UTAH STATE BULLETIN

OFFICIAL NOTICES OF UTAH STATE GOVERNMENT
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Kenneth A. Hansen, Director
Nancy L. Lancaster, Editor

The *Utah State Bulletin (Bulletin)* is an official noticing publication of the executive branch of Utah State Government. The Department of Administrative Services, Division of Administrative Rules produces the *Bulletin* under authority of Section 63-46a-10, *Utah Code Annotated* 1953.

Inquiries concerning administrative rules or other contents of the *Bulletin* may be addressed to the responsible agency or to: Division of Administrative Rules, PO Box 141007, Salt Lake City, Utah 84114-1007, telephone (801) 538-3218, FAX (801) 538-1773. To view rules information, and on-line versions of the division's publications, visit: http://www.rules.utah.gov/

The information in this *Bulletin* is summarized in the *Utah State Digest (Digest)*. The *Digest* is available by E-mail or over the Internet. Visit http://www.rules.utah.gov/publicat/digest.htm for additional information.

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TABLE OF CONTENTS

1. SPECIAL NOTICES

2. NOTICES OF PROPOSED RULES

3. FIVE-YEAR NOTICES OF REVIEW AND STATEMENTS OF CONTINUATION

SPECIAL NOTICES

ENVIRONMENTAL QUALITY
AIR QUALITY

PUBLIC NOTICE EXTENDING THE COMMENT PERIOD ON PROPOSED RULE R307-840 ENTITLED LEAD-BASED PAINT ACCREDITATION, CERTIFICATION AND WORK PRACTICE STANDARDS

The Division of Air Quality is extending the comment period for Rule R307-840, a proposed amendment that was published in the June 1, 2003, issue of the *Utah State Bulletin* (No. 2003-11, page 9) under DAR No. 26282. Comments will be accepted until 5 pm on July 16, 2003. A public hearing is also scheduled for July 16, 2003, at 1:30 p.m. in the Main Conference Room at the Division of Air Quality, 150 N 1950 W, Salt Lake City.

Comments postmarked on or before that date will be accepted and may be e-mailed to: janmiller@utah.gov; or mailed to: Richard W. Sprott, Director, Utah Division of Air Quality, P.O. Box 144820, Salt Lake City, UT 84114-4820, ATTN: Lead-Based Paint.

GOVERNOR'S EXECUTIVE ORDER: DECLARING A STATE OF EMERGENCY BECAUSE OF FIRE DANGER

Whereas, the danger from wildland fires is extremely high throughout the State of Utah; and

Whereas, numerous wildland fires are burning and continue to burn in various areas statewide and present a serious threat to public safety, property, natural resources and the environment; and

Whereas, some of the areas are extremely remote and inaccessible and the situation has the potential to greatly worsen if left unattended; and

Whereas, immediate action is required to suppress the fires and mitigate post-burn flash floods to protect public safety, property, natural resources and the environment; and

Whereas, these conditions do create a disaster emergency within the intent of the Disaster Response and Recovery Act of 1981; and

Now, Therefore, I, Michael O. Leavitt, Governor of the State of Utah, by virtue of the power vested in me by the constitution and the laws of the State of Utah;

Do Hereby Order That: It is found, determined and declared that a "State of Emergency" exists statewide due to the threat to public safety, property, natural resources and the environment for thirty days, effective as of June 10, 2003, requiring aid, assistance and relief available pursuant to the provisions of state statutes, and the State Emergency Operations Plan, which is hereby activated.

In Testimony, Whereof, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Utah, this 10th day of June, 2003.

(State Seal)

Michael O. Leavitt
Governor

Attest:

Olene S. Walker
Lieutenant Governor

NOTICES OF
PROPOSED RULES

A state agency may file a PROPOSED RULE when it determines the need for a new rule, a substantive change to an existing rule, or a repeal of an existing rule. Filings received between June 3, 2003, 12:00 a.m., and June 16, 2003, 11:59 p.m. are included in this, the July 1, 2003, issue of the *Utah State Bulletin*.

In this publication, each PROPOSED RULE is preceded by a RULE ANALYSIS. This analysis provides summary information about the PROPOSED RULE including the name of a contact person, anticipated cost impact of the rule, and legal cross-references.

Following the RULE ANALYSIS, the text of the PROPOSED RULE is usually printed. New rules or additions made to existing rules are underlined (e.g., example). Deletions made to existing rules are struck out with brackets surrounding them (e.g., [~~example~~]). Rules being repealed are completely struck out. A row of dots in the text (· · · · · ·) indicates that unaffected text was removed to conserve space. If a PROPOSED RULE is too long to print, the Division of Administrative Rules will include only the RULE ANALYSIS. A copy of each rule that is too long to print is available from the filing agency or from the Division of Administrative Rules.

The law requires that an agency accept public comment on PROPOSED RULES published in this issue of the *Utah State Bulletin* until at least July 31, 2003. The agency may accept comment beyond this date and will list the last day the agency will accept comment in the RULE ANALYSIS. The agency may also hold public hearings. Additionally, citizens or organizations may request the agency to hold a hearing on a specific PROPOSED RULE. Section 63-46a-5 (1987) requires that a hearing request be received "in writing not more than 15 days after the publication date of the PROPOSED RULE."

From the end of the public comment period through October 29, 2003, the agency may notify the Division of Administrative Rules that it wants to make the PROPOSED RULE effective. The agency sets the effective date. The date may be no fewer than 31 days nor more than 120 days after the publication date of this issue of the *Utah State Bulletin*. Alternatively, the agency may file a CHANGE IN PROPOSED RULE in response to comments received. If the Division of Administrative Rules does not receive a NOTICE OF EFFECTIVE DATE or a CHANGE IN PROPOSED RULE, the PROPOSED RULE filing lapses and the agency must start the process over.

The public, interest groups, and governmental agencies are invited to review and comment on PROPOSED RULES. *Comment may be directed to the contact person identified on the RULE ANALYSIS for each rule.*

PROPOSED RULES are governed by *Utah Code* Section 63-46a-4 (2001); and *Utah Administrative Code* Rule R15-2, and Sections R15-4-3, R15-4-4, R15-4-5, R15-4-9, and R15-4-10.

The Proposed Rules Begin on the Following Page.

Commerce, Occupational and Professional Licensing

R156-42a

Occupational Therapy Practice Act Rules

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 26339
FILED: 06/03/2003, 08:49

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The Division and the Occupational Therapy Licensing Board need to eliminate temporary licensure because on demand testing for the National Board of Certification in Occupational Therapy Examination now limits the certification process to less than 30 days, thus negating the need for temporary licensure of occupational therapists and occupational therapy assistants.

SUMMARY OF THE RULE OR CHANGE: Section R156-42a-302a is renumbered to Section R156-42a-302 and deleted reference to temporary licensure in reference to the Occupational Therapy Law and Rule Examination. In Section R156-42a-302b, deleted entire section dealing with qualifications for temporary licensure.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 58-42a-101, and Subsections 58-1-106(1)(a) and 58-1-202(1)(a)

ANTICIPATED COST OR SAVINGS TO:
❖ THE STATE BUDGET: The Division will incur minimal costs, less than $50, to reprint this rule once the proposed amendments are made effective. Any costs incurred will be absorbed in the Division's current budget.
❖ LOCAL GOVERNMENTS: Proposed amendments do not apply to local governments, therefore there is no impact on local government.
❖ OTHER PERSONS: Applicants for temporary licensure as an occupational therapist or occupational therapy assistant will recognize a savings of $50 for a temporary licensure fee which will no longer be required. The Division is unable to determine how many applicants for licensure as an occupational therapist or occupational therapy assistant will apply in the future; thus, an aggregate savings is not available.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The Division does not anticipate any costs associated with these proposed rule amendments. The Division only anticipates savings to the group of applicants identified above.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There appears to be no fiscal impact to businesses as a result of this rule change. The amendment eliminates the temporary licensure procedure, which has been determined to be unnecessary. Previously, examinations were given on a quarterly basis through the National Board of Certification; but today, once the National Board of Certification has determined a candidate's eligibility, the candidate may take the examination at a local facility at any time. Ted Boyer, Executive Director

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
COMMERCE
OCCUPATIONAL AND PROFESSIONAL LICENSING
HEBER M WELLS BLDG
160 E 300 S
SALT LAKE CITY UT 84111-2316, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Douglas Vilnius at the above address, by phone at 801-530-6621, by FAX at 801-530-6511, or by Internet E-mail at dvilnius@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 07/31/2003

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE: 7/15/2003 at 9:00 AM, 160 East 300 South, Room 428 (Fourth Floor), Salt Lake City, UT.

THIS RULE MAY BECOME EFFECTIVE ON: 08/01/2003

AUTHORIZED BY: J. Craig Jackson, Director

R156. Commerce, Occupational and Professional Licensing.
R156-42a. Occupational Therapy Practice Act Rules.
R156-42a-302[~~a~~]. Qualifications for Licensure - Examination Requirements.

In accordance with Section 58-1-309, all applicants for licensure [~~or temporary licensure~~]must pass the Occupational Therapy Law and Rule Examination.

[~~**R156-42a-302b. Qualifications for Temporary Licensure - Supervision Required.**~~

~~(1) In accordance with Section 58-1-303, an applicant for temporary licensure shall:~~

~~(a) submit an application for temporary license which includes a verification that the applicant has registered to take the next available Occupational Therapy Certification Examination required to become certified by the American Occupational Therapy Certification Board; and~~

~~(b) pay the required temporary license application fee.~~

~~(2) An occupational therapist or occupational therapist assistant who is issued a temporary license must practice occupational therapy under the general supervision of a Utah licensed occupational therapist.~~

]

KEY: licensing, occupational therapy
[~~1994~~]2003
Notice of Continuation September 28, 1999

58-1-106(1)(a)
58-1-202(1)(a)
58-42a-101

Commerce, Real Estate
R162-104-17
Special Circumstances

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 26342
FILED: 06/05/2003, 10:57

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The current rule allows experience points for appraiser licensure to be accrued based on years of full-time employment and does not allow proration of experience points for full-time employment of less than one year or for part-time employment.

SUMMARY OF THE RULE OR CHANGE: The rule change allows points to be earned for part-time employment by prorating the number of points in proportion to the average number of hours worked per week during the period of time for which experience points are claimed. It also allows proration of points for full-time employment that is not in even one-year increments.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 61-2b-6(1)(l)

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: There are State employees in the State Tax Commission who perform appraisals on centrally-assessed property for the purpose of establishing fair market value for the assessment rolls, but it is unknown if any of them are employed in a part-time capacity. If there are part-time employees, this rule change would make it easier for those employees to become licensed or certified appraisers and therefore may result in a cost savings to the State.

❖ LOCAL GOVERNMENTS: Local governments have elected county assessors and some do employ persons part-time to appraise property for the assessment rolls. This rule change would make it easier for elected county assessors and for part-time employees to become licensed or certified appraisers and therefore may result in cost savings to local governments.

❖ OTHER PERSONS: It has been difficult for part-time employees of county assessors to do enough fee appraisals outside of their county employment to gain enough points for licensure or certification. This rule change would enable part-time county employees to earn enough experience points through their county employment instead of needing to seek outside employment in order to accrue enough experience.

COMPLIANCE COSTS FOR AFFECTED PERSONS: No person or entity should incur any increased cost as a result of liberalizing the experience points rule to grant pro-rated credit for part-time employment.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This amendment will have no fiscal impact on businesses.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
COMMERCE
REAL ESTATE
HEBER M WELLS BLDG
160 E 300 S
SALT LAKE CITY UT 84111-2316, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Shelley Wismer at the above address, by phone at 801-530-6761, by FAX at 801-530-6749, or by Internet E-mail at swismer@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 07/31/2003.

THIS RULE MAY BECOME EFFECTIVE ON: 08/01/2003

AUTHORIZED BY: Ted Boyer Jr., Executive Director

R162. Commerce, Real Estate.
R162-104. Experience Requirement.
R162-104-17. Special Circumstances.

104.17 Applicants having experience in categories other than those shown on the Appraisal Experience Points Schedule, or applicants who believe the Experience Points Schedule does not adequately reflect their experience, or applicants who believe the Experience Points Schedule does not adequately reflect the complexity or time spent on an appraisal, may petition the Board on an individual basis for evaluation and approval of their experience as being substantially equivalent to that required for licensure or certification. Upon a finding that an applicant's experience is substantially equivalent to that required for licensure or certification, the Board may waive experience points, give an applicant credit for months of experience, or both.

104.17.1 [~~Fulltime~~]Full-time elected county assessors and any person performing an appraisal for the purpose[~~s~~] of establishing the fair market value of real estate for the assessment roll may, as an alternative to using the Appraisal Experience Points Schedule, be awarded points as provided in Section 104.17.2[~~200 points for every 12 months of service~~], provided that they have experience in at least three of the following categories and no more than one-third of their experience comes from any one of the following categories:

104.17.1.1 Property description/identification;
104.17.1.2 Highest and best use analysis;
104.17.1.3 Land value estimates;
104.17.1.4 Cost approach;
104.17.1.5 Sales comparison;
104.17.1.6 Income capitalization approach.

104.17.2 Full-time elected county assessors may be awarded

200 points for every year of service. Any person performing an appraisal for the purposes of establishing the fair market value of real estate for the assessment roll may be awarded 200 points for every year of full-time service that is substantiated by the applicant. If the applicant requests that experience points be granted for employment in other than one-year increments, the number of points allowable under this section may be prorated in proportion to the number of months of full-time employment substantiated by the applicant.

104.17.2.1 Part-time employment. Any person performing an appraisal for the purposes of establishing the fair market value of real estate for the assessment roll may be awarded a number of points for part-time service that has been pro-rated in proportion to the average number of hours worked per week during the months for which points are claimed. For the purposes of this rule, full-time service is defined as 40 hours per week.

104.17.3 Fulltime elected county assessors and any person performing an appraisal for the purposes of establishing the fair market value of real estate for the assessment roll are not subject to the limitations in Section 105.3.

104.17.[~~3~~]4 Fulltime investigators with the Division who perform appraisal investigations may be awarded 200 points for every 18 months of service. They are not subject to the limitations in Section 105.3.

KEY: real estate appraisal, experience[~~*~~]
[~~June 1, 2000~~]2003
Notice of Continuation March 27, 2002
61-2b-1 through 61-2b-40

Crime Victim Reparations, Administration
R270-1
Award and Reparations Standards

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 26381
FILED: 06/13/2003, 13:43

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Proposed changes were authorized by the Crime Victim Reparations (CVR) Board to increase the maximum amount allowed for the cost of Sexual Assault Forensics Examinations when photo documentation is used and to give authority to Reparation Officers to review extenuating circumstances on claims closed because of the Three-Year Limitation Rule.

SUMMARY OF THE RULE OR CHANGE: The changes are: 1) increase the maximum amount allowed to $600 on Sexual Assault Forensic Examinations when photo documentation is used; 2) provide the authority for reparation officers to extend the three-year time period instead of the CVR Board; and 3) correct an error in content.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 63-25a-406(c)

ANTICIPATED COST OR SAVINGS TO:
❖ THE STATE BUDGET: CVR derives its funding from surcharges. No State General Fund monies are appropriated. The proposed rule changes would provide an increased cost of approximately $100,000.
❖ LOCAL GOVERNMENTS: CVR rules do not affect local government. Therefore, there is no impact to local government.
❖ OTHER PERSONS: There would be an increase in services for sexual assault victims which would mean a savings to them because of the award payments made on their behalf.

COMPLIANCE COSTS FOR AFFECTED PERSONS: CVR office does not have any compliance costs because the program does not impose fees on victims of crime for services provided.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There would not be a fiscal impact on businesses since funding comes from the existing CVR Trust Fund.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
CRIME VICTIM REPARATIONS
ADMINISTRATION
Room 200
350 E 500 S
SALT LAKE CITY UT 84111-3347, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Connie Wettlaufer at the above address, by phone at 801-238-2371, by FAX at 801-533-4127, or by Internet E-mail at cwettlaufer@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 07/31/2003.

THIS RULE MAY BECOME EFFECTIVE ON: 08/01/2003

AUTHORIZED BY: Dan Davis, Director

R270. Crime Victim Reparations, Administration.
R270-1. Award and Reparation Standards.
R270-1-3. Negligent Homicide and Hit and Run Claims.

A. Negligent homicide claims shall be considered criminally injurious conduct as defined in Subsection 63-25a-402(9).

B. Pursuant to Subsection 63-25a-402(9)([~~e~~]a), criminally injurious conduct shall not include victims of hit and run crimes.

R270-1-21. Three Year Limitation.

Pursuant to Subsections 63-25a-406(1)(c) and 63-25a-428(2) a claim for benefits expires and no further payments will be made with regard to the claim after three years have elapsed from the date of application with the CVR office. All claimants who have filed a claim

for benefits with the CVR office prior to the effective date of this rule shall be notified in writing of the three year limitation for payment of benefits. Any claimant who filed a claim for benefits more than two 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 [~~Board~~]Officers may review extenuating circumstances on claims that have been closed because of the Three Year Limitation rule.

R270-1-22. Sexual Assault Forensic Examinations.

A. Pursuant to Subsections 63-25a-402(19) and 63-25a-411(4)(i), the cost of sexual assault forensic examinations for gathering evidence and providing treatment may be paid by the CVR office in [~~an~~]the amount of[~~not to exceed~~] $300.00 without photo documentation and up to $600.00 with a photo examination. The CVR office may also pay for the cost of medication and up to 85% of the hospital expenses. The following agency guidelines need to be adhered to when making payments for sexual assault forensic examinations:

1. A sexual assault forensic examination shall be reported to law enforcement.

2. Victims shall not be charged for sexual assault forensic examinations.

3. The agency may reimburse any licensed health care facility that provides services for sexual assault forensic examinations.

4. The agency may reimburse licensed medical personnel trained to gather evidence of sexual assaults who perform sexual assault forensic examinations.

5. CVR may pay for the collection of evidence and not attempt to prove or disprove the allegation of sexual assault.

6. A request for reimbursement shall include the law enforcement case number or be signed by a law enforcement officer, victim/witness coordinator or medical provider.

7. The application or billing for the sexual assault forensic examination must be submitted to CVR within one year of the examination.

8. The billing for the sexual assault forensic examination shall:

a. identify the victim by name, address, date of birth, Social Security number, telephone number, patient number;

b. indicate the claim is for a sexual assault forensic examination; and

c. itemize services and fees for services.

9. All collateral sources that are available for payment of the sexual assault forensic examination shall be considered before CVR Trust Fund monies are used. Pursuant to Subsection 63-25a-411(i), the Director may determine that reimbursement for a sexual assault forensic examination will not be reduced even though a claim could be recouped from a collateral source.

10. Evidence will be collected only with the permission of the victim or the legal guardian of the victim. Permission shall not be required in instances where the victim is unconscious, mentally incapable of consent or intoxicated.

11. Restitution for the cost of the sexual assault forensic examination may be pursued by the CVR office.

12. Payment for sexual assault forensic examinations shall be considered for the following:

a. Fees for the collection of evidence, for forensic documentation only, to include:

i. history;

ii. physical;

iii. collection of specimens and wet mount for sperm; and

iv. treatment for the prevention of sexually transmitted disease up to four weeks.

b. Emergency department services to include:

i. emergency room, clinic room or office room fee;

ii. cultures for gonorrhea, chlamydia, trichomonas, and tests for other sexually transmitted disease;

iii. serum blood test for pregnancy; and

iv. morning after pill or high dose oral contraceptives for the prevention of pregnancy.

13. The victim of a sexual assault that is requesting payment by CVR for services needed or rendered beyond the sexual assault forensic examination needs to submit an application for compensation to the CVR office.

KEY: victim compensation, victims of crimes
[~~November 15, 2002~~]2003
Notice of Continuation December 10, 2001
63-25a-401 et seq.

Environmental Quality, Radiation Control

R313-15-208

Dose to an Embryo/Fetus

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 26379
FILED: 06/13/2003, 09:57

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule change is required for Utah to maintain Agreement State compatibility with the United States Nuclear Regulatory Commission.

SUMMARY OF THE RULE OR CHANGE: This rule change modifies the manner in which the dose equivalent to an embryo/fetus is determined. It modifies using the dose equivalent to the embryo/fetus from external radiation in the mother's lower torso region to the using the deep dose equivalent to the declared pregnant worker in calculating the dose equivalent to the embryo/fetus.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 19-3-104 and 19-3-108

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: There are no anticipated costs or savings related to this rule change. The rule change will not require more time or resources to determine licensee's compliance with the modified rule. Also, there are administrative rules in place requiring an evaluation of the dose to an embryo/fetus. This rule modification will neither cost nor provide savings to the budget for determining the

dose equivalent to the embryo/fetus of declared pregnant workers in the State's employment.

❖ LOCAL GOVERNMENTS: There are no anticipated costs or savings related to this rule change. There are administrative rules in place requiring an evaluation of the dose to an embryo/fetus. This rule modification will neither cost nor provide savings to local governments in determining the dose equivalent to the embryo/fetus of declared pregnant workers in local government's employment.

❖ OTHER PERSONS: There are no anticipated costs or savings related to this rule change. There are administrative rules in place requiring an evaluation of the dose to an embryo/fetus. This rule modification will neither cost nor provide savings to "other persons" in determining the dose equivalent to the embryo/fetus of declared pregnant workers in the employment of other persons.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Since there are rules in place requiring the evaluation of dose equivalent to an embryo/fetus, this rule modification will not add to the compliance costs for affected persons.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule modification should have no fiscal impact on businesses required to comply with this rule. Dianne R. Nielson, Ph.D.

