 40 CFR 60, Appendix A, Reference Method 21, as follows:

(i) Monitor at least one time per year (annually) all pump seals, valves in liquid service, and process drains;

(ii) monitor four times per year (quarterly) all compressor seals, valves in gaseous service, and pressure relief valves in gaseous service.

(iii) Monitor visually 52 times per year (weekly) all pump seals;

(iv) Monitor within 24 hours (with a portable VOC detection device) or repair within 15 days any pump seal from which liquids are observed dripping;

(v) Monitor any relief valve within 24 hours after it has been vented to the atmosphere;

(vi) Monitor immediately after repair any component that was found leaking;

(vii) for all other valves considered "unsafe-to-monitor" or inaccessible during an annual inspection, the owner/operator shall document to the executive secretary the number of valves considered "unsafe-to-monitor" or inaccessible, the dangers involved or reasons for inaccessibility, the location of these valves, and the procedures that the owner/operator shall follow to ensure that the valves do not leak. At a minimum, the inaccessible valves shall be monitored at least once per year (annually). This documentation shall be submitted for approval to the executive secretary 15 days after the last day of each calendar year.

(b) For the purpose of R307-326, gaseous service for pipeline valves and pressure relief valves is defined as the VOC being gaseous at conditions that prevail in the components during normal operations. Pipeline valves and pressure relief valves in gaseous service and other components subject to leaks shall be noted or marked so that their location within the refinery complex is obvious to the refinery operator performing the monitoring and to the State of Utah, Division of Air Quality.

(4) Exemptions. The following are exempt from the monitoring requirements of (3) above:

(a) Pressure relief devices which are connected to an operating flare header, firebox, or vapor recovery devices, storage tank valves, and valves that are not externally regulated; and

(b) Refinery equipment containing a stream composition less than 10 percent by weight VOC; and

(c) Refinery equipment containing natural gas supplied by a public utility as defined by the Utah Public Service Commission.

(5) Alternative Monitoring Methods and Requirements.

(a) If at any time after two complete liquid service inspections and five complete gaseous service inspections, the owner or operator of a petroleum refinery can demonstrate that modifications to (3) above are in order, he may apply in writing to the Air Quality Board for a variance from the requirements of (3) above.

(b) This submittal shall include data that have been developed to justify the modification to (3) above. As a minimum, the submittal should contain the following information:

(i) the name and address of the company;

(ii) the name and telephone number of the responsible company representative;

(iii) a description of the proposed alternative monitoring procedures; and

(iv) a description of the proposed alternative operational or equipment controls.

(6) Recording Requirements. Identified leaks shall be noted and affixed with a readily visible and weatherproof tag bearing the identification of the leak and the date the leak was detected. The tag shall remain in place until the leaking component is repaired. The presence of the leak shall also be noted in a log maintained by the operator or owner of the refinery. The log shall contain, at a minimum, the name of the process unit where the component is located, the type of component, the tag number, the date the leak was detected, the date repaired, and the date and instrument reading when the recheck of the component is made. The log should also indicate those leaks which cannot be repaired until turnaround, and summarize the total number of components found leaking. The operator or owner of the refinery complex shall retain the leak detection log for two years after the leak has been repaired and shall make the log available to the executive secretary upon request.

(7) Reporting Requirements. The operator or owner of a petroleum refinery complex shall submit a report to the executive secretary by the 15th day of January, April, July, and October of each year listing the total number of components inspected, all leaks that have been located during the previous 3 calendar months but not repaired within 15 days, all leaking components awaiting unit turnaround and the total number of components found leaking. In addition, the refinery operator or owner shall submit a signed statement with each report that all monitoring has been performed as stipulated in R307-14-4.FR307-326-7.

(8) Additional Requirements. Any time a valve, with the exception of safety pressure relief valves, is located at the end of a pipe or line containing VOC, the end of the line shall be sealed with one of the following: a second valve, a blind flange, a plug or a cap. This sealing device shall only be removed when the line is in use for sampling.

KEY: air pollution, refinery*, gasoline, ozone
1998 **19-2-101**
19-2-104

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Environmental Quality, Air Quality
R307-327
Davis and Salt Lake Counties and Ozone Nonattainment Areas: Petroleum Liquid Storage

NOTICE OF PROPOSED RULE
(New)
DAR FILE NO.: 21134
FILED: 05/13/98, 12:18
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose is to reorganize all R307 rules to make shorter sections and bring out important provisions. No substantive change is made.

SUMMARY OF THE RULE OR CHANGE: These provisions are presently found in Section R307-14-2.
(**DAR Note:** The proposed repeal to R307-14 is found under DAR No. 21102 in this *Bulletin*, and the language from the repealed rule is reorganized in other locations throughout R307. For complete information on these changes, see the reorganization table in the "Special Notices" section of this *Bulletin*.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 19-2-104

ANTICIPATED COST OR SAVINGS TO:
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COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: A small cost to learn new citations. In the long run, reduced cost in being able to find specific provisions more quickly.

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Air Quality
150 North 1950 West
Box 144820
Salt Lake City, UT 84114-4820, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Jan Miller at the above address, by phone at (801) 536-4042, by FAX at (801) 536-4099, or by Internet E-mail at jmiller@deq.state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 07/01/1998; OR ATTENDING A PUBLIC HEARING SCHEDULED FOR 06/23/1998, 1:30 p.m., Room 201, Department of Environmental Quality (DEQ) Building, 168 North 1950 West, Salt Lake City, UT.

THIS RULE MAY BECOME EFFECTIVE ON: 08/06/1998

AUTHORIZED BY: Ursula K. Trueman, Director

R307. Environmental Quality, Air Quality.
R307-327. Davis and Salt Lake Counties and Ozone Nonattainment Areas: Petroleum Liquid Storage.
R307-327-1. Applicability and Definitions.

(1) R307-325 establishes applicability and general requirements for R307-327.

(2) The following additional definitions apply to R307-327:

"Average Monthly Storage Temperature" means the average daily storage temperature measured over a period of one month.

"Waxy, Heavy Pour Crude Oil" means a crude oil with a pour point of 50 degrees F or higher as determined by the American Society for Testing and Materials Standard D97-66, "Test for pourpoint of petroleum oils."

(3) Any existing stationary storage tank, reservoir or other container with a capacity greater than 40,000 gallons (150,000 liters) which is used to store volatile petroleum liquids with a true vapor pressure greater than 10.5 kilo pascals (kPa) (1.52 psia) at storage temperature shall be fitted with control equipment which will minimize vapor loss to the atmosphere. Such storage tanks, except storage tanks erected before January 1, 1979, which are equipped with external floating roofs, shall be fitted with an internal floating roof which shall rest on the surface of the liquid contents and shall be equipped with a closure seal or seals to close the space between the roof edge and the tank wall, or alternative equivalent controls, provided the design and effectiveness of such equipment is documented and submitted to and approved by the executive secretary. The owner or operator shall maintain a record of the type and maximum true vapor pressure of stored liquid.

(4) The owner or operator of a petroleum liquid storage tank not subject to (3) above, but containing a petroleum liquid with a true vapor pressure greater than 7.0 kPa (1.0 psi), shall maintain records of the average monthly storage temperature, the type of liquid, throughput quantities, and the maximum true vapor pressure.

R307-327-2. Installation and Maintenance.

(1) The owner or operator shall ensure that all control equipment on storage vessels shall be properly installed and maintained.

(a) There shall be no visible holes, tears or other openings in any seal or seal fabric and; all openings, except stub drains, shall be equipped with covers, lids, or seals.

(b) All openings in floating roof tanks, except for automatic bleeder vents, rim space vents, and leg sleeves, shall provide a projection below the liquid surface.

(c) The openings shall be equipped with a cover, seal, or lid.

(d) The cover, seal, or lid is to be in a closed position at all times except when the device is in actual use.

(e) Automatic bleeder vents shall be closed at all times except when the roof is floated off or landed on the roof leg supports. Rim vents shall be set to open when the roof is being floating off the leg supports or at the manufacturer's recommended setting.

(f) Any emergency roof drain shall be provided with a slotted membrane fabric cover or equivalent cover that covers at least 90 percent of the area of the opening.

(2) The owner or operator shall conduct routine inspections from the top of the tank for external floating roofs or through roof hatches for internal floating roofs at six month or shorter intervals to insure there are no holes, tears, or other openings in the seal or seal fabric.

(a) The cover must be uniformly floating on or above the liquid and there must be no visible defects in the surface of the cover or petroleum liquid accumulated on the cover.

(b) The seal(s) must be intact and uniformly in place around the circumference of the cover between the cover and tank wall.

(3) A close visible inspection of the primary seal of an external floating roof is to be conducted at least once per year from the roof top unless such inspection requires detaching the secondary seal, which would result in damage to the seal system.

(4) Whenever a tank is emptied and degassed for maintenance, an emergency, or any other similar purpose, a close visible inspection of the cover and seals is to be made.

(5) The executive secretary must be notified 7 days prior to the refilling of a tank which has been emptied, degassed for maintenance, an emergency, or any other similar purpose. Any non-compliance with this regulation must be corrected before the tank is refilled.

R307-327-3. Retrofits for Floating Roof Tanks.

(1) Except where specifically exempted in (3) below, all existing external floating roof tanks with capacities greater than 950 barrels (40,000 gals) shall be retrofitted with a continuous secondary seal extending from the floating roof to the tank wall (a rim-mounted secondary seal) if:

(a) The tank is a welded tank, the true vapor pressure of the contained liquid is 27.6 kPa (4.0 psi) or greater and the primary seal is one of the following:

(i) A metallic type shoe seal, a liquid-mounted foam seal, a liquid-mounted liquid-filled seal, or

(ii) Any other primary seals which can be demonstrated equivalent to the above primary seals.

(b) The tank is a riveted tank, the true vapor pressure of the contained liquid is 10.5 kPa (1.5 psi) or greater, and the primary seal is as described in (a) above.

(c) The tank is a welded or riveted tank, the true vapor pressure of the contained liquid is 10.5 kPa (1.5 psi) or greater and the primary seal is vapor-mounted. When such primary seal closure device can be demonstrated equivalent to the primary seals described in (a) above, these processes apply.

(2) The owner or operator of a storage tank subject to this rule shall ensure that all the seal closure devices shall meet the following requirements:

(a) There shall be no visible holes, tears, or other openings in the seals or seal fabric.

(b) The seals must be intact and uniformly in place around the circumference of the floating roof between the floating roof and the tank wall.

(c) For vapor mounted primary seals, the accumulated area of gaps between the secondary seal and the tank wall shall not exceed 21.2 cm^2 per meter of tank diameter (1.0 in^2 per ft. of tank diameter) and the width of any gap shall not exceed 1.27 cm (1/2 in.). The owner or operator shall measure the secondary seal gap annually and make a record of the measurement.

(3) The following are specifically exempted from the requirements of (1) above:

(a) External floating roof tanks having capacities less than 10,000 barrels (420,000 gals) used to store produced crude oil and condensate prior to custody transfer.

(b) A metallic type shoe seal in a welded tank which has a secondary seal from the top of the shoe seal to the tank wall (a shoe mounted secondary seal).

(c) External floating roof tanks storing waxy, heavy pour crudes.

(d) External floating roof tanks with a closure seal device or other devices installed which will control VOC emissions with an effectiveness equal to or greater than the seals required in (1) above. It shall be the responsibility of the owner or operator of the source to demonstrate the effectiveness of the alternative seals or devices to the executive secretary. No exemption under (3) shall be granted until the alternative seals or devices are approved by the executive secretary.

KEY: air pollution, petroleum, gasoline, ozone
1998 **19-2-101**
19-2-104

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Environmental Quality, Air Quality
R307-328
Davis and Salt Lake Counties and Ozone Nonattainment Areas: Gasoline Transfer and Storage

NOTICE OF PROPOSED RULE
(New)
DAR FILE NO.: 21135
FILED: 05/13/98, 12:19
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose is to reorganize all R307 rules to make shorter sections and bring out important provisions. No substantive change is made.

SUMMARY OF THE RULE OR CHANGE: The language for Section R307-328-1 is presently found in Section R307-1-1. The language for Sections R307-328-2 through R307-328-5 is presently found in Section R307-14-3.
(**DAR Note:** The proposed amendment to R307-1, which is under DAR No. 21100 in this *Bulletin*, deletes Sections R307-1-1 through R307-1-4 and the language is reorganized in other locations throughout R307. The proposed repeal to R307-14 is found under DAR No. 21102 in this *Bulletin*, and the language from the repealed rule is also reorganized in other locations throughout R307. For complete information on these changes, see the reorganization table in the "Special Notices" section of this *Bulletin*.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 19-2-104

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THIS RULE MAY BECOME EFFECTIVE ON: 08/06/1998

AUTHORIZED BY: Ursula K. Trueman, Director

R307. Environmental Quality, Air Quality.
R307-328. Davis and Salt Lake Counties and Ozone Nonattainment Areas: Gasoline Transfer and Storage.
R307-328-1. Applicability and Definitions.

(1) R307-325 establishes applicability and general requirements for R307-328

(2) The following additional definitions apply to R307-328:

"Bottom Filling" means the filling of a tank through an inlet at or near the bottom of the tank designed to have the opening covered by the liquid after the pipe normally used to withdraw liquid can no longer withdraw any liquid.

"Submerged Fill Pipe" means any fill pipe with a discharge opening which is entirely submerged when the liquid level is 6 inches above the bottom of the tank and the pipe normally used to withdraw liquid from the tank can no longer withdraw any liquid.

R307-328-2. Loading of Tank Trucks, Trailers, Railroad Tank Cars, and Other Transport Vehicles.

(1) No person shall load or permit the loading of gasoline into any tank truck, trailer, railroad tank car, or other transport vehicle unless the emissions from such vehicle are controlled by use of a vapor collection and control system and submerged or bottom filling. Reasonably available control technology shall be required and in no case shall vapor emissions to the atmosphere exceed 0.640 pounds per 1,000 gallons transferred.

(2) Such vapor collection and control system shall be properly installed and maintained.

(3) The loading device shall not leak.

(4) The loading device shall utilize the dry-break loading design couplings and shall be maintained and operated to allow no more than an average of 15 cc drainage per disconnect for 5 consecutive disconnects.

(5) All loading and vapor lines shall be equipped with fittings which make a vapor tight connection and shall automatically closed upon disconnection to prevent release of the organic material.

(6) A gasoline storage and transfer installation that receives inbound loads and dispatches outbound loads ("bulk plant") need not comply with R307-328-2 if it does not have a daily average throughput of more than 3,900 gallons (15,000 or more liters) of gasoline based upon a 30-day rolling average. Such installation shall on-load and off-load gasoline by use of bottom or submerged filling or alternative equivalent methods. The emission limitation is based on operating procedures and equipment specifications using Reasonably Available Control Technology as defined in EPA documents EPA 450/2-77-026 October 1977, "Control of Hydrocarbons from Tank Truck Gasoline Loading Terminals", and EPA-450/2-77-035 December 1977, "Control of Volatile Organic Emissions from Bulk Gasoline Plants". The design effectiveness of such equipment and the operating procedures must be documented and submitted to and approved by the executive secretary.

(7) Hatches of transport vehicles shall not be opened at any time during loading operations except to avoid emergency situations or during emergency situations. Pressure relief valves on storage tanks and transport vehicles shall be set to release at the highest possible pressure, in accordance with State or local fire codes and National Fire Prevention Association guidelines. Pressure in the vapor collection system shall not exceed the transport vehicle pressure relief setting.

(8) Each owner or operator of a gasoline storage and dispensing installation shall conduct testing of vapor collection systems used at such installation and shall maintain records of all tests for no less than two years. Testing procedures of vapor collection systems shall be approved by the executive secretary and shall be consistent with the procedures described in the EPA document, "Control of Volatile Organic Compound Leaks from Gasoline Tank Trucks and Vapor Collection Systems," EPA-450/2-78-051.

(9) Semi-annual testing shall be conducted and records maintained of such test. The frequency of tests may be altered by

the executive secretary upon submittal of documentation which would justify a change.

(10) The vapor collection and vapor processing equipment shall be designed and operated to prevent gauge pressure in the delivery vessel from exceeding 18 inches of water and prevent vacuum from exceeding 6 inches of water. During testing and monitoring, there shall be no reading greater than or equal to 100 percent of the lower explosive limit measured at 1.04 inches around the perimeter of a potential leak source as detected by a combustible gas detector. Potential leak sources include, but are not limited to, piping, seals, hoses, connections, pressure or vacuum vents, and vapor hoods. In addition, no visible liquid leaks are permitted during testing or monitoring.

R307-328-3. Stationary Source Container Loading.

(1) No person shall transfer or permit the transfer of gasoline from any delivery vessel (i.e. tank truck or trailer) into any stationary storage container with a capacity of 250 gallons or greater unless such container is equipped with a submerged fill pipe and at least 90 percent of the gasoline vapor, by weight, displaced during the filling of the stationary storage container is prevented from being released to the atmosphere. This requirement shall not apply to:

(a) the transfer of gasoline into any stationary storage container of less than 550 gallons used primarily for the fueling of implements of husbandry if such container is equipped with a permanent submerged fill pipe;

(b) the transfer of gasoline into any stationary storage container having a capacity of less than 2,000 gallons which was installed prior to January 1, 1979, if such container is equipped with a permanent submerged fill pipe;

(c) the transfer of gasoline to storage tanks equipped with floating roofs or their equivalent which have been approved by the executive secretary.

(2) The 90 percent performance standard of the vapor control system shall be based on operating procedures and equipment specifications. The design effectiveness of such equipment and the operating procedure must be documented and submitted to and approved by the executive secretary.

(3) Each owner/operator of a gasoline storage tank or the owner/operator of the gasoline delivery vessel subject to (1) above shall install vapor control equipment, which includes, but is not limited to:

(a) vapor return lines and connections sufficiently free of restrictions to allow transfer of vapor to the delivery vessel or to the vapor control system, and to achieve the required recovery;

(b) a means of assuring that the vapor return lines are connected to the delivery vessel, or vapor control system, and storage tank during tank filling;

(c) restrictions in the storage tank vent line designed and operated to prevent:

(i) the release of gasoline vapors to the atmosphere during normal operation; and

(ii) gauge pressure in the delivery vessel from exceeding 18 inches of water and vacuum from exceeding 6 inches of water.

R307-328-4. Transport Vehicles.

(1) Gasoline transport vehicles must be designed and maintained to be vapor tight during loading and unloading operations as well as during transport, except for normal pressure venting required under United States Department of Transportation Regulations.

(2) No person shall knowingly allow the introduction of gasoline into, dispensing of gasoline from, or transportation of gasoline in a gasoline transport vehicle without a current Utah Vapor Tightness Certificate.

(3) A vapor-laden transport vehicle may be refilled only at installations equipped to recover, process and/or dispose of vapors. Transport vehicles which only service locations with storage containers specifically exempted from the requirements of R307-328-3 need not be retrofitted to comply with R307-328-4, provided such transport vehicles are loaded through a submerged fill pipe or equivalent equipment provided the design and effectiveness of such equipment are documented and submitted to and approved by the executive secretary.

R307-328-5. Leak Tight Testing.

(1) Gasoline tank trucks and their vapor collection systems shall be tested for leakage by procedures approved by the executive secretary and consistent with the procedures described in R307-342.

(2) Gasoline tank trucks and their vapor collection systems shall be tested for leakage annually between December 1 and May 1.

(3) The tank shall not sustain a pressure change of more than 750 pascals (3 inches of H_2O) in five minutes when pressurized (by air or inert gas) to 4500 pascals (18 inches of H_2O) or evacuated to 1500 pascals (6 inches of H_2O).

(4) No visible liquid leaks are permitted during testing.

(5) Gasoline tank trucks shall be certified leak tight at least annually by a qualified contractor approved by the executive secretary.

(6) Each owner or operator of a gasoline tank truck shall have in his possession a valid vapor tightness certification, which:

(a) shows the date that the gasoline tank truck last passed the Utah vapor tightness certification test; and

(b) shows the identification number of the gasoline tank truck.

(7) Records of certification inspections, as well as any maintenance performed, shall be retained by the owner/operator of the tank truck for a two year period and be available for review by the executive secretary or his representative.

KEY: air pollution, gasoline transport, ozone
1998 **19-2-101**
19-2-104

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Environmental Quality, Air Quality

R307-332

Davis and Salt Lake Counties and Ozone Nonattainment Areas: Stage II Vapor Recovery Systems

NOTICE OF PROPOSED RULE
(New)
DAR FILE NO.: 21136
FILED: 05/13/98, 12:19
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose is to reorganize all R307 rules to make shorter sections and bring out important provisions. No substantive change is made.

SUMMARY OF THE RULE OR CHANGE: These provisions are presently found in Section R307-14-10.
(**DAR Note:** The proposed repeal to R307-14 is found under DAR No. 21102 in this *Bulletin*, and the language from the repealed rule is reorganized in other locations throughout R307. For complete information on these changes, see the reorganization table in the "Special Notices" section of this *Bulletin*.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 19-2-104

ANTICIPATED COST OR SAVINGS TO:
❖THE STATE BUDGET: A small cost for renumbering the rule, learning new citations, and revising forms. In the long run, reduced cost in being able to find specific provisions more quickly.
❖LOCAL GOVERNMENTS: A small cost to learn new citations. In the long run, reduced cost in being able to find specific provisions more quickly.
❖OTHER PERSONS: A small cost to learn new citations. In the long run, reduced cost in being able to find specific provisions more quickly.
COMPLIANCE COSTS FOR AFFECTED PERSONS: A small cost to learn new citations. In the long run, reduced cost in being able to find specific provisions more quickly.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: A small cost to learn new citations. In the long run, reduced cost in being able to find specific provisions more quickly.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
Environmental Quality
Air Quality
150 North 1950 West
Box 144820
Salt Lake City, UT 84114-4820, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Jan Miller at the above address, by phone at (801) 536-4042, by FAX at (801) 536-4099, or by Internet E-mail at jmiller@deq.state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 07/01/1998; OR ATTENDING A PUBLIC HEARING SCHEDULED FOR 06/23/1998, 1:30 p.m., Room 201, Department of Environmental Quality (DEQ) Building, 168 North 1950 West, Salt Lake City, UT.

THIS RULE MAY BECOME EFFECTIVE ON: 08/06/1998

AUTHORIZED BY: Ursula K. Trueman, Director

R307. Environmental Quality, Air Quality.
R307-332. Davis and Salt Lake Counties and Ozone Nonattainment Areas: Stage II Vapor Recovery Systems.
R307-332-1. Definitions.

The following additional definitions apply to R307-332:

"Control" of a corporation means ownership of more than 50% of its stock.

"Dispense" means to transfer or allow the transfer of gasoline from a stationary gasoline tank into a motor vehicle fuel tank.

"Effective" means the percent recovery of gasoline vapors emitted during dispensing of gasoline into motor vehicle fuel tanks.

"Installation" means a public, private, or government-owned or operated establishment that dispenses gasoline at a single location and is subject to R307-332.

"Independent small business marketer of gasoline" means a person engaged in the retail dispensing and marketing of gasoline unless such person:

(1) is a refiner, whose total refinery capacity (including the refinery capacity of any person who controls, is controlled by, or is under common control with such refiner) exceeds 65,000 barrels per day;

(2) controls, is controlled by, or is under common control with such a refiner; or

(3) is otherwise directly or indirectly affiliated with such a refiner or with a person who controls, is controlled by, or is under a common control with such a refiner (unless the sole affiliation referred to herein is by means of a supply contract or an agreement or contract to use a trademark, trade name, service mark, or other identifying symbol or name owned by such refiner or any such person), or

(4) receives less than 50% of his annual income from refining or marketing of gasoline.

"Stage II trigger date" means the date on which is triggered the Contingency Action Level specified in Section IX.D.2.h(2) of the State Implementation Plan.

"Stage II vapor recovery system" means a system that meets the requirements of R307-332-2.

R307-332-2. Specifications and Approval.

(1) For a Stage II vapor recovery system to be used in Utah to comply with this rule the manufacturer or vendor of the system shall submit to the executive secretary documentation that its Stage II vapor recovery system is capable of recovering 95% of gasoline vapor emissions resulting from dispensing gasoline into the motor vehicle fuel tanks. Minimum documentation consists of the California Air Resources Board (CARB) Executive Order pertaining to the Stage II vapor recovery system in question, including all attachments and exhibits or the findings of a testing program that the executive secretary and EPA determines to be

equivalent to a California Air Resources Board Stage II vapor recovery equipment certification.

(2) The executive secretary shall review the submitted documentation and certify his approval or disapprove use of the system for compliance with R307-332.

(3) Only Stage II vapor recovery systems approved by the executive secretary may be used to comply with this rule.

R307-332-3. Applicability.

(1) R307-332 applies to installations:

(a) located in Salt Lake County or Davis County and

(b) which dispense more than 10,000 gallons of gasoline per month or, in the case of an independent small business marketer of gasoline, which dispense more than 50,000 gallons of gasoline per month; or

(c) have ever met the conditions of (a) and (b) above.

(2) Installations located in Salt Lake County or Davis County and which dispense 10,000 gallons or less of gasoline per month, or in the case of an independent small business marketer of gasoline, which dispense 50,000 gallons or less of gasoline per month are exempt from all the requirements of R307-332 except R307-332-4(6) and R307-332-8(4).

R307-332-4. Compliance Schedule.

(1) No person shall dispense gasoline from an installation for which R307-332 is applicable except by means of a Stage II vapor recovery system after the dates specified in this subsection.

(2) The owners or operators of all installations at which construction or gasoline tank replacement commenced after the Stage II trigger date are required to install and operate a Stage II vapor recovery system before dispensing any gasoline.

(3) Compliance Date.

(a) Owners or operators of all installations existing before the Stage II trigger date, except independent small business marketers of gasoline, are required to install and operate a Stage II vapor recovery system no later than:

(i) May 1 of the year after the Stage II trigger date, in the case of installations which dispense 100,000 or more gallons of gasoline per month or for which construction commenced after November 15, 1990 and before the Stage II trigger date or

(ii) May 1 of the year two years after the year in which the Stage II trigger date occurred, in the case of installations which dispense 10,001 to 99,999 gallons of gasoline per month.

(b) Any installation described by more than one clause of (2)(a) shall meet the earliest applicable compliance date.

(4) In the case of installations existing before the Stage II trigger date for which R307-332 is applicable on the Stage II trigger date, and which are owned by an independent small business marketer of gasoline, which dispense 50,000 or more gallons per month, a three-year phase-in period for the installation and operation of Stage II vapor recovery systems at installations owned by that marketer shall be as follows:

(a) 33% of such installations in compliance no later than May 1 of the year after the Stage II trigger date;

(b) 66% of such installations in compliance no later than May 1 of the year two years after the year in which the Stage II trigger date occurred; and

(c) 100% of such installations in compliance no later than May 1 of the year three years after the year in which the Stage II trigger date occurred.

(5) Installations existing before the Stage II trigger date, which met the exemption provisions of R307-332-3(2) and which dispense more than 10,000 gallons of gasoline per month or, in the case of an independent small business marketer of gasoline which dispense more than 50,000 gallons of gasoline per month, are required to install and operate a Stage II vapor recovery system no later than six months after the end of the month for which the gallons of gasoline dispensed or sold by the installation exceeds the number of gallons per month specified in this subsection.

(6) Initially the volume of gasoline sold or dispensed per month for purposes of compliance with R307-332 shall be determined by the average volume dispensed or sold per month over the twenty-four month period immediately preceding the Stage II trigger date. Thereafter, the volume of gasoline sold per month for purposes of compliance with R307-332 shall be determined by a rolling twenty-four month average of the volume dispensed or sold per month. If an installation was inactive for any period during the twenty-four month calculation period, the period shall be extended to include a total of twenty-four months of activity. If an installation has not operated a total of twenty-four months, the average shall be of the portion for which the installation was active. Within 90 days after the Stage II trigger date and by February 1 of every year thereafter, owners or operators of installations shall submit the following information to the executive secretary on forms provided by the executive secretary:

(a) the name and address of the installation owner;

(b) the name and address of the installation;

(c) the number of nozzles and pumps at the installation;

(d) the California Air Resources Board Executive Order Number or identification of non-California Air Resources Board certification approved by the executive secretary of any Stage II vapor recovery systems or portions of systems already installed;

(e) a compliance schedule, if applicable; and

(f)(i) in the case of the submittal due 90 days after the Stage II trigger date, the installation's monthly and annual gasoline throughput for twenty-four months of active operation immediately preceding the Stage II trigger date or

(ii) in the case of the submittal due on February 1 of every year thereafter, the gasoline throughput for each month of the previous calendar year.

R307-332-5. Installation.

(1) Owners or operators of installations are required to submit, to the executive secretary, Stage II vapor recovery system installation specifications no later than thirty days prior to installation. The submittal shall include the following information:

(a) the name, address, and phone number of the installation owner;

(b) the name, address, and phone number of the installation;

(c) number of gasoline nozzles and pumps at the installation;

(d) the California Air Resources Board Executive Order Number or identification of non-California Air Resources Board certification approved by the executive secretary of the Stage II vapor recovery system to be installed;

(e) the certification number issued by the executive secretary to the manufacturer or vendor of the Stage II vapor recovery system to be installed to verify approval of the system for use to comply with this rule;

(f) a site plan of all tanks, dispensers, and underground piping; and

(g) the date or dates on which construction and installation of the Stage II vapor recovery system is expected to occur.

(2) Stage II vapor recovery systems shall be installed in accordance with manufacturer specifications and the submittal described in (1) above.

(3) The installation owner must verify that the Stage II vapor recovery system installed at least meets the requirements of the following tests for which specifications may be obtained from the executive secretary:

(a) AQB Leak Test Procedure (after "Bay Area ST-30 Leak Test Procedure") or AQB Pressure Decay/Leak Test (after "San Diego Test Procedure TP-92-1 Pressure Decay/Leak Test Procedure"); and

(b) AQB Pressure Drop vs Flow/Liquid Blockage Test Procedure (after "San Diego Test Procedure TP-91-2 Pressure Drop vs Flow/Liquid Blockage Test Procedure").

(4) The executive secretary may approve alternatives to the tests specified in (3) above, if requested by the owner or operator and approved by EPA.

(5) The tests specified in (3) and (4) above shall be performed after notifying the executive secretary as specified in R307-332-11. The test results must be dated and include the name, address, and phone number of the person that performed the tests. Initial testing shall be conducted after the above ground equipment is installed, and must be completed in time to meet the compliance schedule specified in R307-332-4. Testing shall be conducted at the gasoline dispensing pumps.

(6) A copy of the results of tests conducted in accordance with (3) above shall be maintained on the premises of the installation.

R307-332-6. Installation Owner/Operator and Employee Training.

(1) Owners or operators of installations shall provide every installation employee, including the operator, that is responsible for the use, operation, or maintenance of a Stage II vapor recovery system with training on the purpose, effects, and operation of the installation's Stage II vapor recovery system as specified by the system manufacturer.

(2) Owners or operators of installations shall provide at least one employee that is responsible for the maintenance of a Stage II vapor recovery system with training specified in (1) above and on the maintenance schedules and requirements, manufacturer contacts for parts and service, and warranty provisions of the installation's Stage II vapor recovery system as specified by the system manufacturer.

(3) No installation operator or employee may operate or be responsible for the operation of a Stage II vapor recovery system prior to completion of the training specified in (1) above.

(4) No installation operator or employee may repair; authorize or supervise repair; or perform, authorize, or supervise maintenance of a Stage II vapor recovery system prior to completion of the training specified in (2) above.

(5) Proof of the training specified in (1) above shall be maintained on the installation premises for each installation operator and employee for which such training is required.

(6) Proof of the training specified in (2) above shall be maintained for each installation operator and employee for which such training is required.

(7) Records of training specified in R307-332-6 will be made available to representatives of the executive secretary upon request.

R307-332-7. Operation and Maintenance.

(1) A copy of the operating and maintenance documentation provided by the Stage II vapor recovery system manufacturer shall be maintained at the installation and be available to installation employees.

(2) The system shall be operated and maintained in accordance with operating and maintenance documentation provided by the Stage II vapor recovery system manufacturer.

(3) Modification or repair of Stage II vapor recovery systems shall be conducted in accordance with manufacturer specifications and using parts approved by California Air Resources Board or the executive secretary.

(4) The owner or operator of a Stage II vapor recovery system shall upgrade the system to comply with any modification of the California Air Resources Board executive order for the system no later than six months after the California Air Resources Board executive order for the system is modified.

(5) The owner or operator of the Stage II vapor recovery system shall maintain a record of all maintenance and repairs for the system. The record shall include a general description of any parts replaced or repaired, the date of the repair or replacement, the manufacturer and part number of any part replaced, a general description of the part location in the system, and a description of the problem.

R307-332-8. Records.

Owners or operators of installations shall maintain up-to-date copies of:

(1) Stage II vapor recovery system installation, testing documentation, and maintenance records as long as the system is in place;

(2) Stage II vapor recovery system inspection and compliance reports and records filed in chronological order for the preceding two years;

(3) records of current employee Stage II vapor recovery system training; and

(4) records of the volume of gasoline delivered and dispensed each month of the preceding twenty-four month period.

R307-332-9. Pump Labeling Requirements.

(1) The owner or operator of any installation that dispenses gasoline by means of a Stage II vapor recovery system is required to label pumps as follows.

(a) The label letters shall be in block letters of no less than 20-point type, at least 1/16 inch stroke (width of type), and of a color that contrasts with the label background color.

(b) The label shall affixed to the front upper half of the vertical surface of the gasoline pump on each side with gallonage and dollar amount meters from which gasoline can be dispensed and shall be clearly readable to the pump user.

(c) Information on the label shall include:

(i) a general explanation of how the Stage II vapor recovery system works and how it should be operated;

(ii) notice that the user should not attempt to overfill the motor vehicle gas tank;

(iii) notice that the purpose of Stage II vapor recovery systems is to minimize gasoline emissions from motor vehicle refueling; and

(iv) the name and telephone number of the Division of Air Quality.

R307-332-10. Self Inspections.

(1) The owner or operator of an installation shall ensure that the following tests and inspections are performed as specified.

(a) After notification as specified in R307-332-11, one of the tests specified in R307-332-5(3)(a) or another test or tests approved by the executive secretary and EPA, shall be conducted for every Stage II vapor recovery system at each installation every third year after the initial test required by R307-332-5(3)(a) or at any installation that the executive secretary has any indication that leaks may exist.

(b) After notification as specified in R307-332-11, the test specified in R307-332-5(3)(b), the AQB Dynamic Back Pressure Test, or another test or tests approved by the executive secretary and EPA, shall be conducted for every Stage II vapor recovery system at each installation every fourth year after the initial test required by R307-332-5(3)(b) or at any installation that the executive secretary has any indication that a blockage may exist.

(c) After notification as specified in R307-332-11, a functional test shall be conducted every year on any and all auto shut-off mechanisms and flow-prohibiting mechanisms on all dispensing nozzles to determine if the mechanisms are functional.

(d) Visual inspections shall be conducted at a frequency sufficient to ensure:

(i) that all the Stage II vapor recovery equipment is present, is maintained in the certified configuration, and is in proper working order, including, but not limited to: nozzles and nozzle parts (facecone, bellows, springs, latches, check valves), hoses and hose hanger/retractors, flow limiters, swivels, collection units, control panels, system pumps, processing units, vent pipes and any and all other system related parts;

(ii) compliance with all Stage II vapor recovery system label requirements as specified in R307-332-9; and

(iii) that all Stage II vapor recovery system equipment is being operated properly, including dispensing units, processors, handling units, and any other system-related equipment.

(2) Stage II vapor recovery systems or portions of Stage II vapor recovery systems found to be malfunctioning shall be taken out of service until repaired.

R307-332-11. Test Notification Requirements.

(1) The owner or operator of an installation shall notify the executive secretary in writing at least thirty days before conducting a test to comply with R307-332-5(3) or (4), or R307-332-10(1)(a), (b) or (c).

(2) The notification required in (1) above shall include:

(a) the name, address, and phone number of the installation;

(b) the name of the test;

(c) the name and telephone number of the person that will conduct the test; and

(d) the time and date on which the test shall be conducted.

(3) If the results of a test listed in (1) above do not show compliance with standards specified in the appropriate test specification, the owner or operator of an installation shall notify the executive secretary by five P.M. on the first working day after the test. Notification shall include the name, address, and phone number of the installation and the name of the test.

KEY: air pollution, motor vehicles, gasoline, ozone
1998 **19-2-101**
19-2-104

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Environmental Quality, Air Quality
R307-335
Davis and Salt Lake Counties and Ozone Nonattainment Areas: Degreasing and Solvent Cleaning Operations

NOTICE OF PROPOSED RULE
(New)
DAR FILE NO.: 21137
FILED: 05/13/98, 12:20
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose is to reorganize all R307 rules to make shorter sections and bring out important provisions. No substantive change is made.

SUMMARY OF THE RULE OR CHANGE: These provisions are presently found in Section R307-14-5.
(**DAR Note:** The proposed repeal to R307-14 is found under DAR No. 21102 in this *Bulletin*, and the language from the repealed rule is reorganized in other locations throughout R307. For complete information on these changes, see the reorganization table in the "Special Notices" section of this *Bulletin*.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 19-2-104

ANTICIPATED COST OR SAVINGS TO:
❖THE STATE BUDGET: A small cost for renumbering the rule, learning new citations, and revising forms. In the long run, reduced cost in being able to find specific provisions more quickly.

