



A PROFESSIONAL
LAW CORPORATION

CLEAN AIR ACT LAW FOR REAL ESTATE ATTORNEYS

Presented by Michael J. Tomko
October 23, 2003

- I. AIR PERMITTING REQUIREMENTS**

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I. AIR PERMITTING REQUIREMENTS

R307-401-1. Notice of Intent Required.

(1) Except for the exemptions listed in R307-413, any person intending to construct a new installation which will or might reasonably be expected to become a source or an indirect source of air pollution or to make modifications or relocate an existing installation which will or might reasonably be expected to increase the amount or change the effect of, or the character of, air contaminants discharged, so that such installation may be expected to become a source or indirect source of air pollution, or any person intending to install a control apparatus, or other equipment intended to control emission of air contaminants from a stationary source, shall submit to the executive secretary a notice of intent and receive an approval order prior to initiation of construction, modification or relocation. The notice of intent shall include the information described in R307-401-2 to determine whether the proposed construction, installation, modification, relocation or establishment will be in accord with applicable requirements of these rules. Within 30 days after receipt of a notice of intent, or any additional information necessary to the review, the executive secretary shall advise the applicant of any deficiency in the notice of intent or the information submitted. The executive secretary shall transmit to the Administrator, EPA, a copy of each notice of intent for each major source or major modification and provide notice to the Administrator, EPA, of every action related to the consideration of such permit.

(2) Stationary sources that were in existence prior to November 29, 1969, that have not made any modifications or relocations since that date are not required to submit a notice of intent or to have an approval order; however, these sources are subject to all other applicable requirements of Title R307 and actions taken by the executive secretary and the Board pursuant to existing statutory authorities.

R307-413-2. Small Source Exemptions - De minimis Emissions.

(1) A new or existing stationary source is exempt from the notice of intent and approval order requirements of R307-401 if the following conditions are met:

(a) it is not regulated by any standard or requirement of 42 U.S.C. 7411 or 7412;

(b) its potential to emit does not make it a stationary major source or require emission offset provisions as required by R307-403 for a new or modified source;

(c) its actual emissions are less than 5 tons per year per air contaminant of any of the following air contaminants: sulfur dioxide (SO₂), carbon monoxide (CO), nitrogen oxides (NO_x), particulate matter (PM₁₀), ozone (O₃), or volatile organic compounds (VOCs);

(d) its actual emissions are less than 500 pounds per year of any hazardous air pollutant and less than 2000 pounds per year of any combination of hazardous air pollutants;

(e) its actual emissions are less than 500 pounds per year of any air contaminant not listed in (c) or (d) above and less than 2000 pounds per year of any combination of air contaminants not listed in (c) or (d) above; and

(f) for purposes of determining applicability of R307-413-2, other air contaminants that are drawn from the environment through equipment in intake air and then are released back to the environment without chemical change, as well as carbon dioxide (CO₂), nitrogen (N₂), oxygen (O₂), argon (Ar), neon (Ne), helium (He), krypton (Kr), xenon (Xe) should not be included in emission calculations.

(2) Small Source Exemption - Registration Required in Nonattainment and Maintenance Areas. The owner or operator of a stationary source located in a nonattainment area or a maintenance area for the air contaminants, including ozone precursors, that is claiming an exemption under R307-413-2 shall submit to the executive secretary a written registration notice. An existing source shall submit this registration notice no later than March 15, 1997. A new source shall submit the registration notice prior to commencing construction. The notice shall include the following minimum information:

(a) identifying information including company name and address, location of source, telephone number, and name of plant site manager or point of contact;

(b) a description of the nature of the processes involved, equipment, anticipated quantities of materials used, the type and quantity of fuel employed and nature and quantity of the finished product;

(c) identification of expected emissions;

(d) estimated annual emission rates;

(e) any control apparatus used; and

(f) typical operating schedule.

(3) The owner or operator of a temporary source that is claiming exemption under R307-413-2 must still comply with the conditions of R307-401-7.

R307-413-8. De minimis Emissions From Air Strippers and Soil Venting Projects.

