



State of Utah

JON M. HUNTSMAN, JR.
Governor

GARY HERBERT
Lieutenant Governor

Department of
Environmental Quality

William J. Sinclair
Acting Executive Director

DIVISION OF AIR QUALITY
Cheryl Heying
Director

DAQ-021-09

MEMORANDUM

TO: Air Quality Board

THROUGH: Cheryl Heying, Executive Secretary

FROM: Kimberly Kreykes, Environmental Planning Consultant

DATE: April 13, 2009

SUBJECT: FINAL ADOPTION: Amend R307-101-3, General Requirements: Version of Code of Federal Regulations Incorporated by Reference.

On December 3, 2008, the Air Quality Board proposed for comment amendments to R307-101-3, General Requirements: Version of Code of Federal Regulations Incorporated by Reference. A public comment period was held March 1-31, 2009. No comments were received.

Staff Recommendation: DAQ staff recommends that R307-101-3 be adopted as proposed.

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R307. Environmental Quality, Air Quality.
R307-101. General Requirements.
**R307-101-3. Version of Code of Federal Regulations Incorporated
by Reference.**

Except as specifically identified in an individual rule, the version of the Code of Federal Regulations (CFR) incorporated throughout R307 is dated July 1, 2008.

KEY: air pollution, definitions
Date of Enactment or Last Substantive Amendment: 2009
Notice of Continuation: February 8, 2008
Authorizing, and Implemented or Interpreted Law: 19-2-104(1)(a)

~~and one half years prior to the effective date of this rule, other than a claim for benefits for permanent disability or loss of support, shall be notified in writing that they have six months in which to submit any remaining expenses before the three year limitation is imposed and the claim is closed. Claims for benefits for permanent disability or loss of support filed prior to the effective date of this rule shall not be subject to the three year limitation. The Crime Victim Reparations Officers may extend [review extenuating circumstances on] claims that have been closed because of the Three Year Limitation rule if extenuating circumstances exist.~~

~~**KEY: victim compensation, victims of crimes**~~

~~**Date of Enactment or Last Substantive Amendment: [January 21], 2009**~~

~~**Notice of Continuation: July 3, 2006**~~

~~**Authorizing, and Implemented or Interpreted Law: 63M-7-501 et seq.**~~

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Environmental Quality, Air Quality R307-101-3 Version of Code of Federal Regulations Incorporated by Reference

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 32351

FILED: 02/03/2009, 16:25

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Section R307-101-3 incorporates by reference the current Code of Federal Regulations (CFR) used in a majority of rules adopted by the Air Quality Board (AQB). This allows rules that reference Section R307-101-3 to update the incorporation date with only one rule amendment. The most current version of the CFR for environmental regulations has been updated from 07/01/2007 to 07/01/2008; therefore it is necessary to change Section R307-101-3.

SUMMARY OF THE RULE OR CHANGE: Below is a list of changes to 40 CFR from 07/01/2007 to 07/01/2008 that affect rules which reference Section R307-101-3. 09/07/2007 (Volume 72, Number 173): Two Optional Methods for Relative Accuracy Test Audits of Mercury Monitoring Systems Installed on Combustion Flue Gas Streams and Several Amendments to Related Mercury Monitoring Provisions. This action approved two optional mercury (Hg) emissions test methods for potential use in conjunction with an existing regulatory requirement for Hg emissions monitoring, as well as several revisions to the Hg monitoring provisions themselves. This action was in regard to the testing and monitoring requirements for Hg specified in the Federal Register on 05/18/2005. This action allowed the use of these two optional methods entirely at the discretion of the owner or operator of an affected emission source in place of the two currently specified methods. This direct final rule also amended Performance Specification 12A by adding Methods 30A and

