STATE OF UTAH

GARY R. HERBERT
GOVERNOR

OFFICE OF THE GOVERNOR
SALT LAKE CITY, UTAH
84114-2220

SPENCER J. COX
LIEUTENANT GOVERNOR

March 10, 2020

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

Re: BACM Requirements Associated with $PM_{2.5}$ Serious Classification

Dear Mr. Sopkin,

On October 4, 2017, as part of establishing Best Available Control Measures (BACM) for the State of Utah's $PM_{2.5}$ State Implementation Plan, the Utah Air Quality Board adopted R307-304, *Solvent Cleaning*. R307-304 was established to limit volatile organic compound emissions from solvent cleaning operations.

The above-mentioned Utah Air Quality Rule is enclosed for your approval as part of the $PM_{2.5}$ State Implementation Plan. Supporting documentation is being submitted by the Utah Division of Air Quality. If you have questions about this request, please call Bryce Bird, Director of the Utah Division of Air Quality, at (801) 536-4064.

Sincerely,

Gary R. Herbert
Governor

Enclosures

UTAH

Administrative Documentation

R307-304. Solvent Cleaning.

State of Utah
Department of Environmental Quality
Division of Air Quality
195 N. 1950 West
P.O. Box 144820
Salt Lake City, Utah 84114-4820
801-536-4000

May 21, 2020

UTAH

ADMINISTRATIVE DOCUMENTATION March 2020

R307-304. Solvent Cleaning.

ADMINISTRATIVE DOCUMENTATION
Table of Contents

Codes

Chapter 2
Air Conservation Act

Part 1
General Provisions

19-2-101 Short title -- Policy of state and purpose of chapter -- Support of local and regional programs -- Provision of coordinated statewide program.

(1) This chapter is known as the "Air Conservation Act."

(2) It is the policy of this state and the purpose of this chapter to achieve and maintain levels of air quality which will protect human health and safety, and to the greatest degree practicable, prevent injury to plant and animal life and property, foster the comfort and convenience of the people, promote the economic and social development of this state, and facilitate the enjoyment of the natural attractions of this state.

(3) Local and regional air pollution control programs shall be supported to the extent practicable as essential instruments to secure and maintain appropriate levels of air quality.

(4) The purpose of this chapter is to:

(a) provide for a coordinated statewide program of air pollution prevention, abatement, and control;

(b) provide for an appropriate distribution of responsibilities among the state and local units of government;

(c) facilitate cooperation across jurisdictional lines in dealing with problems of air pollution not confined within single jurisdictions; and

(d) provide a framework within which air quality may be protected and consideration given to the public interest at all levels of planning and development within the state.

Renumbered and Amended by Chapter 112, 1991 General Session

19-2-102 Definitions.

As used in this chapter:

(1) "Air pollutant" means a substance that qualifies as an air pollutant as defined in 42 U.S.C. Sec. 7602.

(2) "Air pollutant source" means private and public sources of emissions of air pollutants.

(3) "Air pollution" means the presence of an air pollutant in the ambient air in the quantities, for a duration, and under the conditions and circumstances that are injurious to human health or welfare, animal or plant life, or property, or would unreasonably interfere with the enjoyment of life or use of property, as determined by the rules adopted by the board.

(4) "Ambient air" means that portion of the atmosphere, external to buildings, to which the general public has access.

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

(6) "Asbestos-containing material" means a material containing more than 1% asbestos, as determined using the method adopted in 40 C.F.R. Part 61, Subpart M, National Emission Standard for Asbestos.

(7) "Asbestos inspection" means an activity undertaken to determine the presence or location, or to assess the condition of, asbestos-containing material or suspected asbestos-containing

material, whether by visual or physical examination, or by taking samples of the material.
(8) “Board” means the Air Quality Board.
(9) “Clean school bus” means the same as that term is defined in 42 U.S.C. Sec. 16091.
(10) “Director” means the director of the Division of Air Quality.
(11) “Division” means the Division of Air Quality created in Section 19-1-105.
(12) “Friable asbestos-containing material” means a material containing more than 1% asbestos, as determined using the method adopted in 40 C.F.R. Part 61, Subpart M, National Emission Standard for Asbestos, that hand pressure can crumble, pulverize, or reduce to powder when dry.
(13) “Indirect source” means a facility, building, structure, or installation which attracts or may attract mobile source activity that results in emissions of a pollutant for which there is a national standard.

Amended by Chapter 154, 2015 General Session

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

(1) The board consists of the following nine members:
(a) the following non-voting member, except that the member may vote to break a tie vote between the voting members:
(i) the executive director; or
(ii) an employee of the department designated by the executive director; and
(b) the following eight voting members, who shall be appointed by the governor with the consent of the Senate:
(i) one representative who:
(A) is not connected with industry;
(B) is an expert in air quality matters; and
(C) is a Utah-licensed physician, a Utah-licensed professional engineer, or a scientist with relevant training and experience;
(ii) two government representatives who do not represent the federal government;
(iii) one representative from the mining industry;
(iv) one representative from the fuels industry;
(v) one representative from the manufacturing industry;
(vi) one representative from the public who represents:
(A) an environmental nongovernmental organization; or
(B) a nongovernmental organization that represents community interests and does not represent industry interests; and
(vii) one representative from the public who is trained and experienced in public health.
(2) A member of the board shall:
(a) be knowledgeable about air pollution matters, as evidenced by a professional degree, a professional accreditation, or documented experience;
(b) be a resident of Utah;
(c) attend board meetings in accordance with the attendance rules made by the department under Subsection 19-1-201(1)(d)(i)(A); and
(d) comply with all applicable statutes, rules, and policies, including the conflict of interest rules made by the department under Subsection 19-1-201(1)(d)(i)(B).
(3) No more than five of the appointed members of the board shall belong to the same political

party.
(4) A majority of the members of the board may not derive any significant portion of their income from persons subject to permits or orders under this chapter.
(5)
(a) Members shall be appointed for a term of four years.
(b) Notwithstanding the requirements of Subsection (5)(a), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of board members are staggered so that half of the appointed board is appointed every two years.
(6) A member may serve more than one term.
(7) A member shall hold office until the expiration of the member's term and until the member's successor is appointed, but not more than 90 days after the expiration of the member's term.
(8) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term.
(9) The board shall elect annually a chair and a vice chair from its members.
(10)
(a) The board shall meet at least quarterly.
(b) Special meetings may be called by the chair upon the chair's own initiative, upon the request of the director, or upon the request of three members of the board.
(c) Three days' notice shall be given to each member of the board before a meeting.
(11) Five members constitute a quorum at a meeting, and the action of a majority of members present is the action of the board.
(12) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:
(a) Section 63A-3-106;
(b) Section 63A-3-107; and
(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

Amended by Chapter 154, 2015 General Session

19-2-104 Powers of board.
(1) The board may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:
(a) regarding the control, abatement, and prevention of air pollution from all sources and the establishment of the maximum quantity of air pollutants that may be emitted by an air pollutant source;
(b) establishing air quality standards;
(c) requiring persons engaged in operations that result in air pollution to:
(i) install, maintain, and use emission monitoring devices, as the board finds necessary;
(ii) file periodic reports containing information relating to the rate, period of emission, and composition of the air pollutant; and
(iii) provide access to records relating to emissions which cause or contribute to air pollution;
(d)
(i) implementing:
(A) Toxic Substances Control Act, Subchapter II, Asbestos Hazard Emergency Response, 15 U.S.C. 2601 et seq.;

(B) 40 C.F.R. Part 763, Asbestos; and
(C) 40 C.F.R. Part 61, National Emission Standards for Hazardous Air Pollutants, Subpart M, National Emission Standard for Asbestos; and
(ii) reviewing and approving asbestos management plans submitted by local education agencies under the Toxic Substances Control Act, Subchapter II, Asbestos Hazard Emergency Response, 15 U.S.C. 2601 et seq.;
(e) establishing a requirement for a diesel emission opacity inspection and maintenance program for diesel-powered motor vehicles;
(f) implementing an operating permit program as required by and in conformity with Titles IV and V of the federal Clean Air Act Amendments of 1990;
(g) establishing requirements for county emissions inspection and maintenance programs after obtaining agreement from the counties that would be affected by the requirements;
(h) with the approval of the governor, implementing in air quality nonattainment areas employer-based trip reduction programs applicable to businesses having more than 100 employees at a single location and applicable to federal, state, and local governments to the extent necessary to attain and maintain ambient air quality standards consistent with the state implementation plan and federal requirements under the standards set forth in Subsection (2);
(i) implementing lead-based paint training, certification, and performance requirements in accordance with 15 U.S.C. 2601 et seq., Toxic Substances Control Act, Subchapter IV -- Lead Exposure Reduction, Sections 402 and 406; and
(j) to implement the requirements of Section 19-2-107.5.
(2) When implementing Subsection (1)(h) the board shall take into consideration:
(a) the impact of the business on overall air quality; and
(b) the need of the business to use automobiles in order to carry out its business purposes.
(3)
(a) The board may:
(i) hold a hearing that is not an adjudicative proceeding relating to any aspect of, or matter in, the administration of this chapter;
(ii) recommend that the director:
(A) issue orders necessary to enforce the provisions of this chapter;
(B) enforce the orders by appropriate administrative and judicial proceedings;
(C) institute judicial proceedings to secure compliance with this chapter; or
(D) advise, consult, contract, and cooperate with other agencies of the state, local governments, industries, other states, interstate or interlocal agencies, the federal government, or interested persons or groups; and
(iii) establish certification requirements for asbestos project monitors, which shall provide for experience-based certification of a person who:
(A) receives relevant asbestos training, as defined by rule; and
(B) has acquired a minimum of 1,000 hours of asbestos project monitoring related work experience.
(b) The board shall:
(i) to ensure compliance with applicable statutes and regulations:
(A) review a settlement negotiated by the director in accordance with Subsection 19-2-107(2)(b)(viii) that requires a civil penalty of $25,000 or more; and
(B) approve or disapprove the settlement;
(ii) encourage voluntary cooperation by persons and affected groups to achieve the purposes

of this chapter;
(iii) meet the requirements of federal air pollution laws;
(iv) by rule in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, establish work practice and certification requirements for persons who:
(A) contract for hire to conduct demolition, renovation, salvage, encapsulation work involving friable asbestos-containing materials, or asbestos inspections if:
(I) the contract work is done on a site other than a residential property with four or fewer units; or
(II) the contract work is done on a residential property with four or fewer units where a tested sample contained greater than 1% of asbestos;
(B) conduct work described in Subsection (3)(b)(iv)(A) in areas to which the general public has unrestrained access or in school buildings that are subject to the federal Asbestos Hazard Emergency Response Act of 1986;
(C) conduct asbestos inspections in facilities subject to 15 U.S.C. 2601 et seq., Toxic Substances Control Act, Subchapter II - Asbestos Hazard Emergency Response; or
(D) conduct lead-based paint inspections in facilities subject to 15 U.S.C. 2601 et seq., Toxic Substances Control Act, Subchapter IV -- Lead Exposure Reduction;
(v) establish certification requirements for a person required under 15 U.S.C. 2601 et seq., Toxic Substances Control Act, Subchapter II - Asbestos Hazard Emergency Response, to be accredited as an inspector, management planner, abatement project designer, asbestos abatement contractor and supervisor, or an asbestos abatement worker;
(vi) establish certification procedures and requirements for certification of the conversion of a motor vehicle to a clean-fuel vehicle, certifying the vehicle is eligible for the tax credit granted in Section 59-7-605 or 59-10-1009;
(vii) establish certification requirements for a person required under 15 U.S.C. 2601 et seq., Toxic Control Act, Subchapter IV - Lead Exposure Reduction, to be accredited as an inspector, risk assessor, supervisor, project designer, abatement worker, renovator, or dust sampling technician; and
(viii) assist the State Board of Education in adopting school bus idling reduction standards and implementing an idling reduction program in accordance with Section 41-6a-1308.
(4) A rule adopted under this chapter shall be consistent with provisions of federal laws, if any, relating to control of motor vehicles or motor vehicle emissions.
(5) Nothing in this chapter authorizes the board to require installation of or payment for any monitoring equipment by the owner or operator of a source if the owner or operator has installed or is operating monitoring equipment that is equivalent to equipment which the board would require under this section.
(6)
(a) The board may not require testing for asbestos or related materials on a residential property with four or fewer units, unless:
(i) the property's construction was completed before January 1, 1981; or
(ii) the testing is for:
(A) a sprayed-on or painted on ceiling treatment that contained or may contain asbestos fiber;
(B) asbestos cement siding or roofing materials;
(C) resilient flooring products including vinyl asbestos tile, sheet vinyl products, resilient flooring backing material, whether attached or unattached, and mastic;

(D) thermal-system insulation or tape on a duct or furnace; or
(E) vermiculite type insulation materials.
(b) A residential property with four or fewer units is subject to an abatement rule made under Subsection (1) or (3)(b)(iv) if:
(i) a sample from the property is tested for asbestos; and
(ii) the sample contains asbestos measuring greater than 1%.
(7) The board may not issue, amend, renew, modify, revoke, or terminate any of the following that are subject to the authority granted to the director under Section 19-2-107 or 19-2-108:
(a) a permit;
(b) a license;
(c) a registration;
(d) a certification; or
(e) another administrative authorization made by the director.
(8) A board member may not speak or act for the board unless the board member is authorized by a majority of a quorum of the board in a vote taken at a meeting of the board.
(9) Notwithstanding Subsection (7), the board may exercise all authority granted to the board by a federally enforceable state implementation plan.

Amended by Chapter 154, 2015 General Session

19-2-105 Duties of board.

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

Amended by Chapter 360, 2012 General Session

19-2-105.3 Clean fuel requirements for fleets.
(1) As used in this section:
(a) "1990 Clean Air Act" means the federal Clean Air Act as amended in 1990.
(b) "Clean fuel" means:
(i) propane, compressed natural gas, or electricity;
(ii) other fuel the board determines annually on or before July 1 is at least as effective as fuels under Subsection (1)(b)(i) in reducing air pollution; and
(iii) other fuel that meets the clean fuel vehicle standards in the 1990 Clean Air Act.
(c) "Fleet" means 10 or more vehicles:
(i) owned or operated by a single entity as defined by board rule; and

(ii) capable of being fueled or that are fueled at a central location.

(d) "Fleet" does not include motor vehicles that are:

(i) held for lease or rental to the general public;

(ii) held for sale or used as demonstration vehicles by motor vehicle dealers;

(iii) used by motor vehicle manufacturers for product evaluations or tests;

(iv) authorized emergency vehicles as defined in Section 41-6a-102;

(v) registered under Title 41, Chapter 1a, Part 2, Registration, as farm vehicles;

(vi) special mobile equipment as defined in Section 41-1a-102;

(vii) heavy duty trucks with a gross vehicle weight rating of more than 26,000 pounds;

(viii) regularly used by employees to drive to and from work, parked at the employees' personal residences when they are not at their employment, and not practicably fueled at a central location;

(ix) owned, operated, or leased by public transit districts; or

(x) exempted by board rule.

(2)

(a) After evaluation of reasonably available pollution control strategies, and as part of the state implementation plan demonstrating attainment of the national ambient air quality standards, the board may by rule require fleets in specified geographical areas to use clean fuels if the board determines fleet use of clean fuels is:

(i) necessary to demonstrate attainment of the national ambient air quality standards in an area where they are required; and

(ii) reasonably cost effective when compared to other similarly beneficial control strategies for demonstrating attainment of the national ambient air quality standards.

(b) A vehicle retrofit to operate on compressed natural gas in accordance with Section 19-1-406 qualifies as a clean fuel vehicle under this section.

(3) After evaluation of reasonably available pollution control strategies, and as part of a state implementation plan demonstrating only maintenance of the national ambient air quality standards, the board may by rule require fleets in specified geographical areas to use clean fuels if the board determines fleet use of clean fuels is:

(a) necessary to demonstrate maintenance of the national ambient air quality standards in an area where they are required; and

(b) reasonably cost effective as compared with other similarly beneficial control strategies for demonstrating maintenance of the national ambient air quality standards.

(4) Rules the board makes under this section may include:

(a) dates by which fleets are required to convert to clean fuels under the provisions of this section;

(b) definitions of fleet owners or operators;

(c) definitions of vehicles exempted from this section by rule;

(d) certification requirements for persons who install clean fuel conversion equipment, including testing and certification standards regarding installers; and

(e) certification fees for installers, established under Section 63J-1-504.

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

Amended by Chapter 154, 2015 General Session

19-2-106 Rulemaking authority and procedure.

(1)

(a) In carrying out the duties of Section 19-2-104, the board may make rules for the purpose of administering a program under the federal Clean Air Act different than the corresponding federal regulations which address the same circumstances if:

(i) the board holds a public comment period, as described in Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and a public hearing; and

(ii) the board finds that the different rule will provide reasonable added protections to public health or the environment of the state or a particular region of the state.

(b) The board shall consider the differences between an industry that continuously produces emissions and an industry that episodically produces emissions, and make rules that reflect those differences.

(2) The findings described in Subsection (1)(a)(ii) shall be:

(a) in writing; and

(b) based on evidence, studies, or other information contained in the record that relates to the state of Utah and type of source involved.

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

Amended by Chapter 80, 2015 General Session

19-2-107 Director -- Appointment -- Powers.

(1) The executive director shall appoint the director. The director shall serve under the administrative direction of the executive director.

(2)

(a) The director shall:

(i) prepare and develop comprehensive plans for the prevention, abatement, and control of air pollution in Utah;

(ii) advise, consult, and cooperate with other agencies of the state, the federal government, other states and interstate agencies, and affected groups, political subdivisions, and industries in furtherance of the purposes of this chapter;

(iii) review plans, specifications, or other data relative to air pollution control equipment or any part of the air pollution control equipment;

(iv) under the direction of the executive director, represent the state in all matters relating to interstate air pollution, including interstate compacts and similar agreements;

(v) secure necessary scientific, technical, administrative, and operational services, including laboratory facilities, by contract or otherwise;

(vi) encourage voluntary cooperation by persons and affected groups to achieve the purposes of this chapter;

(vii) encourage local units of government to handle air pollution within their respective jurisdictions on a cooperative basis and provide technical and consulting assistance to them;

(viii) determine by means of field studies and sampling the degree of air contamination and air pollution in all parts of the state;

(ix) monitor the effects of the emission of air pollutants from motor vehicles on the quality of the outdoor atmosphere in all parts of Utah and take appropriate responsive action;

(x) collect and disseminate information relating to air contamination and air pollution and conduct educational and training programs relating to air contamination and air pollution;

(xi) assess and collect noncompliance penalties as required in Section 120 of the federal Clean Air Act, 42 U.S.C. Section 7420;
(xii) comply with the requirements of federal air pollution laws;
(xiii) subject to the provisions of this chapter, enforce rules through the issuance of orders, including:
(A) prohibiting or abating discharges of wastes affecting ambient air;
(B) requiring the construction of new control facilities or any parts of new control facilities or the modification, extension, or alteration of existing control facilities or any parts of new control facilities; or
(C) adopting other remedial measures to prevent, control, or abate air pollution; and
(xiv) as authorized by the board and subject to the provisions of this chapter, act as executive secretary of the board under the direction of the chairman of the board.
(b) The director may:
(i) employ full-time, temporary, part-time, and contract employees necessary to carry out this chapter;
(ii) subject to the provisions of this chapter, authorize an employee or representative of the department to enter at reasonable time and upon reasonable notice in or upon public or private property for the purposes of inspecting and investigating conditions and plant records concerning possible air pollution;
(iii) encourage, participate in, or conduct studies, investigations, research, and demonstrations relating to air pollution and its causes, effects, prevention, abatement, and control, as advisable and necessary for the discharge of duties assigned under this chapter, including the establishment of inventories of pollution sources;
(iv) collect and disseminate information relating to air pollution and the prevention, control, and abatement of it;
(v) cooperate with studies and research relating to air pollution and its control, abatement, and prevention;
(vi) subject to Subsection (3), upon request, consult concerning the following with a person proposing to construct, install, or otherwise acquire an air pollutant source in Utah:
(A) the efficacy of proposed air pollution control equipment for the source; or
(B) the air pollution problem that may be related to the source;
(vii) accept, receive, and administer grants or other funds or gifts from public and private agencies, including the federal government, for the purpose of carrying out any of the functions of this chapter;
(viii) subject to Subsection 19-2-104(3)(b)(i), settle or compromise a civil action initiated by the division to compel compliance with this chapter or the rules made under this chapter; or
(ix) subject to the provisions of this chapter, exercise all incidental powers necessary to carry out the purposes of this chapter, including certification to state or federal authorities for tax purposes that air pollution control equipment has been certified in conformity with Title 19, Chapter 12, Pollution Control Act.
(3) A consultation described in Subsection (2)(b)(vi) does not relieve a person from the requirements of this chapter, the rules adopted under this chapter, or any other provision of law.

Amended by Chapter 154, 2015 General Session

19-2-107.5 Solid fuel burning.

(1) The division shall create a:

(a) public awareness campaign, in consultation with representatives of the solid fuel burning industry, the healthcare industry, and members of the clean air community, on best wood burning practices and the effects of wood burning on air quality, specifically targeting nonattainment areas; and

(b) program to assist an individual to convert a dwelling to a natural gas, propane, or wood pellet heating source or a wood burning stove certified by the United States Environmental Protection Agency, as funding allows, if the individual:

(i) lives in a dwelling where a wood burning stove is the sole source of heat; and

(ii) is on the list of registered sole heating source homes.

(2)

(a) The division may not impose a burning ban prohibiting burning during a specified seasonal period of time.

(b) Notwithstanding Subsection (2)(a), the division shall:

(i) allow burning:

(A) during local emergencies and utility outages; or

(B) if the primary purpose of the burning is to cook food; and

(ii) provide for exemptions, through registration with the division, for:

(A) devices that are sole sources of heat; or

(B) locations where natural gas service is limited or unavailable.

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

Amended by Chapter 320, 2017 General Session

19-2-107.7 Water heater regulations.

(1) As used in this section:

(a) "Natural gas-fired water heater" means a device that heats water by the combustion of natural gas to a thermostatically-controlled temperature not exceeding 210 degrees Fahrenheit for use external to the vessel at pressures not exceeding 160 pounds per square inch gauge.

(b) "Recreational vehicle" means a motor home, travel trailer, truck camper, or camping trailer, with or without motive power, designed for human habitation for recreational, emergency, or other occupancy.

(2) A person may not sell or purchase a natural gas-fired water heater that is manufactured after July 1, 2018 with the intent to install it in Utah if the natural gas-fired water heater exceeds the applicable nitrogen oxide emission rate limit set in Title 15A, State Construction and Fire Codes Act.

(3) A manufacturer in Utah shall display the model number and nitrogen oxide emission rate of a water heater complying with this section on:

(a) the shipping carton for the water heater; and

(b) the permanent rating plate of each water heater unit.

(4) This section does not apply to a water heater unit that:

(a) uses a fuel other than natural gas;

(b) is used in a recreational vehicle; or

(c) is manufactured in Utah for shipment and use outside of Utah.

Enacted by Chapter 247, 2016 General Session

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

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

(2)

(a) The director may require, as a condition precedent to the construction, modification, installation, or establishment of the air pollutant source or indirect source, the submission of plans, specifications, and other information as he finds necessary to determine whether the proposed construction, modification, installation, or establishment will be in accord with applicable rules in force under this chapter.

(b) If within 90 days after the receipt of plans, specifications, or other information required under this subsection, the director determines that the proposed construction, installation, or establishment or any part of it will not be in accord with the requirements of this chapter or applicable rules or that further time, not exceeding three extensions of 30 days each, is required by the director to adequately review the plans, specifications, or other information, he shall issue an order prohibiting the construction, installation, or establishment of the air pollutant source or sources in whole or in part.

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

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

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

(6)

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

(b)

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

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

(c) If requested, the owner or operator of the premises shall receive a report setting forth all

facts found which relate to compliance status.

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

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

(1)

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

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

(c) The notice shall be:

(i)

(A) published at least twice in any newspaper of general circulation in the area affected; and

(B) published on the Utah Public Notice Website created in Section 63F-1-701, at least 20 days before the public hearing; and

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

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

(e) The order shall be published:

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

(ii) as required in Section 45-1-101.