(1) An owner or operator of an air stripper or soil venting system will not be required to obtain an approval order under R307-401 to conduct remediation of contaminated groundwater or soil, if the owner or operator submits written documentation of the following to the executive secretary prior to beginning the remediation project:

(a) the estimated total air emissions of volatile organic compounds from a given project are less than the de minimis emissions listed in R307-413-2(1)(c), and

(b) the level of any one hazardous air pollutant or any combination of hazardous air pollutants is below the levels listed in R307-410-4(1)(d).

(2) After beginning the soil remediation project, the owner or operator shall submit emissions information to the executive secretary to verify that the emission rates of the volatile organic compounds and hazardous air pollutants in (1) are not exceeded. Emissions estimates of volatile organic compounds and hazardous air pollutants shall be based on test data obtained in accordance with the test method in the EPA document SW-846, Test #8020 or #8021 or other test or monitoring method approved by the executive secretary. Results of the test and calculated annual quantity of emissions of volatile organic compounds and hazardous air pollutants shall be submitted to the executive secretary within one month of sampling. The test samples shall be drawn on intervals of no less than twenty-eight days and no more than thirty-one days (i.e., monthly) for the first quarter, quarterly for the first year, and semi-annually thereafter or as determined necessary by the executive secretary.

(3) The following control devices do not require an approval order under R307-401 when used in relation to an air stripper or soil venting project applicable to this rule:

(a) thermodestruction unit with a rated input capacity of less than five million BTU per hour using no other auxiliary fuel than natural gas or LPG, or

(b) carbon adsorption unit.

R307-413-9. De minimis Emissions From Soil Aeration Projects.

An owner or operator of a soil remediation project is not required to obtain an approval order under R307-401 when soil aeration or land farming is used to conduct a soil remediation, if the owner or operator submits written documentation of the following to the executive secretary prior to beginning the remediation project:

(1) the estimated total air emissions of volatile organic compounds, using an appropriate sampling method, from a given project are less than the de minimis emissions listed in R307-413-2(1)(c);

(2) the levels of any one hazardous air pollutant or any combination of hazardous air pollutants are less than the levels in R307-410-4(1)(d); and

(3) the location of the remediation and where the remediated material originated.

II. FUGITIVE DUST MANAGEMENT REQUIREMENTS

R307-205-3. Fugitive Dust.

(1) Storage and Handling of Aggregate Materials. Any person owning, operating or maintaining a new or existing material storage, handling or hauling operation shall minimize fugitive dust from such an operation. Such control may include the use of enclosures, covers, stabilization or other equivalent methods or techniques as approved by the executive secretary.

(2) Construction and Demolition Activities.

(a) Any person engaging in clearing or leveling of land greater than one-quarter acre in size, earthmoving, excavation, or movement of trucks or construction equipment over cleared land greater than one-quarter acre in size or access haul roads shall take steps to minimize fugitive dust from such activities. Such control may include watering and chemical stabilization of potential fugitive dust sources or other equivalent methods or techniques approved by the executive secretary.

(b) The owner or operator of any land area greater than one-quarter acre in size that has been cleared or excavated shall take measures to prevent fugitive particulate matter from becoming airborne. Such measures may include:

- (i) planting vegetative cover,
- (ii) providing synthetic cover,
- (iii) watering,
- (iv) chemical stabilization,
- (v) wind breaks, or
- (vi) other equivalent methods or techniques approved by the executive secretary.

(c) Any person engaging in demolition activities including razing homes, buildings, or other structures or removing paving material from roads or parking areas shall take steps to minimize fugitive dust from such activities. Such control may include watering and chemical stabilization or other equivalent methods or techniques approved by the executive secretary.

R307-309-3. General Requirements for Fugitive Dust.

(1) Opacity caused by fugitive dust shall not exceed: (a) 10% at the property boundary; and (b) 20% on site unless an approval order issued under R307-401 or a dust control plan specifies a lower level; except when the wind speed exceeds 25 miles per hour and the owner or operator is taking appropriate actions to control fugitive dust. If the source has a dust control plan approved by the executive secretary, control measures in the plan are considered appropriate. Wind speed may be measured by a hand-held anemometer or equivalent device.

