

**State of Utah**  
**Administrative Rule Analysis**  
Revised May 2023

**NOTICE OF PROPOSED RULE**

**TYPE OF FILING:** Amendment

**Title No. - Rule No. - Section No.**

**Rule or Section Number:**

**R307-415-6g**

**Filing ID: 56124**

**Agency Information**

<b>1. Department:</b>	Environmental Quality	
<b>Agency:</b>	Air Quality	
<b>Building:</b>	MASOB	
<b>Street address:</b>	195 N 1950 W	
<b>City, state and zip:</b>	Salt Lake City, UT 84116	
<b>Mailing address:</b>	PO BOX 144820	
<b>City, state and zip:</b>	Salt Lake City, UT 84114-4820	
<b>Contact persons:</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
David Beatty	385-306-6532	dbeatty@utah.gov
Erica Pryor	385-499-3416	epryor1@utah.gov

**Please address questions regarding information on this notice to the persons listed above.**

**General Information**

**2. Rule or section catchline:**

R307-415. Permits: Operating Permit Requirements

**3. Purpose of the new rule or reason for the change:**

The Environmental Protection Agency modified 40 CFR 70, published in the Federal Register / Vol. 88, No. 139 / Friday, July 21, 2023/ Rules and Regulations, with a rule effective date of August 21, 2023. The rule change removed Section 40 CFR 70.6(g). Emergency provision. Section R307-415-6g was established under 40 CFR 70, and therefore to continue to be in alignment with the federal rule, the Division of Air Quality is proposing to remove Section R307-415-6g from Rule R307-415. Additionally, these provisions are included in Section I of each issued Title V permit; however, the new rule allows for the individual permits to be changed over time as each permit is modified or renewed. After this rule change becomes effective UDAQ will remove Section R307-415-6g from each issued Title V permit going forward.

**4. Summary of the new rule or change:**

The Division of Air Quality is proposing to amend Rule R307-415 by removing Section R307-415-6g to align with the federal rule Section 40 CFR 70.6(g).

**Fiscal Information**

**5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:**

**A) State budget:**

There are no anticipated costs or savings to the state budget as this rule will have no impact on the Department of Environmental Quality or any potentially involved parties.

**B) Local governments:**

This proposed rule change is not expected to have a fiscal impact on local government revenues or expenditures.

**C) Small businesses** ("small business" means a business employing 1-49 persons):

This proposed rule change is not expected to have a fiscal impact on small businesses.

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

This proposed rule change does not have a fiscal impact on non-small businesses.

**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**):

This proposed rule change does not have a fiscal impact on persons other than small businesses, non-small businesses, state, or local government entities.

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

There are no direct compliance costs for affected persons.

**G) 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	FY2024	FY2025	FY2026
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Cost</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
Fiscal Benefits	FY2024	FY2025	FY2026
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Net Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

**H) Department head comments on fiscal impact and approval of regulatory impact analysis:**

The Executive Director of Environmental Quality, Kim C. Shelley, has reviewed and approved this regulatory impact analysis.

**Citation Information**

**6. 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:**

Section 19-2-109.1.	40 CFR 70.6(g).	
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**Public Notice Information**

**8. 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:** 12/15/2023

**9. This rule change MAY become effective on:** 02/07/2024

NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date.

**Agency Authorization Information**

**To the agency:** Information requested on this form is required by Sections 63G-3-301, 63G-3-302, 63G-3-303, and 63G-3-402. Incomplete forms will be returned to the agency for completion, possibly delaying publication in the *Utah State Bulletin* and delaying the first possible effective date.

<b>Agency head or designee and title:</b>	Bryce C. Bird, Director, Division of Air Quality	<b>Date:</b>	10/02/2023
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R307. Environmental Quality, Air Quality.

R307-415. Permits: Operating Permit Requirements.

~~R307-415-6g. Permit Content: Emergency Provision.~~

~~(1) Emergency. An "emergency" is any situation arising from sudden and reasonably unforeseeable events beyond the control of the source, including acts of God, which situation requires immediate corrective action to restore normal operation, and that causes the source to exceed a technology-based emission limitation under the permit, due to unavoidable increases in emissions attributable to the emergency. An emergency~~

shall not include noncompliance to the extent caused by improperly designed equipment, lack of preventative maintenance, careless or improper operation, or operator error.

~~\_\_\_\_\_ (2) Effect of an emergency. An emergency constitutes an affirmative defense to an action brought for noncompliance with such technology-based emission limitations if the conditions of (3) below are met.~~

~~\_\_\_\_\_ (3) The affirmative defense of emergency shall be demonstrated through properly signed, contemporaneous operating logs, or other relevant evidence that:~~

~~\_\_\_\_\_ (a) An emergency occurred and that the permittee can identify the causes of the emergency;~~

~~\_\_\_\_\_ (b) The permitted facility was at the time being properly operated;~~

~~\_\_\_\_\_ (c) During the period of the emergency the permittee took all reasonable steps to minimize levels of emissions that exceeded the emission standards, or other requirements in the permit; and~~

~~\_\_\_\_\_ (d) The permittee submitted notice of the emergency to the director within two working days of the time when emission limitations were exceeded due to the emergency. This notice fulfills the requirement of R307-415-6a(3)(c)(ii). This notice must contain a description of the emergency, any steps taken to mitigate emissions, and corrective actions taken.~~

~~\_\_\_\_\_ (4) In any enforcement proceeding, the permittee seeking to establish the occurrence of an emergency has the burden of proof.~~

~~\_\_\_\_\_ (5) This provision is in addition to any emergency or upset provision contained in any applicable requirement.]~~

**KEY: air pollution, greenhouse gases, operating permit, emission fees**

**Date of Last Change: 2023[January 15, 2022]**

**Notice of Continuation: May 4, 2022**

**Authorizing, and Implemented or Interpreted Law: 19-2-109.1; 19-2-104**

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