(2)

(a) The board may establish emission control requirements by rule that in its judgment may be necessary to prevent, abate, or control air pollution that may be statewide or may vary from area to area, taking into account varying local conditions.

(b) In adopting these requirements, the board shall give notice and conduct public hearings in accordance with the requirements in Subsection (1).

Amended by Chapter 360, 2012 General Session

19-2-109.1 Operating permit required -- Emissions fee -- Implementation.

(1) As used in this section and Sections 19-2-109.2 and 19-2-109.3:

(a) "1990 Clean Air Act" means the federal Clean Air Act as amended in 1990.

(b) "EPA" means the federal Environmental Protection Agency.

(c) "Operating permit" means a permit issued by the director to sources of air pollution that meet the requirements of Titles IV and V of the 1990 Clean Air Act.

(d) "Program" means the air pollution operating permit program established under this section to comply with Title V of the 1990 Clean Air Act.

(e) "Regulated pollutant" means the same as that term is defined in Title V of the 1990 Clean Air Act and implementing federal regulations.

(2) A person may not operate a source of air pollution required to have a permit under Title V of the 1990 Clean Air Act without having obtained an operating permit from the director under procedures the board establishes by rule.

(3)

(a) Operating permits issued under this section shall be for a period of five years unless the director makes a written finding, after public comment and hearing, and based on substantial evidence in the record, that an operating permit term of less than five years is necessary to protect the public health and the environment of the state.

(b) The director may issue, modify, or renew an operating permit only after providing public notice, an opportunity for public comment, and an opportunity for a public hearing.

(c) The director shall, in conformity with the 1990 Clean Air Act and implementing federal regulations, revise the conditions of issued operating permits to incorporate applicable federal regulations in conformity with Section 502(b)(9) of the 1990 Clean Air Act, if the remaining period of the permit is three or more years.

(d) The director may terminate, modify, revoke, or reissue an operating permit for cause.

(4)

(a) The board shall establish a proposed annual emissions fee that conforms with Title V of the 1990 Clean Air Act for each ton of regulated pollutant, applicable to all sources required to obtain a permit. The emissions fee established under this section is in addition to fees assessed under Section 19-2-108 for issuance of an approval order.

(b) In establishing the fee the board shall comply with the provisions of Section 63J-1-504 that require a public hearing and require the established fee to be submitted to the Legislature for its approval as part of the department's annual appropriations request.

(c) The fee shall cover all reasonable direct and indirect costs required to develop and administer the program and the small business assistance program established under Section 19-2-109.2. The director shall prepare an annual report of the emissions fees collected and the costs covered by those fees under this Subsection (4).

(d) The fee shall be established uniformly for all sources required to obtain an operating permit under the program and for all regulated pollutants.

(e) The fee may not be assessed for emissions of any regulated pollutant if the emissions are already accounted for within the emissions of another regulated pollutant.

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

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

(6) If the owner or operator of a source subject to this section fails to timely pay an annual emissions fee, the director may:

(a) impose a penalty of not more than 50% of the fee, in addition to the fee, plus interest on the fee computed at 12% annually; or

(b) revoke the operating permit.

(7) The owner or operator of a source subject to this section may contest an emissions fee assessment or associated penalty in an adjudicative hearing under the Title 63G, Chapter 4, Administrative Procedures Act, and Section 19-1-301, as provided in this Subsection (7).

(a) The owner or operator shall pay the fee under protest prior to being entitled to a hearing. Payment of an emissions fee or penalty under protest is not a waiver of the right to contest the

fee or penalty under this section.

(b) A request for a hearing under this Subsection (7) shall be made after payment of the emissions fee and within six months after the emissions fee was due.

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

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

(10) Failure of the director to act on an operating permit application or renewal is a final administrative action only for the purpose of obtaining judicial review by any of the following persons to require the director to take action on the permit or its renewal without additional delay:

(a) the applicant;

(b) a person who participated in the public comment process; or

(c) a person who could obtain judicial review of that action under applicable law.

Amended by Chapter 154, 2015 General Session

19-2-109.2 Small business assistance program.

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

(2) There is created the Compliance Advisory Panel to advise and monitor the program created in Subsection (1). The seven panel members are:

(a) two members who are not owners or representatives of owners of small business stationary air pollution sources, selected by the governor to represent the general public;

(b) four members who are owners or who represent owners of small business stationary sources selected by leadership of the Utah Legislature as follows:

(i) one member selected by the majority leader of the Senate;

(ii) one member selected by the minority leader of the Senate;

(iii) one member selected by the majority leader of the House of Representatives; and

(iv) one member selected by the minority leader of the House of Representatives; and

(c) one member selected by the executive director to represent the Division of Air Quality, Department of Environmental Quality.

(3)

(a) Except as required by Subsection (3)(b), as terms of current panel members expire, the department shall appoint each new member or reappointed member to a four-year term.

(b) Notwithstanding the requirements of Subsection (3)(a), the department shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of panel members are staggered so that approximately half of the panel is appointed every two years.

(4) Members may serve more than one term.

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

(6) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term.
(7) Every two years, the panel shall elect a chair from its members.
(8)
(a) The panel shall meet as necessary to carry out its duties. Meetings may be called by the chair, the director, or upon written request of three of the members of the panel.
(b) Three days' notice shall be given to each member of the panel prior to a meeting.
(9) Four members constitute a quorum at a meeting, and the action of the majority of members present is the action of the panel.
(10) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:
(a) Section 63A-3-106;
(b) Section 63A-3-107; and
(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

Amended by Chapter 154, 2015 General Session

19-2-109.3 Public access to information.

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

Amended by Chapter 382, 2008 General Session

19-2-110 Violations -- Notice to violator -- Corrective action orders -- Conference, conciliation, and persuasion by director -- Hearings.
(1) Whenever the director has reason to believe that a violation of any provision of this chapter or any rule issued under it has occurred, the director may serve written notice of the violation upon the alleged violator. The notice shall specify the provision of this chapter or rule alleged to be violated, the facts alleged to constitute the violation, and may include an order that necessary corrective action be taken within a reasonable time.
(2) Nothing in this chapter prevents the director from making efforts to obtain voluntary compliance through warning, conference, conciliation, persuasion, or other appropriate means.
(3) Hearings may be held before an administrative law judge as provided by Section 19-1-301.

Amended by Chapter 360, 2012 General Session

19-2-112 Generalized condition of air pollution creating emergency -- Sources causing imminent danger to health -- Powers of executive director -- Declaration of emergency.
(1)
(a)Title 63G, Chapter 4, Administrative Procedures Act, and any other provision of law to the contrary notwithstanding, if the executive director finds that a generalized condition of air pollution exists and that it creates an emergency requiring immediate action to protect human health or safety, the executive director, with the concurrence of the governor, shall order

persons causing or contributing to the air pollution to reduce or discontinue immediately the emission of air pollutants.

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

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

(2)

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

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

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

Amended by Chapter 154, 2015 General Session

19-2-113 Variances -- Judicial review.

(1)

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

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

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

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

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

(b)

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

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

(c) if the variance is granted on the ground that it is necessary to relieve or prevent hardship of

a kind other than that provided for in Subsection (3)(a) or (b), it may not be granted for more than one year.

(4)

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

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

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

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

(5)

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

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

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

(6)

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

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

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

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

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

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

Amended by Chapter 154, 2015 General Session

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

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

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

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

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

(2) burning of weed growth along ditch banks incident to clearing these ditches for irrigation purposes;

(3) controlled heating of orchards or other crops to lessen the chances of their being frozen so long as the emissions from this heating do not violate minimum standards set by the board; and

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

Amended by Chapter 154, 2015 General Session

19-2-115 Violations -- Penalties -- Reimbursement for expenses.

(1) As used in this section, the terms "knowingly," "willfully," and "criminal negligence" shall mean as defined in Section 76-2-103.

(2)

(a) A person who violates this chapter, or any rule, order, or permit issued or made under this chapter is subject in a civil proceeding to a penalty not to exceed $10,000 per day for each violation.

(b) Subsection (2)(a) also applies to rules made under the authority of Section 19-2-104, for implementation of 15 U.S.C.A. 2601 et seq., Toxic Substances Control Act, Subchapter II - Asbestos Hazard Emergency Response.

(c) Penalties assessed for violations described in 15 U.S.C.A. 2647, Toxic Substances Control Act, Subchapter II - Asbestos Hazard Emergency Response, may not exceed the amounts specified in that section and shall be used in accordance with that section.

(3) A person is guilty of a class A misdemeanor and is subject to imprisonment under Section 76-3-204 and a fine of not more than $25,000 per day of violation if that person knowingly violates any of the following under this chapter:

(a) an applicable standard or limitation;

(b) a permit condition; or

(c) a fee or filing requirement.

(4) A person is guilty of a third degree felony and is subject to imprisonment under Section 76-3-203 and a fine of not more than $25,000 per day of violation who knowingly:

(a) makes any false material statement, representation, or certification, in any notice or report required by permit; or

(b) renders inaccurate any monitoring device or method required to be maintained by this chapter or applicable rules made under this chapter.

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

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

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

(8)

(a) As used in this section:

(i) "Hazardous air pollutant" means any hazardous air pollutant listed under 42 U.S.C. Sec. 7412 or any extremely hazardous substance listed under 42 U.S.C. Sec. 11002(a)(2).

(ii) "Organization" means a legal entity, other than a government, established or organized for any purpose, and includes a corporation, company, association, firm, partnership, joint stock company, foundation, institution, trust, society, union, or any other association of persons.

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

(b)

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

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

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

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

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

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

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

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

(e)

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

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

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

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

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

(f)

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

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

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

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

(9)

(a) Except as provided in Subsection (9)(b), and unless prohibited by federal law, all penalties assessed and collected under the authority of this section shall be deposited in the General Fund.

(b) The department may reimburse itself and local governments from money collected from civil penalties for extraordinary expenses incurred in environmental enforcement activities.

(c) The department shall regulate reimbursements by making rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that:

(i) define qualifying environmental enforcement activities; and
(ii) define qualifying extraordinary expenses.

Amended by Chapter 360, 2012 General Session

19-2-116 Injunction or other remedies to prevent violations -- Civil actions not abridged.
(1) Action under Section 19-2-115 does not bar enforcement of this chapter, or any of the rules adopted under it or any orders made under it by injunction or other appropriate remedy. The director has the power to institute and maintain in the name of the state any and all enforcement proceedings.
(2) This chapter does not abridge, limit, impair, create, enlarge, or otherwise affect substantively or procedurally the right of any person to damages or other relief on account of injury to persons or property and to maintain any action or other appropriate proceeding for this purpose.
(3)
(a) In addition to any other remedy created in this chapter, the director may initiate an action for appropriate injunctive relief:
(i) upon failure of any person to comply with:
(A) any provision of this chapter;
(B) any rule adopted under this chapter; or
(C) any final order made by the board, the director, or the executive director; and
(ii) when it appears necessary for the protection of health and welfare.
(b) The attorney general shall bring injunctive relief actions on request.
(c) A bond is not required.

Amended by Chapter 360, 2012 General Session

19-2-117 Attorney general as legal advisor to board -- Duties of attorney general and county attorneys.
(1) Except as provided in Section 63G-7-902, the attorney general is the legal advisor to the board and the director and shall defend them or any of them in all actions or proceedings brought against them or any of them.
(2) The county attorney in the county in which a cause of action arises may, upon request of the board or the director, bring an action, civil or criminal, to abate a condition which exists in violation of, or to prosecute for the violation of or to enforce, this chapter or the standards, orders, or rules of the board or the director issued under this chapter.
(3) The director may bring an action and be represented by the attorney general.
(4) In the event a person fails to comply with a cease and desist order of the board or the director that is not subject to a stay pending administrative or judicial review, the director may initiate an action for, and is entitled to, injunctive relief to prevent any further or continued violation of the order.

Amended by Chapter 154, 2015 General Session

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

Renumbered and Amended by Chapter 112, 1991 General Session

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

Amended by Chapter 154, 2015 General Session

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

Amended by Chapter 154, 2015 General Session

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

Renumbered and Amended by Chapter 112, 1991 General Session

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

Amended by Chapter 154, 2015 General Session

19-2-128 Air Quality Policy Advisory Board created -- Composition -- Responsibility -- Terms of office -- Compensation.
(1) There is created the Air Quality Policy Advisory Board consisting of the following 10 voting members:

(a) two members of the Senate, appointed by the president of the Senate;
(b) three members of the House of Representatives, appointed by the speaker of the House of Representatives;
(c) the director;
(d) one representative of industry interests, appointed by the president of the Senate;
(e) one representative of business or economic development interests, appointed by the speaker of the House of Representatives, who has expertise in air quality matters;
(f) one representative of the academic community, appointed by the governor, who has expertise in air quality matters; and
(g) one representative of a nongovernmental organization, appointed by the governor, who:
(i) represents community interests;
(ii) does not represent industry or business interests; and
(iii) has expertise in air quality matters.

(2) The Air Quality Policy Advisory Board shall:
(a) seek the best available science to identify legislative actions to improve air quality;
(b) identify and prioritize potential legislation and funding that will improve air quality; and
(c) make recommendations to the Legislature on how to improve air quality in the state.

(3)
(a) Except as required by Subsection (3)(b), members appointed under Subsections (1)(d), (e), (f), and (g) are appointed to serve four-year terms.
(b) Notwithstanding the requirements of Subsection (3)(a), the governor, president of the Senate, and speaker of the House of Representatives shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of members are staggered so that approximately half of the advisory board is appointed every two years.
(c) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term.

(4) The advisory board shall elect one member to serve as chair of the advisory board for a term of one year.

(5) Compensation for a member of the advisory board who is a legislator shall be paid in accordance with Section 36-2-2 and Legislative Joint Rules, Title 5, Chapter 3, Legislator Compensation.

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

(7) The department shall provide staff support for the advisory board.

Enacted by Chapter 140, 2017 General Session

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

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

(iii) is attached to or intended to be drawn by a motor vehicle.

(b) "Operator" means an individual who controls a motor vehicle:

(i) to which a gasoline cargo tank is attached; or

(ii) that draws a gasoline cargo tank.

(c) "Underground storage tank" means the same as that term is defined in Section 19-6-102.

(2) The operator of a gasoline cargo tank shall comply with requirements of this section if the operator:

(a) permits the loading of gasoline into the gasoline cargo tank; or

(b) loads an underground storage tank with gasoline from the gasoline cargo tank.

(3) Except as provided in Subsection (6), the operator of a gasoline cargo tank may permit the loading of gasoline into a tank described in Subsection (2) or load an underground storage tank with gasoline from the gasoline cargo tank described in Subsection (1) only if:

(a) emissions from the tank that dispenses 10,000 gallons or more in any one calendar month are controlled by the use of:

(i) a properly installed and maintained vapor collection and control system that is equipped with fittings that:

(A) make a vapor-tight connection; and

(B) prevent the release of gasoline vapors by automatically closing upon disconnection; and

(ii) submerged filling or bottom filling methods; and

(b) the resulting vapor emitted into the air does not exceed the levels described in Subsection (4).

(4) Vapor emitted into the air as a result of the loading of a tank under Subsection (3) may not exceed 0.640 pounds per 1,000 gallons transferred.

(5)

(a) The department may fine an operator who violates this section:

(i) up to $1,000 for a first offense; or

(ii) up to $2,000 for a second offense.

(b) An operator who violates this section is guilty of a class C misdemeanor for a third or subsequent offense.

(6) If a facility at which an underground storage tank is located does not have the equipment necessary for an operator of a gasoline cargo tank to comply with Subsection (3), the operator is excused from the requirements of Subsections (3) and (4) and may not be fined or penalized under Subsection (5).

Enacted by Chapter 395, 2017 General Session

Part 2
Clean Air Retrofit, Replacement, and Off-road Technology Program

19-2-201 Title.

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

Enacted by Chapter 295, 2014 General Session

19-2-202 Definitions.

As used in this part:

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

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

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

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

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

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

(7) "Eligible vehicle" means a vehicle operated and, if applicable, registered in Utah that is:

(a) a medium-duty or heavy-duty transit bus;

(b) a school bus as defined in Section 53-3-102;

(c) a medium-duty or heavy-duty truck with a gross vehicle weight rating of at least 16,001 GVWR;

(d) a locomotive; or

(e) another type of vehicle identified by the board in rule as being a significant potential source of air pollution, as defined in Section 19-2-102.

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

Amended by Chapter 321, 2016 General Session

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

(1) The director may make grants for implementing:

(a) verified technologies for eligible vehicles or equipment; and

(b) certified vehicles, engines, or equipment.

(2)

(a) The division may develop programs, including exchange, rebate, or low-cost purchase programs, to encourage replacement of:

(i) landscaping and maintenance equipment with equipment that is lower in emissions; and

(ii) other equipment or products identified by the board in rule as being a significant potential source of air pollution, as defined in Subsection 19-2-102(3).

(b) The division may enter into agreements with local health departments to administer the programs described in Subsection (2)(a).

(3) As a condition for receiving the grant, a person receiving a grant under Subsection (1) or receiving a grant under this Subsection (3) shall agree to:

(a) provide information to the division about the vehicles, equipment, or technology acquired with the grant proceeds;

(b) allow inspections by the division to ensure compliance with the terms of the grant;

(c) permanently disable replaced vehicles, engines, and equipment from use; and

(d) comply with the conditions for the grant.

(4) Grants and programs under Subsections (1) and (2) may be administered using a rebate program.

(5) Grants issued under this section may not exceed the actual cost of the project.

Enacted by Chapter 295, 2014 General Session

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

Enacted by Chapter 295, 2014 General Session

Part 3
Conversion to Alternative Fuel Grant Program

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

Enacted by Chapter 381, 2015 General Session

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

(ii) substantially more effective in reducing air pollution as the fuel for which the engine was originally designed.

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

(4) "Clean fuel grant" means a grant awarded under this part from the Conversion to Alternative Fuel Grant Program Fund created in Section 19-1-403.3 for reimbursement for a portion of the incremental cost of an OEM vehicle or the cost of conversion equipment.

(5) "Conversion equipment" means equipment designed to:

(a) allow an eligible vehicle to operate on an alternative fuel; and

(b) reduce an eligible vehicle's emissions of regulated pollutants, as demonstrated by:

(i) certification of the conversion equipment by the Environmental Protection Agency or by a state or country that has certification standards that are recognized, by rule, by the board;

(ii) testing the eligible vehicle, before and after the installation of the equipment, in accordance with 40 C.F.R. Part 86, Control of Emissions from New and In-Use Highway Vehicles and Engines, using all fuel the motor vehicle is capable of using;

(iii) for a retrofit natural gas vehicle that is retrofit in accordance with Section 19-1-406, satisfying the emission standards described in Section 19-1-406; or

(iv) any other test or standard recognized by board rule, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

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

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

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

(9) "Eligible vehicle" means a:

(a) commercial vehicle, as defined in Section 41-1a-102;

(b) farm tractor, as defined in Section 41-1a-102; or

(c) motor vehicle, as defined in Section 41-1a-102.

Amended by Chapter 369, 2016 General Session

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

(1) The director may make grants from the Conversion to Alternative Fuel Grant Program Fund created in Section 19-1-403.3 to a person who installs conversion equipment on an eligible vehicle as described in this part.

(2) A person who installs conversion equipment on an eligible vehicle:

(a) may apply to the division for a grant to offset the cost of installation; and

(b) shall pass along any savings on the cost of conversion equipment to the owner of the eligible vehicle being converted in the amount of grant money received.

(3) As a condition for receiving the grant, a person who installs conversion equipment shall agree to:

(a) provide information to the division about the eligible vehicle to be converted with the grant proceeds;

(b) allow inspections by the division to ensure compliance with the terms of the grant; and

(c) comply with the conditions for the grant.

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

Amended by Chapter 369, 2016 General Session

19-2-304 Duties and authorities -- Rulemaking.

(1) The board may, by following the procedures and requirements of Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules:

(a) specifying the amount of money to be dedicated annually for grants under this part;

(b) specifying criteria the director shall consider in prioritizing and awarding grants, including a limitation on the types of vehicles that are eligible for funds;

(c) specifying the minimum qualifications of a person who:

(i) installs conversion equipment on an eligible vehicle; and

(ii) receives a grant from the division;

(d) specifying the terms of a grant; and

(e) requiring all grant applicants to apply on forms provided by the division.

(2) The division shall:

(a) administer the Conversion to Alternative Fuel Grant Program Fund to encourage eligible vehicle owners to reduce emissions from eligible vehicles; and

(b) provide information about which conversion technology meets the requirements of this part.

(3) The division may inspect vehicles for which a grant was made to ensure compliance with the terms of the grant.

Amended by Chapter 369, 2016 General Session

19-2-305 Limitation on applying for a tax credit.

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

Enacted by Chapter 381, 2015 General Session

Chapter 3
Utah Administrative Rulemaking Act

Part 1
General Provisions

63G-3-101 Title.

This chapter is known as the "Utah Administrative Rulemaking Act."

Renumbered and Amended by Chapter 382, 2008 General Session

63G-3-102 Definitions.

As used in this chapter:

(1) "Administrative record" means information an agency relies upon when making a rule under this chapter including:

(a) the proposed rule, change in the proposed rule, and the rule analysis form;

(b) the public comment received and recorded by the agency during the public comment period;

(c) the agency's response to the public comment;

(d) the agency's analysis of the public comment; and

(e) the agency's report of its decision-making process.

(2) "Agency" means each state board, authority, commission, institution, department, division, officer, or other state government entity other than the Legislature, its committees, the political subdivisions of the state, or the courts, which is authorized or required by law to make rules, adjudicate, grant or withhold licenses, grant or withhold relief from legal obligations, or perform other similar actions or duties delegated by law.

(3) "Bulletin" means the Utah State Bulletin.

(4) "Catchline" means a short summary of each section, part, rule, or title of the code that follows the section, part, rule, or title reference placed before the text of the rule and serves the same function as boldface in legislation as described in Section 68-3-13.

(5) "Code" means the body of all effective rules as compiled and organized by the division and entitled "Utah Administrative Code."

(6) "Department" means the Department of Administrative Services created in Section 63A-1-104.

(7) "Effective" means operative and enforceable.

(8) "Executive director" means the executive director of the department.

(9)

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

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

(10) "Interested person" means any person affected by or interested in a proposed rule, amendment to an existing rule, or a nonsubstantive change made under Section 63G-3-402.

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

(12) "Order" means an agency action that determines the legal rights, duties, privileges, immunities, or other interests of one or more specific persons, but not a class of persons.

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

or public or private organization of any character other than an agency.
(14) "Publication" or "publish" means making a rule available to the public by including the rule or a summary of the rule in the bulletin.
(15) "Publication date" means the inscribed date of the bulletin.
(16) "Register" may include an electronic database.
(17)
(a) "Rule" means an agency's written statement that:
(i) is explicitly or implicitly required by state or federal statute or other applicable law;
(ii) implements or interprets a state or federal legal mandate; and
(iii) applies to a class of persons or another agency.
(b) "Rule" includes the amendment or repeal of an existing rule.
(c) "Rule" does not mean:
(i) orders;
(ii) an agency's written statement that applies only to internal management and that does not restrict the legal rights of a public class of persons or another agency;
(iii) the governor's executive orders or proclamations;
(iv) opinions issued by the attorney general's office;
(v) declaratory rulings issued by the agency according to Section 63G-4-503 except as required by Section 63G-3-201;
(vi) rulings by an agency in adjudicative proceedings, except as required by Subsection 63G-3-201(6); or
(vii) an agency written statement that is in violation of any state or federal law.
(18) "Rule analysis" means the format prescribed by the department to summarize and analyze rules.
(19) "Small business" means a business employing fewer than 50 persons.
(20) "Substantive change" means a change in a rule that affects the application or results of agency actions.

Amended by Chapter 193, 2016 General Session

Part 2
Circumstances Requiring Rulemaking - Status of Administrative Rules

63G-3-201 When rulemaking is required.
(1) Each agency shall:
(a) maintain a current version of its rules; and
(b) make it available to the public for inspection during its regular business hours.
(2) In addition to other rulemaking required by law, each agency shall make rules when agency action:
(a) authorizes, requires, or prohibits an action;
(b) provides or prohibits a material benefit;
(c) applies to a class of persons or another agency; and
(d) is explicitly or implicitly authorized by statute.
(3) Rulemaking is also required when an agency issues a written interpretation of a state or federal legal mandate.