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

ENVIRONMENTAL QUALITY
RADIATION CONTROL
Room 212
168 N 1950 W
SALT LAKE CITY UT 84116-3085, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Gwyn Galloway at the above address, by phone at 801-536-4258, by FAX at 801-533-4097, or by Internet E-mail at ggalloway@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 07/31/2003.

THIS RULE MAY BECOME EFFECTIVE ON: 08/08/2003

AUTHORIZED BY: William Sinclair, Director

R313. Environmental Quality, Radiation Control.
R313-15. Standards for Protection Against Radiation.
R313-15-208. Dose to an Embryo/Fetus.

(1) The licensee or registrant shall ensure that the dose equivalent to the embryo/fetus during the entire pregnancy, due to occupational exposure of a declared pregnant woman, does not exceed five mSv (0.5 rem). See Section R313-15-1107 for recordkeeping requirements.

(2) The licensee or registrant shall make efforts to avoid substantial variation above a uniform monthly exposure rate to a declared pregnant woman so as to satisfy the limit in Subsection R313-15-208(1).

(3) The dose equivalent to an embryo/fetus is the sum of:

[~~(a) The dose equivalent to the embryo/fetus resulting from radionuclides in the embryo/fetus and radionuclides in the declared pregnant woman; and~~

~~(b) The dose equivalent that is most representative of the dose equivalent to the embryo/fetus from external radiation, that is, in the mother's lower torso region.~~

~~(i) If multiple measurements have not been made, assignment of the highest deep dose equivalent for the declared pregnant woman shall be the dose equivalent to the embryo/fetus, in accordance with Subsection R313-15-201(3); or~~

~~(ii) If multiple measurements have been made, assignment of the deep dose equivalent for the declared pregnant woman from the individual monitoring device which is most representative of the dose equivalent to the embryo/fetus shall be the dose equivalent to the embryo fetus. Assignment of the highest deep dose equivalent for the declared pregnant woman to the embryo/fetus is not required unless that dose equivalent is also the most representative deep dose equivalent for the region of the embryo/fetus.~~](a) The deep dose equivalent to the declared pregnant woman; and

(b) The dose equivalent resulting from radionuclides in the embryo/fetus and radionuclides in the declared pregnant woman.

(4) If the dose equivalent to the embryo/fetus is found to have exceeded five mSv (0.5 rem) or is within 0.5 mSv (0.05 rem) of this dose by the time the woman declares the pregnancy to the licensee or registrant, the licensee or registrant shall be deemed to be in compliance with Subsection R313-15-208(1) if the additional dose equivalent to the embryo/fetus does not exceed 0.50 mSv (0.05 rem) during the remainder of the pregnancy.

KEY: radioactive material, contamination, waste disposal, safety
[~~July 23, 2002~~|2003
Notice of Continuation January 14, 2003
19-3-104
19-3-108

Environmental Quality, Radiation Control
R313-15-301
Dose Limits for Individual Members of the Public

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 26377
FILED: 06/13/2003, 09:55

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: These changes are required for Agreement State Compatibility with the United States Nuclear Regulatory Commission.

SUMMARY OF THE RULE OR CHANGE: The rule change provides a mechanism for the State of Utah to enforce the provisions of the United States Environmental Protection Agency's

generally applicable environmental radiation standards in 40 CFR 190.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 19-3-104 and 19-3-108

THIS RULE OR CHANGE INCORPORATES BY REFERENCE THE FOLLOWING MATERIAL: 40 CFR 190

ANTICIPATED COST OR SAVINGS TO:
❖ THE STATE BUDGET: All costs associated with this rule are included in the annual fees and review fees which licensees are required to pay. Therefore, there will be no cost or savings impact to state government as a result of this rule
❖ LOCAL GOVERNMENTS: Local governments are not subject to provisions of this rule, because no local governments in Utah have licenses for radioactive materials facilities subject to the provisions of 40 CFR 190.
❖ OTHER PERSONS: There should be no costs or savings associated with this rule for "other persons." Under the jurisdiction of the Federal Government, affected other persons are currently required to comply with the requirements of 40 CFR 190. This rule will require continued compliance when the program is transferred to State jurisdiction.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The compliance cost will be through annual fees which are less than those of the Federal Government.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Since businesses are already in compliance with the requirement under the Federal Government jurisdiction, there will be no fiscal impact on businesses. Dianne R. Nielson

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
ENVIRONMENTAL QUALITY
RADIATION CONTROL
Room 212
168 N 1950 W
SALT LAKE CITY UT 84116-3085, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Gwyn Galloway at the above address, by phone at 801-536-4258, by FAX at 801-533-4097, or by Internet E-mail at ggalloway@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 07/31/2003.

THIS RULE MAY BECOME EFFECTIVE ON: 08/08/2003

AUTHORIZED BY: William Sinclair, Director

R313. Environmental Quality, Radiation Control.
R313-15. Standards for Protection Against Radiation.
R313-15-301. Dose Limits for Individual Members of the Public.

(1) Each licensee or registrant shall conduct operations so that:

(a) Except as provided in Subsection R313-15-301(1)(c), the total effective dose equivalent to individual members of the public from the licensed or registered operation does not exceed one mSv (0.1 rem) in a year, exclusive of the dose contribution from background radiation, from any medical administration the individual has received, from exposure to individuals administered radioactive material and released in accordance with Section R313-32-75, from voluntary participation in medical research programs, and from the licensee's or registrant's disposal of radioactive material into sanitary sewerage in accordance with Section R313-15-1003; and

(b) The dose in any unrestricted area from external sources, exclusive of the dose contributions from patients administered radioactive material and released in accordance with Section R313-32-75, does not exceed 0.02 mSv (0.002 rem) in any one hour; and

(c) The total effective dose equivalent to individual members of the public from infrequent exposure to radiation from radiation machines does not exceed 5 mSv (0.5 rem) in a year.

(2) If the licensee or registrant permits members of the public to have access to controlled areas, the limits for members of the public continue to apply to those individuals.

(3) A licensee, registrant, or an applicant for a license or registration may apply for prior Executive Secretary authorization to operate up to an annual dose limit for an individual member of the public of five mSv (0.5 rem). This application shall include the following information:

(a) Demonstration of the need for and the expected duration of operations in excess of the limit in Subsection R313-15-301(1); and

(b) The licensee's or registrant's program to assess and control dose within the five mSv (0.5 rem) annual limit; and

(c) The procedures to be followed to maintain the dose ALARA.

(4) In addition to the requirements of R313-15, a licensee subject to the provisions of the United States Environmental Protection Agency's generally applicable environmental radiation standards in 40 CFR 190 shall comply with those standards.

[~~(4)~~](5) The Executive Secretary may impose additional restrictions on radiation levels in unrestricted areas and on the total quantity of radionuclides that a licensee or registrant may release in effluents in order to restrict the collective dose.

KEY: radioactive material, contamination, waste disposal, safety
[~~July 23, 2002~~|2003
Notice of Continuation January 14, 2003
19-3-104
19-3-108

▼ ▼

Environmental Quality, Solid and Hazardous Waste

R315-1-2

Utah Hazardous Waste Definitions and References

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 26370
FILED: 06/13/2003, 09:40

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This amendment adopts the equivalent federal regulations to maintain equivalency with EPA rules and retain authorization.

SUMMARY OF THE RULE OR CHANGE: This rule change updates the list of publications as listed in 40 CFR 260.11.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 19-6-105 and 19-6-106

THIS RULE OR CHANGE INCORPORATES BY REFERENCE THE FOLLOWING MATERIAL: 40 CFR 260.11, 2001 ed.

ANTICIPATED COST OR SAVINGS TO:
❖ THE STATE BUDGET: Since the changes in the rule do not affect state entities and the enforcement of the rule will not change, there will be no cost or saving impact.
❖ LOCAL GOVERNMENTS: Since the changes in the rule do not affect local government and the enforcement of the rule will not change, there will be no cost or saving impact.
❖ OTHER PERSONS: The compliance costs for affected persons will not change since the rule change implements current statutory and regulatory requirements.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The compliance costs for affected persons will not change since the rule change implements current statutory and regulatory requirements.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The proposed changes in this rule will have no fiscal impact on businesses beyond the current statutory and regulatory impact. Dianne R. Nielson, Ph.D.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
ENVIRONMENTAL QUALITY
SOLID AND HAZARDOUS WASTE
288 N 1460 W
SALT LAKE CITY UT 84116-3231, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Susan Toronto at the above address, by phone at 801-538-6776, by FAX at 801-538-6715, or by Internet E-mail at storonto@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 08/01/2003.

THIS RULE MAY BECOME EFFECTIVE ON: 08/15/2003

AUTHORIZED BY: Dennis Downs, Director

R315. Environmental Quality, Solid and Hazardous Waste.
R315-1. Utah Hazardous Waste Definitions and References.
R315-1-2. References.

(a) For purposes of R315-1 through R315-101, the publication references of 40 CFR 260.11, [~~1999~~]2001 ed., are adopted and incorporated by reference.

(b) R315-1 through R315-101 incorporate by reference a number of provisions from 40 CFR. The incorporated provisions sometimes include cross-references to other sections of 40 CFR. Wherever there are sections in R315-1 through R315-101 that correspond to those cross-references, the cross-references of 40 CFR are not incorporated into R315-1 through R315-101. Instead, the corresponding sections in R315-1 through R315-101 shall apply.

KEY: hazardous waste
[~~August 15, 2002~~]2003
Notice of Continuation October 18, 2001
19-6-105
19-6-106

Environmental Quality, Solid and Hazardous Waste
R315-2
General Requirements - Identification and Listing of Hazardous Waste

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 26376
FILED: 06/13/2003, 09:48

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This amendment adopts the equivalent federal regulations to maintain equivalency with EPA rules and retain authorization.

SUMMARY OF THE RULE OR CHANGE: This rule change adds gas turbines to the list of approved burners for comparable/syngas fuel, adds wastes generated by the chlorinated aliphatics industry and three inorganic chemical manufacturing wastes to the list of hazardous wastes, expands the exclusion for mixtures and/or derivatives of wastes listed solely for the ignitability, and corrosivity and/or reactivity characteristic. This change clarifies that mixtures of certain excluded wastes and listed hazardous wastes that are listed solely because they contain a characteristic of ignitability, corrosivity, and/or reactivity, are exempt once the characteristic has been removed. This rule change also deletes language classifying mineral processing characteristic byproducts and sludges being reclaimed as solid wastes.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 19-6-105 and 19-6-106; and 40 CFR 271.21(e)

THIS RULE OR CHANGE INCORPORATES BY REFERENCE THE FOLLOWING MATERIAL: 40 CFR 261.32, 2002 ed., 40 CFR 261.38, 2001 ed.

ANTICIPATED COST OR SAVINGS TO:
❖ THE STATE BUDGET: Since the changes in the rule do not affect State entities and the enforcement of the rule will not change, there will be no cost or saving impact.
❖ LOCAL GOVERNMENTS: Since the changes in the rule do not affect local government and the enforcement of the rule will not change, there will be no cost or saving impact.
❖ OTHER PERSONS: The compliance costs for affected persons will not change since the rule change implements current statutory and regulatory requirements.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The compliance costs for affected persons will not change since the rule change implements current statutory and regulatory requirements.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The proposed changes in this rule will have no fiscal impact on businesses beyond the current statutory and regulatory impact. Dianne R. Nielson, Ph.D.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
ENVIRONMENTAL QUALITY
SOLID AND HAZARDOUS WASTE
288 N 1460 W
SALT LAKE CITY UT 84116-3231, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Susan Toronto at the above address, by phone at 801-538-6776, by FAX at 801-538-6715, or by Internet E-mail at storonto@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 08/01/2003.

THIS RULE MAY BECOME EFFECTIVE ON: 08/15/2003

AUTHORIZED BY: Dennis Downs, Director

R315. Environmental Quality, Solid and Hazardous Waste.
R315-2. General Requirements - Identification and Listing of Hazardous Waste.
R315-2-3. Definition of Hazardous Waste.

(a) A solid waste as defined in section R315-2-2 is a hazardous waste if:

(1) It is not excluded from regulation as a hazardous waste under subsection R315-2-4(b); and

(2) It meets any of the following criteria:

(i) It is listed in sections R315-2-10 or R315-2-11 and has not been excluded from this section under sections R315-2-16 or R315-2-17.

(ii) It exhibits any of the characteristics of hazardous waste identified in R315-2-9. However, any mixture of a waste from the extraction, beneficiation, and processing of ores and minerals excluded under R315-2-4(b)(7) and any other solid waste exhibiting a characteristic of hazardous waste under R315-2-9 is a hazardous waste only if it exhibits a characteristic that would not have been exhibited by the excluded waste alone if such mixture had not occurred, or if it continues to exhibit any of the characteristics exhibited by the non-excluded wastes prior to mixture. Further, for the purposes of applying the Toxicity Characteristic to such mixtures, the mixture is also a hazardous waste if it exceeds the maximum concentration for any contaminant listed in table I, 40 CFR 261.24, which R315-2-9(g)(2) incorporates by reference, that would not have been exceeded by the excluded waste alone if the mixture had not occurred or if it continues to exceed the maximum concentration for any contaminant exceeded by the nonexempt waste prior to mixture.

(iii) [~~It is a mixture of solid waste and a hazardous waste that is listed in sections R315-2-10 or R315-2-11 solely because it exhibits one or more of the characteristics of hazardous waste identified in section R315-2-9, unless the resultant mixture no longer exhibits any characteristic of hazardous waste identified in section R315-2-9 or unless the solid waste is excluded from regulation under R315-2-4(b)(7) and the resultant mixture no longer exhibits any characteristic of hazardous waste identified in section R315-2-9 for which the hazardous waste listed in R315-2-10 or R315-2-11 was listed. However, nonwastewater mixtures are still subject to the requirements of R315-13, which incorporates by reference 40 CFR 268, even if they no longer exhibit a characteristic at the point of land disposal.~~]RESERVED.

(iv) It is a mixture of solid waste and one or more hazardous wastes listed in [~~sections~~] R315-2-10 or R315-2-11 and has not been excluded from paragraph (a)(2) of this section under [~~sections~~]R315-2-16 and R315-2-17, or paragraph (f) of this section; however, the following mixtures of solid wastes and hazardous wastes listed in [~~sections~~]R315-2-10 or R315-2-11 are not hazardous wastes, except by application of paragraph (a)(2)(i) or (ii) of this section, if the generator can demonstrate that the mixture consists of wastewater the discharge of which is subject to regulation under either Section 402 or Section 307(b) of the Clean Water Act, 33 U.S.C. 1251 et seq., including wastewater at facilities which have eliminated the discharge of wastewater, and[~~:~~];

(A) One or more of the following spent solvents listed in R315-2-10(e), which incorporates by reference 40 CFR 261.31 - carbon tetrachloride, tetrachloroethylene, trichloroethylene - provided that the maximum total weekly usage of these solvents, other than the amounts that can be demonstrated not to be discharged to wastewater, divided by the average weekly flow of wastewater into the headworks of the facility's wastewater treatment or pre-treatment system does not exceed 1 part per million; or

(B) One or more of the following spent solvents listed in R315-2-10(e), which incorporates by reference 40 CFR 261.31 - methylene chloride, 1,1,1-trichloroethane, chlorobenzene, o-dichlorobenzene, cresols, cresylic acid, nitrobenzene, toluene, methyl ethyl ketone, carbon disulfide, isobutanol, pyridine, spent chlorofluorocarbon solvents - provided that the maximum total weekly usage of these solvents, other than the amounts that can be

demonstrated not to be discharged to wastewater, divided by the average weekly flow of wastewater into the headworks of the facility's wastewater treatment or pre-treatment system does not exceed 25 parts per million; or

(C) One of the following wastes listed in R315-2-10(f), which incorporates by reference 40 CFR 261.32, provided that the wastes are discharged to the refinery oil recovery sewer before primary oil/water/solids separation - heat exchanger bundle cleaning sludge from the petroleum refining industry, EPA Hazardous Waste No. K050, crude oil storage tank sediment from petroleum refining operations, EPA Hazardous Waste No. K169, clarified slurry oil tank sediment and/or in-line filter/separation solids from petroleum refining operations, EPA Hazardous Waste No. K170, spent hydrotreating catalyst, EPA Hazardous Waste No. K171, and spent hydrorefining catalyst, EPA Hazardous Waste No. K172; or

(D) A discarded commercial chemical product, or chemical intermediate listed in R315-2-11, arising from "de minimis" losses of these materials from manufacturing operations in which these materials are used as raw materials or are produced in the manufacturing process. For purposes of this subparagraph, "de minimis" losses include those from normal material handling operations, for example, spills from the unloading or transfer of materials from bins or other containers, leaks from pipes, valves or other devices used to transfer materials; minor leaks of process equipment, storage tanks or containers; leaks from well-maintained pump packings and seals; sample purgings; relief device discharges; discharges from safety showers and rinsing and cleaning of personal safety equipment; and rinsate from empty containers or from containers that are rendered empty by that rinsing; or

(E) Wastewater resulting from laboratory operations containing toxic (T) wastes listed in Sections R315-2-10 or R315-2-11, which incorporates by reference 40 CFR 261 subpart D, provided that the annualized average flow of laboratory wastewater does not exceed one percent of total wastewater flow into the headworks of the facility's wastewater treatment or pre-treatment system, or provided [~~it is demonstrated that~~]the wastes[~~:~~], combined annualized average concentration does not exceed one part per million in the headworks of the facility's wastewater treatment or pre-treatment facility. Toxic (T) wastes used in laboratories that are demonstrated not to be discharged to wastewater are not to be included in this calculation; or

(F) One or more of the following wastes listed in R315-2-10(f), which incorporates by reference 40 CFR 261.32 - wastewaters from the production of carbamates and carbamoyl oximes, EPA Hazardous Waste No. K157 - Provided that the maximum weekly usage of formaldehyde, methyl chloride, methylene chloride, and triethylamine, including all amounts that can not be demonstrated to be reacted in the process, destroyed through treatment, or is recovered, i.e., what is discharged or volatilized, divided by the average weekly flow of process wastewater prior to any dilutions into the headworks of the facility's wastewater treatment system does not exceed a total of 5 parts per million by weight; or

(G) Wastewaters derived from the treatment of one or more of the following wastes listed in R315-2-10(f), which incorporates by reference 40 CFR 261.32 - organic waste, including heavy ends, still bottoms, light ends, spent solvents, filtrates, and decantates, from the production of carbamates and carbamoyl oximes, EPA Hazardous Waste No. K156 - Provided, that the maximum concentration of formaldehyde, methyl chloride, methylene chloride, and triethylamine prior to any dilutions into the headworks of the facility's wastewater treatment system does not exceed a total of 5 milligrams per liter.

(v) Rebuttable presumption for used oil. Used oil containing more than 1000 ppm total halogens is presumed to be a hazardous waste because it has been mixed with halogenated hazardous waste listed in R315-2-10(e) and (f), which incorporates by reference 40 CFR 261 Subpart D. Persons may rebut this presumption by demonstrating that the used oil does not contain hazardous waste, for example, by using an analytical method from SW-846, Third Edition, to show that the used oil does not contain significant concentrations of halogenated hazardous constituents listed in R315-50-10, which incorporates by reference 40 CFR 261, Appendix VIII.

(A) The rebuttable presumption does not apply to metalworking oils/fluids containing chlorinated paraffins, if they are processed, through a tolling agreement, to reclaim metalworking oils/fluids. The presumption does apply to metalworking oils/fluids if such oils/fluids are recycled in any other manner, or disposed.

(B) The rebuttable presumption does not apply to used oils contaminated with chlorofluorocarbons (CFCs) removed from refrigeration units where the CFCs are destined for reclamation. The rebuttable presumption does apply to used oils contaminated with CFCs that have been mixed with used oil from sources other than refrigeration units.

(b) A solid waste which is not excluded from regulation under paragraph (a)(1) of this section becomes a hazardous waste when any of the following events occur:

(1) In the case of a waste listed in sections R315-2-10 or R315-2-11, when the waste first meets the listing description set forth in sections R315-2-10 or R315-2-11.

(2) In the case of the mixture of solid waste and one or more listed hazardous wastes, when a hazardous waste listed in sections R315-2-10 or R315-2-11 is first added to the solid waste.

(3) In the case of any other waste, including a waste mixture, when the waste exhibits any of the characteristics identified in section R315-2-9.

(c) Unless and until it meets the criteria of paragraph (d) of this section:

(1) A hazardous waste will remain a hazardous waste.

(2)(i) Except as otherwise provided in paragraph (c)(2)(ii) or (f) of this section, any solid waste generated from the treatment, storage, or disposal of a hazardous waste, including any sludge, spill residue, ash, emission control dust, or leachate, but not including precipitation run-off, is a hazardous waste. However, materials that are reclaimed from solid wastes and that are used beneficially are not solid wastes and hence are not hazardous wastes under this provision unless the reclaimed material is burned for energy recovery or used in a manner constituting disposal.

(ii) The following solid wastes are not hazardous even though they are generated from the treatment, storage, or disposal of a hazardous waste, unless they exhibit one or more of the characteristics of hazardous waste:

(A) Waste pickle liquor sludge generated by lime stabilization of spent pickle liquor from the iron and steel industry, SIC Codes 331 and 332.

(B) Wastes from burning any of the materials exempted from regulations by 40 CFR 261.6(a)(3)(iii) and (v). R315-2-6 incorporates by reference the requirements of 40 CFR 261.6 concerning recyclable materials.