(2) Any source with a dust control plan approved by the executive secretary prior to March 4, 1999, shall review and revise the plan in accordance with R307-309-4 below. The revised plan shall be submitted to the executive secretary no later than May 4, 1999.

R307-309-4. Fugitive Dust Control Plan.

(1) Any person owning or operating a new or existing source of fugitive dust, including storage, hauling or handling operations or engaging in clearing or leveling of land one-quarter acre or greater in size, earthmoving, excavation, or movement of trucks or construction equipment over cleared land one-quarter acre or greater in size or access haul roads shall submit a plan to control fugitive dust to the executive secretary no later than 30 days after the source becomes subject to the rule. The plan shall address fugitive dust control strategies for the following operations as applicable:

- (a) Material Storage;
- (b) Material handling and transfer;
- (c) Material processing;
- (d) Road ways and yard areas;
- (e) Material loading and dumping;
- (f) Hauling of materials;
- (g) Drilling, blasting and pushing operations;
- (h) Clearing and leveling;
- (i) Earth moving and excavation;
- (j) Exposed surfaces;
- (k) Any other source of fugitive dust.

- (2) Strategies to control fugitive dust may include:
- (a) Wetting or watering;
 - (b) Chemical stabilization;
 - (c) Enclosing or covering operations;
 - (d) Planting vegetative cover;
 - (e) Providing synthetic cover;
 - (f) Wind breaks;
 - (g) Reducing vehicular traffic;
 - (h) Reducing vehicular speed;
 - (i) Cleaning haul trucks before leaving loading area;
 - (j) Limiting pushing operations to wet seasons;
 - (k) Paving or cleaning road ways;
 - (l) Covering loads;
 - (m) Conveyor systems;
 - (n) Boots on drop points;
 - (o) Reducing the height of drop areas;
 - (p) Using dust collectors;
 - (q) Reducing production;
 - (r) Mulching;
 - (s) Limiting the number and power of blasts;
 - (t) Limiting blasts to non-windy days and wet seasons;
 - (u) Hydro drilling;
 - (v) Wetting materials before processing;
 - (w) Using a cattle guard before entering a paved road;
 - (x) Washing haul trucks before leaving the loading site; or

(y) Terracing.

(3) Each source shall comply with all provisions of the fugitive dust control plan as approved by the executive secretary.

R307-309-5. Storage, Hauling and Handling of Aggregate Materials.

Any person owning, operating or maintaining a new or existing material storage, handling or hauling operation shall prevent, to the maximum extent possible, material from being deposited onto any paved road other than a designated deposit site. Any such person who deposits materials which may create fugitive dust on a public or private paved road shall clean the road promptly.

R307-309-6. Construction and Demolition Activities.

Any person engaging in clearing or leveling of land with an area of one-quarter acre or more, earthmoving, excavating, construction, demolition, or moving trucks or construction equipment over cleared land or access haul roads shall prevent, to the maximum extent possible, material from being deposited onto any paved road other than a designated deposit site. Any such person who deposits materials which may create fugitive dust on a public or private paved road shall clean the road promptly.

R307-130-2. Categories.

Violations are grouped in four general categories based on the potential for harm and the nature and extent of the violations. Penalty ranges for each category are listed.

(1) Category A. \$7,000-10,000 per day:

Violations with high potential for impact on public health and the environment including:

- (a) Violation of emission standards and limitations of NESHAP.
- (b) Emissions contributing to nonattainment area or PSD increment exceedences.
- (c) Emissions resulting in documented public health effects and/or environmental damage.

(2) Category B. \$2,000-7,000 per day.

Violations of the Utah Air Conservation Act, applicable State and Federal regulations, and orders to include:

(a) Significant levels of emissions resulting from violations of emission limitations or other regulations which are not within Category A.

(b) Substantial non-compliance with monitoring requirements.

(c) Significant violations of approval orders, compliance orders, and consent agreements not within Category A.

(d) Significant and/or knowing violations of "notice of intent" and other notification requirements, including those of NESHAP.