(4) Rulemaking is not required when:

(a) agency action applies only to internal agency management, inmates or residents of a state correctional, diagnostic, or detention facility, persons under state legal custody, patients admitted to a state hospital, members of the state retirement system, or students enrolled in a state education institution;

(b) a standardized agency manual applies only to internal fiscal or administrative details of governmental entities supervised under statute;

(c) an agency issues policy or other statements that are advisory, informative, or descriptive, and do not conform to the requirements of Subsections (2) and (3); or

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

(5)

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

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

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

(i) authorized by a specific state statute;

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

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

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

(7)

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

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

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

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

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

(b) Rules incorporating materials by reference shall:

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

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

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

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

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

(d) The agency shall maintain a complete and current copy of the referenced material

available for public review at the agency and at the office.

(8)

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

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

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

Amended by Chapter 181, 2017 General Session

63G-3-202 Rules having the effect of law.

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

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

Renumbered and Amended by Chapter 382, 2008 General Session

Part 3
Rulemaking Procedures

63G-3-301 Rulemaking procedure.

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

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

(a) the requirements of this section;

(b) consistent procedures required by other statutes;

(c) applicable federal mandates; and

(d) rules made by the department to implement this chapter.

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

(4)

(a) Each agency shall file its proposed rule and rule analysis with the office.

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

(c)

(i) The office shall publish the information required under Subsection (8) on the rule analysis and the text of the proposed rule in the next issue of the bulletin.

(ii) For rule amendments, only the section or subsection of the rule being amended need be printed.

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

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

(a) the type of industries that will be impacted by the rule, and for each identified industry, an estimate of the total number of businesses within the industry, and an estimate of the number of those businesses that are small businesses;

(b) the individual fiscal impact that would incur to a typical business for a one-year period;

(c) the aggregated total fiscal impact that would incur to all businesses within the state for a one-year period;

(d) the total cost that would incur to all impacted entities over a five-year period; and

(e) the department head's comments on the analysis.

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

(a) establishing less stringent compliance or reporting requirements for small businesses;

(b) establishing less stringent schedules or deadlines for compliance or reporting requirements for small businesses;

(c) consolidating or simplifying compliance or reporting requirements for small businesses;

(d) establishing performance standards for small businesses to replace design or operational standards required in the proposed rule; and

(e) exempting small businesses from all or any part of the requirements contained in the proposed rule.

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

(8) The rule analysis shall contain:

(a) a summary of the rule or change;

(b) the purpose of the rule or reason for the change;

(c) the statutory authority or federal requirement for the rule;

(d) the anticipated cost or savings to:

(i) the state budget;

(ii) local governments;

(iii) small businesses; and

(iv) persons other than small businesses, businesses, or local governmental entities;

(e) the compliance cost for affected persons;

(f) how interested persons may review the full text of the rule;

(g) how interested persons may present their views on the rule;

(h) the time and place of any scheduled public hearing;

(i) the name and telephone number of an agency employee who may be contacted about the rule;

(j) the name of the agency head or designee who authorized the rule;

(k) the date on which the rule may become effective following the public comment period;

(l) the agency's analysis on the fiscal impact of the rule as required under Subsection (5);

(m) any additional comments the department head may choose to submit regarding the fiscal impact the rule may have on businesses; and

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

(9)

(a) For a rule being repealed and reenacted, the rule analysis shall contain a summary that generally includes the following:

(i) a summary of substantive provisions in the repealed rule which are eliminated from the enacted rule; and

(ii) a summary of new substantive provisions appearing only in the enacted rule.

(b) The summary required under this Subsection (9) is to aid in review and may not be used to contest any rule on the ground of noncompliance with the procedural requirements of this chapter.

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

(11)

(a) Following the publication date, the agency shall allow at least 30 days for public comment on the rule.

(b) The agency shall review and evaluate all public comments submitted in writing within the time period under Subsection (11)(a) or presented at public hearings conducted by the agency within the time period under Subsection (11)(a).

(12)

(a) Except as provided in Sections 63G-3-303 and 63G-3-304, a proposed rule becomes effective on any date specified by the agency that is no fewer than seven calendar days after the close of the public comment period under Subsection (11), nor more than 120 days after the publication date.

(b) The agency shall provide notice of the rule's effective date to the office in the form required by the department.

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

(d) The office shall publish notice of the effective date of the rule in the next issue of the bulletin.

(e) A proposed rule lapses if a notice of effective date or a change to a proposed rule is not filed with the office within 120 days of publication.

(13)

(a) As used in this Subsection (13), "initiate rulemaking proceedings" means the filing, for the purposes of publication in accordance with Subsection (4), of an agency's proposed rule that is required by state statute.

(b) A state agency shall initiate rulemaking proceedings no later than 180 days after the effective date of the statutory provision that specifically requires the rulemaking, except under Subsection (13)(c).

(c) When a statute is enacted that requires agency rulemaking and the affected agency already has rules in place that meet the statutory requirement, the agency shall submit the rules to the Administrative Rules Review Committee for review within 60 days after the statute requiring the rulemaking takes effect.

(d) If a state agency does not initiate rulemaking proceedings in accordance with the time requirements in Subsection (13)(b), the state agency shall appear before the legislative

Administrative Rules Review Committee and provide the reasons for the delay.

Amended by Chapter 255, 2017 General Session

63G-3-302 Public hearings.

(1) Each agency may hold a public hearing on a proposed rule, amendment to a rule, or repeal of a rule during the public comment period.

(2) Each agency shall hold a public hearing on a proposed rule, amendment to a rule, or repeal of a rule if:

(a) a public hearing is required by state or federal mandate;

(b)

(i) another state agency, 10 interested persons, or an interested association having not fewer than 10 members request a public hearing; and

(ii) the agency receives the request in writing not more than 15 days after the publication date of the proposed rule.

(3) The agency shall hold the hearing:

(a) before the rule becomes effective; and

(b) no less than seven days nor more than 30 days after receipt of the request for hearing.

Renumbered and Amended by Chapter 382, 2008 General Session

63G-3-303 Changes in rules.

(1)

(a) To change a proposed rule already published in the bulletin, an agency shall file with the office:

(i) the text of the changed rule; and

(ii) a rule analysis containing a description of the change and the information required by Section 63G-3-301.

(b) A change to a proposed rule may not be filed more than 120 days after publication of the rule being changed.

(c) The office shall publish the rule analysis for the changed rule in the bulletin.

(d) The changed proposed rule and its associated proposed rule will become effective on a date specified by the agency, not less than 30 days or more than 120 days after publication of the last change in proposed rule.

(e) A changed proposed rule and its associated proposed rule lapse if a notice of effective date or another change to a proposed rule is not filed with the office within 120 days of publication of the last change in proposed rule.

(2) If the rule change is nonsubstantive:

(a) the agency need not comply with the requirements of Subsection (1); and

(b) the agency shall notify the office of the change in writing.

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

Amended by Chapter 193, 2016 General Session

63G-3-304 Emergency rulemaking procedure.

(1) All agencies shall comply with the rulemaking procedures of Section 63G-3-301 unless an agency finds that these procedures would:

(a) cause an imminent peril to the public health, safety, or welfare;

(b) cause an imminent budget reduction because of budget restraints or federal requirements; or

(c) place the agency in violation of federal or state law.

(2)

(a) When finding that its rule is excepted from regular rulemaking procedures by this section, the agency shall file with the office:

(i) the text of the rule; and

(ii) a rule analysis that includes the specific reasons and justifications for its findings.

(b) The office shall publish the rule in the bulletin as provided in Subsection 63G-3-301(4).

(c) The agency shall notify interested persons as provided in Subsection 63G-3-301(10).

(d) The rule becomes effective for a period not exceeding 120 days on the date of filing or any later date designated in the rule.

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

Amended by Chapter 193, 2016 General Session

63G-3-305 Agency review of rules -- Schedule of filings -- Limited exemption for certain rules.

(1) Each agency shall review each of its rules within five years after the rule's original effective date or within five years after the filing of the last five-year review, whichever is later.

(2) An agency may consider any substantial review of a rule to be a five-year review if the agency also meets the requirements described in Subsection (3).

(3) At the conclusion of its review, and no later than the deadline described in Subsection (1), the agency shall decide whether to continue, repeal, or amend and continue the rule and comply with Subsections (3)(a) through (c), as applicable.

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

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

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

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

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

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

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

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

(4) The office shall publish a five-year notice of review and statement of continuation in the

bulletin no later than one year after the deadline described in Subsection (1).
(5)
(a) The office shall make a reasonable effort to notify an agency that a rule is due for review at least 180 days before the deadline described in Subsection (1).
(b) The office's failure to comply with the requirement described in Subsection (5)(a) does not exempt an agency from complying with any provision of this section.
(6) If an agency finds that it will not meet the deadline established in Subsection (1):
(a) before the deadline described in Subsection (1), the agency may file one extension with the office indicating the reason for the extension; and
(b) the office shall publish notice of the extension in the bulletin in accordance with the office's publication schedule established by rule under Section 63G-3-402.
(7) An extension permits the agency to comply with the requirements described in Subsections (1) and (3) up to 120 days after the deadline described in Subsection (1).
(8)
(a) If an agency does not comply with the requirements described in Subsection (3), and does not file an extension under Subsection (6), the rule expires automatically on the day immediately after the date of the missed deadline.
(b) If an agency files an extension under Subsection (6) and does not comply with the requirements described in Subsection (3) within 120 days after the day on which the deadline described in Subsection (1) expires, the rule expires automatically on the day immediately after the date of the missed deadline.
(9) After a rule expires under Subsection (8), the office shall:
(a) publish a notice in the next issue of the bulletin that the rule has expired and is no longer enforceable;
(b) remove the rule from the code; and
(c) notify the agency that the rule has expired.
(10) After a rule expires, an agency must comply with the requirements of Section 63G-3-301 to reenact the rule.

Amended by Chapter 193, 2016 General Session

Part 4
Office of Administrative Rules

63G-3-401 Office of Administrative Rules created -- Coordinator.
(1) There is created within the Department of Administrative Services the Office of Administrative Rules, to be administered by a coordinator.
(2) The coordinator shall hire, train, and supervise staff necessary for the office to carry out the provisions of this chapter.

Amended by Chapter 193, 2016 General Session

63G-3-402 Office of Administrative Rules -- Duties generally.
(1) The office shall:
(a) record in a register the receipt of all agency rules, rule analysis forms, and notices of

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

(2) The department shall establish by rule in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, all filing, publication, and hearing procedures necessary to make rules under this chapter.

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

(4) In addition, the office may make the following nonsubstantive changes with the concurrence of the agency:

(a) eliminate duplication within rules;
(b) eliminate obsolete and redundant words; and
(c) correct defective or inconsistent section and paragraph structure in arrangement of the subject matter of rules.

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

(6) All funds appropriated or collected for publishing the office's publications shall be nonlapsing.

Amended by Chapter 193, 2016 General Session

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

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

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

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

(4)
(a) To inform the public about the proposed code reenactment, the office shall publish in the bulletin:
(i) notice of the code reenactment;
(ii) the date, time, and place of a public hearing where members of the public may comment on the proposed reenactment of the code;
(iii) locations where the proposed reenactment of the code may be reviewed; and
(iv) agency summaries of substantive changes in the reenacted code.

(b) To inform the public about substantive changes in agency rules contained in the proposed reenactment, each agency shall:

(i) make the text of their reenacted rules available:

(A) for public review during regular business hours; and

(B) in an electronic version; and

(ii) comply with the requirements of Subsection 63G-3-301(10).

(5) The office shall hold a public hearing on the proposed code reenactment no fewer than 30 days nor more than 45 days after the publication required by Subsection (4)(a).

(6) The office shall distribute complete text of the proposed code reenactment without charge to:

(a) state-designated repositories in Utah;

(b) the Administrative Rules Review Committee; and

(c) the Office of Legislative Research and General Counsel.

(7) The former code is repealed and the reenacted code is effective at noon on a date designated by the office that is not fewer than 45 days nor more than 90 days after the publication date required by this section.

(8) Repeal and reenactment of the code meets the requirements of Section 63G-3-305 for a review of all agency rules.

Amended by Chapter 193, 2016 General Session

Part 5
Legislative Oversight

63G-3-501 Administrative Rules Review Committee.

(1)

(a) There is created an Administrative Rules Review Committee of the following 10 permanent members:

(i) five members of the Senate appointed by the president of the Senate, no more than three of whom may be from the same political party; and

(ii) five members of the House of Representatives appointed by the speaker of the House of Representatives, no more than three of whom may be from the same political party.

(b) Each permanent member shall serve:

(i) for a two-year term; or

(ii) until the permanent member's successor is appointed.

(c)

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

(ii) When a vacancy exists:

(A) if the departing member is a member of the Senate, the president of the Senate shall appoint a member of the Senate to fill the vacancy; or

(B) if the departing member is a member of the House of Representatives, the speaker of the House of Representatives shall appoint a member of the House of Representatives to fill the vacancy.

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

(d)

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

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

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

(f)

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

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

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

(3)

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

(b) The committee shall examine each rule submitted by an agency to determine:

(i) whether the rule is authorized by statute;

(ii) whether the rule complies with legislative intent;

(iii) the rule's impact on the economy and the government operations of the state and local political subdivisions; and

(iv) the rule's impact on affected persons.

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

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

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

(5) The committee may request that the Office of the Legislative Fiscal Analyst prepare a fiscal note on any rule.

(6) In order to accomplish the committee's functions described in this chapter, the committee has all the powers granted to legislative interim committees under Section 36-12-11.

(7)

(a) The committee may prepare written findings of the committee's review of a rule and may include any recommendations, including legislative action.

(b) When the committee reviews a rule, the committee shall provide to the agency that enacted the rule:

(i) the committee's findings, if any; and

(ii) a request that the agency notify the committee of any changes the agency makes to the rule.

(c) The committee shall provide a copy of the committee's findings, if any, to:

(i) any member of the Legislature, upon request;
(ii) any person affected by the rule, upon request;
(iii) the president of the Senate;
(iv) the speaker of the House of Representatives;
(v) the Senate and House chairs of the standing committee that has jurisdiction over the agency that made the rule; and
(vi) the Senate and House chairs of the appropriation subcommittee that has jurisdiction over the agency that made the rule.

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

Amended by Chapter 193, 2016 General Session

63G-3-502 Legislative reauthorization of agency rules -- Extension of rules by governor.
(1) All grants of rulemaking power from the Legislature to a state agency in any statute are made subject to the provisions of this section.
(2)
(a) Except as provided in Subsection (2)(b), every agency rule that is in effect on February 28 of any calendar year expires on May 1 of that year unless it has been reauthorized by the Legislature.
(b) Notwithstanding the provisions of Subsection (2)(a), an agency's rules do not expire if:
(i) the rule is explicitly mandated by a federal law or regulation; or
(ii) a provision of Utah's constitution vests the agency with specific constitutional authority to regulate.
(3)
(a) The Administrative Rules Review Committee shall have omnibus legislation prepared for consideration by the Legislature during its annual general session.
(b) The omnibus legislation shall be substantially in the following form: "All rules of Utah state agencies are reauthorized except for the following:".
(c) Before sending the legislation to the governor for the governor's action, the Administrative Rules Review Committee may send a letter to the governor and to the agency explaining specifically why the committee believes any rule should not be reauthorized.
(d) For the purpose of this section, the entire rule, a single section, or any complete paragraph of a rule may be excepted for reauthorization in the omnibus legislation considered by the Legislature.
(4) The Legislature's reauthorization of a rule by legislation does not constitute legislative approval of the rule, nor is it admissible in any proceeding as evidence of legislative intent.
(5)
(a) If an agency believes that a rule that has not been reauthorized by the Legislature or that will be allowed to expire should continue in full force and effect and is a rule within their authorized rulemaking power, the agency may seek the governor's declaration extending the

rule beyond the expiration date.

(b) In seeking the extension, the agency shall submit a petition to the governor that affirmatively states:

(i) that the rule is necessary; and

(ii) a citation to the source of its authority to make the rule.

(c)

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

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

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

Renumbered and Amended by Chapter 382, 2008 General Session

Part 6
Judicial Review

63G-3-601 Interested parties -- Petition for agency action.

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

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

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

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

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

(6)

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

(b) Within 80 days of the submission of the petition, the board shall either:

(i) deny the petition in writing stating its reasons for denial; or

(ii) initiate rulemaking proceedings.

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

court.

Amended by Chapter 181, 2017 General Session

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

(1)

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

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

(2)

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

(b) When seeking judicial review of a rule, the person need not exhaust that person's administrative remedies if:

(i) less than six months has passed since the date that the rule became effective and the person had submitted verbal or written comments on the rule to the agency during the public comment period;

(ii) a statute granting rulemaking authority expressly exempts rules made under authority of that statute from compliance with Section 63G-3-601; or

(iii) compliance with Section 63G-3-601 would cause the person irreparable harm.

(3)

(a) In addition to the information required by the Utah Rules of Civil Procedure, a complaint filed under this section shall contain:

(i) the name and mailing address of the plaintiff;

(ii) the name and mailing address of the defendant agency;

(iii) the name and mailing address of any other party joined in the action as a defendant;

(iv) the text of the rule or proposed rule, if any;

(v) an allegation that the person filing the complaint has either exhausted the administrative remedies by complying with Section 63G-3-601 or met the requirements for waiver of exhaustion of administrative remedies established by Subsection (2)(b);

(vi) the relief sought; and

(vii) factual and legal allegations supporting the relief sought.

(b)

(i) The plaintiff shall serve a summons and a copy of the complaint as required by the Utah Rules of Civil Procedure.

(ii) The defendants shall file a responsive pleading as required by the Utah Rules of Civil Procedures.

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

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

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

(i) the rule violates constitutional or statutory law or the agency does not have legal

authority to make the rule;
(ii) the rule is not supported by substantial evidence when viewed in light of the whole administrative record; or
(iii) the agency did not follow proper rulemaking procedure;
(b) declaring the rule nonapplicable to the petitioner;
(c) remanding the matter to the agency for compliance with proper rulemaking procedures or further fact-finding;
(d) ordering the agency to comply with Section 63G-3-201;
(e) issuing a judicial stay or injunction to enjoin the agency from illegal action or action that would cause irreparable harm to the petitioner; or
(f) any combination of Subsections (4)(a) through (e).
(5) If the plaintiff meets the requirements of Subsection (2)(b), the district court may review and act on a complaint under this section whether or not the plaintiff has requested the agency review under Section 63G-3-601.

Renumbered and Amended by Chapter 382, 2008 General Session

63G-3-603 Time for contesting a rule -- Statute of limitations.
(1) A proceeding to contest any rule on the ground of noncompliance with the procedural requirements of this chapter shall commence within two years of the effective date of the rule.
(2) A proceeding to contest any rule on the ground of not being supported by substantial evidence when viewed in light of the whole administrative record shall commence within four years of the effective date of the challenged action.
(3) A proceeding to contest any rule on the basis that a change to the rule made under Subsection 63G-3-402(2) or (3) substantively changed the rule shall be commenced within two years of the date the change was made.

Renumbered and Amended by Chapter 382, 2008 General Session

Part 7
Official Compilation of Administrative Rules

63G-3-701 Utah Administrative Code as official compilation of rules -- Judicial notice.
The code shall be received by all the judges, public officers, commissions, and departments of the state government as evidence of the administrative law of the state of Utah and as an authorized compilation of the administrative law of Utah. All courts shall take judicial notice of the code and its provisions.

Renumbered and Amended by Chapter 382, 2008 General Session

63G-3-702 Utah Administrative Code -- Organization -- Official compilation.
(1) The Utah Administrative Code shall be divided into three parts:
(a) titles, whose number shall begin with "R";
(b) rules; and

(c) sections.
(2) All sections contained in the code are referenced by a three-part number indicating its location in the code.
(3) The office shall maintain the official compilation of the code and is the state-designated repository for administrative rules. If a dispute arises in which there is more than one version of a rule, the latest effective version on file with the office is considered the correct, current version.

Amended by Chapter 193, 2016 General Session

R15. Administrative Services, Administrative Rules (Office of).
R15-1. Administrative Rule Hearings.

R15-1-1. Authority.

(1) This rule establishes procedures and standards for administrative rule hearings as required by Subsection 63G-3-402(1)(a).

(2) The procedures of this rule constitute the minimum requirements for mandatory administrative rule hearings. Additional procedures may be required to comply with any other governing statute, federal law, or federal regulation.

R15-1-2. Definitions.

(1) Terms used in this rule are defined in Section 63G-3-102.

(2) In addition:

(a) "coordinator" means the coordinator of the Office of Administrative Rules;

(b) "hearing" means an administrative rule hearing; and

(c) "officer" means an administrative rule hearing officer.

R15-1-3. Purpose.

(1) The purpose of this rule is to provide:

(a) procedures for agency hearings on proposed administrative rules or rules changes, or on the need for a rule or change;

(b) opportunity for public comment on rules; and

(c) opportunity for agency response to public concerns about rules.

R15-1-4. When Agencies Hold Hearings.

(1) Agencies shall hold hearings as required by Subsection 63G-3-302(2).

(2) Agencies may hold hearings:

(a) during the public comment period on a proposed rule, after its publication in the bulletin and prior to its effective date;

(b) before initiating rulemaking procedures under Title 63G, Chapter 3, to promote public input prior to a rule's publication;

(c) during a regular or extraordinary meeting of a state board, council, or commission, in order to avoid separate and additional meetings; or

(d) to hear any public petition for a rule change as provided by Section 63G-3-601.

(3) Voluntary hearings, as described in this section, follow the procedures prescribed by this rule or any other procedures the agency may provide by rule.

(4) Mandatory hearings, as described in this section, follow the procedures prescribed by this rule and any additional requirements of state or federal law.

(5) If an agency holds a mandatory hearing under the procedures of this rule during the public comment period described in Subsection 63G-3-301(6), no second hearing is required for the purpose of comment on the same rule or change considered at the first hearing.

R15-1-5. Hearing Procedures.

(1) Notice.

(a) An agency shall provide notice of a hearing by:

(i) publishing the hearing date, time, place, and subject in the bulletin;

(ii) mailing copies of the notice directly to persons who have petitioned for a hearing or rule changes under Section 63G-3-302 or 63G-3-601, respectively; and

(iii) posting for at least 24 hours in a place in the agency's offices which is frequented by the public.

(b) If a hearing becomes mandatory after the agency has published the proposed rule in the bulletin, the agency shall notify in writing persons requesting the hearing of the time and place.

(c) An agency may provide additional notice of a hearing, and shall give further notice as may otherwise be required by law.

(2) Hearing Officer.

(a) The agency head shall appoint as hearing officer a person qualified to conduct fairly the hearing.

(b) No restrictions apply to this appointment except the officer shall know rulemaking procedure.

(c) If a state board, council, or commission is responsible for agency rulemaking, and holds a hearing, a member or the body's designee may be the hearing officer.

(3) Time. The officer shall open the hearing at the announced time and place and permit comment for a minimum of one hour. The hearing may be extended or continued to another day as necessary in the judgment of the officer.

(4) Comment.

(a) At the opening of the hearing, the officer shall explain the subject and purpose of the hearing and invite orderly, germane comment from all persons in attendance. The officer may set time limits for speakers and shall ensure equitable use of time.

(b) The agency shall have a representative at the hearing, other than the officer, who is familiar with the rule at issue and who can respond to requests for information by those in attendance.

(c) The officer shall invite written comment to be submitted at the hearing or after the hearing, within a reasonable time. Written comment shall be attached to the hearing minutes.

(d) The officer shall conduct the hearing as an open, informal, orderly, and informative meeting. Oaths, cross-examination, and rules of evidence are not required.

(5) The Hearing Record.

(a) The officer shall cause to be recorded the name, address, and relevant affiliation of all persons speaking at the hearing, and cause an electronic or mechanical verbatim recording of the hearing to be made, or make a brief summary, of their remarks.
(b) The hearing record consists of a copy of the proposed rule or rule change, submitted written comment, the hearing recording or summary, the list of persons speaking at the hearing, and other pertinent documents as determined by the agency.
(c) The hearing officer shall, as soon as practicable, assemble the hearing record and transmit it to the agency for consideration.
(d) The hearing record shall be kept with and as part of the rule's administrative record in a file available at the agency offices for public inspection.

