

State of Utah
Administrative Rule Analysis
 Revised June 2021

NOTICE OF PROPOSED RULE		
TYPE OF RULE: New ___; Amendment _x___; Repeal ___; Repeal and Reenact ___		
Title No. - Rule No. - Section No.		
Utah Admin. Code Ref (R no.):	R307-401	Filing ID (Office Use Only)
Changed to Admin. Code Ref. (R no.):	R	

Agency Information

1. Department:	Environmental Quality	
Agency:	Air Quality	
Room no.:		
Building:	Multi-Agency State Office Building	
Street address:	195 North 1950 West	
City, state and zip:	Salt Lake City, Utah, 84116	
Mailing address:	P.O. Box 144820	
City, state and zip:	Salt Lake City, UT 84114-4820	
Contact person(s):		
Name:	Phone:	Email:
Mat Carlile	385-306-3565	mcarlile@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule or section catchline:
R307-401. Permit: New and Modified Sources
3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?):
The Division of Air Quality (DAQ) is amending this rule section to replace newspaper notice of permitting actions with an electronic notice under Section 45-1-101 of the Utah Code. The rule amendments also add a requirement to publish permit notices and related documentation on the Division's website, therefore users will no longer have to contact the Division to obtain hard copies. The changes allow the DAQ to reach more people, increase transparency, and provide greater public access to information. DAQ estimates that the State will save approximately \$11,475 per year. Other stylistic and grammatical changes are made to these rules to comply with the Rulewriting Manual for Utah.
4. Summary of the new rule or change (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule):
<ol style="list-style-type: none"> 1. Replaces the newspaper notice requirement that the Director must advertise the intent to approve or disapprove an Approval Order in a newspaper of general circulation with an electronic notice requirement under Section 45-1-101 of the Utah Code. 2. Adds language to the rule that the notice of the comment period and permitting action will be published electronically under Section 45-1-101 of the Utah Code and on the Division's website. 3. Adds a requirement that a draft permit and related documentation will be published on the Division's website for the duration of the public comment period

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:
A) State budget:
There are no additional costs expected for the state budget as no new monetary requirements are being implemented. DAQ does expect to save approximately \$ 11,475 annually by switching to electronic notices.
B) Local governments:
There are no anticipated costs or savings to local governments because this rulemaking does not apply to them.
C) Small businesses ("small business" means a business employing 1-49 persons):

Small businesses that publish legal ads will see a decrease in revenue of approximately \$3,125 per year because of this rulemaking. DAQ identified 18 small businesses that have published legal ads for the DAQ over the past three years, for which the DAQ paid a total of \$11,440. It is estimated that the DAQ will pay \$2,060 for future legal ads, resulting in a cumulative loss to businesses of approximately \$9,380 for the next three years.

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

Non-small businesses that publish legal ads will see a decrease in revenue of approximately \$8,350 per year because of this rulemaking. DAQ identified 9 non-small businesses that have published legal ads for the DAQ over the past three years, for which the DAQ paid a total of \$28,400. It is estimated that the DAQ will pay \$3,340 for future legal ads, resulting in a cumulative loss to businesses of approximately \$25,060 for the next three years.

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

There are no anticipated costs or savings to persons because this rulemaking does not apply to them.

F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?):

No additional costs are anticipated because no new requirements are being implemented.

G) Comments by the department head on the fiscal impact this rule may have on businesses (Include the name and title of the department head):

DAQ expects that some businesses will see a slight decrease in revenue because of this rulemaking. The rule amendments to Section R307-415-7i are expected to have fiscal impacts on businesses because the Division will not require advertisement space to run legal ads in published newspapers. Instead, those ads will be published electronically on the utahlegals.com website with an optional notice in the physical newspaper pointing the reader to the website for the full text of the permitting notice.

Kimberly D. Shelley, Executive Director of the Utah Department of Environmental Quality

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

Regulatory Impact Table			
Fiscal Cost	FY2022	FY2023	FY2024
State Government	\$	\$	\$
Local Governments	\$0	\$0	\$0
Small Businesses	\$3,125	\$3,125	\$3,125
Non-Small Businesses	\$8,350	\$8,350	\$8,350
Other Persons	\$0	\$0	\$0
Total Fiscal Cost	\$11,475	\$11,475	\$11,475
Fiscal Benefits			
State Government	\$11,475	\$11,475	\$11,475
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits	\$11,475	\$11,475	\$11,475
Net Fiscal Benefits	\$0	\$0	\$0

B) Department head approval of regulatory impact analysis:

The Executive Director for the Utah Department of Environmental Quality, Kimberly D. Shelley, has reviewed and approved this fiscal analysis.

