

Retention Schedule #27247: Enforceable written assurances

For submission to the Records Management Committee, April 2020

Agency: Division of Environmental Response and Remediation (DERR) (within the Department of Environmental Quality)

Archives RIM Specialist: Renée Wilson

View retention schedule on the next page or online at

https://axaemarchives.utah.gov/cgi-bin/appxretcget.cgi?WEBINPUT_RUNWHAT=HTML_1SERIES&WEBINPUT_BIBLGRPC_RID=27247&A=B

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1. What's changing

Retention change from 20 years to 200 years.

Disposition change from "destroy" to "transfer to Archives".

2. The retention schedule to be approved (2020)

Retention and Classification Report

Agency: Department of Environmental Quality, Division of Environmental Response and Remediation
195 North 1950 West
P.O. Box 144840
Salt Lake City, UT 84114-4840
801-536-4100

Records Officer: Elisa Smith

27247 Enforceable written assurances

Retention Schedule(s) for the record series listed above have been examined and approved for submission to the State Records Management Committee.

BRENT H. EVERETT
Chief Administrative Officer (print)
Brent H. Everett
Signature

DIVISION DIRECTOR
Title
17 MARCH 2020
Date

Utah State Archives

AGENCY: Department of Environmental Quality. Division of Environmental Response and Remediation

SERIES: 27247

TITLE: Enforceable written assurances

DATES: 2005-

ARRANGEMENT: Chronological, thereunder numerical by assurance letter number.

DESCRIPTION:

These records document the agency's mandate in regards to enforceable written assurances (EWAs), as described in Utah Code 19-6-326(2008) and Utah Administrative Code R311-600(2019). An enforceable written assurance is provided to an applicant--either a bona fide prospective purchaser, contiguous property owner, or innocent landowner--as an assurance that the Department will not initiate any enforcement actions (detailed within that same part of the law), provided the applicant maintains the land according to the agreement entered into.

Records may include applications, correspondence, assurance letters, and environmental site assessment reports.

RETENTION:

Permanent. Retain for 200 year(s)

DISPOSITION:

Transfer to Archives.

RETENTION AND DISPOSITION AUTHORIZATION:

Retention and disposition for this series is proposed and has not yet been approved.

FORMAT MANAGEMENT:

Paper: Retain in Office until administrative value has been met and then transfer to State Records Center. Retain in State Records Center for 200 years and then transfer to State Archives with authority to weed.

Computer data files: Retain in Office for 200 years and then transfer to State Archives with authority to weed.

APPRAISAL:

These records have administrative, and/or historical value(s). These records have historical value as they provide evidence of governmental deliberations, decisions, and actions relating to major environmental issues; they also provide evidence of the significant effects of governmental programs and actions on individuals, communities, and the natural and man-made

Utah State Archives

AGENCY: Department of Environmental Quality. Division of Environmental Response and Remediation

SERIES: 27247

TITLE: Enforceable written assurances

(continued)

environment.

PRIMARY DESIGNATION:

Public

SECONDARY DESIGNATION(S):

Private. Utah Code 63G-2-302(2)(d)(2019)

REVIEW AND UPDATE STATUS:

This report was reviewed and updated on 01/2020.

3. Explanation

Retention Schedule history

Series #27247 is being revised as part of a major update of all DERR retention schedules, most of which were created in the past 20-30 years, with a 20-25 year retention. DERR re-assessed each retention schedule and determined that a 200-year retention would better meet their needs, based on their use of the records and the records' subject matter (hazardous substances). Most DERR retention schedules were already previously approved as permanent, and can also be connected to [GRS-551: Emergency response hazardous waste case files](#).

The records in series #27247 are related to land cleanup, but not necessarily to a specific environmental incident, so GRS-551 does not apply. The retention schedule was previously tied to [GRS-1684: Working files](#), but that GRS was removed during Rebekkah Shaw's GRS cleanup, as it does not apply. I cannot find any evidence that series #27247 was ever approved otherwise.