R15-1-8. Decision on an Issue Regarding Rulemaking Procedure.
(1) When a hearing issue requires a decision regarding rulemaking procedure, the officer shall submit a written request for a decision to the coordinator as soon as practicable after, or after recessing, the hearing, as provided in Section R15-5-6. The coordinator shall reply to the agency head as provided in Subsection R15-5-6(2). The coordinator's decision shall be included in the hearing record.

R15-1-9. Appeal and Judicial Review.
(1) Persons may appeal the decision of the agency head or the coordinator by petitioning the district court for judicial review as provided by law.

KEY: administrative law, government hearings
Date of Enactment or Last Substantive Amendment: June 1, 1996
Notice of Continuation: September 11, 2015
Authorizing, and Implemented or Interpreted Law: 63G-3-402

R15. Administrative Services, Administrative Rules (Office of).
R15-2. Public Petitioning for Rulemaking.

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

R15-2-2. Definitions.
(1) Terms used in this rule are defined in Section 63G-3-102.
(2) Other terms are defined as follows:
(a) "rule change" means:
(i) making a new rule;
(ii) amending, repealing, or repealing and reenacting an existing rule;
(iii) amending a proposed rule further by filing a change in proposed rule under the provisions of Section 63G-3-303;
(iv) allowing a proposed (new, amended, repealed, or repealed and reenacted) rule or change in proposed rule to lapse; or
(v) any combination of the above.
(b) "petitioner" means an interested person who submits a petition to an agency pursuant to Section 63G-3-601 and this rule.

R15-2-3. Petition Procedure.
(1) The petitioner shall send the petition to the head of the agency authorized by law to make the rule change requested.
(2) The agency receiving the petition shall record the date it received the petition.

R15-2-4. Petition Form.
The petition shall:
(a) be clearly designated "petition for a rule change";
(b) state the petitioner's name;
(c) state the petitioner's interest in the rule, including relevant affiliation, if any;
(d) include a statement as required by Subsection 63G-3-601(4) regarding the requested rule change;
(e) state the approximate wording of the requested rule change;
(f) describe the reason for the rule change;

(g) include an address, an e-mail address when available, and telephone where the petitioner can be reached during regular business hours; and

(h) be signed by the petitioner.

R15-2-5. Petition Consideration and Disposition.

(1) The agency head or designee shall:

(a) review and consider the petition;

(b) write a response to the petition stating:

(i) that the petition is denied and reasons for denial; or

(ii) the date when the agency is initiating a rule change consistent with the intent of the petition; and

(c) send the response to the petitioner within the time frame provided by Section 63G-3-601.

(2) The petitioned agency may, within the time frame provided by Section 63G-3-601, interview the petitioner, hold a public hearing on the petition, or take any action the agency, in its judgment, deems necessary to provide the petition due consideration.

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

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

KEY: administrative law, open government, transparency
Date of Enactment or Last Substantive Amendment: December 25, 2006
Notice of Continuation: September 11, 2015
Authorizing, and Implemented or Interpreted Law: 63G-3-601

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

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

(1) This rule is authorized under Subsection 63G-3-402(1) and (2).

(2) This rule clarifies when rulemaking is required, and requirements for incorporation by reference within rules.

(3) Terms used in this rule are defined in Section 63G-3-102.

R15-3-2. Agency Discretion.

(1) A rule may restrict agency discretion to prevent agency personnel from exceeding their scope of employment, or committing arbitrary action or application of standards, or to provide due process for persons affected by agency actions.

(2) A rule may authorize agency discretion that sets limits, standards, and scope of employment within which a range of actions may be applied by agency personnel. A rule may also establish criteria for granting exceptions to the standards or procedures of the rule when, in the judgment of authorized personnel, documented circumstances warrant.

(3) An agency may have written policies which broadly prescribe goals and guidelines. Policies are not rules unless they meet the criteria for rules set forth under Section 63G-3-201(2).

(4) Within the limits prescribed by Sections 63G-3-201 and 63G-3-602, an agency has full discretion regarding the substantive content of its rules. The office has authority over nonsubstantive content under Subsections 63G-3-402(3) and (4), and 63G-3-403(2) and (3), rulemaking procedures, and the physical format of rules for compilation in the Utah Administrative Code.

R15-3-3. Use of Incorporation by Reference in Rules.

(1) An agency incorporating materials by reference as permitted under Subsection 63G-3-201(7) shall comply with the following standards:

(a) The rule shall state specifically that the cited material is "incorporated by reference."

(b) If the material contains options, or is modified in its application, the options selected and modifications made shall be stated in the rule.

(c) If the incorporated material is substantively changed at a later time, and the agency intends to enforce the revised material, the agency shall amend its rule through rulemaking procedures to incorporate by reference any applicable changes as soon as practicable.

(d) In accordance with Subsection 63G-3-201(7)(c), an agency shall describe substantive changes that appear in the materials incorporated by reference as part of the "summary of rule or change" in the rule analysis.

(2) An agency shall comply with copyright requirements when providing the office a copy of material incorporated by reference.

R15-3-4. Computer-Prohibited Material.

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

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

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

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

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

KEY: administrative law
Date of Enactment or Last Substantive Amendment: April 30, 2007
Notice of Continuation: September 11, 2015
Authorizing, and Implemented or Interpreted Law: 63G-3-201; 63G-3-301; 63G-3-402

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

R15-4-1. Authority and Purpose.

(1) This rule establishes procedures for filing and publication of agency rules under Sections 63G-3-301, 63G-3-303, and 63G-3-304, as authorized under Subsection 63G-3-402(2).

(2) The procedures of this rule constitute minimum requirements for rule filing and publication. Other governing statutes, federal laws, or federal regulations may require additional rule filing and publication procedures.

R15-4-2. Definitions.

(1) Terms used in this rule are defined in Section 63G-3-102.

(2) Other terms are defined as follows:

(a) "Anniversary date" means the date that is five years from the original effective date of the rule, or the date that is five years from the date the agency filed with the office the most recent five-year review required under Subsection 63G-3-305(3), whichever is sooner.

(b) "Digest" means the Utah State Digest that summarizes the content of the bulletin as required by Subsection 63G-3-402(1)(e);

(c) "Codify" means the process of collecting and arranging administrative rules systematically in the Utah Administrative Code, and includes the process of verifying that each amendment was marked as required under Subsection 63G-3-301(4)(b);

(d) "Compliance cost" means expenditures a regulated person will incur if a rule or change is made effective;

(e) "coordinator" means the coordinator of the Office of Administrative Rules;

(f) "Cost" means the aggregated expenses persons as a class affected by a rule will incur if a rule or change is made effective;

(g) "eRules" means the administrative rule filing application that agencies use to file rules and notices;

(h) "Savings" means:

(i) an aggregated monetary amount that will no longer be incurred by persons as a class if a rule or change is made effective;

(ii) an aggregated monetary amount that will be refunded or rebated if a rule or change is made effective;

(iii) an aggregated monetary amount of anticipated revenues to be generated for state budgets, local governments, or both if a rule or change is made effective; or

(iv) any combination of these aggregated monetary amounts.

(i) "Unmarked change" means a change made to rule text that was not marked as required by Subsection 63G-3-301(4)(b).

R15-4-3. Publication Dates and Deadlines.

(1) For the purposes of Subsections 63G-3-301(4) and 63G-3-303(1), an agency shall file its rule and rule analysis by 11:59:59 p.m. on the fifteenth day of the month for publication in the bulletin and digest issued on the first of the next month, and by 11:59:59 p.m. on the first day of the month for publication on the fifteenth of the same month.

(a) If the first or fifteenth day is a Saturday, or a Tuesday, Wednesday, Thursday, or Friday holiday, the agency shall file the rule and rule analysis by 11:59:59 p.m. on the previous regular business day.

(b) If the first or fifteenth day is a Sunday or Monday holiday, the agency shall file the rule and rule analysis by 11:59:59 p.m. on the next regular business day.

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

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

(1) For the purposes of Sections 63G-3-301 and 63G-3-303, "30 days" shall be computed by:

(a) counting the day after publication of the rule as the first day; and

(b) counting the thirtieth consecutive day after the day of publication as the thirtieth day, unless

(c) the thirtieth consecutive day is a Saturday, Sunday, or holiday, in which event the thirtieth day is the next regular business day.

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

(1)(a) Pursuant to Subsection 63G-3-301(12), upon expiration of the comment period designated on the rule analysis and filed with the rule, and before expiration of 120 days after publication of a proposed rule, the agency proposing the rule shall notify the office of the date the rule is to become effective and enforceable.

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

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

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

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

(a) at least seven days after the comment period specified on the rule analysis; or

(b) if the agency formally extends the comment period for a proposed rule by publishing a subsequent notice in an issue of the bulletin, at least seven days after the extended comment period.

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

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

(1)(a) Upon expiration of the 30-day period required by Section 63G-3-303, and before expiration of the 120th day after publication of a change in proposed rule, the agency promulgating the rule shall notify the office of the date the rule is to become effective and enforceable.

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

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

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

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

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

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

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

R15-4-6. Nonsubstantive Changes in Rules.

(1) Pursuant to Subsections 63G-3-201(4)(d) and 63G-3-303(2), for the purpose of making rule changes that are grammatical or do not materially affect the application or outcome of agency procedures and standards, agencies shall comply with the procedures of this section.
(2) The agency proposing a change shall determine if the change is substantive or nonsubstantive according to the criteria cited in Subsection R15-4-6(1).
(a) The agency may seek the advice of the attorney general or the office, but the agency is responsible for compliance with the cited criteria.
(3) Without complying with regular rulemaking procedures, an agency may make nonsubstantive changes in:
(a) proposed rules already published in the bulletin and digest but not made effective; or
(b) rules already effective.
(4) To make a nonsubstantive change in a rule, the agency shall:
(a) notify the office by filing with the office the form designated for nonsubstantive changes;
(b) include with the notice the rule text to be changed, with changes marked as required by Section R15-4-9; and
(c) include with the notice the name of the agency head or designee authorizing the change.
(5) A nonsubstantive change becomes effective on the date the office makes the change in the Utah Administrative Code.
(6) The office shall record the nonsubstantive change and its effective date in the administrative rules register.

R15-4-7. Substantive Changes in Proposed Rules.
(1) Pursuant to Section 63G-3-303, agencies shall comply with the procedures of this section when making a substantive change in a proposed rule.
(a) The procedures of this section apply if:
(i) the agency determines a change in the rule is necessary;
(ii) the change is substantive under the criteria of Subsection 63G-3-102(20);
(iii) the rule was published as a proposal in the bulletin and digest; and
(iv) the rule has not been made effective under the procedures of Subsection 63G-3-301(12) and Section R15-4-5a.
(b) If the rule is already effective, the agency shall comply with regular rulemaking procedures.
(2) To make a substantive change in a proposed rule, the agency shall file with the office:
(a) a rule analysis, marked to indicate the agency intends to change a rule already published, and describing the change and reasons for it; and
(b) a copy of the proposed rule previously published in the bulletin marked to show only those changes made since the proposed rule was previously published.
(3) The office shall publish the rule analysis in the next issue of the bulletin, subject to the publication deadlines of Section R15-4-3. The office may also publish the changed text of the rule.

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

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

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

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

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

(3) The agency shall use the same procedures for filing and publishing a temporary rule as for a permanent rule, except:

(a) the rule shall become effective and enforceable on the day and hour it is recorded by the office unless the agency designates a later effective date on the rule analysis;

(b) no comment period is necessary;

(c) no public hearing is necessary; and

(d) the rule shall expire 120 days after the rule's effective date unless the filing agency notifies the office, on the form or by memorandum, of an earlier expiration date.

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

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

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

R15-4-9. Underscoring and Striking Out.

(1)(a) Pursuant to Subsection 63G-3-301(4)(b), an agency shall underscore language to be added and strike out language to be deleted in proposed rules.

(b) Consistent with Subsection 63G-3-301(4)(b), an agency shall underscore language to be added and strike out language to be deleted in changes in proposed rules, 120-day rules, and nonsubstantive changes.

(c) The struck out language shall be surrounded by brackets.

(2) When an agency proposes to make a new rule or section, the entire proposed text shall be underscored.

(3)(a) When an agency proposes to repeal a complete rule it shall include as part of the information provided in the rule analysis a brief summary of the deleted language and a brief explanation of why the rule is being repealed.

(b) The agency shall include with the rule analysis a copy of the text to be deleted in one of the following formats:

(i) each page annotated "repealed in its entirety" or

(ii) the entire text struck out in its entirety and surrounded by one set of brackets.

(c) The office shall not publish repealed rules unless space is available within the page limits of the bulletin.

(4) When an agency fails to mark a change as described in this section, the coordinator may refuse to codify the change. When determining whether or not to codify an unmarked change, the coordinator shall consider:

(a) whether the unmarked change is substantive or nonsubstantive; and

(b) if the purpose of public notification has been adequately served.

(5) The coordinator's refusal to codify an unmarked change means that the change is not operative for the purposes of Section 63G-3-701 and that the agency must comply with regular rulemaking procedures to make the change.

R15-4-10. Estimates of Anticipated Cost or Savings, and Compliance Cost.

(1) Pursuant to Subsections 63G-3-301(8)(d), 63G-3-303(1)(a), 63G-3-304(2), and 53C-1-201(3), when an agency files a proposed rule, change in proposed rule, 120-day (emergency) rule, or expedited rule and provides anticipated cost or savings, and compliance cost information in the rule analysis, the agency shall:

(a) estimate the incremental cost or savings and incremental compliance cost associated with the changes proposed by the rule or change;

(b) estimate the incremental cost or savings and incremental compliance cost in dollars, except as otherwise provided in Subsections R15-4-10(4) and (5);

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

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

(2) In addition, an agency may:

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

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

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

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

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

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

(4) If dollar estimates are unknown or not available, or the obtaining thereof would impose a substantial unbudgeted hardship on the agency, the agency may substitute a reasoned narrative description of cost-related actions required by the rule or change, and explain the reason or reasons for the substitution.
(5) If no cost, savings, or compliance cost is associated with the rule or change, an agency may enter "none," "no impact," or similar words in the rule analysis followed by a written explanation of how the agency estimated that there would be no impact, or how the proposed rule, or changes made to an existing rule does not apply to "state budgets," "local government," "small businesses," "persons other than small businesses, businesses, or local governmental entities," or any combination of these.
(6) If an agency does not provide an estimate of cost, savings, compliance cost, or a reasoned narrative description of cost information; or a written explanation as part of the rule analysis in compliance with this section, the office may, after making an attempt to obtain the required information, refuse to register and publish the rule or change. If the office refuses to register and publish a rule or change, it shall:

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

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

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

KEY: administrative law
Date of Enactment or Last Substantive Amendment: August 24, 2007
Notice of Continuation: September 11, 2015
Authorizing, and Implemented or Interpreted Law: 63G-3-301; 63G-3-303; 63G-3-304; 63G-3-402

R15. Administrative Services, Administrative Rules (Office of).
R15-5. Administrative Rules Adjudicative Proceedings.

R15-5-1. Purpose.

(1) This rule provides the procedures for informal adjudicative proceedings governing:

(a) appeal and review of a decision by the office not to publish an agency's proposed rule or rule change or not to register an agency's notice of effective date; and

(b) a determination by the office whether an agency rule meets the procedural requirements of Title 63G, Chapter 3, the Utah Administrative Rulemaking Act.

(2) The informal procedures of this rule apply to all other division actions for which an adjudicative proceeding may be required.

R15-5-2. Authority.

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

R15-5-3. Definitions.

(1) The terms used in this rule are defined in Section 63G-4-103.

(2) In addition:

(a) "coordinator" means the coordinator of the Office of Administrative Rules; and

(b) "digest" means the Utah State Digest which summarizes the content of the bulletin as required under Subsection 63G-3-402(1)(f).

R15-5-4. Refusal to Publish or Register a Rule or Rule Change.

(1) The office shall not publish a proposed rule or rule change when the office determines the agency has not met the requirements of Title 63G, Chapter 3, or of Rules R15-3 or R15-4.

(2) The office shall not register an agency's notice of effective date, nor codify the rule or rule change in the Utah Administrative Code, if the agency exceeds the 120-day limit required by Subsection 63G-3-301(6)(a) as interpreted in Section R15-4-5.

(3) The office shall notify the agency of a refusal to publish or register a rule or rule change, and shall advise and assist the agency in correcting any error or omission, and in re-filing to meet statutory and regulatory criteria.

R15-5-5. Appeal of a Refusal to Publish or Register a Rule or Rule Change.

(1) An agency may request a review of an office refusal to publish or register a rule or rule change by filing a written petition for review with the coordinator.

(2) The coordinator shall grant or deny the petition within 20 days, and respond in writing giving the reasons for any denial.

(3) The agency may appeal the decision of the coordinator by filing a written appeal to the executive director of the Department of Administrative Services within 20 days of receipt of the coordinator's decision. The executive director shall respond within 20 days affirming or reversing the coordinator's decision.

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

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

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

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

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

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

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

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

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

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

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

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

(3) The petitioner may request reconsideration of the office's findings by filing a written request for reconsideration with the coordinator.

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

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

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

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

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

(3) A rule the office determines is procedurally valid shall be published and registered promptly.

KEY: administrative procedures, administrative law
Date of Enactment or Last Substantive Amendment: June 1, 1996
Notice of Continuation: September 11, 2015
Authorizing, and Implemented or Interpreted Law: 63G-3-402; 63G-4-202; 63G-4-203; 63G-4-503

Proposed Rule

PC-001

State of Utah

GARY R. HERBERT
Governor

SPENCER J. COX
Lieutenant Governor

Department of
Environmental Quality

Alan Matheson
Executive Director

DIVISION OF AIR QUALITY
Bryce C. Bird
Director

DAQ-040-17

M E M O R A N D U M

TO: Air Quality Board

THROUGH: Bryce C. Bird, Executive Secretary

FROM: Joel Karmazyn, Environmental Scientist

DATE: May 24, 2017

SUBJECT: PROPOSE FOR PUBLIC COMMENT: Amend R307-335. Degreasing and Solvent Cleaning Operations; and New Rule R307-304. Solvent Cleaning.

At the January 2017 Board meeting, the Board proposed to remove the volatile organic compound (VOC) limits for industrial solvents used for cleaning from R307-335 and add the limits to a new rule, R307-304.The public comment period for those proposals was from March 1 to March 31, 2017. A public hearing was held during the public comment period that was attended by major point sources. Commenters identified significant unintended consequences with the draft R307-304 rule. Consequently, we withdrew the rule after the public comment period in order to address valid concerns, and we have been engaged with a number of industry stakeholders and EPA to re-draft R307-304.

Rulemaking Proposal

The degreasing rule (R307-335) was amended under the Moderate $PM_{2.5}$ State Implementation Plan (SIP) to include industrial solvent cleaning (R307-335-7 and 8) because solvent cleaning is technically a form of degreasing. In order to achieve further VOC reductions from industrial solvent cleaning operations, which will be required for the Serious area $PM_{2.5}$ SIPs, we are proposing the following:

1. Amend R307-335 by removing the industrial solvent cleaning sections found in R307-335-7 and R307-335-8.
2. Move the industrial solvent cleaning requirements in R307-335 to a new solvent rule, R307-304.
3. Lower the threshold for gallons of solvent used in the applicability section of R307-304 to 55 gallons or more per year.
4. Introduce a solvent vapor pressure alternative to the density based limits.

Best Available Control Measure (BACM) Analysis

The requirements for R307-335-7 were derived from the EPA guidance for industrial solvent cleaning (EPA 453/R-06-001). EPA recommends that states set the applicability threshold for industrial solvent cleaning rules at 15 lbs. of VOCs/day or approximately 720 gallons of solvent/year in order to meet Reasonably Available Control Measures (RACM). The Board approved R307-335-7 at that level.

Based on EPA's reclassification of the Salt Lake and Utah County $PM_{2.5}$ nonattainment areas from Moderate to Serious, Utah's area source rules will have to be based on the more stringent standard of BACM.

Several state and air district rules that regulate industrial solvent cleaning apply the EPA's VOC content limit recommendations for aqueous-based solvent cleaning and an applicability threshold of 15 lbs. of VOCs/day. The San Joaquin Valley Unified Air Pollution Control District Rule 4663, *Organic Solvent Cleaning, Storage, and Disposal*, is the most stringent rule because its applicability is set at 55 gallons or more of solvent products in any consecutive12 month period. It also requires some solvent cleaning operations to use solvents at or below 0.21 lb/gallon.

Amending the current rule applicability to 55 gallons or more in a year (0.15 gallon/day) would essentially regulate most industrial solvent cleaning within the $PM_{2.5}$ nonattainment areas that is not already regulated under industry specific coating rules.

R307-335-7 originally included the extremely low VOC content requirements found in Rule 4663. Unfortunately, stakeholders did not provide comments on the original rule until after the rule was approved by the Board. Subsequently, we began to receive industry complaints that the extremely low VOC content limits were not achievable. In some cases, the only option was to use an acetone based solvent. Sources cited flammability concerns, equipment damage and/or solubility incompatibility with acetone usage. The Board responded by amending the rule by increasing the solvent content limits, the lowest limit being set at 2.5 lb/gal. As we have proceeded to review all of the coating rules for the next SIP submittals, we continue to receive comments regarding stakeholder concern about cleaning solvent emission limits that are mandated in California rules. Consequently, we have worked with EPA and industry to find a solution to this issue. We are proposing to provide a vapor pressure limit as an alternative to the density based limits.

Basis for Solvent Vapor Pressure Alternative

Traditionally, we have developed density based limits (mass/volume) for solvent use categories, but as we tighten the density based limits in order to further improve our air quality, we are faced with technical and safety limitations. This is because the density limits become so stringent that we preclude the use of all solvents but acetone. Acetone is not a universal solvent. It cannot be used for every industrial solvent cleaning activity. There are also safety and health concerns with the wide use of acetone. Consequently, we are proposing to offer an alternative option of using low vapor pressure solvent formulations.

The advantages of low vapor pressure solvent formulations include:

- The low solvent evaporation rate reduces product wastage. Surface cleaning solvents are only effective in their liquid state. This means that the more they evaporate, the more solvent is needed to complete the task. Using less solvent reduces costs.
- The low solvent evaporation reduces emissions to the outside air.
- The low solvent evaporation reduces emissions in the work place, improving worker safety.
- Using low vapor pressure solvent formulations avoids the use of hazardous air pollutant chemicals like methylene chloride.

How Will Using A Vapor Pressure Limit Provide More Cleaning Options?

Excellent cleaning solvents like xylene have a high vapor pressure. If the vapor pressure of a xylene solution is suppressed, xylene could be used for cleaning while reducing emissions. This can be done by applying a physical-chemical phenomenon known as Raoult's Law. Raoult's Law states that when a substance is dissolved in a solution, the vapor pressure of the solution will decrease. Finding ways to formulate salts (the substance) for example, into a xylene solution, will dramatically reduce the vapor pressure of the solution. Changing the form of the limit will permit formulation chemists to come up with more cleaning options while reducing VOC emissions.

Selecting a Vapor Pressure Limit

The EPA industrial cleaning solvent guidance document provides recommended control measures that include options to reduce VOC emissions. One of those options is to apply a composite vapor pressure limit of 8 millimeters of mercury (mmHg) at 20 degrees Celsius.

Emission Reduction and Cost

R307-304 is estimated to reduce VOC emissions by 28% at a cost of approximately $4.36/ton removed (assuming solvent substitution).

Recommendation: Staff recommends that the Board propose new rule R307-304 and the amendments to R307-335 for a 45-day public comment period.

R307. Environmental Quality, Air Quality.

R307-304. Solvent Cleaning.

R307-304-1. Purpose.

The purpose of R307-304 is to limit volatile organic compound (VOC) emissions from solvent cleaning operations.

R307-304-2. Applicability.

(1) R307-304 applies to solvent cleaning operations within Box Elder, Cache, Davis, Salt Lake, Tooele, Utah and Weber counties.

(2) Before September 1, 2018, R307-304 applies to an owner or operator using 720 gallons or more a year of VOC containing solvent products.

(3) Effective September 1, 2018, R307-304 shall apply to an owner or operator using 55 gallons or more a year of VOC containing solvent products.

