



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-067-15

MEMORANDUM

TO: Air Quality Board

THROUGH: Bryce C. Bird, Executive Secretary

FROM: Ryan Stephens, Environmental Planning Consultant

DATE: November 19, 2015

SUBJECT: PROPOSE FOR PUBLIC COMMENT: New Rule R307-104. Conflict of Interest.

Section 128(a)(2) of the Clean Air Act states that implementation plans must have an enforceable requirement that “any potential conflicts of interest by... the head of an executive agency” are disclosed. On October 25, 2013, the EPA partially disapproved DAQ’s infrastructure state implementation plan (SIP) for the 1997 and 2006 PM_{2.5} National Ambient Air Quality Standards. The disapproval was based on the fact that Utah did not have a rule that satisfied Section 128(a)(2) of the Clean Air Act.

DAQ staff has worked with the Utah Attorney General’s office and EPA to develop this rule. R307-104 will satisfy Section 128 of the Clean Air Act and give EPA the opportunity to approve past and future infrastructure SIPs. DAQ does not anticipate any significant fiscal impact as a result of this new rule.

Staff Recommendation: Staff recommends that the Board propose for public comment new rule R307-104, Conflict of Interest.

1 **R307. Environmental Quality, Air Quality.**

2 **R307-104. Conflict of Interest.**

3 **R307-104-1. Authority.**

4 This rule establishes procedures that are necessary for
5 promulgating federally approvable air quality standards as
6 permitted by subsection 19-2-104(1)(b).

7
8 **R307-104-2. Purpose.**

9 R307-104 satisfies the conflict of interest requirement of
10 42 U.S.C. 7428 (a)(2).

11
12 **R307-104-3. Disclosure of conflict of interest.**

13 (1) This rule applies to any member of the board or body
14 which approves permits or enforcement orders, the head of the
15 Utah Division of Air Quality with similar powers, and the head
16 of the Utah Department of Environmental Quality with similar
17 powers.

18 (2) Every individual listed in R307-104-3(1) who is an
19 officer, director, agent, employee, or the owner of a
20 substantial interest in any business entity which is subject to
21 the regulation of the agency by which the individual listed in
22 R307-104-3(1) is employed, shall disclose any position held and
23 the precise nature and value of the interest upon first becoming
24 a public officer or public employee listed in R307-104-3(1), and
25 again whenever his or her position in the business entity
26 changes significantly or if the value of his or her interest in
27 the entity is significantly increased.

28 (3) The disclosure required under R307-104-3(2) shall be
29 made in a sworn statement filed with:

30 (a) the state attorney general in the case of the head of
31 the Utah Division of Air Quality and the head of the Utah
32 Department of Environmental Quality; and

33 (b) the state attorney general and the head of the agency
34 with which the member of the board or body is affiliated in the
35 case of a member of the board of body.

36 (4) This rule does not apply to instances where the total
37 value of the interest does not exceed \$2,000, and life insurance
38 policies and annuities shall not be considered in determining
39 the value of any such interest.

40 (5) Disclosures made under R307-104-3 are public
41 information and shall be available for examination by the
42 public.

43
44 **KEY: conflict of interest, Clean Air Act**

45 **Date of Enactment or Last Substantive Amendment: 2015**

46 **Authorizing, and Implemented or Interpreted Law: 19-1-201; 19-**
47 **2-104**

NOTICE OF
PROPOSED NEW RULE

- The agency identified below in box 1 provides notice of proposed rule change pursuant to Utah Code Section 63G-3-301.
- Please address questions regarding information on this notice to the agency.
- The full text of all rule filings is published in the Utah State Bulletin unless excluded because of space constraints.
- The full text of all rule filings may also be inspected at the Division of Administrative Rules.

Rule Information

DAR file no: _____ Date filed: _____
 State Admin Rule Filing Key: 156959
 Utah Admin. Code ref. (R no.): R307-104

Agency Information

1. Agency: ENVIRONMENTAL QUALITY - Air Quality
 Room no.: Fourth Floor
 Building:
 Street address 1: 195 N 1950 W
 Street address 2:
 City, state, zip: SALT LAKE CITY UT 84116-3085
 Mailing address 1: PO BOX 144820
 Mailing address 2:
 City, state, zip: SALT LAKE CITY UT 84114-4820

Contact person(s):

Name: Phone: Fax: E-mail: Remove:

Ryan Stephens	801-536-4419	801-536-0085	rstephens@utah.gov	
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(Interested persons may inspect this filing at the above address or at DAR during business hours)

Rule Title

2. Title of rule or section (catchline):
 Conflict of Interest

Notice Type

3. Type of notice: New Rule

Rule Purpose

4. Purpose of the rule or reason for the change:
 The purpose of the rule is to satisfy Section 128(a)(2) of the federal Clean Air Act.