Given the nature of the records in series #27247 and their relation to DERR's other records, the agency is requesting an updated retention of 200 years, with a permanent disposition.

Program information

"UDEQ has a Brownfields tool known as an Enforceable Written Assurance (EWA), which allows the Executive Director of the UDEQ to issue an EWA to a bona fide prospective purchaser (BFPP). This term is defined by the federal Comprehensive Environmental Response, Compensation, and Liability Act and incorporated in the Hazardous Substances Mitigation Act (HSMA). The UDEQ will not bring an enforcement action under HSMA against the holder of an EWA, provided the holder continues to satisfy the ongoing obligations associated with the written assurance. The requirements for an EWA are outlined in R311-600 Utah Administrative Code. There is an application fee. The completed application and fee may be submitted to the Brownfields/VCP Program Coordinator."

<https://deq.utah.gov/environmental-response-and-remediation/cercla-comprehensive-environmental-response-compensation-and-liability-act/enforceable-written-assurancesvoluntary-cleanup-program>

For more extensive notes on all DERR functions, see my original submission to the Archives appraisal committee (section C, "DERR Functions Research"):

https://docs.google.com/document/d/1JZ-ycUfkoxPvl_6TvyY39OKPCgBSOoXkjY2CJlofTik/edit?usp=sharing

Applicable Utah Law & Administrative Code

Utah Code 19-6-326 (2020): Written assurances

<https://le.utah.gov/xcode/Title19/Chapter6/19-6-S326.html>

Utah Administrative Code R311-600: Hazardous Substances Mitigation Act: Enforceable Written Assurances

<https://rules.utah.gov/publicat/code/r311/r311-600.htm>

4. Previous Version: 2010

Utah State Archives

Parent Agency: Environmental Quality
Environmental Response

Agency: Department of Environmental Quality. Division of Environmental
Response and Remediation
168 North 1950 West
Salt Lake City, UT 84114
536-4100

Records Officer: Misty Maestas
Analyst: Susan Mumford

27247 Enforceable written assurances

The record series listed above have been examined and approved for submission to the State Records Committee.

BRENT H. EVERETT
Chief Administrative Officer (print)
Brent H. Everett
Signature

DIVISION DIRECTOR
Title
April 1, 2010
Date

Utah State Archives

AGENCY: Department of Environmental Quality. Division of Environmental Response and Remediation

SERIES: 27247

TITLE: Enforceable written assurances

VARIANT: EWA's

DATES: 2005-

ARRANGEMENT: Chronological thereunder numerical by assurance letter number

DESCRIPTION:

These records are created to maintain information about enforceable written assurances issued by the agency. Information may contain applications, correspondence, assurance letters, and environmental site assessment reports.

RETENTION:

Retain 20 years

DISPOSITION:

Destroy.

STATE RECORDS COMMITTEE STATUS:

This retention was approved by the State Records Committee on 12/01/1992.

FORMAT MANAGEMENT:

Paper: Retain in Office for 1 year and then transfer to State Records Center. Retain in State Records Center for 19 years and then destroy.

APPRAISAL:

Administrative

This disposition is based on Utah State General Records Retention Schedule, Schedule 1, Item 33.

PRIMARY CLASSIFICATION:

Public

SECONDARY CLASSIFICATION(S):

Private

5. RMC copy for signatures

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27247 Enforceable written assurances

Destroying records in accordance with this agency Retention Schedule is in compliance with the Archives and Records Service and Government Records Access and Management Act (Utah Code 63-2-101).

The Agency classifies its records under provisions of the Government Records Access and Management Act (Utah Code 63-2-101). Classifications have not been approved by the State Records Management Committee.

This agency retention schedule was approved by the State Records Management Committee in

Kendra Yates
Chief Records Officer
Utah Division of Archives & Records Service

Joshua Bullough
Chair
State Records Management Committee

Date: _____

Date: _____

Utah State Archives

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