❖LOCAL GOVERNMENTS: A small cost to learn new citations. In the long run, reduced cost in being able to find specific provisions more quickly.
❖OTHER PERSONS: A small cost to learn new citations. In the long run, reduced cost in being able to find specific provisions more quickly.
COMPLIANCE COSTS FOR AFFECTED PERSONS: A small cost to learn new citations. In the long run, reduced cost in being able to find specific provisions more quickly.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: A small cost to learn new citations. In the long run, reduced cost in being able to find specific provisions more quickly.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
Environmental Quality
Air Quality
150 North 1950 West
Box 144820
Salt Lake City, UT 84114-4820, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Jan Miller at the above address, by phone at (801) 536-4042, by FAX at (801) 536-4099, or by Internet E-mail at jmiller@deq.state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 07/01/1998; OR ATTENDING A PUBLIC HEARING SCHEDULED FOR 06/23/1998, 1:30 p.m., Room 201, Department of Environmental Quality (DEQ) Building, 168 North 1950 West, Salt Lake City, UT.

THIS RULE MAY BECOME EFFECTIVE ON: 08/06/1998

AUTHORIZED BY: Ursula K. Trueman, Director

R307. Environmental Quality, Air Quality.
R307-335. Davis and Salt Lake Counties and Ozone Nonattainment Areas: Degreasing and Solvent Cleaning Operations.
R307-335-1. Applicability and Definitions.

(1) The provisions of this section are applicable to the use of all volatile organic compounds.

(2) R307-325 establishes applicability and general requirements for R307-335.

(3) The following additional definitions apply to R307-335:

"Batch Open Top Vapor Degreasing" means the batch process of cleaning and removing grease and soils from metal surfaces by condensing hot solvent vapor on the colder metal parts.

"Cold Cleaning" means the batch process of cleaning and removing soils from metal surfaces by spraying, brushing, flushing or immersing while maintaining the solvent below its boiling point.

"Conveyorized Degreasing" means the continuous process of cleaning and removing greases and soils from metal surfaces by using either cold or vaporized solvents.

"Freeboard Ratio" means the freeboard height divided by the width of the degreaser.

"Open Top Vapor Degreaser" means the batch process of cleaning and removing soils from metal surfaces by condensing low solvent vapor on the colder metal parts.

"Separation Operation" means any process that separates a mixture of compounds and solvents into two or more components. Specific mechanisms include extraction, centrifugation, filtration, and crystallization.

"Solvent Metal Cleaning" means the process of cleaning soils from metal surfaces by cold cleaning, open top vapor degreasers, or conveyorized degreasing.

R307-335-2. Cold Cleaning Facilities.

No owner or operator shall operate a degreasing or solvent cleaning operation unless the conditions contained in (1) through (7) below are met.

(1) A cover shall be installed which shall remain closed except during actual loading, unloading or handling of parts in cleaner. The cover shall be designed so that it can be easily operated with one hand if

(a) the volatility of the solvent is greater than 2 kPa (15 mm Hg or 0.3 psi) measured at 38 degrees C (100 degrees F),

(b) the solvent is agitated, or

(c) the solvent is heated.

(2) An internal draining rack for cleaned parts shall be installed on which parts shall be drained until all dripping ceases. If the volatility of the solvent is greater than 4.3 kPa (32 mm Hg at 38 degrees C (100 degrees F)), the drainage facility must be internal, so that parts are enclosed under the cover while draining. The drainage facility may be external for applications where an internal type cannot fit into the cleaning system.

(3) Waste or used solvent shall be stored in covered containers. Waste solvents or waste materials which contain solvents shall be disposed of by recycling, reclaiming, by incineration in an incinerator approved to process hazardous materials, or by an alternate means approved by the executive secretary.

(4) Tanks, containers and all associated equipment shall be maintained in good operating condition and leaks shall be repaired immediately or the degreaser shall be shutdown.

(5) Written procedures for the operation and maintenance of the degreasing or solvent cleaning equipment shall be permanently posted in an accessible and conspicuous location near the equipment.

(6) If the solvent volatility is greater than 4.3 kPa (33 mm Hg or 0.6 psi) measured at 38 degrees C (100 degrees F), or if solvent is heated above 50 degrees C (120 degrees F), then one of the following control devices shall be used:

(a) freeboard that gives a freeboard ratio greater than 0.7;

(b) water cover if the solvent is insoluble in and heavier than water);

(c) other systems of equivalent control, such as a refrigerated chiller or carbon absorption.

(7) If used, the solvent spray shall be a solid fluid stream at a pressure which does not cause excessive splashing and may not be a fine, atomized or shower type spray.

R307-335-3. Open Top Vapor Degreasers.

Owners or operators of open top vapor degreasers shall, in addition to meeting the requirements of R307-335-2(3), (4) and (5),

(1) Equip the vapor degreaser with a cover that can be opened and closed without disturbing the vapor zone. The cover shall be closed except when processing work loads through the degreaser;

(2) Install one of the following control devices:

(a) Equipment necessary to sustain:

(i) a freeboard ratio greater than or equal to 0.75, and

(ii) a powered cover if the degreaser opening is greater than 1 square meter (10 square feet),

(b) Refrigerated chiller,

(c) Enclosed design (cover or door opens only when the dry part is actually entering or exiting the degreaser),

(d) Carbon adsorption system, with ventilation greater than or equal to 15 cubic meters per minute per square meter (50 cubic feet per minute per square foot) of air/vapor area when cover is open and exhausting less than 25 parts per million of solvent averaged over one complete adsorption cycle;

(3) Minimize solvent carryout by:

(a) Racking parts to allow complete drainage,

(b) Moving parts in and out of the degreaser at less than 3.3 meters per minute (11 feet per minute),

(c) Holding the parts in the vapor zone at least 30 seconds or until condensation ceases,

(d) Tipping out any pool of solvent on the cleaned parts before removal, and

(e) Allowing the parts to dry within the degreaser for at least 15 seconds or until visibly dry.

(4) Spray parts only in or below the vapor level,

(5) Not use ventilation fans near the degreaser opening, nor provide exhaust ventilation exceeding 20 cubic meters per minute per square meter (65 cubic feet per minute per square foot) in degreaser open area, unless necessary to meet State and Federal occupational, health, and safety requirements. The exhaust ventilation flow indicated above shall be measured using EPA Reference Methods 1 and 2 of 40 CFR Part 60, or by EPA-approved equivalent state methods;

(6) Not degrease porous or absorbent materials, such as cloth, leather, wood or rope;

(7) Not allow work loads to occupy more than half of the degreaser's open top area;

(8) Ensure that solvent is not visually detectable in water exiting the water separator;

(9) Install safety switches on the following:

(a) Condenser flow switch and thermostat (shuts off sump heat if condenser coolant is either not circulating or too warm); and

(b) Spray switch (shuts off spray pump if the vapor level drops excessively, i.e., greater than 10 cm (4 inches); and

(10) Ensure that the control device specified by (2)(b) or (d) above meet the applicable requirements of R307-340-2 and 13.

Open top vapor degreasers with an open area smaller than one square meter (10.9 square feet) are exempt from (2)(b) and (d) above.

R307-335-4. Conveyorized Degreasers.

Owners and operators of conveyorized degreasers shall, in addition to meeting the requirements of R307-335-2(3), (4) and (5) and R307-335-3(5):

(1) Install one of the following control devices for conveyorized degreasers with an air/vapor interface equal to or greater than 2.0 square meters (21.6 square feet):

(a) Refrigerated chiller or

(b) Carbon adsorption system, with ventilation greater than or equal to 15 cubic meters per minute per square meter (50 cubic feet per minute per square foot) of air/vapor area when downtime covers are open, and exhausting less than 25 parts per million of solvent, by volume, averaged over a complete adsorption cycle.

(2) Equip the cleaner with equipment, such as a drying tunnel or rotating (tumbling) basket, sufficient to prevent cleaned parts from carrying out solvent liquid or vapor.

(3) Provide downtime covers for closing off the entrance and exit during shutdown hours. Ensure that down-time cover is placed over entrances and exits of conveyorized degreasers immediately after the conveyor and exhaust are shutdown and is removed just before they are started up.

(4) Minimize carryout emissions by racking parts for best drainage and maintaining the vertical conveyor speed at less than 3.3 meters per minute (11 feet per minute).

(5) Ensure that the control device specified by (1)(a) or (b) above meet the applicable requirements of R307-340-2 and 13.

(6) Minimize openings: Entrances and exits should silhouette work loads so that the average clearance (between parts and the edge of the degreaser opening) is either less than 10 cm (4 inches) or less than 10% of the width of the opening.

(7) Install safety switches on the following:

(a) Condenser flow switch and thermostat - shuts off sump heat if coolant is either not circulating or two warm;

(b) Spray switch - shuts off spray pump or conveyor if the vapor level drops excessively, i.e., greater than 10 cm or (4 inches); and

(c) Vapor level control thermostat - to shuts off sump level if vapor level rises too high.

(8) Ensure that solvent is not visibly detectable in the water exiting the water separator.

KEY: air pollution, degreasing*, solvent cleaning*, ozone
1998 **19-2-101**
19-2-104

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Environmental Quality, Air Quality

R307-340

Davis and Salt Lake Counties and Ozone Nonattainment Areas: Surface Coating Processes

NOTICE OF PROPOSED RULE
(New)
DAR FILE NO.: 21138
FILED: 05/13/98, 12:20
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose is to reorganize all R307 rules to make shorter sections and bring out important provisions. No substantive change is made.

SUMMARY OF THE RULE OR CHANGE: The language for Section R307-340-1 is presently found in Section R307-1-1. The language for Sections R307-340-2 through R307-340-13 is presently found in Section R307-14-7.
(**DAR Note:** The proposed amendment to R307-1, which is under DAR No. 21100 in this *Bulletin*, deletes Sections R307-1-1 through R307-1-4 and the language is reorganized in other locations throughout R307. The proposed repeal to R307-14 is found under DAR No. 21102 in this *Bulletin*, and the language from the repealed rule is also reorganized in other locations throughout R307. For complete information on these changes, see the reorganization table in the "Special Notices" section of this *Bulletin*.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 19-2-104

ANTICIPATED COST OR SAVINGS TO:
❖THE STATE BUDGET: A small cost for renumbering the rule, learning new citations, and revising forms. In the long run, reduced cost in being able to find specific provisions more quickly.
❖LOCAL GOVERNMENTS: A small cost to learn new citations. In the long run, reduced cost in being able to find specific provisions more quickly.
❖OTHER PERSONS: A small cost to learn new citations. In the long run, reduced cost in being able to find specific provisions more quickly.
COMPLIANCE COSTS FOR AFFECTED PERSONS: A small cost to learn new citations. In the long run, reduced cost in being able to find specific provisions more quickly.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: A small cost to learn new citations. In the long run, reduced cost in being able to find specific provisions more quickly.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:

Environmental Quality
Air Quality
150 North 1950 West
Box 144820
Salt Lake City, UT 84114-4820, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Jan Miller at the above address, by phone at (801) 536-4042, by FAX at (801) 536-4099, or by Internet E-mail at jmiller@deq.state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 07/01/1998; OR ATTENDING A PUBLIC HEARING SCHEDULED FOR 06/23/1998, 1:30 p.m., Room 201, Department of Environmental Quality (DEQ) Building, 168 North 1950 West, Salt Lake City, UT.

THIS RULE MAY BECOME EFFECTIVE ON: 08/06/1998

AUTHORIZED BY: Ursula K. Trueman, Director

R307. Environmental Quality, Air Quality.
R307-340. Davis and Salt Lake Counties and Ozone Nonattainment Areas: Surface Coating Processes.
R307-340-1. Applicability and Definitions.

(1) R307-325 establishes applicability and general requirements for R307-340.

(2) The following additional definitions apply to R307-340:

"Air Dried Coating" means coatings which are dried by the use of air or a forced warm air at temperatures up to 90 degrees C (194 degrees F).

"Application Area" means the area where the coating is applied by spraying, dipping, or flow coating techniques.

"Basecoat" means a primary flat wood coating or coloring of panels and normally should completely hide substrate characteristics.

"Capture System" means the equipment (including hoods, ducts, fans, etc.) used to contain, capture, or transport a pollutant to a control device.

"Class II Hard Board Paneling Finish" means finishes which meet the specifications of voluntary product standards PS-9-73 as approved by the American National Standards Institute.

"Clear Coat" means a coating which lacks color and opacity.

"Coating" means a protective, functional, or decorative film applied in a thin layer to a surface. This term often applies to paints such as lacquers or enamels, but is also used to refer to films applied to paper, plastics, or foil.

"Coating Application System" means all operations and equipment which applies, conveys, and dries a surface coating, including, but not limited to, spray booths, flow coaters, flash off areas, air dryers and ovens.

"Curtain Coating" means the application of a coating material to a wood substrate by means of a free-falling film of coating.

"Exterior Single Coat" means the same as topcoat but is applied directly to the metal substrate omitting the primer application.

"Extreme Performance Coatings" means coatings designed for harsh exposure or extreme environmental conditions.

"Fabric Coating" means the coating or saturation of a textile substrate with a knife, roll or rotogravure coater to impart characteristics that are not initially present, such as strength, stability, water or acid repellency, or appearance.

"Filler" means a type of coating used to fill pores, voids, and cracks in wood to provide a smooth surface. It can also be used to accentuate the grain of natural hardwood veneers.

"Flat Wood Coating" means the surface coating of any flat wood products.

"Flexographic Printing" means the application of works, designs, and pictures to substrate by means of a roll printing technique in which the pattern to be applied is raised above the printing roll and the image carrier is made of rubber or other elastomeric materials.

"Groove Coat" means a flat wood coating which covers grooves cut into the panel to assure that the grooves are compatible with the final surface color.

"Hardwood Plywood" means plywood whose surface layer is a veneer of hardwood.

"Ink" means a flat wood coating used to put a decorative design on printed panels. It can also produce special appearances on natural hardwood plywood.

"Interior Single Coat" means a single film of coating applied to internal parts of large appliances that are not normally visible to the user.

"Knife Coating" means the application of a coating material to a substrate by means of drawing the substrate beneath a blade that spreads the coating evenly over the width of the substrate.

"Large Appliances" means doors, cases, lids, panels, and interior support parts of residential and commercial washers, dryers, ranges, refrigerators, freezers, water heaters, dishwashers, trash compactors, air conditioners, and other similar products.

"Low Organic Solvent Coating" means coatings which contain less organic solvents than the conventional coatings used by industry. Low organic solvent coatings include water-borne, higher-solids, electrodeposition, and powder coatings.

"Magnet Wire Coating" means the process of applying coating of electrical insulating varnish or enamel to aluminum or copper wire for use in electrical machinery.

"Metal Furniture Coating" means the surface coating of any furniture made of metal or any metal part which will be assembled with other metal, wood fabric, plastic, or glass parts to form a furniture piece.

"Natural Finish Hardwood Plywood Panels" means panels whose original grain pattern is enhanced by essentially transparent finishes frequently supplemented by fillers and toners.

"Packaging Rotogravure Printing" means rotogravure printing upon paper, paper board, metal foil, plastic film, and other substrates, which are, in subsequent operations, formed into packaging products and labels.

"Paper Coating" means uniform distribution of coatings put on paper and pressure sensitive tapes regardless of substrate. Related web coating processes on plastic film and decorative coatings on metal foil are included in this definition. Paper coating covers saturation operations as well as coating operations. (Saturation means dipping the web into a bath).

"Particle Board" means a manufactured board made of individual particles which have been coated with a binder and formed into flat sheets by pressure.

"Pressure Head Coating" means the application of a coating material to a wood substrate by means of a pressure head coater where coating material is metered into a pressure head and forced through a calibrated slit between two knives.

"Prime Coat" means the first film of coating applied in a two-coat operation.

"Primer" means a flat wood coating used to protect the wood from moisture and to provide a good surface for further coating applications.

"Printed Interior Panels" means panels whose grain or natural surface is obscured by fillers or basecoats upon which a simulated grain or decorative pattern is printed.

"Publication of Rotogravure Printing" means rotogravure printing upon paper which is subsequently formed into books, magazines, catalogues, brochures, directories, newspaper supplements, and other types of printed materials.

"Roll Coating" means the application of a coating material to a substrate by means of hard rubber or steel rolls.

"Roll Printing" means the application of words, designs and pictures to a substrate usually by means of a series of hard rubber or steel rolls each with only partial coverage.

"Rotogravure Coating" means the application of a uniform layer of material across the entire width of the web to substrate by means of a roll coating technique in which the pattern to be applied is etched on the coating roll. The coating material is picked up in these recessed areas and is transferred to the substrate.

"Rotogravure Printing" means the application of words, designs, and pictures to a substrate by means of a roll printing technique which involves a recessed image area in the form of cells.

"Sealer" means a type of coating used to seal off substances in the wood which may affect subsequent finishes as well as protect the wood from moisture.

"Single Coat" means a single film of coating applied directly to the metal substrate omitting the primer application.

"Specialty Printing Operations" means all gravure and flexographic operations which print a design or image, excluding publication gravure and packaging gravure printing. Specialty printing operations include, among other things, printing on paper cups and plates, patterned gift wrap, wallpaper, and floor coverings.

"Stain" means a nonprotective flat wood coating which colors the wood surface without obscuring the grain.

"Tile Board" means paneling that has a colored waterproof surface coating.

"Vinyl Coating" means applying a decorative or protective top coat, or printing on vinyl coated fabric or vinyl sheets.

R307-340-2. General Provisions for Volatile Organic Compounds.

(1) R307-340 applies to Volatile Organic Compounds used for surface coating of paper, fabric, vinyl, metal furniture, large appliances, magnet wire, flat wood paneling, miscellaneous metal parts and products, and graphic arts.

(2) Fugitive emissions. Control techniques and work practices are to be implemented at all times to reduce VOC emissions from fugitive type sources. Control techniques and work practices include:

(a) tight fitting covers for open tanks;

(b) covered containers for solvent wiping cloths;

(c) collection hoods for areas where solvent is used for cleanup; and

(d) proper disposal of dirty cleanup solvent.

(3) Record keeping and reporting.

(a) The owner or operator of any source subject to R307-340 shall maintain:

(i) Records detailing all malfunctions affecting control equipment;

(ii) Records of all testing conducted under R307-340-13;

(iii) Records of all monitoring conducted under R307-340-13; and

(iv) Records of the daily use of all paints, stains, lacquers, solvents, and other materials which may be a source of VOC emissions.

(v) The recording format shall, at a minimum, follow the guidance in EPA-340/1-88-003, "Recordkeeping Guidance Document for Surface Coating Operations and the Graphic Arts Industry", or the most recent EPA guidance, and shall contain all information necessary to determine compliance with emissions limits on a daily basis.

(b) The owner or operator shall:

(i) Install; operate; and maintain process or control equipment, or both; monitoring instruments or procedures; as necessary to comply with (2)(a) above; and

(ii) Maintain, in writing, data or reports, or both, relating to monitoring instruments or procedures to document, upon review, the compliance status of the VOC emission source or control equipment.

(c) Copies of all records and reports required by (2)(a) and (b) above shall be retained by the owner or operator for a minimum of two years after the date on which the record was made, and shall be made available to the executive secretary or representative upon verbal or written request.

(d) If add-on control equipment is used, in addition to the requirements of R307-340-13(5), the following information, as determined applicable for each source by the executive secretary, shall be monitored and recorded daily in order to assure continuous compliance. The substitution of continuous recordings of system operation for daily recordings may be allowed by the executive secretary. The required information pertains to the following systems:

(i) capture systems: fan power use, duct flow, and duct pressure.

(ii) carbon absorbers systems: bed temperature, bed vacuum pressure, pressure at the vacuum pump, accumulated time of operation, concentration of VOC in the outlet gas, and solvent recovery.

(iii) refrigeration systems: compressor discharge and suction pressures, condenser fluid temperature, and solvent recovery.

(iv) incinerator systems: exhaust gas temperature, temperature rise across a catalytic incinerator bed, flame temperature, and accumulated time of incineration.

(4) Malfunctions, Breakdowns, and Upsets. The owner or operator of a surface coating installation shall maintain a record of malfunctions, breakdowns, and upsets that result in excess VOC emissions. The record shall be kept for a calendar year and shall be submitted to the executive secretary by April 1 of the following year.

(5) Disposal of waste solvents. Waste solvents or waste materials which contain solvents shall be disposed of by recycling, reclaiming or by incineration in an incinerator approved to process hazardous materials or by an alternate means approved by the executive secretary.

(6) Compliance Calculation Procedures.

(a) Compliance with R307-340 shall be determined on a daily basis. Sources may request approval for longer times for compliance determination from the executive secretary.

(b) Compliance calculation procedures shall follow the guidance of "Procedures for Certifying Quantity of Volatile organic Compounds Emitted by Paint, Ink, and other Coatings," EPA-450/3-84-019, or the most recent EPA guidance. Sources which use add-on controls, or an approved alternative strategy instead of low solvent technology to meet the applicable emission limit, shall meet the equivalent VOC emission limit on the basis of solids applied (lbs. VOC/gallon solids applied, or lbs. VOC/lb. solids applied, for graphic arts sources).

R307-340-3. Paper Coating.

(1) R307-340-3 applies to roll, knife rotogravure coaters and drying ovens of paper coating operations.

(2) No owner or operator of a paper coating operation subject to R307-340-3 may cause, allow or permit the discharge into the atmosphere of any VOC in excess of 0.35 kilograms per liter of coating (2.9 pounds per gallon), excluding water and solvents exempt from the definition of volatile organic compounds, delivered to the coating application from a paper coating operation.

(3) Equivalency calculations for coatings should be performed in units of lbs. VOC/gallon of solid rather than lbs. VOC/gallon of coating when determining compliance. The equivalent emission limit is 4.8 lbs. VOC/gallon of solid.

(4) The emission limit specified above shall be achieved by:

(a) The application of a low solvent technology coating; or

(b) Incineration, provided that a minimum of 90 percent of non-methane volatile organic compounds (VOC measured as total combustible carbon) which enter the incinerator are oxidized to carbon dioxide and water; or

(c) Through carbon adsorption provided that there is a minimum of 90% reduction efficiency of captured VOC emissions.

(5) The design, operation, and efficiency of any capture system used in conjunction with (4) above shall be certified in writing by the owner or operator and approved by the executive secretary.

R307-340-4. Fabric and Vinyl Coating.

(1) R307-340-4 applies to roll, knife or rotogravure coaters and drying ovens of fabric and vinyl coating operations.

(2) No owner or operator of a fabric or vinyl coating line subject to this section may cause, allow or permit the discharge into the atmosphere of any volatile organic compounds in excess of:

(a) 0.35 kilograms per liter of coating (2.9 pounds per gallon), excluding water and solvents exempt from the definition of volatile organic compound, delivered to the coating applicator from a fabric coating line; or

(b) 0.45 kilograms per liter of coating (3.8 pounds per gallon), excluding water and solvents exempt from the definition of volatile organic compound, delivered to the coating applicator from a vinyl coating line.

(3) Equivalency calculations for coatings shall be performed in units of lbs. VOC/gallons of solids rather than lbs. VOC/gallon of coating when determining compliance. The equivalent emission limits shall be 4.8 lbs VOC/gallon solids for fabric coating, and 7.9 lbs VOC/gallon for vinyl coating.

(4) Organosol and plastisol coatings shall not be used to bubble emissions from vinyl printing and topcoating.

(5) The emission limitations specified above shall be achieved by:

(a) The application of a low solvent content coating technology; or

(b) Incineration, provided that a minimum of 90 percent of the non-methane volatile organic compounds (VOC measured as total combustible carbon) which enter the incinerator are oxidized to carbon dioxide and water; or

(c) Through carbon adsorption provided that there is a minimum of 90 percent reduction efficiency of captured VOC emissions.

(6) The design, operation, and efficiency of any capture system used in conjunction with (5) above shall be certified in writing by the owner or operator and approved by the executive secretary.

R307-340-5. Metal Furniture Coating VOC Emissions.

(1) R307-340-5 applies to the application areas, flash-off areas, and ovens of metal furniture coating lines involved in prime and top-coat or single coat operations.

(2) No owner or operator of a metal furniture coating line subject to this section may cause, allow or permit the discharge into the atmosphere of any volatile organic compound in excess of 0.3 kilograms per liter of coating (3.0 pounds per gallon) excluding water and solvents exempt from the definition of volatile organic compounds, delivered to the coating applicator from prime and topcoat or single coat operations.

(3) Equivalency calculations for coatings shall be performed in units of lbs. VOC/gallon of solid rather than lbs. VOC/gallon of coating when determining compliance. The equivalent emission limit is 5.1 lbs. VOC/gallon solids.

(4) The emission limitation specified above shall be achieved by:

(a) The application of low solvent technology; or

(b) Incineration, provided that a minimum of 90 percent of the non-methane volatile organic compounds (VOC measured as total combustible carbon) which enter the incinerator are oxidized to carbon dioxide and water; or

(c) using water-borne electrodeposition; or

(d) using water-borne spray, dip or flowcoat; or

(e) using powder; or

(f) using higher solids spray; or

(g) carbon adsorption.

(4) The design, operation, and efficiency of any capture system used in conjunction with (4) above shall be certified in writing by the owner or operator and approved by the executive secretary.

R307-340-6. Large Appliance Surface Coating VOC Emissions.

(1) R307-340-6 applies to application areas flash-off areas and ovens of large appliance coating lines involved in prime, single or top coating operations.

(2) No owner or operator of a large appliance coating line subject to this section may cause, allow or permit the discharge to the atmosphere of any volatile organic compounds in excess of 0.34 kilograms per liter of coating (2.8 pounds per gallon), excluding water and solvents exempt from the definition of volatile organic compound, delivered to the coating applicator from prime, single, or top-coat coating operations.

(3) Equivalency calculations for coatings shall be performed in units of lbs. VOC/gallon of solid rather than lbs. VOC/gallon of coating when determining compliance. The equivalent emission limit is 4.5 lbs. VOC/gallon solids.

(4) The emission limitations specified above shall be achieved by:

(a) The application of low solvent content technology; or

(b) Incineration provided 90 percent of the non-methane volatile organic compounds (VOC measured as total combustible carbon) which enter the incinerator are oxidized to carbon dioxide and water; or

(c) using water-borne electrodeposition; or

(d) using water-borne spray, dip or flowcoat; or

(e) using powder; or

(f) using higher solids spray; or

(g) carbon adsorption.

(5) The design, operation, and efficiency or any capture system used in conjunction with (4) above shall be certified in writing by the owner or operator.

R307-340-7. Magnet Wire Coating VOC Emissions.

(1) R307-340-7 applies to ovens of magnet wire coating operations.

(2) No owner or operator of a magnet wire coating oven subject to this section may cause, allow or permit discharge into the atmosphere of any volatile organic compounds in excess of 0.20 kilograms per liter of coating (1.7 pounds per gallon), excluding water and solvents exempt from the definition of volatile organic compound, delivered to the coating applicator from magnet wire coating operations.

(3) Equivalency calculations for coatings shall be performed in units of lbs. VOC/gallon of solid rather than lbs. VOC/gallon of coating when determining compliance. The equivalent emission limit is 2.2 lbs. VOC/gallon solids.

(4) The emission limitations specified above shall be achieved by:

(a) The application of low solvent content coating technology; or

(b) Incineration, provided that a minimum of 90 percent of the non-methane volatile organic compounds (VOC measured as total combustible carbon) which enter the incinerator are oxidized to carbon dioxide and water; or

(5) The design, operation, and efficiency of any capture system used in conjunction with (4)(b) above shall be certified in writing by the owner or operator and approved by the executive secretary.

R307-340-8. Flat Wood Coating.

(1) R307-340-8 applies to the application areas of flat wood coating operations involved in but not limited to, filler, sealer, groove coat, primer, stain, basecoat, inks, and topcoat operations.

(2) No owner or operator of an interior printed hardwood, plywood, and particle board coating operation may cause, allow or permit discharge to the atmosphere of any organic volatile compound in excess of a weighted average VOC content of 0.20 kilograms per liter of coating (1.7 pounds per gallon), excluding water and solvents exempt from the definition of volatile organic compound, delivered to a coating applicator from, but not limited to, filler, sealer, groove coat, primer, stain, basecoat, ink and topcoat operation.

(3) No owner or operator of a natural finish hardwood plywood coating operation may cause, allow or permit discharge to the atmosphere any organic volatile compound in excess of a weighted average VOC content of 0.40 kilograms per liter of

coating (3.3 pounds per gallon) excluding water and solvents exempt from the definition of volatile organic compound, delivered to a coating applicator from, but not limited to, filler, sealer, groove coat, primer, stain basecoat, ink and topcoat operations.

(4) No owner or operator of a Class II hardwood panel finish operation may cause, allow, or permit discharge to the atmosphere of any organic volatile compound in excess of a weighted average VOC content of 0.34 kilograms per liter of coating (2.8 pounds per gallon), excluding water and solvents exempt from the definition of volatile organic compound, delivered to a coating applicator from, but not limited to, filler, sealer, groove coat, primer, stain, basecoat, ink, and topcoat operations.

(5) The emission limitations specified above shall be achieved by:

(a) The application of low solvent technology; or

(b) The application of water-borne coating technology; or

(c) The application of ultraviolet-curable coating technology; or.

(6) This regulation does not apply to the manufacture of exterior siding, tile board, or particle board used as a furniture component.

(7) Equivalency calculations for coatings shall be performed in units of lbs. VOC/gallons of solid rather than lbs. VOC/gallons of coating when determining compliance. The equivalent emission limit for interior printed hardwood, plywood, and particle board coating is 2.2 lbs. VOC/gallon solids. The equivalent emission limit for natural finish hardwood plywood coating shall be 6.0 lbs. VOC/gallon solids. The equivalent emission limit for Class II hardwood panel finish operations is 4.5 lbs. VOC/gallon solids.

R307-340-9. Miscellaneous Metal Parts and Products VOC Emissions.

(1) R307-340-9 applies to the application areas, flash-off areas air and forced air dryers, and ovens used in the surface coating of miscellaneous metal parts and products:

(2) Applicable Industries:

(a) Large farm machinery (harvesting, fertilizing, planting, tractors, combines, etc.)

(b) Small farm machinery (lawn and garden tractors, lawn mowers, rototillers, etc.)

(c) Small appliance (fans, mixers, blenders, crock pots, vacuum cleaners, etc.)

(d) Commercial machinery (computers, typewriters, calculators, vending machines, etc.)

(e) Industrial machinery (pumps, compressors, conveyor components, fans, blowers, transformers, etc.)

(f) Fabricated metal products (metal covered doors, frames, trailer frames, etc.)

(g) Any other industrial category which coats metal parts or products under the standard Industrial Classification Code of major group 33 (primary metal industries), major group 34 (fabricated metal products), major group 35 (nonelectric machinery), major group 36 (electrical machinery), major group 37 (transportation equipment) major group 38 (miscellaneous instruments), and major group 39 (miscellaneous manufacturing industries).

(h) This regulation does not apply to:

(i) the surface coating of automobiles and light-duty trucks,

(ii) flat metal sheets and strips in the form of rolls or coils,

(iii) exterior of airplanes,

(iv) automobile refinishing,

(v) exterior of marine vessels,

(vi) customized top coating of automobiles and trucks if production is less than 35 vehicles per day,

(vii) a source whose potential VOC emissions are less than 10 tons/year. Potential emissions are based upon design capacity (or maximum production), and 8760 hours/year, before add-on controls. The potential emission level is determined on a plant-wide basis, summing all individual emission sources within the miscellaneous metal parts and products category.

(3) No owner or operator of a facility engaged in the surface coating of miscellaneous metal parts and products may cause, allow or permit discharge to the atmosphere of any volatile organic compounds in excess of:

(a) 0.52 kilograms per liter (4.3 pounds per gallon) of coating, excluding water and solvents exempt from the definition of volatile organic compound, delivered to a coating applicator that applies clear coating;

(b) 0.42 kilograms per liter (3.5 pounds per gallon) of coating, excluding water and solvents exempt from the definition of volatile organic compound, delivered to a coating applicator in a coating application system that utilizes air or forced warm air at temperatures up to 90 degrees C (194 degrees F);

(c) 0.42 kilograms per liter (3.5 pounds per gallon) of coating, excluding water and solvents exempt from the definition of volatile organic compound, delivered to a coating applicator that applies extreme performance coatings;

(d) 0.36 kilograms per liter (3.0 pounds per gallon) of coating, excluding water and solvents exempt from the definition of volatile organic compound, delivered to a coating applicator for all other coating and coating application systems.

(4) Equivalency calculations for coatings shall be performed in units of lbs. VOC/gallon of solid rather than lbs. VOC/gallon of coating when determining compliance. The equivalent emission limit for air dried items is 6.7 lbs. VOC/gallon solids. The equivalent emission limit for clear-coated items is 10.3 lbs. VOC/gallon solids. The equivalent emission limit for extreme performance coatings is 6.7 lbs. VOC/gallon solids. The equivalent emission limit for other coatings and systems is 5.1 lbs. VOC/gallon solids.

(5) If more than one emission limitation indicated in this section applies to a specific coating, then the least stringent emission limitation shall apply. All volatile organic compound emissions from solvent washing involved in a coating process shall be considered in the emission limitations set forth in R307-340-9(3), unless the solvent is directed into containers that prevent evaporation into the atmosphere.

(6) The emission limitations set forth in (3) above shall be achieved by:

(a) The application of low solvent technology; or

(b) An incineration system which oxidizes a minimum of 90 percent of the non-methane volatile organic compounds (VOC measures as total combustible carbon) to carbon dioxide and water.

(7) The design, operation, and efficiency of any capture system used in conjunction with (6)(b) above shall be certified in writing by the owner or operator and approved by the executive secretary.

R307-340-10. Graphic Arts.

(1) R307-340-10 applies to: packaging and publication rotogravure; packaging and publication flexographic; and specialty printing operations employing solvents containing ink and having plant-wide potential emissions of volatile organic compounds (VOC) equal to or greater than 90 megagrams/yr (100 tons/yr). Potential emissions shall be calculated based on uncontrolled emissions operating at design capacity or at maximum production for 8760 hours/year. (Solvent shall include that used for dilution of ink and for equipment cleaning.) Machines which have both coating units (application of a uniform layer of material across the entire width of a web) and printing units (formation of words, designs and pictures) shall be considered as performing a printing operation. This rule does not apply to offset lithography or letter press printing which do not use volatile organic compounds.

(2) No owner or operator of a packaging and publication rotogravure; packaging and publication flexographic, and specialty printing operations employing solvent containing ink may operate, cause, or allow or permit the operation of a facility unless:

(a) The volatile fraction of ink, as it is applied to the substrate, contains 25.0 percent by volume or less of organic solvent and 75.0 percent by volume or more of water; or

(b) The ink as it is applies to the substrate, less water, contains 60.0 percent by volume or more nonvolatile material; or

(c) The owner or operator installs and operates;

(i) A carbon adsorption system which reduces the volatile organic emissions from the capture system by a minimum of 90.0 percent by weight; or

(ii) An incineration system which oxidizes a minimum of 90.0 percent of the non-methane volatile organic compounds (VOC measured as total combustible carbon) to carbon dioxide and water.

(3) A capture system must be used in conjunction with the emission control systems indicated in this section. The design and operation of a capture system must be consistent with good engineering practices and shall be required to provide for an overall reduction in volatile organic compound emissions of at least:

(a) 75.0 percent where a publication rotogravure process is employed;

(b) 65.0 percent where a packaging rotogravure process is employed; or

(c) 60.0 percent where a flexographic printing process is employed.

R307-340-11. Exemptions.

The requirements of R307-340-1 through 8 shall not apply to the following:

(1) sources whose emissions of volatile organic compounds are not more than 6.8 kilograms (15 pounds) in any 24 hour period, nor more than 1.4 kilograms (3 pounds) in any one (1) hour provided the emission rates are certified. These cutoffs apply to the emissions level on a plant-wide basis, and are determined by summing emissions from all coating operations within the same regulated category.

(2) sources used exclusively for chemical or physical analysis or determination of product quality and commercial acceptance provided;

(a) the operation of the source is not an integral part of the production process; and

(b) the emissions from the source do not exceed 363 kilograms (800 pounds) in any one calendar month. These cutoffs apply to the emissions level on a plant-wide basis, and are determined by summing emissions from all coating operations within the same regulated category.

R307-340-12. Capture Systems.

The design, operation and efficiency of any capture system used in conjunction with any emission control system shall be certified in writing by the source owner or operator and approved by the executive secretary. Unless the capture system meets the requirements for a total enclosure, specified in section 60.713(b)(5)(i) of 40 CFR Part 60 Subpart SSS, or unless material balance techniques approved by the executive secretary are used to adequately determine overall VOC capture and destruction or recovery efficiency, the efficiency of the capture system will be determined by test methods approved by the executive secretary. Testing for capture efficiency shall be performed on a case-by-case basis as required by the executive secretary, and shall be consistent with EPA guidance. The requirements of R307-340-2(3)(d) apply to the capture and control device system. When capture and control device efficiency must be independently determined, the overall VOC emission percent reduction equals (percent capture efficiency x percent control device efficiency)/100.

R307-340-13. Testing and Monitoring.

(1) Upon request by the executive secretary, the owner or operator of a volatile organic compound source required to comply with R307-340 shall demonstrate compliance by the method of this section or an alternative method approved by the executive secretary.