(e) Violations of reporting requirements of NESHAP.

(3) Category C. Up to \$2,000 per day.

Minor violations of the Utah Air Conservation Act, applicable State and Federal Regulations and orders having no significant public health or environmental impact to include:

(a) Reporting violations

(b) Minor violations of monitoring requirements, orders and agreements

(c) Minor violations of emission limitations or other regulatory requirements.

(4) Category D. Up to \$299.00.

Violations of specific provisions of R307 which are considered minor to include:

- (a) Violation of automobile emission standards and requirements
- (b) Violation of wood-burning regulations by private individuals
- (c) Open burning violations by private individuals.

**III. ASBESTOS REMOVAL REQUIREMENTS FOR DEMOLITION
AND RENOVATION PROJECTS**

R307-801-2. Applicability and General Provisions.

(1) Applicability.

(a) The following persons are operators and are subject to the requirements of R307-801:

(i) Persons who contract for hire to conduct renovation of structures or facilities, or to conduct demolition of structures or facilities, except for residential outbuilding structures of less than 100 square feet;

(ii) Persons who conduct renovation or demolition in areas to which the general public has unrestrained access; or

(iii) Persons who conduct renovation or demolition in school buildings subject to AHERA or who conduct asbestos inspections in structures subject to TSCA Title II.

(b) The following persons are subject to certification requirements:

(i) Persons required by TSCA Title II to be accredited as inspectors, management planners, project designers, supervisors, or workers;

(ii) Persons who work on an asbestos project as workers, supervisors, inspectors, project designers, or management planners; and

(iii) Companies that conduct asbestos projects or inspections, create project designs, or prepare management plans in structures or facilities.

(2) All persons who are required by R307-801 to obtain an approval, certification, determination or notification from the executive secretary must obtain it in writing.

(3) Persons wishing to deviate from the certification, notification, work practice, or other requirements of R307-801 may do so only after requesting and obtaining the written approval of the executive secretary.

"Structural Member" means any load-supporting member of a structure, such as beams and load-supporting walls or any non-load-supporting member, such as ceilings and non-load-supporting walls.

"Renovation" means the alteration in any way of one or more structural components, excluding demolition.

"Demolition" means the wrecking, salvage, or removal of any load-supporting structural member of a structure together with any related handling operations, or the intentional burning of any structure. This includes the moving of an entire building.

R307-801-9. Renovation and Demolition: Requirement to Inspect.

(1) Except as described in (2) below, the operator shall ensure that the structure or facility to be demolished or renovated is inspected for ACM by an inspector certified under the provisions of R307-801-6. An asbestos survey report shall be generated according to the provisions of R307-801-10. The operator shall make the asbestos survey report available on site to all persons who have access to the site for the duration of the renovation or demolition activities, and to the executive secretary upon request.

(2) If the structure has been ordered to be demolished because it is found by a local jurisdiction to be structurally unsound and in danger of imminent collapse, the operator may demolish the structure without having the structure or facility inspected for asbestos. If no asbestos inspection is conducted, the operator shall ensure that all resulting demolition debris is disposed of as asbestos waste, according to R307-801-15. If the demolition debris cannot be containerized, the operator shall obtain approval for an alternative procedure from the executive secretary.

R307-801-11. Renovation and Demolition: Notification and Asbestos Removal Requirements.

(1) Demolitions.

(a) If the amount of RACM in the structure is less than the SSSD amount, the operator shall submit a notification of demolition at least 10 working days before the start of demolition, and remove the RACM before commencing demolition.

(b) If the amount of RACM in the structure is greater than or equal to the SSSD amount but less than the NESHAP amount, the operator shall submit an asbestos notification at least 10 working days before the start of demolition and at least one working day before commencing removal, and shall remove the RACM according to the work practice provisions of R307-801 before demolition proceeds.

(c) If the amount of RACM in the structure is greater than or equal to the NESHAP amount, the operator shall submit an asbestos notification at least 10 working days before the asbestos removal begins. Demolition shall not proceed until after all RACM has been removed from the structure.