(C)(1) Nonwastewater residues, such as slag, resulting from high temperature metals recovery (HTMR) processing of K061, K062, or F006 waste, in units identified as rotary kilns, flame

reactors, electric furnaces, plasma arc furnaces, slag reactors, rotary hearth furnace/electric furnace combinations or industrial furnaces (as defined in 40 CFR 260.10 (6), (7), and (13) of the definition for "Industrial Furnace" which R315-1-1(b) incorporates by reference), that are disposed in solid waste landfills regulated under R315-301 through R315-320, provided that these residues meet the generic exclusion levels identified below for all constituents, and exhibit no characteristics of hazardous waste. Testing requirements shall be incorporated in a facility's waste analysis plan or a generator's self-implementing waste analysis plan; at a minimum, composite samples of residues shall be collected and analyzed quarterly and/or when the process or operation generating the waste changes. Persons claiming this exclusion in an enforcement action will have the burden of proving by clear and convincing evidence that the material meets all of the exclusion requirements.

TABLE

Constituent	Maximum for any single composite sample - TCLP (mg/l)
Generic exclusion levels for K061 and K062 nonwastewater HTMR residues	
Antimony	0.10
Arsenic	0.50
Barium	7.6
Beryllium	0.010
Cadmium	0.050
Chromium (total)	0.33
Lead	0.15
Mercury	0.009
Nickel	1.0
Selenium	0.16
Silver	0.30
Thallium	0.020
Zinc	70
Generic exclusion levels for F006 nonwastewater HTMR residues	
Antimony	0.10
Arsenic	0.50
Barium	7.6
Beryllium	0.010
Cadmium	0.050
Chromium (total)	0.33
Cyanide (total)(mg/kg)	1.8
Lead	0.15
Mercury	0.009
Nickel	1.0
Selenium	0.16
Silver	0.30
Thallium	0.020
Zinc	70

(2) A one-time notification and certification shall be placed in the facility's files and sent to the Executive Secretary for K061, K062 or F006 HTMR residues that meet the generic exclusion levels for all constituents and do not exhibit any characteristics that are sent to solid waste landfills regulated under R315-301 through R315-320. The notification and certification that is placed in the generators or treaters files shall be updated if the process or operation generating the waste changes and/or if the solid waste landfill regulated under R315-301 through R315-320 receiving the waste changes. However, the generator or treater need only notify the Executive Secretary on an annual basis if such changes occur. Such notification and certification should be sent to the Executive Secretary by the end of the calendar year, but no later than December 31. The notification shall include the following information: The name and address of the solid waste landfill regulated under R315-301 through R315-320 receiving the waste shipments; the EPA Hazardous Waste Number(s) and treatability group(s) at the initial point of generation; and, the treatment standards applicable to the waste at the initial point of generation. The certification shall be signed by an authorized representative and shall state as follows: "I certify under penalty of law that the generic exclusion levels for all constituents have been met without impermissible dilution and that no characteristic of hazardous waste is exhibited. I am aware that there are significant penalties for submitting a false certification, including the possibility of fine and imprisonment."

(D) Biological treatment sludge from the treatment of one of the following wastes listed in R315-2-10(f), which incorporates by reference 40 CFR 261.32 - organic waste, including heavy ends, still bottoms, light ends, spent solvents, filtrates, and decantates, from the production of carbamates and carbamoyl oximes, EPA Hazardous Waste No. K156, and wastewaters from the production of carbamates and carbamoyl oximes, EPA Hazardous Waste No. K157.

(E) Catalyst inert support media separated from one of the following wastes listed in R315-2-10(f), which incorporates by reference 40 CFR 261.32, - Spent hydrotreating catalyst, EPA Hazardous Waste No. K171, and Spent hydrorefining catalyst, EPA Hazardous Waste N0. K172.

(d) Any solid waste described in paragraph (c) of this section is not a hazardous waste if it meets the following criteria:

(1) In the case of any solid waste, it does not exhibit any of the characteristics of hazardous waste identified in section R315-2-9. However, wastes that exhibit a characteristic at the point of generation may still be subject to the requirements of R315-13 which incorporates by reference 40 CFR 268, even if they no longer exhibit a characteristic at the point of land disposal.

(2) In the case of a waste which is a listed waste under sections R315-2-10 or R315-2-11, contains a waste listed under sections R315-2-10 or R315-2-11, or is derived from a waste listed in sections R315-2-10 or R315-2-11, it also has been excluded from paragraph (c) of this section under R315-2-16 and R315-2-17.

(e) Notwithstanding R315-2-3(a) through (d) and provided the debris as defined in R315-13, which incorporates by reference 40 CFR 268, does not exhibit a characteristic identified in R315-2-9, the following materials are not subject to regulation under R315-1, R315-2 to R315-8, R315-13, and R315-14:

(1) Hazardous debris as defined in R315-13, which incorporates by reference 40 CFR 268, that has been treated using one of the required extraction or destruction technologies specified in R315-13, which incorporates by reference 40 CFR 268.45 Table 1; persons claiming this exclusion in an enforcement action will have the burden of proving by clear and convincing evidence that the material meets all of the exclusion requirements; or

(2) Debris as defined in R315-13, which incorporates by reference 40 CFR 268, that the Board, considering the extent of contamination, has determined is no longer contaminated with hazardous waste.

(f)(1) A hazardous waste that is listed in R315-2-10 or R315-2-11 solely because it exhibits one or more characteristics of ignitability as defined under R315-2-9(d), corrosivity as defined under R315-2-9(e), or reactivity as defined under R315-2-9(f) is not hazardous waste, if the waste no longer exhibits any characteristic of hazardous waste identified in R315-2-9(a), (d), (e), (f), or (g).

(2) The exclusion described in paragraph (f)(1) of this section also pertains to

(i) Any mixture of a solid waste and a hazardous waste listed in R315-2-10 and R315-2-11 solely because it exhibits the characteristics of ignitability, corrosivity, or reactivity as regulated under R315-2-3(a)(2)(iv); and,

(ii) Any solid waste generated from treating, storing, or disposing of a hazardous waste listed in R315-2-10 and R315-2-11 solely because it exhibits the characteristics of ignitability, corrosivity, or reactivity as regulated under R315-2-3(c)(2)(i).

(3) Wastes excluded from R315-2-3 are subject to R315-13-1, which incorporates by reference 40 CFR 268, (as applicable), even if they no longer exhibit a characteristic at the point of land disposal.

(4) Any mixture of a solid waste excluded from regulation under R315-2-4(b)(7) and a hazardous waste listed in R315-2-10 and R315-2-11, which incorporates by reference 40 CFR 261 subpart D, solely because it exhibits one or more of the characteristics of ignitability, corrosivity, or reactivity as regulated under paragraph (a)(2)(iv) of this section is not a hazardous waste, if the mixture no longer exhibits any characteristic of hazardous waste identified in R315-2-9(a), (d) - (g) for which the hazardous waste listed in R315-2-10 and R315-2-11, which incorporates by reference 40 CFR 261 subpart D, was listed.

R315-2-4. Exclusions.

(a) MATERIALS WHICH ARE NOT SOLID WASTES.

The following materials are not solid wastes for the purpose of this rule:

(1) Domestic sewage or any mixture of domestic sewage and other wastes that passes through a sewer system to a publicly-owned treatment works for treatment. "Domestic sewage" means untreated sanitary wastes that pass through a sewer system.

(2) Industrial wastewater discharges that are point source discharges subject to regulation under Section 402 of the Clean Water Act, as amended. This exclusion applies only to the actual point source discharge. It does not exclude industrial wastewaters while they are being collected, stored, or treated before discharge, nor does it exclude sludges that are generated by industrial wastewater treatment.

(3) Irrigation return flows.

(4) Source, special nuclear or by-product material as defined by the Atomic Energy Act of 1954, as amended, 42 U.S.C. Section 2011 et seq.

(5) Materials subjected to in-situ mining techniques which are not removed from the ground as part of the extraction process.

(6) Pulping liquors, black liquor that are reclaimed in a pulping liquor recovery furnace and then reused in the pulping process, unless it is accumulated speculatively as defined in subsection R315-1-1(c), which incorporates by reference 261.1(c), 40 CFR.

(7) Spent sulfuric acid used to produce virgin sulfuric acid, unless it is accumulated speculatively as defined in subsection R315-1-1(c), which incorporates by reference 261.1(c), 40 CFR.

(8) Secondary materials that are reclaimed and returned to the original process or processes in which they were generated where they are reused in the production process provided:

(i) Only tank storage is involved, and the entire process through completion of reclamation is closed by being entirely connected with pipes or other comparable enclosed means of conveyance;

(ii) Reclamation does not involve controlled flame combustion (such as occurs in boilers, industrial furnaces, or incinerators);

(iii) The secondary materials are never accumulated in such tanks for over twelve months without being reclaimed; and

(iv) The reclaimed material is not used to produce a fuel, or used to produce products that are used in a manner constituting disposal.

(9)(i) Spent wood preserving solutions that have been reclaimed and are reused for their original intended purpose; and

(ii) wastewaters from the wood preserving process that have been reclaimed and are reused to treat wood.

(iii) Prior to reuse, the wood preserving wastewaters and spent wood preserving solutions described in R315-2-4(a)(9)(i) and (ii), so long as they meet all of the following conditions:

(A) The wood preserving wastewaters and spent wood preserving solutions are reused onsite at water borne plants in the production process for their original intended purpose;

(B) Prior to reuse, the wastewaters and spent wood preserving solutions are managed to prevent release to either land or groundwater or both;

(C) Any unit used to manage wastewaters and/or spent wood preserving solutions prior to reuse can be visually or otherwise determined to prevent such releases;

(D) Any drip pad used to manage the wastewaters and/or spent wood preserving solutions prior to reuse complies with the standards in R315-7-28, which incorporates by reference 40 CFR 265.440 - 445, regardless of whether the plant generates a total of less than 100 kg/month of hazardous waste; and

(E) Prior to operating pursuant to this exclusion, the plant owner or operator submits to the Executive Secretary a one-time notification stating that the plant intends to claim the exclusion, giving the date on which the plant intends to begin operating under the exclusion, and containing the following language: "I have read the applicable regulation establishing an exclusion for wood preserving wastewaters and spent wood preserving solutions and understand it requires me to comply at all times with the conditions set out in the regulation." The plant must maintain a copy of that document in its on-site records for a period of no less than 3 years from the date specified in the notice. The exclusion applies only so long as the plant meets all of the conditions. If the plant goes out of compliance with any condition, it may apply to the Executive Secretary for reinstatement. The Executive Secretary may reinstate the exclusion upon finding that the plant has returned to compliance with all conditions and that violations are not likely to recur.

(10) EPA Hazardous Waste Nos. K060, K087, K141, K142, K143, K144, K145, K147, and K148, and any wastes from the coke by-products processes that are hazardous only because they exhibit the Toxicity Characteristic (TC) specified in R315-2-9(g) when, subsequent to generation, these materials are recycled to coke ovens, to the tar recovery process as a feedstock to produce coal tar or are mixed with coal tar prior to the tar's sale or refining. This exclusion is conditioned on there being no land disposal of the wastes from the point they are generated to the point they are recycled to coke ovens or the tar recovery or refining processes, or mixed with coal tar.

(11) Nonwastewater splash condenser dross residue from the treatment of K061 in high temperature metals recovery units, provided it is shipped in drums (if shipped) and not land disposed before recovery.

(12)(i) Oil-bearing hazardous secondary materials, i.e., sludges, byproducts, or spent materials, that are generated at a petroleum refinery, SIC code 2911, and are inserted into the petroleum refining process, SIC code 2911 - including distillation, catalytic cracking, fractionation, or thermal cracking units, i.e., cokers, unless the material is placed on the land, or speculatively accumulated before being so recycled. Materials inserted into

thermal cracking units are excluded under this paragraph, provided that the coke product also does not exhibit a characteristic of hazardous waste. Oil-bearing hazardous secondary materials may be inserted into the same petroleum refinery where they are generated, or sent directly to another petroleum refinery, and still be excluded under this provision. Except as provided in R315-2-4(a)(12)(ii), oil-bearing hazardous secondary materials generated elsewhere in the petroleum industry, i.e., from sources other than petroleum refineries, are not excluded under R315-2-4. Residuals generated from processing or recycling materials excluded under this paragraph, where such materials as generated would have otherwise met a listing under R315-2-10, R315-2-11, R315-2-24, and R315-2-26, are designated as F037 listed wastes when disposed of or intended for disposal.

(ii) Recovered oil that is recycled in the same manner and with the same conditions as described in R315-2-4(a)(12)(i). Recovered oil is oil that has been reclaimed from secondary materials, including wastewater, generated from normal petroleum industry practices, including refining, exploration and production, bulk storage, and transportation incident thereto (SIC codes 1311, 1321, 1381, 1382, 1389, 2911, 4612, 4613, 4922, 4923, 4789, 5171, and 5152.) Recovered oil does not include oil-bearing hazardous wastes listed in R315-2-10, R315-2-11, R315-2-24, and R315-2-26; however, oil recovered from such wastes may be considered recovered oil. Recovered oil does not include used oil as defined in 19-6-703(19).

(13) Excluded scrap metal, processed scrap metal, unprocessed home scrap metal, and unprocessed prompt scrap metal, being recycled.

(14) Shredded circuit boards being recycled provided that they are:

(i) Stored in containers sufficient to prevent a release to the environment prior to recovery; and

(ii) Free of mercury switches, mercury relays, and nickel-cadmium batteries and lithium batteries.

(15) Condensates derived from the overhead gases from kraft mill steam strippers that are used to comply with 40 CFR 63.446(e). The exemption applies only to combustion at the mill generating the condensates.

(16) Comparable fuels or comparable syngas fuels, i.e., comparable/syngas fuels, that meet the requirements of R315-2-26, which incorporates by reference 40 CFR 261.38.

(17) [~~Secondary materials, i.e., sludges, by products, and s~~]Spent materials as defined in R315-1-1(c), which incorporates by reference 40 CFR 261.1, other than hazardous wastes listed in R315-2-10, 2-11, and 2-26 (which incorporate by reference 40 CFR 261 Subpart D), and R315-2-24, generated within the primary mineral processing industry from which minerals, acids, cyanide, water or other values are recovered by mineral processing or by benefication, provided that:

(i) The [~~secondary~~]spent material is legitimately recycled to recover minerals, acids, cyanide, water or other values;

(ii) The [~~secondary~~]spent material is not accumulated speculatively;

(iii) Except as provided in R315-2-4(a)(17)(iv), the [~~secondary~~]spent material is stored in tanks, containers, or buildings meeting the following minimum integrity standards: a building must be an engineered structure with a floor, walls, and a roof all of which are made of non-earthen materials providing structural support, except smelter buildings may have partially earthen floors provided the secondary material is stored on the non-earthen portion, and have a roof suitable for diverting rainwater away from the foundation; a tank must be free standing, not be a surface impoundment as defined R315-1-1(b), which incorporates by reference 40 CFR 260.10, and be manufactured of a material suitable for containment of its contents; a container must be free standing and be manufactured of a material suitable for containment of its contents. If tanks or containers contain any particulate which may be subject to wind dispersal, the owner/operator must operate these units in a manner which controls fugitive dust. Tanks, containers, and buildings must be designed, constructed and operated to prevent significant releases to the environment of these materials.

(iv) The Executive Secretary may make a site-specific determination, after public review and comment, that only solid mineral processing [~~secondary~~]spent materials may be placed on pads, rather than in tanks, containers, or buildings. Solid mineral processing [~~secondary~~]spent materials do not contain any free liquid. The Executive Secretary must affirm that pads are designed, constructed and operated to prevent significant releases of the secondary material into the environment. Pads must provide the same degree of containment afforded by the non-RCRA tanks, containers and buildings eligible for exclusion.

(A) The Executive Secretary must also consider if storage on pads poses the potential for significant releases via groundwater, surface water, and air exposure pathways. Factors to be considered for assessing the groundwater, surface water, air exposure pathways are: the volume and physical and chemical properties of the secondary material, including its potential for migration off the pad; the potential for human or environmental exposure to hazardous constituents migrating from the pad via each exposure pathway, and the possibility and extent of harm to human and environmental receptors via each exposure pathway.

(B) Pads must meet the following minimum standards: be designed of non-earthen material that is compatible with the chemical nature of the mineral processing [~~secondary~~]spent material, capable of withstanding physical stresses associated with placement and removal, have run on/runoff controls, be operated in a manner which controls fugitive dust, and have integrity assurance through inspections and maintenance programs.

(C) Before making a determination under this paragraph, the Executive Secretary must provide notice and the opportunity for comment to all persons potentially interested in the determination. This can be accomplished by placing notice of this action in major local newspapers, or broadcasting notice over local radio stations.

(v) The owner or operator provides [~~a~~] notice to the Executive Secretary, [~~identifying~~]providing the following information: the types of materials to be recycled; the type and location of the storage units and recycling processes; and the annual quantities expected to be placed in [~~non~~]land-based units. This notification must be updated when there is a change in the type of materials recycled or the location of the recycling process.

(vi) For purposes of R315-2-4([~~b~~]a)(7), mineral processing [~~secondary~~]spent materials must be the result of mineral processing and may not include any listed hazardous wastes. Listed hazardous wastes and characteristic hazardous wastes generated by non-mineral processing industries are not eligible for the conditional exclusion from the definition of solid waste.

(vii) R315-2-4(a)(16) becomes effective July 1, 1999.

(18) Petrochemical recovered oil from an associated organic chemical manufacturing facility, where the oil is to be inserted into the petroleum refining process, SIC code 2911, along with normal petroleum refinery process streams, provided:

(i) The oil is hazardous only because it exhibits the characteristic of ignitability, as defined in R315-2-9(d), and/or toxicity for benzene, R315-2-9(g), waste code D018; and

(ii) The oil generated by the organic chemical manufacturing facility is not placed on the land, or speculatively accumulated before being recycled into the petroleum refining process. An "associated organic chemical manufacturing facility" is a facility where the primary SIC code is 2869, but where operations may also include SIC codes 2821, 2822, and 2865; and is physically co-located with a petroleum refinery; and where the petroleum refinery to which the oil being recycled is returned also provides hydrocarbon feedstocks to the organic chemical manufacturing facility. "Petrochemical recovered oil" is oil that has been reclaimed from secondary materials, i.e., sludges, byproducts, or spent materials, including wastewater, from normal organic chemical manufacturing operations, as well as oil recovered from organic chemical manufacturing processes.

(19) Spent caustic solutions from petroleum refining liquid treating processes used as a feedstock to produce cresylic or napthenic acid unless the material is placed on the land, or accumulated speculatively as defined in R315-1-1(c), which incorporates by reference 40 CFR 261.1(c).

(b) SOLID WASTES WHICH ARE NOT HAZARDOUS WASTES.

The following solid wastes are not hazardous wastes:

(1) Household waste, including household waste that has been collected, transported, stored, treated, disposed, recovered, such as refuse-derived fuel or reused. "Household waste" means any material, including garbage, trash and sanitary wastes in septic tanks, derived from households, including single and multiple residences, hotels and motels, bunkhouses, ranger stations, crew quarters, campgrounds, picnic grounds and day-use recreation areas. A resource recovery facility managing municipal solid waste shall not be deemed to be treating, storing, disposing of or otherwise managing hazardous wastes for the purposes of regulation under this subtitle, if the facility:

(i) Receives and burns only

(A) Household waste, from single and multiple dwellings, hotels, motels, and other residential sources and

(B) Solid waste from commercial of industrial sources that does not contain hazardous waste; and

(ii) The facility does not accept hazardous wastes and the owner or operator of the facility has established contractual requirements or other appropriate notification or inspection procedures to assure that hazardous wastes are not received at or burned in the facility.

(2) Solid wastes generated by any of the following and which are returned to the soil as fertilizers:

(i) The growing and harvesting of agricultural crops.

(ii) The raising of animals, including animal manures.

(3) Mining overburden returned to the mine site.

(4) Fly ash waste, bottom ash waste, slag waste, and flue gas emission control waste generated primarily from the combustion of coal or other fossil fuels, except as provided by R315-14-7, which incorporates by reference 40 CFR 266.112, for facilities that burn or process hazardous waste.

(5) Drilling fluids, produced waters, and other wastes associated with the exploration, development, or production of crude oil, natural gas or geothermal energy.

(6) The following additional solid wastes:

(i) Wastes which fail the test for the Toxicity Characteristic because chromium is present or are listed in sections R315-2-10 or R315-2-11 due to the presence of chromium, which do not fail the test for the Toxicity Characteristic for any other constituent or are not listed due to the presence of any other constituent, and which do not fail the test for any other characteristic, if it is shown by a waste generator or by waste generators that:

(A) The chromium in the waste is exclusively, or nearly exclusively, trivalent chromium; and

(B) The waste is generated from an industrial process which uses trivalent chromium exclusively, or nearly exclusively, and the process does not generate hexavalent chromium; and

(C) The waste is typically and frequently managed in non-oxidizing environments.

(ii) Specific wastes which meet the standard in paragraphs (b)(6)(i)(A),(B), and (C) of this section, so long as they do not fail the test for the toxicity characteristic for any other constituent, and do not exhibit any other characteristic, are:

(A) Chrome blue trimmings generated by the following subcategories of the leather tanning and finishing industry: hair pulp/chrome tan/retan/wet finish; hair save/chrome tan/retan/wet finish; retan/wet finish; no beamhouse; through-the-blue; and shearling.

(B) Chrome blue shavings generated by the following subcategories of the leather tanning and finishing industry: hair pulp/chrome tan/retan/wet finish; hair save/chrome tan/retan/wet finish; retan/wet finish; no beamhouse; through-the-blue; and shearling.

(C) Buffing dust generated by the following subcategories of the leather tanning and finishing industry: hair pulp/chrome tan/retan/wet finish; hair save/chrome tan/retan/wet finish; retan/wet finish; no beamhouse; through-the-blue.

(D) Sewer screenings generated by the following subcategories of the leather tanning and finishing industry: hair/pulp/chrome tan/retan/wet finish; hair save/chrome tan/retan/wet finish; retan/wet finish; no beamhouse; through-the-blue; and shearling.