(2) Test procedures to determine compliance with R307-340 must be approved by the executive secretary and must utilize one of the following methods or an alternative method approved by the executive secretary or equivalent method.

(a) For surface coatings: EPA Reference Method 24 of 40 CFR Part 60

(b) For add-on control equipment: EPA Reference Methods 1 through 4, 18 and 25, of the 40 CFR Part 60;

(c) EPA 340/1-86-016 "A Guide for Surface Coating Calculations;" and

(d) EPA 450/3-84-019 "Procedures for Certifying Quantity of Volatile organic Compounds Emitted by Paint, Ink and Other Coatings."

(3) All tests shall be made by, or under the direction of, a person qualified by training or experience, or both, in the field of air pollution testing. The executive secretary will evaluate test data submitted.

(4) A person proposing to conduct a volatile organic compound emissions test shall notify the executive secretary of the intent to test not less than 30 days before the proposed initiation of the test. The notification shall contain the information required by, and be in a format approved by, the executive secretary.

(5) If add-on control equipment is used, continuous monitors of the following parameters shall be installed, periodically calibrated, and operated at all times that the associated control equipment is operating:

(a) Exhaust gas temperatures of all incinerators;
(b) Temperature rise across a catalytic incinerator bed;
(c) Breakthrough of VOC on a carbon adsorption unit; and
(d) Any other continuous monitoring or recording device required by the executive secretary.

(6) The executive secretary may accept, instead of the testing required in R307-340-13, a certification by the manufacturer of the composition of the coatings if supported by actual batch formulation records. The owner or operator of a VOC source required to comply with R307-340 must obtain certification from the coating manufacturers that the test methods used for determination of the VOC content meet the requirements specified in (2) above. The owner or operator shall make this certification readily available to the Division of Air Quality to allow the results to be used in the daily compliance calculations specified in R307-340-2(6).

(7) The performance of add-on control equipment shall be demonstrated with the required test methods of (2) above at equipment start up and after any major modification to the control equipment. Baseline operating parameters shall be established during the satisfactory (i.e. in-compliance) operation of the control equipment, including operation during all anticipated ranges of process throughput. During subsequent process operation, the owner or operator shall maintain the operating conditions of the add-on controls as close to these baseline conditions as possible. If serious operational problems with an add-on control system are indicated by the daily monitoring required by R307-340-2(3)(d), (such problems may be indicated by changes from baseline conditions), repeat performance tests shall be performed by the owner or operator, and may be required by the executive secretary, as necessary.

(8) To determine compliance with the applicable standards in R307-340, samples shall be taken from the coating as freshly delivered to the reservoir of the coating applicator. All VOC emissions from solvent washing involved in a coating process shall be considered in determining compliance with an emission limit, unless the source owner or operator documents that the VOCs from solvent washing are collected and disposed of in a manner that prevents their evaporation into the atmosphere.

KEY: air pollution, emission controls, surface coating*, ozone
1998 **19-2-101**
19-2-104

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Environmental Quality, Air Quality
R307-341
Davis and Salt Lake Counties and Ozone Nonattainment Areas: Cutback Asphalt

NOTICE OF PROPOSED RULE
(New)
DAR FILE NO.: 21139
FILED: 05/13/98, 12:21
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose is to reorganize all R307 rules to make shorter sections and bring out important provisions. No substantive change is made.

SUMMARY OF THE RULE OR CHANGE: The language for Section R307-341-1 is presently found in Section R307-1-1. The language for Sections R307-341-2 and R307-341-3 is presently found in Section R307-14-6.
(**DAR Note:** The proposed amendment to R307-1, which is under DAR No. 21100 in this *Bulletin*, deletes Sections R307-1-1 through R307-1-4 and the language is reorganized in other locations throughout R307. The proposed repeal to R307-14 is found under DAR No. 21102 in this *Bulletin*, and the language from the repealed rule is also reorganized in other locations throughout R307. For complete information on these changes, see the reorganization table in the "Special Notices" section of this *Bulletin*.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 19-2-104

ANTICIPATED COST OR SAVINGS TO:
❖THE STATE BUDGET: A small cost for renumbering the rule, learning new citations, and revising forms. In the long run, reduced cost in being able to find specific provisions more quickly.
❖LOCAL GOVERNMENTS: A small cost to learn new citations. In the long run, reduced cost in being able to find specific provisions more quickly.
❖OTHER PERSONS: A small cost to learn new citations. In the long run, reduced cost in being able to find specific provisions more quickly.
COMPLIANCE COSTS FOR AFFECTED PERSONS: A small cost to learn new citations. In the long run, reduced cost in being able to find specific provisions more quickly.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: A small cost to learn new citations. In the long run, reduced cost in being able to find specific provisions more quickly.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
Environmental Quality
Air Quality
150 North 1950 West
Box 144820
Salt Lake City, UT 84114-4820, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Jan Miller at the above address, by phone at (801) 536-4042, by FAX at (801) 536-4099, or by Internet E-mail at jmiller@deq.state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 07/01/1998; OR ATTENDING A PUBLIC HEARING SCHEDULED FOR 06/23/1998, 1:30 p.m., Room 201, Department of Environmental Quality (DEQ) Building, 168 North 1950 West, Salt Lake City, UT.

THIS RULE MAY BECOME EFFECTIVE ON: 08/06/1998

AUTHORIZED BY: Ursula K. Trueman, Director

R307. Environmental Quality, Air Quality.
R307-341. Davis and Salt Lake Counties and Ozone Nonattainment Areas: Cutback Asphalt.
R307-341-1. Definitions.

(1) R307-325 establishes applicability and general requirements for R307-341.

(2) The following additional definitions apply to R307341:

"Asphalt Concrete" means a waterproof and durable paving material composed of dried aggregate which is evenly coated with hot asphalt cement.

"Cutback Asphalt" means any asphalt which has been liquified by blending with petroleum solvents (diluents) or, in the case of some slow cure asphalts (road oils), which have been produced directly from the distillation of petroleum.

"Emulsified Asphalt" means asphalt emulsions produced by combining asphalt with water that contains an emulsifying agent.

"Patch Mix" means a mixture of an asphalt binder and aggregate in which cutback or emulsified asphalts are used either as sprayed liquid or as a binder.

"Penetrating Prime Coat" means an application of low-viscosity liquid asphalt to an absorbent surface in order to prepare it for paving with asphaltic concrete.

R307-341-2. Limitations on Content.

After December 31, 1982, no person shall cause, allow, or permit the use or application of cutback asphalt, or an emulsified asphalt containing more than 7 percent oil distillate, as determined by ASTM distillation test D-244, except as provided below:

(1) Where the use or application commences on or after October 1 of any year and such use or application is completed by April 30 of the following year;

(2) Where long-life (longer than 1 month) stockpile storage of patch mix is demonstrated to the executive secretary to be necessary;

(3) Where the asphalt is to be used solely as a penetrating prime coat;

(4) Where the user can demonstrate that there are no emissions of volatile organic compounds from the asphalt under conditions of normal use;

(5) Where the use or application is for the paving of parking lots smaller than 300 parking stalls.

R307-341-3. Recordkeeping.

A record shall be kept for two years of the types and amounts of cutback, or emulsified asphalt used, and the amounts of solvents added.

KEY: air pollution, emission controls, asphalt, solvent*
1998 **19-2-101**
19-2-104

Environmental Quality, Air Quality
R307-401
Permit: Notice of Intent and Approval Order

NOTICE OF PROPOSED RULE
(New)
DAR FILE NO.: 21140
FILED: 05/13/98, 12:21
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose is to reorganize all R307 rules to make shorter sections and bring out important provisions. No substantive change is made.

SUMMARY OF THE RULE OR CHANGE: These provisions are presently found in Subsections R307-1-3.1.1 through R307-1-3.6 and R307-1-3.8 through R307-1-3.12.
(**DAR Note:** The proposed amendment to R307-1, which is under DAR No. 21100 in this *Bulletin*, deletes Sections R307-1-1 through R307-1-4 and the language is reorganized in other locations throughout R307. For complete information on these changes, see the reorganization table in the "Special Notices" section of this *Bulletin*.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 19-2-104

ANTICIPATED COST OR SAVINGS TO:
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COMPLIANCE COSTS FOR AFFECTED PERSONS: A small cost to learn new citations. In the long run, reduced cost in being able to find specific provisions more quickly.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: A small cost to learn new citations. In the long run, reduced cost in being able to find specific provisions more quickly.

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INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 07/01/1998; OR ATTENDING A PUBLIC HEARING SCHEDULED FOR 06/23/1998, 1:30 p.m., Room 201, Department of Environmental Quality (DEQ) Building, 168 North 1950 West, Salt Lake City, UT.

THIS RULE MAY BECOME EFFECTIVE ON: 08/06/1998

AUTHORIZED BY: Ursula K. Trueman, Director

R307. Environmental Quality, Air Quality.
R307-401. Permit: Notice of Intent and Approval Order.
R307-401-1. Notice of Intent Required.

(1) Except for the exemptions listed in R307-413, any person intending to construct a new installation which will or might reasonably be expected to become a source or an indirect source of air pollution or to make modifications or relocate an existing installation which will or might reasonably be expected to increase the amount or change the effect of, or the character of, air contaminants discharged, so that such installation may be expected to become a source or indirect source of air pollution, or any person intending to install a control apparatus, or other equipment intended to control emission of air contaminants from a stationary source, shall submit to the executive secretary a notice of intent and receive an approval order prior to initiation of construction, modification or relocation. The notice of intent shall include the information described in R307-401-2 to determine whether the proposed construction, installation, modification, relocation or establishment will be in accord with applicable requirements of these rules. Within 30 days after receipt of a notice of intent, or any additional information necessary to the review, the executive secretary shall advise the applicant of any deficiency in the notice of intent or the information submitted. The executive secretary shall transmit to the Administrator, EPA, a copy of each notice of intent for each major source or major modification and provide notice to the Administrator, EPA, of every action related to the consideration of such permit.

(2) Stationary sources that were in existence prior to November 29, 1969, that have not made any modifications or relocations since that date are not required to submit a notice of intent or to have an approval order; however, these sources are subject to all other applicable requirements of Title R307 and actions taken by the executive secretary and the Board pursuant to existing statutory authorities.

R307-401-2. Notice of Intent Requirements.

The following information, where applicable, shall be submitted with the notice of intent:

(1) A description of the nature of the processes involved; the nature, procedures for handling and quantities of raw materials; the type and quantity of fuels employed; and the nature and quantity of finished product.

(2) Expected composition and physical characteristics of effluent stream both before and after treatment by any control apparatus, including emission rates, volume, temperature, air contaminant types, and concentration of air contaminants.

(3) Size, type and performance characteristics of any control apparatus.

(4) Location and elevation of the emission point and other factors relating to dispersion and diffusion of the air contaminant in relation to nearby structures and window openings, and other information necessary to appraise the possible effects of the effluent.

(5) The location of planned sampling points and the tests of the completed installation to be made by the owner or operator when necessary to ascertain compliance.

(6) The typical operating schedule.

(7) A schedule for construction.

(8) Any plans, specifications and related information which are in final form at the time of submission of notice of intent.

(9) Any other information necessary to determine if the proposed source or modification will be in compliance with R307-401-2.

R307-401-3. Review Period.

Within 90 days of receipt of a complete application including all the information described in R307-401-2, the executive secretary shall either issue an order prohibiting the proposed construction, installation, modification, relocation or establishment if it is deemed that any part of it is inadequate to meet the applicable requirements of R307, or issue an order permitting the proposed construction, installation, modification, relocation, or establishment pursuant to the requirements of R307-401-5 and 6. If more time is needed to review the proposal, it shall not exceed three 30-day extensions.

R307-401-4. Public Notice.

(1) Issuing the Notice. Prior to issuing an approval or disapproval order, the executive secretary shall advertise intent to approve or disapprove in a newspaper of general circulation in the locality of the proposed construction, installation, modification, relocation or establishment. A copy of the notice of intent to approve or disapprove shall be sent to the applicant, the Administrator, EPA, and to officials and agencies having cognizance over the location where the proposed construction would occur as follows: any other state or local air pollution control agencies; the chief executives of the city and county where the source would be located; any comprehensive regional land use planning agency; and any state, Federal Land Manager, or Indian

Governing body whose lands may be affected by emissions from the source or modification. Any expected consumption of the maximum allowable increases as stated in R307-405 and proposed emission limitations, emission amounts, and any operating limitations shall be included in the notice. The executive secretary shall consider any analysis performed by a Federal Land Manager and provided to the executive secretary within the public comment period. If the executive secretary concurs with a demonstration by the Federal Land Manager that the emissions from the proposed source or modification would have an adverse impact on the air quality related values (including visibility) in any Federal Class I area, notwithstanding that the change in air quality resulting from emissions from such source or modification would not cause or contribute to concentrations which would exceed the maximum allowable increases, the executive secretary shall not issue an approval order for the source or modification.

(2) Opportunity for Review and Comment.

(a) At least one location will be provided where the information submitted by the owner or operator, the executive secretary's analyses of the notice of intent proposal, and the proposed approval order conditions will be available for public inspection.

(b) Public Comment Period.

(i) A 10-day public comment period shall be required before an approval order is issued for a new source or for an existing source proposing to modify or relocate, if the source, modification, or relocation is not:

(A) subject to the requirements of R307-405, Prevention of Significant Deterioration of Air Quality (PSD);

(B) subject to the requirements of R307-415, Operating Permit Requirements;

(C) a synthetic minor source in accordance with R307-415-4(6);

(D) located in a nonattainment area or a maintenance area for any pollutant; or

(E) subject to any standard or requirement of 42 U.S.C. 7411 or 7412.

(ii) A request to extend the length of the comment period, up to 30 days, may be submitted anytime within 10 days of the date a notice is published in a newspaper.

(iii) Those sources not subject to the 10-day public comment period are subject to the requirement in (iv) below.

(iv) For any notice of intent proposal not subject to (i) above, a 30-day public comment period is required before an approval order is issued or denied.

(v) A request for a hearing on the executive secretary's proposed approval or disapproval order may be submitted anytime within 10 days or 15 days of the date of a notice in a newspaper under provisions of either (i) or (iv). The hearing shall be held in the area of the proposed construction, installation, modification, relocation or establishment. Any comments or statements received shall be considered before an order is issued or denied.

(vi) The public comment and hearing procedure shall not be required when an order is issued for the purpose of extending the time required by the executive secretary to review plans and specifications.

R307-401-5. Approval Order.

Whenever the executive secretary determines that the information submitted under provisions of R307-401-2, with such revisions as may be required, are in accord with applicable requirements, the executive secretary shall issue an order permitting the proposed construction, installation, modification, relocation or establishment, with the further stipulation that all required facilities be adequately and properly maintained. Receipt of an approval order does not relieve any owner or operator of the responsibility to comply with the provisions of R307 or the State Implementation Plan. To accommodate staged construction of a large source, the executive secretary may issue an order authorizing construction of an initial stage prior to receipt of detailed plans for the entire proposal provided that, through a review of general plans, engineering reports and other information the proposal is determined feasible by the executive secretary under the intent of R307. Subsequent detailed plans will then be processed as prescribed in this paragraph. For staged construction projects the previous determination under R307-401-6 shall be reviewed and modified as appropriate at the earliest reasonable time prior to commencement of construction of each independent phase of the proposed source or modification.

R307-401-6. Conditions for Issuing Approval Order.

The executive secretary shall issue an approval order if it is determined through plan review that the following conditions have been met:

(1) The degree of pollution control for emissions, to include fugitive emissions and fugitive dust, is at least best available control technology except as otherwise provided in Title R307.

(2) The proposed installation will be in accord with applicable requirements of: Utah Title R307; National Standards of Performance for New Stationary Sources; National Primary and Secondary Ambient Air Quality Standards; National Emission Standards for Hazardous Air Pollutants; new source review criteria; maximum allowable increase and maximum allowable concentration requirements for Prevention of Significant Deterioration; the State Implementation Plan for the area, if the area is classified as a nonattainment or maintenance area; and new source requirements for nonattainment areas under the Federal Clean Air Act.

(3) The executive secretary shall issue an approval order under R307-405-6 for a major source or major modification which consumes more than 50% of the increments in R307-405-4 only after receiving the approval of the Board.

R307-401-7. Temporary Relocation.

The owner or operator of a source previously approved under R307-401 or in a State Implementation Plan may temporarily relocate and operate the source at any site for up to 180 working days in any calendar year not to exceed 365 consecutive days, starting from the initial relocation date. The executive secretary shall evaluate the expected emissions impact at the site and compliance with applicable Title R307 rules as the bases for determining if approval for temporary relocation may be granted.

Records of the working days at each site, consecutive days at each site, and actual production rate shall be sent to the executive secretary at the end of each 180 calendar days. These records shall also be kept on site by the owner or operator for the entire project, and be made available for review to the executive secretary as requested. To issue a written approval or disapproval, the executive secretary is not required to submit the temporary relocation proposal for public comment.

R307-401-8. Nonattainment and Maintenance Areas.

The owner or operator of a major new source or major modification to be located in a nonattainment or maintenance area or which would impact a nonattainment or maintenance area must, in addition to the requirements in R307-401, submit with the notice of intent an adequate analysis of alternative sites, sizes, production processes, and environmental control techniques for such proposed source which demonstrates that benefits of the proposed source significantly outweigh the environmental and social costs imposed as a result of its location, construction, or modification. The executive secretary shall review the analysis. The analysis and the executive secretary's comments shall be subject to public comment as required by R307-401-4. The preceding shall also apply in Salt Lake and Davis Counties for new major sources or modifications which are considered major for precursors of ozone, including volatile organic compounds and nitrogen oxides.

R307-401-9. Relaxation of Limitations.

At a time that a source or modification becomes a major source or major modification because of a relaxation of any enforceable limitation which was established after August 7, 1980, on the capacity of a source or modification otherwise to emit a pollutant, such as a restriction on the hours of operation, then the preconstruction requirements shall apply to the source as though construction had not yet commenced on the source or modification.

R307-401-10. Low Oxides of Nitrogen Burner Technology.

(1) All sources excluding non-commercial residential dwellings shall install oxides of nitrogen control/low oxides of nitrogen burners or controls resulting from application of an equivalent technology, as determined by the Executive Secretary, whenever existing fuel combustion burners are replaced, unless such replacement is not physically practical or cost effective. The request for an exemption shall be presented to the Executive Secretary for review and approval.

(2) Contingency Requirement for Ozone Nonattainment Areas and Salt Lake and Davis Counties. If the Contingency Requirements for nitrogen oxides are triggered as outlined in Section IX.D.2.h(2) of the State Implementation Plan, all existing sources excluding non-commercial residential dwellings shall install either low oxides of nitrogen burner technology as described in (1), unless such requirement is not physically practical or cost effective, or controls resulting from application of an equivalent technology, both of which shall be determined by the executive secretary. All sources required to install new controls under (2) shall submit, within two months after the trigger date, either a schedule for installing the equipment or a request for an exemption. The required equipment shall be operational as soon as practicable or within a reasonable time agreed upon by the source and the executive secretary.

R307-401-11. Eighteen Month Review.

Approval orders issued by the executive secretary in accordance with the provisions of R307-401 shall be reviewed eighteen months after the date of issuance to determine the status of construction, installation, modification, relocation or establishment. If a continuous program of construction, installation, modification, relocation or establishment is not proceeding, the executive secretary may revoke the approval order.

KEY: air pollution, permits, approval order*
1998 **19-2-104(3)(q)**
19-2-108

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Environmental Quality, Air Quality
R307-403
Permits: New and Modified Sources in Nonattainment Areas and Maintenance Areas

NOTICE OF PROPOSED RULE
(New)
DAR FILE NO.: 21141
FILED: 05/13/98, 12:22
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose is to reorganize all R307 rules to make shorter sections and bring out important provisions. No substantive change is made.

SUMMARY OF THE RULE OR CHANGE: The language for Subsection R307-403-1(1) is presently found in Section R307-1-1. The remainder of Rule R307-403 is presently found in Subsection R307-1-3.3.
(**DAR Note:** The proposed amendment to R307-1, which is under DAR No. 21100 in this *Bulletin*, deletes Sections R307-1-1 through R307-1-4 and the language is reorganized in other locations throughout R307. For complete information on these changes, see the reorganization table in the "Special Notices" section of this *Bulletin*.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 19-2-104

ANTICIPATED COST OR SAVINGS TO:
❖THE STATE BUDGET: A small cost for renumbering the rule, learning new citations, and revising forms. In the long run, reduced cost in being able to find specific provisions more quickly.
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COMPLIANCE COSTS FOR AFFECTED PERSONS: A small cost to learn new citations. In the long run, reduced cost in being able to find specific provisions more quickly.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: A small cost to learn new citations. In the long run, reduced cost in being able to find specific provisions more quickly.

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DIRECT QUESTIONS REGARDING THIS RULE TO:
Jan Miller at the above address, by phone at (801) 536-4042, by FAX at (801) 536-4099, or by Internet E-mail at jmiller@deq.state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 07/01/1998; OR ATTENDING A PUBLIC HEARING SCHEDULED FOR 06/23/1998, 1:30 p.m., Room 201, Department of Environmental Quality (DEQ) Building, 168 North 1950 West, Salt Lake City, UT.

THIS RULE MAY BECOME EFFECTIVE ON: 08/06/1998

AUTHORIZED BY: Ursula K. Trueman, Director

R307. Environmental Quality, Air Quality.
R307-403. Permits: New and Modified Sources in Nonattainment Areas and Maintenance Areas.
R307-403-1. Definitions.

(1) The following additional definitions apply to R307-403:

"Lowest Achievable Emission Rate (LAER)", as defined in Section 173(2), Clean Air Act, means for any source, that rate of emissions which reflects:

(a) The most stringent emission limitation which is contained in the implementation plan of any state for such class or category of source, unless the owner or operator of the proposed source demonstrates that such limitations are not achievable, or

(b) The most stringent emission limitation which is achieved in practice by such class or category of source, whichever is more stringent.

In no event shall the application of this term permit a proposed new source to emit any pollutant in excess of the amount allowable under applicable new source standards of performance.

(2) For the purposes of R307-403-6(2), the term "major" shall mean: any stationary source or group of sources located within a contiguous area and under common control that emits, or has the potential to emit, at least 50 tons per year of either volatile organic compounds or oxides of nitrogen; or a modification to an existing source if the net emissions increase in either volatile organic compounds or oxides of nitrogen is at least 25 tons per year.

R307-403-2. Emission Limitations.

Any source constructed in an actual area of nonattainment, or in the Salt Lake City and Ogden maintenance areas for carbon monoxide, or in an area which will impact on an actual area of nonattainment or on the Salt Lake City and Ogden maintenance areas for carbon monoxide must meet all applicable emission requirements of R307 and the State Implementation Plan incorporated by reference under R307-110. A proposed source which is not a major source may be approved without further analysis provided such source meets all such applicable emission limitations and offset requirements in R307-403-4, 5, and 6. The emission limitations shall be stated as a condition of the approval order.

R307-403-3. Review of Major Sources of Air Quality Impact.

Every major new source or major modification must be reviewed by the Executive Secretary to determine if a source will cause or contribute to a violation of the NAAQS. The determination of whether a source will cause or contribute to a violation of the NAAQS will be made by the Executive Secretary as of the new source's projected start-up date. He will make an analysis of the proposed new source's operation data using the best information and analytical techniques available.

(1) If the owner or operator of a source proposes to locate the source outside an area of nonattainment where the source will not cause an increase greater than the following increments in actual areas of nonattainment or in the Salt Lake City and Ogden maintenance areas for carbon monoxide and the source otherwise meets the requirements of these regulations, such source shall be approved.

TABLE

MAXIMUM ALLOWABLE MICROGRAM/CUBIC METER IMPACT
BY AVERAGING TIME

Pollutant	Annual	24-Hr	8-Hr	3-Hr	1-Hr
SULFUR DIOXIDE	1.0	5		25	
PM10	1.0	3			
CO			500		2000

(2) If the Executive Secretary finds that the emissions from a proposed source would cause a new violation of the NAAQS but would not contribute to an existing violation, the Executive Secretary shall approve the proposed source if and only if:

(a) the new source is required to meet a more stringent emission limitation, sufficient to avoid a new violation of the NAAQS and

(b) the new source has acquired sufficient offset to avoid a new violation of the NAAQS and

(c) the new emission limitations for the proposed source and for any affected existing sources are enforceable.

(3) If the Executive Secretary finds that the emissions from a proposed source in a nonattainment area would contribute to an existing violation of a national ambient air quality standard at the time of the source's proposed start-up date, approval shall be granted if and only if:

(a) the new source meets an emission limitation which is the Lowest Achievable Emission Rate (LAER) for such source and

(b) the applicant has certified that all existing major sources in the State, owned or controlled by the owner or operator (or by any entity controlling, controlled by or under common control with such owner or operator) of the proposed source, are in compliance with all applicable rules in R307, including the Utah Implementation Plan requirements or are in compliance with an approved schedule and timetable for compliance under the Utah Implementation Plan, R307, or an enforcement order, and that the source is complying with all requirements and limitations as expeditiously as practicable.

(c) emission offsets to the extent provided in R307-403-4, 5 and 6 are sufficient such that there will be reasonable further progress toward attainment of the applicable NAAQS.

(d) the emission offsets provide a positive net air quality benefit in the affected area of nonattainment.

(e) there is an approved implementation plan in effect for the pollutant to be emitted by the proposed source.

(4) A source which is locating outside a nonattainment area or the Salt Lake City and Ogden maintenance areas for carbon monoxide and which causes the significant increments in (1) above to be exceeded in the nonattainment or maintenance area is subject to the requirements of (3) above.

R307-403-4. Offsets: General Requirements.

(1) Emission offsets must be obtained from the same source or other sources in the same nonattainment area except that the owner or operator of a source may obtain emission offsets in another nonattainment area if:

(a) the other area has an equal or higher nonattainment classification than the area in which the source is located; and

(b) emissions from such other area contribute to a violation of the national ambient air quality standard in the nonattainment area in which the source is located or which is impacted by the source.

(2) Any emission offsets shall be enforceable by the time a new or modified source commences construction, and, by the time a new or modified source commences operation, any emission offsets shall be in effect and enforceable and shall assure that the total tonnage of increased emissions of the air pollutant from the new or modified source shall be offset by an equal or greater reduction, as applicable, in the actual emissions of such air pollutant from the same or other sources in the area.

(3) Emission reductions otherwise required by the federal Clean Air Act or R307, including the State Implementation Plan shall not be creditable as emission reductions for purposes of any offset requirement. Incidental emission reductions which are not otherwise required by federal or state law shall be creditable as emission reductions if such emission reductions meet the requirements of (1) and (2) above.

(4) Sources shall be allowed to offset, by alternative or innovative means, emission increases from rocket engine and motor firing, and cleaning related to such firing, at an existing or modified major source that tests rocket engines or motors under the conditions outlined in Section 173(e)(1) through Section 173(e)(4) of the federal Clean Air Act as amended in 1990.

R307-403-5. Offsets: PM10 Nonattainment Areas.

(1) New sources which have a potential to emit, or modified sources which would produce an emission increase equal to or exceeding the tonnage total of combined PM10, sulfur dioxide, and oxides of nitrogen listed below which are located in or impact a PM10 Nonattainment Area as defined in (a) below, shall obtain an enforceable offset as defined in (b) and (c) below.

(a) For the purpose of determining whether the owner or operator which proposes to locate a source outside a nonattainment area is required to obtain offsets, the maximum allowable impact on any nonattainment area is 1.0 microgram/cubic meter for a one-year averaging period and 3.0 micrograms/cubic meter for a 24-hour averaging period for any combination of PM10, sulfur dioxide and nitrogen dioxide.

(b) For a total of 50 tons/year or greater, an offset of 1.2:1 of the emission increase is required.

(c) For a total of 25 tons/year but less than 50 tons/year, an offset of 1:1 of the emission increase is required.

(2) For the offset determinations, PM10, sulfur dioxide, and oxides of nitrogen shall be considered on an equal basis. In areas which are nonattainment for both PM10 and ozone, the most stringent emission offset ratio for oxides of nitrogen required by R307-420 shall apply.

R307-403-6. Offsets: Ozone Nonattainment Areas and Davis and Salt Lake Counties.

New sources and modifications to existing sources as defined and outlined in Section 182 of the Clean Air Act shall meet the offset requirements and conditions listed in that section for the applicable classified area and for the identified pollutants. As outlined in Section 182 of the federal Clean Air Act, for moderate areas, the emission offset ratio must be at least 1.15:1.

(1) Ozone Maintenance Plan; Salt Lake and Davis Counties. In the event that the contingency measures described in Section IX, Part D.2.h.(3) of the State Implementation Plan are triggered, the offset requirement in (2) below shall apply to emissions of both volatile organic compounds and oxides of nitrogen.

(2) The emission offset ratio must be at least 1.2:1, and offset must be obtained for the same pollutant for which the source or modification has been deemed "major".

R307-403-7. Offsets: Baseline.

The baseline to be used for determination of credit for emission and air quality offsets will be the emission limitations and/or other requirements in the State Implementation Plan (SIP), revised in accordance with the Clean Air Act or subsequent revisions thereto in effect at the time the application to construct or modify a source is filed.

R307-403-8. Offsets: Banking of Emission Offset Credit.

Banking of emission offset credit will be permitted to the fullest extent allowed by applicable Federal Law as identified in EPA's document "Emissions Trading Policy Statement" published in the Federal Register on December 4, 1986, and 40 CFR 51.165(a)(3)(ii)(c) as amended on June 28, 1989, and 40 CFR 51.165, Appendix S. To preserve banked emission reductions, the

Executive Secretary must identify them in either the Utah SIP or an order issued pursuant to R307-401 and shall provide a registry to identify the person, private entity or governmental authority that has the right to use or allocate the banked emission reductions, and to record any transfers of, or liens on these rights.

R307-403-9. Construction in Stages.

When a source is constructed or modified in stages which individually do not have the potential to emit more than 100 tons per year, the allowable emission from all such stages shall be added together in determining the applicability of R307-403.

KEY: air quality, nonattainment*, offset*
1998 **19-2-104**
19-2-108

Environmental Quality, Air Quality
R307-405
Permits: Prevention of Significant Deterioration of Air Quality (PSD)

NOTICE OF PROPOSED RULE
(New)
DAR FILE NO.: 21142
FILED: 05/13/98, 12:22
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose is to reorganize all R307 rules to make shorter sections and bring out important provisions. No substantive change is made.

SUMMARY OF THE RULE OR CHANGE: The language for Section R307-405-1 is presently found in Section R307-1-1. The language in Sections R307-405-2 through R307-405-8 is presently found in Subsection R307-1-3.6.
(**DAR Note:** The proposed amendment to R307-1, which is under DAR No. 21100 in this *Bulletin*, deletes Sections R307-1-1 through R307-1-4 and the language is reorganized in other locations throughout R307. For complete information on these changes, see the reorganization table in the "Special Notices" section of this *Bulletin*.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 19-2-104

ANTICIPATED COST OR SAVINGS TO:
❖THE STATE BUDGET: A small cost for renumbering the rule, learning new citations, and revising forms. In the long run, reduced cost in being able to find specific provisions more quickly.
❖LOCAL GOVERNMENTS: A small cost to learn new citations. In the long run, reduced cost in being able to find specific provisions more quickly.
❖OTHER PERSONS: A small cost to learn new citations. In the long run, reduced cost in being able to find specific provisions more quickly.
COMPLIANCE COSTS FOR AFFECTED PERSONS: A small cost to learn new citations. In the long run, reduced cost in being able to find specific provisions more quickly.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: A small cost to learn new citations. In the long run, reduced cost in being able to find specific provisions more quickly.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
Environmental Quality
Air Quality
150 North 1950 West
Box 144820
Salt Lake City, UT 84114-4820, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Jan Miller at the above address, by phone at (801) 536-4042, by FAX at (801) 536-4099, or by Internet E-mail at jmiller@deq.state.ut.us.

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THIS RULE MAY BECOME EFFECTIVE ON: 08/06/1998

AUTHORIZED BY: Ursula K. Trueman, Director

R307. Environmental Quality, Air Quality.
R307-405. Permits: Prevention of Significant Deterioration of Air Quality (PSD).
R307-405-1. Definitions.

The following additional definitions apply to R307-405:

"Baseline Area" means any intrastate area (and every part thereof) designated as attainment or unclassifiable under Section 107(d)(1)(D) or (E) of the federal Clean Air Act in which the major source or major modification establishing the minor source baseline date would construct or would have an air quality impact equal to or greater than 1 ug/m^3 (annual average) of the pollutant for which the minor source baseline date is established.

(1) Area redesignations under section 107(d)(1) (D) or (E) of the federal Clean Air Act cannot intersect or be smaller than the area of impact of any major stationary source or major modification which:

(a) Establishes a minor source baseline date; or

(b) Is subject to 40 CFR 52.21 or R307-405, and would be constructed in the same state as the state proposing the redesignation.

"Baseline Concentration" means that ambient concentration level which exists in the baseline area at the time of the applicable minor source baseline date.

"Major Source" means:

(1) any of the following sources of air pollutants which emits, or has the potential to emit, 100 tons per year or more of any pollutant subject to regulation under the Clean Air Act: Fossil fuel-fired steam electric plants of more than 250 million British thermal units per hour heat input, coal cleaning plants (with thermal dryers), kraft pulp mills, portland cement plants, primary zinc smelters, iron and steel mill plants, primary aluminum ore reduction plants, primary copper smelters, municipal incinerators capable of charging more than 250 tons of refuse per day, hydrofluoric, sulfuric, and nitric acid plants, petroleum refineries, lime plants, phosphate rock processing plants, coke oven batteries, sulfur recovery plants, carbon black plants (furnace process), primary lead smelters, fuel conversion plants, sintering plants, secondary metal production plants, chemical process plants, fossil fuel boilers (or combination thereof) totaling more than 250 million British thermal units per hour heat input, petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels, taconite ore processing plants, glass fiber processing plants, and charcoal production plants;

(2) any other source which emits, or has the potential to emit, 250 tons per year or more of any air pollutant; or

(3) a source which does not otherwise qualify as a major source as defined in this paragraph, but which is physically changed, which change itself would constitute a major source.

(4) a source which is major for volatile organic compounds is major for ozone.

(5) The fugitive emissions and fugitive dust of a stationary source shall not be included in determining for any of the purposes of this section whether it is a major stationary source, unless the source belongs to one of the following categories of stationary sources:

(a) Coal cleaning plants (with thermal dryers);

(b) Kraft pulp mills;

(c) Portland cement plants;

(d) Primary zinc smelters;

(e) Iron and steel mills;

(f) Primary aluminum ore reduction plants;

(g) Primary copper smelters;

(h) Municipal incinerators capable of charging more than 250 tons of refuse per day;

(i) Hydrofluoric, sulfuric, or nitric acid plants;

(j) Petroleum refineries;

(k) Lime plants;

(l) Phosphate rock processing plants;

(m) Coke oven batteries;

(n) Sulfur recovery plants;

(o) Carbon black plants (furnace process);

(p) Primary lead smelters;

(q) Fuel conversion plants;

(r) Sintering plants;

(s) Secondary metal production plants;

(t) Chemical process plants;

(u) Fossil-fuel boilers (or combination thereof) totaling more than 250 million British thermal units per hour heat input;

(v) Petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels;

(w) Taconite ore processing plants;

(x) Glass fiber processing plants;

(y) Charcoal production plants;

(z) Fossil fuel-fired steam electric plants of more than 250 million British thermal units per hour heat input;

(aa) Any other stationary source category which, as of August 7, 1980, is being regulated under section 111 or 112 of the Federal Clean Air Act.

R307-405-2. Area Designations.

All areas of the State shall be designated as Class I, II, or III.

(1) Pursuant to section 162(a) of the federal Clean Air Act the following areas are designated as mandatory Class I:

(a) Arches National Park

(b) Bryce Canyon National Park

(c) Canyonlands National Park

(d) Capitol Reef National Park

(e) Zion National Park

(2) Pursuant to section 162(b) of the federal Clean Air Act, all other areas of the State are designated as Class II unless redesignated as provided in R307-405-3 or are designated as nonattainment areas.

R307-405-3. Area Redesignation.

(1) Within the restrictions and requirements of this paragraph, the Board may submit to the Governor for decision a recommendation to redesignate areas from any class to any other class.

(2) In accordance with Section 162(a) of the federal Clean Air Act, areas designated as Class I under R307-405-2 may not be redesignated.

(3) In accordance with Section 164(a) of the federal Clean Air Act, the following areas may be redesignated only as Class I or II.

(a) An area which as of August 7, 1977, exceeded 10,000 acres in size and was a national monument, a national primitive area, a national preserve, a national recreation area, a national wild and scenic river, a national wildlife refuge, a national lakeshore or seashore; and

(b) A national park or national wilderness area established after August 7, 1977, which exceeds 10,000 acres in size.

(4) Except as provided in (2), (3) and (6) the Board may submit to the Governor for decision a recommendation to redesignate areas of the State as Class III if:

(a) There has been compliance with the requirements of (5) below.

(b) Such redesignation will not cause, or contribute to, concentrations of any air pollutant which exceed any maximum allowable increase permitted under the classification of any other area or any national ambient air quality standard; and

(c) Any permit application for any major source or major modification which could receive an approval order only if the area in question were redesignated as Class III, and any material submitted as part of that notice of intent were available, insofar as practicable, prior to any public hearing or redesignation.