Citation Information

7. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:

Subsection 19-2-104(3)(b)(iii)	Section 19-2-108	

Incorporations by Reference Information

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

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

incorporated by reference must be submitted to the Office of Administrative Rules; <i>if none, leave blank</i>):	
	First Incorporation
Official Title of Materials Incorporated (from title page)	
Publisher	
Date Issued	
Issue, or version	

B) This rule adds, updates, or removes the following title of materials incorporated by references (a copy of materials incorporated by reference must be submitted to the Office of Administrative Rules; <i>if none, leave blank</i>):	
	Second Incorporation
Official Title of Materials Incorporated (from title page)	
Publisher	
Date Issued	
Issue, or version	

Public Notice Information

9. The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. See Section 63G-3-302 and Rule R15-1 for more information.)		
A) Comments will be accepted until (mm/dd/yyyy):	11/02/2021	
B) A public hearing (optional) will be held:		
On (mm/dd/yyyy):	At (hh:mm AM/PM):	At (place):
11/02/2021	10:00 AM MDT	Google Meet https://meet.google.com/zvn-ketw-ftd Or dial: (US) +1 513-828-0269 PIN: 107 613 936#

10. This rule change MAY become effective on (mm/dd/yyyy):	11/09/2021
NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date. To make this rule effective, the agency must submit a Notice of Effective Date to the Office of Administrative Rules on or before the date designated in Box 10.	

Agency Authorization Information

To the agency: Information requested on this form is required by Sections 63G-3-301, 302, 303, and 402. Incomplete forms will be returned to the agency for completion, possibly delaying publication in the <i>Utah State Bulletin</i> and delaying the first possible effective date.			
Agency head or designee, and title:	Bryce C. Bird, Director of the Utah Division of Air Quality	Date (mm/dd/yyyy):	08/15/2021

307. Environmental Quality, Air Quality.

R307-401. Permit: New and Modified Sources.

R307-401-7. Public Notice.

(1) Issuing the Notice. Prior to issuing an approval or disapproval order [~~the director will advertise intent to approve or disapprove in a newspaper of general circulation in the locality~~] of the proposed construction, installation, modification, relocation or establishment[-], the director shall:

(a) publish a legal notice of the intent to approve or disapprove on the public legal notice website under Subsection 45-1-101(2);

(b) notify the public of the intent to approve or disapprove on the Division's website; and

(c) post the draft permit and administrative record for the draft permit, or information on how to access the administrative record for the draft permit, on the Division's website for the duration of the public comment period.

(2) Opportunity for Review and Comment.

(a) At least one location will be provided where the information submitted by the owner or operator, the director's analysis of the notice of intent proposal, and the proposed approval order conditions will be available for public inspection.

(b) Public Comment.

(i) A 30-day public comment period will be established.

(ii) A request to extend the length of the comment period, up to 30 days, may be submitted to the director within 15 days of the date the legal notice in Subsection R307-401-7(1)(a) is published.

(iii) Public Hearing. A request for a hearing on the proposed approval or disapproval order may be submitted to the director within 15 days of the date the legal notice in Subsection R307-401-7(1)(a) is published.

(iv) The hearing will be held in the area of the proposed construction, installation, modification, relocation or establishment.

(v) The public comment and hearing procedure shall not be required when an order is issued ~~[for the purpose of extending]to extend~~ the time required by the director to review plans and specifications.

(3) The director will consider ~~[aH-]~~comments received during the public comment period and at the public hearing and, if appropriate, will make changes to the proposal in response to comments before issuing an approval order or disapproval order.

.....

R307-401-19. General Approval Order.

(1) The director may issue a general approval order that would establish conditions for similar new or modified sources of the same type or for specific types of equipment. The general approval order may apply throughout the state or in a specific area.

(a) A major source or major modification as defined in Rules R307-403, R307-405, or R307-420 for each respective area is not eligible for coverage under a general approval order.