R307-304-3. Exemptions.

(1) The requirements of R307-304 do not apply to the operations that are regulated under R307-342 through R307-347 and R307-349 through R307-355.

(2) Shipbuilding and repair and fiberglass boat manufacturing materials.

(3) Operations that are exclusively covered by Department of Defense military technical data and performed by a Department of Defense contractor and/or on site at installations owned and/or operated by the United States Armed Forces are exempt from the requirements of R307-304.

(4) Janitorial cleaning.

(5) Graffiti removal.

(6) Waste solvent from analytical laboratories.

(7) Cleaning with aerosol products not to exceed 16 fluid ounces.

R307-304-4. Definitions.

The following additional definitions apply to R307-304:

"Solvent cleaning" means operations performed using a liquid that contains any VOC, or combination of VOCs, which is used to clean parts, tools, machinery, equipment and work areas. Cleaning operations include, but are not limited to, spraying, wiping, flushing, and purging.

"Janitorial cleaning" means the cleaning of building floors, ceilings, walls, windows, doors, stairs, bathrooms, office surfaces and equipment.

R307-304-5. VOC Content Limits.

(1) No person shall use solvent products with a VOC content greater than the amounts specified in Table 1, unless the owner or operator uses an add-on control device as specified in R307-304-7 or the alternative method in R307-304-5(2).

TABLE 1

Solvent Cleaning VOC Limits (excluding water and exempt solvents from the definition of volatile organic compounds found in R307-101-2)

Solvent Cleaning Category	VOC Limit (lb/gal)	(g/L)
Coatings, adhesives and ink manufacturing	4.2	500
Electronic parts and components	4.2	500
Medical devices and pharmaceutical		
Tools, equipment and machinery	6.7	800
General surface cleaning	5.0	600
Screening printing operations	4.2	500
Semiconductor tools, maintenance and equipment cleaning	6.7	800

(2) As an alternative to the limits in Table 1 and for all general miscellaneous cleaning operations, a person may use a cleaning material with a VOC composite vapor pressure no greater than 8 mm Hg at 20 degrees Celsius.

R307-304-6. Work Practices.

An owner or operator shall:

(1) cover open containers of solvent products; and

(2) store used applicators and shop towels in closed fireproof containers.

R307-304-7. Add-on Emission Control Systems Operations.

(1) The add-on control device must have an emission control system designed to have an overall capture and control efficiency of at least 85%. Determination of overall capture and control efficiency shall be determined using EPA approved methods, as follows:

(a) The capture efficiency of a VOC emission control system's VOC collection device shall be determined according to EPA's "Guidelines for Determining Capture Efficiency," January 9, 1995 and 40 CFR Part 51, Appendix M, Methods 204-204F, as applicable.

(b) The control efficiency of a VOC emission control system's VOC control device shall be determined using test methods in Appendices A-1, A-6, and A-7 to 40 CFR Part 60, for measuring flow rates, total gaseous organic concentrations, or emissions of exempt compounds, as applicable.

(c) A n alternative test method may be substituted for the preceding test methods after review and approval by the EPA Administrator.

R307-304-8. Recordkeeping.

(1) The owner or operator shall maintain records of the following:

(a) The VOC content or composite vapor pressure of the solvent product applied and

(b) If an add-on control device is used, key system parameters necessary to ensure compliance with R307-304-7.

(i) Key system parameters must include, but are not limited to, temperature, pressure, flow rates, and an inspection schedule.

(ii)Key inspection parameters must be in accordance with the manufacturer's recommendations, and as required to demonstrate operations are providing continuous emission reduction from the source during all periods that the operations cause emissions from the source.

(2) All records must be maintained for 2 years.

(3) Records must be available to the director upon request.

KEY: air pollution, solvent cleaning, solvent use

Date of Enactment or Last Substantive Amendment: 2017

Notice of Continuation: 2017

Authorizing, and Implemented or Interpreted Law: 19-2-104(1)(a)

Introduction

Section 110(l) of the Clean Air Act (CAA) prohibits EPA from approving a State Implementation Plan (SIP) revision if the revision would interfere with any applicable requirement concerning attainment and reasonable further progress, or any other applicable requirement of the CAA. When revisions to state SIP rules are made, the Act requires that an analysis is completed to verify that the rule will not be relaxed in a way that would be impermissible under Section 110(l). This demonstration is being submitted for public comment because the Division of Air Quality (DAQ) is amending R307-335 and proposing new rule R307-304.

Proposed Rule Revision

Section 7 of the existing degreasing rule R307-335 will be removed to create a new rule called R307-304.

Excerpt of R307-335-7

R307-335-7. Industrial Solvent Cleaning.

(i) Using solvents (excluding water and solvents exempt from the definition of volatile organic compounds found in R307-101-2) with a VOC limit in Table 1; or

(ii) Installing an emission control system designed to have an overall capture and control efficiency of at least 85%.

TABLE 1
Solvent Cleaning VOC Limits

Solvent Cleaning Category	VOC Limit (lb/gal)
Coatings, adhesives and ink manufacturing	4.2
Electronic parts and components	4.2
General miscellaneous cleaning	**2.5**
Medical devices and pharmaceutical	
Tools, equipment and machinery	6.7
General surface cleaning	5.0
Screening printing operations	4.2
Semiconductor tools, maintenance and equipment Cleaning	6.7

In new rule R307-304, DAQ is proposing to replace the 2.5 lb/gal limit for general miscellaneous cleaning. This limit will be replaced with a vapor pressure limit of up to 8 mm Hg at 20 degrees Celsius that can be used for miscellaneous cleaning and in place of any other limit listed in Table 1 of new rule R307-304.

Rule Revision Analysis

The purpose of R307-304 is to reduce the amount of volatile organic compounds (VOCs) that are emitted into the atmosphere in the Wasatch Front, Cache Valley and Tooele County, as a way to improve winter-time air quality. These VOCs contribute to the development of fine particulates that become suspended in our airsheds during inversion periods.

Traditionally, we have developed density based limits (lb/gallon) for solvent use categories. We have come to realize that as we tighten the density based limits in order to further improve our air quality, we are faced with technical and safety limitation because we preclude the use of all solvents but acetone. Acetone is not a universal solvent. It cannot be used for every industrial solvent cleaning operation. There are also safety and health concerns with the wide use of acetone. Consequently, we are proposing to offer an alternative option of using low vapor pressure solvent formulations.

Why Is It Time To Move Away From A Density Limit?

Our intent is to continue to find ways to reduce VOC emissions. Solvent use is a significant source of fugitive VOC emission. Lowering the density limit below 2.5 lb/gallon for general solvent use would further remove all possibility of using any other solvent but acetone. The disadvantages of acetone are:

- Acetone works well for cleaning waxes, fats, oils varnishes and resins. It does not work well for grease, a variety of different types of coatings and paints, which are subject of the many Utah air quality rules.
- Acetone has a high vapor pressure (explained below), so it quickly evaporates which can make it difficult to use in industrial cleaning operations. Volatile acetone vapors can gather and pool at points around a work area creating explosion and fire hazards, particularly given the extremely low flash point for acetone.
- Acetone poses a safety risk because it is highly flammable. Acetone has an extremely low flash point which makes it susceptible to flaming.
- Acetone poses a health risk because it causes irritation of the eyes, nose and throat. At high exposures, it can cause nausea, confusion, and dizziness.

As we look forward to improve our air quality, we must find an alternative to a density limit that will reduce VOC emissions and provide industry with formulation choices.

Why Change The Form Of The Limit To Vapor Pressure?

Vapor pressure is a measure of the tendency of particles to escape from the liquid form of a chemical to an airborne vapor, at room temperature. It is an indicator of a liquid's evaporation rate. Substances with a high vapor pressure readily release vapors into the air. Consequently, it is desirable for sources to use chemicals with low vapor pressure when possible in order to reduce VOC evaporation.
The advantages of low vapor pressure solvent formulations include:

- The low solvent evaporation rate reduces product wastage. Surface cleaning solvents are only effective in their liquid state. This means that the more they evaporate, the more solvent is needed to complete the task. Using less solvent saves cost.
- The low solvent evaporation reduces emissions to the outdoor air.
- The low solvent evaporation reduces emissions in the work place, improving worker safety.
- Using low vapor pressure solvent formulations avoids the use of hazardous air pollutant chemicals like methylene chloride.

How Will Using A Vapor Pressure Limit Provide More Cleaning Options?

Excellent cleaning solvents like xylene have a high vapor pressure. If the vapor pressure of a xylene solution can be suppressed, xylene could be used for cleaning while reducing emissions. This can be done by applying a physical-chemical phenomenon known as Raoult's Law. Raoult's Law states that when a substance is dissolved in a solution, the vapor pressure of the solution will decrease. Finding ways to formulate salts (the substance) for example, into a xylene solution, will dramatically reduce the vapor pressure of the solution. Changing the form of the limit will permit formulation chemists to come up with more cleaning options while reducing VOC emissions.

Is The Change Of Form A Relaxation Of The Rule?

The EPA issued a guidance document for VOC cleaning emissions called, *Control Techniques Guidelines: Industrial Cleaning Solvents* (EPA 453/R-06-001). This guidance document provides recommended control measures that include options to reduce VOC emissions. One of those options is to apply a composite vapor pressure limit of 8 millimeters of mercury (mmHg) at 20 degrees Celsius.

Conclusions

1. Changing the form of the limit is not a relaxation of the rule.
2. The proposed vapor pressure limit is more stringent than the current general miscellaneous cleaning limit.
3. The proposal will improve air quality.

Public Comment

DAQ is accepting public comment on this demonstration from July 1, 2017, to July 31, 2017. Comments can be submitted by e-mail to Jkarmazyn@utah.gov or by mail to:

Joel Karmazyn
DAQ
PO Box 144820
195 North 1950 West
Salt lake City, Utah 84114-4820

UTAH STATE BULLETIN

OFFICIAL NOTICES OF UTAH STATE GOVERNMENT
Filed June 02, 2017, 12:00 a.m. through June 15, 2017, 11:59 p.m.

Number 2017-13
July 01, 2017

Nancy L. Lancaster, Managing Editor

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

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

Inquiries concerning the substance or applicability of an administrative rule that appears in the *Bulletin* should be addressed to the contact person for the rule. Questions about the *Bulletin* or the rulemaking process may be addressed to: Office of Administrative Rules, PO Box 141007, Salt Lake City, Utah 84114-1007, telephone 801-538-3003. Additional rulemaking information and electronic versions of all administrative rule publications are available at http://www.rules.utah.gov/.

The information in this *Bulletin* is summarized in the *Utah State Digest (Digest)* of the same volume and issue number. The *Digest* is available by e-mail subscription or online. Visit http://www.rules.utah.gov/publicat/digest.htm for additional information.

Office of Administrative Rules, Salt Lake City 84114

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

KFU440.A73S7
348.792'025--DDC 85-643197

SPECIAL NOTICES

Environmental Quality
Air Quality

Public Notice of Section 110(l) Demonstration

Section 110(l) of the Clean Air Act (CAA) indicates that EPA cannot approve a state implementation plan (SIP) revision if the revision would interfere with any applicable requirement concerning attainment and reasonable further progress, or any other applicable requirement of the CAA. When the SIP is revised, the Act requires that an analysis is conducted to verify that the SIP will not be relaxed in a way that would be impermissible under Section 110(l).

The Utah Air Quality Board is proposing amendments to three SIP rules that trigger the 110(l) requirements. These include: Rule R307-343, *Emissions Standards for Wood Furniture Manufacturing Operations*; Rule R307-335, *Degreasing and Solvent Cleaning Operations*; and new Rule R307-304, *Solvent Cleaning*.

Comments will be accepted by the Utah Division of Air Quality (DAQ) from July 1 to July 31, 2017. The 110(l) demonstration will be posted on the DAQ website at https://deq.utah.gov/NewsNotices/notices/air/Pubrule.htm.

Comments may be submitted by e-mail to Jkarmazyn@utah.gov or by mail to: Joel Karmazyn, DAQ, PO Box 144820, 195 North 1950 West, Salt Lake City, UT 84114-4820

End of the Special Notices Section

Lead: 0.6 tpy.

"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.

"Temporary" means not more than 180 calendar days.

"Temporary Clean Coal Technology Demonstration Project" means a clean coal technology demonstration project that is operated for a period of 5 years or less, and which complies with the Utah State Implementation Plan and other requirements necessary to attain and maintain the national ambient air quality standards during the project and after it is terminated.

"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 and Biological Exposure Indices, (2009)."

"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 and Biological Exposure Indices, (2009)."

"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 pollutant 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.

"VOC content" means the weight of VOC per volume of material and is calculated by the following equation in gram/liter (or alternately in pound/gallon):

Grams of VOC per Liter of Material = Ws - Ww - Wes
Vm

Where:

Ws = weight of volatile organic compounds

Ww = weight of water

Wes = weight of exempt compounds

Vm = volume of material

"Volatile Organic Compound (VOC)" means VOC as defined in 40 CFR 51.100(s), effective as of the date referenced in R307-101-3, 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
Date of Enactment or Last Substantive Amendment: [~~August 4, 2016~~]2017
Notice of Continuation: May 8, 2014
Authorizing, and Implemented or Interpreted Law: 19-2-104(1)(a)

Environmental Quality, Air Quality
R307-304
Solvent Cleaning

NOTICE OF PROPOSED RULE
(New Rule)
DAR FILE NO.: 41809
FILED: 06/14/2017

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this rule is to create a new rule that regulates industrial solvent cleaning operations and general solvent use. These activities were previously regulated under Rule R307-335. This new rule is being proposed to achieve further volatile organic compound (VOC) emissions reductions that are required by the Clean Air Act and the Serious Area PM2.5 requirements. (Editor's Note: The proposed amendment to Rule R307-335 is under Filing No. 41810 in this issue, July 1, 2017, of the Bulletin.)

SUMMARY OF THE RULE OR CHANGE: The proposed rule will contain the industrial solvent cleaning requirements that were previously found in Rule R307-335. The applicability threshold of this rule will also be lower than the previous version found in Rule R307-335. The rule will also provide a vapor pressure limit that can be used by regulated entities as an alternative to the VOC content limits in the rule.

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

ANTICIPATED COST OR SAVINGS TO:
♦ THE STATE BUDGET: There are no anticipated costs or saving to the state budget because the rule is regulating solvent cleaning operations that use 55 gallons or more of VOC containing solvent products a year. This does not describe the state.
♦ LOCAL GOVERNMENTS: There are no anticipated costs or saving to local governments because the rule is regulating solvent cleaning operations that use 55 gallons or more of VOC containing solvent products a year. This does not describe local governments.
♦ SMALL BUSINESSES: There are no anticipated costs or saving to small businesses. Small businesses that use VOC containing solvent products for solvent cleaning operations and general solvent usage are likely already regulated under Rule R307-335. The content limits have not changed. Due to the lower threshold for applicability, more people may be regulated by this rule than are currently regulated under Rule R307-335. The cost per ton of emissions reduced for these additional sources will be about $4.36 per ton of VOCs removed.
♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: There will likely be no costs or savings to "other persons" because the applicability threshold is set at a level that is meant to exclude all hobbyists that are not part of a business or governmental entity.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The compliance costs will be the same as they were when these requirements were originally included in Rule R307-335. The cost per ton of VOC emissions reduced as a result of this rule will be about $4.36. A greater amount of product used will result in a greater total cost.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: After conducting a thorough analysis, it was determined that this proposed rule will not result in a fiscal impact to businesses. This is because the source of any cost would be the difference in the price between compliant and non-compliant solvents. The difference in this cost is nominal. In addition to the nominal price difference, the rule provides more flexibility for sources to choose what type of solvent they would like to use. This is done in the form of a vapor pressure limit alternative that can be used in place of the mass based content limit currently in the rule. The nominal price difference, combined with the opportunity to use a wider variety of products, means that the rule amendment will not have a fiscal impact on businesses.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
ENVIRONMENTAL QUALITY
AIR QUALITY
FOURTH FLOOR
195 N 1950 W
SALT LAKE CITY, UT 84116-3085
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Ryan Stephens by phone at 801-536-4419, by FAX at 801-536-0085, or by Internet E-mail at rstephens@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 08/15/2017

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE:
♦ 07/27/2017 01:00 PM, DEQ Bldg, 195 N 1950 W, DEQ Board Room, Salt Lake City, UT

THIS RULE MAY BECOME EFFECTIVE ON: 08/22/2017

AUTHORIZED BY: Bryce Bird, Director

R307. Environmental Quality, Air Quality.
R307-304. Solvent Cleaning.
R307-304-1. Purpose.
The purpose of R307-304 is to limit volatile organic compound (VOC) emissions from solvent cleaning operations.

R307-304-2. Applicability.
(1) R307-304 applies to solvent cleaning operations within Box Elder, Cache, Davis, Salt Lake, Tooele, Utah or Weber counties.
(2) Before September 1, 2018, R307-304 applies to an owner or operator using 720 gallons or more a year of VOC containing solvent products.
(3) Effective September 1, 2018, R307-304 shall apply to an owner or operator using 55 gallons or more a year of VOC containing solvent products.

R307-304-3. Exemptions.
(1) The requirements of R307-304 do not apply to the operations that are regulated under R307-342 through R307-347 and R307-349 through R307-355.
(2) Shipbuilding and repair and fiberglass boat manufacturing materials.
(3) Operations that are exclusively covered by Department of Defense military technical data and performed by a Department of Defense contractor and/or on site at installations owned and/or operated by the United States Armed Forces are exempt from the requirements of R307-304.
(4) Janitorial cleaning.
(5) Graffiti removal.
(6) Waste solvent from analytical laboratories.
(7) Cleaning with aerosol products not greater than 16 fluid ounces.

R307-304-4. Definitions.
The following additional definitions apply to R307-304:
"Solvent cleaning" means operations performed using a liquid that contains any VOC, or combination of VOCs, which is used to clean parts, tools, machinery, equipment and work areas. Cleaning operations include, but are not limited to, spraying, wiping, flushing, and purging.

"Janitorial cleaning" means the cleaning of building floors, ceilings, walls, windows, doors, stairs, bathrooms, office surfaces and equipment.

R307-304-5. VOC Content Limits.

(1) No person shall use solvent products with a VOC content greater than the amounts specified in Table 1, unless the owner or operator uses an add-on control device as specified in R307-304-7 or the alternative method in R307-304-5(2).

TABLE 1

Solvent Cleaning VOC Limits
(excluding water and exempt solvents from the definition of volatile organic compounds found in R307-101-2)

Solvent Cleaning Category	VOC Limit (lb/gal)	(g/L)
Coatings, adhesives and ink manufacturing	4.2	500
Electronic parts and components	4.2	500
Medical devices and pharmaceutical		
tools, equipment and machinery	6.7	800
General surface cleaning	5.0	600
Screening printing operations	4.2	500
Semiconductor tools, maintenance and equipment cleaning	6.7	800

(2) As an alternative to the limits in Table 1 and for all general miscellaneous cleaning operations, a person may use a cleaning material with a VOC composite vapor pressure no greater than 8 mm Hg at 20 degrees Celsius.

R307-304-6. Work Practices.

An owner or operator shall store used applicators and shop towels in closed fireproof containers.

R307-304-7. Add-on Emission Control Systems Operations.

(1) If an add-on control system is used, the owner or operator shall install and maintain the add-on control system in accordance with the manufacturer recommendations and maintain an overall capture and control efficiency of at least 85%. The overall capture and control efficiency shall be determined using EPA approved methods, as follows:

(a) The capture efficiency of a VOC emission control system's VOC collection device shall be determined according to EPA's "Guidelines for Determining Capture Efficiency," January 9, 1995 and 40 CFR Part 51, Appendix M, Methods 204-204F, as applicable.

(b) The control efficiency of a VOC emission control system's VOC control device shall be determined using test methods in Appendices A-1, A-6, and A-7 to 40 CFR Part 60, for measuring flow rates, total gaseous organic concentrations, or emissions of exempt compounds, as applicable.

(c) An alternative test method may be substituted for the preceding test methods after review and approval by the EPA Administrator.

R307-304-8. Recordkeeping.

(1) The owner or operator shall maintain records of the following:

(a) The VOC content or composite vapor pressure of the solvent product applied and

(b) If an add-on control device is used, key system parameters necessary to ensure compliance with R307-304-7.

(i) Key system parameters must include, but are not limited to, temperature, pressure, flow rates, and an inspection schedule.

(ii) Key inspection parameters must be in accordance with the manufacturer's recommendations, and as required to demonstrate operations are providing continuous emission reduction from the source during all periods that the operations cause emissions from the source.

(2) All records shall be maintained for 2 years.

(3) Records shall be made available to the director upon request.

KEY: air pollution, solvent cleaning, solvent use
Date of Enactment or Last Substantive Amendment: 2017
Authorizing, and Implemented or Interpreted Law: 19-2-104(1)(a)

Environmental Quality, Air Quality
R307-335
Degreasing and Solvent Cleaning Operations

NOTICE OF PROPOSED RULE

(Amendment)
DAR FILE NO.: 41810
FILED: 06/14/2017

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of the rule change is to remove the sections related to industrial solvent cleaning. These sections are being removed because a new rule is being proposed to regulate solvent cleaning (Rule R307-304). (Editor's Note: The proposed new Rule R307-304 is under Filing No. 41809 in this issue, July 1, 2017, of the Bulletin.)

SUMMARY OF THE RULE OR CHANGE: The changes include the removal of everything in the rule related to industrial solvent cleaning.

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

ANTICIPATED COST OR SAVINGS TO:
♦ THE STATE BUDGET: There are no anticipated costs or savings to the state budget because the rule is removing requirements related to solvent cleaning operations. It is not adding any new, affirmative requirements.
♦ LOCAL GOVERNMENTS: There are no anticipated costs or savings to local governments because the rule is removing requirements related to solvent cleaning operations. It is not adding any new, affirmative requirements.

Public Comment

TO: Air Quality Board

THROUGH: Bryce C. Bird, Director

FROM: Joel Karmazyn, Environmental Scientist

DATE: September 12, 2017

SUBJECT**:** FINAL ADOPTION: Change in Proposed Rule R307-335. Degreasing and Solvent Cleaning Operations; and New Rule R307-304. Solvent Cleaning.

On June 7, 2017, the Board approved for public comment the amendment of R307-335 and the new rule R307-304. The proposal was to:

1. Amend R307-335 by removing the industrial solvent cleaning sections found in R307-335-7 and R307-335-8 and moved them to a new solvent rule, R307-304.

2. Lower the threshold for gallons of solvent used in the applicability section of R307-304 to 55 gallons or more per year.

3. Introduce a solvent vapor pressure alternative to the density based limits.

The public comment period was held from July 1 to August 15, 2017. A public hearing was held on July 27, 2017. A representative from Breathe Utah was the sole commenter that addressed the proposed rules, offering total support for the rulemaking.

Staff received many telephone calls regarding the rule from sources who sought clarification and some sources self-reported non-compliance with the current rule because they were not aware of the existing requirements. Staff also held meetings with several sources who are challenged in meeting the requirements in R307-304. The outcome of those discussions is part of the public comment summary below.

Summary of Public Comments

- As a general note, there is overwhelming support from many sources for the new vapor pressure option in R307-304.

The Utah Manufacturers Association (UMA) also submitted support for UDAQ's position that we cannot rely on blanket use of acetone for all solvent cleaning applications. The UMA stated:

"UMA members experience with acetone is consistent with UDAQ's determination and agrees that UDAQ properly determined that it is not technically feasible to implement the density- based limitations of Rule 4663 (referring to San Joaquin rule). At least one member company attempted to substitute for its currently used solvent with acetone and found that acetone was incompatible with the application. We expect that this will be true for any number of solvent applications."

- The American Coating Association provided a blanket statement for most of the coating rules out for public comment that the proposed rulemaking would pose a hardship to small business. UDAQ shares this concern; consequently, we have added a rule implementation schedule to ease the burden.

Specific Comments
Comments from:
Hill Air Force Base (HAFB)
Hexcel
Kimberly-Clark (K-C)
ATK Launch Systems, Inc. (ATK)
Orbital ATK, Boeing, L3 Technologies, Barnes Aerospace, Albany Engineered Composites, and Pilkington Metal Finishing (Joint Commenters)
Brigham Young University (BYU)
Utah Manufacturers Association (UMA)
Albany Engineered Composites (Albany), separate comments from Joint Commenters

HAFB Comment: UDAQ should exempt solvents from R307-304, R307-350, and R307-352 that are covered under the Consumer Products rule (R307-357). Products such as window washer fluid used on all automotive and aircraft on base should not be subject to R307-304 when used as intended under the Consumer Product rule.