(d) If any structure is to be demolished by intentional burning, the operator, in addition to the notification specified in (a), (b) or (c), shall ensure that all ACM, including non friable ACM and RACM, is removed from the structure before burning.

(e) If the structure has been ordered to be demolished because it is found by a local jurisdiction to be structurally unsound and in danger of imminent collapse, the operator shall submit a notification of demolition as soon as possible, but no later than the next working day after demolition begins.

(2) Renovations.

(a) If the amount of RACM that would be disturbed or rendered inaccessible by renovation activities is less than the SSSD amount, the operator shall remove the RACM before commencing the renovation.

(b) If the amount of RACM that would be disturbed or rendered inaccessible by renovation activities is greater than the SSSD amount but smaller than NESHAP amount, the operator shall submit an asbestos notification at least one working day before asbestos removal begins, unless the removal was properly included in an annual asbestos notification submitted pursuant to (d) below, and shall remove RACM according to general work practices of R307-801 before performing renovation activities.

(c) If the amount of RACM that would be disturbed or rendered inaccessible by renovation activities is greater than or equal to the NESHAP amount, then the operator shall submit an

asbestos notification as described below, and shall ensure that RACM that would be disturbed by renovation activities and non-friable ACM that may be rendered friable or regulated by renovation activities is removed according to the work practice and disposal requirements of R307-801. The operator shall not commence renovation activities until the asbestos removal process is completed.

(i) If the renovation is an emergency renovation operation, then the notification shall be submitted as soon as possible before and no later than the next business day after asbestos removal begins.

(ii) If the renovation is not an emergency renovation operation, then the notification shall be submitted at least ten working days before asbestos removal begins.

(d) The operator shall submit an annual notification according to the requirements of 40 CFR 61.145(a)(4)(iii) no later than 10 working days before the first day of January of the year during which the work is to be performed in the following circumstances:

(i) The asbestos projects are unplanned operation and maintenance activities;

(ii) The asbestos projects are less than NESHAP-sized; and

(iii) The total amount of asbestos to be disturbed in a single facility during these asbestos projects is expected to exceed the NESHAP amount in a calendar year.



UTAH DIVISION OF AIR QUALITY

150 N 1950 W

P.O. Box 144820

Salt Lake City, UT 84114-4820

Postmark Date: _____

Initials: _____

Fee Received: _____

Check Number: _____

10 WORKING-DAY NOTIFICATION OF DEMOLITION - no asbestos removed, no intentional burning

1 Fee \$50 +\$25 for each 5,000 sq. ft. of floor space above 5,000 sq. ft. \$ _____

See fee calculator at www.deq.utah.gov/eqair/haps/asbestos/index.htm

2 Facility Name _____
Address _____
City _____ County _____ Zip Code _____
Part of Facility Involved,(e.g. floor #, room #, area etc.) _____
Age of Facility _____ Size _____ # of Floors _____
Present use _____ Prior Use _____

3 Facility Owner/Operator Name _____
Address _____ City _____ State _____ Zip Code _____
Contact Person _____ Phone Number _____

4 Demolition Contractor Name _____
Address _____ City _____ State _____ Zip Code _____
Contact Person _____ Phone _____

5 Dates of Demolition Start Date _____ Ending Date _____

6 Asbestos Inspection Information Date of Inspection _____
Name of Utah Certified Inspector _____ ID Number _____
Name of Utah Certified Asbestos Company _____ ID Number _____
Analytical Method used for asbestos analysis _____
Is asbestos present? _____ Was it sampled or assumed? _____

7 Asbestos Containing Material to be left in the facility during demolition, (list types and amounts).
roofing _____ flooring _____ other _____

8 Description of procedures to be followed in the event that unexpected RACM is found or generated during the project. _____

attach additional sheets as necessary

9 I certify that the all the information in this notification is true and correct.
Signature of Owner/Operator _____ Date _____
Print name and title of Owner/Operator _____

OFFICIAL USE ONLY!

Date Accepted _____ Date Rejected _____
Acts #: _____ Reviewers Initials _____
Rejection Comments: _____