(b) A source that is subject to the requirements of Section R307-403-5 is not eligible for coverage under a general approval order.

(c) A source that is subject to the requirements of Section R307-410-4 is not eligible for coverage under a general approval order unless a demonstration that meets the requirements of Section R307-410-4 was conducted.

(d) A source that is subject to the requirements of Subsection R307-410-5(1)(c)(ii) is not eligible for coverage under a general approval order unless a demonstration that meets the requirements of Subsection R307-410-5(1)(c)(ii) was conducted.

(e) A source that is subject to the requirements of Subsection R307-410-5(1)(c)(iii) is not eligible for coverage under a general approval order.

(2) A general approval order shall meet ~~[aH-]~~applicable requirements of Section R307-401-8.

(3) The public notice requirements in Section R307-401-7 shall apply to a general approval order. ~~[except that the director will advertise the notice of intent in a newspaper of statewide circulation.]~~

(4) Application.

(a) After a general approval order has been issued, the owner or operator of a proposed new or modified source may apply to be covered under the conditions of the general approval order.

(b) The owner or operator shall submit the application on forms provided by the director in lieu of the notice of intent requirements in Section R307-401-5 for ~~[aH-]~~equipment covered by the general approval order.

(c) The owner or operator may request that an existing, individual approval order for the source be revoked, and that it be covered by the general approval order.

(d) The owner or operator that has applied to be covered by a general approval order shall not initiate construction, modification, or relocation until the application has been approved by the director.

(5) Approval.

(a) The director will review the application and approve or deny the request based on criteria specified in the general approval order for that type of source. If approved, the director will issue an authorization to the applicant to operate under the general approval order.

(b) The public notice requirements in Section R307-401-7 do not apply to the approval of an application to be covered under the general approval order.

(c) The director will maintain a record of ~~[aH-]~~stationary sources that are covered by a specific general approval order and this record will be available for public review.

(6) Exclusions and Revocation.

(a) The director may require any source that has applied for or is authorized by a general approval order to submit a notice of intent and obtain an individual approval order under Section R307-401-8. Cases where the director will require an individual approval order ~~[will be required include, but are not limited to,]include~~ the following:

(i) the director determines that the source does not meet the criteria specified in the general approval order;

(ii) the director determines that the application for the general approval order did not contain all necessary information to evaluate applicability under the general approval order;

(iii) modifications were made to the source that were not authorized by the general approval order or an individual approval order;

(iv) the director determines the source may cause a violation of a national ambient air quality standard; ~~[or]~~

(v) the director determines that an approval order ~~[one-]~~is required based on the compliance history and current compliance status of the source or applicant[.]; or

(vi) the director determines that an approval order is required for any other reason.

(b)(i) Any source authorized by a general approval order may request to be excluded from the coverage of the general approval order by submitting a notice of intent under Section R307-401-5 and receiving an individual approval order under Section

R307-401-8.

(ii) When the director issues an individual approval order to a source subject to a general approval order, the applicability of the general approval order to the individual source is revoked on the effective date of the individual approval order.

(7) Modification of General Approval Order. The director may modify, replace, or discontinue the general approval order.

(a) Administrative corrections may be made to the existing version of the general approval order. These corrections are to correct typographical errors or similar minor administrative changes.

(b) All other modifications or the discontinuation of a general approval order shall not apply to any source authorized under previous versions of the general approval order unless the owner or operator submits an application to be covered under the new version of the general approval order. Modifications under Subsection R307-401-19(7)(b) shall meet the public notice requirements in Subsection R307-401-19(3).

(c) A general approval order shall be reviewed at least every three years. The review of the general approval order shall follow the public notice requirements of Subsection R307-401-19(3).

(8) Modifications at a source covered by a general approval order. A source may make modifications only as authorized by the approved general approval order. Modifications outside the scope authorized by the approved general approval order shall require a new application for either an individual approval order under Section R307-401-8 or a general approval order under Section R307-401-19.

KEY: air pollution, permits, approval orders, greenhouse gases

Date of Enactment or Last Substantive Amendment: [~~September 3, 2020~~]

Notice of Continuation: May 15, 2017

Authorizing, and Implemented or Interpreted Law: 19-2-104(3)[~~(g)~~](b)(iii); 19-2-108