In accordance with Section 164 of the federal Clean Air Act, redesignations to Class III may be approved by the Governor only after consultation with appropriate committees of the legislature and if units of local government representing a majority of the residents

of the proposed area to be redesignated enact ordinances concurring in the redesignation.

(5) Prior to submittal to the Governor of a recommendation to redesignate any area:

(a) Notice shall be published in each daily newspaper in the affected area and written notice shall be made to local government units, other states, Indian governing bodies, Federal Land Managers whose lands may be affected by the proposed redesignation and public hearings shall be conducted in the affected areas. Such notice shall be made at least 30 days prior to the public hearing and include a statement of the availability of the discussion outlined in (b) below. Prior to the issuance of a notice under this paragraph respecting the redesignation of any Federal lands, a written notice shall be given to the appropriate Federal Land Manager who shall be afforded opportunity (not to exceed 60 days) to confer with the Board respecting the redesignation and to submit written comments and recommendations. In recommending redesignation of any area with respect to which a Federal Land Manager has submitted comments the Board shall publish a list of any inconsistency between such redesignation and such comments and recommendations together with the reasons for recommending such redesignation against the recommendation of the Federal Land Manager; and

(b) A discussion of the reasons for the proposed redesignation, including a satisfactory description and analysis of the health, environmental, economic and social and energy effects of the proposed redesignation, will be prepared and made available for public inspection at least 30 days prior to the hearing. Any person who petitions the Board for redesignation of an area may be required to prepare and submit this analysis to the Board.

(6) Lands within the exterior boundaries of reservations of federally recognized Indian Tribes may be redesignated only by the appropriate Indian body as provided in Section 164 of the Clean Air Act.

R307-405-4. Increments and Ceilings.

(1) In Class I, II, or III areas, the maximum allowable increases in concentrations of sulfur dioxide, nitrogen dioxide and particulate matter over baseline concentrations of such pollutants are limited to the following:

TABLE

Pollutant	(1)Maximum Allowable Increase (ug/m^3) Class I	Class II	Class III
PM10:			
Annual Arithmetic Mean	4	17	34
24-hr. Maximum	8	30	60
Sulfur Dioxide:			
Annual Arithmetic Mean	2	20	40
24-hr. Maximum	5	91	182
3-hr. Maximum	25	512	700
Nitrogen Dioxide:			
Annual Arithmetic Mean	2.5	25	50

Note (1): At any one location, the maximum allowable increase for other than the annual period may be exceeded once each year. For any period other than the annual period, the applicable maximum allowable increase may be exceeded during one such period per year at any one location.

(2) Variances to Class I areas will be allowed only after compliance with the requirements of and within the increments provided in Section 165 of the federal Clean Air Act, or in the case of PM10 increments, only after compliance with the Title 40 of the Code of Federal Regulations, Section 51.166(p)(4) (as amended-see the June 3, 1993 Federal Register notice, 58 FR 31637) which is hereby incorporated by reference.

(3) In any area, no resultant concentration of any air pollutant shall exceed the concentration permitted under either the national secondary or primary ambient air quality standard whichever concentration is lowest for the pollutant for a period of exposure.

(4) Exclusions from increment consumption. The following concentrations shall be excluded in determining compliance with a maximum allowable increase:

(a) Concentrations attributable to the increase in emissions from sources which have converted from:

(i) the use of petroleum products, natural gas, or both by reason of an order in effect under sections 2(a) and (b) of the Energy Supply and Environmental Coordination Act of 1974; or

(ii) using natural gas by reason of a natural gas curtailment plan in effect pursuant to the Federal Power Act, over the emissions from such sources before the effective date of such an order or plan.

No exclusion of such concentrations shall apply more than five years after the effective date of the order or the plan. If both an order and plan are applicable, no such exclusion shall apply more than five years after the later of such effective dates.

(b) Concentrations of PM10 attributable to the increase in emissions from construction or other temporary emission-related activities.

(c) Concentrations attributable to the temporary increase in emissions of sulfur dioxide, nitrogen oxides or PM10 from sources which are affected by plan revisions approved by EPA as meeting the criteria specified in 40 CFR 51.166(f)(4).

R307-405-5. Baseline Concentration and Date.

(1) Baseline concentration. A baseline concentration is determined for each pollutant for which a minor source baseline date is established and shall include:

(a) The actual emissions representative of sources in existence on the applicable minor source baseline date except as provided in (2) below;

(b) The allowable emissions of major sources which commence construction before the major source baseline date, but were not in operation by the applicable minor source baseline date.

(2) The following will not be included in the baseline concentration and will affect the applicable maximum allowable increase(s):

(a) actual emissions from any major source on which construction commenced after the major source baseline date, and

(b) actual emissions increases and decreases at any source occurring after the minor source baseline date.

(3) Baseline date. The minor source baseline date is established for each pollutant for which increments or other equivalent measures have been established if:

(a) the area in which the proposed source or modification would construct is designated as attainment or unclassifiable under section 107(d)(i)(D) or (E) of the federal Clean Air Act for the pollutant on the date of its complete application under 40 CFR 52.21, or R307-405; and

(b) in the case of a major source the pollutant would be emitted in significant amounts, or, in the case of a major modification, there would be a significant net emissions increase of the pollutant. With respect to particulate matter, significant shall mean significant for PM10.

(4)(a) Any minor source baseline date established originally for increments of total suspended particulates shall remain in effect and shall apply for purposes of determining the amount of available PM10 increments, except that the executive secretary may rescind any such minor source baseline date where it can be shown to the executive secretary's satisfaction that the emissions increase from the major stationary source or the net emissions increase from the major modification responsible for triggering that date did not result in a significant amount of PM10 emissions.

(b) Any baseline area established originally for the increments of total suspended particulates shall remain in effect and shall apply for purposes of determining the amount of available PM10 increments, except that such baseline area shall not remain in effect if the executive secretary rescinds the corresponding minor source baseline date in accordance with(a) above.

R307-405-6. PSD Areas - New Sources and Modifications.

(1) Emission Limitations. Any source constructed or modified in a PSD area must meet all applicable emissions requirements of R307 and the Utah State Implementation Plan. A proposed source or modification which is not a major source or major modification may be approved without meeting the requirements in (2) below, provided such source meets all other applicable requirements of these regulations. The emission limitations shall be stated as conditions of the approval order.

(2) Major Source and Major Modification Review. Every new major source or major modification must be reviewed by the Executive Secretary to determine the air quality impact of the source to include a determination whether the source will cause or contribute to a violation of the maximum allowable increases or the NAAQS in any area. The determination of air quality impact will be made as of the source's projected start-up date. Such determination shall take into account all allowable emissions of approved sources or modifications whether constructed or not, and, to the extent practicable, the cumulative effect on air quality of all sources and growth in the affected area.

(a) In addition to meeting all other requirements of these regulations, any major source or major modification which would be constructed in a PSD area, shall:

(i) Provide the following additional information with the notice of intent required pursuant to R307-401:

(A) An analysis of the air quality impact of the source or modification and a demonstration that allowable emissions increases from the source or modification, in conjunction with all other applicable emissions increases or reductions (including secondary emissions), will not cause or contribute to a violation of any maximum allowable increase over the baseline concentration in any area or any NAAQS in any area.

(B) An analysis of ambient air quality in the affected area for each pollutant that a new source would have the potential to emit in a significant amount, and for each pollutant for which a modification would result in a significant net emissions increase. With respect to any such pollutant for which no NAAQS exists, the analysis shall contain such air quality monitoring data as the Executive Secretary determines is necessary to assess ambient air quality for that pollutant in any area that the emissions of that pollutant would affect. With respect to any such pollutant (other than non-methane hydrocarbons) for which such a NAAQS does exist, the analysis shall contain continuous air quality monitoring data gathered for purposes of determining whether emissions of that pollutant would cause or contribute to a violation of the standard or any maximum allowable increase in any area that the emissions of that pollutant would affect. In general, the continuous air quality monitoring data that is required shall have been gathered over a period of at least one year and shall represent at least the year preceding receipt of the notice of intent, except that, if the Executive Secretary determines that a complete and adequate analysis can be accomplished with monitoring data gathered over a period shorter than one year (but not to be less than four months), the data that is required shall have been gathered over at least that shorter period. Any data used in the analysis must be gathered using EPA reference methods or equivalent and quality assurance procedures equivalent to 40 CFR Part 58, Appendix B. A monitoring plan will be submitted to the Executive Secretary for approval prior to data collection. The Executive Secretary may grant exceptions or modifications to these monitoring requirements when not inconsistent with federal law.

(C) Upon request of the Executive Secretary, the air quality impact of the source or modification, including meteorological and topographical data necessary to estimate such impact; and the air quality impact of any or all general commercial residential, industrial, and other growth which has occurred since the minor source baseline date in the area the source or modification would affect.

(D) An analysis of the air quality related impact of the source or modification including an analysis of the impairment to visibility, soils, and vegetation and the projected air quality impact from general commercial, residential, industrial, and other growth associated with the source or modification. The owner or operator need not provide an analysis of the impact on vegetation having no significant commercial or recreational value.

(ii) After construction of the source or modification, conduct such ambient air quality monitoring as the Executive Secretary determines may be necessary to establish the effect which the emissions from the source or modification may have on the air quality in any area.

(b) If the Executive Secretary finds that the emissions from a proposed major source or major modification would cause a violation of any maximum allowable increase over the baseline concentration in any area, the Executive Secretary shall approve the proposed source if and only if:

(i) the new source or modification is required to meet a more stringent emission limitation sufficient to avoid a violation of the maximum allowable increase and/or

(ii) the new source or modification has acquired sufficient offset to avoid a violation of the maximum allowable increase, and

(iii) the new emission limitations for the proposed source and for any affected existing sources are enforceable.

(c) If the Executive Secretary finds that the emissions from a proposed major source or major modification would contribute to a known violation of any maximum allowable increase over the baseline concentration in any area, the Executive Secretary shall approve the proposed source if and only if:

(i) the new source or modification has acquired sufficient emission offset so as to provide a positive net air quality benefit in the affected area, and

(ii) any new emission limitations for affected existing sources are enforceable.

(3) The requirements of (2)(a) above shall not apply to a major source or major modification if:

(a) The source is a portable stationary source which has previously received a permit under this paragraph, and

(i) The owner or operator proposes to relocate the source and emissions of the source at the new location would be temporary; and

(ii) The emissions from the source would not exceed its allowable emissions; and

(iii) The emissions from the source would impact no Class I area and no area where an applicable increment is known to be violated;

(b) The source or modification would be a non-profit health or non-profit educational institution and the Board approves a request that it be exempt from those requirements.

(c) The source or modification would be a major source or major modification only if fugitive emission and fugitive dust, to the extent quantifiable, are considered in calculating the potential to emit of the source or modification and the source does not belong to any of the following categories:

(i) Coal cleaning plants (with thermal dryers);

(ii) Kraft pulp mills;

(iii) Portland cement plants;

(iv) Primary zinc smelters;

(v) Iron and steel mills;

(vi) Primary aluminum or reduction plants;

(vii) Primary copper smelters;

(viii) Municipal incinerators capable of charging more than 250 tons of refuse per day;

(ix) Hydrofluoric, sulfuric, or nitric acid plants;

(x) Petroleum refineries;

(xi) Lime plants;

(xii) Phosphate rock processing plants;

(xiii) Coke oven batteries;

(xiv) Sulfur recovery plants;

(xv) Carbon black plants (furnace process);

(xvi) Primary lead smelters;

(xvii) Fuel conversion plants;

(xviii) Sintering plants;

(xix) Secondary metal production plants;

(xx) Chemical process plants;

(xxi) Fossil-fuel boilers (or combination thereof) totaling more than 250 million British thermal units per hour heat input;

(xxii) Petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels;

(xxiii) Taconite ore processing plants;

(xxiv) Glass fiber processing plants;

(xxv) Charcoal production plants;

(xxvi) Fossil fuel-fired steam electric plants of more than 250 million British thermal units per hour heat input;

(xxvii) Any other stationary source category which, as of August 7, 1980, is being regulated under section 111 or 112 of the federal Clean Air Act.

(d) With respect to a particular pollutant, the allowable emissions of that pollutant from the source, or the net emissions increase of that pollutant from the modification:

(i) would impact no Class I area and no area where an applicable increment is known to be violated, and

(ii) would be temporary.

(4) The requirements of (2)(a) above as they relate to any maximum allowable increase for a Class II area shall not apply to a major modification at a source that was in existence on March 1, 1978, if the net increase in allowable emissions for each pollutant from the modification after the application of best available control technology would be less than 50 tons per year.

(5)(a) The requirements of (2)(a)(i)(A) above pertaining to the impact analysis shall not apply to a source or modification with respect to any maximum allowable increase for nitrogen oxides if the owner or operator of the source or modification submitted a notice of intent before October 15, 1990, and the Executive Secretary subsequently determined that the notice of intent as submitted before that date was complete.

(b) The requirements of (2)(a)(i)(A) above concerning an analysis of the maximum allowable increase over the baseline concentration shall not apply to a stationary source or modification with respect to any maximum allowable increase for PM10 if the owner or operator of the source or modification submitted an application for a permit before December 15, 1994, and the executive secretary subsequently determined that the application as submitted before that date was complete. Instead, the applicable requirements shall be with respect to the maximum allowable increases for total suspended particulates as in effect on the date the application was submitted. These increments were, for the annual geometric mean: 5, 19, and 37 micrograms/cubic meter for Class I, II and III areas respectively and, for the 24-hour maximum: 10, 37 and 75 micrograms/cubic meter for Class I, II and III areas respectively.

(6) Exemption - Monitoring Requirement

(a) The Executive Secretary may grant exceptions or modifications to the monitoring requirements in (2)(a)(i)(B) above which are not inconsistent with federal law.

(b) The Executive Secretary may exempt a stationary source or modification from the requirements of (2)(a)(i)(B) above with respect to monitoring for a particular pollutant if:

(i) The emissions increase of the pollutant from the new source or the net emissions increase of the pollutant from the modification would cause, in any area, air quality impacts less than the following amounts:

Carbon monoxide - 575 ug/m^3, 8-hour average;

Nitrogen dioxide - 14 ug/m^3, annual average;

PM10 - 10 micrograms/cubic meter, 24-hour average;

Sulfur dioxide - 13 ug/m^3, 24-hour average;

Lead - 0.1 ug/m^3, 24-hour average;

Mercury - 0.25 ug/m^3, 24-hour average;

Beryllium - 0.0005 ug/m^3, 24-hour average;

Ozone - No de minimis air quality level is provided for ozone. However, any proposed source or modification subject to PSD with net increase of 100 tons per year or more of volatile organic compounds subject to PSD would be required to perform an ambient impact analysis including the gathering of ambient air quality data;

Fluorides - 0.25 ug/m^3, 24-hour average;
Vinyl chlorides - 15 ug/m^3, 24-hour average;
Total reduced sulfur - 10 ug/m^3, 1-hour average;
Hydrogen sulfide - 0.04 ug/m^3, 1-hour average;
Reduced sulfur compounds - 10 ug/m^3, 1-hour average; or

(ii) The concentrations of the pollutant in the area that the source or modification would affect are less than the concentrations listed or the pollutant is not listed in (i) above.

R307-405-7. Increment Violations.

Where the Board determines that an increment under R307-405-4 is violated, the Board shall promulgate a plan and implement regulations to eliminate the violation.

R307-405-8. Banking of Emission Offset Credit in PSD Areas.

Banking of emission offset credits in PSD areas will be permitted. To preserve banked emission reductions the Executive Secretary must identify them in either the Utah SIP or an order and shall provide a registry to identify the person, private entity, or government authority that has the right to use or allocate the banked emission reduction and to record any transfer of or lien on these rights.

KEY: air pollution, PSD*, Class I area*
1998 **19-2-104**

Environmental Quality, Air Quality
R307-406
Visibility

NOTICE OF PROPOSED RULE
(New)
DAR FILE NO.: 21143
FILED: 05/13/98, 12:23
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose is to reorganize all R307 rules to make shorter sections and bring out important provisions. No substantive change is made.

SUMMARY OF THE RULE OR CHANGE: The language for Section R307-406-1 is presently found in Section R307-1-1. The language for Sections R307-406-2 through R307-406-6 is presently found in Subsection R307-1-3.10.
(**DAR Note:** The proposed amendment to R307-1, which is under DAR No. 21100 in this *Bulletin*, deletes Sections R307-1-1 through R307-1-4 and the language is reorganized in other locations throughout R307. For complete information on these changes, see the reorganization table in the "Special Notices" section of this *Bulletin*.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 19-2-104

ANTICIPATED COST OR SAVINGS TO:
❖THE STATE BUDGET: A small cost for renumbering the rule, learning new citations, and revising forms. In the long run, reduced cost in being able to find specific provisions more quickly.
❖LOCAL GOVERNMENTS: A small cost to learn new citations. In the long run, reduced cost in being able to find specific provisions more quickly.
❖OTHER PERSONS: A small cost to learn new citations. In the long run, reduced cost in being able to find specific provisions more quickly.
COMPLIANCE COSTS FOR AFFECTED PERSONS: A small cost to learn new citations. In the long run, reduced cost in being able to find specific provisions more quickly.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: A small cost to learn new citations. In the long run, reduced cost in being able to find specific provisions more quickly.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
Environmental Quality
Air Quality
150 North 1950 West
Box 144820
Salt Lake City, UT 84114-4820, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Jan Miller at the above address, by phone at (801) 536-4042, by FAX at (801) 536-4099, or by Internet E-mail at jmiller@deq.state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 07/01/1998; OR ATTENDING A PUBLIC HEARING SCHEDULED FOR 06/23/1998, 1:30 p.m., Room 201, Department of Environmental Quality (DEQ) Building, 168 North 1950 West, Salt Lake City, UT.

THIS RULE MAY BECOME EFFECTIVE ON: 08/06/1998

AUTHORIZED BY: Ursula K. Trueman, Director

R307. Environmental Quality, Air Quality.
R307-406. Visibility.
R307-406-1. Definitions.

The following additional definition applies throughout R307-406:

"Adverse Impact on Visibility" means for purposes of R307-406, visibility impairment which interferes with the management, protection, preservation, or enjoyment of the visitors visual experience of a mandatory Class I area. This determination must be made on a case-by-case basis taking into account the geographic extent, intensity, duration, frequency and time of visibility impairments, and how these factors correlate with times of visitor use of the mandatory Class I area, and the frequency and timing of natural conditions that reduce visibility.

R307-406-2. Source Review.

(1) The Executive Secretary shall review any new major source or major modification proposed in either an attainment area or area of nonattainment area for the impact of its emissions on visibility in any mandatory Class I area. As a condition of any approval order issued to a source under R307-401, the Executive Secretary shall require the use of air pollution control equipment, technologies, methods or work practices deemed necessary to mitigate visibility impacts in Class I areas that would occur as a result of emissions from such source. The Executive Secretary shall take into consideration as a part of the review and control requirements:

(a) the costs of compliance;

(b) the time necessary for compliance;

(c) the energy usage and conservation;

(d) the non air quality environmental impacts of compliance;

(e) the useful life of the source; and

(f) the degree of visibility improvement which will be provided as a result of control.

(2) In determining visibility impact by a major new source or major modification, the Executive Secretary shall use, the procedures identified in the EPA publication "Workbook For Estimating Visibility Impacts" (EPA 450-4-80-031) November 1980, or equivalent.

(3) The Executive Secretary shall insure that source emissions will be consistent with making reasonable progress toward the national visibility goal referred to in 40 CFR, 51.300(a).

R307-406-3. Notification of Federal Land Managers.

(1) The Executive Secretary shall notify the Federal Land Manager having jurisdiction over any mandatory Class I area of any proposed new major source or major modification that may reasonably be expected to affect visibility in that mandatory Class I area. Such notification shall be in writing and shall include a copy of all information relevant to the Notice of Intent and visibility impact analysis submitted by the source. The notification shall be made within thirty (30) days of receipt of the completed Notice of Intent and at least sixty (60) days prior to any public hearing or the commencement of any public comment period, held in accordance with R307-401-4 of these regulations, on the proposal. The Executive Secretary shall consider, as a part of the new or modified source review required by R307-406, any analysis performed by the Federal Land Manager that such proposed new major source or major modification may have an adverse impact on visibility in any mandatory Class I area, provided such analysis is submitted to the Executive Secretary within sixty (60) days of the notification to the Federal Land Manager as required by this paragraph. If the Executive Secretary determines that the major source or major modification will have an adverse impact on visibility in any mandatory Class I area, the Executive Secretary shall not issue the approval order. Where the Executive Secretary determines that such analysis does not demonstrate that adverse impact on visibility will result in a mandatory Class I area, the Executive Secretary will, in the notice of any public hearing held on the new major source or major modification proposal, explain the decision or give notice where the explanation can be obtained.

(2) Where the Executive Secretary receives advance notification or early consultation with a major new source or major modification which may affect visibility prior to the submission of a Notice of Intent to Construct for the major new source or major modification, the Executive Secretary will notify the affected Federal Land Manager within thirty (30) days of such advance notification.

R307-406-4. Adverse Impact.

If the analysis required by R307-406-2 predicts that an adverse impact on visibility may reasonably be expected to occur in a mandatory Class I area, the Executive Secretary may require a proposed new major source or major modification to perform pre-construction and/or post-construction visibility monitoring in any mandatory Class I area as deemed necessary and appropriate to assess the impact of the proposed source or modification on visibility. Such monitoring shall be conducted in accordance with a monitoring plan prepared by the owner or operator of the source or his representative and approved by the Executive Secretary.

R307-406-5. Consideration in Review.

The Executive Secretary will consider in review and permitting of a new major source or major modification to an existing source, any visibility monitoring data provided by the Federal Land Manager which may reasonably be expected to be impacted by the proposed new major source or major modification.

R307-406-6. Audits for Permitting.

The Executive Secretary may perform oversight audits of any network collecting visibility data which may be used as a part of the permitting process as determined necessary.

KEY: air pollution, visibility*, permits
1998 **19-2-104**

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Environmental Quality, Air Quality
R307-410
Permits: Emissions Impact Analysis

NOTICE OF PROPOSED RULE
(New)
DAR FILE NO.: 21144
FILED: 05/13/98, 12:23
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose is to reorganize all R307 rules to make shorter sections and bring out important provisions. No substantive change is made.

SUMMARY OF THE RULE OR CHANGE: The language for Section R307-410-1 is presently found in Section R307-1-1. The language for Sections R307-410-2 through R307-410-4 is presently found in Subsection R307-1-3.7. The language for Section R307-410-5 is presently found in Subsection R307-1-3.8.

(**DAR Note:** The proposed amendment to R307-1, which is under DAR No. 21100 in this *Bulletin*, deletes Sections R307-1-1 through R307-1-4 and the language is reorganized in other locations throughout R307. For complete information on these changes, see the reorganization table in the "Special Notices" section of this *Bulletin*.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 19-2-104

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THIS RULE MAY BECOME EFFECTIVE ON: 08/06/1998

AUTHORIZED BY: Ursula K. Trueman, Director

R307. Environmental Quality, Air Quality.
R307-410. Permits: Emissions Impact Analysis.
R307-410-1. Definitions.

The following additional definitions apply to R307-410.

"Dispersion Technique" means any technique which attempts to affect the concentration of a pollutant in the ambient air by:

(1) Using that portion of a stack which exceeds good engineering practice stack height;

(2) Varying the rate of emission of a pollutant according to atmospheric conditions or ambient concentrations of that pollutant; or

(3) Increasing final exhaust gas plume rise by manipulating source process parameters, exhaust gas parameters, stack parameters, or combining exhaust gases from several existing stacks into one stack; or other selective handling of exhaust gas streams so as to increase the exhaust gas plume rise. The techniques described in this definition do not include:

(a) The reheating of a gas stream following the use of a pollution control system, for the purpose of returning the gas to the temperature at which it was originally discharged from the facility generating the gas stream;

(b) The merging of exhaust gas streams where:

(i) The source owner or operator demonstrates that the facility was originally designed and constructed with such merged gas streams;

(ii) After July 8, 1985, such merging is part of a change in operation at the facility that includes the installation of pollution controls and is accompanied by a net reduction in the allowable emissions of a pollutant. This exclusion from the definition of "dispersion techniques" shall apply only to the emission limitation for the pollutant affected by such change in operation; or

(iii) Before July 8, 1985, such merging was part of a change in operation at the facility that included the installation emissions control equipment or was carried out for sound economic or engineering reasons. Where there was an increase in the emission limitation or, in the event that no emission limitation was in existence prior to the merging, an increase in the quantity of pollutants actually emitted prior to the merging, the Air Quality Board shall presume that merging was significantly motivated by an intent to gain emissions credit for greater dispersion. Absent a demonstration by the source owner or operator that merging was not significantly motivated by such intent, the Air Quality Board shall deny credit for the effects of such merging in calculating the allowable emissions for the source;

(c) Smoke management in agricultural or silvicultural prescribed burning programs;

(id) Episodic restrictions on residential wood-burning and open burning; or

(e) Techniques under (c) which increase final exhaust gas plume rise where the resulting allowable emissions of sulfur dioxide from the facility do not exceed 5,000 tons per year.

"Excessive Concentration" is defined for the purpose of determining good engineering practice stack height under alternative (c) of the "Good Engineering Practice (GEP) Stack Height" definition and means:

(1) for sources seeking credit for stack height exceeding that established under alternative (b) of the "Good Engineering Practice (GEP) Stack Height" definition, a maximum ground-level concentration due to emissions from a stack due in whole or in part to downwash, wakes, and eddy effects produced by nearby structures or nearby terrain features which individually is at least 40 percent in excess of the maximum concentration experienced in the absence of such downwash, wakes, or eddy effects and which

contributes to a total concentration due to emissions from all sources that is greater than an ambient air quality standard. For sources subject to the prevention of significant deterioration program in R307-405, an excessive concentration alternatively means a maximum ground-level concentration due to emissions from a stack due in whole or in part to downwash, wakes, or eddy effects produced by nearby structures or nearby terrain features which individually is at least 40 percent in excess of the maximum concentration experienced in the absence of such downwash, wakes, or eddy effects and greater than a prevention of significant deterioration increment. The allowable emission rate to be used in making demonstrations under R307-410-5 shall be prescribed by the state approval order or the federal new source performance standard that is applicable to the source category, whichever is more stringent, unless the owner or operator demonstrates that this emission rate is infeasible. Where such demonstrations are approved by the Executive Secretary, an alternative emission rate shall be established in consultation with the source owner or operator. The allowable emission rate to be used in making demonstrations under R307-410-5 for sources for which no federal new source performance standard or state approval order has been issued shall be established by the Executive Secretary in consultation with the source owner or operator.

(2) for sources seeking credit after October 11, 1983, for increases in existing stack heights up to the heights established under alternative (b) of the "Good Engineering Practice (GEP) Stack Height" definition either,

(a) a maximum ground-level concentration due in whole or part to downwash, wakes or eddy affects as provided in alternative (a) of the definition of "Excessive Concentration", except that the emission rate specified by any applicable State implementation plan (or, in the absence of such a limit, the actual emission rate) shall be used, or

(b) the actual presence of a local nuisance caused by the existing stack, as determined by the authority administering the State implementation plan.

(3) for sources seeking credit after January 12, 1983, for a stack height determined under alternative (b) of the "Good Engineering Practice (GEP) Stack Height" definition where the Executive Secretary requires the use of a field study or fluid model to verify GEP stack height, for sources seeking stack height credit after November 9, 1984, based on the aerodynamic influence of cooling towers, and for sources seeking stack height credit after December 31, 1970, based on the aerodynamic influence of structures not adequately represented by the equations in alternative (b) of the "Good Engineering Practice (GEP) Stack Height" definition, a maximum ground-level concentration due in whole or in part to downwash, wakes, or eddy effects that is at least 40 percent in excess of the maximum concentration experienced in the absence of such downwash, wakes, or eddy effects.

"Good Engineering Practice (GEP) Stack Height" means the greater of:

(1) Sixty-five (65) meters, measured from the ground-level elevation at the base of the stack;

(2) Where H_g=good engineering practice stack height measured from the ground-level elevation at the base of the stack; H=height of nearby structure(s) measured from the ground-level elevation at the base of the stack; L=lesser dimension (height or projected width) of nearby structure(s), and provided that the Executive Secretary may require the use of a field study or fluid model to verify GEP stack height for the source:

(a) for stacks in existence on January 12, 1979, and for which the owner or operator had obtained all required air quality permits or approvals, $H_g = 2.5L$ provided the owner or operator produces evidence that this equation was actually relied on in establishing an emission limitation;

(b) for all other stacks, $H_g = H+1.5L$; or

(3) The height demonstrated by a fluid model or a field study approved by the Executive secretary, which ensures that the emissions from the stack do not result in excessive concentrations of air contaminants as a result of atmospheric downwash, wakes, or eddy effects created by the source itself, nearby structures or nearby terrain features.

"Nearby" as used in subpart (b) of the definition "Good Engineering Practice (GEP) Stack Height" is defined for a specific structure or terrain feature and

(1) for the purpose of applying the formulae provided in subpart (a) of the definition "Good Engineering Practice (GEP) Stack Height", means that distance up to five times the lesser of the height or the width dimension of a structure, but not to be greater than 1/2 mile, and

(2) for conducting demonstrations using subpart (c) of the definition "Good Engineering Practice (GEP) Stack Height", means not greater than 1/2 mile, except that the portion of terrain feature may be considered to be nearby which falls within a distance of up to 10 times the maximum height of the feature, not to exceed 2 miles if such a feature achieves a height 1/2 mile from the stack that is at least 40 percent of the GEP stack height determined by the formulae provided in subpart (b)(ii) of the definition "Good Engineering Practice (GEP) Stack Height" of this part or 26 meters, whichever is greater, as measured from the ground-level elevation at the base of the stack. The height of the structure or terrain feature is measured from the ground-level elevation at the base from the stack.

"Stack in Existence" means that the owner or operator had

(1) begun, or caused to begin, a continuous program of physical on-site construction of the stack, or

(2) entered into binding agreements or contractual obligations, which could not be canceled or modified without substantial loss to the owner or operator, to undertake a program of construction of the stack to be completed in a reasonable time.

R307-410-2. Use of Dispersion Models.

All estimates of ambient concentrations derived in meeting the requirements of R307 shall be based on appropriate air quality models, data bases, and other requirements specified in 40 CFR Part 51, Appendix W, (Guideline on Air Quality Models). Where an air quality model specified in the Guideline on Air Quality Models or other EPA approved guidance documents is inappropriate, the Executive Secretary may authorize the modification of the model or substitution of another model. In meeting the requirements of federal law, any modification or substitution will be made only with the written approval of the Administrator, EPA.

R307-410-3. Modeling of Criteria Pollutant Impacts in Attainment Areas.

Prior to receiving an approval order, a new source in an attainment area with a total controlled emission rate per pollutant

greater than or equal to amounts specified in Table 1, or a modification to an existing source located in an attainment area which increases the total controlled emission rate per pollutant of the source in an amount greater than or equal to those specified in Table 1, shall conduct air quality modeling, as identified in R307-410-2, to estimate the impact of the new or modified source on air quality unless previously performed air quality modeling for the source indicates that the addition of the proposed emissions increase would not violate a National Ambient Air Quality Standard or a Prevention of Significant Deterioration increment, as determined by the Executive Secretary.

TABLE 1

POLLUTANT	EMISSIONS
sulfur dioxide	40 tons per year
oxides of nitrogen	40 tons per year
PM10 - fugitive emissions and fugitive dust	5 tons per year
PM10 - non-fugitive emissions or non-fugitive dust	15 tons per year
carbon monoxide	As required under R307-405-7(2)
lead	0.6 tons per year

R307-410-4. Documentation of Ambient Air Impacts for Hazardous Air Pollutants.

(1) Prior to receiving an approval order under R307-401, a source shall provide documentation of increases in emissions of hazardous air pollutants as required under (c) below for all installations not exempt under (a) below.

(a) Exempted Installations.

(i) The requirements of R307-410-4 do not apply to installations which are subject to or are scheduled to be subject to an emission standard promulgated under 42 U.S.C. 7412 at the time a notice of intent is submitted, except as defined in (ii) below. This exemption does not affect requirements otherwise applicable to the source, including requirements under R307-401.

(ii) The executive secretary may, upon making a written determination that the delay in the implementation of an emission standard under 40 CFR Part 63 might reasonably be expected to pose an unacceptable risk to public health, require, on a case-by-case basis, notice of intent documentation of emissions consistent with (c) below.

(A) The executive secretary shall notify the source in writing of the preliminary decision to require some or all of the documentation as listed in (c) below.

(B) The source may respond in writing within thirty days of receipt of the notice, or such longer period as the executive secretary approves.

(C) In making a final determination, the executive secretary shall document objective bases for the determination, which may include public information and studies, documented public comment, the applicant's written response, the physical and chemical properties of emissions, and ambient monitoring data.

(b) Lead Compounds Exemption. The requirements of R307-410-4 do not apply to emissions of lead compounds. Lead compounds shall be evaluated pursuant to requirements of R307-410-3.

(c) Submittal Requirements.

(i) Each applicant's notice of intent shall include:

(A) the estimated maximum pounds per hour emission rate increase from each affected installation,

(B) the type of release, whether the release flow is vertically restricted or unrestricted, the maximum release duration in minutes per hour, the release height measured from the ground, the height of any adjacent building or structure, the shortest distance between the release point and any area defined as "ambient air" under 40 CFR 50.1(e) for each installation for which the source proposes an emissions increase,

(C) the emission threshold value, calculated to be the applicable threshold limit value - time weighted average (TLV-TWA) or the threshold limit value - ceiling (TLV-C) multiplied by the appropriate emission threshold factor listed in Table 2, except in the case of arsenic, benzene, beryllium, and ethylene oxide which shall be calculated using chronic emission threshold factors, and formaldehyde, which shall be calculated using an acute emission threshold factor. For acute hazardous air pollutant releases having a duration period less than one hour, this maximum pounds per hour emission rate shall be consistent with an identical operating process having a continuous release for a one-hour period.

TABLE 2
EMISSION THRESHOLD FACTORS FOR HAZARDOUS AIR POLLUTANTS
(cubic meter pounds per milligram hour)

VERTICALLY-RESTRICTED AND FUGITIVE EMISSION RELEASE POINTS

DISTANCE TO PROPERTY BOUNDARY	ACUTE	CHRONIC	CARCINOGENIC
20 Meters or less	0.038	0.051	0.017
21 - 50 Meters	0.051	0.066	0.022
51 - 100 Meters	0.092	0.123	0.041
Beyond 100 Meters	0.180	0.269	0.090

VERTICALLY-UNRESTRICTED EMISSION RELEASE POINTS

DISTANCE TO PROPERTY BOUNDARY	ACUTE	CHRONIC	CARCINOGENIC
50 Meters or less	0.154	0.198	0.066
51 - 100 Meters	0.224	0.244	0.081
Beyond 100 Meters	0.310	0.368	0.123

(ii) A source with a proposed maximum pounds per hour emissions increase equal to or greater than the emissions threshold value shall include documentation of a comparison of the estimated ambient concentration of the proposed emissions with the applicable toxic screening level specified in (d) below.

(iii) A source with an estimated ambient concentration equal to or greater than the toxic screening level shall provide additional documentation regarding the impact of the proposed emissions. The executive secretary may require such documentation to include, but not be limited to:

(A) a description of symptoms and adverse health effects that can be caused by the hazardous air pollutant,

(B) the exposure conditions or dose that is sufficient to cause the adverse health effects,

(C) a description of the human population or other biological species which could be exposed to the estimated concentration,

(D) an evaluation of land use for the impacted areas,

(E) the environmental fate and persistency.

(d) Toxic Screening Levels and Averaging Periods.

(i) The toxic screening level for an acute hazardous air pollutant is 1/10th the value of the TLV-C, and the applicable averaging period shall be:

(A) one hour for emissions releases having a duration period of one hour or greater,

(B) one hour for emission releases having a duration period less than one hour if the emission rate used in the model is consistent with an identical operating process having a continuous release for a one-hour period or more, or

(C) the dispersion model's shortest averaging period when using an applicable model capable of estimating ambient concentrations for periods of less than one hour.

(ii) The toxic screening level for a chronic hazardous air pollutant is 1/30th the value of the TLV-TWA, and the applicable averaging period shall be 24 hours.

(iii) The toxic screening level for all carcinogenic hazardous air pollutants is 1/90 the value of the TLV-TWA, and the applicable averaging period shall be 24 hours, except in the case of formaldehyde which shall be evaluated consistent with (d)(i) above and arsenic, benzene, beryllium, and ethylene oxide which shall be evaluated consistent with (d)(ii) above.

R307-410-5. Stack Heights and Dispersion Techniques.

(1) The degree of emission limitation required of any source for control of any air contaminant to include determinations made under R307-401, R307-403 and R307-405, must not be affected by so much of any source's stack height that exceeds good engineering practice or by any other dispersion technique except as provided in (2) below. This does not restrict, in any manner, the actual stack height of any source.