The Joint Commenters submitted a similar comment. "Many environmentally preferable aqueous and semi-aqueous cleaners contain small to moderate percentages of co-solvents that are VOCs, along with water and non-VOC surfactants. Likewise, solvents that are blended to meet an 8 mmHg vapor pressure may be a mixture of VOC and VOC-exempt solvents. As the proposal is drafted, the entire volume of these partial-VOC mixtures are counted toward the usage threshold of the rule."

UDAQ Response: We agree that detergents and surfactants that are considered to be more environmentally friendly may contain low levels of VOC's and/or low vapor pressure VOC's. We support the use of these products as a substitute for traditional VOC based solvents. In response to these comments and as a way to encourage the use of these products, we are proposing to add a new exemption as follows:

> "Cleaning solvents that are defined as a consumer product under R307-357 are exempt from R307-304 and are regulated under the requirements in R307-357."

We also agree that as the proposal currently stands, exempt materials were not considered. Therefore, R307-304-2(2) and (3) have been amended to add the statement, "minus exempt materials."

HAFB Comment: All aerosol cleaning products should be exempt from R307-304 and not just those aerosol cleaning products. This exemption is not consistent with aerosol exemptions included in other R307 rules. For example, R307-343, 350, and 353 include a can size limit of 22 fluid ounces while R307-346, 347, 354, and 355, do not include a size limit and exempt all

aerosol products. Based on 2016 inventory data, Hill AFB used 587 cans of aerosol cleaning products greater than 16 fluid ounces that don't meet the limits in R307-304-5. The VOC emissions associated with these cans is 60 pounds. If the size threshold in R307-304 was consistent with R307-346, 347, 354, and 355 all of these cans could be used with only 60 additional pounds of emissions. As most of these aerosol products cannot be purchased in cans with a size of 16 fluid ounces or less, Hill AFB would be forced to use other cleaning methods that would likely result in higher emissions of VOC.

A similar comment was made by the UMA, Joint Commenters, and Albany.

UDAQ Response: Given the general nature of R307-304, aerosol products can vary in size. UDAQ concurs and has stricken the size limitation.

HAFB Comment: UDAQ has provided an exemption in R307-304 for "waste" solvent from analytical laboratories. HAFB does not use "waste" solvent for cleaning in analytical laboratories. The exemption should be revised to exempt cleaning solvents used in laboratory tests and analysis or research and development projects. Multiple solvent cleaning rules in other serious non-attainment areas exempt research and development facilities, and laboratory testing and quality assurance testing activities. Additionally, the Control Techniques Guidance (CTG) for Industrial Solvent Cleaning does not include controls for laboratory tests and analysis or research and development projects. The CTG references exemptions given in several rules for these insignificant activities. The USEPA issued a white paper in July 1995 providing guidance describing research and development facilities, and laboratory testing and quality assurance testing activities as insignificant activities. The Utah Division of Air Quality also describes research and development facilities, and laboratory testing and quality assurance testing activities as insignificant in R307-415.

Albany also recommended exempting laboratory and research development.

UDAQ Response: UDAQ concurs. The text has been adjusted to exempt laboratory and research development.

HAFB Comment: R307-304 needs to clarify that it only applies where another rule does not apply. Specifically, the rule needs to exempt cleaning operations covered under R307-335 and R307-348.

The UMA provided the same comment.

UDAQ Response: Noted and revised.

HAFB Comment: UDAQ should allow the use of cleaning solvents manufactured or in inventory before the effective date of the rule. Cleaning solvents that are manufactured or in inventory before the effective date of rule and that don't meet the VOC limits should continue to be allowed to be used after the effective date of the rule. Otherwise these cleaning solvents will have to be discarded as solid waste. As the solid waste would be in liquid form it is likely that it would need to be incinerated resulting in emissions of other pollutants such as NOx that are

PM2.5 precursors. These precursors would have a negative impact on non-attainment. In addition to the potential negative impact on the environment, discarding cleaning solvents would result in purchasing new materials at a significant expense to the tax payer. If R307-304 was effective today, Hill AFB would have to waste out 463 containers of cleaning solvents.

UDAQ Response: Solvents purchased prior to the effective date of the rule could be used. We agree that unnecessary disposal would generate more pollution.

HAFB Comment: Clarify if general surface cleaning is a subcategory of medical devices and pharmaceutical

UDAQ Response: There is a general cleaning category for medical devices and pharmaceutical industries.

Hexcel Comment: Hexcel is an advanced composite manufacturer who has submitted a request to amend the rule to permit the use of methyl ethyl ketone (MEK). According to Hexcel:

> "MEK use is a specification for a number of cleaning applications. It is the lowest risk solvent in many resin systems for preventing cross contamination. The principle requirement of MEK as a cleaning agent is to flush the lines and clean equipment before the next resin batch. Cleanup with a solvent other than what the resin system is based on poses a significant risk of cross contamination. For example, the use of acetone to clean equipment in an MEK resin system is simply not compatible."

Hexcel has noted that it would require years of research and development to modify the manufacturing process in order to comply with the requirements of R307-335. In the meantime, Hexcel has invested over $125,000/ton to control facility emissions, including MEK. Hexcel estimates that they currently capture and treat approximately 85% of fugitive MEK emissions. A planned facility upgrade will increase that capture and control to approximately 95%.

UDAQ Response: Resin solubility of the 45 manufactured resins is the key to this request and is consistent with the rationale for some of the existing VOC limits in Table 1. We agree that there is a technical limitation that warrants adding a VOC limit for this industry in Table 1 set at 6.7 lb/gal. Further, most fugitive MEK emissions are being captured and treated in their thermal oxidizer.

K-C Comment: K-C manufactures baby and child care diapers in Ogden. K-C has requested the addition of a subcategory in Table 1 for baby and child care manufacturing set at 5.0 lb/gal. K-C is currently using 99% isopropyl alcohol (IPA) in its general miscellaneous cleaning operations in order to meet the Federal Consumer Product Safety Commission requirement that cleaning surfaces must not support bioburden. K-C is one of the sources that approached staff during the public comment period for assistance in meeting the requirements of R307-304. K-C has tested alternate products in order to meet the proposed R307-304 requirements. Acetone was discounted because of its flammability and potential for reacting with the polymers in the diapers. Tert-butyl-acetate has been discounted because of the objectionable odor that would penetrate the diaper. California water based cleaners have been discounted because water

supports bioburden. 70% IPA was tested and found to be an effective replacement. Reducing the IPA to 70% is a 25% reduction in VOC which is consistent with the intended 28% reduction in the rule. This request is further supported by the similar VOC content limit already in the rule for the medical and pharmaceutical industry that has similar requirements established by the Federal Food and Drug Administration.

UDAQ Response: Staff has worked with K-C to identify alternatives to using 99% IPA. We support the addition in Table 1 of a VOC limit of 5 lb/gal for baby and child care diaper manufacturing.

ATK Comment: ATK has requested that the source type exemptions listed in R307-335-7 be retained in R307-304-3 in descriptive form instead of using the industry specific Utah rule numbers. ATK is specifically considered that, by using the aerospace rule number R307-355 instead of just exempting aerospace operations, it may jeopardize how their operations are viewed by UDAQ Compliance.

A Similar request was made by the Joint Commenters and Albany. Albany suggested that their concerns could be alleviated by substituting the words "regulated under" in R307-304-3(1) with "subject to."

UDAQ Response: ATK operations are somewhat unique from other aerospace operations. UDAQ Compliance has made past determinations that their entire operations are aerospace related. Based on current ATK operations, that determination remains in tact. Other aerospace sources may have ancillary operations, such as a motor pool, that may support the aerospace operations in transporting aerospace parts but are not aerospace operations. Consequently, it is important that we specifically reference the Utah air quality rules that address operations exempt from R307-304.

We have no objection to replacing the words "regulated under" with "subject to."

Joint Commenters: Recovered spent solvent that is not emitted should not be included in the applicability threshold of this rule. The UMA submitted a related comment requesting clarification that the solvent usage in the applicability section is for solvent cleaning operations.

UDAQ Response: R307-304 applies to consumption of 55 gallons per year, not purchasing 55 gallons per year. We encourage solvent reuse. If a source, through reuse, uses less than 55 gallons per year, the rule would not apply to that source.

UMA Comment: UDAQ should provide for a source-specific BACM option. Part of the dilemma created by the adoption of rule R307-304 is that it is a one-size-fits- all-rule that UDAQ has attempted to mold to cover most industrial operations. By doing so, UDAQ has attempted to conduct a non-source-specific analysis of BACM that will apply to all facilities regard less of whether they are already heavily regulated (e.g. Title V or SIP, Part H sources) or constitute minor operations that have never interacted with UDAQ before. The reality of the situation is that there exist a large variety of operations utilizing a variety of solvents for differing applications, subject to various constraints that make it impossible to impose a one-

size fits-all- rule for addressing solvent usage. As a consequence of the breadth of the reach of the rule, UMA proposes that UDAQ consider another alternative to the rule that would allow for a source-specific analysis of BACM.

UDAQ Response: EPA published CTG's that are considered by EPA to be presumptive RACT. The requirements for R307-304 were derived from the EPA guidance for industrial solvent cleaning (EPA 453/R-06-001), which is designed to be an area source rule. All moderate nonattainment SIP's are required, at a minimum, to meet EPA's presumptive RACT recommendations. As such, R307-304 is by design based on broad industrial solvent use. The BACM analysis included a comparative analysis of other state rules that are also designated as serious nonattainment and maintained their rule as an area source rule.

The UMA is correct that a one-size fits-all rule may not work well for all solvent industrial uses. UDAQ has been working with many sources throughout the stakeholder process to address individual challenges to meet the requirements of R307-304. In some cases, sources have been able to make process adjustments. In other cases, that is just not possible. For those sources that can make a demonstration of technical impractability, UDAQ has recommended exempting those sources or providing for an industry specific VOC content limit within the rule.

UMA Comment: R307-304 and R307-335 should be limited to the PM2.5 nonattainment areas.

UDAQ Response: The rule applicability's have been expanded to county level to be consistent with the coating rules, where these solvent are used.

UMA Comment: UMA questions whether UDAQ has met the fiscal analysis requirements set forth in Utah Code 63G-3-301(5), as well as challenging the estimated cost to implement the rule.

UDAQ Response: UDAQ conducted a fiscal analysis using the tool created by the Office of Management and Budget. The cost estimate was based on EPA's analysis presented in the CTG.

As explained above, the CTG is presumptive RACT for VOC. Consequently, we have also met the requirement of 63G-3-301(8)(c), the establishment of a rule to meet a federal requirement since the rule is required for the PM2.5 SIP.

Joint Commenters: Amend R307-304-2 to read," Before December 7, 2018, R307-304 applies to an owner or operator that emits 15 pounds of VOCs or more per day from solvent cleaning operations that are subject to R307- 304." This request is based on harmonization with the NESHAP implementation requirements of December 7, 2018.

UDAQ Response: The NESHAP requirements due in December 2018 are for the specialty coatings which were adopted by reference in the current rule on December 1, 2014 (R307-355-5(1)(e)).

Joint Commenters: The existing solvent cleaning rule R307-355-7 has a threshold of 15 lbs/day VOC emissions. This represents an upper limit for the new rule to prevent SIP "backsliding." Assuming that 15 lbs/day is roughly equivalent to 720 gallons a year, we suggest that a 500 gallon/year threshold will capture additional shops that have significant emissions, without bringing in a universe of hobbyists and very small shops that have no awareness of Utah air quality rules, and are too numerous to be inspected for compliance.

UDAQ Response: The BACM analysis requirement in the PM implementation Rule requires that we conduct a rule comparative analysis of other serious nonattainment areas. As explained in the proposed rule Board memo, San Joaquin Rule 4663 rule applicability is set at 55 gallons per year. Our analysis of this rule was that 55 gallons per year was a reasonable cut point even for a hobbyist. Greater solvent use is an indicator of a commercial/industrial operation, even if it is conducted out of a backyard shop. Solvent use in the area source inventory is the largest VOC contributor (38% in 2011 inventory and growing). We must realize significant VOC reduction from solvent use as part of our PM2.5 attainment strategy.

Joint Commenters: We recommend amending the definition of solvent cleaning in order to exclude hobbyist as follows:

> “R307-304-4. Solvent cleaning" means operations performed as part of a business using a liquid that contains..."

UDAQ Response: As previously explained, solvent use is a major source of VOC’s in the area source inventory. We have set the applicability threshold well above a reasonable level for hobbyist use.

Joint Commenters and Albany: South Coast Air District Rule 1171 recognizes that some small quantity uses justify exemption. We recommend adding an exemption for cleaning of solar cells, laser hardware, scientific instruments, and high-precision optics.

UDAQ Response: Agreed, an exemption was added.

BYU Comment: Determining a composite vapor pressure is difficult and information about a solvent formation may be difficult to locate.

UDAQ response: Agreed. This was a concern when we evaluated the proposal. We have been told by one industry association that when vapor pressure information is not available on an MSDS or SDS, that their members contact the manufacturer and that so far, they have not had a problem obtaining that information.

Recommendation: Staff recommends that the Board adopt R307-335 as proposed and R307-304 as amended.

Pub-008

American Coatings Association℠

Ryan Stephens
Public Comment
Division of Air Quality
PO Box 144820
Salt Lake City, UT 84114-4820

Re: Proposed Amendments to Utah Department of Environmental Quality, Division of Air Quality Rules 307-344,345,346,347,348,349,350,352,353,355.

Dear Mr Stephens:

The American Coatings Association ("ACA") submits these comments to the Utah Department of Environmental Quality, Division of Air Quality (DAQ) on the Proposed Amendments to Rules 307-344,345,356,347,348, 349,350,352,353, 355 pertaining to applicability regarding Volatile Organic Compounds (VOC) emissions per year from various surface coatings.

ACA is a voluntary, non-profit trade association working to advance the needs of the paint and coatings industry and the professionals who work in it. The organization represents paint and coatings manufacturers, raw materials suppliers, distributors, and technical professionals. ACA serves as an advocate and ally for members on legislative, regulatory and judicial issues, and provides forums for the advancement and promotion of the industry through educational and professional development services.

Significant Changes to Applicability of These Rules

Utah DAQ is proposing to significantly change the applicability for their surface coatings rules, ACA believes this is problematic for two reasons. The first change is replacing the existing criteria for companies to be governed by these regulations. This criteria is the potential to emit 2.7 tons per year of VOC Emissions, which is EPA's suggested threshold for their CTG applicability. EPA has stated in CTGs "We do not recommend these control approaches for facilities that emit below this level because of the very small VOC emission reductions that can be achieved". DAQ is proposing to replace that criteria with "activities that use a combined 20 gallons or more of coating products and associated solvents per year". ACA believes this proposed change sets a bad precedent for states outside of California to begin changing the criteria from potential to emit to amount of coatings and associated solvents used per year.

Second, this proposed change would broaden the scope of the rules to include smaller companies, currently exempted. If these rules now apply to smaller companies they will have to follow the regulatory, technological, and administrative requirements set forth in these rules. The burden placed on these smaller companies could force their coatings operations out of these affected counties, which has the potential to negatively affect the economy. This will also impede potential new coatings operations from entering the marketplace due to the significant regulatory hurdles placed on companies.

R 307-355 Aerospace Manufacturing and Rework

For consistency, ACA suggests that Utah conform with the EPA Control Technique Guidelines as possible. As such ACA suggests the following categories and limits be deleted from the proposed R 307-355 rule:

Primer 350 g/l
Topcoat 420 g/l
Type I Chemical milling maskant 622 g/l
Type II Chemical Milling maskant 160 g/l

R 307-348 Magnet Wire Coating

ACA suggests that Utah should not utilize the applicability threshold from SCAQMD (2 tons per year) but instead utilize the Bay Area and EPA recommended threshold of 2.7 tons per day. The SCAQMD has stated in the past that their regulations are intended for intended necessarily for areas outside of the SCAQMD.

ACA does recommend that Utah include exemptions from the Bay Area and SCAQMD Magnet coating rules, specifically an exemption for electrical machinery (Bay Area and SCAQMD) and Aerosol Coatings (SCAQMD) - the specific exemption language is listed below.

"Bay Area 8-26-111 Exemption, Electrical Machinery: The requirements of this Rule shall not apply to the coating of electrical machinery and equipment subassemblies such as motor housings, rotors, stators or armatures."

SCAQMD Rule 1126: "The provisions … shall not apply to:

(B) Coating of electrical machinery and equipment sub-assemblies, such as motor housings.
(1) The provisions of this rule shall not apply to aerosol coating products."

Please let us know if you have any questions

Respectfully submitted,

/s/

Rhett Cash
Counsel, Government Affairs

/s/

Timothy Wieroniey
Specialist, Environmental Health and Safety

Submitted Via Email

AQP

Pub-010

DEPARTMENT OF THE AIR FORCE
75TH CIVIL ENGINEER GROUP (AFMC)
HILL AIR FORCE BASE UTAH

14 August 2017

Michelle L. Cottle
Chief, Environmental Branch
75th CEG/CEIE
7290 Weiner Street
Hill Air Force Base Utah 84056-5003

Public Comments
Division of Air Quality
P.O. Box 144820
Salt Lake City Utah 84114-4820

Mr. Stephens

In a letter submitted to the Utah Division of Air Quality (UDAQ) on 1 August 2017, Hill Air Force Base (AFB) submitted comments on the following rules:

R307-101-2 Definitions
R307-304 Solvent Cleaning (New)
R307-345 Fabric and Vinyl Coatings
R307-348 Magnet Wire Coatings
R307-350 Miscellaneous Metal Parts and Products
R307-352 Metal Container, Closure, and Coil Coatings
R307-355 Control of Emissions from Aerospace Manufacture and Rework Facilities

Hill AFB respectfully requests to:

- Retract comment #1.1 requesting to add an exemption for low vapor pressure volatile organic compounds from rules R307-304, R307-335, R307-348, R307-350, R307-352, R307-354, and R307-355.
- Add one comment (provided below) for R307-101-2, General Requirements, definition of 'Solvent' to maintain continuity with other serious non-attainment areas, Air Force and EPA guidance.
- Add one comment (provided below) for R307-335, Degreasing, to prevent regulatory overlap for industries with solvent cleaning operations which are presently covered by the existing Consumer Products rule (R307-357) and to maintain continuity with the Solvent Cleaning rule (R307-304).

Comment

The definition of solvent in R307-101 needs to be updated to be consistent with other serious non-attainment areas, Air Force and EPA guidance.

Discussion

South Coast Air Quality Management District (SCAQMD) rules do not consider materials as being organic solvents based on a boiling point higher than 219 degrees Fahrenheit or a vapor pressure that is less than 0.5 millimeters of mercury (mm Hg) unless it is exposed to a temperature exceeding 219 degrees Fahrenheit. SCAQMD Rule 102 defines "Organic Solvents" to include diluents and thinners defined as organic materials which are liquids at standard conditions and are used as dissolvers, viscosity reducers or cleaning agents, except that such material exhibiting a boiling point higher than 104 degrees Celsius (219 degrees Fahrenheit) at 0.5 mm Hg absolute pressure or having an equivalent vapor pressure shall not be considered to be solvents unless exposed to temperatures exceeding 104 degrees Celsius (219 degrees Fahrenheit). Additionally, the SCAQMD has also issued a guidance document pertaining to Environmental Protection Agency (EPA) recognizing that reduced volatility (vapor pressure) also reduces air emissions.

In addition, 40 CFR Part 52, Subpart W—Massachusetts section 52.1145 defines organic solvent to include diluents and thinners and are defined as organic materials which are liquids at standard conditions and which are used as dissolvers, viscosity reducers, or cleaning agents, except that such materials which exhibit a boiling point higher than 220 degrees Fahrenheit at 0.5 mm Hg absolute pressure or having an equivalent vapor pressure shall not be considered to be solvents unless exposed to temperatures exceeding 220 degrees Fahrenheit.

One example of literature which considers vapor pressure when determining the amount of volatile organic compounds (VOC) in a material is the Air Pollution Control Engineering handbook by Noel de Nevers which states in section 10.2 "We may state, as an approximate rule, that VOCs are those organic liquids or solids whose room temperature vapor pressures are greater than about 0.01 psia (0.5 mmHg) and whose atmospheric boiling points are up to about 500 degrees Fahrenheit, which means most organic compounds with less than 12 carbon atoms."

In addition, Air Force guidance requires evaluating the vapor pressure of a material and Section 13 of the Air Emissions Guide for Air Force Stationary Sources states the following: "...some organic chemical products, and most inorganic chemical products that have extremely low vapor pressures (e.g. <0.1 mm Hg), are usually not addressed in an air emissions inventory and are considered insignificant."

This is further substantiated in the VOC guidance issued by EPA in 2005 (Interim Guidance on Control of Volatile Organic Compounds in Ozone State Implementation Plans, Federal Register / Vol. 70, No. 176 / September 13, 2005). This guidance provides information that States should consider regarding emerging research on the actual availability of VOCs for atmospheric reaction. It also advises States to consider speciation and reactivity and focus on controlling the most reactive VOC compounds. In certain situations volatile compounds may be trapped or not actually released to the atmosphere. Specifically, States should consider volatility thresholds as a primary mechanism in reducing atmospheric availability and sequent reactivity.

Recommended Changes

R307-101-2. Definitions.

"Solvent" means organic materials which have a vapor pressure greater than 0.5 mm Hg and are liquid at standard conditions (Standard Temperature and Pressure) and which are used as dissolvers, viscosity reducers, or cleaning agents.

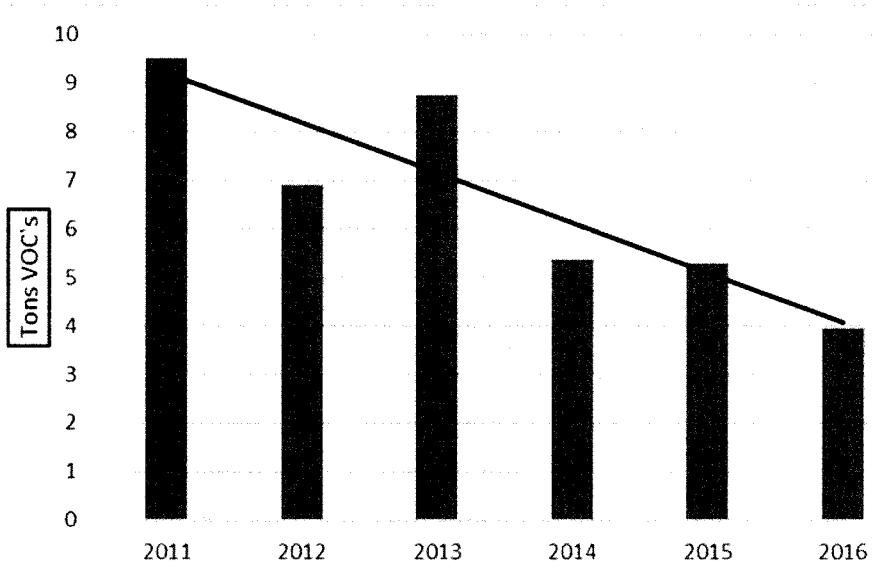
Comment

R307-335 Degreasing rule should not apply to degreasing operations that use cleaning products that meet the definition of consumer product or meet the VOC requirements under the Consumer Products rule (R307-357)

Discussion

Hill AFB has numerous degreasing operations that are conducted in dishwasher, immersion, and remote reservoir type degreasers. R307-335 as written would include requirements for each of these operations even for cleaning products that are covered under the consumer product rule. For example, a dishwashing machine using a VOC containing detergent used to remove grease and food residue from a metal pan would be subject to R307-335 even though the detergent used meets the definition of a consumer product.