30B to the list of reference methods acceptable for measuring Hg concentration and the Hg monitoring provisions of 05/18/2005, to reflect technical insights since gained by EPA which will help to facilitate implementation including clarification and increased regulatory flexibility for affected sources. The definition of "sorber trap monitoring system" in Section 72.2 was revised. 09/28/2007 (Volume 72, Number 188): Correction of Two Optional Methods for Relative Accuracy Test Audits of Mercury Monitoring Systems Installed on Combustion Flue Gas Streams and Several Amendments to Related Mercury Monitoring Provisions. This action corrected minor errors in a final rule published 09/07/2007 (Volume 72, Number 173, Page 51501). 05/22/2008 (Volume 73, Number 100): Update of Continuous Instrumental Test Methods: Technical Amendments. This action corrected errors in a final rule published 05/15/2006 which updated five continuous instrumental test methods. As published, the rule contained errors and provisions that needed to be clarified. EPA published a direct final rule with a parallel proposed rule on 09/07/2007 to correct the errors and add clarifying language. However, adverse comments were received on the direct final rule and it was withdrawn on 11/05/2007. This action finalized the parallel proposal. In this final rule, EPA corrected errors, clarified certain provisions, and responded to the adverse comments received on the direct final rule published on 09/07/2007. 10/19/2007 (Vol. 72, No. 202): Revisions to Definition of Cogeneration Unit in Clean Air Interstate Rule (CAIR), CAIR Federal Implementation Plans, Clean Air Mercury Rule (CAMR); and Technical Corrections to CAIR, CAIR FIPs, CAMR, and Acid Rain Program Rules. Section 60.4102 was amended as follows: a. Added, in alphabetical order, a new definition of "Biomass"; b. In the definition of "Cogeneration unit," removed the period at the end of paragraph (2)(ii) and added in its place a semicolon and added a new paragraph (3); and c. Added a sentence at the end of the definition of "Total energy input." The authority citation for Part 72 was revised to read as follows: Authority: 42 U.S.C. 7601 and 7651 et seq. Section 72.24 was amended in paragraph (a)(9), introductory text, by removing the words "life-of-the-unit, firm power contractual arrangements" and adding in their place the words "a life-of-the-unit, firm power contractual arrangement." 01/24/2008 (Vol. 73, No. 16): Revisions to the Continuous Emissions Monitoring Rule for the Acid Rain Program, NOX Budget Trading Program, Clean Air Interstate Rule, and the Clean Air Mercury Rule. EPA finalized rule revisions that modified existing requirements for sources affected by the federally administered emission trading programs including the NOX Budget Trading Program, the Acid Rain Program, the Clean Air Interstate Rule, and the Clean Air Mercury Rule. The revisions were prompted primarily by changes being implemented by EPA's Clean Air Markets Division in its data systems in order to utilize the latest modern technology for the submittal of data by affected sources. Other revisions addressed issues that were raised during program implementation, fixed specific inconsistencies in rule provisions, or updated sources incorporated by reference. These revisions did not impose significant new requirements on sources with regard to monitoring or quality assurance activities. Section 93.101 was amended as follows: a. Revised the definitions for "Metropolitan planning organization

(MPO)" and "Transportation improvement program (TIP)"; and b. Revised the first sentence of the definition for "Transportation control measure (TCM)." Section 72.2 was amended as follows: a. Revised the definition of "Capacity factor;" b. In the definition of "Diluent cap", removed the words "CO2 mass emission rate, or heat input rate" after the words "NOX emission rate"; c. In the definition of "EPA protocol gas", added a new sentence to the end of the definition; d. Revised the definition of "Excepted monitoring system"; e. Added the new definitions in alphabetical order for "Air Emission Testing Body (AETB)", "EPA Protocol Gas Verification Program", "Long-term cold storage", "NIST traceable elemental Hg standards", "NIST traceable source of oxidized Hg", "Qualified Individual", and "Specialty gas producer"; and f. Removed the definition for "Research gas material (RGM)". 02/13/2008 (Vol. 73, No. 30): Correction: Revisions to the Continuous Emissions Monitoring Rule for the Acid Rain Program, NOX Budget Trading Program, Clean Air Interstate Rule, and the Clean Air Mercury Rule. Part 75 Appendix F Eq. (F-8) was corrected.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 19-2-104(1)(a)

THIS RULE OR CHANGE INCORPORATES BY REFERENCE THE FOLLOWING MATERIAL: 40 CFR, July 1, 2008, edition

ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: Because these revisions do not create new requirements, no change in costs is expected for the state budget.
- ❖ LOCAL GOVERNMENTS: Because this revision does not create new requirements, no change in costs is expected for local governments.
- ❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: Small Businesses: Because this revision does not create new requirements, no change in costs is expected for small businesses. Other Persons: Because this revision does not create new requirements, no change in costs is expected for other persons.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Because this revision does not create new requirements, no change in costs is expected for affected persons.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This amendment does not create new requirements. Therefore, no additional costs are expected. Bill Sinclair, Acting Executive Director

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

ENVIRONMENTAL QUALITY
AIR QUALITY
150 N 1950 W
SALT LAKE CITY UT 84116-3085, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Kimberly Kreykes at the above address, by phone at 801-536-4042, by FAX at 801-536-4099, or by Internet E-mail at kkreykes@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 03/31/2009.

THIS RULE MAY BECOME EFFECTIVE ON: 05/06/2009

AUTHORIZED BY: Bryce Bird, Planning Branch Manager

R307. Environmental Quality, Air Quality.
R307-101. General Requirements.
R307-101-3. Version of Code of Federal Regulations Incorporated by Reference.

Except as specifically identified in an individual rule, the version of the Code of Federal Regulations (CFR) incorporated throughout R307 is dated July 1, 2007[8].

KEY: air pollution, definitions
Date of Enactment or Last Substantive Amendment: [February 8, 2008]2009
Notice of Continuation: February 8, 2008
Authorizing, and Implemented or Interpreted Law: 19-2-104(1)(a)

Environmental Quality, Air Quality
R307-840
Lead-Based Paint Accreditation,
Certification and Work Practice
Standards

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 32350
FILED: 02/03/2009, 16:24

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Section R307-101-3 contains the incorporation date for many of Utah's Division of Air Quality (UDAQ) rules. Rule R307-840 references Section R307-101-3 for its incorporation date of 40 CFR (Code of Federal Regulations). Due to issues with the 07/01/2008, version of 40 CFR, the effective date of the document incorporated by reference needs to remain 07/01/2007. (DAR NOTE: the proposed amendment to Section R307-101-3 is under DAR No. 32351 in this issue, March 1, 2008, of the Bulletin.)