(2) The provisions in R307-410-5 shall not apply to:

(a) stack heights in existence, or dispersion techniques implemented on or before December 31, 1970, except where pollutants are being emitted from such stacks or using such dispersion techniques by sources which were constructed or reconstructed, or for which major modifications were carried out after December 31, 1970; or

(b) coal-fired steam electric generating units subject to the provisions of Section 118 of the Clean Air Act, which commenced operation before July 1, 1957, and whose stacks were constructed under a construction contract awarded before February 8, 1974.

(3) The Executive Secretary may require the source owner or operator to provide a demonstration that the source stack height meets good engineering practice as required by R307-410-5.

KEY: air pollution, modeling, hazardous air pollutant*, stack height*
1998 **19-2-104**

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Environmental Quality, Air Quality
R307-413
Exemptions and Special Provisions

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 21145
FILED: 05/13/98, 12:24
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose is to reorganize all R307 rules to make shorter sections and bring out important provisions. No substantive change is made.

SUMMARY OF THE RULE OR CHANGE: The language for Section R307-413-1 is presently found in Section R307-7-1. The language for Sections R307-413-2 through R307-413-6 is presently found in Subsection R307-1-3.1.7. The language for Section R307-413-7 is presently found in Sections R307-7-2 and R307-7-3. Sections R307-413-8 and R307-413-9 were proposed in the May 15, 1998, issue of the *Utah State Bulletin* as a re-write of the present Rule R307-6.
(**DAR Note:** The proposed amendment to R307-1, which is under DAR No. 21100 in this *Bulletin*, deletes Sections R307-1-1 through R307-1-4 and the language is reorganized in other locations throughout R307. The proposed repeal to R307-7 is found under DAR No. 21101 in this *Bulletin*, and the language from the repealed rule is also reorganized in other locations throughout R307. For complete information on these changes, see the reorganization table in the "Special Notices" section of this *Bulletin*. The proposed new rule for R307-413 is found under DAR No. 21010 in the May 15, 1998, issue of the *Utah State Bulletin*. The proposed repeal to R307-6 is found under DAR No. 21009 in the May 15, 1998, issue of the *Utah State Bulletin*.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 19-2-104

ANTICIPATED COST OR SAVINGS TO:
❖THE STATE BUDGET: A small cost for renumbering the rule, learning new citations, and revising forms. In the long run, reduced cost in being able to find specific provisions more quickly.
❖LOCAL GOVERNMENTS: A small cost to learn new citations. In the long run, reduced cost in being able to find specific provisions more quickly.
❖OTHER PERSONS: A small cost to learn new citations. In the long run, reduced cost in being able to find specific provisions more quickly.
COMPLIANCE COSTS FOR AFFECTED PERSONS: A small cost to learn new citations. In the long run, reduced cost in being able to find specific provisions more quickly.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: A small cost to learn new citations. In the long run, reduced cost in being able to find specific provisions more quickly.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
Environmental Quality
Air Quality
150 North 1950 West
Box 144820
Salt Lake City, UT 84114-4820, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Jan Miller at the above address, by phone at (801) 536-4042, by FAX at (801) 536-4099, or by Internet E-mail at jmiller@deq.state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 07/01/1998; OR ATTENDING A PUBLIC HEARING SCHEDULED FOR 06/23/1998, 1:30 p.m., Room 201, Department of Environmental Quality (DEQ) Building, 168 North 1950 West, Salt Lake City, UT.

THIS RULE MAY BECOME EFFECTIVE ON: 08/06/1998

AUTHORIZED BY: Ursula K. Trueman, Director

R307. Environmental Quality, Air Quality.
R307-413. Permits: Exemptions and Special Provisions.
R307-413-1. Definitions and General Requirements.

(1) The following additional definitions apply to R307-413-7.

"Boiler" is defined in R315-1-1, which incorporates by reference 40 CFR 260.10, and is identified as follows:

(a) an industrial boiler located on the site of a facility engaged in a manufacturing process where substances are transformed into new products, including the component parts of products, by mechanical or chemical processes;

(b) a utility boiler used to produce electric power, steam, heated or cooled air, or other gases or fluid for sale;

(c) a used-oil fired space heater provided that the burner meets the provisions of R315-15-2.4.

"Used Oil" is defined as any oil that has been refined from crude oil, used, and, as a result of such use contaminated by physical or chemical impurities.

(2) Any control apparatus installed on a source that is exempted under R307-413-2 through 6 shall be adequately and properly maintained. The owner or operator of any new or existing emission unit that is exempted under R307-413-2 through 6 is required to comply with all other applicable rules in Title R307.

(3) If the executive secretary has reason to believe, after completion of an appropriate analysis and evaluation in consultation with the source owner or operator, that the emissions from a source described in R307-413-2 through 6 are not meeting any specified approval order or State Implementation Plan limitation, or create an adverse impact to the environment, or would be injurious to human health or welfare, then the notice of intent and approval order provisions of R307-401 will apply.

R307-413-2. Small Source Exemptions - De minimis Emissions.

(1) A new or existing stationary source is exempt from the notice of intent and approval order requirements of R307-401 if the following conditions are met:

(a) it is not regulated by any standard or requirement of 42 U.S.C. 7411 or 7412;

(b) its potential to emit does not make it a stationary major source or require emission offset provisions as required by R307-403 for a new or modified source;

(c) its actual emissions are less than 5 tons per year per air contaminant of any of the following air contaminants: sulfur dioxide (SO_2), carbon monoxide (CO), nitrogen oxides (NO_x), particulate matter (PM_{10}), ozone (O_3), or volatile organic compounds (VOCs);

(d) its actual emissions are less than 500 pounds per year of any hazardous air pollutant and less than 2000 pounds per year of any combination of hazardous air pollutants;

(e) its actual emissions are less than 500 pounds per year of any air contaminant not listed in (c) or (d) above and less than 2000 pounds per year of any combination of air contaminants not listed in (c) or (d) above; and

(f) for purposes of determining applicability of R307-413-2, other air contaminants that are drawn from the environment through equipment in intake air and then are released back to the environment without chemical change, as well as carbon dioxide (CO_2), nitrogen (N_2), oxygen (O_2), argon (Ar), neon (Ne), helium (He), krypton (Kr), xenon (Xe) should not be included in emission calculations.

(2) Small Source Exemption - Registration Required in Nonattainment and Maintenance Areas. The owner or operator of a stationary source located in a nonattainment area or a maintenance area for the air contaminants, including ozone precursors, that is claiming an exemption under R307-413-2 shall submit to the executive secretary a written registration notice. An existing source shall submit this registration notice no later than March 15, 1997. A new source shall submit the registration notice prior to commencing construction. The notice shall include the following minimum information:

(a) identifying information including company name and address, location of source, telephone number, and name of plant site manager or point of contact;

(b) a description of the nature of the processes involved, equipment, anticipated quantities of materials used, the type and quantity of fuel employed and nature and quantity of the finished product;

(c) identification of expected emissions;

(d) estimated annual emission rates;

(e) any control apparatus used; and

(f) typical operating schedule.

(3) The owner or operator of a temporary source that is claiming exemption under R307-413-2 must still comply with the conditions of R307-401-7.

R307-413-3. Flexibility Changes.

(1) A change to an existing stationary source is exempt from the notice of intent and approval order requirements of R307-401 if the source is covered by an approval order and the change satisfies the following conditions:

(a) the change is not regulated by any standard or requirement of 42 U.S.C. 7411 or 7412,

(b) the increases in allowable emissions from the change since the issuance of the current approval order for the source are less than:

(i) 5 tons per year per air contaminant of any of the following air contaminants: sulfur dioxide (SO2), carbon monoxide (CO), nitrogen oxides (NO_x), particulate matter (PM_{10}), ozone (O_3), or volatile organic compounds (VOCs);

(ii) 500 pounds per year of any hazardous air pollutant and 2000 pounds per year of any combination of hazardous air pollutants; and

(iii) 500 pounds per year of any air contaminant not listed in (i) or (ii) above and 2000 pounds per year of any combination of air contaminants not listed in (i) or (ii) above;

(c) for purposes of determining applicability of R307-413-3, other air contaminants that are drawn from the environment through equipment in intake air and then are released back to the enviroment without chemical change, as well as carbon dioxide (CO_2), nitrogen (N_2), oxygen (O_2), argon (Ar), neon (Ne), helium (He), krypton (Kr), xenon (Xe) should not be included in emission calculations;

(d) the increase of allowable emissions from the change is accompanied by an equivalent or greater decrease of allowable emissions of the same air contaminants within the source at the time of the change, so long as the emissions decrease is enforceable in an approval order;

(e) the net emissions increase at the source, as defined in R307-101-2, as a result of the change shall not constitute a major modification, as defined in R307-101-2; and

(f) The owner or operator claiming an exemption pursuant to R307-413-3 submits to the executive secretary a written notice prior to the change. The notice shall include the information specified in R307-413-2(2)(a) through (f) and a description of where the owner or operator will reduce allowable emissions at least equal to any increase in emissions from the change.

(2) The approval order shall reflect emission increases and decreases of emitting units at the source resulting from the change.

(3) A source must go through the full Notice of Intent and Approval Order requirements of R307-401 to change any limitation which a source is relying on, either to avoid being classified as a major source, or to avoid having a change in emissions be considered a major modification.

(4) No comment period under R307-401-4 is required for this approval order change and update.

R307-413-4. Other Exemptions.

The following sources are exempt from the notice of intent and approval order requirements of R307-401.

(1) Fuel-burning equipment in which combustion takes place at no greater pressure than one inch of mercury above ambient pressure with a rated capacity of less than five million BTU per hour using no other fuel than natural gas or LPG or other mixed gas that meets the standards of gas distributed by a utility in accordance with the rules of the Public Service Commission of the State of Utah is exempt, unless there are emissions other than combustion products.

(2) Comfort heating equipment such as boilers, water heaters, air heaters and steam generators with a rated capacity of less than one million BTU per hour if fueled only by fuel oil numbers 1 - 6 is exempt.

(3) Emergency heating equipment, using coal or wood for fuel, with a rated capacity less than 50,000 BTU per hour is exempt.

(4) Exhaust systems for controlling steam and heat that do not contain combustion products are exempt.

(5) New parking areas of less than 600 vehicles capacity or modified parking areas increasing capacity by less than 350 vehicles are exempt.

(6) Emissions of 1,1,1-trichloroethane, trichlorofluoromethane, dichlorodifluoromethane, chlorodifluoromethane, trifluoromethane, 1,1,2-trichloro-1,2,2-trifluoroethane, 1,2-dichloro-1,1,2,2-tetrafluoroethane, methane, ethane, and chloropentafluoroethane are exempt. However, the owner or operator of a source emitting 10 tons per year or more of any of these compounds must submit a notice of intent to the executive secretary prior to construction of the source.

R307-413-5. Replacement-in-Kind Equipment.

(1) Applicability. The owner or operator of a stationary source of air contaminants who modifies any process or replaces any control apparatus that is covered by an existing approval order, a previous approval order that has been superseded by an operating permit, or a requirement contained in a State Implementation Plan is exempt from the notice of intent and approval order requirements of R307-401, when the replacement-in-kind equipment meets all of the following conditions:

(a) potential to emit of the process equipment is the same or lower;

(b) the number of emission points or emitting units is the same or lower;

(c) no additional types of air contaminants are emitted as a result of the replacement;

(d) the control apparatus or process equipment is essentially the same as that being replaced and is not regulated by any standard or requirement of 42 U.S.C. 7411 or 7412;

(e) the replacement of the control apparatus or process equipment does not violate any other provision of Title R307.

(2) Replacement-in-Kind Procedures.

(a) In lieu of filing a notice of intent under R307-401, an owner or operator of a stationary source proposing to replace control apparatus or process equipment by in-kind equipment shall submit a written notification to the executive secretary for approval prior to initiation of replacement. The notification shall contain a description of the replacement-in-kind, to include the control capability of any control apparatus and a demonstration that the conditions of (1) above are met.

(b) If the replacement-in-kind meets the conditions of (1) above, the executive secretary will update the appropriate approval order and notify the owner or operator. No public comment period under R307-401-4 is required.

R307-413-6. Reduction of Air Contaminants.

(1) Applicability. The owner or operator of a stationary source of air contaminants covered by an existing approval order or a State Implementation Plan that reduces or eliminates air contaminants by changing, substituting, or eliminating process raw materials or process equipment, or uses a more efficient process design, is exempt from the notice of intent and approval order requirements of R307-401, when all the following are met:

(a) there is a permanent reduction of air contaminants per year that is enforceable by an approval order;

(b) there are no new air contaminants emitted as a result of the changes; and

(c) the changes do not violate any provision of Title R307 rules.

(2) Procedures for the Reduction or Elimination of Air Contaminants Exemption. In lieu of filing a notice of intent under R307-401, an owner or operator of a stationary source making changes as described in (1) above shall submit a written description of the changes to the executive secretary no later than 60 days after the changes are made. The approval order will be updated by the

executive secretary to reflect the reductions and other changes; no comment period under R307-401-4 is required.

R307-413-7. Exemption from Notice of Intent Requirements for Used Oil Fuel Burned for Energy Recovery.

(1) Exemption. Boilers burning used oil for energy recovery are exempt from the notice of intent requirement of R307-401 if the following requirements are met:

(a) The heat input design is less than one million BTU/hr.

(b) Contamination levels of all used oil to be burned do not exceed any of the following values:

(i) Arsenic - 5 ppm by weight

(ii) Cadmium - 2 ppm by weight

(iii) Chromium - 10 ppm by weight

(iv) Lead - 100 ppm by weight

(v) Total halogens - 1,000 ppm by weight

(vi) Sulfur - 0.50% by weight.

(c) The flash point of all used oil to be burned is no less than 100 degrees Fahrenheit.

(2) Requirements. The owner/operator of boilers burning used oil for energy recovery which are exempt under (1) above shall only burn used oil meeting the requirements of (1)(b) and (c) above and shall test each load of used oil received or generated as directed by the executive secretary to insure it meets these requirements. Testing may be performed by the owner/operator or documented by test reports from the used fuel oil vendor. The flash point must be measured using the appropriate ASTM method as required by the executive secretary. Records for used oil consumption and test reports are to be kept for all periods when fuel burning equipment is in operation. The records shall be kept on site and made available to the executive secretary or his representative upon request. Records must be kept for a three year period.

KEY: waste oil*, permits, exemption*, de minimis*
1998 **19-2-104**
19-2-108

Environmental Quality, Air Quality
R307-414
Permits: Fees for Approval Orders

NOTICE OF PROPOSED RULE
(New)
DAR FILE NO.: 21146
FILED: 05/13/98, 12:24
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose is to reorganize all R307 rules to make shorter sections and bring out important provisions. No substantive change is made.

SUMMARY OF THE RULE OR CHANGE: These provisions are presently found in Subsection R307-1-3.9.

(**DAR Note:** The proposed amendment to R307-1, which is under DAR No. 21100 in this *Bulletin*, deletes Sections R307-1-1 through R307-1-4 and the language is reorganized in other locations throughout R307. For complete information on these changes, see the reorganization table in the "Special Notices" section of this *Bulletin*.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 19-2-104

ANTICIPATED COST OR SAVINGS TO:
❖THE STATE BUDGET: A small cost for renumbering the rule, learning new citations, and revising forms. In the long run, reduced cost in being able to find specific provisions more quickly.
❖LOCAL GOVERNMENTS: A small cost to learn new citations. In the long run, reduced cost in being able to find specific provisions more quickly.
❖OTHER PERSONS: A small cost to learn new citations. In the long run, reduced cost in being able to find specific provisions more quickly.
COMPLIANCE COSTS FOR AFFECTED PERSONS: A small cost to learn new citations. In the long run, reduced cost in being able to find specific provisions more quickly.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: A small cost to learn new citations. In the long run, reduced cost in being able to find specific provisions more quickly.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
Environmental Quality
Air Quality
150 North 1950 West
Box 144820
Salt Lake City, UT 84114-4820, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Jan Miller at the above address, by phone at (801) 536-4042, by FAX at (801) 536-4099, or by Internet E-mail at jmiller@deq.state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 07/01/1998; OR ATTENDING A PUBLIC HEARING SCHEDULED FOR 06/23/1998, 1:30 p.m., Room 201, Department of Environmental Quality (DEQ) Building, 168 North 1950 West, Salt Lake City, UT.

THIS RULE MAY BECOME EFFECTIVE ON: 08/06/1998

AUTHORIZED BY: Ursula K. Trueman, Director

R307. Environmental Quality, Air Quality.
R307-414. Permits: Fees for Approval Orders.
R307-414-1. Applicability and Definitions.

The owner and operator of each new major source or major modification is required to pay a fee to the Department sufficient to

cover the reasonable costs of reviewing and acting upon the notice of intent required pursuant to R307-401 for each new major source or major modification and implementing and enforcing requirements placed on such source by any approval order issued pursuant to such notice (not including any court costs associated with any enforcement action).

R307-414-2. Bills for Service.

(1) The Executive Secretary will provide the owner or operator of each new major source or major modification with an itemized bill for services upon issuance of an approval order. Such a bill for services shall represent the actual costs to the Department for reviewing and acting upon the notice of intent and shall be due and payable upon receipt.

(2) The Executive Secretary shall provide the owner or operator of each new major source or major modification with an itemized bill for services upon completion of an initial compliance inspection and/or source testing and/or any enforcement action brought about by the issuance of an approval order. Such bill shall represent the actual costs to the Department for the inspection, testing and/or enforcement action and shall be due and payable upon receipt.

R307-414-3. Request for Review.

A request for review or reconsideration of the bill provided by the Executive Secretary to the owner or operator of a source affected by R307-414 may be filed by the owner or operator of said source with the Executive Secretary within 20 days of receipt. The Board shall consider the request for review and determine the appropriateness of the bill.

KEY: air pollution, fee
1998 **19-2-104(3)(o)**

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Health, Children's Health Insurance Program
R382-1
Benefits and Administration

NOTICE OF PROPOSED RULE
(New)
DAR FILE NO.: 21153
FILED: 05/15/98, 12:49
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule implements the Child Health Insurance Program.

SUMMARY OF THE RULE OR CHANGE: This is a new rule under the Child Health Insurance Program. It describes benefits, limitations, providers, reimbursement, cost sharing, and grievances and appeals.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 26-1-5, and Title 26, Chapter 40
FEDERAL REQUIREMENT FOR THIS RULE: Pub. L. No. 105-33, Sections 2103(e) and 2110 (42 U.S.C., Title XIX)

THIS RULE OR CHANGE INCORPORATES BY REFERENCE THE FOLLOWING MATERIAL: Attachment B: Benefit Plan of the State Plan for the Children's Health Insurance Program, July 1, 1998 ed.; Section 8 of the State Plan for the Children's Health Insurance Program, July 1, 1998 ed.

ANTICIPATED COST OR SAVINGS TO:
❖THE STATE BUDGET: The legislature appropriated $4,109,200 from state general funds, restricted accounts, and dedicated credits for costs associated with implementation of the Children's Health Insurance Program (CHIP) and for estimated increases in the number of Medicaid-eligible children expected because of the added publicity and outreach efforts associated with the CHIP. The legislature appropriated approximately $12,000,000 in federal matching funds to meet the CHIP and Medicaid increases.
❖LOCAL GOVERNMENTS: None.
❖OTHER PERSONS: Assessments to hospitals and surgical centers to fund this rule are accounted as cost impacts for the rule filing on a companion rule, R382-20. Individuals households will save medical expenses due to the medical coverage offered by the CHIP.
COMPLIANCE COSTS FOR AFFECTED PERSONS: Compliance costs for the hospital and surgical center are accounted as cost impacts for the rule filing on a companion rule, R382-20. (**DAR Note:** R382-20 is a proposed new rule found under DAR No. 21155 in this *Bulletin*.)

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The Children's Health Program is a major initiative for the state and will allow many uninsured children to receive a high quality health care. The legislation authorizing this rule was a cooperative arrangement with the medical and hospital community. The major cost is a provider assessment, voluntarily agreed to by the providers subject to the assessment. Other administrative costs of meeting the eligibility and billing requirements to participate in the program to providers should be more than offset by the reimbursement for services rendered to previously uninsured children. In the event that other costs are found as a result of public comments, modification of the rule will be carefully considered. Based on the above and my review of the rule I believe that the benefit of this rule is greater than the fiscal impact on business and should be filed as a proposed rule.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
Health
Children's Health Insurance Program
Cannon Health Building
288 North 1460 West
Box 142906
Salt Lake City, UT 84114-2906, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Chad Westover at the above address, by phone at (801) 538-6982, by FAX at (801) 538-6886, or by Internet E-mail at cwestove@email.state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 07/01/1998; OR ATTENDING A PUBLIC HEARING SCHEDULED FOR 06/09/1998, 9:00 a.m., Cannon Health Building, Room 101, 228 North 1460 West, Salt Lake City, UT.

THIS RULE MAY BECOME EFFECTIVE ON: 07/02/1998

AUTHORIZED BY: Rod L. Betit, Executive Director

R382. Health, Children's Health Insurance Program.
R382-1. Benefits and Administration.
R382-1-1. Authority and Purpose.

This rule implements the under Title XXI of the Social Security Act, as adopted in the state under Title 26, Chapter 40 of the Utah Code. It is authorized by Section 26-40-103.

R382-1-2. Definitions.

The definitions found in Title 26, Chapter 40 apply to this rule. In addition,

(1) "Applicant" means a child on whose behalf has been made an application for benefits under the Children's Health Insurance Program, but who is not an enrollee.

(2) "Department" means the Utah Department of Health.

R382-1-3. Nature of Program and Benefits.

(1) The Children's Health Insurance Program provides reimbursement to medical providers for services rendered to a child who meets the eligibility requirements and application requirements of R382-10. The Children's Health Insurance Program provides limited benefits as described in this rule. The Department provides reimbursement coverage under the program only for benefits and levels of coverage for each program benefit:

(a) as provided in rule governing the Children's Health Insurance Program;

(b) as described and limited in the Attachment B benefit plan of the State Plan for the Children's Health Insurance Program, 1998, which is adopted and incorporated by reference, and all applicable laws and rules;

(c) to the extent that it has agreed to reimburse providers with whom it contracts to provide services; and

(d) as limited in provider manuals that form part of its contracts with providers.

(2) The Children's Health Insurance Program is not health insurance. A relationship with the Department as the insurer and the enrollee as the insured is not created under the program.

R382-1-4. Limitation of Abortion Benefits.

Abortion is a covered benefit only if necessary to save the life of the mother.

R382-1-5. Providers.

(1) The Department shall reimburse only providers who contract with the Department to provide services under the program.

(2) The Department may require a child to enroll in a health maintenance organization or other managed care organization that contracts with the Department under the program.

R382-1-6. Reimbursement.

(1) The Department shall reimburse only for benefits as limited in provider manuals that form part of its contracts with providers.

(2) The Department shall reimburse providers according to the fee schedule or schedules that are made part of its contracts with providers.

(3) Payment for services by the Department and enrollee co-payment, if any, constitutes full payment for services. A provider may not bill or collect any additional monies for services rendered pursuant to a contract to provide services under the Children's Health Insurance Program.

R382-1-7. Cost Sharing.

A provider may require an enrollee to pay a co-payment equal to that listed in Section 8 of the State Plan for the Children's Health Insurance Program, July 1, 1998 ed, which is adopted and incorporated by reference.

R382-1-8. Grievances and Appeals.

(1) An applicant or enrollee may request an agency conference at any time to resolve a problem without requesting an agency action under the Utah Administrative Procedures Act.

(a) Agency conferences may be held at the discretion of the Department.

(b) A representative authorized in writing may participate in the agency conference.

(c) The Department may conduct an agency conference by telephone if the applicant or enrollee does not object.

(2) The enrollee, the enrollee's parent(s), or representative authorized in writing by the enrollee or the enrollee's parent(s) may request an agency action. An applicant, the applicant's parent(s), or representative authorized in writing by the applicant or the applicant's parent(s) may request an agency action.

(a) Any request for agency action must be in writing clearly stating a desire to commence an agency proceeding, delivered or mailed to the Department or the local Bureau of Eligibility Services Office. The request must be mailed with 90 days of the Department's action or initial decision.

(b) Proceedings pursuant to requests for agency action under the Children's Health Insurance Program are designated as formal proceedings.

(c) An applicant's or enrollee's authorized representative may participate in the administrative proceedings before the Department.

(d) The Department may conduct the administrative proceeding, including any hearings, telephonically or by other similar means if the applicant or enrollee does not object.

(e) The enrollee may choose not to accept the continued benefits that the Department offers pending an administrative decision.

(f) The Department need not conduct a hearing if the sole issue is one of state or federal law or policy.

(3) A enrollee enrolled in a health maintenance organization or other managed care organization that contracts with the Department under the program to provide services must exhaust his grievance remedies with the health maintenance organization or other managed care organization before he can request an agency action.

KEY: children's health benefits*
1998 **26-1-5**
26-40-103

Health, Children's Health Insurance Program
R382-10
Eligibility

NOTICE OF PROPOSED RULE
(New)
DAR FILE NO.: 21154
FILED: 05/15/98, 12:49
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule implements the Child Health Insurance Program.

SUMMARY OF THE RULE OR CHANGE: This is a new rule under the Children's Health Insurance Program. It describes various rights, responsibilities, limitations, and actions dealing with establishing eligibility for enrollment in this program.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 26-1-5, and Title 26, Chapter 40
FEDERAL REQUIREMENT FOR THIS RULE: Pub. L. No. 105-33, Sections 2103(e) and 2110, (42 U.S.C., Title XIX)

THIS RULE OR CHANGE INCORPORATES BY REFERENCE THE FOLLOWING MATERIAL: Pub. L. No. 105-33, Sections 2103(e) and 2110, August 5, 1997

ANTICIPATED COST OR SAVINGS TO:
❖THE STATE BUDGET: None.
❖LOCAL GOVERNMENTS: None.
❖OTHER PERSONS: Costs associated with this rule are accounted for in companion rule filings for R382-1 and R382-20.
COMPLIANCE COSTS FOR AFFECTED PERSONS: Costs associated with this rule are accounted for in companion rule filings for R382-1 and R382-20.
(**DAR Note:** The proposed new Rules R382-1 (DAR No. 21153) and R382-20 (DAR No. 21155) are found in this *Bulletin*.)

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The Children's Health Program is a major initiative for the state and will allow many uninsured children to receive a high quality health care. The legislation authorizing this rule was a cooperative arrangement with the medical and hospital community. The major cost is a provider assessment, voluntarily agreed to by the providers subject to the assessment. Other administrative costs of meeting the eligibility and billing requirements to participate in the program to providers should be more than offset by the reimbursement for services rendered to previously uninsured children. In the event that other costs are found as a result of public comments, modification of the rule will be carefully considered. Based on the above and my review of the rule I believe that the benefit of this rule is greater than the fiscal impact on business and should be filed as a proposed rule.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
Health
Children's Health Insurance Program
Cannon Health Building
288 North 1460 West
Box 142906
Salt Lake City, UT 84114-2906, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Gayle Six at the above address, by phone at (801) 538-6895, by FAX at (801) 538-6952, or by Internet E-mail at gsix@email.state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 07/01/1998; OR ATTENDING A PUBLIC HEARING SCHEDULED FOR 06/09/1998, 9:00 a.m., Cannon Health Building, Room 101, 288 North 1460 West, Salt Lake City, UT.

THIS RULE MAY BECOME EFFECTIVE ON: 07/02/1998

AUTHORIZED BY: Rod L. Betit, Executive Director

R382. Health, Children's Health Insurance Program.
R382-10. Eligibility.
R382-10-1. Authority.

This rule sets forth the eligibility requirements for coverage under the Children's Health Insurance Program (CHIP). It is authorized by Title 26, Chapter 40.

R382-10-2. Definitions.

(1) The Department adopts the definitions found in Sections 2110(b) and (c) of the Social Security Act as enacted by Pub. L. No. 105-33 which are incorporated by reference in this rule.

(2) The following additional definitions also apply:

(a) "Applicant," means a child on whose behalf an application has been made for benefits under the Children's Health Insurance Program, but who is not an enrollee.

(b) "Best estimate" means the Department's determination of a household's income for the upcoming certification period, based on past and current circumstances and anticipated future changes.

(c) "Children's Health Insurance Program" or "CHIP" means the program for benefits under the Utah Children's Health Insurance Act, Title 26, Chapter 40.

(d) "Department" means the Utah State Department of Health.

(e) "Income averaging" means a process of using a history of past or current income and averaging it over a determined period of time that is representative of future income.

(f) "Income anticipating" means a process of using current facts regarding rate of pay, number of working hours, and expected changes to anticipate future income.

(g) "Income annualizing" means a process of determining the average annual income of a household, based on the past history of income and expected changes.

(h) "Local office" means any Bureau of Eligibility Services office location, outreach location, or telephone location where an individual may apply for medical assistance.

(i) "Recertification month" means the last month of the eligibility period for an enrollee.

(j) "Verifications" means the proofs needed to decide if a child meets the eligibility criteria to be enrolled in the program. Verifications may include hard copy documents such as a birth certificate, computer match records such as Social Security benefits match records, and collateral contacts with third parties who have information needed to determine the eligibility of a child.

R382-10-3. Actions on Behalf of a Minor.

(1) A parent or an adult who has assumed responsibility for the care or supervision of a child may apply for CHIP enrollment, provide information required by this rule, or otherwise act on behalf of a child in all respects under the statutes and rules governing the CHIP program.

(a) The child, if 18 years old or an emancipated minor, the child's parent or legal guardian must indicate in writing to the Department who is authorized as the child's representative.

(b) The executive director of the Department or his designee may designate an authorized representative if the child needs a representative but is unable to make a choice either in writing or orally in the presence of a witness.

(2) Where the statutes or rules governing the CHIP program require a child to take an action, the parent or adult who has assumed responsibility for the care or supervision of the child is responsible to take the action on behalf of the child. If the parent or adult who has assumed responsibility for the care or supervision of the child fails to take an action, the failure is attributable as the child's failure to take the action.

(3) Notice to the parent or adult who has assumed responsibility for the care or supervision of the child is notice to the child.

R382-10-4. Applicant and Enrollee Rights and Responsibilities.

(1) A parent or an adult who has assumed responsibility for the care or supervision of a child may apply or reapply at any time for Children's Health Insurance Program benefits on behalf of a child. An emancipated child or an 18 year old child may apply on his own behalf.

(2) The applicant must provide the Department with verifications to establish the eligibility of the child, including information about the parents.

(3) Anyone may look at the eligibility policy manuals located at any local office, except at outreach or telephone locations.

(4) The parent or other individual who arranged for medical services on behalf of the child shall repay the Department for services paid for by the Department under this program if the child is determined not to be eligible for CHIP.

(5) The parent(s) or child, or other responsible person acting on behalf of a child must report certain changes to the local office within ten days of the day the change becomes known. Some examples of reportable changes include:

(a) An enrollee begins to receive coverage under a group health plan or other health insurance coverage.

(b) An enrollee begins to have access to coverage under a group health plan or other health insurance coverage.

(c) An enrollee leaves the household or dies.

(d) An enrollee or the household moves out of state.

(e) Change of address of an enrollee or the household.

(f) An enrollee enters a public institution or an institution for mental diseases.

(6) Applicants and enrollees have the right to be notified about actions the agency takes regarding their eligibility or continued eligibility, the reason the action was taken, and the right to request an agency conference or agency action.

R382-10-5. Verification and Information Exchange.

(1) The applicant and enrollee upon recertification must provide verification of eligibility factors as requested by the Department.

(2) The Department may release information concerning applicants and enrollees and their households to other state and federal agencies to determine eligibility for other public assistance programs.

(3) The Department must release information to the Title IV-D agency and Social Security Administration to determine benefits.

(4) The Department may verify information by exchanging information with other public agencies as described in 42 CFR 435.945, 435.948, 435.952, 435.955, and 435.960, 1997 edition.

R382-10-6. Citizenship and Alienage.

(1) To be eligible to enroll in the program, a child must be a citizen of the United States or a qualified alien as defined in Pub. L. No. 104-193(401) through (403), (411), (412), (421) through (423), (431), and (435), and amended by Pub. L. No. 105-33(5302)(b) and (c), (5303), (5305)(b), (5306), (5562), (5563), and (5571).

(2) Hmong or Highland Lao veterans who fought on behalf of the Armed Forces of the United States during the Vietnam conflict and who are lawfully admitted to the United States for permanent residence, and their family members who are also qualified aliens, may be eligible to enroll in the program regardless of their date of entry into the United States.

(3) One adult household member must declare the citizenship or alien status of all applicants in the household. The applicant must provide verification of his citizenship or alien status.

(4) A qualified alien, as defined in Pub. L. No. 104-193(431) and amended by Pub. L. No. 105-33(5302)(c)(3), (5562), and (5571), admitted into the United States prior to August 22, 1996, may enroll in the program.

(5) A qualified alien, as defined in Pub. L. No. 104-193(431) and amended by Pub. L. No. 105-33(5302)(c)(3), (5562), and (5571), newly admitted into the United States on or after August 22, 1996, may enroll in the program after five years have passed from his date of entry into the United States.

R382-10-7. Utah Residence.

(1) A child must be a Utah resident to be eligible to enroll in the program.

(2) An American Indian child in a boarding school is a resident of the state where his parents reside. A child in a school for the deaf and blind is a resident of the state where his parents reside.

(3) A child is a resident of the state if he is temporarily absent from Utah due to employment, schooling, vacation, medical treatment, or military service.

(4) The child need not reside in a home with a permanent location or fixed address.

R382-10-8. Residents of Institutions.

(1) Residents of institutions described in Section 2110(b)(2)(A) of the Social Security Act as enacted by Pub. L. No. 105-33 are not eligible for the program.

(2) A child under the age of 18 is not a resident of an institution if he is living temporarily in the institution while arrangements are being made for other placement.

(3) A child who resides in a temporary shelter for a limited period of time is not a resident of an institution.

R382-10-9. Social Security Numbers.

(1) The Department may request applicants to provide the correct Social Security Number (SSN) or proof of application for a SSN for each household member at the time of application for the program.

(2) A child may not be denied CHIP enrollment for failure to provide a SSN.

R382-10-10. Creditable Health Coverage.

(1) To be eligible for enrollment in the program, a child must meet the requirements of Sections 2110(b)(1)(C) and (2)(B) of the Social Security Act as enacted by Pub. L. No. 105-33.

(2) A child who is covered under a group health plan or other health insurance coverage including coverage under a parent's or legal guardian's employer, as defined by the Health Insurance Portability and Accountability Act of 1996 (HIPAA), is not eligible for CHIP assistance. If the applicant, a custodial parent, or an absent parent with a legal obligation to provide health insurance coverage has access to health insurance coverage for the child, at a premium rate equal to or less than the premium the department would pay for CHIP coverage for a child under a managed care plan, the child is not eligible for CHIP assistance.

(3) The Department shall deny eligibility if the applicant, a custodial parent, or an absent parent with a legal obligation to provide health insurance coverage has voluntarily terminated either employer-sponsored or individual health insurance coverage in the three months prior to the application date for enrollment under CHIP. An applicant or applicant's parent(s) who is involuntarily terminated from an employer-sponsored coverage is eligible for CHIP without a three month waiting period. Employer-sponsored coverage is a health benefit plan where the employer contributes at least 50% of the premium.

(4) The Department shall deny eligibility if the applicant or enrollee, a custodial parent, or an absent parent with a legal obligation to provide health insurance coverage has failed to enroll the applicant in an employer-sponsored health insurance plan at a premium rate equal to or less than the premium the department would pay for CHIP coverage for a child under a managed care plan, until three months have passed from the end of the open enrollment period. An otherwise eligible child may apply to enroll in the CHIP program after this three month period.

(5) A child with creditable health coverage operated or financed by the Indian Health Services is not excluded from enrolling in the program.

(6) An applicant must report at application and certification review whether any of the children in the household for whom enrollment is being requested has access to or is covered by a group health plan, other health insurance coverage, or a state employee's health benefits plan.

(7) An enrollee must report when any enrollee in the household begins to receive coverage under, or begins to have access to, any type of group health plan, other health insurance coverage, or a state employee's health benefits plan.

(8) The Department shall deny an application or recertification if the enrollee fails to respond to questions about health insurance coverage for children the household seeks to enroll or recertify in the program.

R382-10-11. Household Composition.

(1) The following individuals who reside together must be included in the household for purposes of determining the household size and whose income will be counted, whether or not the individual is eligible to enroll in the program:

(a) A child who meets the CHIP age requirement and who does not have access to and is not covered by a group health plan or other health insurance;

(b) Siblings, half-siblings, adopted siblings, and step-siblings of the child who meets the CHIP age requirement if these individuals also meet the CHIP age requirement;

(c) Parents and stepparents of any child who is included in the household size;

(d) Children of any child included in the household size.

(2) Any individual described in Subsection (1) of this Section who is temporarily absent solely by reason of employment, school, training, military service, or medical treatment, or who will return home to live within 30 days from the date of application, is part of the household.

(3) A household member described in Subsection (1) of this Section who does not qualify to enroll in the CHIP program due to his alien status is included in the household size and his income is counted as household income.

(4) If an individual is caring for a child of his or her former spouse, in a case in which a divorce has been finalized, the child may be included in the household if the child resides in the home.

R382-10-12. Age Requirement.

(1) A child must be under 19 years of age to enroll in the program.

(2) The month in which a child's 19th birthday occurs is the last month of eligibility for CHIP enrollment.

R382-10-13. Income Provisions.