The Department of Defense is continuously improving weapons systems acquisition pollution prevention strategies through the systems engineering process which has enabled switching to using VOC solvents and detergents that meet the VOC regulatory requirements under the Consumer Product rule over the last several years. While switching to detergents and surfactants are generally more expensive and more production time consuming than traditional solvents, their use has reduced Hill AFB's VOC emissions associated with degreasing significantly (shown in the graph below). VOC emissions reductions can be attributed to the implementation of new technologies and the replacement of traditional solvents with less volatile materials. For example, Hill AFB has switched 42 solvent degreasers to using detergents and surfactant cleaners which has led to an overall decrease in degreasing solvent usage with a corresponding increase of detergents and surfactants. Modification to R307-335 is needed to continue to support pollution prevention efforts at Hill AFB and to incentivize other sources to continue using or switching to detergents and surfactant cleaners for similar VOC emissions reductions.



The UDAQ should exempt degreasing operations from R307-335 that use cleaning products that meet the definition of consumer product or meet the VOC requirements under the Consumer Products rule (R307-357).

Recommended Changes

R307-335-2. Applicability

R307-335 applies to degreasing operations that use VOCs and that are located in Box Elder, Cache, Davis, Salt Lake, Tooele, Utah, or Weber counties. R307-335 does not apply to degreasing operations that use cleaning products that meet the definition of consumer product or meet the VOC requirements under the Consumer Products rule (R307-357).

If you have any questions or would like to discuss this issue further, my point of contact is Dr. Erik Dettenmaier 75 CEG/CEIEA, at (801) 777-0888 or erik.dettenmaier.1@us.af.mil.

Sincerely

Michelle L Cottle

MICHELLE L. COTTLE, NH-03
Chief, Environmental Branch
75th Civil Engineer Group

Pub-014

03/21/2017

Joel Karmazyn
Attention: DAQ-005-17
Utah Department of Environmental Quality
Division of Air Quality
195 N 1950 W
Salt Lake City, UT 84114

Mr. Karmazyn,

The Specialty Graphic Imaging Association submits the following comments in response to the proposed rule R307-304 on Industrial Solvent Use, which will move industrial cleaning solvent requirements from R307-335 to this new rule and lower the threshold for gallons of solvent used in the applicability section of R307-304 to 55 gallons or more per year.

SGIA represents the collective interests of the screen and digital printing industries, one of the largest and most viable manufacturing industries in the United States. The printing industry is a prime example of small business involved in manufacturing. Approximately 90% of the industry employs fewer than 100 employees and over 80% employ 20 or fewer employees.

Our association would like to thank the agency for proposing in this rule a 500 g/L VOC limit for screen printing operations. As solvents are needed in critical steps of screen printing operations, having reasonable limits is essential for our industry's livelihood.

We would, however, recommend that the Agency specifically exempt cleaning operations associated with digital printing in this rule. At the time the EPA's Industrial Cleaning Solvent Control Techniques Guidelines (CTG) were released, the Agency had not considered nor did they address new and emerging industry sectors. Digital operations were not included in the original guidelines, but many states such as New Hampshire, Ohio, and Illinois have taken the opportunity to exempt digital printing operations from VOC control requirements. We recommend that Utah adopt these same exemptions.

Thank you for the opportunity to provide comments on this important rulemaking. If you have any questions, please feel free to contact me at allison@sgia.org.

Sincerely,

Allison Lundy

Regulatory Assistant

Specialty Graphic Imaging Association

(703) 359-1365

Pub-016

03/31/2017

Joel Karmazyn
Attention: DAQ-005-17
Utah Department of Environmental Quality
Division of Air Quality
195 N 1950 W
Salt Lake City, UT 84114

Mr. Karmazyn,

On behalf of the Specialty Graphic Imaging Association, thank you for allowing us to submit supplemental comments to our comments sent in on March 28, 2017 regarding the proposed rule R307-304 on Industrial Solvent Use.

We continue to recommend that cleaning activities associated with digital printing be exempt from the VOC content limit requirements contained in the current proposal. When the US EPA's CTG for industrial cleaning solvents was first drafted in the early 1990's, the Agency did not consider the impact of this document on new and emerging industry sectors. When finally released in 2006, the Agency still did not address the impact of the CTG's recommendations on emerging industry sectors. Furthermore, the state rules referenced in the CTG did not include digital technologies.

Since 2006, we have seen the inclusion of digital technologies in both solvent cleaning as well as graphic arts air pollution control standards. When the Bay Area Quality Management District in California adopted revisions to their graphic arts rule, Regulation 8, Rule 20, the district exempted the digital printing operations and presses from all VOC control requirements, including those associated with cleaning solvents. Since the release of this CTG, other states have adopted similar regulatory language and have exempted cleaning activities associated with digital technologies.

SGIA, along with other printing trade associations, held extensive discussions with the Agency prior to the release of this document. The US EPA understood during the development of the final CTG that not all industry sectors were adequately represented during the development of the 1994 document. As a result, the US EPA states that "the recommendations contained in this CTG are based on data and information currently available to EPA. The general recommendations may not apply to a particular situation based upon the circumstances of a specific source." The data and information used by the US EPA was collected in 1994 and only addressed nine specific industry sectors, none of which were digital print technologies.

The proposed applicability threshold of 55 gallons per year is extremely low. Although other processes are identified in the Industrial Cleaning Solvent Control Techniques Guidelines (CTG), the CTG does not address appropriate solvent cleaning technologies for digital print technologies.

SGIA remains committed to identifying appropriate technologies that allow states to meet their environmental reduction goals with the technology appropriate to the industry sector. Promulgation of any regulatory controls should allow an industry sector to use the materials that are technologically compatible with their manufacturing process. To this end, we recommend that cleaning activities associated with digital printing be exempted from this rulemaking.

Thank you again for allowing us the opportunity to provide these additional comments on this important rulemaking.

Sincerely,

Allison Lundy

Regulatory Assistant

Specialty Graphic Imaging Association

Pub-018

August 9, 2017
Submitted electronically to rstephens@utah.gov

Public Comment
Utah Division of Air Quality (UDAQ)
PO Box 144820
Salt Lake City, UT 84114-4820

RE: Hexcel's Comments on Proposed Rule R307-304 Solvent Cleaning

On behalf of Hexcel Corporation (Hexcel), we are providing comments on proposed UDAQ Rule UAC R307-304 (General Solvent Cleaning). We recognize the need to update the current general solvent cleaning rule, and acknowledge the importance of pursuing emissions reductions in order to meet PM2.5 attainment standards. The attached document contains a number of specific comments regarding the proposed rule, as well as some background information to provide appropriate context for some of the comments. Hexcel is submitting these comments to point out certain issues that UDAQ may not have considered in the development of the proposed rule, including information regarding the application of the proposed rule to Advanced Composites Manufacturing facilities. The comments are provided in the spirit of seeking to refine the rule in order to meet regulatory goals without creating unintended consequences.

We hope these comments will result in an appropriate amendment to the proposed rule language that will achieve the desired outcome for all concerned. Thank you for your time and effort. If you have any questions, comments or need additional information, please contact me at (801) 201-6204.

Sincerely,

Tim L. Sturdavant | Global Environmental Leader
Hexcel | 10913 South River Front Parkway, Suite 150 | South Jordan, UT 84095 USA
Tel: +1 (801) 508-8554 | Mobile: +1 (801) 201-6204 | tim.sturdavant@hexcel.com

Attachments

Attachment A – Hexcel UAC R307-304 Comments Package

ATTACHMENT A

Introduction

Hexcel has a fundamental commitment to continually evaluate opportunities to reduce our environmental footprint. Hexcel understands and supports UDAQ's efforts to make progress toward achieving further volatile organic compound (VOC) emissions reductions required by the Federal Clean Air Act in areas addressing serious non-attainment of PM2.5. Hexcel is submitting these comments to point out certain issues that UDAQ may not have considered in the development of the proposed rule and in the spirit of seeking to refine the rule while recognizing and supporting the proposed rule's approach to further VOC emission reductions in the Salt Lake City air basin.

Comment 1

Not Technically Feasible Within Rule Adoption Time Frame for Hexcel

For advanced composites manufacturing, all of our materials are subject to a rigorous specification and qualification process, in part due to concerns with cross contamination. Cross contamination is a significant issue because it could lead to "in the field" failure of the advanced composites materials we produce in our manufacturing operations. Since over 85% of Hexcel produced advanced composites are used in aerospace and military applications, "in the field" failure could have catastrophic consequences. Meeting customer specifications and qualifications assures critical objectives are met such as flight safety and product reliability. These specifications require Hexcel to use VOC-containing solvent products for manufacturing and cleaning. Changes to these very prescriptive specifications may take 4 years, or even longer, to accomplish. This is after multiple trials and field testing activities to show that such a change will not result in an unacceptable risk to flight and/or product safety.

Methyl ethyl ketone (MEK) use is a specification for a number of cleaning applications. It is the lowest risk solvent in many resin systems for preventing cross contamination. The principle requirement of MEK as a cleaning agent is to flush the lines and clean equipment before the next resin batch. Clean-up with a solvent other than what the resin system is based on poses a significant risk of cross contamination. For example, the use of acetone to clean equipment in an MEK resin system is simply not compatible.

Solvent substitution necessitates changing customer driven requirements including testing the effectiveness of alternatives. There is not enough data to know if solvent substitution would work in all cases (with respect to resin systems). Advanced composites manufacturing requires any cleaning solvent alternatives to be tested for effectiveness and then receive customer approval. This effort necessitates a long lead time. Hexcel has over 45 resin systems. The process to test solvent alternatives and then requalify with the customer would be a multiyear process with the ultimate ability to change solvents and meet applicable specifications and qualification not assured. *See background below for further details*

Comment 2

Not Economically Feasible for Advanced Composites Manufacturing
It does not appear that the cost estimates developed by UDAQ incorporated any estimated costs of compliance for advanced composites manufacturing. Compliance costs for advanced composites manufacturing far exceed fiscal impacts anticipated in Rule 307-304 of $4.36/ton. The lower applicability limit in Rule 307-304 drives the cost per ton of emissions significantly (see Background Section of this Document). The lowest estimated cost per ton of VOC emissions is over $125,000. This lowest cost estimate would be applicable, regardless of which of the two approaches to meet Rule 307-304 is employed: 1) additional controls or, 2) solvent substitution for the affected resin systems. This cost per ton of VOC removed far exceeds the current level of BACT determinations we are aware of in this air basin.
See background below for further details

Comment 3

Additional Controls Will Cause a Significant Increase in Air Emissions
Based on emission calculations for the operations of control equipment, a conservative estimate of the emissions from additional controls would be approximately 5,400 lbs. of NOx+SOx+VOC to control about 6,000 lbs. VOC. Thus, the high expense of additional controls does not significantly improve the air emission profile of the site. *See background below for further details*

Comment 4

Solution to Comments Above: Add Advanced Composites Manufacturing Category in Table 1 of the Rule
To address the unique situation of Advanced Composites Manufacturing Hexcel proposes the following change to rule. This is based on the VOC content of MEK which is the primary cleaning solvent currently used in MEK based resin systems and would result in the most significant impacts of the proposed rule on advanced composite manufacturers.

	VOC Limit	
Solvent Cleaning Category	**(lb. /gal)**	**(g/L)**
Coatings, adhesives and ink manufacturing	4.2	500
Electronic parts and components	4.2	500
Medical devices and pharmaceutical		
Tools, equipment and machinery	6.7	800
General surface cleaning	5.0	600
Screening printing operations	4.2	500
Semiconductor tools, maintenance		
and equipment cleaning	6.7	800
Advanced Composites Manufacturing	**6.7**	**800**

Comment 5

Support of Alternative Limit in Proposed Rule
Hexcel supports the addition of the alternative limit of *VOC composite vapor pressure no greater than 8 mm Hg at 20 degrees Celsius*. Recognition of the low likelihood of emissions impacts from low vapor pressure solutions is an important aspect of the proposed rule and addresses a shortcoming of the prior rule. We agree that this sort of regulatory flexibility is needed when drafting rules that protect the environment while providing flexibility to industry on how to meet requirements and identify technically feasible ways to reduce air emissions.

Background

Hexcel Operations
Hexcel is a leading supplier of carbon fiber, honeycomb core and other composites materials for the commercial aerospace industry. In addition, Hexcel provides composites for more than 100 space and defense programs. The aerospace, space, and defense markets account for over 85% of Hexcel's sales. At its Salt Lake City plant, Hexcel is an Advanced Composites Manufacturer; this is a distinct category different from manufacturers that make products **from** advanced composites. The manufacturing requirements, specifications, and qualifications make changing processes in advanced composites manufacturing a more challenging and daunting task.

West Valley City, located just a few minutes southwest of downtown Salt Lake City (SLC), is the site of Hexcel's largest carbon fiber and matrix manufacturing plants. There are two distinct and different manufacturing operations at the SLC site. Specifically, Carbon Fiber production and Matrix production operations. The fibers plant produces carbon fiber products. The matrix plant manufactures resins and pre-impregnated reinforcement (prepregs). The matrix plant accounts for the majority of the facility's VOC emissions and has the potential to be dramatically affected by Rule 307-304. Prepregs can be made from carbon fiber, fiberglass or aramid reinforcement materials. They are produced in unidirectional tape, slit tape and fabric forms using the solvent coating and hot melt processes. Hexcel prepregs are used in commercial aerospace, space & defense and recreation applications where lightweight and strength are critical.

Resin Systems Basics
Polymers are large molecules composed of one or more repeated chemical units. The smallest repeating unit is called a "mer." The Greek word for many is "poly," so a polymer contains many repeating units. The chemical nature of these repeating units (and how they are combined in the polymer) ultimately results in the engineering properties of polymer-based plastics.

One way to connect the repeating units in a polymer is essentially to create much longer molecules that can be thought of as a chain, with the smallest repeating unit being a link in the chain. If the chains are linear and not connected to one another, then the chemical forces between the chains can often be overcome by simply heating the polymer. These materials

soften on heating, their viscosity drops, and they can be molded into shapes, which solidify when the part is cooled back down. This is the general category of plastics referred to as "thermoplastic" polymers. Thermoplastic polymers are typically sold by large chemical companies, ready to use by companies like Hexcel.

Another way to connect the repeating units in a polymer is into longer chains, but with chemical bonds between the chains. This polymer structure is essentially one very large three-dimensional molecule which softens a little on heating but doesn't result in a viscosity drop that is useful for making parts or materials that require the polymer to flow – for example when a fiber bundle must be impregnated with a polymer. This class of plastics is referred to as "thermosetting" polymers.

To get around the viscosity limitation of cured thermoset polymers, companies like Hexcel will make a mixture of the components that will ultimately react to form the final thermoset polymer network. Before the "curing" reaction, this mixture of components is sometimes called a "resin." The components of the resin system and how they are reacted to form the cured polymer network determines the mechanical properties that can be obtained from a particular material.

Depending on the composition of the mixture, it can sometimes be softened with heat – allowing the components to flow into useful forms, or to have a low enough viscosity that the mixture can be used to impregnate fiber bundles. These kinds of resins are referred to as "hot melt" systems.

Other resin formulations are less able to soften during gentle heating, so the resin components are dissolved or dispersed in an appropriate solvent. The solvent lowers the viscosity of the mixture and allows it to flow with gentle heat and pressure application. These resin systems are called "solution" or "lacquer" systems. To obtain acceptable mechanical properties from a solution resin system, the solvent must be removed from the mixture - and the chemical components must react with one another to form the polymer network.

Solvent Cleaning in Resin System Production

A typical solution resin system might be comprised of small epoxide molecules, fillers, thermoplastic particles (for enhanced toughness), and curatives or curing accelerators. All of these materials must be dissolved or dispersed in a suitable solvent. The solvent must have certain characteristics: It must dissolve the formulation components, and it should be relatively easy to remove by heating. Some solvents are very effective at dissolving the resin components but have a high boiling point (or low volatility) and are difficult to remove from the resin system. Other solvents might dissolve the resin components, but they are too volatile and dry out of the material too easily. Therefore, removing resin components and avoiding cross contamination issues requires a precise balance of solvent properties. The appropriate solvent must be effective for dissolving resin components, safe to use, easy to remove, and have little

potential to cause undesirable effects at our customer's facility. These are some of the key requirements for solvents that are used as part of a formulated resin system.

Solvents are also used to clean process equipment. Again, the solvent must dissolve the material that must be removed during cleaning and be safe to use. Additionally, we need to be able to remove the solvent from the process equipment when the cleaning process is finished. Carryover of residual cleaning solvent into the next resin manufacturing process is unacceptable if the previous mixed resin system uses a different base solvent.

Hexcel uses a variety of solvents for cleaning resin and prepreg manufacturing process equipment. Some typical examples of solvents used at the site are MEK, N-methyl pyrrolidone (NMP), butyrolactone (BLO), acetone, and others.

MEK has been qualified for many of the resin systems for cleaning of process equipment. It has good cleaning power, can often be reused, and is easily dried out of cleaned process equipment. On the other hand, precautions must be taken to stay well below the lower explosive limit (LEL), any slight residual MEK that might be in process equipment will become a part of the next resin system. If that next resin system is formulated using MEK as a process solvent, then the very small carry over solvent will not have a detrimental effect on the next product.

In one important cleaning operation, the residual resin in the process equipment is not soluble in MEK. In this particular case, the process equipment is filled with NMP and is then heated and stirred. The NMP dissolves the residual resin, and the system is drained. A very thin film of NMP is left on the inside of the process equipment. The equipment is then filled with MEK and heated. This helps clean the "overhead" piping including removing or diluting any residual NMP to a point where it is not a significant contaminant in the next batch that will be processed in the equipment. Since this resin system uses MEK as a formulary component, residual MEK is not an issue.

Another important concern is whether residual cleaning solvent will be transferred to the next step in manufacturing. One strategy for reducing this risk is to clean following a process analogous to that in the previous paragraph. The equipment could be cleaned with a replacement solvent with acceptable solvation power, then cleaned again to remove the cleaning solvent and replace it with something that could dry quickly and result in less risk of transfer to the next process step. This would add to the amount of time it takes to clean the process equipment. Contaminant transfer to the next process step could be quantified within reasonable bounds – that is, we could ascertain how much contaminating solvent might end up in the next process step and take measures to test the effects of that solvent in the next resin formulation.

ATTACHMENT A

The potential effects of residual cleaning solvent (of any type that is selected) will have to be tested against the requirements of various commercial, space, and military specifications for a broad variety of customers. What is acceptable to some may be unacceptable to others. The definition of the required testing programs will necessarily depend on process studies to understand the potential effects. Test programs that meet the requirements of the Federal regulations are necessarily developed in conjunction with the specification owners.

Possible Approaches to Long Term Compliance

As it stands today, Hexcel would appear have only two alternatives to meet the requirements of Rule 307-304: solvent substitution and add-on controls. The following is a basic analysis of each.

Identifying and Qualifying Solvent Substitutes

We have experience in solvent substitution that raises a significant timing concern. There have been several attempts at solvent substitutions that have not yielded satisfactory results. Any changes in solvents would need to pass a number of tests to confirm that it would be as effective as the currently approved solvent. The customer then would need to approve the change based on the objective evidence produced by the extensive testing. The testing of alternatives for effectiveness and the overall approval process will require a significant lead-time. This is a critical evaluation that must be performed carefully, as cross contamination that could result if the testing is no done meticulously with repeated results could have potentially devastating consequences.

Assuming an adequate substitution could be found for all of the affected resin systems, testing and requalification would likely require years to complete. Hexcel has over 45 resin systems. Each changed process in a resin system manufacturing would need to be tested and requalified. Currently, the number and scope of potential issues are not well enough understood to know what outcomes are possible or how long it will take.

The basic steps of solvent substitution are;

1. General test of solubility of resin system components in the selected solvent.
2. Verification that the proposed solvent is safe to use.
3. Studies to determine the potential contamination levels that could occur after using the new solvent for cleaning.
4. Tests of various products under many conditions to determine the effects on chemical, physical, mechanical properties under a variety of loading conditions.
5. Obtain approval from our customers for the use of the new cleaning solvent.

Below is the summary of the analysis of this of approach.

Environmental Impacts

Unknown because alternatives have not been identified

Economic Impacts/Cost
Based on estimated level of effort of 3-6 man years of engineering time the cost would be between $400,000 and $650,000. If successful, there would most likely be an increase in operating costs due to increasing solvent costs. Furthermore, there is no assurance an alternative would be found for all the affected resin systems.

∴ $400,000 / 3 tons = $133,000 and 650,000 / 3 tons = $216,000 to identify and requalify substitute solvents associated with Hexcel's efforts to address MEK emissions from cleaning.

The cost of substitution of MEK would be between $133,000/ton and 216,000/ton

Time to Complete
3 -5 years

Install Add-on Controls
Hexcel Matrix plant has controls, however, because of the nature of the equipment cleaning operation, a significant portion of the cleaning occurs outside of the capture area of the pollution abatement equipment. Below is the summary of the analysis of an add-on controls approach.

Environmental Impacts
Emissions from Controls

Pollutant	**TPY**
NOx	2.38
CO	2.00
SO2	0.014
PM/PM10/PM2.5	0.18
VOC (from combustion)	0.13

∴ Approximately 5,400 lbs. of NOx+SOx+VOC+PM are generated to control about 6,000 lbs. VOC.

Note: Estimated annual emission from the combustion of natural gas (using Table AP-42 and assuming and RTO with Q = 3,600 SCFM)

Economic Impacts/Cost
Cost to Install Controls:

- Based on recent engineering proposal from vendor the cost for a 12,000 SCFM RTO = $1,262,490 or $105.21 per SCFM.
- Assume 3,600 SCFM is required to capture VOCs from cleaning operations (estimate based on existing Vapor Recovery Unit with a flow rate of 1,780 SCFM)
- System would cost $378,747

- An evaluation of current VOC content of materials used and overall facility emissions indicate this would control approximately 6,000 lbs. of MEK per year or 3 tons.

∴ $378,747 / 3 tons = $126,249 per ton to capture and control the fugitive and uncontrolled MEK emissions from cleaning.

The cost of removal of VOC in excess of $125,000/ton based on a conservative estimate for controls

Operating costs of controls:

- Estimate annual NG consumption at 49,932 MMBtu/yr.
- Average unit price is $2.89/MMBtu.

∴ Annual fuel cost would be: 49,932 MMBtu/yr. x $2.89/MMBtu = $144,303.48

Time to Complete
18 months

August 11, 2017

Joel Karmazyn
Utah Department of Air Quality
P.O. Box 144820
195 North 1950 West
Salt Lake City, UT 84114-4820

RE: Comment on Proposed Rule R307-304, Solvent Cleaning

Dear Mr. Karmazyn:

Kimberly-Clark Corporation (K-C) is providing the following comment on the proposed rule R307-304.

K-C understands that the Utah Division of Air Quality (UDAQ) has proposed the adoption of R307-304 and revisions to R307-335 as part of the agency's strategy to attain the 2006 $PM_{2.5}$ National Ambient Air Quality Standards (NAAQS). K-C appreciates the difficult task that UDAQ is faced with and supports the agency's efforts to reduce emissions and demonstrate attainment with the NAAQS.

Our facility that is located in Ogden, manufactures baby and child care diapers (BCCD) and we face a unique challenge to meet the requirements of proposed rule R307-304. We are recommending that the proposed rule R307-304 be modified to include a subcategory and corresponding volatile organic compound (VOC) emission limit for Baby and Child Care Diapers General Miscellaneous Cleaning as explained in this comment.

Medical Devices General Surface Cleaning

The Medical Devices and Pharmaceutical General Surface Cleaning subcategory currently exists and was developed because medical devices are regulated by another federal agency, the Food and Drug Administration, which expects medical devices to be manufactured in a clean environment to consistently control bioburden[1]. Correspondingly, the cleaning solvent that can be utilized for general miscellaneous cleaning operations must minimize the risk of bioburden. This requirement limits the cleaning solvent options to ones that contain no water (i.e. a place to support formation of bioburden) or ones with water that rapidly evaporates along with being preserved so it does not allow bioburden to form on the manufacturing equipment or product. The use of preservatives is limited because many cause skin reactions or dermal sensitivity. Adult care diapers (ACD) are Class 1 medical devices and by definition treat an abnormality which in this case is incontinence. A BCCD is not treating an abnormality and is not a medical device, but functions in the same capacity as ACD. It is important to note that the VOC limit for the Medical Devices and Pharmaceutical General Surface Cleaning subcategory is 5.0 lb VOC/gallon which is the same VOC content as 70% Isopropyl Alcohol (IPA). IPA is the most common cleaning solvent used to provide a clean environment.