(E) Wastewater treatment sludges generated by the following subcategories of the leather tanning and finishing industry: hair pulp/chrome tan/retan/wet finish; hair save/chrome tan/retan/wet finish; retan/wet finish; no beamhouse; through-the-blue; and shearling.

(F) Wastewater treatment sludges generated by the following subcategories of the leather tanning and finishing industry: hair pulp/chrome tan/retan/wet finish; hair save/chrome tan/retan/wet finish; and through-the-blue.

(G) Waste scrap leather from the leather tanning industry, the shoe manufacturing industry, and other leather product manufacturing industries.

(H) Wastewater treatment sludges from the production of TiO_2 pigment using chromium-bearing ores by the chloride process.

(7) Solid waste from the extraction, beneficiation, and processing of ores and minerals, including coal, phosphate rock, and overburden from the mining of uranium ore, except as provided by R315-14-7, which incorporates by reference 40 CFR 266.112 for facilities that burn or process hazardous waste.

(i) For purposes of R315-2-4(b)(7) beneficiation of ores and minerals is restricted to the following activities; crushing; grinding; washing; dissolution; crystallization; filtration; sorting; sizing; drying; sintering; pelletizing; briquetting; calcining to remove water and/or carbon dioxide; roasting, autoclaving, and/or chlorination in preparation for leaching (except where the roasting (and/or

autoclaving and/or chlorination)/leaching sequence produces a final or intermediate product that does not undergo further beneficiation or processing); gravity concentration; magnetic separation; electrostatic separation; flotation; ion exchange; solvent extraction; electrowinning; precipitation; amalgamation; and heap, dump, vat, tank, and in situ leaching.

(ii) For the purposes of R315-2-4(b)(7), solid waste from the processing of ores and minerals includes only the following wastes as generated:

(A) Slag from primary copper processing;

(B) Slag from primary lead processing;

(C) Red and brown muds from bauxite refining;

(D) Phosphogypsum from phosphoric acid production;

(E) Slag from elemental phosphorus production ;

(F) Gasifier ash from coal gasification;

(G) Process wastewater from coal gasification;

(H) Calcium sulfate wastewater treatment plant sludge from primary copper processing;

(I) Slag tailings from primary copper processing;

(J) Fluorogypsum from hydrofluoric acid production;

(K) Process wastewater from hydrofluoric acid production;

(L) Air pollution control dust/sludge from iron blast furnaces;

(M) Iron blast furnace slag;

(N) Treated residue from roasting/leaching of chrome ore;

(O) Process wastewater from primary magnesium processing by the anhydrous process;

(P) Process wastewater from phosphoric acid production;

(Q) Basic oxygen furnace and open hearth furnace air pollution control dust/sludge from carbon steel production;

(R) Basic oxygen furnace and open hearth furnace slag from carbon steel production;

(S) Chloride process waste solids from titanium tetrachloride production;

(T) Slag from primary zinc processing.

(iii) A residue derived from co-processing mineral processing secondary materials with normal beneficiation raw materials or with normal mineral processing raw materials remains excluded under R315-2-4(b) if the owner or operator:

(A) Processes at least 50 percent by weight normal beneficiation raw materials or normal mineral processing raw materials; and,

(B) Legitimately reclaims the secondary mineral processing materials.

(8) Cement kiln dust waste, except as provided by R315-14-7, which incorporates by reference 40 CFR 266.112, for facilities that burn or process hazardous waste.

(9) Solid waste which consists of discarded arsenical-treated wood or wood products which fails the test for the Toxicity Characteristic for Hazardous Waste Codes D004 through D017 and which is not a hazardous waste for any other reason if the waste is generated by persons who utilize the arsenical-treated wood and wood products for these materials' intended end use.

(10) Petroleum-contaminated media and debris that fail the test for the Toxicity Characteristic (TC) of R315-2-9(g), Hazardous Waste Codes D018 through D043 only, and are subject to the corrective action requirements under R311-202, which incorporates by reference 40 CFR 280.

(11) Injected groundwater that is hazardous only because it exhibits the Toxicity Characteristic, Hazardous Waste Codes D018 through D043 only, in R315-2-9(e) that is reinjected through an underground injection well pursuant to free phase hydrocarbon recovery operations undertaken at petroleum refineries, petroleum marketing terminals, petroleum bulk plants, petroleum pipelines, and petroleum transportation spill sites until January 25, 1993. This extension applies to recovery operations in existence, or for which contracts have been issued, on or before March 25, 1991. For groundwater returned through infiltration galleries from such operations at petroleum refineries, marketing terminals, and bulk plants, until October 2, 1991. New operations involving injection wells, beginning after March 25, 1991, will qualify for this compliance date extension until January 25, 1993, only if:

(i) Operations are performed pursuant to a written state agreement that includes a provision to assess the groundwater and the need for further remediation once the free phase recovery is completed; and

(ii) A copy of the written agreement has been submitted to: Characteristics Section (OS-333), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460 and the Division of Solid and Hazardous Waste, Dept. of Environmental Quality, State of Utah, Salt Lake City, UT 84114-4880.

(12) Used chlorofluorocarbon refrigerants from totally enclosed heat transfer equipment, including mobile air conditioning systems, mobile refrigeration, and commercial and industrial air conditioning and refrigeration systems that use chlorofluorocarbons as the heat transfer fluid in a refrigeration cycle, provided the refrigerant is reclaimed for further use.

(13) Used oil re-refining distillation bottoms that are used as feedstock to manufacture asphalt products.

(14) Non-terne plated used oil filters that are not mixed with wastes listed in R315-2-10(e) and (f) and R315-2-11, which incorporate by reference 40 CFR 261 Subpart D, if these oil filters have been gravity hot-drained using one of the following methods:

(i) Puncturing the filter anti-drain back valve or the filter dome end and hot draining;

(ii) Hot-draining and crushing;

(iii) Dismantling and hot-draining; or

(iv) Any other equivalent hot-draining method that will remove used oil.

(15) Leachate or gas condensate collected from landfills where certain solid wastes have been disposed, provided that:

(i) The solid wastes disposed would meet one or more of the listing descriptions for Hazardous Waste Codes K169, K170, K171, [~~and~~]K172, K174, K175, K176, K177, and K178, if these wastes had been generated after the effective date of the listing[~~, February 8, 1999~~];

(ii) The solid wastes described in paragraph R315-2-4(b)(15)(i) were disposed prior to the effective date of the listing;

(iii) The leachate or gas condensate does not exhibit any characteristic of hazardous waste nor are derived from any other listed hazardous waste;

(iv) Discharge of the leachate or gas condensate, including leachate or gas condensate transferred from the landfill to a POTW by truck, rail, or dedicated pipe, is subject to regulation under R317-8 of the Utah Water Quality Rules.

(v) [~~After~~]As of February 13, 2001, leachate or gas condensate [~~will~~]derived from K169-K172 is no longer [~~be~~]exempt if it is stored or managed in a surface impoundment prior to discharge. After November 21, 2003, leachate or gas condensate derived from K176, K177, and K 178 will no longer be exempt if it is stored or managed in a surface impoundment prior to discharge. There is one exception: if the surface impoundment is used to temporarily store leachate or gas condensate in response to an emergency situation,

e.g., shutdown of wastewater treatment system, provided the impoundment has a double liner, and provided the leachate or gas condensate is removed from the impoundment and continues to be managed in compliance with the conditions of this paragraph after the emergency ends.

(16) The requirements as found in 40 CFR 261.4(b)(18), 2001 ed., are adopted and incorporated by reference with the following exceptions:

(i) Substitute "EPA and the Executive Secretary" for all federal regulation references made to "EPA";

(ii) Substitute "Executive Secretary" for all federal regulation references made to "state of Utah."

(c) HAZARDOUS WASTES WHICH ARE EXEMPTED FROM CERTAIN RULES.

A hazardous waste which is generated in a product or raw material storage tank, a product or raw material transport vehicle or vessel, a product or raw material pipeline, or in a manufacturing process unit or an associated non-waste-treatment-manufacturing unit is not subject to these regulations or to the notification requirements of Section 3010 of RCRA until it exits the unit in which it was generated, unless the unit is a surface impoundment, or unless the hazardous waste remains in the unit more than 90 days after the unit ceases to be operated for manufacturing, or for storage or transportation of products or raw materials.

(d) SAMPLES

(1) Except as provided in paragraph (d)(2) of this section, a sample of solid waste or a sample of water, soil, or air, which is collected for the sole purpose of testing to determine its characteristics or compositions, is not subject to any requirements of these rules when:

(i) The sample is being transported to a laboratory for the purpose of testing;

(ii) The sample is being transported back to the sample collector after testing;

(iii) The sample is being stored by the sample collector before transport to a laboratory for testing;

(iv) The sample is being stored in a laboratory before testing;

(v) The sample is being stored in a laboratory after testing but before it is returned to the sample collector; or

(vi) The sample is being stored temporarily in the laboratory after testing for a specific purpose, for example, until conclusion of a court case or enforcement action where further testing of the sample may be necessary.

(2) In order to qualify for the exemption in paragraphs (d)(1)(i) and (ii) of this section, a sample collector shipping samples to a laboratory and a laboratory returning samples to a sample collector shall:

(i) Comply with U.S. Department of Transportation (DOT), U.S. Postal Service (USPS), or any other applicable shipping requirements; or

(ii) Comply with the following requirements if the sample collector determines that DOT, USPS, or other shipping requirements do not apply to the shipment of the sample:

(A) Assure that the following information accompanies the sample:

(1) The sample collector's name, mailing address, and telephone number;

(2) The laboratory's name, mailing address, and telephone number;

(3) The quantity of the sample;

(4) The date of shipment; and

(5) A description of the sample.

(B) Package the sample so that it does not leak, spill, or vaporize from its packaging.

(3) This exemption does not apply if the laboratory determines that the waste is hazardous but the laboratory is no longer meeting any of the conditions stated in paragraph (d)(1) of this section.

(e) TREATABILITY STUDY SAMPLES.

(1) Except as provided in paragraph (e)(2) of this Section, a person who generates or collects samples for the purpose of conducting treatability studies as defined in section R315-1-1, which incorporates by reference the definitions of 40 CFR 260.10, are not subject to any requirement of R315-2, R315-5, and R315-6, or to the notification requirements of Section 3010 of RCRA, nor are these samples included in the quantity determinations of R315-2-5, which incorporates by reference the requirements concerning conditionally exempt small quantity generators of 40 CFR 261.5 and R315-5-3.34, which incorporates by reference the requirements concerning waste accumulation time for generators of 40 CFR 262.34(d) when:

(i) the sample is being collected and prepared for transportation by the generator or sample collector;

(ii) the sample is being accumulated or stored by the generator or sample collector prior to transportation to a laboratory or testing facility; or

(iii) the sample is being transported to the laboratory or testing facility for the purpose of conducting a treatability study.

(2) The exemption in paragraph (e)(1) of this section is applicable to samples of hazardous waste being collected and shipped for the purpose of conducting treatability studies provided that:

(i) The generator or sample collector uses, in "treatability studies," no more than 10,000 kg of media contaminated with non-acute hazardous waste, 1000 kg of non-acute hazardous waste other than contaminated media, 1 kg of acute hazardous waste, 2500 kg of media contaminated with acute hazardous waste for each process being evaluated for each generated waste stream;

(ii) The mass of each sample shipment does not exceed 10,000 kg; the 10,000 kg quantity may be all media contaminated with non-acute hazardous waste, or may include 2500 kg of media contaminated with acute hazardous waste, 1000 kg of hazardous waste, and 1 kg of acute hazardous waste; and

(iii) the sample shall be packaged so that it will not leak, spill, or vaporize from its packaging during shipment and the requirements of paragraph A or B of this subparagraph are met;

(A) the transportation of each sample shipment complies with U.S. Department of Transportation (DOT), U.S. Postal Service (USPS), or any other applicable shipping requirements; or

(B) if the DOT, USPS, or other shipping requirements do not apply to the shipment of the sample, the following information shall accompany the sample:

(1) the name, mailing address, and telephone number of the originator of the sample;

(2) the name, address, and telephone number of the facility that will perform the treatability study;

(3) the quantity of the sample;

(4) the date of shipment; and

(5) a description of the sample, including its EPA Hazardous Waste Number.

(iv) the sample is shipped to a laboratory or testing facility which is exempt under R315-2-4(f) (40 CFR 261.4(f)) or has an appropriate RCRA permit or interim status;

(v) the generator or sample collector maintains the following

records for a period ending 3 years after completion of the treatability study:

(A) copies of the shipping documents;

(B) a copy of the contract with the facility conducting the treatability study;

(C) documentation showing:

(1) the amount of waste shipped under this exemption;

(2) the name, address, and EPA identification number of the laboratory or testing facility that received the waste;

(3) the date the shipment was made; and

(4) whether or not unused samples and residues were returned to the generator.

(vi) the generator reports the information required under paragraph (e)(v)(C) of this section in its biennial report.

(3) The Executive Secretary may grant requests on a case-by-case basis for up to an additional two years for treatability studies involving bioremediation. The Executive Secretary may grant requests on a case-by-case basis for quantity limits in excess of those specified in paragraphs (e)(2) (i) and (ii) and (f)(4) of this section, for up to an additional 5000 kg of media contaminated with non-acute hazardous waste, 500 kg of non-acute hazardous waste, 2500 kg of media contaminated with acute hazardous waste and 1 kg of acute hazardous waste:

(i) In response to requests for authorization to ship, store and conduct treatability studies on additional quantities in advance of commencing treatability studies. Factors to be considered in reviewing such requests include the nature of the technology, the type of process, e.g., batch versus continuous, size of the unit undergoing testing, particularly in relation to scale-up considerations, the time/quantity of material required to reach steady state operating conditions, or test design considerations such as mass balance calculations.

(ii) In response to requests for authorization to ship, store and conduct treatability studies on additional quantities after initiation or completion of initial treatability studies, when: There has been an equipment or mechanical failure during the conduct of a treatability study; there is a need to verify the results of a previously conducted treatability study; there is a need to study and analyze alternative techniques within a previously evaluated treatment process; or there is a need to do further evaluation of an ongoing treatability study to determine final specifications for treatment.

(iii) The additional quantities and time frames allowed in paragraph (e)(3) (i) and (ii) of this section are subject to all the provisions in paragraphs (e) (1) and (e)(2) (iii) through (vi) of this section. The generator or sample collector must apply to the Executive Secretary and provide in writing the following information:

(A) The reason why the generator or sample collector requires additional time or quantity of sample for treatability study evaluation and the additional time or quantity needed;

(B) Documentation accounting for all samples of hazardous waste from the waste stream which have been sent for or undergone treatability studies including the date each previous sample from the waste stream was shipped, the quantity of each previous shipment, the laboratory or testing facility to which it was shipped, what treatability study processes were conducted on each sample shipped, and the available results on each treatability study;

(C) A description of the technical modifications or change in specifications which will be evaluated and the expected results;

(D) If such further study is being required due to equipment or mechanical failure, the applicant must include information regarding the reason for the failure or breakdown and also include what procedures or equipment improvements have been made to protect against further breakdowns; and

(E) Such other information that the Executive Secretary considers necessary.

(f) SAMPLES UNDERGOING TREATABILITY STUDIES AT LABORATORIES AND TESTING FACILITIES.

Samples undergoing treatability studies and the laboratory or testing facility that conducts these treatability studies, to the extent these facilities are not otherwise subject to RCRA requirements, are not subject to any requirement of this rule, R315-3 through R315-8, and R315-13, or to the notification requirements of Section 3010 of RCRA provided that the conditions of paragraphs (f)(1) through (11) of this Section are met. A mobile treatment unit (MTU) may qualify as a testing facility subject to paragraphs (f)(1) through (11) of this section. Where a group of MTUs are located at the same site, the limitations specified in (f)(1) through (11) of this section apply to the entire group of MTUs collectively as if the group were one MTU.

(1) No less than 45 days before conducting treatability studies, the facility notifies the Executive Secretary in writing that it intends to conduct treatability studies under this paragraph.

(2) The laboratory or testing facility conducting the treatability study has an EPA identification number.

(3) No more than a total of 10,000 kg of "as received" media contaminated with non-acute hazardous waste, 2500 kg of media contaminated with acute hazardous waste or 250 kg of other "as received" hazardous waste is subject to initiation of treatment in all treatability studies in any single day. "As received" waste refers to the waste as received in the shipment from the generator or sample collector.

(4) The quantity of "as received" hazardous waste stored at the facility for the purpose of evaluation in treatability studies does not exceed 10,000 kg, the total of which can include 10,000 kg of media contaminated with non-acute hazardous waste, 2500 kg of media contaminated with acute hazardous waste, 1000 kg of non-acute hazardous wastes other than contaminated media, and 1 kg of acute hazardous waste. This quantity limitation does not include treatment materials, including nonhazardous solid waste, added to "as received" hazardous waste.

(5) No more than 90 days have elapsed since the treatability study for the sample was completed, or no more than one year, two years for treatability studies involving bioremediation, have elapsed since the generator or sample collector shipped the sample to the laboratory or testing facility, whichever date first occurs. Up to 500 kg of treated material from a particular waste stream from treatability studies may be archived for future evaluation up to five years from the date of initial receipt. Quantities of materials archived are counted against the total storage limit for the facility.

(6) The treatability study does not involve the placement of hazardous waste on the land or open burning of hazardous waste.

(7) The facility maintains records for three years following completion of each study that show compliance with the treatment rate limits and the storage time and quantity limits. The following specific information shall be included for each treatability study conducted:

(i) the name, address, and EPA identification number of the generator or sample collector of each waste sample;

(ii) the date the shipment was received;

(iii) the quantity of waste accepted;

(iv) the quantity of "as received" waste in storage each day;

(v) the date the treatment study was initiated and the amount of "as received" waste introduced to treatment each day;

(vi) the date the treatability study was concluded; and

(vii) the date any unused sample or residues generated from the treatability study were returned to the generator or sample collector or, if sent to a designated facility, the name of the facility and the EPA identification number.

(8) The facility keeps, on-site, a copy of the treatability study contract and all shipping papers associated with the transport of treatability study samples to and from the facility for a period ending three years from the completion date of each treatability study.

(9) The facility prepares and submits a report to the Executive Secretary by March 15 of each year that estimates the number of studies and the amount of waste expected to be used in treatability studies during the current year, and includes the following information for the previous calendar year:

(i) the name, address, and EPA identification number of the facility conducting the treatability studies;

(ii) the types, by process, of treatability studies conducted;

(iii) the names and addresses of persons for whom studies have been conducted, including their EPA identification numbers;

(iv) the total quantity of waste in storage each day;

(v) the quantity and types of waste subjected to treatability studies;

(vi) when each treatability study was conducted; and

(vii) the final disposition of residues and unused sample from each treatability study.

(10) The facility determines whether any unused sample or residues generated by the treatability study are hazardous waste under R315-2-3 and, if so, are subject to R315-2 through R315-8, and R315-13, unless the residues and unused samples are returned to the sample originator under the exemption of paragraph (e) of this section.

(11) The facility notifies the Executive Secretary by letter when the facility is no longer planning to conduct any treatability studies at the site.

(g) DREDGED MATERIAL THAT IS NOT A HAZARDOUS WASTE.

Dredged material that is subject to the requirements of a permit that has been issued under 404 of the Federal Water Pollution Control Act (33 U.S.C. 1344) or section 103 of the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1413) is not a hazardous waste. For this paragraph (g), the following definitions apply:

(1) The term dredged material has the same meaning as defined in 40 CFR 232.2;

(2) The term permit means:

(i) A permit issued by the U.S. Army Corps of Engineers (Corps) or the Utah State Division of Water Quality;

(ii) A permit issued by the Corps under section 103 of the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1413); or

(iii) In the case of Corps civil works projects, the administrative equivalent of the permits referred to in paragraphs R315-2-4(g)(2)(i) and (ii), as provided for in Corps regulations.

R315-2-9. Characteristics of Hazardous Waste.

(a) GENERAL.

(1) A solid waste, as defined in section R315-2-2, which is not excluded from regulation as a hazardous waste under R315-2-4(b), is a hazardous waste if it exhibits any of the characteristics identified in this section.

(2) A hazardous waste which is identified by a characteristic in this section, is assigned every EPA Hazardous Waste Number that is applicable as set forth in this section. This number shall be used in complying with the notification requirements of section 3010 of RCRA and all applicable recordkeeping and reporting requirements under R315-3 through R315-8, and R315-13.

(3) For purposes of this section, the Executive Secretary will consider a sample obtained using any of the applicable sampling methods specified in R315-50-6, or an equivalent method, to be a representative sample.

(b) CRITERIA FOR IDENTIFYING THE CHARACTERISTICS OF HAZARDOUS WASTE.

(1) The Board shall identify and define a characteristic of hazardous waste in this section only upon determining that:

(i) A solid waste that exhibits the characteristic may:

(A) Cause, or significantly contribute to, an increase in mortality or an increase in serious irreversible, or incapacitating reversible, illness; or

(B) Pose a substantial present or potential hazard to human health or the environment when it is improperly treated, stored, transported, disposed of or otherwise managed; and

(ii) The characteristic can be:

(A) Measured by an available standardized test method which is reasonably within the capability of generators of solid waste or private sector laboratories that are available to serve generators of solid waste; or

(B) Reasonably detected by generators of solid waste through their knowledge of their waste.

(c) CRITERIA FOR LISTING HAZARDOUS WASTE.

(1) The Board shall list a solid waste as a hazardous waste only upon determining that the solid waste meets one of the following criteria:

(i) It exhibits any of the characteristics of hazardous waste identified in this section.