To be eligible to enroll in the Children's Health Insurance Program, gross household income must be equal to or less than 200% of the federal non-farm poverty guideline for a household of equal size. All gross income, earned and unearned, received by any household member is counted toward household income, unless this section specifically describes a different treatment of the income.

(1) The Department does not count income that is defined in 20 CFR 416(K) Appendix, 1997 edition, which is adopted and incorporated by reference.

(2) Any income in a trust that is available to, or is received by a household member, is countable income.

(3) Payments received from the Family Employment Program, General Assistance, or refugee cash assistance or adoption support services as authorized under Title 35A, Chapter 3 is countable income.

(4) Rental income is countable income. The following expenses can be deducted:

(a) taxes and attorney fees needed to make the income available;

(b) upkeep and repair costs necessary to maintain the current value of the property;

(c) utility costs only if they are paid by the owner; and

(d) interest only on a loan or mortgage secured by the rental property.

(5) Deposits to joint checking or savings accounts are countable income, even if the deposits are made by a non-household member. An applicant or enrollee who disputes household ownership of deposits to joint checking or savings accounts shall be given an opportunity to prove that the deposits do not represent income to the household. Funds that are successfully disputed are not countable income..

(6) Cash contributions made by non-household members are counted as income unless the parties have a signed written agreement for repayment of the funds.

(7) The interest earned from payments made under a sales contract or a loan agreement is countable income to the extent that these payments will continue to be received during the certification period.

(8) In-kind income, which is goods or services provided to the individual from a non-household member and which is not in the form of cash, for which the individual performed a service or is provided as part of the individual's wages is counted as income. In-kind income for which the individual did not perform a service or did not work to receive is not counted as income.

(9) SSI and State Supplemental Payments are countable income.

(10) Death benefits are not countable income to the extent that the funds are spent on the deceased person's burial or last illness.

(11) A bona fide loan that an individual must repay and that the individual has contracted in good faith without fraud or deceit, and genuinely endorsed in writing for repayment is not countable income.

(12) Child Care Assistance under Title XX is not countable income.

(13) Reimbursements of Medicare premiums received by an individual from Social Security Administration or the State Department of Health are not countable income.

(14) Needs-based Veteran's pensions are not counted as income. If the income is not needs-based, only the portion of a Veteran's Administration check to which the individual is legally entitled is countable income.

(15) The first $1,620 of earned income a child earns in a year are excluded from household income if the child meets all of the following criteria:

(a) the child is a student who is regularly attending school that includes secondary school, post-secondary school, vocational and trade schools;

(b) the child is under age 19; and

(c) the child is not head of a household.

(16) Educational income such as educational loans, grants, scholarships, and work-study programs are not countable income. The individual must verify enrollment in an educational program.

(17) Reimbursements for expenses incurred by an individual are not countable income.

(18) Any payments made to an individual because of his status as a victim of Nazi persecution as defined in Pub. L. No. 103-286 are not countable income, including payments made by the Federal Republic of Germany, Austrian Social Insurance payments, and Netherlands WUV payments.

(19) Victim's Compensation payments as defined in Pub. L. No. 101-508 are not countable income.

(20) Disaster relief funds received if a catastrophe has been declared a major disaster by the President of the United States as defined in Pub. L. No. 103-286 are not countable income.

R382-10-14. Budgeting.

The following section describes methods that the Department will use to determine the household's countable monthly or annual income.

(1) The gross income of all household members is counted in determining the eligibility of a child, unless the income is excluded under this rule. Only expenses that are required to make an income available to the individual are deducted from the gross income. No other deductions are allowed.

(2) The Department shall determine monthly income by taking into account the months of pay where an individual receives a fifth paycheck when paid weekly, or a third paycheck when paid every other week. The Department shall multiply the weekly amount by 4.3 to obtain a monthly amount. The Department shall multiply income paid bi-weekly by 2.15 to obtain a monthly amount.

(3) The Department shall determine a child's eligibility and cost-sharing requirements prospectively for the upcoming certification period at the time of application and at each recertification for continuing eligibility. The Department shall determine prospective eligibility by using the best estimate of the household's average monthly income that is expected to be received or made available to the household during the upcoming certification period. The Department shall prorate income that is received less often than monthly over the certification period to determine an average monthly income. The Department may

request prior years' tax returns as well as current income information to determine a household's income.

(4) Methods of determining the best estimate are income averaging, income anticipating, and income annualizing. The Department may use a combination of methods to obtain the most accurate best estimate. The best estimate may be a monthly amount that is expected to be received each month of the certification period, or an annual amount that is prorated over the certification period. Different methods may be used for different types of income received in the same household.

(5) Farm and self-employment income is determined by using the individual's recent tax return forms. If tax returns are not available, the Department shall request income and expense information from a recent time period during which the individual had farm or self-employment income. The Department shall deduct expenses from gross income to determine the countable income of the individual. For self-employment and farm income, the Department shall deduct the same expenses from gross income that the Internal Revenue Service allows as self-employment expenses.

(6) The Department may annualize income for any household and in particular for households that have self-employment income, receive income sporadically under contract or commission agreements, or receive income at irregular intervals throughout the year.

(7) The Department may request additional information and verification about how a household is meeting expenses if the average household income appears to be insufficient to meet the household's living expenses.

R382-10-15. Assets.

An asset test is not required for CHIP eligibility.

R382-10-16. Application and Recertification.

The application is the initial request from an applicant for CHIP enrollment for a child. The application process includes gathering information and verifications to determine the child's eligibility for enrollment in the program. Recertification is the process of gathering information and verifications on a periodic basis to determine continued eligibility of an enrollee.

(1) The applicant must complete and sign a written application to become enrolled in the program.

(2) The Department accepts any Department-approved application form for medical assistance programs offered by the state as an application for CHIP enrollment.

(3) Individuals may apply at any local office. Individuals may request that an application form be mailed to them.

(4) The Department may interview applicants, the applicant's parents, and any adult who has assumed responsibility for the care or supervision of the child to assist in determining eligibility.

(5) If eligibility for CHIP enrollment ends, the Department shall review the case for eligibility under any other medical assistance program without requiring a new application. The Department may request additional verification from the household if there is insufficient information to make a determination.

R382-10-17. Eligibility Decisions.

(1) The Department must determine eligibility for CHIP within 30 days of the date of application. If a decision can not be made in 30 days because the applicant fails to take a required action and requests additional time to complete the application process, or if circumstances beyond the Department's control delay the eligibility decision, the Department shall document the reason for the delay in the case record. The Department must inform the applicant of the status of the application and the time frame for completing the application process.

(2) The Department may not use the time standard as a waiting period before determining eligibility, or as a reason for denying eligibility because the Department has not determined eligibility within that time.

(3) The Department shall complete a determination of eligibility or ineligibility for each application unless:

(a) the applicant voluntarily withdrew the application and the Department sent a notice to the applicant to confirm the withdrawal;

(b) the applicant died; or

(c) the applicant can not be located or has not responded to requests for information within the 30 day application period.

(4) The Department must redetermine eligibility at least every 12 months.

(5) At application and recertification, the Department must determine if any child applying for CHIP enrollment is eligible for coverage under Medicaid. A child who is eligible for Medicaid coverage is not eligible for CHIP. A child who must meet a spend-down to receive Medicaid is not eligible for Medicaid until the spend-down has been met.

R382-10-18. Effective Date of Enrollment and Recertification.

(1) The effective date of CHIP enrollment is the date a completed and signed application is received by the Department. The Department shall not pay for any services rendered before the date the application is received by the Department.

(2) The effective date of enrollment for a recertification is the first day of the month after the recertification month, if the recertification is completed by the end of the recertification month and the child continues to be eligible.

(3) If both the recertification form and the required verifications are not received by the end of the recertification month, the case will be closed unless the enrollee has good cause for not completing the recertification process on time. Good cause includes a medical emergency, death of an immediate family member, or natural disaster, or other similar occurrence.

(4) The Department may require an interview with the parent, child, or adult who has assumed responsibility for the care or supervision of a child, or other authorized representative as part of the recertification process.

R382-10-19. Enrollment Period.

(1) The enrollment period begins with the date of application if the applicant is determined eligible for CHIP enrollment. Covered services the child received on or after the date of application are payable by CHIP for a child who was eligible upon application.

(2) A child eligible for CHIP enrollment receives 12 months of coverage unless the child turns 19 years of age before the end of the 12-month enrollment period, moves out of the state, becomes eligible for Medicaid, begins to be covered by or have access to coverage under a group health plan or other health insurance coverage, or enters a public institution. The month a child turns 19 years of age is the last month the child is eligible for CHIP.

R382-10-20. Termination and Notice.

(1) The Department shall notify an applicant or enrollee in writing of the eligibility decision made on the application or at recertification.

(2) The Department shall notify an enrollee in writing ten days before taking a proposed action adversely affecting the enrollee's eligibility.

(3) Notices under this section shall provide the following information:

(a) The action to be taken;

(b) The reason for the action;

(c) The regulations or policy that support the action;

(d) The applicant's or enrollee's right to a hearing;

(e) How an applicant or enrollee may request a hearing; and

(f) The applicant's or enrollee's right to represent himself, or use legal counsel, a friend, relative, or other spokesperson.

(4) The Department need not give ten-day notice of termination if:

(a) the child is deceased;

(b) the child has moved out of state and is not expected to return; or

(c) the child has entered a public institution, in which case eligibility may cease immediately and without prior notice.

R382-10-21. Case Closure or Withdrawal.

The department shall terminate a child's enrollment upon enrollee request or upon discovery that the child is no longer eligible. An applicant may withdraw an application for CHIP benefits any time prior to approval of the application.

KEY: children's health benefits*
1998 **26-1-5**
26-40

Health, Children's Health Insurance Program

R382-20

Provider Assessment

NOTICE OF PROPOSED RULE
(New)
DAR FILE NO.: 21155
FILED: 05/15/98, 12:49
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule implements the Child Health Insurance Program.

SUMMARY OF THE RULE OR CHANGE: This is a new rule under the Child Health Insurance Program. It implements the assessment imposed by Section 26-40-111.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 26-1-5, and Title 26, Chapter 40
FEDERAL REQUIREMENT FOR THIS RULE: Pub. L. No. 105-33, Sections 2103(e) and 2110, (42 U.S.C., Title XIX)

THIS RULE OR CHANGE INCORPORATES BY REFERENCE THE FOLLOWING MATERIAL: Pub. L. No. 105-33, Sections 2103(e) and 2110, August 5, 1997

ANTICIPATED COST OR SAVINGS TO:
❖THE STATE BUDGET: The state will collect $5,500,000 in assessments.
❖LOCAL GOVERNMENTS: None.
❖OTHER PERSONS: Hospitals will pay an assessment equal to .00373354519 times gross inpatient revenues. Hospital-based ambulatory surgical centers and freestanding ambulatory surgical centers will pay an assessment of $0.90 for each patient encounter. Total collections are estimated to be $5,500,000.
COMPLIANCE COSTS FOR AFFECTED PERSONS: Costs to individual hospitals and surgical centers will vary depending on their individual revenues. Total costs to the industry are $5,500,000.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The Children's Health Program is a major initiative for the state and will allow many uninsured children to receive a high quality health care. The legislation authorizing this rule was a cooperative arrangement with the medical and hospital community. The major cost is a provider assessment, voluntarily agreed to by the providers subject to the assessment. Other administrative costs of meeting the eligibility and billing requirements to participate in the program to providers should be more than offset by the reimbursement for services rendered to previously uninsured children. In the event that other costs are found as a result of public comments, modification of the rule will be carefully considered. Based on the above and my review of the rule I believe that the benefit of this rule is greater than the fiscal impact on business and should be filed as a proposed rule.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
Health
Children's Health Insurance Program
Cannon Health Building
288 North 1460 West
Box 142906
Salt Lake City, UT 84114-2906, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Douglas Springmeyer at the above address, by phone at (801) 538-6657, by FAX at (801) 538-6306, or by Internet E-mail at dspring@emain.state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 07/01/1998; OR ATTENDING A PUBLIC HEARING SCHEDULED FOR 06/09/1998, 9:00 a.m., Cannon

Health Building, Room 101, 288 North 1460 West, Salt Lake City, UT.

THIS RULE MAY BECOME EFFECTIVE ON: 07/02/1998

AUTHORIZED BY: Rod L. Betit, Executive Director

R382. Health, Children's Health Insurance Program.
R382-20. Provider Assessment.
R382-20-1. Authority and Purpose.

This rule is authorized by Section 26-40-102. It implements the assessment imposed by Section 26-40-111 on hospitals, hospital-based ambulatory surgical centers, and freestanding ambulatory surgical centers.

R382-20-2. Definitions.

The definitions in Title 26, Chapter 40 apply to this rule, in addition:

(1) "Gross inpatient revenue" for any hospital during a particular quarter means gross revenue derived by the hospital from inpatient services rendered during the quarter.

(2) "Gross revenue" for any hospital during a particular quarter means standard, nondiscounted charges for all services rendered to patients by the hospital during the quarter.

(3) "Inpatient services" means all services rendered by a hospital to an inpatient.

(4) "Outpatient" means any patient of a hospital other than an inpatient.

(5) "Outpatient services" means all services rendered by a hospital other than inpatient services.

(6) "Patient encounter" as applied to any freestanding ambulatory surgical facility or hospital-based ambulatory surgical facility means one or more outpatient surgery procedures performed on one outpatient during the course of one outpatient visit for which a charge is incurred. The patient encounter as defined in this act includes ancillary services incident to the surgical procedures performed during the surgical visit.

R382-20-3. Assessment.

Beginning on July 1, 1998, a uniform, broad based, quarterly assessment is imposed on each hospital, hospital-based ambulatory surgical facility, and freestanding ambulatory surgical facility as follows:

(1) for hospitals, .00373354519 times gross inpatient revenue; and

(2) for freestanding ambulatory surgical facilities and hospital-based ambulatory surgical facilities, $0.90 for each patient encounter.

R382-20-4. Reporting and auditing requirements.

(1) Each hospital, hospital-based ambulatory surgical facility, and ambulatory surgical facility shall, on or before the end of the month next succeeding each quarter, file with the department a return for the quarter, and shall remit with the return the assessment required by this act to be paid for the quarter covered by the return.

(2) Each return for hospitals shall contain the following:

(a) gross inpatient revenue; and

(b) gross revenue.

(3) Each return for freestanding and hospital-based ambulatory surgical centers shall report total patient encounters.

(4) Each provider shall supply the data required in the return from its internal operating sources. A representative of each reporting provider shall sign a disclosure statement indicating that the data are accurate to the best of the representative's knowledge. The report shall include a place to make adjustments in the assessment based on corrected data from a prior period to be paid with or deducted from the current quarter reporting and payment.

(5) A provider subject to the assessment imposed by Section 26-40-111 shall maintain complete and accurate records. The provider may have its records independently audited to verify the calculation of the assessment and to verify that all applicable penalties and interest have been paid. Auditors from the department assigned by the director to enforce and administer the provisions of Section 26-40-111 and this rule may inspect each provider's independent audit report to verify compliance with Section 26-40-111 and this rule. If the provider has not conducted an independent audit, the department may conduct an audit of the provider's records [related to INPATIENT revenue and patient encounters for the purpose of verifying to verify compliance with Section 26-40-111 and this rule. Any state review of a provider's independent audit reports shall be done on a confidential basis without any intent or effect of creating a breach or a waiver of any applicable auditor/client privilege.

(6) Separate providers owned or controlled by a holding company or similar entity may combine reports and payments of assessments provided that the required data are clearly set forth for each separate reporting provider.

R382-20-5. Penalties and interest.

(1) The penalty for failure to file a return or pay the assessment due within the time prescribed by this rule is the greater of $50, or 5% of the assessment due on the return.

(2) For failure to pay within 30 days of a notice of deficiency of assessment required to be paid, the penalty is the greater of $50 or 10% of the assessment due.

(3) The penalty for underpayment of the assessment is as follows:

(a) If any underpayment of assessment is due to negligence, the penalty is 25% of the underpayment.

(b) If the underpayment of the assessment is due to intentional disregard of law or rule, the penalty is 50% of the underpayment.

(4) For intent to evade the assessment, the penalty is 100% of the underpayment.

(5) The rate of interest applicable to an underpayment of an assessment under this rule or an unpaid penalty under this rule is 12% annually.

(6) The department may reduce or waive the imposition of a penalty for good cause.

KEY: children's health benefits*
1998 **26-1-5**
26-40

Health, Health Care Financing, Coverage and Reimbursement Policy

R414-10

Physician Services

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 21156
FILED: 05/15/98, 13:58
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule outlines requirements and coverage for physician services for Medicaid eligible individuals. The rule is amended to clarify language and refine service coverage and limitations.

SUMMARY OF THE RULE OR CHANGE: There is one new definition added, deletion of some items that no longer apply, and addition of some new coverage and limitation items.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 26-1-5 and 26-18-3
FEDERAL REQUIREMENT FOR THIS RULE: Sections 1901, 1905(a)(1) SSA, 42 CFR 440.50

ANTICIPATED COST OR SAVINGS TO:
❖THE STATE BUDGET: Costs will be incurred on a case by case basis.
❖LOCAL GOVERNMENTS: None.
❖OTHER PERSONS: None.
COMPLIANCE COSTS FOR AFFECTED PERSONS: None.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Agency staff estimate that there will be no additional cost to business as a result of these technical amendments to the Medicaid physician services rule This estimate appears to be reasonable based on available information. If this estimate proves to be substantially inaccurate based on public comments during the comment period, modification of the rule will be carefully considered. Based on the above and my review of the rule I believe that the benefit of this rule is greater than the fiscal impact on business and should be filed as a proposed rule.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:

Health
Health Care Financing,
Coverage and Reimbursement Policy
Cannon Health Building
288 North 1460 West
Box 142906
Salt Lake City, UT 84114-2906, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Urla Jeane Maxfield at the above address, by phone at (801) 538-9144, by FAX at (801) 538-6099, or by Internet E-mail at umaxfiel@email.state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 07/01/1998.

THIS RULE MAY BECOME EFFECTIVE ON: 07/02/1998

AUTHORIZED BY: Rod L. Betit, Executive Director

R414. Health, Health Care Financing, Coverage and Reimbursement Policy.
R414-10. Physician Services.
R414-10-1. Introduction and Authority.

(1) The Physician Services Program provides a scope of physician services to meet the basic medical needs of eligible Medicaid recipients. It encompasses the art and science of caring for those who are ill through the practice of medicine or osteopathy defined in Title 58, Chapter 12, UCA.

(2) Physician services are a mandatory Medicaid, Title XIX, program authorized by Sections 1901 and 1905(a)(1) of the Social Security Act, 42 CFR 440.50, October 199[~~4~~]6 edition, and Sections 26-1-5 and 26-18-3, UCA.

R414-10-2. Definitions.

In addition to the definitions in R414-1[~~-1~~], the following definitions apply to this rule:

(1) "Childhood health evaluation and care" (CHEC) means the Utah-specific term for the federally mandated program of early and periodic screening, diagnosis, and treatment for children under the age of 21.

(2) "Client" means an individual eligible to receive covered Medicaid services from an enrolled Medicaid provider.

(3) "Clinical Laboratory Improvement Amendments" (CLIA) means the federal Health Care Financing Administration program that limits reimbursement for laboratory services based on the equipment and capability of the physician or laboratory to provide an appropriate, competent level of laboratory service.

([~~3~~]4) "Cognitive services" means non-invasive diagnostic, therapeutic, or preventive office visits, hospital visits, therapy, and related nonsurgical services.

([~~4~~]5) "Covered Medicaid service" means service available to the eligible Medicaid client within the constraints of Medicaid policy and criteria for approval of service.

([~~5~~]6) "Current Procedural Terminology" (CPT) means the manual published by the American Medical Association that provides a systematic listing and coding of procedures and services performed by physicians and simplifies the reporting of services, which is adopted and incorporated by reference. Some limitations are addressed in R414-26.

([~~6~~]7) "Early and periodic screening, diagnosis, and treatment" (EPSDT) means the federally mandated program for children under the age of 21.

([~~7~~]8) "Family planning" means diagnosis, treatment, medications, supplies, devices, and related counseling in family planning methods to prevent or delay pregnancy.

([~~8~~]9) "Health Common Procedures Coding System" (HCPCS) means a system mandated by the Health Care Financing Administration to code procedures and services. This system utilizes the CPT Manual for physicians, and individually developed service codes and definitions for nonphysician providers. The coding system is used to provide consistency in determining payment for services provided by physicians and noninstitutional providers.

([~~9~~]10) "Intensive, inpatient hospital rehabilitation service" means an intense rehabilitation program provided in an acute care general hospital through the services of a multidisciplinary, coordinated, team approach directed toward improving the ability of the patient to function.

([~~10~~]11) "Package surgical procedures" means preoperative office visits and preparation, the operation, local infiltration, topical or regional anesthesia when used, and the normal, uncomplicated follow-up care extending up to six weeks post-surgery.

([~~11~~]12) "Patient" means an individual who is receiving covered professional services provided or directed by a licensed practitioner of the healing arts enrolled as a Medicaid provider.

([~~12~~]13) "Personal supervision" means the critical observation and guidance of medical services by a physician of a nonphysician's activities within that nonphysician's licensed scope of practice.

([~~13~~]14) "Physician services," whether furnished in the office, the recipient's home, a hospital, a skilled nursing facility, or elsewhere, means services provided:

(a) within the scope of practice of medicine or osteopathy; and

(b) by or under the personal supervision of an individual licensed to practice medicine or osteopathy.

([~~14~~]15) "Prior authorization" means the required approval for provision of a service, that the provider must obtain from the Department before providing that service.

([~~15~~]16) "Professional component" means that part of laboratory or radiology service that may be provided only by [~~the~~]a physician [~~pathologist or radiologist to complete the analysis of~~]capable of analyzing a procedure or service and providing[~~e~~] a written report of findings.

([~~16~~]17) "Provider" means an entity or a licensed practitioner of the healing arts providing approved Medicaid services to patients under a provider agreement with the Department.

([~~17~~]18) "Services" means the types of medical assistance specified in Sections 1905(a)(1) through ([~~18~~]25) of the Social Security Act and interpreted in 42 CFR 440, October 199[~~4~~]6 edition, which are adopted and incorporated by reference.

([~~18~~]19) "Technical component" means that part of laboratory or radiology service necessary to secure a specimen and prepare it for analysis, or to take an x-ray and prepare it for reading and interpretation.

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R414-10-5. Service Coverage.

(1) Physician services involve direct patient care and securing and supervising appropriate diagnostic ancillary tests or services in order to diagnose the existence, nature, or extent of illness, injury, or disability. In addition, physician services involve establishing a course of medically necessary treatment designed to prevent or minimize the adverse effects of human disease, pain, illness, injury, infirmity, deformity, or other impairments to a client's physical or mental health.

(2) Physician services may be provided only within the parameters of accepted medical practice and are subject to limitations and exclusions established by the Department on the basis of medical necessity, appropriateness, and utilization control considerations.

(3) Program limitations and noncovered services are established by specific program policy maintained in the Physician Provider Manual and updated by notification through Medicaid [~~Provider~~]Information Bulletins. Following is a general list of medical and health care services excluded from coverage:

(a) Services rendered during a period the recipient was ineligible for Medicaid;

(b) Services medically unnecessary or unreasonable;

(c) Services which fail to meet existing standards of professional practice, or which are currently professionally unacceptable;

(d) Services requiring prior authorization, but for which such authorization was not received;

(e) Services, elective in nature, based on patient request or individual preference rather than medical necessity;

(f) Services fraudulently claimed;

(g) Services which represent abuse or overuse;

(h) Services rejected or disallowed by Medicare when the rejection was based upon any of the reasons listed above.

(i) Services for which third party payors are primarily responsible, e.g., Medicare, private health insurance, liability insurance. Medicaid may make a partial payment up to the Medicaid maximum if the limit has not been reached by a third party.

(j) If a procedure or service is not covered for any of the above reasons or because of specific policy exclusion, all related services and supplies, including institutional costs, are excluded for the standard post operative recovery period.

(4) Experimental or medically unproven physician services or procedures are excluded from coverage. Criteria established and approved by the Department staff and physician consultants are used to identify noncovered services and procedures. Policy statements developed by the Department of Health and Human Services, Health Care Financing Administration, Coverage Issues Bureau, are also used to determine Department policy for noncovered services.

(5) Certain services are excluded from coverage because medical necessity, appropriate utilization, and cost effectiveness of the services cannot be assured. A variety of lifestyle factors contribute to the "syndromes" associated with such services, and there is no specific therapy or treatment identified except for those that border on behavior modification, experimental, or unproven practices. Services include:

(a) Sleep apnea or sleep studies, or both;

(b) Pain management and pain clinics; and

(c) Eating disorders clinics.

(6) When a service or procedure does not qualify for coverage under the Medicaid program because it is an elective cosmetic, reconstructive, or plastic surgery, all related services, supplies, and institutional costs are excluded from coverage.

(7) Medications for appetite suppression, surgical procedures, unproven or experimental treatments, or educational, nutritional support programs for the treatment of obesity or weight control, are excluded from coverage.

(8) Cognitive or Office Services:

(a) Cognitive services by a provider are limited to one service per client per day. These services are defined as office visits, hospital visits except for those following a package surgical procedure, therapy visits, and other types of nonsurgical services. When a second office visit for the same problem or a hospital admission occurs on the same date as another service, the physician shall combine the services as one service and select a procedure code that indicates the overall care given.

(b) Routine physical examinations, not part of an otherwise medically necessary service, are excluded from coverage, except in the following circumstances:

(i) Preschool and school age children, including those who are EPSDT (CHEC) eligible, participating in the ongoing CHEC program of scheduled services and follow-up care.

(ii) New patients seeing a physician for the first time with an initial complaint where a comprehensive physical examination, including a medical and social history, is necessary.

(iii) Medically necessary examinations associated with birth control medication, devices, and instructions.

(c) Family planning services may be provided only by or under the supervision of a physician and only to individuals of childbearing age, including sexually active minors. The following services are excluded from coverage as family planning services:

(i) Experimental or unproven medical procedures, practices, or medication.

(ii) Surgical procedures for the reversal of previous elective sterilization, both male and female.

(iii) Infertility studies.

(iv) In-vitro fertilization.

(v) Artificial insemination.

(vi) Surrogate motherhood, including all services, tests, and related charges.

(vii) Abortion, except where the life of the mother would be endangered if the fetus were carried to term, or where pregnancy is the result of rape or incest.

(d) After-hours service codes may be used only by a private physician, primary care provider, who responds to treat a patient in the physician's private office for a medical emergency, accident, or injury after regular office hours. Only one of the after hours CPT codes may be used per visit.

[~~(e) Only the laboratory tests in the following list are covered as part of a physician's office service. An independent laboratory shall provide all other laboratory services. The independent laboratory completing the service must bill the Department directly to receive payment for the service.~~

~~(i) 81000 Urinalysis by reagent strips, any number of components: with microscopy;~~

~~(ii) 81002 Urinalysis without microscopy;~~

~~(iii) 82270 Blood: occult, feces, screening;~~

~~(iv) 82948 Glucose: blood, stick test;~~

~~(v) 84702 Gonadotropin, chorionic: quantitative;~~

~~(vi) 84703 Gonadotropin, chorionic: qualitative;~~

~~(vii) 85007 Blood count: manual differential WBC (includes RBC morphology and platelet estimation);~~

~~(viii) 85014 Blood count: hematocrit;~~

~~(ix) 85021 Blood count: hemogram, automated (RBC, WBC, HgB, Hct and indices only);~~

~~(x) 85022 Blood count: hemogram, automated, and manual differential WBC count (CBC);~~

~~(xi) 85023 Blood count: hemogram and platelet count, automated, and manual differential WBC count (CBC);~~

~~(xii) 85024 Blood count: hemogram and platelet count, automated, and automated partial differential WBC count (CBC);~~

~~(xiii) 85025 Blood count: hemogram and platelet count, automated, and automated complete differential WBC count (CBC);~~

~~(xiv) 85027 Blood count: hemogram and platelet count, automated;~~

~~(xv) 85031 Blood count: hemogram, manual, complete CBC (RBC, WBC, HgB, Hct, differential and indices);~~

~~(xvi) 85048 Blood Count: white blood cell (WBC);~~

~~(xvii) 85650 Sedimentation rate (ESR): Wintrobe type;~~

~~(xviii) 85651 Sedimentation rate: Westergren type;~~

~~(xix) 86300 Heterophile antibodies: screening (includes monotype test) slide or tube;~~

~~(xx) 86317 Immunoassay for infectious agent antigen or antibody, each;~~

~~(xxi) 86403 Particle agglutination, rapid test for infectious agent, each antigen;~~

~~(xxii) 86580 Skin test: tuberculosis, intradermal;~~

~~(xxiii) 86585 Skin test: tuberculosis, tine test;~~

~~(xxiv) 87081 Culture, bacterial, screening only, for single organisms;~~

~~(xxv) 87082 Culture, presumptive, pathogenic organisms, screening only, by commercial kit, for single organisms;~~

~~(xxvi) 87210 Smear, primary source: wet mount with simple stain, for bacteria, fungi, ova, and parasites;~~

~~(xxvii) 87220 Tissue examination for fungi (e.g., KOH slide).~~

~~(f) In addition to the above laboratory services, the following services are covered when a private physician personally collects the specimen:~~

~~(i) 85095 Bone marrow smear or cell block or both: aspiration only;~~

~~(ii) 85102 Bone marrow biopsy, needle or trocar.~~](e) Laboratory services provided by a physician in his office are limited to the waived tests or those types of laboratory tests identified by the federal Health Care Financing Administration for which each individual physician is CLIA certified to provide, bill, and receive Medicaid payment.

([~~g~~]f) A specimen collection fee is covered for service in a physician's office only when a specimen is to be sent to an outside laboratory, and the physician or one of his office staff under his personal supervision actually extracts the specimen from a patient, and only by one of the following [~~procedures~~]tasks:

(i) Drawing a blood sample through venipuncture, i.e., inserting into a vein a needle with syringe or vacutainer to draw the specimen; or

(ii) Collecting a urine sample by catheterization.

(iii) A drawing fee for finger, heel, or ear sticks is limited to only infants under the age of two years.

([~~h~~]g) Eye examinations are covered, but only once each calendar year.

([~~i~~]h) Contact lenses are covered only for aphakia, nystagmus, keratoconus, severe corneal distortion, cataract surgery, and in those

cases where visual acuity cannot be corrected to at least 20/70 in the better eye.

(9) Psychiatric Services:

(a) Psychiatric services or psychosocial diagnosis and counseling are specialty medical services. Psychiatric services, whether in a private office, a group practice, or private clinic setting, may only be provided directly and documented and billed to the Department by the private physician. Charting and documentation must clearly reflect the private physician's direct provision of care.

(b) Nonphysician psychosocial counseling services are excluded from coverage as a Medicaid benefit. The personal supervision policy, R414-45[~~-1~~], may not be applied to psychiatric services.

(c) Admission to a general hospital for psychiatric care by a physician requires prior authorization and is limited to those cases determined by established criteria and utilization review standards to be of a severity that appropriate intensity of service cannot be provided in any alternate setting.

(d) Coverage for treatment of organic brain disease is limited to that provided by the primary care provider.

(10) Laboratory and Radiology Services:

[~~(a) Laboratory services identified by CPT codes 80000 through 89999, and radiology services identified by CPT codes 70000 through 79999 are ancillary medical services with both a technical and professional component. The professional component, e.g., analysis, interpretation and written report, represented by modifier 26, may be provided only by a pathologist or a radiologist practicing in an independent or hospital laboratory or radiology setting. Private physicians who are not pathologists or radiologists may not bill for the service described by modifier 26 for telling a patient the results of laboratory or radiology procedures as noted on the laboratory or radiology printout or the written report. Providing such information to the patient is part of the office call rather than a separate service.~~]

([~~b~~]a) Physicians prepared in a highly specialized field of practice, e.g., neurology or neurosurgery, who provide consultation and diagnostic radiology services in an independent setting at the request of a private physician may bill for both the technical and professional component of the radiology service.

(b) Dermatologists with specialized preparation in pathology services specifically for the skin may provide and bill for those services.

(11) Hospital Services:

(a) A patient hospitalized for nonsurgical services may require more than one visit per day because of the patient's condition and treatment needs. Since physician visits are limited to one per day, the physician shall select one procedure code to define the overall care given. If intensive care services are provided, or critical care service codes are used to define service provided, the Department requires additional documentation from the physician. The medical record must show documentation of medical necessity and result of the additional service.

(b) If, for the convenience of the physician and not for medical necessity, a patient is transferred between physicians within the same hospital or from one hospital to another hospital, both physicians may only use subsequent hospital care service codes to define and bill for services provided. Under this policy limitation, services associated with the following codes are excluded from coverage as a Medicaid benefit:

(i) Consultation; and

(ii) Initial hospital care services.

(c) Treatment of alcoholism or drug dependency in an inpatient setting is limited to acute care for detoxification only.

(d) Services for pregnant women who do not meet United States residency requirements (undocumented aliens) are limited to only hospital admission for labor and delivery. Medicaid does not cover prenatal services.

(12) Abortion, Sterilization and Hysterectomy:

(a) Abortion procedures are limited [~~only~~]to:[~~ those with medical certification of necessity as described in 42 CFR 441.203, October 1994 edition, which is adopted and incorporated by reference.~~]

(i) those where the pregnancy is the result of rape or incest; or

(ii) a case with medical certification of necessity where a woman suffers from a physical disorder, physical injury, or physical illness, including a life-endangering physical condition caused by or arising from the pregnancy itself that would, as certified by a physician, place the woman in danger of death unless an abortion is performed.

(b) Sterilization and hysterectomy procedures are limited to those which meet the requirements of 42 CFR 441, Subpart F, October 199[~~4~~]6 edition, which is adopted and incorporated by reference.

(13) Cosmetic, Plastic, or Reconstructive Services:

(a) Cosmetic, plastic, or reconstructive surgery procedures may only be covered when medically necessary to:

(i) correct a congenital anomaly;

(ii) restore body form or function following an accidental injury; or

(iii) revise severe disfiguring and extensive scarring resulting from neoplastic surgery.

(14) Surgical Services:

(a) Surgical procedures defined and coded in the CPT Manual are limited by Utah Medicaid policy[~~ to place of service,~~] to prior authorization, or are excluded from coverage. Limitations are documented on the Medical and Surgical Procedures Prior Authorization List, reviewed and revised yearly and maintained in the Physician Provider Manual through notification by Provider Bulletins.

(b) Surgical procedures are "package" services. The package service includes:

(i) the preoperative examination, initiation of the hospital record, and development of a treatment program either in the physician's office on the day before admission, or in the hospital or the physician's office on the same day as admission to the hospital;

(ii) the operation;

(iii) any topical, local, or regional anesthesia; and

(iv) the normal, uncomplicated follow-up care covering the period of hospitalization and office follow-up for progress checks or any service directly related to the surgical procedure for up to six weeks post surgery.

(c) Interpretation of "package" services:

(i) A physician may not bill for an office visit the day prior to surgery, for preadmission or admission workup, or for subsequent hospital care while the patient is being prepared, hospitalized, or under care for a "package" surgical service.

(ii) Consultation services may be billed by the consulting physician only when consultation and no other service is provided. When a consulting physician admits and follows a patient, independently or concurrently with the primary physician, only admission codes and subsequent care codes may be used.

(iii) Office visits for up to six weeks following the hospitalization which relate to the same diagnosis are part of the "package" service. The only exception to either inpatient or office service is for service related to complications, exacerbations, or recurrence of other diseases or problems requiring additional or separate service.

(d) Procedures exempt from the "package" definition are identified in the CPT Manual by an asterisk. The CPT Manual outlines the surgical guidelines which apply to documentation and billing of procedures marked by an asterisk.

(e) Complications, exacerbations, recurrence, or the presence of other diseases or injuries requiring services concurrent with the initial surgical procedure during the listed period of normal follow-up care, may warrant additional charges only when the record shows extensive documentation and justification of additional services.

(f) When an additional surgical procedure is carried out within the listed period of follow-up care for a previous surgery, the follow-up periods continue concurrently to their normal terminations.

(g) Preoperative examination and planning are covered as separate services only in the following circumstances:

(i) When the preoperative visit is the initial visit for the physician and prolonged detention or evaluation is required to establish a diagnosis, determine the need for a specific surgical procedure, or prepare the patient;

(ii) When the preoperative visit is a consultation and the consulting physician does not assume care of the patient; or

(iii) When diagnostic procedures, not part of the basic surgical procedure, e.g., bronchoscopy prior to chest surgery, are provided during the immediate preoperative period.

(h) Exploratory laparotomy procedures confirm a diagnosis and determine the extent of necessary treatment. A physician may request payment only if the exploratory procedure is the only procedure done during an operative session.[~~Exploratory laparotomy services identified by CPT Codes 49000-49060 may not be billed in conjunction with any services identified by the following CPT Codes: 43500 - 44346 - 44600 - 45180 - 47400 - 47490 - 47600 - 48999 - 49002 - 49999 - 58140 - 58285 - 58400 - 58960.~~]

(i) The services of an assistant surgeon are specialty services to be provided only by a licensed physician, and are covered only on very complex surgical procedures. Procedures not authorized for assistant surgeon coverage are listed in the Physician Provider Manual and updated by Medicaid Provider Bulletins as necessary. Medicare guidelines for limitation of assistant surgeon coverage are used, since those decisions are made at the national level with physician consultation.