BCCD Are Regulated Under CPSC and Additional Federal Regulations

BCCD are specifically regulated by another federal agency which is the Consumer Product Safety Commission (CPSC). The CPSC expects these products to be manufactured in a clean environment to consistently control bioburden. In addition, BCCD are subject to additional federal regulations for the safety of children's products.[ii] To meet CPSC expectations and these federal requirements BCCD manufacturing utilizes 99% IPA for general miscellaneous cleaning operations but IPA has a vapor pressure higher than the 8 mm Hg limit in the proposed rule R307-304.

BCCD Options To Replace IPA

K-C cannot find evidence that BCCD manufacturing was assessed in EPA's Control Technology Guide or by the state of California, which formed the basis for setting the proposed VOC limit for general miscellaneous cleaning operations. In addition, there are no BCCD manufacturing facilities in the five serious non-attainment areas[iii] for $PM_{2.5}$ or ozone other than the K-C manufacturing facility that is located in Ogden.

Four potential cleaning solvents were evaluated as a replacement for 99% IPA.

1. **Acetone** is not a VOC, however it is not a viable replacement because of the following: (1) it is extremely flammable, (2) it can react with the polymers utilized in diapers which can cause product defects, and (3) it can cause damage to the manufacturing equipment.
2. **Tert-butyl-acetate (TBA)** is not a VOC, however it is not a viable replacement because it has an extremely objectionable odor which may result in consumer products retaining the objectionable odor. In addition, our evaluation has shown that the utilization of TBA would result in an untenable odor in the work environment.
3. **California water based cleaners** have a vapor pressure below the proposed limit, however they are not a viable replacement because they are predominately water which, as explained above, presents the risk of bioburden formation. In addition, the use of these cleaners may result in damage to the manufacturing equipment.
4. **70% IPA** contains more water than 99% IPA but it rapidly evaporates leaving no remaining water. K-C has conducted trials during August utilizing 70% IPA and have found it to be a viable replacement. In addition, the change from 99% IPA to 70% IPA is a 25% reduction in VOC emissions which is about the same as the 28% reduction expected by the proposed rule.

Recommended Modification To Proposed Rule R307-304

The proposed rule should be modified to add an additional subcategory of Baby and Child Care Diapers General Miscellaneous Cleaning to have a VOC limit of 5.0 lb VOC/gallon. The rationale is the following:

- BCCD are regulated by a federal agency, the CPSC, which expects BCCD to be manufactured in a clean environment. To meet this requirement the common cleaning solvent is 99% IPA.

- K-C's proposes a change from 99% IPA to 70% IPA which would result in a 25% reduction in VOC emissions, which is about the same as the 28% reduction expected by the proposed rule.
- There is only one BCCD manufacturing source in this non-attainment area and none in the four other serious non-attainment areas, therefore the impact of adding a Baby and Child Care Diapers General Miscellaneous Cleaning subcategory is minimal.

---

[i] Bioburden is the number of bacteria living on a surface that has not been sterilized. The term is most often used in the context of bioburden testing, also known as microbial limit testing, which is performed on pharmaceutical products and medical products for quality control purposes.

[ii] 16 CFR Part 1200, 16 CFR Part 1303,16 CFR Part 1500, 16 CFR Part 1501,16 CFR Part 1610, 16 CFR Part 1611

[iii] Sacramento Metro, San Joaquin Valley, Salt Lake and Utah County, South Coast Air Basin, Ventura County

Change in Proposed Rule

KEY: air pollution, definitions
Date of Enactment or Last Substantive Amendment: 2017
Notice of Continuation: May 8, 2014
Authorizing, and Implemented or Interpreted Law: 19-2-104(1)(a)

Environmental Quality, Air Quality
R307-304
Solvent Cleaning

NOTICE OF CHANGE IN PROPOSED RULE

DAR FILE NO.: 41809
FILED: 10/05/2017

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The rule changes are being proposed in response to comments received during the public comment period. The amendments to this rule strengthen the area source coating rules. These amendments will help further reduce Volatile Organic Compound (VOC) emissions and will be part of the upcoming Serious PM2.5 State Implementation Plan (SIP).

SUMMARY OF THE RULE OR CHANGE: Several changes were made throughout Rule R307-304 as a result of public comments. These changes include: adding an exemption for materials for solvent cleaning operations to the compliance schedule, adding exemptions for solvent cleaning in laboratory tests, analysis, research, and development projects as well as cleaning of solar cells, laser hardware, scientific instruments, and high-precision optics, clarifying definition for solvent cleaning; and adding VOC limits for advanced composites manufacturing and baby and child care diapers manufacturing. (EDITOR'S NOTE: The original proposed new rule upon which this change in proposed rule (CPR) was based was published in the July 1, 2017, issue of the Utah State Bulletin, on page 98. Underlining in the rule below indicates text that has been added since the publication of the proposed new rule mentioned above; strike-out indicates text that has been deleted. You must view the CPR and the proposed new rule together to understand all of the changes that will be enforceable should the agency make this rule effective.)

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 19-2-104(1)(a)

ANTICIPATED COST OR SAVINGS TO:
♦ THE STATE BUDGET: There is no cost or savings to the state budget as a result of these changes because the changes do not change the way the rule impacts the state.
♦ LOCAL GOVERNMENTS: There is no cost or savings to local governments as a result of these changes because the changes do not affect the way the rule impacts local governments.
♦ SMALL BUSINESSES: The extension of the exemptions may lead to a savings to small businesses; however, it is difficult to determine the amount of the savings to be realized. The other changes would not result in additional costs.
♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: Persons other than small businesses, businesses, or local government entities will not be impacted by these changes because the rule does not apply to them.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There will be no added compliance costs because of these changes. The changes: added an exemption for materials for solvent cleaning operations to the compliance schedule; added exemptions for solvent cleaning in laboratory tests, analysis, research, and development projects, as well as cleaning of solar cells, laser hardware, scientific instruments, and high-precision optics; and clarified the definition for solvent cleaning do not result in additional compliance costs because requirements of the rule otherwise remain unchanged. The change to add VOC limits for advanced composites manufacturing and baby and child care diapers manufacturing are to provide clarification that these industries are also regulated and were included in the original rule cost analysis.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The extension of the exemptions may lead to a savings for businesses; however, it is difficult to determine the amount of the savings to be realized. The other changes will have no fiscal impact on any businesses because the changes do not modify any of the existing requirements within the rule.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
ENVIRONMENTAL QUALITY
AIR QUALITY
FOURTH FLOOR
195 N 1950 W
SALT LAKE CITY, UT 84116-3085
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Mat Carlile by phone at 801-536-4116, by FAX at 801-536-4136, or by Internet E-mail at mcarlile@utah.gov

THIS RULE MAY BECOME EFFECTIVE ON: 12/01/2017

AUTHORIZED BY: Bryce Bird, Director

R307. Environmental Quality, Air Quality.
R307-304. Solvent Cleaning.
R307-304-1. Purpose.

The purpose of R307-304 is to limit volatile organic compound (VOC) emissions from solvent cleaning operations.

R307-304-2. Applicability.

(1) R307-304 applies to solvent cleaning operations within Box Elder, Cache, Davis, Salt Lake, Tooele, Utah or Weber counties.

(2) Before September 1, 2018, R307-304 applies to an owner or operator using 720 gallons or more a year of VOC containing solvent products, minus exempt materials, for solvent cleaning operations.

(3) Effective September 1, 2018, R307-304 shall apply to an owner or operator using 55 gallons or more a year of VOC containing solvent products, minus exempt materials, for solvent cleaning operations.

R307-304-3. Exemptions.

(1) The requirements of R307-304 do not apply to the operations that are [~~regulated~~]subject to [~~under~~]R307-342 through R307-347 and R307-349 through R307-355.

(2) Shipbuilding and repair and fiberglass boat manufacturing materials.

(3) Operations that are exclusively covered by Department of Defense military technical data and performed by a Department of Defense contractor and/or on site at installations owned and/or operated by the United States Armed Forces are exempt from the requirements of R307-304.

(4) Janitorial cleaning.

(5) Graffiti removal.

(6) [~~Waste solvent from analytical laboratories.~~]Solvent cleaning in laboratory tests and analysis and research and development projects.

(7) Cleaning with aerosol products[~~not greater than 16 fluid ounces~~].

(8) Cleaning solvents that are defined as a consumer product in R307-357 are exempt from R307-304 and are regulated under the requirements in R307-357.

(9) Cleaning of solar cells, laser hardware, scientific instruments, and high-precision optics.

R307-304-4. Definitions.

The following additional definitions apply to R307-304:

"Solvent cleaning" means operations performed using a liquid that contains any VOC, or combination of VOCs, which is used to clean parts, tools, machinery, equipment and work areas. Cleaning operations include, but are not limited to, spraying, wiping, flushing, and purging. Solvent cleaning does not include degreasing operations subject to R307-335.

"Janitorial cleaning" means the cleaning of building floors, ceilings, walls, windows, doors, stairs, bathrooms, office surfaces and equipment.

R307-304-5. VOC Content Limits.

(1) No person shall use solvent products with a VOC content greater than the amounts specified in Table 1, unless the owner or operator uses an add-on control device as specified in R307-304-7 or the alternative method in R307-304-5(2).

TABLE 1

Solvent Cleaning VOC Limits (excluding water and exempt solvents from the definition of volatile organic compounds found in R307-101-2)

Solvent Cleaning Category	VOC Limit (lb/gal)	(g/L)
Coatings, adhesives and ink manufacturing	4.2	500
Electronic parts and components	4.2	500
Medical devices and pharmaceutical		
Tools, equipment and machinery	6.7	800
General surface cleaning	5.0	600
Screening printing operations	4.2	500
Semiconductor tools, maintenance		
and equipment cleaning	6.7	800
Advanced composites manufacturing	6.7	800
Baby and child care diapers manufacturing	5.0	500

(2) As an alternative to the limits in Table 1 and for all general miscellaneous cleaning operations, a person may use a cleaning material with a VOC composite vapor pressure no greater than 8 mm Hg at 20 degrees Celsius.

R307-304-6. Work Practices.

An owner or operator shall store used applicators and shop towels in closed fireproof containers.

R307-304-7. Add-on Emission Control Systems Operations.

(1) If an add-on control system is used, the owner or operator shall install and maintain the add-on control system in accordance with the manufacturer recommendations and maintain an overall capture and control efficiency of at least 85%. The overall capture and control efficiency shall be determined using EPA approved methods, as follows:

(a) The capture efficiency of a VOC emission control system's VOC collection device shall be determined according to EPA's "Guidelines for Determining Capture Efficiency," January 9, 1995 and 40 CFR Part 51, Appendix M, Methods 204-204F, as applicable.

(b) The control efficiency of a VOC emission control system's VOC control device shall be determined using test methods in Appendices A-1, A-6, and A-7 to 40 CFR Part 60, for measuring flow rates, total gaseous organic concentrations, or emissions of exempt compounds, as applicable.

(c) An alternative test method may be substituted for the preceding test methods after review and approval by the EPA Administrator.

R307-304-8. Recordkeeping.

(1) The owner or operator shall maintain records of the following:

(a) The VOC content or composite vapor pressure of the solvent product applied and

(b) If an add-on control device is used, key system parameters necessary to ensure compliance with R307-304-7.

(i) Key system parameters must include, but are not limited to, temperature, pressure, flow rates, and an inspection schedule.

(ii) Key inspection parameters must be in accordance with the manufacturer's recommendations, and as required to demonstrate operations are providing continuous emission reduction from the source during all periods that the operations cause emissions from the source.

(2) All records shall be maintained for 2 years.

(3) Records shall be made available to the director upon request.

KEY: air pollution, solvent cleaning, solvent use
Date of Enactment or Last Substantive Amendment: 2017
Authorizing, and Implemented or Interpreted Law: 19-2-104(1)(a)

Environmental Quality, Air Quality
R307-343
Wood Furniture Manufacturing Operations

NOTICE OF CHANGE IN PROPOSED RULE

DAR FILE NO.: 41824
FILED: 10/05/2017

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The rule changes are being proposed in response to comments received during the public comment period. The amendments to this rule strengthen the area source coating rules. These amendments will help further reduce Volatile Organic Compound (VOC) emissions and will be part of the upcoming Serious PM2.5 State Implementation Plan (SIP).

SUMMARY OF THE RULE OR CHANGE: Two changes were made in Rule R307-343 as a result of public comments. These changes include adding a compliance schedule for affected sources and extending the exemption for canned aerosol products used exclusively for touch-up or repair. (EDITOR'S NOTE: The original proposed amendment upon which this change in proposed rule (CPR) was based was published in the July 1, 2017, issue of the Utah State Bulletin, on page 103. Underlining in the rule below indicates text that has been added since the publication of the proposed rule mentioned above; strike-out indicates text that has been deleted. You must view the CPR and the proposed amendment together to understand all of the changes that will be enforceable should the agency make this rule effective.)

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 19-2-104(3)(e)

ANTICIPATED COST OR SAVINGS TO:
♦ THE STATE BUDGET: There is no cost or savings to the state budget as a result of these changes because the changes do not change the way the rule impacts the state.
♦ LOCAL GOVERNMENTS: There is no cost or savings to local governments as a result of these changes because the changes do not affect the way the rule impacts local governments.
♦ SMALL BUSINESSES: The extension of the exemption for canned aerosol products used exclusively for touch-up or repair may lead to a nominal savings for small businesses; however, it is difficult to determine the amount of the savings that would be realized.
♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: Persons other than small businesses, businesses, or local government entities will not be impacted by these changes because the rule does not apply to them.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There will be no added compliance costs because of these changes. The changes, the added compliance schedule for affected sources and extending the exemption for canned aerosol products used exclusively for touch-up or repair, do not result in additional compliance costs because the requirements of the rule otherwise remain unchanged.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The extension of the exemption for canned aerosol products used exclusively for touch-up or repair may lead to a nominal savings for small businesses; however, it is difficult to determine the amount of the savings that would be realized.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
ENVIRONMENTAL QUALITY
AIR QUALITY
FOURTH FLOOR
195 N 1950 W
SALT LAKE CITY, UT 84116-3085
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Mat Carlile by phone at 801-536-4116, by FAX at 801-536-4136, or by Internet E-mail at mcarlile@utah.gov

THIS RULE MAY BECOME EFFECTIVE ON: 12/01/2017

AUTHORIZED BY: Bryce Bird, Director

R307. Environmental Quality, Air Quality.
R307-343. Wood Furniture Manufacturing Operations.
R307-343-1. Purpose.

The purpose of R307-343 is to limit volatile organic compound (VOC) emissions from wood furniture manufacturing operations.

R307-343-2. Applicability.

[~~R307-343 applies to wood furniture manufacturing operations, including related cleaning activities, that use a combined 20 gallons or more of coating products and associated solvents per year and are located in Box Elder, Cache, Davis, Salt Lake, Utah, Tooele, or Weber counties.~~](1) R307-343 applies to wood furniture manufacturing coating operations located in Box Elder, Cache, Davis, Salt Lake, Tooele, Utah and Weber counties.

(2) Before September 1, 2018, R307-343 applies to wood furniture manufacturing operations that have the potential to emit 2.7 tons per year or more of VOC, including related cleaning activities.

Effective Rule

R307-304
File number 41809, NEW and
CPR
Effective December 6, 2017

R307. Environmental Quality, Air Quality.
R307-304. Solvent Cleaning.
R307-304-1. Purpose.

The purpose of R307-304 is to limit volatile organic compound (VOC) emissions from solvent cleaning operations.

R307-304-2. Applicability.

(1) R307-304 applies to solvent cleaning operations within Box Elder, Cache, Davis, Salt Lake, Tooele, Utah or Weber counties.

(2) Before September 1, 2018, R307-304 applies to an owner or operator using 720 gallons or more a year of VOC containing solvent products, minus exempt materials, for solvent cleaning operations.

(3) Effective September 1, 2018, R307-304 shall apply to an owner or operator using 55 gallons or more a year of VOC containing solvent products, minus exempt materials, for solvent cleaning operations.

R307-304-3. Exemptions.

(1) The requirements of R307-304 do not apply to the operations that are subject to R307-342 through R307-347 and R307-349 through R307-355.

(2) Shipbuilding and repair and fiberglass boat manufacturing materials.

(3) Operations that are exclusively covered by Department of Defense military technical data and performed by a Department of Defense contractor and/or on site at installations owned and/or operated by the United States Armed Forces are exempt from the requirements of R307-304.

(4) Janitorial cleaning.

(5) Graffiti removal.

(6) Solvent cleaning in laboratory tests and analysis and research and development projects.

(7) Cleaning with aerosol products.

(8) Cleaning solvents that are defined as a consumer product in R307-357 are exempt from R307-304 and are regulated under the requirements in R307-357.

(9) Cleaning of solar cells, laser hardware, scientific instruments, and high-precision optics.

R307-304-4. Definitions.

The following additional definitions apply to R307-304:

"Solvent cleaning" means operations performed using a liquid that contains any VOC, or combination of VOCs, which is used to clean parts, tools, machinery, equipment and work areas. Cleaning operations include, but are not limited to, spraying, wiping, flushing, and purging. Solvent cleaning does not include degreasing operations subject to R307-335.

"Janitorial cleaning" means the cleaning of building floors, ceilings, walls, windows, doors, stairs, bathrooms, office surfaces and equipment.

R307-304-5. VOC Content Limits.

(1) No person shall use solvent products with a VOC content greater than the amounts specified in Table 1, unless the owner or operator uses an add-on control device as specified in R307-304-7 or the alternative method in R307-304-5(2).

TABLE 1

Solvent Cleaning VOC Limits (excluding water and exempt solvents from the definition of volatile organic compounds found in R307-101-2)

Solvent Cleaning Category	VOC Limit (lb/gal)	(g/L)
Coatings, adhesives and ink manufacturing	4.2	500
Electronic parts and components	4.2	500
Medical devices and pharmaceutical		
Tools, equipment and machinery	6.7	800
General surface cleaning	5.0	600
Screening printing operations	4.2	500
Semiconductor tools, maintenance		
and equipment cleaning	6.7	800
Advanced composites manufacturing	6.7	800
Baby and child care diapers manufacturing	5.0	500

(2) As an alternative to the limits in Table 1 and for all general miscellaneous cleaning operations, a person may use a cleaning material with a VOC composite vapor pressure no greater than 8 mm Hg at 20 degrees Celsius.

R307-304-6. Work Practices.

An owner or operator shall store used applicators and shop towels in closed fireproof containers.

R307-304-7. Add-on Emission Control Systems Operations.

(1) If an add-on control system is used, the owner or operator shall install and maintain the add-on control system in accordance with the manufacturer recommendations and maintain an overall capture and control efficiency of at least 85%. The overall capture and control efficiency shall be determined using EPA approved methods, as follows:

(a) The capture efficiency of a VOC emission control system's VOC collection device shall be determined according to EPA's "Guidelines for Determining Capture Efficiency," January 9, 1995 and 40 CFR Part 51, Appendix M, Methods 204-204F, as applicable.

(b) The control efficiency of a VOC emission control system's VOC control device shall be determined using test methods in Appendices A-1, A-6, and A-7 to 40 CFR Part 60, for measuring flow rates, total gaseous organic concentrations, or emissions of exempt compounds, as applicable.

(c) An alternative test method may be substituted for the preceding test methods after review and approval by the EPA Administrator.

R307-304-8. Recordkeeping.

(1) The owner or operator shall maintain records of the following:

(a) The VOC content or composite vapor pressure of the solvent product applied and

(b) If an add-on control device is used, key system parameters necessary to ensure compliance with R307-304-7.

(i) Key system parameters must include, but are not limited to, temperature, pressure, flow rates, and an inspection schedule.

(ii) Key inspection parameters must be in accordance with the manufacturer's recommendations, and as required to demonstrate operations are providing continuous emission reduction from the source during all periods that the operations cause emissions from the source.

(2) All records shall be maintained for 2 years.

(3) Records shall be made available to the director upon request.

KEY: air pollution, solvent cleaning, solvent use
Date of Enactment or Last Substantive Amendment: December 6, 2017
Authorizing, and Implemented or Interpreted Law: 19-2-104(1)(a)

!--dar--

Environmental Quality
Air Quality
No. 41814 (AMD): R307-101-2. Definitions
Published: 07/01/2017
Effective: 12/06/2017

No. 41814 (CPR): R307-101-2. Definitions
Published: 11/01/2017
Effective: 12/06/2017

No. 41809 (NEW): R307-304. Solvent Cleaning
Published: 07/01/2017
Effective: 12/06/2017

No. 41809 (CPR): R307-304. Solvent Cleaning
Published: 11/01/2017
Effective: 12/06/2017

No. 41824 (AMD): R307-343. Emissions Standards for Wood Furniture Manufacturing Operations
Published: 07/01/2017
Effective: 12/06/2017

No. 41824 (CPR): R307-343. Wood Furniture Manufacturing Operations
Published: 11/01/2017
Effective: 12/06/2017

No. 41816 (AMD): R307-344. Paper, Film, and Foil Coatings
Published: 07/01/2017
Effective: 12/06/2017

No. 41816 (CPR): R307-344. Paper, Film, and Foil Coatings
Published: 11/01/2017
Effective: 12/06/2017

No. 41817 (AMD): R307-345. Fabric and Vinyl Coatings
Published: 07/01/2017
Effective: 12/06/2017

No. 41817 (CPR): R307-345. Fabric and Vinyl Coatings
Published: 11/01/2017
Effective: 12/06/2017

No. 41818 (AMD): R307-346. Metal Furniture Surface Coatings
Published: 07/01/2017
Effective: 12/06/2017

No. 41818 (CPR): R307-346. Metal Furniture Surface Coatings
Published: 11/01/2017
Effective: 12/06/2017

No. 41819 (AMD): R307-347. Large Appliance Surface Coatings
Published: 07/01/2017
Effective: 12/06/2017

No. 41819 (CPR): R307-347. Large Appliance Surface Coatings
Published: 11/01/2017
Effective: 12/06/2017

No. 41826 (AMD): R307-348. Magnet Wire Coatings
Published: 07/01/2017
Effective: 12/06/2017

No. 41826 (CPR): R307-348. Magnet Wire Coatings
Published: 11/01/2017
Effective: 12/06/2017

No. 41820 (AMD): R307-349. Flat Wood Panel Coatings
Published: 07/01/2017
Effective: 12/06/2017

No. 41820 (CPR): R307-349. Flat Wood Panel Coatings
Published: 11/01/2017
Effective: 12/06/2017

No. 41821 (AMD): R307-350. Miscellaneous Metal Parts and Products Coatings
Published: 07/01/2017
Effective: 12/06/2017

No. 41821 (CPR): R307-350. Miscellaneous Metal Parts and Products Coatings
Published: 11/01/2017
Effective: 12/06/2017

No. 41825 (AMD): R307-351. Graphic Arts
Published: 07/01/2017
Effective: 12/06/2017

No. 41825 (CPR): R307-351. Graphic Arts
Published: 11/01/2017
Effective: 12/06/2017

No. 41822 (AMD): R307-352. Metal Container, Closure, and Coil Coatings
Published: 07/01/2017
Effective: 12/06/2017

No. 41822 (CPR): R307-352. Metal Container, Closure, and Coil Coatings
Published: 11/01/2017
Effective: 12/06/2017

No. 41823 (AMD): R307-353. Plastic Parts Coatings
Published: 07/01/2017
Effective: 12/06/2017

No. 41823 (CPR): R307-353. Plastic Parts Coatings
Published: 11/01/2017
Effective: 12/06/2017

Certification

I, Liam O. Thrailkill, Rules Coordinator for the Utah Division of Air Quality, do hereby certify that the public comment periods held to receive comments regarding R307-304 (DAR #41809) was held in accordance with the information provided in the published public notices and as defined in Utah Code 19-2-109. The changes regarding R307-304 were adopted by the Utah Air Quality Board.

Signed this __21___ day of May 2020.

Liam O. Thrailkill

Digitally signed by Liam O. Thrailkill
DN: cn=Liam O. Thrailkill, o=Division of Air Quality, ou, email=lthrailkill@utah.gov, c=US
Date: 2020.05.21 10:54:00 -06'00'