Response Information

5. This change is a response to comments by the Administrative Rules Review Committee.

No Yes

Rule Summary

6. Summary of the rule or change:

This rule requires any board or body which approves permits or enforcement orders, the head of the Utah Division of Air Quality with similar powers, and the head of the Utah Department of Environmental Quality with similar powers to disclose conflicts of interest exceeding 2,000 dollars.

Aggregate Cost Information

7. Aggregate anticipated cost or savings to:

A) State budget:

Affected: No Yes

The rule places no obligations on anyone other than public employees with potential conflicts. Therefore, the state budget is not impacted by the rule.

B) Local government:

Affected: No Yes

The rule places no obligations on anyone other than public employees with potential conflicts. Therefore, no costs or savings are anticipated for local governments.

C) Small businesses:

Affected: No Yes

("small business" means a business employing fewer than 50 persons)

The rule places no obligations on anyone other than public employees with potential conflicts. Therefore, small businesses are not affected by the rule.

D) Persons other than small businesses, businesses, or local government entities:

Affected: No Yes

("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an agency)

The rule places no obligations on anyone other than public employees with potential conflicts. Therefore, other persons are not affected by the rule.

Compliance Cost Information

8. Compliance costs for affected persons:

The rule places no obligations on anyone other than public employees with potential conflicts. Therefore, there will be no additional compliance costs for affected persons.

Department Head Comments

9. A) Comments by the department head on the fiscal impact the rule may have on businesses:

The rule places no obligations on anyone other than public employees with potential conflicts. Therefore, the new rule will have no fiscal impact on businesses.

B) Name and title of department head commenting on the fiscal impacts:

Alan Matheson, Executive Director

Citation Information

10.

This rule change is authorized or mandated by state law, and implements or interprets the following state and federal laws.

State code or constitution citations (required) (e.g., Section 63G-3-402; Subsection 63G-3-601 (3); Article IV) :

Section 19-2-104

Incorporated Materials

11. 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 DAR; if none, leave blank) :

Official Title of Materials Incorporated (from title page)
 Publisher
 Date Issued (mm/dd/yyyy)
 Issue, or version (including partial dates)
 ISBN Number
 ISSN Number
 Cost of Incorporated Reference
 Adds, updates, removes-- SELECT ONE --

Comments

12. 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. The agency is required to hold a hearing if it receives requests from ten interested persons or from an association having not fewer than ten members. Additionally, the request must be received by the agency not more than 15 days after the publication of this rule in the Utah State Bulletin. See Section 63G-3-302 and Rule R15-1 for more information.)

A) Comments will be accepted until 5:00 p.m. on (mm/dd/yyyy) : 02/01/2016

B) A public hearing (optional) will be held:

On (mm/dd/yyyy): At (hh:mm AM/PM): At (place):

Proposed Effective Date

13. This rule change may become effective on (mm/dd/yyyy): 02/08/2016

NOTE: The date above is the date on which this rule MAY become effective. It is NOT the effective date. After a minimum of seven days following the date designated in Box 12(A) above, the agency must submit a Notice of Effective Date to the Division of Administrative Rules to make this rule effective. Failure to submit a Notice of Effective Date will result in this rule lapsing and will require the agency to start the rulemaking process over.

Indexing Information

14. Indexing information - keywords (maximum of four, one term per field, in lower case, except for acronyms (e.g., "GRAMA") or proper nouns (e.g., "Medicaid")):

conflict of interest, Clean Air Act

File Information

15. Attach an RTF document containing the text of this rule change (filename):

No document is associated with this filing.

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 Utah State Bulletin, and delaying the first possible effective date.

Agency Authorization

Agency head or designee,
and title: Bryce Bird
Director

Date
(mm/dd/yyyy): 11/18/2015