(j) Medicaid does not cover surgical procedures, experimental therapies, or educational, nutritional, support programs for treatment of obesity or weight control.

(15) Diagnostic and Therapeutic Procedures:

(a) Diagnostic needle procedures, e.g., lumbar puncture, thoracentesis, and jugular, femoral vein, or subdural taps, when performed as part of a necessary workup for a serious medical illness or injury, are covered in addition to other medical care on the same day.

(b) Diagnostic "oscopy" procedures, e.g., endoscopy, bronchoscopy, and laparoscopy, are covered separately from any major surgical procedure. However, when an "oscopy" procedure is done the same day or at the same operative session as another procedure, the "oscopy" procedure may only be covered as a multiple procedure.

(c) Magnetic resonance imaging (MRI) is covered only for service to the brain, spinal cord, hip, thigh and abdomen.

(d) Therapeutic needle procedures, e.g., scalp vein insertion, injections into cavities, nerve blocks, are covered in addition to other medical care on the same day.

(e) Puncture of a cavity or joint for aspiration followed by injection of a medication is covered as one procedure and identified by specific CPT code.

(16) Anesthesia Services:

Anesthesia services are covered only when administered by a licensed anesthesiologist or nurse anesthetist who remains in attendance for the sole purpose of rendering general anesthesia services. Standby or monitoring by the anesthesiologist or anesthetist during local anesthesia is not a covered Medicaid anesthesia service.

(17) Transplant Services

Except for kidney and cornea transplants, Medicaid limits [~~O~~]organ transplant services[~~ are limited~~] to those procedures for which selection criteria have been approved and documented in R414-10A.

(18) Modifiers:

Modifiers may be used only, as defined in the CPT Manual, to show that a service or procedure has been altered to some degree but not changed in definition or code. The following limitations apply:

([~~1~~]a) The professional component, modifier 26, may be used only with laboratory and radiology service codes[~~ by a pathologist or radiologist~~] and only when direct analysis, interpretation, and written report of findings are provided by a physician on a laboratory or radiology procedure.[~~ Private physicians may not use this modifier.~~]

([~~2~~]b) Unusual services are identified by use of modifier 22, along with the appropriate CPT code. A prepayment review of unusual services shall be completed by Medicaid professional staff or physician consultants. A report of the service and any important supporting documentation must be submitted with the claim for review.

([~~3~~]c) Anesthesia by surgeon is identified by use of modifier 47. The operating surgeon may not use modifier 47 in addition to the basic procedure code. Anesthesia provided by the surgeon is part of the basic procedure being provided.

([~~4~~]d) Mandated services as defined by CPT and identified by modifier 32 are noncovered services.

([~~5~~]e) Reference laboratory services identified by modifier 90 are noncovered services.

(19) Medications:

(a) Drugs and biologicals are limited to those approved by the Food and Drug Administration (FDA), or those approved by the Drug Utilization Review Board (DUR) for off-label use, which is use for a condition different from that initially intended for the drug

or biological. Medicaid coverage of drugs and biologicals is based on individual need and orders written by a physician when the drug is given in accordance with accepted standards of medical practice and within the protocol of accepted use for the drug.

(i) Generic drugs shall be used whenever a generic product approved by the FDA is available. If the physician determines that a brand name drug is medically necessary, the physician may override the generic requirement by writing on the prescription in his own hand writing "name brand medically necessary". Preprinted messages, abbreviations, or notations by a second party, do not meet the override requirement. The pharmacist shall fill the prescription with the generic equivalent product if the override procedure is not followed.

(ii) Injectable medications approved in HCPCS are identified in the "J" code list published by the Health Care Financing Administration or the Department, or both. The list is reviewed and revised yearly and maintained in the Physician Provider Manual by notification and update through Medicaid Provider Bulletins.

(iii) The "J" code covers only the cost of an approved product.

(iv) Office visits only for administration of medication are excluded from coverage. However, an injection code which covers the cost of the syringe, needle and administration of the medication may be used with the "J" code when medication administration is the only reason for an office call.

(v) When an office service is provided for other purposes, in addition to medication administration, only the office visit and a "J" code may be used to bill for the service provided.

(vi) The office visit code and injection code may never be used together. Only one of the codes may be used to define the service provided.

(vii) Vitamin B-12 is limited to use only in treating conditions where physiological mechanisms produce pernicious anemia. Use of Vitamin B-12 in treating any unrelated condition is excluded from coverage.

(b) Vitamins may be provided only for:

(i) Pregnant women: Prenatal vitamins with 1 mg folic acid.

(ii) Children through age five: Children's vitamins with fluoride.

(iii) Children through age one: multiple vitamin (A, C, and D) without fluoride.

(iv) Children through age 15: Fluoride supplement.

(c) Human growth stimulating hormones are limited to CHEC eligible children under the age of 15 who meet the established internal criteria for coverage that has been published and is available in the Provider Manual[~~not a covered service~~].

(d) Methylphenidates, amphetamines, and other central nervous system stimulants require prior authorization and may be provided only for treatment of Attention Deficit Disorder (ADD)[~~ in children between the ages of six and 18 years~~].

(e) Medications for appetite suppression are not a covered service.

(f) Non-prescription, over-the-counter items are limited, and notification of changes consistent with this rule is made by Provider Bulletin and Provider Manual updates.

(g) Nutrients may be provided only as established in R414-24A.

KEY: medicaid
199[6]8 **26-1-5**
26-18-3

Health, Health Systems Improvement, Emergency Medical Services

R426-1-8

Maximum Ambulance Transportation Rates and Charges

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 21152
FILED: 05/15/98, 12:25
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This proposed rule change is necessary to insert an interim method for rate setting into the Ambulance Rules. At the present time, the Department adjusts ambulance rates annually based on the prior year calendar change in the Consumer Price Index. This request is to change the way the rate change is made and to base it on an annual average of five different pricing indexes. This recommendation was made by an independent consulting firm and the Fiscal Reporting Task Force who have been studying ambulance rates.

SUMMARY OF THE RULE OR CHANGE: The proposed change requires the Department to adjust ambulance rates on July 1 each year based on an annual average of five pricing indexes. It also proposes that all licensed services will collect financial data beginning fiscal year 2000 and this information will determine annual rate adjustments beginning July 1, 2001.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Title 26, Chapter 8

ANTICIPATED COST OR SAVINGS TO:
❖THE STATE BUDGET: None.
❖LOCAL GOVERNMENTS: Ambulance services will receive a 3.5% increase on all ambulance calls, if they elect to increase their rates.
❖OTHER PERSONS: Costs to anyone who takes an ambulance will go up 3.5%. It is anticipated that some of this cost will be picked up by insurance companies.
COMPLIANCE COSTS FOR AFFECTED PERSONS: Each ambulance call will increase 3.5%. Maximum base ambulance transport costs would be $226.62, plus mileage. There may be other significant costs associated with an ambulance transport. The range of actual cost is too wide to be able to fix a dollar figure to any individual. Available global data are insufficient to be able to fix an average dollar figure for an individual.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Agency staff estimate that raising maximum ambulance rates by 3.5% is necessary to allow ambulances in Utah to be able to operate efficiently and profitably in the marketplace. No business is required to raise rates. If this estimate proves to be substantially inaccurate based on public comments received during the comment period, modification of the rule will be carefully considered. Based on the above and my review of the rule, I believe that the benefit of this rule is greater that the fiscal impact on business and should be filed as a proposed rule.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:

Health
Health Systems Improvement,
Emergency Medical Services
Cannon Health Building
288 North 1460 West
PO Box 142004
Salt Lake City, UT 84114-2004, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Leslie Johnson at the above address, by phone at (801) 538-6292, by FAX at (801) 538-6808, or by Internet E-mail at ljjohnso@doh.state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 07/01/1998.

THIS RULE MAY BECOME EFFECTIVE ON: 07/02/1998

AUTHORIZED BY: Rod L. Betit, Executive Director

R426. Health, Health Systems Improvement, Emergency Medical Services.
R426-1. Ambulance Rules.
R426-1-8. Maximum [~~Ambulance~~]Licensed Services Transportation Rates and Charges.

(1) [~~Ambulance~~]Licensed services operating under R426-1 shall not charge more than the maximum rates described under R426-1-8(3) through (7). In addition, the net income of [~~ambulance~~]licensed services, including subsidies of any type, shall not exceed the greater of the net income limit set by R426-1-8(a) or (b).

(a) The net income limit shall be the greater of eight percent of gross revenue or 14 percent return on average assets.

(b) [~~Ambulance~~]Licensed Services may change rates at their discretion after notifying the Department, provided that the rates do not exceed the maximums specified in R426-1-8.

(2) [~~Initial Rates and Consumer Price Index Increases -~~]The initial regulated rates established in R426-1-8(3), [~~and~~]R426-1-8(4), R426-1-8(5), R426-1-8(6) and R426-1-8(7) are effective [~~June 3, 1996~~]July 1, 1998, and shall be adjusted annually on July 1 thereafter, [~~upward or downward, based on the prior calendar year percentage change in the "Historical Consumer Price Index (CPI) for all Urban Consumers and Urban Wage Earners and Clerical Workers. U.S. City Average, Major Groups", CPI Detailed Report, "all items" average.~~]based on an annual average of the Utah Bureau of Labor Statistics Occupational Employment and Wage Data, the National Consumer Pricing Index (CPI), the State of Utah Governor's Office of Planning and Budget economic report; the U.S. Bureau of Labor Statistics seasonally adjusted CPI for Urban Consumers transportation and medical care categories, and the U.S. Bureau of Labor Statistics seasonally adjusted CPI for Urban Wage Earners and Clerical Workers transportation and medical categories. The adjustment shall be made effective and published by order of the Department prior to June 1 of each year and become effective July 1, of each year. As of the beginning of fiscal year 2000, all licensed services will collect financial data as delineated by the department to be submitted as detailed under R426-1-8(10). This data shall then be used as the basis for the annual rate adjustment beginning July 1, 2001.

(3) Base Rates -

(a) Basic Life Support - [~~$206.82~~]$226.62 per transport.

(b) Advanced Life Support - Intermediate - [~~$245.60~~]$269.12 per transport.

(c) Advanced Life Support - Paramedic Ambulance Transfer Service inter-facility transports, and Paramedic Ambulance transports that provide basic life support - [~~$310.23~~]$339.94 per transport.

(d) Advanced Life Support - Paramedic ambulance transports that, under physician medical direction, provide basic or intermediate ambulance transports that have paramedics on-board to continue advanced life support initiated by a paramedic rescue service - Basic ambulance service - [~~$372.28~~]$407.92 per transport, Intermediate ambulance service - [~~$411.06~~]$450.42 per transport. Any ambulance service that interfaces with a paramedic rescue service must have an interlocal or equivalent agreement in place, dealing with reimbursing the paramedic agency for services provided up to the maximum of [~~$129.26~~]$140.60 per transport.

(4) Mileage Rate - [~~$9.05~~]$9.92 per mile or fraction thereof. In all cases mileage shall be computed from the point of pickup to the point of delivery.

(5) Surcharges -

(a) Emergency - A surcharge of [~~$20.52~~]$22.48 per transport may be assessed for emergency responses.

(b) Night - A surcharge of [~~$20.52~~]$22.48 per transport may be assessed for ambulance service between the hours of 8:00 p.m. and 8:00 a.m.

(c) Off-road - Where the ambulance is required to travel for ten miles or more on unpaved roads, a surcharge of [~~$17.10~~]$18.65 per transport may be assessed.

(6) Special Provisions -

(a) Multiple Patients - If more than one patient is transported from the same point of origin to the same point of delivery in the same ambulance, the charges to be assessed to each individual will be determined as follows:

(i) Each patient will be assessed the transportation rate.

(ii) The emergency surcharge, night surcharge and mileage rate will be computed as specified, the sum to be divided equally between the total number of patients.

(b) Round trip - A round trip may be billed as two one-way trips.

(c) Waiting time - An ambulance shall provide 15 minutes of time at no charge at both point of pickup and point of delivery, and

may charge [~~$11.40~~]$12.49 per quarter hour or fraction thereof thereafter. On round trips, 30 minutes at no charge will be allowed from the time the ambulance reaches the point of delivery until starting the return trip. At the expiration of the 30 minutes, the ambulance service may charge [~~$11.40~~]$12.49 per quarter hour or fraction thereof thereafter.

(7) Non-transport rate - Where an ambulance is summoned to a medical emergency by a dispatch agency, but does not transport, a charge of [~~$171~~]$187.38 may be assessed.

(8) Charges for supplies - Supplies shall be priced fairly and competitively with similar products in the local area.

(9) Uncontrollable Cost Escalation -

(a) In the event of a temporary escalation of costs, an ambulance service may petition the EMS Committee for permission to make a temporary service-specific surcharge. The petition shall specify the amount of the proposed surcharge, the reason for the surcharge, and provide sufficient financial data to clearly demonstrate the need for the proposed surcharge. Since this is intended to only provide temporary relief, the petition shall also include a recommended time limit.

(b) The petition shall be submitted to the Department, which shall within 30 days, notify the ambulance service of the date and time of the next EMS Committee meeting and the disposition of the petition. Prior to the EMS Committee meeting, the Department shall evaluate the petition for reasonableness and prepare a written response for consideration by the EMS Committee. The EMS Committee may reject, modify or adopt the proposed surcharge as a proposed rule and direct the Department to submit a notice of rule change to the Division of Administrative Rules in accordance with the Rulemaking Act. The public comment period shall include a public hearing.

(10) [~~Ambulance~~]Licensed Service reporting requirements - Within [~~four~~]five months of the end of each licensed [~~ambulance~~]service's fiscal year, the service shall provide to the Department an operating report[~~- setting forth operating income and expenses for the previous fiscal year. The report shall set forth operating income and expenses and detail a chart of accounts, account descriptions and natural classifications, balance sheet, statement of income, statement of cash flow, statistical support data, volunteer services, subsidies and other disclosures including compensation to owners and other related party transactions~~]. This report shall be made in accordance with the instructions, guidelines and review criteria in the EMS Committee's "Department of Health Uniform [~~Ambulance~~]Licensed Service Fiscal Reporting Guide" and shall be filed with the Department within four months after the [~~ambulance~~]licensed service's fiscal year. The Department shall provide a summary [~~report~~]of [~~ambulance~~]operating reports received during the previous state fiscal year to the EMS Committee in the October quarterly meeting, beginning [~~1992~~]2001.

(11) Fiscal audits -

(a) Upon receipt of [~~ambulance~~]licensed service fiscal reports, the Department shall review them for compliance to standards established in the "Department of Health Uniform [~~Ambulance~~]Licensed Service Fiscal Reporting Guide." The Department, or its representative, may audit [~~ambulance~~]licensed services to verify the information given in the report.

(b) Where the Department determines that the audited service is not in compliance with this rule, the Department shall proceed in accordance with Section 26-8-12.

[~~(12) Rate process evaluation - At least every three years, beginning in 1994, the Department shall re-evaluate the results of this rate process and provide a report and recommendation to the EMS Committee for continuance or modification of the rate structure and rates process.~~]

KEY: emergency medical services
[~~June 13, 1997~~]1998 **26-8**
Notice of Continuation December 9, 1997

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Health, Health Data Analysis
R428-11
Health Data Authority Ambulatory Surgical Data Reporting Rule

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 21157
FILED: 05/15/98, 14:46
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The changes in this filing will expand the ambulatory surgical data requirements to include additional clinical procedures, and require hospitals and freestanding surgical centers to report both CPT and ICD9 codes to improve the data analysis process.

SUMMARY OF THE RULE OR CHANGE: Defines additional clinical procedures to be reported by hospitals and freestanding surgical centers, and requires the data providers to include both CPT and ICD9 codes in the data submission

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Title 26, Chapter 33a

ANTICIPATED COST OR SAVINGS TO:
❖THE STATE BUDGET: Anticipated cost to the State budget to cover the changes in this filing will be minimal. The cost will be in the form of monitoring compliance, processing additional data, and validating information.
❖LOCAL GOVERNMENTS: None.
❖OTHER PERSONS: The two coding systems are widely used in almost all hospitals; the cost impact of this filing to the hospitals is expected to be minimal and will be in the form of processing and submitting data. Some ambulatory surgical centers may have to update their information systems in order to report both CPT and ICD codes.
COMPLIANCE COSTS FOR AFFECTED PERSONS: The facility costs for reporting additional ambulatory surgery data are marginal for those with information systems that can accommodate two coding structures. Facilities without this capacity will incur costs to update their information systems and can apply for exemptions. The cost is estimated to be less than $5,000

for each facility. These update costs will be incurred by facilities by 1999, to comply with the federal Health Insurance Portability and Accountability Act standards. This filing would require the facilities to comply with these standards one year earlier than the federal rules. All Health Data Committee rules will be revised to be consistent with federal rules.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Agency staff have made a good faith estimate that the cost to each facility impacted will be less than $5,000. If this estimate proves to be substantially inaccurate based on public comments received during the comment period, modification of the rule will be carefully considered. Based on this estimate and my review of the rule I believe that the benefit of this rule is greater than the fiscal impact on business and should be filed as a proposed rule.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:

Health
Health Data Analysis
Cannon Health Building
288 North 1460 West
PO Box 144004
Salt Lake City, UT 84114-4004, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Denise Love at the above address, by phone at (801) 538-6689, by FAX at (801) 538-9916, or by Internet E-mail at dlove@doh.state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 07/01/1998.

THIS RULE MAY BECOME EFFECTIVE ON: 07/02/1998

AUTHORIZED BY: Rod Betit, Executive Director

R428. Health, Health Data Analysis.
R428-11. Health Data Authority Ambulatory Surgical Data Reporting Rule.

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R428-11-5. Electronic Media Data Submittal Schedule.

Each hospital and ambulatory surgical facility shall submit to the Office a single outpatient surgical data record for each patient discharged according to the schedule shown in Table 1, Hospital and Ambulatory Surgical Facility Data Submittal Schedule.

TABLE 1
HOSPITAL AND AMBULATORY SURGICAL FACILITY
DATA SUBMITTAL SCHEDULE

[~~FOR SUBMITTING DATA ON ELECTRONIC MEDIA UNTIL JULY 31, 1997:~~]

YEAR ONE DATA COLLECTION SCHEDULE:

IF PATIENT'S DATE OF DISCHARGE IS BETWEEN:	DISCHARGE DATA RECORD IS DUE BY:
January 1 through December 31, 1996	December 15, 1997
January 1 through June 30, 1997	December 15, 1997
July 1 through September 30, 1997	December 15, 1997
October 1 through December 31, 1997	February 15, 1998

YEAR TWO AND SUCCESSIVE YEARS DATA COLLECTION SCHEDULE:

IF PATIENT'S DATE OF DISCHARGE IS BETWEEN:	DISCHARGE DATA RECORD IS DUE BY:
January 1 through March 31	May 15
April 1 through June 30	August 15
July 1 through September 30	November 15
October 1 through December 31	February 15

For a patient with multiple discharges, each hospital or ambulatory surgical facility submitting electronic media shall submit a single data record for each discharge. For a patient with multiple billing claims each hospital or ambulatory surgical facility shall consolidate the multiple billings into a single data record for submission after the patient's discharge.

R428-11-6. Electronic Transaction Data Submittal.

Hospitals and ambulatory surgical centers may request data submission by electronic transaction, as submitted to the payer through the Exemptions, Extensions, and [~~Wavers~~]Waivers process.

R428-11-7. Selection of Records to Submit via Electronic Media.

Each hospital or ambulatory surgical facility licensed in Utah shall report to the Office of Health Data Analysis information relating to any patient surgical procedure falling within the types described in Table 2, as defined by the corresponding CPT codes [~~effective as of August 1996~~]and ICD-9-CM codes. In case of changes in the CPT and/or ICD-9-CM codes in future versions, the most current list shall override the lists in Table 2.

TABLE 2
TYPES OF SURGICAL SERVICE TO BE SUBMITTED
IF PERFORMED IN OPERATING ROOM EQUIPPED FOR ANESTHESIA

DESCRIPTION	CPT CODES	ICD-9-CM CODES
Mastectomy	19120-19220	850-8599
Musculoskeletal	20000-29909	760-8499
Respiratory	30000-32999	300-3499
Cardiovascular	33010-37799	350-3999
Lymphatic	38100-38999	400-4199
Diaphragm	39501-39599	
Digestive System	40490-49999	420-5499

Urinary	50010-53899	550-5999
Male Genital	54000-55899	600-6499
Laparoscopy	56300-56399	
Female Genital	56405-58999	650-7199
Endocrine/Nervous	60000-64999	010-0799
Eye	65091-68899	080-1699
Ear	69000-69979	180-2099
Heart Catheterization	93501-93660	3721-3723
Nose, Mouth, Pharynx		210-2999

R428-11-8. Data Element Reporting via Electronic Media.

Table 3 displays the reportable data elements. Hospitals and ambulatory surgical facilities shall report the required data elements shown in Table 3, beginning December 15, 1997.

The Office shall provide to each hospital and ambulatory surgical facility an Ambulatory Surgery Data Submittal Technical Manual which outlines the specifications, format, and types of data to report. The Ambulatory Surgery Data Submittal Technical Manual is effective on November 15, 1997.

TABLE 3
REQUIRED AMBULATORY SURGERY AND MAJOR PROCEDURE
DATA ELEMENTS FOR ELECTRONIC MEDIA REPORTING

CATEGORY:	NAME:
Provider	
1	Medical care provider identifier
Patient	
2	Patient control number
3	Patient's medical chart number
4	Patient's Social Security Number
5	Patient's postal zip code for address
6	Patient's date of birth
7	Patient's gender
Service	
8	Admission date
9	Source of admission
10	Patient's status
11	Discharge date
Diagnosis and Treatment	
12	Diagnosis codes
13	Procedure codes
14	Date of principal procedure
15	Modifiers for procedure codes
16	ICD9 Procedure Codes
17	Related Diagnosis Codes
[~~17~~	~~Procedure coding method~~]
Charge	
18	Statement covers period
19	Total facility charge
20	Primary, secondary, and third sources of payment
Physician	
21	Performing physician ID
22	Additional physicians' IDs
23	Type of bill (for hospital, if applicable)

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KEY: health, hospital policy*, health planning
[~~March 15,~~]1998 **26-33a-104**
26-33a-108

Health, Health Data Analysis
R428-13
Health Data Authority. Audit and Reporting of HMO Performance Measures

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 21158
FILED: 05/15/98, 14:56
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: In the meeting with the Health Maintenance Organization (HMO) advisory group, the HMO representatives indicated that changing the data submission deadline to September 1 would be more appropriate in order to accommodate the changes of Health (plan) Employer Data and Information Set (HEDIS) deadline required by National Committee for Quality Assurance (NCQA).

SUMMARY OF THE RULE OR CHANGE: This amendment extends the reporting deadline from August 1 to September 1 of each reporting year.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Title 26, Chapter 33a

ANTICIPATED COST OR SAVINGS TO:
❖THE STATE BUDGET: None.
❖LOCAL GOVERNMENTS: None.
❖OTHER PERSONS: None.
COMPLIANCE COSTS FOR AFFECTED PERSONS: None.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Agency staff estimate that changing the reporting deadline will have no fiscal impact on business. If this estimate proves to be substantially inaccurate based on public comments received during the comment period, modification of the rule will be carefully considered. Based on the above and my review of the rule I believe that the benefit of this rule is greater than the fiscal impact on business and should be filed as a proposed rule.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
Health
Health Data Analysis
Cannon Health Building
288 North 1460 West
PO Box 144004
Salt Lake City, UT 84114-4004, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Denise Love at the above address, by phone at (801) 538-6689, by FAX at (801) 538-9916, or by Internet E-mail at dlove@doh.state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 07/01/1998.

THIS RULE MAY BECOME EFFECTIVE ON: 07/02/1998

AUTHORIZED BY: Rod Betit, Executive Director

R428. Health, Health Data Analysis.
R428-13. Health Data Authority. Audit and Reporting of HMO Performance Measures.

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R428-13-3. Definitions.

These definitions apply to rule R428-13:

(1) "Office" as defined in R428-2-3A.

(2) "Health Maintenance Organization (HMO)" means any person or entity operating in Utah which is licensed under Title 31A, Chapter 8, Utah Code.

(3) "Health plan" means any insurer under a contract with the Utah Department of Health to serve Medicaid clients under Title XIX and Title XXI of the Social Security Act.

(4) "Utah Health Care Performance Measurement Plan" means the plan for data collection and public reporting of health-related measures, adopted by the Utah Health Data Committee to establish a statewide health performance reporting system.

(5) "NCQA" means the National Committee for Quality Assurance, a not-for-profit organization committed to evaluating and reporting on the quality of managed care plans.

(6) "Performance Measure" means the quantitative, numerical measure of an aspect of the HMO or health plan, or its membership in part or in its entirety, or qualitative, descriptive information on the HMO in its entirety as described in HEDIS.

(7) "HEDIS" means the Health Plan Employer Data and Information Set, a set of standardized performance measures developed by the NCQA.

(8) "HEDIS data" means the complete set of HEDIS measures calculated by HMOs and health plans according to NCQA specifications.

(9) "Audited HEDIS data" means HEDIS data verified by an NCQA certified audit agency.

(10) "Committee" means Utah Health Data Committee established under the Utah Health Data Authority Act, Title 26, Chapter 33a, Utah Code.

(11) "Covered period" means the calendar year on which the data used for calculation of HEDIS measures [~~are~~]is based.

(12) "Submission year" means the year immediately following the covered period.

R428-13-4. Submission of Performance Measures.

(1) Each HMO and health plan shall compile and submit HEDIS data to the Office according to this rule.

(2) [~~By August 1 of 1998 and every August 1 thereafter~~]By September 1 of 1998 and every September 1 thereafter, all HMOs and health plans shall submit to the Office audited HEDIS data for the preceeding calendar year.

(3) Each HMO and health plan shall contract with an independent audit agency certified by the NCQA to verify the HEDIS data prior to the HMO's or health plan's submitting it to the Office.

(4) By June 1 of each submission year, each HMO and health plan shall submit to the Office a letter identifying the independent audit agency it contracts with to verify its HEDIS data.

(5) The auditor shall follow the guidelines and procedures contained in NCQA's "HEDIS Compliance Audit Standards and Guidelines" in effect on November 15 of the covered period.

(6) Each HMO and health plan shall cause its contracted audit agency to submit a copy of the audit agency's report by [~~August 1~~]September 1 of the submission year to the Office.

(7) Each HMO and health plan shall cause its contracted audit agency to submit a copy of the audit agency's final report by October 15 of the submission year to the Office. The final report shall incorporate the HMO's or health plan's comments.

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KEY: health, health planning, health policy
[~~April 5,~~]1998 **26-33a**

Insurance, Administration
R590-186
Bail Bond Surety Business

NOTICE OF PROPOSED RULE
(New)
DAR FILE NO.: 21162
FILED: 05/15/98, 16:41
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule establishes uniform criteria and procedures for the initial and renewal licensing of a bail bond surety company and sets standards of conduct for those in the bail bond surety business in the State of Utah.

SUMMARY OF THE RULE OR CHANGE: The rule sets specific certification guidelines and standards of conduct for those in the bail bond business. It sets requirements for the initial licensure and then the renewal of bonding companies and agents. The rule sets bail bond obligation limits, specifies acts considered to be unprofessional conduct, reviews how the Bail Bond Surety Oversight Board will investigate this type of conduct and refers to the code section that will be used to penalize those found to be in violation of this rule.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 31A-35-104, 31A-35-301, 31A-35-401, 31A-35-406

ANTICIPATED COST OR SAVINGS TO:
❖THE STATE BUDGET: None.
❖LOCAL GOVERNMENTS: None.
❖OTHER PERSONS: None. This rule does not require any additional costs to those already required by the old law that was replaced by H.B. 376, "Bail Reform."
(**DAR Note:** H.B. 376 is found at 1998 Utah Laws 293, and was effective May 4, 1998.)
COMPLIANCE COSTS FOR AFFECTED PERSONS: $500 annual certificate of authority fee; $30 biennial agent licensing fee.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Additional cost for licensing of bail bond agents is required by the statute. Previous to this law (H.B. 376) bail bond agents were not licensed by the department.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
Insurance
Administration
3110 State Office Building
Salt Lake City, UT 84114, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Jilene Whitby at the above address, by phone at (801) 538-3803, by FAX at (801) 538-3829, or by Internet E-mail at idmain.jwhitby@state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 07/14/1998; OR ATTENDING A PUBLIC HEARING SCHEDULED FOR 07/08/1998, 11:00 a.m., 3112 State Office Building, Salt Lake City, UT 84114.

THIS RULE MAY BECOME EFFECTIVE ON: 07/16/1998

AUTHORIZED BY: Jilene Whitby, Information Specialist

R590. Insurance, Administration.
R590-186. Bail Bond Surety Business.
R590-186-1. Purpose.

This rule establishes uniform criteria and procedures for the initial and renewal licensing, of a bail bond surety company, and sets standards of conduct for those in the bail bond surety business in the State of Utah.

R590-186-2. Authority.

This rule is promulgated pursuant to:

(1) Section 31A-35-104 which requires the commissioner to adopt by rule specific certification guidelines and standards of conduct for the bail bond business;

(2) Subsection 31A-35-301(1) which authorizes the commissioner to adopt rules necessary to administer Chapter 35 of Title 31A;

(3) Subsection 31A-35-401(1)(c) which allows the commissioner to adopt rules governing the granting of certificates of authority for bail bond surety companies;

(4) Subsection 31A-35-401(2) which allows the commissioner to require by rule additional information from bail bond applicants applying for certificates of authority;

(5) Subsection 31A-35-406(1)(b) which allows the commissioner to establish by rule the annual renewal date for the renewal of a certificate of authority.

R590-186-3. Scope and Applicability.

This rule applies to any person engaged in the bail bond surety business.

R590-186-4. Initial Company License.

(1) Persons desiring to become licensed as bail bond surety companies shall file with the Bail Bond Surety Oversight Board (Board) the application packet for a Certificate of Authority as a bail bond surety company which can be obtained from the Insurance Department and requires the following information:

(a) the name, address, and telephone number of the bail bond surety company;

(b) the name, date of birth, social security number of the principals or officers in the company;

(c) a statement whether the applicant:

(i) is doing business under only one name in the State of Utah and has complied with state and local business regulations, including filing with the appropriate authority, if doing business under an assumed name;

(ii) has ever been refused a license or had a license revoked by any public authority;

(iii) has engaged in any unprofessional conduct as described in this rule;

(iv) shall affirm that the applicant has not willfully misstated or negligently reported any material fact in the application or procured a misstatement in the documents supporting the application;

(v) is the subject of any outstanding civil judgement, or has been convicted of any felony or of any misdemeanor that involves the misappropriation of money or property, dishonesty or perjury;

(vi) has failed to report, or to preserve, or to retain separately, any collateral taken as security on any bond to the principal, indemnitor, or depositor of such collateral;

(vii) has an outstanding judgement on a bail forfeiture, which judgement is or has been subject to execution; and

(viii) is the holder of real or personal property within the state.

(d) A statement of the number of years the applicant has done business as a bail bond agent or as a bail bond surety company in this or another state.

(2) The applicant shall pay the annual license fee of $500 and provide at least one of the following:

(a) If the applicant relies on a letter of credit as the basis for issuing a bail bond, the applicant shall provide an irrevocable letter of credit with a minimum face value of $250,000 assigned to the State of Utah from a qualified Utah financial institution.

(b) If the applicant relies on the ownership of real or personal property as the basis for issuing bail bonds, the applicant shall provide a financial statement reviewed by a certified public accountant as of the end of the most current fiscal year. The financial statement must show a net worth of at least $250,000, including a minimum of $50,000 in liquid assets. The applicant shall also provide a copy of the applicant's federal income tax returns for the prior two years and, for each parcel of real property owned by the applicant and included in the applicant's net worth calculation, a preliminary title report dated not more than one month prior to the date of the application and an appraisal dated not more than two years prior to the date of the application.

(c) If the applicant relies on their status as the agent of a bail bond surety insurer as the basis for issuing bail bonds, the applicant shall provide:

(i) a Qualifying Power of Attorney issued by the bail bond surety insurer; and

(ii) a copy of the bail bond surety insurer's Utah Certificate of Authority indicating that the insurance company is in good standing and is authorized to write bail bond policies in this state.

(3) Applications approved by the Board will be forwarded to the insurance commissioner for the issuance of a certificate of authority.

(4) Applications disapproved by the Board may be appealed to the insurance commissioner within 15 days of mailing the notice of disapproval.

R590-186-5. Company License Renewal.

A licensed bail bond surety company shall renew its Certificate of Authority on or before July 15 of each year by meeting the following requirements:

(1) file with the insurance commissioner a renewal application packet in a form approved by the commissioner and pay the required annual licensing fee. The renewal packet contains all of the information required in the initial application packet described in R590-186-4(1), plus the additional information described in this section;

(2) if the applicant relies on the ownership of real or personal property as the financial basis for issuing bail bonds, a statement that no material change have occurred negatively affecting the property's title, including any liens or encumbrances that have occurred since the last license renewal;

(3) property bail bond surety companies shall also provide:

(a) a financial statement reviewed by a certified public accountant as of the end of the most current fiscal year showing a net worth of at least $250,000, at least $50,000 of which must consist of liquid assets and a copy of the applicant's federal income tax return for the prior year; and

(b) every third renewal, a preliminary title report dated not more than one month prior to the date of the renewal application for each parcel of real property owned by the applicant; or

(c) every sixth renewal, a preliminary title report and a current appraisal dated not more than one month prior to the date of the renewal application for each parcel of real property owned by the applicant.

R590-186-6. Agent License and Renewal.

(1) Bail bond surety companies and insurers are required to issue bail bonds only through licensed bail bond agents that have been contracted with and appointed by the bail bond surety company or insurer for whom they are issuing bail bonds.

(2) All persons doing business as bail bond agents must be licensed in accordance with Chapter 23 of Title 31A and applicable department rules regarding individual agent licensing. Bail bond agent licenses are individual limited line licenses. These licenses are issued for a two year period and require no licensing examination or continuing education.

(3) Individual bail bond agent licenses must be renewed at the end of the two year licensing period in accordance with Chapter 23 of Title 31A and applicable department rules regarding individual agent licensing renewal.

R590-186-7. Unprofessional Conduct.

Persons in the bail bond surety business may not engage in unprofessional conduct. For purposes of this rule, unprofessional conduct means the violation of any applicable insurance law, rule, or valid order of the commissioner, or the commission of any of the following acts by bail bond sureties, by bail bond surety agents or by bail bond enforcement agents:

(1) having a license as a surety revoked in this or any other state;

(2) being involved in any transaction which shows unfitness to act in a fiduciary capacity or a failure to maintain the standards of fairness and honesty required of a trustee or other fiduciary;

(3) willfully misstating or negligently reporting any material fact in the initial or renewal Certificate of Authority application or procuring a misstatement in the documents supporting the initial or renewal application;

(4) being the subject of any outstanding civil judgment which would reduce the surety's net worth below the minimum required for licensure, or being convicted of any felony or of any misdemeanor that involves the misappropriation of money or property, dishonesty or perjury. If the bail bond surety company or one of its bail bond surety agents or bail bond enforcement agents has been convicted of such an offense or the subject of any such judgment, they may present evidence regarding the circumstances of the conviction or judgment. The Board may take this evidence into consideration in determining whether such conviction requires referral to the commissioner;

(5) failing to report any collateral taken as security on any bond to the principal, indemnitor, or depositor of such collateral;

(6) failing to preserve, or to retain separately, or both, any collateral taken as security on any bond;

(7) failing to return collateral taken as security on any bond to the depositor of such collateral, or the depositor's designee, within ten business days of having been notified of the exoneration of the bond and upon payment of all fees owed to the bail bond agent, whichever is later;

(8) having an outstanding judgment on a bail forfeiture, which judgment is or has been subject to execution;

(9) failing to advise the insurance commissioner of any change that has reduced the surety's net worth below the minimum required for licensure;

(10) using a relationship with any person employed by a jail facility to obtain referrals;

(11) offering consideration or gratuities to jail personnel or peace officers under any circumstances which would permit the

inference that said consideration was offered to induce bonding referrals or recommendations;

(12) failing to deliver to the incarcerated person, or the person arranging bail on behalf of the incarcerated person, prior to the time the incarcerated person is released from jail, a one page disclosure form which at a minimum includes:

(a) the amount of the bail;

(b) the amount of the surety's fee, including bail bond premium, preparation fees, and credit transaction fees;

(c) the additional collateral, if any, that will be held by the surety;

(d) the incarcerated person's obligations to the surety and the court;

(e) the conditions upon which the bond may be revoked;

(f) any additional charges or interest that may accrue

(g) any co-signors or indemnitors that will be required; and

(h) the conditions under which the bond may be exonerated and the collateral returned.

(13) using an unlicensed bail bond agent or unlicensed bail bond enforcement agent;

(14) using a bail bond agent not contracted and appointed by the bail bond surety company;

(15) charging excessive or unauthorized premiums, excessive fees or other unauthorized charges;

(16) requiring unreasonable collateral security;

(17) failing to provide an itemized statement of all expenses deducted from collateral, if any;

(18) requiring as a condition of his executing a bail bond that the principal agree to engage the services of a specified attorney;

(19) signing, executing, or issuing bonds with endorsements in blank, or preparing or issuing fraudulent or forged bonds or power of attorney;

(20) failing to account for and to pay any premiums held by the licensee in a fiduciary capacity to the bail bond surety company, bail bond surety insurer or other person who is entitled to receive them; and

(21) failing to comply with the provisions of the laws of this state, or rule, or order of the insurance commissioner for which issuance of the certificate of authority could have been refused had it then existed and been known to the Board.