(ii) It has been found to be fatal to humans in low doses, or, in the absence of data on human toxicity, it has been shown in studies to have an oral LD 50 toxicity, rat, of less than 50 milligrams per kilogram, an inhalation LC 50 toxicity, rat, of less than 50 milligrams per liter, or a dermal LD 50 toxicity, rabbit, of less than 200 milligrams per kilogram or is otherwise capable of causing or significantly contributing to an increase in serious irreversible, or incapacitating reversible illness. Waste listed in accordance with these criteria will be designated Acute Hazardous Waste.

(iii) It contains any of the toxic constituents listed in R315-50-10 and, after considering the following factors, the Board concludes that the waste is capable of posing a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported or disposed of, or otherwise managed:

(A) The nature of the toxicity presented by the constituent.

(B) The concentration of the constituent in the waste.

(C) The potential of the constituent or any toxic degradation product of the constituent to migrate from the waste into the environment under the types of improper management considered in paragraph (c)(1)(iii)(G) of this section.

(D) The persistence of the constituent or any toxic degradation product of the constituent.

(E) The potential for the constituent or any toxic degradation product of the constituent to degrade into non-harmful constituents and the rate of degradation.

(F) The degree to which the constituent or any degradation product of the constituent bioaccumulates in ecosystems.

(G) The plausible types of improper management to which the waste could be subjected.

(H) The quantities of the waste generated at individual generation sites or on a regional or national basis.

(I) The nature and severity of the human health and environmental damage that has occurred as a result of the improper management of wastes containing the constituent.

(J) Action taken by other governmental agencies or regulatory programs based on the health or environmental hazard posed by the waste or waste constituent.

(K) Other factors as may be appropriate.

Substances will be listed on R315-50-10 only if they have been shown in scientific studies to have toxic, carcinogenic, mutagenic or teratogenic effects on humans or other life forms. Wastes listed in accordance with these criteria will be designated Toxic wastes.

(2) The Board may list classes or types of solid waste as hazardous waste if they have reason to believe that individual wastes, within the class or type of waste, typically or frequently are hazardous under the definition of hazardous waste found in Section 19-6-102 of the Utah Solid and Hazardous Waste Act.

(3) The Board will use the criteria for listing specified in this section to establish the exclusion limits referred to in 40 CFR 261.5(c). R315-2-5 incorporates by reference the requirements of 40 CFR 261.5 concerning conditionally exempt small quantity generators.

(d) CHARACTERISTIC OF IGNITABILITY

(1) A solid waste exhibits the characteristic of ignitability if a representative sample of the waste has any of the following properties:

(i) It is a liquid, other than an aqueous solution containing less than 24 percent alcohol by volume, and has a flash point less than 60 degrees C, 140 degrees F, as determined by a Pensky-Martens Closed Cup Tester, using the test method specified in ASTM Standard D-93-79, or D-93-80, incorporated by reference, see section R315-1-2, or a Setaflash Closed Cup Tester, using the test method specified in ASTM Standard D-3278-78, incorporated by reference, see section R315-1-2, or as determined by an equivalent test method approved under the procedures set forth in section R315-2-15.

(ii) It is not a liquid and is capable, under standard temperature and pressure, of causing fire through friction, absorption of moisture or spontaneous chemical changes and, when ignited, burns so vigorously and persistently that it creates a hazard.

(iii) It is an ignitable "compressed gas" as defined in 49 CFR 173.300(a), 1990 ed., which is adopted and incorporated by reference, and as determined by the test methods described in that regulation or equivalent test methods approved under section R315-2-15.

(iv) It is an "oxidizer" as defined in 49 CFR 173.151, 1990 ed., which is adopted and incorporated by reference.

(2) A solid waste that exhibits the characteristic of ignitability has the EPA Hazardous Waste Number of D001.

(e) CHARACTERISTIC OF CORROSIVITY

(1) A solid waste exhibits the characteristic of corrosivity if a representative sample of the waste has either of the following properties:

(i) It is aqueous and has a pH less than or equal to 2 or greater than or equal to 12.5, as determined by a pH meter using Method 9040 in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," EPA Publication SW-846, as incorporated by reference in 40 CFR 260.11, see R315-1-2.

(ii) It is a liquid and corrodes steel, SAE 1020, at a rate greater than 6.35 mm, 0.250 inch, per year at a test temperature of 55 degrees C, 130 degrees F, as determined by the test method specified in NACE, National Association of Corrosion Engineers Standard TM-01-69 as standardized in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," EPA Publication SW-846, as incorporated by reference in 40 CFR 260.11, see R315-1-2.

(2) A solid waste that exhibits the characteristic of corrosivity has the EPA Hazardous Waste Number of D002.

(f) CHARACTERISTIC OF REACTIVITY

(1) A solid waste exhibits the characteristic of reactivity if a representative sample of the waste has any of the following properties:

(i) It is normally unstable and readily undergoes violent change without detonating.

(ii) It reacts violently with water.

(iii) It forms potentially explosive mixtures with water.

(iv) When mixed with water, it generates toxic gases, vapors or fumes in a quantity sufficient to present a danger to human health or the environment.

(v) It is a cyanide or sulfide bearing waste which, when exposed to pH conditions between 2 and 12.5, can generate toxic gases, vapors or fumes in a quantity sufficient to present a danger to human health or the environment.

(vi) It is capable of detonation or explosive reaction if it is subjected to a strong initiating source or if heated under confinement.

(vii) It is readily capable of detonation or explosive decomposition or reaction at standard temperature and pressure.

(viii) It is a "forbidden explosive" as defined in 49 CFR 173.5 ed., or a "Class 1 explosive" as defined in 49 CFR 173.50(b)(1), (2), or (3), which are incorporated by reference.

(2) A solid waste that exhibits the characteristic of reactivity has the EPA Hazardous Waste Number of D003.

(g) TOXICITY CHARACTERISTIC

(1) A solid waste (except manufactured gas plant waste) exhibits the characteristic of toxicity if, using the Toxicity Characteristic Leaching Procedure, test Method 1311 in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," EPA Publication SW-846, as incorporated by reference in 40 CFR 260.11, see R315-1-2, the extract from a representative sample of the waste contains any of the contaminants listed in Table 1 of 40 CFR 261.24 at a concentration equal to or greater than the respective value given in that Table. Where the waste contains less than 0.5 percent filterable solids, the waste itself, after filtering using the methodology outlined in Method 1311, is considered to be the extract for the purposes of this paragraph.

(2) A solid waste that exhibits the characteristic of toxicity has the EPA Hazardous Waste Number specified in Table 1 of 40 CFR 261.24, which corresponds to the toxic contaminant causing it to be hazardous. Table 1 of 40 CFR 261.24, 1990 ed., is adopted and incorporated by reference.

R315-2-10. Lists of Hazardous Wastes.

(a) A solid waste is a hazardous waste if it is listed in this section or R315-2-11, unless it has been excluded from this list under section R315-2-16.

(b) The Board will indicate the basis for listing the classes or types of wastes listed in this section and R315-2-11 by employing one or more of the following Hazard Codes:

Ignitable Waste: (I)

Corrosive Waste: (C)

Reactive Waste: (R)

Toxicity Characteristic Waste: (E)

Acute Hazardous Waste: (H)

Toxic Waste: (T)

R315-50-9, which incorporates by reference 40 CFR 261, Appendix VII, identifies the constituent which caused the Board to list the waste as a Toxicity Characteristic Waste (E) or Toxic Waste (T) in this section and R315-2-11.

(c) Each hazardous waste listed in this section and R315-2-11, is assigned an EPA Hazardous Waste Number which precedes the name of the waste. This number shall be used to comply with these rules where description and identification of a hazardous waste is required.

(d) The following hazardous wastes listed in this section are subject to the exclusion limits for acutely hazardous wastes established in R315-2-4:

EPA Hazardous Waste Nos. F020, F021, F022, F023, F026, and F027.

(e) The listing of hazardous wastes from non-specific sources found in 40 CFR 261.31, 2000 ed., is adopted and incorporated by reference with the following additional waste:

(1) F999 - Residues from demilitarization, treatment, and testing of nerve, military, and chemical agents CX, GA, GB, GD, H, HD, HL, HN-1, HN-2, HN-3, HT, L, T, and VX. (R,T,C,H)

(f) The listing of hazardous wastes from specific sources found in 40 CFR 261.32, 200[~~0~~]2 ed., is adopted and incorporated by reference.

R315-2-26. Comparable/Syngas Fuel Exclusion.

The requirements of 40 CFR 261.38, 200[~~0~~]1 ed., are adopted and incorporated by reference with the following exception:

Substitute "Executive Secretary" for all references made to "Director".

KEY: hazardous wastes
[~~August 15, 2002~~]2003
Notice of Continuation October 18, 2001
19-6-105
19-6-106

Environmental Quality, Solid and Hazardous Waste

R315-3

Application and Permit Procedures for Hazardous Waste Treatment, Storage, and Disposal Facilities

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 26372
FILED: 06/13/2003, 09:44

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This amendment adopts the equivalent federal regulations to maintain equivalency with EPA rules and retain authorization.

SUMMARY OF THE RULE OR CHANGE: In September of 1999, EPA promulgated regulations to control emissions of hazardous air pollutants from incinerators, cement kilns, and lightweight aggregate kilns that burn hazardous wastes. Portions of the rule were challenged and subsequently vacated by the U.S. Court of Appeals for the District of Columbia Circuit. This rule change temporarily amends the rule for hazardous air pollutant standards for combustors until final standards are promulgated.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 19-6-105 and 19-6-106; and 40 CFR 271.21(e)

THIS RULE OR CHANGE INCORPORATES BY REFERENCE THE FOLLOWING MATERIAL: 40 CFR 270.42, 2002 ed.

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: Since the changes in the rule do not affect State entities and the enforcement of the rule will not change, there will be no cost or saving impact.

❖ LOCAL GOVERNMENTS: Since the changes in the rule do not affect local government and the enforcement of the rule will not change, there will be no cost or saving impact.

❖ OTHER PERSONS: The compliance costs for affected persons will not change since the rule change implements current statutory and regulatory requirements.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The compliance costs for affected persons will not change since the rule change implements current statutory and regulatory requirements.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The proposed changes in this rule will have no fiscal impact on businesses beyond the current statutory and regulatory impact. Dianne R. Nielson, Ph.D.

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

ENVIRONMENTAL QUALITY
SOLID AND HAZARDOUS WASTE
288 N 1460 W
SALT LAKE CITY UT 84116-3231, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Susan Toronto at the above address, by phone at 801-538-6776, by FAX at 801-538-6715, or by Internet E-mail at storonto@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 08/01/2003.

THIS RULE MAY BECOME EFFECTIVE ON: 08/15/2003

AUTHORIZED BY: Dennis Downs, Director

R315. Environmental Quality, Solid and Hazardous Waste.
R315-3. Application and Permit Procedures for Hazardous Waste Treatment, Storage, and Disposal Facilities.
R315-3-2. Permit Application.

2.1 GENERAL APPLICATION REQUIREMENTS

(a) Permit Application. Any person who is required to have a permit, including new applicants and persons with expiring permits, shall complete, sign and submit, a minimum of two applications to the Executive Secretary as described in R315-3-2.1 and R315-3.7. Persons currently authorized with interim status shall apply for permits when required by the Executive Secretary. Persons covered by RCRA permits by rule, R315-3-6.1, need not apply. Procedures for applications, issuance and administration of emergency permits are found exclusively in R315-3-6.2. Procedures for application, issuance and administration of research, development, and demonstration permits are found exclusively in R315-3-6.5.

(b) Who Applies?

When a facility or activity is owned by one person but is operated by another person, it is the operator's duty to obtain a permit, except that the owner shall also sign the permit application.

(c) Completeness.

(1) The Executive Secretary shall not issue a permit before receiving a complete application for a permit except for permit by rule, or emergency permit. An application for a permit is complete when the Executive Secretary receives an application form and any supplemental information which are completed to his satisfaction. An application for a permit is complete notwithstanding the failure of the owner or operator to submit the exposure information described in R315-3-2.1(i). The Executive Secretary may deny a permit for the active life of a hazardous waste management facility or unit before receiving a complete application for a permit.

(2) The Executive Secretary shall review for completeness every permit application. Each permit application submitted by a new hazardous waste management facility, should be reviewed for completeness by the Executive Secretary in accordance with the applicable review periods of 19-6-108. Upon completing the review, the Executive Secretary shall notify the applicant in writing whether the permit application is complete. If the permit application is incomplete, the Executive Secretary shall list the information necessary to make the permit application complete. When the permit application is for an existing hazardous waste management facility, the Executive Secretary shall specify in the notice of deficiency a date for submitting the necessary information. The Executive Secretary shall review information submitted in response to a notice of deficiency within 30 days after receipt. The Executive Secretary shall notify the applicant that the permit application is complete upon receiving this information. After the permit application is complete, the Executive Secretary may request additional information from an applicant but only when necessary to clarify, modify, or supplement previously submitted material.

(3) If an applicant fails or refuses to correct deficiencies in the permit application, the permit application may be denied and appropriate enforcement actions may be taken under the applicable provisions of the Utah Solid and Hazardous Waste Act.

(d) Existing Hazardous Waste Management Facilities and Interim Status Qualifications.

(1) Owners and operators of existing hazardous waste management facilities shall submit part A of their permit application to the Executive Secretary no later than:

(i) Six months after the date of publication of rules which first require them to comply with the standards set forth in R315-7 or R315-14, or

(ii) Thirty days after the date they first become subject to the standards set forth in R315-7 or R315-14, whichever first occurs.

(iii) For generators generating greater than 100 kilograms of hazardous waste in a calendar month and treats, stores, or disposes of these wastes on-site, by March 24, 1987

For facilities which had to comply with R315-7 because they handle a waste listed in EPA's May 19, 1980, Part 261 regulations, 45 FR 33006 et seq., the deadline for submitting an application was November 19, 1980. Where other existing facilities shall begin complying with R315-7 or R315-14 at a later date because of revisions to R315-1, R315-2, R315-7, or R315-14, the Executive Secretary will specify when those facilities shall submit a permit application.

(2) The Executive Secretary may extend the date by which owners and operators of specified classes of existing hazardous waste management facilities shall submit Part A of their permit application if he finds that there has been substantial confusion as to whether the owners and operators of such facilities were required to file a permit application and such confusion is attributed to ambiguities in R315-1, R315-2, R315-7 or R315-14 of the regulations.

(3) The Executive Secretary may by compliance order issued under 19-6-112 and 19-6-113 extend the date by which the owner and operator of an existing hazardous waste management facility must submit part A of their permit application.

(4) The owner or operator of an existing hazardous waste management facility may be required to submit part B of the permit application. Any owner or operator shall be allowed at least six months from the date of request to submit part B of the application. Any owner or operator of an existing hazardous waste management facility may voluntarily submit part B of the application at any time. Notwithstanding the above, any owner or operator of an existing hazardous waste management facility shall submit a part B application in accordance with the dates specified in R315-3-7.4. Any owner or operator of a land disposal facility in existence on the effective date of statutory or regulatory amendments under R315 that render the facility subject to the requirement to have a permit, shall submit a part B application in accordance with the dates specified in R315-3-7.4.

(5) Failure to furnish a requested part B application on time, or to furnish in full the information required by the part B application, is grounds for termination of interim status under R315-3-4.4.

(e) New Hazardous Waste Management Facilities.

(1) Except as provided in R315-3-2.1(e)(3), no person shall begin physical construction of a new hazardous waste management facility without having submitted part A and part B of the application and having received a finally effective permit.

(2) An application for a permit for a new hazardous waste management facility, including both part A and part B, may be filed

any time after promulgation of applicable regulations. The application shall be filed with the Regional Administrator if at the time of application the State has not received final authorization for permitting such facility; otherwise it shall be filed with the Executive Secretary. Except as provided in R315-3-2.1(e)(3), all applications shall be submitted at least 180 days before physical construction is expected to commence.

(3) Notwithstanding R315-3-2.1(e)(1), a person may construct a facility for the incineration of polychlorinated biphenyls pursuant to an approval issued by the U.S. EPA Administrator under section (6)(e) of the Toxic Substances Control Act (TSCA), 15 U.S.C. 2601 et seq., and any person owning or operating such a facility may, at any time after construction or operation of the facility has begun, file an application for a permit to incinerate hazardous waste authorizing the facility to incinerate waste identified or listed in these rules.

(f) Updating permit applications.

(1) If any owner or operator of a hazardous waste management facility has filed part A of a permit application and has not yet filed part B, the owner or operator shall file an amended part A application:

(i) With the Executive Secretary, within six months after the promulgation of revised regulations under 40 CFR 261 listing or identifying additional hazardous wastes, if the facility is treating, storing or disposing of any of those newly listed or identified wastes.

(ii) With the Executive Secretary no later than the effective date of regulatory provisions listing or designating wastes as hazardous in the State in addition to those listed or designated under the previously approved State program, if the facility is treating, storing, or disposing of any of those newly listed or designated wastes; or

(iii) As necessary to comply with changes during interim status, R315-3-7.3. Revised part A applications necessary to comply with the provisions of interim status shall be filed with the Executive Secretary.

(2) The owner or operator of a facility who fails to comply with the updating requirements of R315-3-2.1(f)(1) does not receive interim status as to the wastes not covered by duly filed part A applications.

(g) Reapplications. Any hazardous waste management facility with an effective permit shall submit a new application at least 180 days before the expiration date of the effective permit, unless permission for a later date has been granted by the Executive Secretary. The Executive Secretary shall not grant permission for applications to be submitted later than the expiration date of the existing permit.

(h) Recordkeeping.

Applicants shall keep records of all data used to complete permit application and any supplemental information submitted under R315-3-2.4 through R315-3-2.12, for a period of at least three years from the date the application is signed.

(i) Exposure information.

(1) Any part B permit application submitted by an owner or operator of a facility that stores, treats, or disposes of hazardous waste in a surface impoundment or a landfill shall be accompanied by information, reasonably ascertainable by the owner or operator, on the potential for the public to be exposed to hazardous wastes or hazardous constituents through releases related to the unit. At a minimum, the information shall address:

(i) Reasonably foreseeable potential releases from both normal operations and accidents at the unit, including releases associated with transportation to or from the unit;

(ii) The potential pathways of human exposure to hazardous wastes or constituents resulting from the releases described under R315-3-2.1(i)(1)(i); and

(iii) The potential magnitude and nature of the human exposure resulting from such releases.

(2) Owners and operators of a landfill or a surface impoundment who have already submitted a part B application shall submit the exposure information required in R315-3-2.1(i)(1).

(j) The Executive Secretary may require a permittee or an applicant to submit information in order to establish permit conditions under R315-3-3.3(b)(2), and R315-3-5.1(d).

2.2 SIGNATORIES TO PERMIT APPLICATIONS AND REPORTS

(a) Applications. All permit applications shall be signed as follows:

(1) For a corporation: by a principal executive officer of at least the level of vice-president;

(2) For a partnership or sole proprietorship: by a general partner or the proprietor, respectively; or

(3) For a municipality, State, Federal, or other public agency; by either a principal executive officer or ranking elected official.

(b) Reports. All reports required by permits and other information requested by the Executive Secretary shall be signed by a person described in R315-3-2.2(a), or by a duly authorized representative of that person. A person is a duly authorized representative only if:

(1) The authorization is made in writing by a person described in R315-3-2.2(a);

(2) The authorization specified either an individual or a position having responsibility for overall operation of the regulated facility or activity, such as the position of plant manager, operator of a well or a well field, superintendent, or position of equivalent responsibility. A duly authorized representative may thus be either a named individual or any individual occupying a named position; and

(3) The written authorization is submitted to the Executive Secretary.

(c) Changes to authorization. If an authorization under R315-3-2.2(b) is no longer accurate because different individual or position has responsibility for the overall operation of the facility, a new authorization satisfying the requirements of R315-3-2.2(b) shall be submitted to the Executive Secretary prior to or together with any reports, information, or applications to be signed by an authorized representative.

(d)(1) Certification. Any person signing a document under R315-3-2.2(a) or (b) shall make the following certification:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

(2) For remedial action plans (RAPs) under R315-3-8, which incorporates by reference 40 CFR 270, subpart H, if the operator certifies according to R315-3-2.2(d)(1), then the owner may choose to make the following certification instead of the certification in R315-3-2.2(d)(1):

"Based on my knowledge of the conditions of the property described in the RAP and my inquiry of the person or persons who manage the system referenced in the operator's certification, or those persons directly responsible for gathering the information, the information submitted is, upon information and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

2.4 CONTENTS OF PART A OF THE PERMIT APPLICATION

All applicants shall provide the following information to the Executive Secretary:

(a) The activities conducted by the applicant which require it to obtain a hazardous waste operation permit.

(b) Name, mailing address, and location of the facility for which the application is submitted.

(c) Up to four SIC codes which best reflect the principal products or services provided by the facility.

(d) The operator's name, address, telephone number, ownership status, and status as Federal, State, private, public, or other entity.

(e) The name, address, and telephone number of the owner of the facility.

(f) Whether the facility is located on Indian lands.

(g) An indication of whether the facility is new or existing and whether it is a first or revised application.

(h) For existing facilities, (1) a scale drawing of the facility showing the location of all past, present, and future treatment, storage, and disposal areas; and (2) photographs of the facility clearly delineating all existing structures; existing treatment, storage, and disposal areas; and sites of future treatment, storage, and disposal areas.

(i) A description of the processes to be used for treating, storing, or disposing of hazardous waste, and the design capacity of these items.

(j) A specification of the hazardous wastes or hazardous waste mixtures listed or designated under R315-2 to be treated, stored, or disposed at the facility, an estimate of the quantity of these wastes to be treated, stored, or disposed annually, and a general description of the processes to be used for these wastes.