R590-186-8. Investigating of Unprofessional Conduct.

The Board shall investigate allegations of unprofessional conduct on the part of any bail bond surety, bail bond surety agent, or bail bond surety enforcement agent. Complaints alleging unprofessional conduct shall be made in writing, signed by the complainant, and addressed to the Board at the Department of Insurance.

1. Investigations performed by the Board shall be completed in the following manner:

a. Upon receipt of a complaint of unprofessional conduct, the Board shall provide a copy of the complaint to the person against whom the complaint was made, and if warranted to the person's surety. The Board may make redactions to the copy of the complaint mailed under this subsection that may be necessary to protect the identity or interests of the person making the complaint if the complainant so requests.

b. The subject of the complaint shall provide to the Board a written response to the complaint within 15 days of the date the complaint was mailed to him.

c. At the next meeting of the Board after the expiration of 15 days after mailing the complaint or after receiving the response to the complaint, which ever is earlier, the Board shall review the complaint and the response to determine whether the allegations appear to have merit. If the Board determines that the complaint has no merit, it may close its file on the matter without further action. If the Board determines that the allegations appear to have merit, the Board shall conduct further investigation of the matter.

d. In investigating allegations that appear to have merit, the Board may take and record witness statements under oath and may request any documents or other evidence from any person, including necessary financial records. Witnesses may be compensated for their appearances as specified in 31A-2-301. The Board may request a Subpoena from the Commissioner to compel the production of documents or other evidence or to compel the testimony of a witness.

e. After the Board completes its investigation, it shall:

i. close the investigation without further action if the allegations have been shown to be unfounded or if the matter complained of is satisfactorily resolved and the Board believes that no further action is necessary; or

ii. if the investigation shows that unprofessional conduct did occur that requires the imposition of sanctions, it shall compile the evidence necessary to pursue the matter in an administrative proceeding by the Department of Insurance, and shall make a written report of its findings and of its recommendations for the penalties to be applied, and forward the report and evidence to the Commissioner for further action within 15 days of the conclusion of the investigation.

2. Except for matters referred to the Commissioner for further proceedings, the Board shall retain a file on each of the investigations it conducts concerning unprofessional conduct for a period of 5 years. Files regarding investigations conducted by the Board shall be classified as protected under Governmental Records Access and Management Act (GRAMA).

R590-186-9. Bonding Limits.

(1) An insurance bondsman may not maintain outstanding bail bond obligations in excess of the amount allowed by the insurance company.

(2) A letter of credit bondsman and/or a property bondsman may not maintain outstanding bail bond obligations in excess of the amounts provided in the table below:

TABLE

Months Licensed In Utah	Ratio of Outstanding Bond Obligations to Net Worth
0 to 36	5 to 1
Over 36	10 to 1

R590-186-10. Publication of Licensed Bail Bond Surety Companies.

On or before September 1 of each year, the Board shall publish a list of bail bond surety companies licensed to do business in the State of Utah.

R590-186-11. Penalties.

Violations of this rule are punishable pursuant to Section 31A-2-308.

R590-185-12. Severability.

If any provision or clause of this rule or its application to any person or situation is held invalid, such invalidity may not affect any other provision or application of this rule which can be given effect without the invalid provision or application, and to this and the provisions of this rule are declared to be severable.

KEY: insurance
1998 **31A-35-104**
31A-35-301
31A-35-401
31A-35-406

Regents (Board of), Administration
R765-605
Utah Centennial Opportunity Program for Education

NOTICE OF PROPOSED RULE
(New)
DAR FILE NO.: 21163
FILED: 05/15/98, 16:57
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: To provide policy and procedures for implementing the Utah Centennial Opportunity Program for Education enacted in H.B. 64 by the 1996 General Session of the Utah Legislature, and as amended in 1998 by S.B. 105.
(**DAR Note:** H.B. 64 is found at 1996 Utah Laws 302, and was effective July 1, 1996; S.B. 105 is found at 1998 Utah Laws 402, and will be effective July 1, 1998.)

SUMMARY OF THE RULE OR CHANGE: Establish procedures for institution participation and criteria for student eligibility for grants and work-study.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: 53B-8-102; 53B-13a

ANTICIPATED COST OR SAVINGS TO:
❖THE STATE BUDGET: None.
❖LOCAL GOVERNMENTS: None.
❖OTHER PERSONS: None.
COMPLIANCE COSTS FOR AFFECTED PERSONS: None.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: None.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
Regents (Board of)
Administration
Suite 550, 3 Triad Center
355 West North Temple
PO Box 45202
Salt Lake City, UT 84180-1205, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Chalmers Gail Norris at the above address, by phone at (801) 321-7205, by FAX at (801) 321-7299, or by Internet E-mail at gnorris@utahsbr.edu.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 07/01/98.

THIS RULE MAY BECOME EFFECTIVE ON: 07/02/98

AUTHORIZED BY: Chalmers Gail Norris
Associate Commissioner For Student Financial Aid

R765. Regents (Board of), Administration.
R765-605. Utah Centennial Opportunity Program for Education.
R765-605-1. Purpose.

To provide Board of Regents ("the Board") policy and procedures for implementing the Utah Centennial Opportunity Program for Education ("UCOPE," or "program"), UCA 53B-13a, enacted in H.B. 64 by the 1996 General Session of the Utah Legislature, as amended in 1997 and 1998.

R765-605-2. References.

2.1. Utah Code. Title 53B, Utah System of Higher Education, Chapter 8, Section 102.

2.2. Utah Code. Title 53B, Utah System of Higher Education, Chapter 13a.

2.3. State Board of Regents Policy R512, Determination of Resident Status.

R765-605-3. Effective Date.

These policies and procedures are effective July 2, 1998.

R765-605-4. Policy.

4.1. Program Description - UCOPE is a State supplement to increasingly inadequate grant and work assistance from Federal Government student financial aid programs. In UCA 53B-13a-103(1), the Legislature finds "that the general welfare and well-being of the state are directly related to the educational levels and skills of the citizens of the state, and that limited financial aid for students with demonstrated financial need to help finance costs of attendance at Utah postsecondary institutions is a necessary component for ensuring access to postsecondary education and training as the state enters its second century of statehood".

Program funds may be used for either grants or work-study awards to students with demonstrated financial need, with no more than 3.0% of funds allocated to an eligible institution permitted to be used for administrative costs. These are the only purposes for which program funds may be used.

4.2. Award Year - The award year for UCOPE is the twelve-month period designated by an eligible institution, coinciding approximately with the state fiscal year beginning July 1 and ending June 30. An institution may choose to have its Summer enrollment period as either the first or the final enrollment period of the award year for UCOPE purposes.

4.3. Institutions Eligible to Participate - Eligible institutions include the nine institutions of the Utah System of Higher Education, the five Utah Applied Technology Centers, and a Utah private nonprofit postsecondary institution which is accredited by a regional accrediting organization recognized by the Board. These are the only institutions eligible to participate. For purposes of this section, the Board recognizes the Northwest Association of Schools and Colleges. Utah private nonprofit postsecondary institutions accredited by the Northwest Association of Schools and Colleges are Brigham Young University, Westminster College and LDS Business College.

4.4. Students Eligible to Participate - To be eligible for grant or work-study assistance from UCOPE funds, a student must:

4.4.1. Be a resident student of the State of Utah under UCA 53B-8-102 and Board Policy R512. For purposes of this section, in addition to the qualification methods set forth in Policy R512, an institution may recognize a student as a resident student of the State of Utah if the student graduated from a Utah high school within 12 months of enrolling in the institution.

4.4.2. Be unconditionally admitted and currently enrolled in an eligible institution on at least a half-time basis as defined in Federal regulations applicable to Title IV of the Higher Education Act, in a post-high school program of at least nine months duration, leading to an Associate or Bachelor's degree, or to a diploma or certificate in an applied technology or other occupational specialty. This does not include unmatriculated students or students enrolled in postbaccalaureate programs or in remedial or developmental programs to prepare for admittance to a degree, diploma, or occupational certificate program.

4.4.3. Be maintaining satisfactory progress, as defined by the institution, toward the degree, diploma, or certificate objective in which enrolled.

4.4.4. Meet all requirements of general eligibility for Federal Higher Education Act Part IV Student Financial Aid Programs, as defined in applicable U. S. Department of Education Regulations and the current edition of the Department of Education Student Aid Handbook.

4.4.5. Have a demonstrated need for financial assistance based on the defined Cost of Attendance for the applicable student category at the institution and the expected family contribution as determined by the Federal need analysis process for Higher Education Act Title IV student financial assistance programs.

4.5. Program Administrator - The program administrator for UCOPE is the Associate Commissioner for Student Financial Aid, or a person designated in a formal delegation of authority by the Associate Commissioner, under executive direction of the Commissioner of Higher Education.

4.6. Determination of Funds Available for The Program - Funds available for UCOPE allotments to institutions may come from specifically earmarked state appropriations, from the statewide student financial aid line item appropriation to the Board, or from other sources such as private contributions. Amounts available for allotment each year are determined as follows:

4.6.1. Consistent with the original purposes of the Statewide Student Financial Aid line item appropriation to the Board, funds appropriated in the line item are applied in the following priority order:

4.6.1.1. First priority is given to matching funds for Utah System of Higher Education institutional awards from the Federal Government for campus-based Federal Perkins Loan Program capital contributions, Federal Supplemental Educational Opportunities Grant Program funds, and partial matching for the Federal College Work Study Program.

4.6.1.2. Second priority is given to providing the required state match for allocations of State Student Incentive Grant Program funds to the State of Utah.

4.6.1.3. All remaining funds are used for UCOPE.

4.6.2. All funds appropriated by specific legislation, or in a specific line item for UCOPE, and any funds from other sources contributed for UCOPE, are added together with funds available for UCOPE pursuant to subsection 605.9.1, to determine the total amount available for the program.

4.7. Allotment of Program Funds To Institutions.

4.7.1. The chief executive officer or chief student services officer of an eligible institution wishing to participate in UCOPE is required to submit to the program administrator a letter of intent to participate by the 15th of May preceding the beginning of the fiscal year (July 1 through June 30), and to include in the letter of intent a certification, subject to audit, of: (a) the total dollar amount of Federal Pell Grant funds awarded in the most recent completed award year to all students at the institution; and (b) the total dollar amount of Pell Grant funds awarded specifically to students at the institution who were resident students of the state of Utah under UCA 53B-8-102 and Board Policy R512.

4.7.2. Failure to submit its letter of intent with the required Pell Grant information by the specified date constitutes an automatic decision by an eligible institution not to participate in the program for the specific fiscal year.

4.7.3. An eligible institution which submits a qualifying letter of intent by the specified date for a specific fiscal year is a participating institution for that fiscal year.

4.7.4. Allotment of program funds to participating institutions is in the same proportion as the amount of Federal Pell Grant funds received by each participating institution for resident undergraduate students bears to the total of such funds received for such students in the most recently completed award year by all participating institutions.

4.7.5. The program administrator sends official notification of its allotment, together with a program participation agreement, and blank copies of the format for institutional UCOPE reports to be submitted within 30 days of the end of the applicable fiscal year, to the chief executive officer of each participating institution, by the 20th of May preceding the fiscal year.

4.8. Annual Institutional Participation Agreements - To receive UCOPE funds for an award year, a participating institution is required to submit a participation agreement, signed by the chief

executive officer, accepting the funds and agreeing to the following terms and conditions:

4.8.1. Use of Program Funds Received by the Institution

4.8.1.1. The institution may at its discretion place up to, but in no case more than, 3.0% of the total amount of program funds allotted to it for the award year in a budget for student financial aid administrative expenses of the institution, and will expend all funds so budgeted before the end of the state fiscal year for which allotted.

4.8.1.2(a). For the 1996-97 award year, if the institution's allotment for the fiscal year is $100,000 or more, the institution will place at least 30% of the total amount of program funds allotted to it for the award year in a budget to be used only for payment of work-study stipends to eligible students, for employment during the award year either in jobs provided under Federal Work-Study Program (FWSP) regulations or in jobs provided in accordance with UCOPE Work-Study Program (UWSP) policies (Section 4.9 herein). For award years after 1996-97, if the institution's allotment for the fiscal year is $50,000 or more, the institution will place at least 50% of the total amount of program funds allotted to it in a budget to be used only for payment of work-study stipends to eligible students, for employment during the award year either in jobs provided under FWSP regulations or in jobs provided in accordance with Section 605.12.

4.8.1.2(b). For any award year, the institution may, at its option use all of its allotted UCOPE funds for FWSP or UCOPE work study awards.

4.8.2.1(c). Work-study payments from the institution's UCOPE work-study budget, for jobs under either FWSP regulations or UWSP policies, will be counted as UCOPE awards for purposes of subsection 4.8.2.3.

4.8.1.3. All work- study jobs provided using UCOPE funds from the budget pursuant to this subsection, including those established under FWSP regulations, will be identified to the recipient as UCOPE work-study awards. No portion of the institution's UCOPE allotment may be used as institutional match for Federal Work-Study Program allocations.

4.8.1.4. The institution will place the total remainder of program funds allotted to it for the award year, after amounts budgeted pursuant to subsections 11.1.1 and 11.1.2, in a budget to be used only for payment of UCOPE grants to eligible students during and for periods of enrollment within the award year. Grants awarded from this budget will be identified to the recipient as Utah Centennial Opportunity Program Grants.

4.8.2. Determination of Awards to Eligible Students

4.8.2.1. Student Cost of Attendance budgets will be established by the institution, in accordance with Federal regulations applicable to student financial aid programs under Title IV of the Higher Education Act as amended, for specific student categories authorized in the Federal regulations, and providing for the total of costs payable to the institution plus other direct educational expenses, transportation and living expenses.

4.8.2.2. UCOPE work-study or grant amounts will be awarded based on financial aid information and cost of attendance budgets at the time the awards are determined, with first priority given to eligible students who qualify for Federal Pell Grant assistance.

4.8.2.3. The total amount of UCOPE grant and/or work-study awards to an eligible student in an award year will not exceed $5,000, of which no more than $2,500 may be a grant, and the minimum UCOPE grant and/or work-study award to an eligible student will be $300, except that:

4.8.2.3(a). the minimum amount may be the amount of funds remaining in the institution's allotment for the award year in the case of the last eligible student receiving a UCOPE award for the year; and

4.8.2.3(b). An eligible student whose period of enrollment is less than the normally-expected period of enrollment within the award year (such as two semesters, three quarters, nine months, or 900 clock hours) will be awarded a minimum or maximum amount in proportion to the portion of the normally-expected period of enrollment represented by the quarter(s), semester(s) or other defined term for which the student is enrolled.

4.8.2.4. UCOPE Grants and work-study stipends will be awarded and packaged on an annual award year basis. Grants will be paid one quarter or semester at a time (or in thirds, if applicable to some other enrollment basis such as total months or total clock hours), contingent upon the student's maintaining satisfactory progress as defined by the institution in published policies or rules. Work-study wages will be paid regularly as earned, provided the student is continuing to make satisfactory progress.

4.8.2.5. All awards under the program will be made without regard to an applicant's race, creed, color, religion, ancestry, or age.

4.8.2.6. Students receiving financial aid under the program will be required to agree in writing to use the funds received for expenses covered in the student's cost of attendance budget.

4.8.2.6(a). The student's signature on the Free Application for Federal Student Aid satisfies this requirement.

4.8.2.6(b). If the institution determines, after opportunity for a hearing on appeal according to established institutional procedures, that a student used UCOPE grant or work-study funds for other purposes, the institution will disqualify the student from UCOPE eligibility beginning with the quarter, semester, or other defined enrollment period after the one in which the determination is made.

4.8.2.7. In no case will the institution initially award program grants or work-study stipends or both in amounts which, with Federal Stafford, Ford, and/or Perkins Loans and other financial aid from any source, both need and merit-based, and with expected family contributions, exceed the cost of attendance for the student at the institution for the award year.

4.8.2.8. If, after the student's aid has been packaged and awarded, the student later receives other financial assistance (for example, merit or program-based scholarship aid) or the student's cost of attendance budget changes, resulting in a later overaward of more than $400, the institution will appropriately reduce the amount of financial aid disbursed to the student so that the total does not exceed the cost of attendance.

4.8.3. Unit-Record Information - The institution agrees to cooperate with the program administrator and the Commissioner of Higher Education in development of a unit-record data base on student financial aid and related demographic information, to be used for: (a) research into the effects of student financial aid on students' access to and participation in postsecondary education and training; and (b) planning and modifying the design of the program.

4.8.4. Notification and Reports - The institution will inform the program administrator immediately if it determines it will not be able to utilize all program funds allotted to it for an award year, and will submit an annual report within 30 days after completion of the

award year, providing information on individual awards and such other program-relevant information as the board may reasonably require.

4.8.5. Records Retention and Cooperation in Program Reviews - The institution will cooperate with the program administrator in providing records and information requested for any scheduled audits or program reviews, and will maintain records substantiating its compliance with all terms of the participation agreement for three years after the end of the award year, or until a program review has been completed and any exceptions raised in the review have been resolved, whichever occurs first. If at the end of the three year retention period, an audit or program review exception is pending resolution, the institution will retain records for the award year involved until the exception has been resolved.

4.8.6. Dissemination of Employment Opportunity Information - The institution will cooperate with the program administrator in disseminating to its students periodic information provided by the board, regarding employment opportunities determined from marketplace surveys.

4.9. UCOPE Work-Study Program Guidelines - If an institution elects to utilize its UCOPE Work-Study funds for the Utah Work-Study Program (UWSP) instead of in accordance with Federal Work-Study (FWSP) regulations, the following guidelines apply.

4.9.1. The institution may establish designated UWSP institutional jobs on campus or in other institutional operating sites, and administer such jobs in accordance with the following conditions.

4.9.1.1. The job must be supplemental to, and not displace, any regularly-established job held by a greater-than-half-time institutional employee in the three months immediately prior to establishment of the UWSP institutional job.

4.9.1.2. The hourly wage for the UWSP institutional job must be no less than the current Federal minimum wage, and no more than a benchmark position hourly wage, unless the benchmark position hourly wage is less than the current Federal minimum wage. The benchmark position hourly wage is the starting hourly wage for the most nearly-equivalent entry-level position in the institution's personnel system.

4.9.1.3. The institution may pay up to one hundred percent of the hourly wage for the institutional job from its UCOPE work-study budget established pursuant to subsection 4.9.1, provided the total wages paid to a student for the job from UCOPE and any other institutional funds do not exceed the amount of the award to the student for the award year.

4.9.2. The institution may establish designated UWSP school assistant jobs for volunteer tutors, mentors, or teacher assistants, to work with educationally disadvantaged and high risk school pupils, by contract with individual schools or school districts, and administer such jobs in accordance with the following conditions.

4.9.2.1. The hourly wage for the UWSP school assistant job must be no less than the current Federal minimum wage, and no more than a benchmark position hourly wage, unless the benchmark position hourly wage is less than the current Federal minimum wage. The benchmark position hourly wage is the starting hourly wage for the most nearly-equivalent entry-level position in the school or school district's personnel system.

4.9.2.2. The institution may pay up to one hundred percent of the hourly wage for the job from its UCOPE work-study budget established pursuant to subsection 4.9.2 , provided the total wages paid to a student for the job from any source do not exceed the amount of the award to the student for the award year.

4.9.3. The institution may establish designated UWSP community service jobs with volunteer community service organizations certified by the program administrator on advice of the Utah Commission on Volunteers, and administer such jobs in accordance with the following conditions.

4.9.3.1. The hourly wage for the UWSP community service job must be no less than the current Federal minimum wage, and no more than a benchmark position hourly wage, unless the benchmark position hourly wage is less than the current Federal minimum wage. The benchmark position hourly wage is the starting hourly wage for the most nearly-equivalent entry-level position in the community service organization's personnel system or, if the organization does not have an equivalent paid position, the institution's personnel system.

4.9.3.2. The institution may pay up to one hundred percent of the hourly wage for the job from its UCOPE work-study budget established pursuant to subsection 4.9.3, provided the total wages paid to a student for the position from any source do not exceed the amount of the award to the student for the award year.

4.9.4. The institution may establish designated UWSP matching jobs by contract with government agencies, private businesses, or non-profit corporations, and administer such jobs in accordance with the following conditions.

4.9.4.1. The matching job may not involve any religious or partisan political activities, or be with an organization whose primary purpose is religious or political.

4.9.4.2. The matching job must be supplemental to, and not displace, any regularly-established job held by a greater-than-half-time employee in the government agency, private business, or non-profit corporation in the three months immediately prior to establishment of the UWSP matching job.

4.9.4.3. The hourly wage for the UWSP matching job must be no less than the current Federal minimum wage, and no more than a benchmark position hourly wage, unless the benchmark position hourly wage is less than the current Federal minimum wage. The benchmark position hourly wage is the starting hourly wage for the most nearly-equivalent entry-level position in the organization's personnel system.

4.9.4.4. The institution may pay up to fifty percent of the hourly wage for the job from its UCOPE work-study budget established pursuant to subsection 4.9.4, provided the total wages (including the employer-paid portion) paid to the student do not exceed the amount of the award to the student for the award year.

4.9.5. Institutions are strongly encouraged to place students, when possible, in UWSP jobs which have a relationship to the student's field of study or training.

4.9.6. If an institution employs students in work-study jobs or other institutional jobs cumulatively over time to a point at which the institution is required to pay employee benefits other than the direct job wages for a UCOPE-funded work-study job, the institution is required to pay the costs of any such required employee benefits from institutional funds other than UCOPE-allotted funds.

KEY: financial aid, higher education
1998 **53B-8-102**
53B-13a

Tax Commission, Property Tax
R884-24P-19
Appraiser Designation Program Pursuant to Utah Code Ann. Sections 59-2-701 and 59-2-702

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 21097
FILED: 05/12/98, 10:24
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Sections 59-2-701 and 59-2-702 require the Tax Commission to conduct a training program for appraiser and assessors' registration and certification and give the Commission rulemaking authority to prescribe requirements for persons performing appraisals.

SUMMARY OF THE RULE OR CHANGE: The proposed amendment clarifies that an assessor, county employee, or state employee must hold the appropriate Tax Commission appraisal designations to gain authority to value property for ad valorem taxation purposes. It also explains the circumstances and requirements of contracting appraisal work out to private sector employees.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 59-2-701 and 59-2-702

ANTICIPATED COST OR SAVINGS TO:
❖THE STATE BUDGET: No Impact.
❖LOCAL GOVERNMENTS: There were three counties in the state where the county assessor had not attained the appropriate appraisal designations from the Tax Commission. Those counties are Beaver County, Juab County, and Wayne County. Seeing this rule in process and under discussion, Beaver County decided to hire a qualified appraiser at a cost of approximately $24,000 per year. While not a direct cost of these amendments, this year so this problems should go away. Statutory provisions give a newly elected assessor 18 months to become qualified. For the rest of 1998 this rule will create additional cost for Juab County. Juab County currently contracts out most appraisal work at a cost of approximately $12,000 per year. Additional contracting will be required under this rule at a cost of approximately $4,000. Wayne County currently contracts all appraisal work out to private appraisers and this rule will create no cost or savings for Wayne County.
❖OTHER PERSONS: No Impact.

COMPLIANCE COSTS FOR AFFECTED PERSONS: None.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There were three counties in the state where the county assessor had not attained the appropriate appraisal designations from the Tax Commission. Those counties are Beaver County, Juab County, and Wayne County. Seeing this rule in process and under discussion, Beaver County decided to hire a qualified appraiser at a cost of approximately $24,000 per year. While not a direct cost of these amendments, this year so this problems should go away. Statutory provisions give a newly elected assessor 18 months to become qualified. For the rest of 1998 this rule will create additional cost for Juab County. Juab County currently contracts out most appraisal work at a cost of approximately $12,000 per year. Additional contracting will be required under this rule at a cost of approximately $4,000. Wayne County currently contracts all appraisal work out to private appraisers and this rule will create no cost or savings for Wayne County.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
Tax Commission
Property Tax
Tax Commission Building
210 North 1950 West
Salt Lake City, UT 84134, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Pam Hendrickson at the above address, by phone at (801) 297-3902, by FAX at (801) 297-3919, or by Internet E-mail at phendric@email.state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 07/01/98.

THIS RULE MAY BECOME EFFECTIVE ON: 07/02/98

AUTHORIZED BY: Pam Hendrickson, Commissioner

R884. Tax Commission, Property Tax.
R884-24P. Property Tax.
R884-24P-19. Appraiser Designation Program Pursuant to Utah Code Ann. Sections 59-2-701 and 59-2-702.

A. "State Registered Appraiser," State Certified General Appraiser, and "State Certified Residential Appraiser" are as defined in Section 61-2b-2.

B. The ad valorem training and designation program consists of several courses and practicums.

1. Certain courses must be sanctioned by either the International Association of Assessing Officers (IAAO) or the Western States Association of Tax Administrators (WSATA).

2. Most courses are one week in duration, with an examination held on the final day. The courses comprising the basic designation program are:

a) Course A - Assessment Practice in Utah;

b) Course B - Fundamentals of Real Property Appraisal (IAAO);

c) Course C - Mass Appraisal of Land;

d) Course D - Building Analysis and Valuation;

e) Course E - Income Approach to Valuation (IAAO);

f) Course G - Development and Use of Personal Property Schedules; and

g) Course H - Appraisal of Public Utilities and Railroads (WSATA).

C. There are four recognized ad valorem designations: Ad Valorem Residential Appraiser, Ad Valorem General Real Property Appraiser, Ad Valorem Personal Property Auditor/Appraiser, and Ad Valorem Centrally Assessed Valuation Analyst. The designations are granted only to individuals working as appraisers, review appraisers, valuation auditors, or analysts/administrators providing oversight and direction to appraisers and auditors. An assessor, county employee, or state employee must hold the appropriate designation listed below to gain the authority to value property for ad valorem taxation purposes.

1. Ad Valorem Residential Appraiser:

a) Requires the successful completion of Courses A, B, C, D, and a comprehensive residential field practicum, and attainment of state registered or certified appraiser status.

b) Upon designation, the appraiser may value residential, vacant, and agricultural property for ad valorem taxation purposes.

2. Ad Valorem General Real Property Appraiser:

a) Requires the successful completion of Courses A, B, C, D, and E and a comprehensive field practicum including both residential and commercial properties, and attainment of state registered or certified appraiser status.

b) Upon designation, the appraiser may value all types of locally assessed real property for ad valorem taxation purposes.

3. Ad Valorem Personal Property Auditor/Appraiser:

a) Requires the successful completion of Courses A, B, and G, and a comprehensive auditing practicum.

b) Upon designation, the auditor/appraiser may value locally assessed personal property for ad valorem taxation purposes.

4. Ad Valorem Centrally Assessed Valuation Analyst:

a) Requires the successful completion of Courses A, B, E, and H, and a comprehensive valuation practicum, and attainment of state registered or certified appraiser status.

b) Upon designation, the analyst may value centrally assessed property for ad valorem taxation purposes.

D. Candidates must pass the final examination for each course with a grade of 70 points or more to be successful.

E. If a candidate fails to receive a passing grade on a final examination, one re-examination is allowed. If the re-examination is not successful, the individual must retake the failed course. The cost to retake the failed course will not be borne by the Tax Commission.

F. A practicum involves the appraisal or audit of selected properties. The candidate's supervisor must formally request that the Property Tax Division administer a practicum.

1. Emphasis is placed on those types of properties the candidate will most likely encounter on the job.

2. A trainer, assigned by the Tax Commission, will oversee and administer the practicum.

G. An individual holding a specified designation can qualify for other designations by meeting the additional requirements outlined above.

H. Maintaining designated status requires completion of [~~20 hours of Tax Commission approved classroom work every two years. Beginning January 1, 1998, maintaining designated status will require completion of~~]28 hours of Tax Commission approved classroom work every two years.

I. Upon termination of employment from any Utah assessment jurisdiction, or if the individual is no longer working primarily as an appraiser, review appraiser, valuation auditor, or analyst/administrator in appraisal matters, designation is automatically revoked.

1. Ad valorem designation status may be reinstated if the individual secures employment in any Utah assessment jurisdiction within four years from the prior termination.

2. If more than four years elapse between termination and rehire, and

a) the individual has been employed in a closely allied field, then the individual may challenge the course examinations. Upon successfully challenging all required course examinations, prior designation status will be reinstated; or

b) if the individual has not been employed in real estate valuation or a closely allied field, the individual must retake all required courses and pass the final examinations with a score of 70 or more.

J. All appraisal work performed by Tax Commission designated appraisers shall meet the current requirements of the Uniform Standards of Professional Appraisal Practice (USPAP) as promulgated by the Appraisal Foundation.

K. If appropriate Tax Commission designations are not held by assessor's office personnel, the appraisal work must be contracted out to qualified private appraisers. An assessor's office may elect to contract out appraisal work to qualified private appraisers even if personnel with the appropriate designation are available in the office. If appraisal work is contracted out, the following requirements must be met.

1. The private sector appraisers contracting the work must hold the State Certified Residential Appraiser or State Certified General Appraiser license issued by the Division of Real Estate of the Utah Department of Commerce. Only appraisers with the State Certified General Appraiser license may appraise nonresidential properties.

2. All appraisal work shall meet the current requirements of USPAP.

L. The completion and delivery of the assessment roll required under Section 59-2-311 is an administrative function of the elected assessor.

1. There are no specific registration or educational requirements related to this function.

2. An elected assessor may complete and deliver the assessment roll as long as the valuations and appraisals included in the assessment roll were completed by persons having the required designations.

KEY: taxation, property tax

[~~August 21, 1997~~]1998	**59-2-701**
Notice of Continuation May 8, 1997	**59-2-702**

FIVE-YEAR REVIEW NOTICES OF CONTINUATION

Within five years of an administrative rule's original enactment or last five-year review, the responsible agency is required to review the rule. This review is designed to remove obsolete rules from the *Utah Administrative Code*.

Upon reviewing a rule, an agency may: repeal the rule by filing a PROPOSED RULE; continue the rule as it is by filing a NOTICE OF CONTINUATION; or amend the rule by filing a PROPOSED RULE and by filing a NOTICE OF CONTINUATION. By filing a NOTICE OF CONTINUATION, the agency indicates that the rule is still necessary.

NOTICES OF CONTINUATION are not followed by the rule text. The rule text that is being continued may be found in the most recent edition of the *Utah Administrative Code*. The rule text may also be inspected at the agency or the Division of Administrative Rules.

NOTICES OF CONTINUATION are effective when filed.

Five-Year Review NOTICES OF CONTINUATION are governed by UTAH CODE Section 63-46a-9 (1996).

Administrative Services, Facilities Construction and Management

R23-13

State of Utah Parking Rules for Facilities Managed by the Division of Facilities Construction and Management

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 21150
FILED: 05/15/98, 10:11
RECEIVED BY: NL

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: This rule is authorized under Section 63A-5-204, which authorizes the director of the Division of Facilities Construction and Management to adopt rules governing traffic flow and vehicle parking on state grounds surrounding facilities managed by the Division of Facilities Construction and Management (DFCM), and under Section 53-1-109, authorizing DFCM to enforce traffic rules.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE-YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: Review by Division recommends continuation of this rule. No other comments were received.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Managing parking is an integral part of the management of buildings under The Division of Facilities Construction and Management (DFCM). This rule clarifies DFCM's authority in this regard, and allows DFCM to successfully manage this responsibility. DFCM has not received any comments in opposition to this rule.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:

Administrative Services
Facilities Construction and Management
4130 State Office Building
Salt Lake City, UT 84114, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

April Conti or Priscilla Anderson at the above address, by phone at (801) 538-3261 or (801) 538-3263, by FAX at (801) 538-3267 or (801) 538-3378, or Internet E-mail at fcmain.aconti@email.state.ut.us or fcmain.panderso@email.state.ut.us.

AUTHORIZED BY: Richard E. Byfield, Director

EFFECTIVE: 05/15/98

Community and Economic Development, Community Development, Library

R223-1

Adjudicative Procedures

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 21090
FILED: 05/01/98, 18:00
RECEIVED BY: NL

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 9-7-213 permits, but does not require, the Division to make rules for three specific functions. The Division has determined that Rule R223-1 is sufficient to all effective administration and implementation of these functions. Section 63-46b-5 requires state agencies to enact rules if the agency intends to designate categories of adjudicative proceedings as informal.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE-YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: None.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: In order for the Division to conduct its adjudicative proceedings informally, Section 63-46a-5 requires this rule. No comments in opposition to this rule have been received.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:

Community and Economic Development
Community Development, Library
2150 South 300 West
Salt Lake City, UT 84115, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Amy Owen at the above address, by phone at (801) 468-6770, by FAX at (801) 468-6767, or Internet E-mail at aowen@inter.state.lib.ut.us.

AUTHORIZED BY: Earl S. Maeser, Legal Counsel

EFFECTIVE: 05/01/98

End of the Five-Year Review Section

NOTICES OF RULE EFFECTIVE DATES

These are the effective dates of PROPOSED RULES or CHANGES IN PROPOSED RULES published in earlier editions of the *Utah State Bulletin*. These effective dates are at least 31 days and not more than 120 days after the date the following rules were published.

Abbreviations
AMD = Amendment
CPR = Change in Proposed Rule
NEW = New Rule
R&R = Repeal and Reenact
REP = Repeal

Agriculture and Food
Plant Industry
No. 20962 (AMD): R68-15. Quarantine Pertaining to Japanese Beetle, (Popillia Japonica)
Published: April 15, 1998
Effective: May 16, 1998

Regulatory Services
No. 20721 (R&R): R70-530. Food Establishment Sanitation Rule.
Published: February 15, 1998
Effective: May 16, 1998

Commerce
Occupational and Professional Licensing
No. 20941 (AMD): R156-37-605. Emergency Verbal Prescription of Schedule II Controlled Substances.
Published: April 15, 1998
Effective: May 19, 1998

No. 20930 (AMD): R156-63. Security Personnel Licensing Act Rules.
Published: April 15, 1998
Effective: May 19, 1998

Health
Health Systems Improvement, Health Facility Licensure
No. 20830 (AMD): R432-3-9. Medicare/Medicaid Certification.
Published: April 1, 1998
Effective: May 7, 1998

Human Services
Mental Health, State Hospital
No. 20919 (NEW): R525-1. Medical Records.
Published: April 1, 1998
Effective: May 25, 1998

No. 20920 (NEW): R525-2. Patient Rights.
Published: April 1, 1998
Effective: May 25, 1998

No. 20921 (NEW): R525-3. Medication Treatment of Patients.
Published: April 1, 1998
Effective: May 25, 1998

No. 20888 (NEW): R525-4. Visitors.
Published: April 1, 1998
Effective: May 25, 1998

No. 20890 (NEW): R525-5. Background Checks.
Published: April 1, 1998
Effective: May 25, 1998

No. 20892 (NEW): R525-7. Complaints/Suggestions/Concerns.
Published: April 1, 1998
Effective: May 25, 1998

Natural Resources
Water Rights
No. 20955 (NEW): R655-5. Maps Submitted to the Division of Water Rights.
Published: April 15, 1998
Effective: May 18, 1998

Wildlife Resources
No. 20939 (AMD): R657-33. Taking Bear.
Published: April 15, 1998
Effective: May 18, 1998

Workforce Services
Administration
No. 20927 (AMD): R982-301. Councils.
Published: April 15, 1998
Effective: May 18, 1998

Employment Development
No. 20849 (AMD): R986-215. Financial Assistance Verification and Safeguarding Requirements.
Published: April 1, 1998
Effective: May 18, 1998

No. 20960 (AMD): R986-309-901. UMAP General Eligibility Requirements.
Published: April 15, 1998
Effective: May 18, 1998

RULES INDEX
BY AGENCY (CODE NUMBER)
AND
BY KEYWORD (SUBJECT)

The *Rules Index* is a cumulative index that reflects all changes to Utah's administrative rules from January 2, 1998, to the present (current as of May 25, 1998). The *Rules Index* is published in the *Utah State Bulletin* and in the annual *Index of Changes*. Nonsubstantive changes, while not published in the *Bulletin*, do become part of the *Utah Administrative Code (Code)* and are included in this *Index*, as well as 120-Day (Emergency) rules that do not become part of the *Code*. The rules are indexed by Agency (Code Number) and Keyword (Subject).

DAR NOTE: Because of space constraints, neither Index is included in this *Bulletin*.

NOTE: A copy of the indexes is available for public inspection at the Division of Administrative Rules. The indexes may also be obtained by calling UtahBBS, the State of Utah's Bulletin Board System, at (801) 538-3383. A computer, a modem, and a communications software package are required to access UtahBBS. Set communications software to 8 data bits, no parity, and 1 stop bit. The indexes are located under the "Administrative Rules Conference" (conference 9), in the "Indexes--Current" option (7).

UtahBBS may also be accessed over the Internet with a telnet client (the client must support download capabilities if downloading information is desired), or with a World Wide Web client (such as Mosaic or Netscape). The telnet address is bbs.state.ut.us; the web address is http://web.state.ut.us/its/bbs.htm.