(k) A listing of all permits or construction approvals received or applied for under any of the following programs:

(1) Hazardous Waste Management program under the Utah Solid and Hazardous Waste Act or RCRA.

(2) Underground Injection Control (UIC) program under Safe Drinking Water Act (SDWA), 42 U.S.C. 300f et seq.

(3) NPDES program under Clean Water Act (CWA), 33 U.S.C. 1251 et seq.

(4) Prevention of Significant Deterioration (PSD) program under the Clean Air Act, 42 U.S.C. 7401 et seq.

(5) Nonattainment program under the Clean Air Act.

(6) National Emission Standards for Hazardous Pollutants (NESHAPS) preconstruction approval under the Clean Air Act.

(7) Dredge or fill permits under section 404 of the Clean Water Act.

(8) Other relevant environmental permits, including State and Federal permits or permits.

(l) A topographic map, or other map if a topographic map is unavailable, extending one mile beyond the property boundaries of the source, depicting the facility and each of its intake and discharge structures; each of its hazardous waste treatment, storage, or disposal facilities; each well where fluids from the facility are injected underground; and those wells, springs, other surface water bodies, and drinking water wells listed in public records or otherwise known to the applicant within 1/4 mile of the facility property boundary.

(m) A brief description of the nature of the business.

(n) For hazardous debris, a description of the debris category(ies) and contaminant category(ies) to be treated, stored, or disposed of at the facility.

(o) The legal description of the facility with reference to the land survey of the State of Utah.

2.5 GENERAL INFORMATION REQUIREMENTS FOR PART B

(a) Part B information requirements presented below reflect the standards promulgated in R315-8. These information requirements are necessary in order for the Executive Secretary to determine compliance with the standards of R315-8. If owners and operators of hazardous waste management facilities can demonstrate that the information prescribed in part B cannot be provided to the extent required, the Executive Secretary may make allowance for submission of the information on a case-by-case basis. Information required in part B shall be submitted to the Executive Secretary and signed in accordance with requirements in R315-3-2.2. Certain technical data, such as design drawings and specifications, and engineering studies shall be certified by a registered professional engineer. For post-closure permits, only the information specified in R315-3-2.19 is required in part B of the permit application.

(b) General information requirements. The following information is required for all hazardous waste management facilities, except as R315-8-1 provides otherwise:

(1) A general description of the facility,

(2) Chemical and physical analyses of the hazardous wastes and hazardous debris to be handled at the facility. At a minimum, these analyses shall contain all the information which must be known to treat, store, or dispose of the wastes properly in accordance with R315-8.

(3) A copy of the waste analysis plan required by R315-8-2.4, which incorporates by reference 40 CFR 264.13 (b) and, if applicable 40 CFR 264.13(c).

(4) A description of the security procedures and equipment required by R315-8-2.5, or a justification demonstrating the reasons for requesting a waiver of this requirement.

(5) A copy of the general inspection schedule required by R315-8-2.6(b). Include, where applicable, as part of the inspection schedule, specific requirements in R315-8-9.5, R315-8-10, which incorporates by reference the specific provisions of 40 CFR 264.193(i) and 264.195, R315-8-11.3, R315-8-12.3, R315-8-13.4, R315-8-14.3, and R315-8-16, which incorporates by reference 40 CFR 264.602, R315-8-17, which incorporates by reference 40 CFR 264.1033, R315-8-18, which incorporates by reference 40 CFR 264.1052, 264.1053, and 264.1058, and R315-8-22, which incorporates by reference 40 CFR 264.1084, 264.1085, 264.1086, and 264.1088.

(6) A justification of any request for a waiver(s) of the preparedness and prevention requirements of R315-8-3.

(7) A copy of the contingency plan required by R315-8-4. Include, where applicable, as part of the contingency plan, specific requirements in R315-8-11.8 and R315-8-10, which incorporates by reference 40 CFR 264.200.

(8) A description of procedures, structures, or equipment used at the facility to:

(i) Prevent hazards in unloading operations, for example, ramps, special forklifts;

(ii) Prevent run-off from hazardous waste handling areas to other areas of the facility or environment, or to prevent flooding, for example, berms, dikes, trenches;

(iii) Prevent contamination of water supplies;

(iv) Mitigate effects of equipment failure and power outages;

(v) Prevent undue exposure of personnel to hazardous waste, for example, protective clothing; and

(vi) Prevent releases to the atmosphere.

(9) A description of precautions to prevent accidental ignition or reaction of ignitable, reactive, or incompatible wastes as required to demonstrate compliance with R315-8-2.8 including documentation demonstrating compliance with R315-8-2.8(c).

(10) Traffic pattern, estimated volume, number, types of vehicles and control, for example, show turns across traffic lanes, and stacking lanes, if appropriate; describe access road surfacing and load bearing capacity; show traffic control signals.

(11) Facility location information:

(i) In order to determine the applicability of the seismic standard R315-8-2.9(a), the owner or operator of a new facility shall identify the political jurisdiction, e.g., county, township, or election district, in which the facility is proposed to be located. If the county or election district is not listed in R315-50-11, no further information is required to demonstrate compliance with R315-8-2.9(a).

(ii) If the facility is proposed to be located in an area listed in R315-50-11, the owner or operator shall demonstrate compliance with the seismic standard. This demonstration may be made using either published geologic data or data obtained from field investigations carried out by the applicant. The information provided shall be of a quality to be acceptable to geologists experienced in identifying and evaluating seismic activity. The information submitted shall show that either:

(A) No faults which have had displacement in Holocene time are present, or no lineations which suggest the presence of a fault, which have displacement in Holocene time, within 3,000 feet of a facility are present, based on data from:

(I) Published geologic studies,

(II) Aerial reconnaissance of the area within a five mile radius from the facility,

(III) An analysis of aerial photographs covering a 3,000 foot radius of the facility, and

(IV) If needed to clarify the above data, a reconnaissance based on walking portions of the area within 3,000 feet of the facility, or

(B) If faults, to include lineations, which have had displacement in Holocene time are present within 3,000 feet of a facility, no faults pass within 200 feet of the portions of the facility where treatment, storage, or disposal of hazardous waste will be conducted, based on data from a comprehensive geologic analysis of the site. Unless a site analysis is otherwise conclusive concerning the absence of faults within 200 feet of the portions of the facility, data shall be obtained from a subsurface exploration, trenching, of the area within a distance no less than 200 feet from portions of the facility where treatment, storage, or disposal of hazardous waste will be conducted. The trenching shall be performed in a direction that is perpendicular to known faults, which have had displacement in Holocene time, passing within 3,000 feet of the portions of the facility where treatment, storage, and disposal of hazardous waste will be conducted. The investigation shall document with supporting maps and other analyses, the location of any faults found. The Guidance Manual for the Location Standards provides greater detail on the content of each type of seismic investigation and the appropriate conditions under which each approach or a combination of approaches would be used.

(iii) Owners and operators of all facilities shall provide an identification of whether the facility is located within a 100-year floodplain. This identification shall indicate the source of data for the determination and include a copy of the relevant Federal Insurance Administration (FIA) flood map, if used, or the calculations and maps used where an FIA map is not available. Information shall also be provided identifying the 100-year flood level and any other special flooding factors, e.g., wave action, which shall be considered in designing, constructing, operating, or maintaining the facility to withstand washout from a 100-year flood.

Where maps for the National Flood Insurance Program produced by the Federal Insurance Administration (FIA) of the Federal Emergency Management Agency are available, they will normally be determinative of whether a facility is located within or outside of the 100-year floodplain. However, where the FIA map excludes an area, usually areas of the floodplain less than 200 feet in width, these areas shall be considered and a determination made as to whether they are in the 100-year floodplain. Where FIA maps are not available for a proposed facility location, the owner or operator shall use equivalent mapping techniques to determine whether the facility is within the 100-year floodplain, and if so located, what the 100-year flood elevation would be.

(iv) Owners and operators of facilities located in the 100-year floodplain shall provide the following information:

(A) Engineering analysis to indicate the various hydrodynamic and hydrostatic forces expected to result at the site as a consequence of a 100-year flood.

(B) Structural or other engineering studies showing the design of operational units, e.g., tanks, incinerators, and flood protection devices, e.g., floodwalls, dikes, at the facility and how these will prevent washout.

(C) If applicable, and in lieu of R315-3-2.5(b)(11)(iv)(A) and (B), a detailed description of procedures to be followed to remove hazardous waste to safety before the facility is flooded, including:

(I) Timing of the movement relative to flood levels, including estimated time to move the waste, to show that the movement can be completed before floodwaters reach the facility.

(II) A description of the location(s) to which the waste will be moved and demonstration that those facilities will be eligible to receive hazardous waste in accordance with the rules under R315-3, R315-7, R315-8, and R315-14.

(III) The planned procedures, equipment, and personnel to be used and the means to ensure that the resources will be available in time for use.

(IV) The potential for accidental discharges of the waste during movement.

(v) Existing facilities NOT in compliance with R315-8-2.9(b) shall provide a plan showing how the facility will be brought into compliance and a schedule for compliance.

(12) An outline of both the introductory and continuing training programs by owners or operators to prepare persons to operate or maintain the hazardous waste management facility in a safe manner as required to demonstrate compliance with R315-8-2.7. A brief description of how training will be designed to meet actual job tasks in accordance with requirements in R315-8-2.7(a)(3).

(13) A copy of the closure plan and where applicable, the post-closure plan required by R315-8-7 which incorporates by reference 40 CFR 264.112, and 264.118, and R315-8-10 which incorporates by reference 40 CFR 264.197. Include where applicable as part of the plans specific requirements in R315-8-9.9, R315-8-10, which incorporates by reference 40 CFR 264.197, R315-8-11.5, R315-8-12.6, R315-8-13.8, R315-8-14.5, R315-8-15.8, and R315-8-16, which incorporates by reference 40 CFR 264.601 and 264.603.

(14) For hazardous waste disposal units that have been closed, documentation that notices required under R315-8-7 which incorporates by reference 40 CFR 264.119, have been filed.

(15) The most recent closure cost estimate for the facility prepared in accordance with R315-8-8 which incorporates by reference 40 CFR 264.142, and a copy of the documentation required to demonstrate financial assurance under R315-8-8 which incorporates by reference 40 CFR 264.143. For a new facility, a copy of the required documentation may be submitted 60 days prior to the initial receipt of hazardous wastes, if that is later than the submission of the part B.

(16) Where applicable, the most recent post-closure cost estimate for the facility prepared in accordance with R315-8-8, which incorporates by reference 40 CFR 264.144, plus a copy of the financial assurance mechanism adopted in compliance with R315-8-8.3 documentation required to demonstrate financial assurance under R315-8-8, which incorporates by reference 40 CFR 264.145. For a new facility, a copy of the required documentation may be submitted 60 days prior to the initial receipt of hazardous wastes, if that is later than the submission of the part B.

(17) Where applicable, a copy of the insurance policy or other documentation which comprises compliance with the requirements of R315-8-8, which incorporates by reference 40 CFR 264.147. For a new facility, documentation showing the amount of insurance meeting the specification of R315-8-8, which incorporates by reference 40 CFR 264.147(a), and if applicable 40 CFR 264.147(b), also incorporated by reference in R315-8-8, that the owner or operator plans to have in effect before initial receipt of hazardous waste for treatment, storage, or disposal. A request for a variance in the amount of required coverage, for a new or existing facility, may be submitted as specified in 40 CFR 264.147(c), incorporated by reference in R315-8-8.

(18) Where appropriate, proof of coverage by a financial mechanism as required in R315-8-8, which incorporates by reference 40 CFR 264.149 and 150.

(19) A topographic map showing a distance of 1000 feet around the facility at a scale of 2.5 centimeters, one inch, equal to not more than 61.0 meters, 200 feet. For large hazardous waste management facilities, the Executive Secretary will allow the use of other scales on a case-by-case basis. Contours shall be shown on the map. The contour interval shall be sufficient to clearly show the pattern of surface water flow in the vicinity of and from each operational unit of the facility. For example, contours with an interval of 1.5 meters, five feet, if relief is greater than 6.1 meters, 20 feet, or an interval of 0.6 meters, two feet, if relief is less than 6.1 meters, 20 feet. Owners and operators of hazardous waste management facilities located in mountainous areas should use larger contour intervals to adequately show topographic profiles of facilities. The map shall clearly show the following:

(i) Map scale and date.

(ii) 100-year floodplain area.

(iii) Surface waters including intermittent streams.

(iv) Surrounding land uses, residential, commercial, agricultural, recreational.

(v) A wind rose, i.e., prevailing windspeed and direction.

(vi) Orientation of map, north arrow.

(vii) Legal boundaries of the hazardous waste management facility site.

(viii) Access control, fences, gates.

(ix) Injection and withdrawal wells both on-site and off-site.

(x) Buildings; treatment, storage, or disposal operations; or other structures, recreation areas, run-off control systems, access and internal roads, storm, sanitary, and process sewerage systems, loading and unloading areas, fire control facilities, etc.

(xi) Barriers for drainage or flood control.

(xii) Location of operational units within hazardous waste management facility site, where hazardous waste is, or will be, treated, stored, or disposed, include equipment cleanup areas.

(20) Applicants may be required to submit such information as may be necessary to enable the Executive Secretary and the Board to carry out duties under State laws and Federal laws as specified in 40 CFR 270.3.

(21) For land disposal facilities, if a case-by-case extension has been approved under R315-13, which incorporates by reference 40 CFR 268.5, or a petition has been approved under R315-13, which incorporates by reference 40 CFR 268.6, a copy of the notice of approval for the extension is required.

(22) A summary of the pre-application meeting, along with a list of attendees and their addresses, and copies of any written comment or materials submitted at the meeting, as required under R315-4-2.31(c).

(c) Additional information requirements.

The following additional information regarding protection of groundwater is required from owners or operators of hazardous waste facilities containing a regulated unit except as otherwise provided in R315-8-6.1(b).

(1) A summary of the groundwater monitoring data obtained during the interim status period under R315-7-13 where applicable.

(2) Identification of the uppermost aquifer and aquifers hydraulically interconnected beneath the facility property, including groundwater flow direction and rate, and the basis for the identification, i.e., the information obtained from hydrogeologic investigations of the facility area.

(3) On the topographic map required under R315-3-2.5(b)(19), a delineation of the waste management area, the property boundary, the proposed "point of compliance" as defined in R315-8-6.6, the proposed location of groundwater monitoring wells as required by R315-8-6.8 and, to the extent possible, the information required in R315-3-2.5(c)(2);

(4) A description of any plume of contamination that has entered the groundwater from a regulated unit at the time that the application is submitted that:

(i) Delineates the extent of the plume on the topographic map required under R315-3-2.5(b)(19);

(ii) Identifies the concentration of each constituent listed in R315-50-14, which incorporates by reference Appendix IX of 40 CFR 264, throughout the plume or identifies the maximum concentrations of each constituent listed in R315-50-14 in the plume.

(5) Detailed plans and an engineering report describing the proposed groundwater monitoring program to be implemented to meet the requirements of R315-8-6.8.

(6) If the presence of hazardous constituents has not been detected in the groundwater at the time of permit application, the owner or operator shall submit sufficient information, supporting data, and analyses to establish a detection monitoring program which meets the requirements of R315-8-6.9. This submission shall address the following items as specified under R315-8-6.9:

(i) A proposed list of indicator parameters, waste constituents, or reaction products that can provide a reliable indication of the presence of hazardous constituents in the groundwater;

(ii) A proposed groundwater monitoring system;

(iii) Background values for each proposed monitoring parameters or constituent, or procedures to calculate the values; and

(iv) A description of proposed sampling, analysis and statistical comparison procedures to be utilized in evaluating groundwater monitoring data.

(7) If the presence of hazardous constituents has been detected in the groundwater at the point of compliance at the time of permit application, the owner or operator shall submit sufficient information, supporting data, and analyses to establish a compliance monitoring program which meets the requirements of R315-8-6.10. Except as provided in R315-8-6.9(g)(5), the owner or operator shall also submit an engineering feasibility plan for a corrective action program necessary to meet the requirements of R315-8-6.11, unless the owner or operator obtains written authorization in advance from the Executive Secretary to submit a proposed permit schedule for submittal of a plan. To demonstrate compliance with R315-8-6.10, the owner or operator shall address the following items:

(i) A description of the wastes previously handled at the facility;

(ii) A characterization of the contaminated groundwater, including concentrations of hazardous constituents;

(iii) A list of hazardous constituents for which compliance monitoring will be undertaken in accordance with R315-8-6.8 and R315-8-6.10;

(iv) Proposed concentration limits for each hazardous constituent, based on the criteria set forth in R315-8-6.5(a) including a justification for establishing any alternate concentration limits;

(v) Detailed plans and an engineering report describing the proposed groundwater monitoring system, in accordance with the requirements of R315-8-6.8, and

(vi) A description of proposed sampling, analysis and statistical comparison procedures to be utilized in evaluating groundwater monitoring data.

(8) If hazardous constituents have been measured in the groundwater which exceed the concentration limits established under R315-8-6.5 Table 1, or if groundwater monitoring conducted at the time of permit application under R315-8-6.1 through R315-8-6.5 at the waste boundary indicates the presence of hazardous constituents from the facility in groundwater over background concentrations, the owner or operator shall submit sufficient information, supporting data, and analyses to establish a corrective action program which meets the requirements of R315-8-6-11. However, an owner or operator is not required to submit information to establish a corrective action program if he demonstrates to the Executive Secretary that alternate concentration limits will protect human health and the environment after considering the criteria listed in R315-8-6.5(b). An owner or operator who is not required to establish a corrective action program for this reason shall instead submit sufficient information to establish a compliance monitoring program which meets the requirements of R315-8-6.10 and R315-3-2.5(c)(6). To demonstrate compliance with R315-8-6.11, the owner or operator shall address, at a minimum, the following items:

(i) A characterization of the contaminated groundwater, including concentration of hazardous constituents;

(ii) The concentration limit for each hazardous constituent found in the groundwater as set forth in R315-8-6.5;

(iii) Detailed plans and engineering report describing the corrective action to be taken; and

(iv) A description of how the groundwater monitoring program will assess the adequacy of the corrective action.

(v) The permit may contain a schedule for submittal of the information required in R315-3-2.5(c)(8)(iii) and (iv) provided the owner or operator obtains written authorization from the Executive Secretary prior to submittal of the complete permit application.

(9) An intended schedule of construction shall be submitted with the permit application and will be incorporated into the permit as an approval condition. Facility permits shall be reviewed by the Executive Secretary no later than 18 months from the date of permit issuance, and periodically thereafter, to determine if a program of continuous construction is proceeding. Failure to maintain a program of continuous construction may result in revocation of the permit.

(d) Information requirements for solid waste management units.

(1) The following information is required for each solid waste management unit at a facility seeking a permit:

(i) The location of the unit on the topographic map required under R315-3-2.5(b)(19);

(ii) Designation of type of unit;

(iii) General dimensions and structural description, supply any available drawings;

(iv) When the unit was operated; and

(v) Specification of all wastes that have been managed at the unit, to the extent available.

(2) The owner or operator of any facility containing one or more solid waste management units shall submit all available information pertaining to any release of hazardous wastes or hazardous constituents from the unit or units.

(3) The owner or operator shall conduct and provide the results of sampling and analysis of groundwater, land surface, and subsurface strata, surface water, or air, which may include the installation of wells, where the Executive Secretary ascertains it is necessary to complete a RCRA Facility Assessment that will determine if a more complete investigation is necessary.

2.6 SPECIFIC PART B INFORMATION REQUIREMENTS FOR CONTAINERS

Facilities that store containers of hazardous waste, except as otherwise provided in R315-8-9.1, shall provide the following additional information:

(a) A description of the containment system to demonstrate compliance with R315-8-9.6. Show at least the following:

(1) Basic design parameters, dimensions, and materials of construction.

(2) How the design promotes drainage or how containers are kept from contact with standing liquids in the containment system.

(3) Capacity of the containment system relative to the number and volume of containers to be stored.

(4) Provisions for preventing or managing run-on.

(5) How accumulated liquids can be analyzed and removed to prevent overflow.

(b) For storage areas that store containers holding wastes that do not contain free liquids, a demonstration of compliance with R315-8-9.6(c) including:

(1) Test procedures and results or other documentation or information to show that the wastes do not contain free liquids; and

(2) A description of how the storage area is designed or operated to drain and remove liquids or how containers are kept from contact with standing liquids.

(c) Sketches, drawings, or data demonstrating compliance with R315-8-9.7, location of buffer zone and containers holding ignitable or reactive wastes, and R315-8-9.8(c), location of incompatible wastes, where applicable.

(d) Where incompatible wastes are stored or otherwise managed in containers, a description of the procedures used to ensure compliance with R315-8-9.8(a) and (b) and R315-8-2.8(b) and (c).

(e) Information on air emission control equipment as required in R315-3-2.18, which incorporates by reference 40 CFR 270.27.

2.7 SPECIFIC PART B INFORMATION REQUIREMENTS FOR TANK SYSTEMS

For facilities that use tanks to store or treat hazardous waste, the requirements of 40 CFR 270.16, 1996 ed., are adopted and incorporated by reference.

2.8 SPECIFIC PART B INFORMATION REQUIREMENTS FOR SURFACE IMPOUNDMENTS

Facilities that store, treat, or dispose of hazardous waste in surface impoundments, except as otherwise provided in R315-8-1.1, shall provide the following additional information:

(a) A list of the hazardous wastes placed or to be placed in each surface impoundment;

(b) Detailed plans and an engineering report describing how the surface impoundment is or will be designed, constructed, operated, and maintained to meet the requirements of R315-8-2.10, R315-8-11.2, R315-8-11.9, R315-8-11.10, addressing the following items:

(1) The liner system, except for an existing portion of a surface impoundment. If an exemption from the requirement for a liner is sought as provided by R315-8-11.2(b), submit detailed plans and engineering and hydrogeologic reports, as appropriate, describing alternate design and operating practices that will, in conjunction with location aspects, prevent the migration of any hazardous constituents into the groundwater or surface water at any future time;

(2) The double liner and leak, leachate, detection, collection, and removal system, if the surface impoundment must meet the requirements of R315-8-11.2(c). If an exemption from the requirements for double liners and a leak detection, collection, and removal system or alternative design is sought as provided by R315-8-11.2(d), (e), or (f), submit appropriate information;

(3) If the leak detection system is located in a saturated zone, submit detailed plans and an engineering report explaining the leak detection system design and operation, and the location of the saturated zone in relation to the leak detection system;

(4) The construction quality assurance, CQA, plan if required under R315-8-2.10;

(5) Proposed action leakage rate, with rationale, if required under R315-8-11.9, and response action plan, if required under R315-8-11.10;

(6) Prevention of overtopping; and

(7) Structural integrity of dikes.

(c) A description of how each surface impoundment, including the double liner, leak detection system, cover system, and appurtenances for control of overtopping, will be inspected in order to meet the requirements of R315-8-11.3(a), (b), and (d). This information should be included in the inspection plan submitted under R315-3-2.5(b)(5);

(d) A certification by a qualified engineer which attests to the structural integrity of each dike, as required under R315-8-11.3(c). For new units, the owner or operator shall submit a statement by a qualified engineer that he will provide a certification upon completion of construction in accordance with the plans and specifications;

(e) A description of the procedure to be used for removing a surface impoundment from service, as required under R315-8-11.4(b) and (c). This information should be included in the contingency plan submitted under R315-3-2.5(b)(7);

(f) A description of how hazardous waste residues and contaminated materials will be removed from the unit at closure, as required under R315-8-11.5(a)(1). For any wastes not to be removed from the unit upon closure, the owner or operator shall submit detailed plans and an engineering report describing how R315-8-11.5(a)(2) and (b) will be complied with. This information should be included in the closure plan, and, where applicable, the post-closure plan submitted under R315-3-2.5(b)(13);

(g) If ignitable or reactive wastes are to be placed in a surface impoundment, an explanation of how R315-8-11.6 will be complied with;

(h) If incompatible wastes, or incompatible wastes and materials will be placed in a surface impoundment, an explanation of how R315-8-11.7 will be complied with.

(i) A waste management plan for EPA Hazardous Waste Nos. F020, F021, F022, F023, F026, and F027 describing how the surface impoundment is or will be designed, constructed, operated, and maintained to meet the requirements of R315-8-11.8. This submission shall address the following items as specified in R315-8-11.8:

(1) The volume, physical, and chemical characteristics of the wastes, including their potential to migrate through soil or to volatilize or escape into the atmosphere;

(2) The attenuative properties of underlying and surrounding soils or other materials;

(3) The mobilizing properties of other materials co-disposed with these wastes; and

(4) The effectiveness of additional treatment, design, or monitoring techniques.

(j) Information on air emission control equipment as required by R315-3-2.18, which incorporates by reference 40 CFR 270.27.

2.9 SPECIFIC PART B INFORMATION REQUIREMENTS FOR WASTE PILES

Facilities that store or treat hazardous waste in waste piles, except as otherwise provided in R315-8-1, shall provide the following additional information:

(a) A list of hazardous wastes placed or to be placed in each waste pile;

(b) If an exemption is sought to R315-8-12.2 and R315-8-6 as provided by R315-8-12.1(c) or R315-8-6(b)(2), an explanation of how the standards of R315-8-12.1(c) will be complied with or detailed plans and an engineering report describing how the requirements of R315-8-6(b)(2) will be met.

(c) Detailed plans and an engineering report describing how the waste pile is or will be designed, constructed, operated and

maintained to meet the requirements of R315-8-2.10, R315-8-12.2, R315-8-12.8, and R315-8-12.9, addressing the following items:

(1)(i) The liner system, except for an existing portion of a waste pile, if the waste pile must meet the requirements of R315-8-12.2(a). If an exemption from the requirement for a liner is sought as provided by R315-8-12.2(b), submit detailed plans, and engineering and hydrogeological reports, as appropriate, describing alternate designs and operating practices that will, in conjunction with location aspects, prevent the migration of any hazardous constituents into the ground water or surface water at any future time;

(ii) The double liner and leak, leachate, detection, collection, and removal system, if the waste pile must meet the requirements of R315-8-12.2(c). If an exemption from the requirements for double liners and a leak detection, collection, and removal system or alternative design is sought as provided by R315-8-12.2(d), (e), or (f), submit appropriate information;

(iii) If the leak detection system is located in a saturated zone, submit detailed plans and an engineering report explaining the leak detection system design and operation, and the location of the saturated zone in relation to the leak detection system;

(iv) The construction quality assurance (CQA) plan if required under R315-8-2.10;

(v) Proposed action leakage rate, with rationale, if required under R315-8-12.8, and response action plan, if required under R315-8-12.9;

(2) Control of run-on;

(3) Control of run-off;

(4) Management of collection and holding units associated with run-on and run-off control systems; and

(5) Control of wind dispersal of particulate matter, where applicable;

(d) A description of how each waste pile, including the double liner system, leachate collection and removal system, leak detection system, cover system, and appurtenances for control of run-on and run-off, will be inspected in order to meet the requirements of R315-8-12.3(a), (b), and (c). This information shall be included in the inspection plan submitted under R315-3-2.5(b)(5);

(e) If treatment is carried out on or in the pile, details of the process and equipment used, and the nature and quality of the residuals;

(f) If ignitable or reactive wastes are to be placed in a waste pile, an explanation of how the requirements of R315-8-12.4 will be complied with;

(g) If incompatible wastes, or incompatible wastes and materials will be placed in a waste pile, an explanation of how R315-8-12.5 will be complied with;

(h) A description of how hazardous waste residues and contaminated materials will be removed from the waste pile at closure, as required under R315-8-12.6(a). For any waste not to be removed from the waste pile upon closure, the owner or operator shall submit detailed plans and an engineering report describing how R315-8-14.5(a) and (b) will be complied with. This information should be included in the closure plan, and, where applicable, the post-closure plan submitted under R315-3-2.5(b)(13);

(i) A waste management plan for EPA Hazardous Waste Nos. F020, F021, F022, F023, F026 and F027 describing how a waste pile that is not enclosed, as defined in R315-8-12.1(c) is or will be designed, constructed, operated, and maintained to meet the requirements of R315-8-12.7. This submission shall address the following items as specified in R315-8-12.7:

(1) The volume, physical, and chemical characteristics of the wastes to be disposed in the waste pile, including their potential to migrate through soil or to volatilize or escape into the atmosphere;

(2) The attenuative properties of underlying and surrounding soils or other materials;

(3) The mobilizing properties of other materials co-disposed with these wastes; and

(4) The effectiveness of additional treatment, design, or monitoring techniques.

2.10 SPECIFIC PART B INFORMATION REQUIREMENTS FOR INCINERATORS

For facilities that incinerate hazardous waste, except as R315-8-15.1 and R315-3-2.10(e) provides otherwise, the applicant shall fulfill the requirements of R315-3-2.10(a), (b), or (c).

(a) When seeking exemption under R315-8-15.1(b) or (c) (ignitable, corrosive or reactive wastes only):

(1) Documentation that the waste is listed as a hazardous waste in R315-2-10 solely because it is ignitable, Hazard Code I, corrosive, Hazard Code C, or both; or

(2) Documentation that the waste is listed as a hazardous waste in R315-2-10 solely because it is reactive, Hazard Code R, for characteristics other than those listed in R315-2-9(f)(1)(iv) and (v), and will not be burned when other hazardous wastes are present in the combustion zone; or

(3) Documentation that the waste is a hazardous waste solely because it possesses the characteristic of ignitability, corrosivity, or both, as determined by the tests for characteristics of hazardous wastes under R315-2-9; or

(4) Documentation that the waste is a hazardous waste solely because it possesses the reactivity characteristics listed in R315-2-9(f)(i), (ii), (iii), (vi), (vii), or (viii) and that it will not be burned when other hazardous wastes are present in the combustion zone; or

(b) Submit a trial burn plan or the results of the trial burn, including all required determinations, in accordance with R315-3-6.3; or

(c) In lieu of a trial burn, the applicant may submit the following information:

(1) An analysis of each waste or mixture of wastes to be burned including:

(i) Heat value of the waste in the form and composition in which it will be burned.

(ii) Viscosity, if applicable, or description of physical form of the waste.

(iii) An identification of any hazardous organic constituents listed in R315-50-10, which incorporates by reference 40 CFR part 261 Appendix VIII, which are present in the waste to be burned, except that the applicant need not analyze for constituents listed in R315-50-10, which incorporates by reference 40 CFR 261 Appendix VIII, which would reasonably not be expected to be found in the waste. The constituents excluded from analysis shall be identified and the basis for their exclusion stated. The waste analysis shall rely on analytical techniques specified in "Test Methods for the Evaluation of Solid Waste, Physical/Chemical Methods," EPA Publication SW-846, as incorporated by reference in 40 CFR 260.11, see R315-1-2, or their equivalent.

(iv) An approximate quantification of the hazardous constituents identified in the waste, within the precision produced by the analytical methods specified in "Test Methods for the Evaluation of Solid Waste, Physical/Chemical Methods," EPA Publication SW-846, as incorporated by reference in 40 CFR 260.11, see R315-1-2.

(v) A quantification of those hazardous constituents in the waste which may be designated as POHC's based on data submitted from other trial or operational burns which demonstrate compliance with the performance standard in R315-8-15.4.

(2) A detailed engineering description of the incinerator, including:

(i) Manufacturer's name and model number of incinerator.

(ii) Type of incinerator.

(iii) Linear dimension of incinerator unit including cross sectional area of combustion chamber.

(iv) Description of auxiliary fuel system, type/feed.

(v) Capacity of prime mover.

(vi) Description of automatic waste feed cutoff system(s).

(vii) Stack gas monitoring and pollution control monitoring system.

(viii) Nozzle and burner design.

(ix) Construction materials.

(x) Location and description of temperature, pressure, and flow indicating devices and control devices.

(3) A description and analysis of the waste to be burned compared with the waste for which data from operational or trial burns are provided to support the contention that a trial burn is not needed. The data should include those items listed in R315-3-2.10(c)(1). This analysis should specify the POHC's which the applicant has identified in the waste for which a permit is sought, and any differences from the POHC's in the waste for which burn data are provided.

(4) The design and operating conditions of the incinerator unit to be used, compared with that for which comparative burn data are available.

(5) A description of the results submitted from any previously conducted trial burn(s) including:

(i) Sampling and analysis techniques used to calculate performance standards in R315-8-15.4.

(ii) Methods and results of monitoring temperatures, waste feed rates, air feed rates, and carbon monoxide, and an appropriate indicator of combustion gas velocity, including a statement concerning the precision and accuracy of this measurement,

(6) The expected incinerator operation information to demonstrate compliance with R315-8-15.4 and R315-8-15.6 including:

(i) Expected carbon monoxide (CO) level in the stack exhaust gas.

(ii) Waste feed rate.

(iii) Combustion zone temperature.

(iv) Indication of combustion gas velocity.

(v) Expected stack gas volume, flow rate, and temperature.

(vi) Computed residence time for waste in the combustion zone.

(vii) Expected hydrochloric acid removal efficiency.

(viii) Expected fugitive emissions and their control procedures.

(ix) Proposed waste feed cut-off limits based on the identified significant operating parameters.

(7) Any supplemental information as the Executive Secretary finds necessary to achieve the purposes of this paragraph.

(8) Waste analysis data, including that submitted in R315-3-2.10(c)(1), sufficient to allow the Executive Secretary to specify as permit Principal Organic Hazardous Constituents (POHC's) those constituents for which destruction and removal efficiencies will be required.

(d) The Executive Secretary shall approve a permit application without a trial burn if he finds that:

(1) The wastes are sufficiently similar; and

(2) The incinerator units are sufficiently similar, and the data from other trial burns are adequate to specify, under R315-8-15.6, operating conditions that will ensure that the performance standards in R315-8-15.4 will be met by the incinerator.

(e) When an owner or operator demonstrates compliance with the air emission standards and limitations in R307-214-2, which incorporates by reference 40 CFR 63, subpart EEE (i.e., by conducting a comprehensive performance test and submitting a Notification of Compliance), the requirements of R315-3-2.10 do not apply, except those provisions the Executive Secretary determines are necessary to ensure compliance with R315-8-15.6(a) and R315-8-15.6(c) if you elect to comply with R315-3-9(a)(1)(i) to minimize emissions of toxic compounds from startup, shutdown, and malfunction events. Nevertheless, the Executive Secretary may apply the provisions of R315-3-2.10, on a case-by-case basis, for purposes of information collection in accordance with R315-3-2.1(j) and R315-3-3.3(b)(2).

2.11 SPECIFIC PART B INFORMATION REQUIREMENTS FOR LAND TREATMENT FACILITIES

Facilities that use land treatment to dispose of hazardous waste, except as otherwise provided in R315-8-1.1, shall provide the following additional information:

(a) A description of plans to conduct a treatment demonstration as required under R315-8-13.3. The description shall include the following information:

(1) The wastes for which the demonstration will be made and the potential hazardous constituents in the wastes;

(2) The data sources to be used to make the demonstration, e.g., literature, laboratory data, field data, or operating data;

(3) Any specific laboratory or field test that will be conducted, including:

(i) The type of test, e.g., column leaching, degradation;

(ii) Materials and methods, including analytical procedures;

(iii) Expected time for completion;

(iv) Characteristics of the unit that will be simulated in the demonstration, including treatment zone characteristics, climatic conditions, and operating practices;

(b) A description of a land treatment program, as required under R315-8-13.2. This information shall be submitted with the plans for the treatment demonstration, and updated following the treatment demonstration. The land treatment program shall address the following items:

(1) The wastes to be land treated;

(2) Design measures and operating practices necessary to maximize treatment in accordance with R315-8-13.4(a) including:

(i) Waste application method and rate;

(ii) Measures to control soil pH;

(iii) Enhancement of microbial or chemical reactions;

(iv) Control of moisture content.

(3) Provisions for unsaturated zone monitoring including:

(i) Sampling equipment, procedures and frequency;

(ii) Procedures for selecting sampling locations;

(iii) Analytical procedures;

(iv) Chain of custody control;

(v) Procedures for establishing background values;

(vi) Statistical methods for interpreting results;

(vii) The justification for any hazardous constituents recommended for selection as principal hazardous constituents, in accordance with the criteria for the selection in R315-8-13.6(a);

(4) A list of hazardous constituents reasonably expected to be in, or derived from, the wastes to be land treated based on waste analysis performed pursuant to R315-8-2.4, which incorporates by reference 40 CFR 264.13;

(5) The proposed dimensions of the treatment zone;

(c) A description of how the unit is or will be designed, constructed, operated, and maintained in order to meet the requirements of R315-8-13.4. This submission shall address the following items:

(1) Control of run-on;

(2) Collection and control of run-off;

(3) Minimization of run-off of hazardous constituents from the treatment zone;

(4) Management of collection and holding facilities associated with run-on and run-off control systems;

(5) Periodic inspection of the unit. This information should be included in the inspection plan submitted under R315-3-2.5(b)(5).

(6) Control of wind dispersal of particulate matter, if applicable;

(d) If food-chain crops are to be grown in or on the treatment zone of the land treatment unit, a description of how the demonstration required under R315-8-13.5(a) will be conducted including:

(1) Characteristics of the food-chain crop for which the demonstration will be made;

(2) Characteristics of the waste, treatment zone, and waste application method and rate to be used in the demonstration;

(3) Procedures for crop growth, sample collection, sample analysis, and data evaluation;

(4) Characteristics of the comparison crop including the location and conditions under which it was or will be grown.

(e) If food-chain crops are to be grown, and cadmium is present in the land treated waste, a description of how the requirements of R315-8-13.5(b) will be complied with;

(f) A description of the vegetative cover to be applied to closed portions of the facility, and a plan for maintaining such cover during the post-closure care period, as required under R315-8-13.8(a)(8) and R315-8-13.8(c)(2). This information should be included in the closure plan, and, where applicable, the post-closure care plan submitted under R315-3-2.5(b)(13).

(g) If ignitable or reactive wastes will be placed in or on the treatment zone, an explanation of how the requirements of R315-8-13.9 will be complied with;

(h) If incompatible wastes, or incompatible wastes and materials, will be placed in or on the same treatment zone, an explanation of how R315-8-13.10 will be complied with.

(i) A waste management plan for EPA Hazardous Waste Nos. F020, F021, F022, F023, F026, and F027 describing how a land treatment facility is or will be designed, constructed, operated, and maintained to meet the requirements of R315-8-13.11. This submission shall address the following items as specified in R315-8-13.11:

(1) The volume, physical, and chemical characteristics of the wastes, including their potential to migrate through soil or to volatilize or escape into the atmosphere;

(2) The attenuative properties of underlying and surrounding soils or other materials;

(3) The mobilizing properties of other materials co-disposed with these wastes; and

(4) The effectiveness of additional treatment, design, or monitoring techniques.

2.12 SPECIFIC PART B INFORMATION REQUIREMENTS FOR LANDFILLS

Facilities that dispose of hazardous waste in landfills, except as otherwise provided in R315-8-1.1, shall provide the following additional information:

(a) A list of the hazardous wastes placed or to be placed in each landfill or landfill cell;

(b) Detailed plans and an engineering report describing how the landfill is designed and is or will be constructed, operated, and maintained to comply with the requirements of R315-8-2.10, R315-8-14.2., R315-8-14.3, and R315-8-14.12, addressing the following items:

(1)(i) The liner system, except for an existing portion of a landfill, if the landfill must meet the requirements of R315-8-14.2(a). If an exemption from the requirement for a liner is sought as provided by R315-8-14.2(b), submit detailed plans, and engineering and hydrogeological reports, as appropriate, describing alternate designs and operating practices that will, in conjunction with location aspects, prevent the migration of any hazardous constituents into the groundwater or surface water at any future time;

(ii) The double liner and leak (leachate) detection, collection, and removal system, if the landfill must meet the requirements of R315-8-14.2(c). If an exemption from the requirements for double liners and a leak detection, collection, and removal system or alternative design is sought as provided by R315-8-14.2(d), (e), or (f), submit appropriate information;

(iii) If the leak detection system is located in a saturated zone, submit detailed plans and an engineering report explaining the leak detection system design and operation, and the location of the saturated zone in relation to the leak detection system;

(iv) The construction quality assurance, CQA, plan if required under R315-8-2.10;

(v) Proposed action leakage rate, with rationale, if required under R315-8-14.12, and response action plan, if required under R315-8-14.3;

(2) Control of run-on;

(3) Control of run-off;

(4) Management of collection and holding facilities associated with run-on and run-off control systems; and

(5) Control of wind dispersal of particulate matter, where applicable.

(c) A description of how each landfill, including the double liner system, leachate collection and removal system, leak detection system, cover system, and appurtenances for control of run-on and run-off, will be inspected in order to meet the requirements of R315-8-14.3(a), (b), and (c). This information shall be included in the inspection plan submitted under R315-3-2.5(b)(5);

(d) A description of how each landfill, including the liner and cover systems, will be inspected in order to meet the requirements of R315-8-14.3(a) and (b). This information should be included in the inspection plan submitted under R315-3-2.5(b)(5).

(e) Detailed plans and engineering report describing the final cover which will be applied to each landfill or landfill cell at closure in accordance with R315-8-14.5(a), and a description of how each landfill will be maintained and monitored after closure in accordance with R315-8-14.5(b). This information should be included in the closure and post-closure plans submitted under R315-3-2.5(b)(13).

(f) If ignitable or reactive wastes will be landfilled, an explanation of how the requirements of R315-8-14.6 will be complied with;

(g) If incompatible wastes, or incompatible wastes and materials will be landfilled, an explanation of how R315-8-14.7 will be complied with;

(h) If bulk or non-containerized liquid waste or wastes containing free liquids is to be landfilled prior to May 8, 1985, an explanation of how the requirements of R315-8-14.8(a) will be complied with;

(i) If containers of hazardous waste are to be landfilled, an explanation of how the requirements of R315-8-14.9 or R315-8-14.10 as applicable, will be complied with.

(j) A waste management plan for EPA Hazardous Waste Nos. F020, F021, F022, F023, F026, and F027 describing how a landfill is or will be designed, constructed, operated, and maintained to meet the requirements of R315-8-14.11. This submission shall address the following items as specified in R315-8-14.11:

(1) The volume, physical, and chemical characteristics of the wastes, including their potential to migrate through soil or to volatilize or escape into the atmosphere;

(2) The attenuative properties of underlying and surrounding soils or other materials;

(3) The mobilizing properties of other materials co-disposed with these wastes; and

(4) The effectiveness of additional treatment, design, or monitoring techniques.

2.13 SPECIFIC PART B INFORMATION REQUIREMENTS FOR BOILERS AND INDUSTRIAL FURNACES BURNING HAZARDOUS WASTE

For facilities that burn hazardous wastes in boilers and industrial furnaces which R315-14-7 applies, which incorporates by reference 40 CFR subpart H, 266.100 through 266.112, the requirements of 40 CFR 270.22, 200[~~0~~]2 ed., are adopted and incorporated by reference with the following exception:

Substitute "Executive Secretary" for "Director."

2.14 SPECIFIC PART B INFORMATION REQUIREMENTS FOR MISCELLANEOUS UNITS

Facilities that treat, store or dispose of hazardous waste in miscellaneous units except as otherwise provided in R315-8-16, which incorporates by reference 40 CFR 264.600, shall provide the following additional information:

(a) A detailed description of the unit being used or proposed for use, including the following:

(1) Physical characteristics, materials of construction, and dimensions of the unit;

(2) Detailed plans and engineering reports describing how the unit will be located, designed, constructed, operated, maintained, monitored, inspected, and closed to comply with the requirements of R315-8-16, which incorporates by reference 40 CFR 264.601 and 264.602; and

(3) For disposal units, a detailed description of the plans to comply with the post-closure requirements of R315-8-16, which incorporates by reference 40 CFR 264.603.

(b) Detailed hydrologic, geologic, and meteorologic assessments and land-use maps for the region surrounding the site that address and ensure compliance of the unit with each factor in the environmental performance standards of R315-8-16, which incorporates by reference 40 CFR 264.601. If the applicant can demonstrate that he does not violate the environmental performance standards of R315-8-16, which incorporates by reference 40 CFR 264.601 and the Executive Secretary agrees with such demonstration, preliminary hydrologic, geologic, and meteorologic assessments will suffice.

(c) Information on the potential pathways of exposure of humans or environmental receptors to hazardous waste or hazardous constituents and on the potential magnitude and nature of these exposures;

(d) For any treatment unit, a report on a demonstration of the effectiveness of the treatment based on laboratory or field data;

(e) Any additional information determined by the Executive Secretary to be necessary for evaluation of compliance of the unit with the environmental performance standards of R315-8-16, which incorporates by reference 40 CFR 264.601.

2.15 SPECIFIC PART B INFORMATION REQUIREMENTS FOR PROCESS VENTS

For facilities that have process vents to which R315-8-17 applies, which incorporates by reference 40 CFR subpart AA of 264, the requirements of 40 CFR 270.24, 1991 ed., regarding information requirements for process vents are adopted and incorporated by reference with the following exception:

Substitute "Executive Secretary" for "Regional Administrator."

2.16 SPECIFIC PART B INFORMATION REQUIREMENTS FOR EQUIPMENT

For facilities that have equipment to which R315-8-18 applies, which incorporates by reference 40 CFR subpart BB of 264, the requirements of 40 CFR 270.25, 1991 ed., regarding information requirements for equipment are adopted and incorporated by reference with the following exception:

Substitute "Executive Secretary" for "Regional Administrator."

2.17 SPECIFIC PART B INFORMATION REQUIREMENTS FOR DRIP PADS

For facilities that have drip pads to which R315-8-19 applies, which incorporates by reference 40 CFR subpart W, 264.570 through 264.575, the requirements of 40 CFR 270.26, 1991 ed., are adopted and incorporated by reference with the following exception:

Substitute "Executive Secretary" for "Director."

2.18 SPECIFIC PART B INFORMATION REQUIREMENTS FOR AIR EMISSION CONTROLS FOR TANKS, SURFACE IMPOUNDMENTS, AND CONTAINERS

The requirements as found in 40 CFR 270.27 1996 ed., as amended by 61 FR 59931, November 25, 1996, are adopted and incorporated by reference.

2.19 PART B INFORMATION REQUIREMENTS FOR POST-CLOSURE PERMITS

For post-closure permits, the owner or operator is required to submit only the information specified in R315-3-2.5(b)(1), (4), (5), (6), (11), (13), (14), (16), (18), (19), and R315-3-2.5(c) and (d), unless the Executive Secretary determines that additional information from R315-3-2.5, R315-3-2.7, which incorporates by reference 40 CFR 270.16, R315-3-2.8, R315-3-2.9, R315-3-2.11, or R315-3-2.12 is necessary. The owner or operator is required to submit the same information when an alternative authority is used in lieu of a post-closure permit as provided in R315-3-1.3(e)(7).

2.20 PERMIT DENIAL

The Executive Secretary may, pursuant to the procedures in R315-4, deny the permit application either in its entirety or as to the active life of a hazardous waste management facility or unit only.

R315-3-4. Changes to Permit.

4.1 TRANSFER OF PERMITS

(a) A permit may be transferred by the permittee to a new owner or operator only if the permit has been modified or revoked and reissued under R315-3-4.1(b) or R315-3-4.2(b)(2) to identify the new permittee and incorporate such other requirements as may be necessary under the appropriate Act.

(b) Changes in the ownership or operational control of a facility may be made as a Class 1 modification with prior written approval of the Executive Secretary in accordance with R315-3-4.3, which incorporates by reference 40 CFR 270.42. The new owner or operator shall submit a revised permit application no later than 90 days prior to the scheduled change. A written agreement containing a specific date for transfer of permit responsibility between the current and new permittees shall also be submitted to the Executive Secretary. When a transfer of ownership or operational control occurs, the old owner or operator shall comply with the requirements of R315-8-8, which incorporates by reference 40 CFR 264, subpart H, until the new owner or operator has demonstrated that he is complying with the requirements of that subpart. The new owner or operator shall demonstrate compliance with R315-8-8, which incorporates by reference 40 CFR 264, subpart H requirements within six months of the date of the change of ownership or operational control of the facility. Upon demonstration to the Executive Secretary by the new owner or operator of compliance with R315-8-8, which incorporates by reference 40 CFR 264, subpart H, the Executive Secretary shall notify the old owner or operator that he no longer needs to comply with R315-8-8, which incorporates by reference 40 CFR 264, subpart H as of the date of demonstration.

4.2 MODIFICATION OR REVOCATION AND REISSUANCE OF PERMITS

When the Executive Secretary receives any information, for example, inspects the facility, receives information submitted by the permittee as required in the permit see R315-3-3.1, receives a request for modification or revocation and reissuance under R315-4-1.5 or conducts review of the permit file, he may determine whether one or more of the causes listed in R315-3-4.2(a) and (b) for modification or revocation and reissuance or both exist. If cause exists, the Executive Secretary may modify or revoke and reissue the permit accordingly, subject to the limitations of R315-3-4.2(c), and may request an updated application if necessary. When a permit is modified, only the conditions subject to modification are reopened. If a permit is revoked and reissued, the entire permit is reopened and subject to revision and the permit is reissued for a new term. See R315-4-1.5(c)(2). If cause does not exist under this section, the Executive Secretary shall not modify or revoke and reissue the permit, except on request of the permittee. If a permit modification is requested by the permittee, the Executive Secretary shall approve or deny the request according to the procedures of R315-3-4.3, which incorporates by reference 40 CFR 270.42. Otherwise, a draft permit shall be prepared and other procedures in R315-4 followed.

(a) Causes for modification. The following are causes for modification but not revocation and reissuance of permits, and the following may be causes for revocation and reissuance as well as modification under any program when the permittee requests or agrees.

(1) Alterations. There are material and substantial alterations or additions to the approved facility or activity which occurred after permit issuance which justify the application of permit conditions that are different or absent in the existing permit.

(2) Information. The Executive Secretary has received information. Permits may be modified during their terms for this cause only if the information was not available at the time of permit issuance, other than revised rules, guidance, or test methods, and would have justified the application of different permit conditions at the time of issuance.

(3) New statutory requirements or rules. The standards or rules on which the permit was based have been changed by statute, through promulgation of new or amended standards or rules or by judicial decision after the permit was issued.

(4) Compliance schedules. The Executive Secretary determined good cause exists for modification of a compliance schedule, such as an act of God, strike, flood, or materials shortage or other events over which the permittee has little or no control and for which there is no reasonably available remedy.

(5) Notwithstanding any other provision in this section, when a permit for a land disposal facility is reviewed by the Executive Secretary under R315-3-5.1(d), the Executive Secretary shall modify the permit as necessary to assure that the facility continues to comply with the currently applicable requirements in these rules.

(b) Causes for modification or revocation and reissuance. The following are causes to modify, or, alternatively, revoke and reissue a permit;

(1) Cause exists for termination under R315-3-4.4 and the Executive Secretary determines that modification or revocation and reissuance is appropriate.

(2) The Executive Secretary has received notification as required in the permit, see R315-3-3.1(l)(3) of a proposed transfer of the permit.

(c) Facility siting. Suitability of the facility location may not be considered at the time of permit modification or revocation and reissuance unless new information or standards indicate that a threat to human health or the environment exists which was unknown at the time of permit issuance.

4.3 PERMIT MODIFICATION AT THE REQUEST OF THE PERMITTEE

The requirements of 40 CFR 270.42, including Appendix I, 200[~~0~~]2 ed., are adopted and incorporated by reference with the following exception;

substitute "Executive Secretary" for all Federal regulation references made to "Director" or "Administrator";

4.4 TERMINATION OF PERMITS

(a) The following are causes for terminating a permit during its term, or for denying a permit renewal application:

(1) Noncompliance by the permittee with any condition of the permit;

(2) The permittee's failure in the application or during the permit issuance process to disclose fully all relevant facts, or the permittee's misrepresentation of any relevant facts at any time; or

(3) A determination that the permitted activity endangers human health or the environment and can only be regulated to acceptable levels by permit modification or termination.

(b) The Executive Secretary shall follow the applicable procedures in R315-4 in terminating any permit under R315-3-4.4.

R315-3-6. Special Forms of Permits.

6.1 PERMITS BY RULE

Notwithstanding any other provision of R315-3 and R315-4, the following shall be deemed to have an approved hazardous waste permit if the conditions listed are met:

(a) Injection wells. The owner or operator of an injection well disposing of hazardous waste, if the owner or operator:

(1) Has a permit for underground injection issued under State or Federal law.

(2) Complies with the conditions of that permit and the requirements in R317-7, Underground Injection Control Program, for managing hazardous waste in a well.

(3) For UIC permits issued after November 8, 1984:

(i) Complies with R315-8-6.12; and

(ii) Where the UIC well is the only unit at a facility which requires a permit, complies with R315-3-2.5(d).

(b) Publicly owned treatment works. The owner or operator of a POTW which accepts hazardous waste, for treatment if the owner or operator:

(1) Has an NPDES permit;

(2) Complied with the conditions of that permit;

(3) Complies with the following rules;

(i) R315-8-2.2, Identification number;

(ii) R315-8-5.2, Use of manifest system;

(iii) R315-8-5.4, Manifest discrepancies;

(iv) R315-8-5.3, which incorporates by reference 40 CFR 264.73(a) and (b)(1), Operating record;

(v) R315-8-5.6, Biennial report;

(vi) R315-8-5.7, Unmanifested waste report; and

(vii) R315-8-6.12, For NPDES permits issued after November 8, 1984.

(4) If the waste meets all Federal, State, and local pretreatment requirements which would be applicable to the waste if it were being discharged into the POTW through a sewer, pipe, or similar conveyance.

(c) Elementary Neutralization Units and Wastewater Treatment Units, as defined in 40 CFR 270.2, which R315-1-1(d) incorporates by reference.

6.2 EMERGENCY PERMITS

(a) Notwithstanding any other provision of R315-3 or R315-4, in the event the Executive Secretary finds an imminent and substantial endangerment to human health or the environment the Executive Secretary may issue a temporary emergency permit: (1) to a non-permitted facility to allow treatment, storage, or disposal of hazardous waste or (2) to a permitted facility to allow treatment, storage, or disposal of a hazardous waste not covered by an effective permit.

(b) This emergency permit:

(1) May be oral or written. If oral, it shall be followed in five days by a written emergency permit;

(2) Shall not exceed 90 days in duration;

(3) Shall clearly specify the hazardous waste to be received, and the manner and location of their treatment, storage, or disposal;

(4) May be terminated by the Executive Secretary at any time without process if he determines that termination is appropriate to protect human health and the environment;

(5) Shall be accompanied by a public notice published under R315-4-1.10(b) including:

(i) Name and address of the office granting the emergency authorization;

(ii) Name and location of the permitted hazardous waste management facility;

(iii) A brief description of the wastes involved;

(iv) A brief description of the action authorized and reasons for authorizing it; and

(v) Duration of the emergency permit; and

(6) Shall incorporate, to the extent possible and not inconsistent with the emergency situation, all applicable requirements of R315-3,R315-8, and R315-14.

6.3 HAZARDOUS WASTE INCINERATOR PERMITS

When an owner or operator demonstrates compliance with the air emission standards and limitations in R307-214-2, which incorporates by reference 40 CFR 63, subpart EEE (i.e., by conducting a comprehensive performance test and submitting a Notification of Compliance), the requirements of R315-3-6.3 do not apply, except those provisions the Executive Secretary determines are necessary to ensure compliance with R315-8-15.6(a) and R315-8-15.6(c) if you elect to comply with R315-3-9(a)(1)(i) to minimize emissions of toxic compounds from startup, shutdown, and malfunction events. Nevertheless, the Executive Secretary may apply the provisions of R315-3-6.3, on a case-by-case basis, for purposes of information collection in accordance with R315-3-2.1(j) and R315-3-3.3(b)(2).

(a) For the purposes of determining operational readiness following completion of physical construction, the Executive Secretary shall establish permit conditions, including but not limited to allowable waste feeds and operating conditions, in the permit to a new hazardous waste incinerator. These permit conditions will be effective for the minimum time required to bring the incinerator to a point of operational readiness sufficient to conduct a trial burn, not to exceed 720 hours operating time for treatment of hazardous waste. The Executive Secretary may extend the duration of this operational period once, for up to 720 additional hours, at the request of the applicant when good cause is shown. The permit may be modified to reflect the extension according to R315-3-4.3, which incorporates by reference 40 CFR 270.42.

(1) Applicants shall submit a statement, with part B of the permit application, which suggests the conditions necessary to operate in compliance with the performance standards of R315-8-15.4 during this period. This statement should include, at a minimum, restrictions on waste constituents, waste feed rates and the operating parameters identified in R315-8-15.6.

(2) The Executive Secretary will review this statement and any other relevant information submitted with part B of the permit and specify requirements for this period sufficient to meet the performance standards of R315-8-15.4 based on its engineering judgment.

(b) For the purpose of determining feasibility of compliance with the performance standards of R315-8-15.4, and of determining adequate operating conditions under R315-8-15.6, the Executive Secretary shall establish conditions in the permit to a new hazardous waste incinerator to be effective during the trial burn.

(1) Applicants shall propose a trial burn plan, prepared under R315-3-6.3(b)(2) with part B of the permit application.

(2) The trial burn plan shall include the following information:

(i) An analysis of each waste or mixture of wastes to be burned which includes:

(A) Heat value of the waste in the form and composition in which it will be burned.

(B) Viscosity, if applicable, or description of physical form of the waste.

(C) An identification of any hazardous organic constituents listed in R315-50-10, which incorporates by reference 40 CFR 261, Appendix VIII, which are present in the waste to be burned, except that the applicant need not analyze for constituents listed in R315-50-10, which incorporates by reference 40 CFR 261, Appendix VIII, which would reasonably not be expected to be found in the waste.

The constituents excluded from analysis shall be identified, and the basis for their exclusion stated. The waste analysis shall rely on analytical techniques specified in "Test Methods for the Evaluation of Solid Waste, Physical/Chemical Methods," EPA Publication SW-846, as incorporated by reference in 40 CFR 260.11 and 270.6, see R315-1-2, or other equivalent.

(D) An approximate quantification of the hazardous constituents identified in the waste, within the precision produced by the analytical methods specified in "Test Methods for the Evaluation of Solid Waste, Physical/Chemical Methods," EPA Publication SW-846, as incorporated by reference in 40 CFR 260.11 and 270.6, see R315-1-2, or, their equivalent.

(ii) A detailed engineering description of the incinerator for which the permit is sought including:

(A) Manufacturer's name and model number of incinerator, if available.

(B) Type of incinerator.

(C) Linear dimensions of the incinerator unit including the cross sectional area of combustion chamber.

(D) Description of the auxiliary fuel system type and feed.

(E) Capacity of prime mover.

(F) Description of automatic waste feed cut-off system(s).

(G) Stack gas monitoring and pollution control equipment.

(H) Nozzle and burner design.

(I) Construction materials.

(J) Location and description of temperature, pressure, and flow indicating and control devices.

(iii) A detailed description of sampling and monitoring procedures, including sampling and monitoring locations of the system, the equipment to be used, sampling and monitoring frequency, and planned analytical procedures for sample analysis.

(iv) A detailed test schedule for each waste for which the trial burn is planned including date(s), duration, quantity of waste to be burned, and other factors relevant to the Executive Secretary's decision under R315-3-6.3(b)(5).

(v) A detailed test protocol, including, for each waste identified, the ranges of temperature, waste feed rate, combustion gas velocity, use of auxiliary fuel, and any other relevant parameters that will be varied to affect the destruction and removal efficiency of the incinerator.

(vi) A description of, and planned operating conditions for, any emission control equipment which will be used.

(vii) Procedures for rapidly stopping waste feed, shutting down the incinerator, and controlling emissions in the event of an equipment malfunction.

(viii) All other information as the Executive Secretary reasonably finds necessary to determine whether to approve the trial burn plan in light of the purpose of this paragraph and the criteria in R315-3-6.3(b)(5).

(3) The Executive Secretary, in reviewing the trial burn plan, shall evaluate the sufficiency of the information provided and may require the applicant to supplement this information, if necessary, to achieve the purposes of this paragraph.

(4) Based on the waste analysis data in the trial burn plan, the Executive Secretary will specify as trial Principal Organic Hazardous Constituents (POHCs), those constituents for which destruction and removal efficiencies shall be calculated during the trial burn. These trial POHCs will be specified by the Executive Secretary based on his estimate of the difficulty of incineration of the constituents identified in the waste analysis, their concentration or mass in the waste feed, and, for wastes listed in R315-2-10, the hazardous waste organic constituent or constituents identified in R315-50-9 as the basis for listing.

(5) The Executive Secretary shall approve a trial burn plan if he finds that:

(i) The trial burn is likely to determine whether the incinerator performance standard required by R315-8-15.4 can be met;

(ii) The trial burn itself will not present an imminent hazard to human health or the environment;

(iii) The trial burn will help the Executive Secretary to determine operating requirements to be specified under R315-8-15.6; and

(iv) The information sought in R315-3-6.3(b)(5)(i) and (ii) cannot reasonably be developed through other means.

(6) The Executive Secretary shall send a notice to all persons on the facility mailing list as set forth in R315-4-1.10(c)(1)(iv) and to the appropriate units of State and local government as set forth in R315-4-1.10(c)(1)(v) announcing the scheduled commencement and completion dates for the trial burn. The applicant may not commence the trial burn until after the Executive Secretary has issued such notice.

(i) This notice shall be mailed within a reasonable time period before the scheduled trial burn. An additional notice is not required if the trial burn is delayed due to circumstances beyond the control of the facility or the Division.

(ii) This notice shall contain:

(A) The name and telephone number of the applicant's contact person;

(B) The name and telephone number of the Division;

(C) The location where the approved trial burn plan and any supporting documents can be reviewed and copied; and

(D) An expected time period for commencement and completion of the trial burn.

(7) During each approved trial burn, or as soon after the burn as is practicable, the applicant shall make the following determinations:

(i) A quantitative analysis of the trial POHCs in the waste feed to the incinerator.

(ii) A quantitative analysis of the exhaust gas for the concentration and mass emissions of the trial POHC, oxygen (O_2) and hydrogen chloride (HCl).

(iii) A quantitative analysis of the scrubber water, if any, ash residues, and other residues, for the purpose of estimating the fate of the trial POHCs.

(iv) A computation of destruction and removal efficiency (DRE), in accordance with the DRE formula specified in R315-8-15.4(a).

(v) If the HC1 emission rate exceeds 1.8 kilograms of HC1 per hour (4 pounds per hour), a computation of HC1 removal efficiency in accordance with R315-8-15.4(b).

(vi) A computation of particulate emissions in accordance with R315-8-15.4(c).

(vii) An identification of sources of fugitive emissions and their means of control.

(viii) A measurement of average, maximum, and minimum temperatures and combustion gas velocity.

(ix) A continuous measurement of carbon monoxide (CO) in the exhaust gas.

(x) All other information as the Executive Secretary may specify as necessary to ensure that the trial burn will determine compliance with the performance standards in R315-8-15.4 and to

establish the operating conditions required by R315-8-15.6 as necessary to meet that performance standard.

(8) The applicant shall submit to the Executive Secretary a certification that the trial burn has been carried out in accordance with the approved trial burn plan, and shall submit the results of all the determinations required in R315-3-6.3(b)(7). This submission shall be made within 90 days of completion of the trial burn, or later if approved by the Executive Secretary.

(9) All data collected during any trial burn shall be submitted to the Executive Secretary following the completion of the trial burn.

(10) All submissions required by this paragraph shall be certified on behalf of the applicant by the signature of a person authorized to sign a permit application or a report under R315-3-2.2.

(11) Based on the results of the trial burn, the Executive Secretary shall set the operating requirements in the final permit according to R315-8-15.6. The permit modification shall proceed according to R315-3-4.3, which incorporates by reference 40 CFR 270.42.

(c) For the purpose of allowing operation of a new hazardous waste incinerator following completion of the trial burn and prior to final modification of the permit conditions to reflect the trial burn results, the Executive Secretary may establish permit conditions, including but no limited to allowable waste feeds and operating conditions sufficient to meet the requirements of R315-8-15.6, in the permit to a new hazardous waste incinerator. These permit conditions will be effective for the minimum time required to complete sample analysis, data computation and submission of the trial burn results by the applicant, and modification of the facility permit by the Executive Secretary.

(1) Applicants shall submit a statement, with part B of the permit application, which identifies the conditions necessary to operate in compliance with the performance standards of R315-8-15.4 during this period. This statement should include, at a minimum, restrictions on waste constituents, waste feed rates and the operating parameters identified in R315-8-15.6.

(2) The Executive Secretary will review this statement and any other relevant information submitted with part B of the permit application and specify those requirements for this period most likely to meet the performance standards of R315-8-15.4 based on its engineering judgment.

(d) For the purposes of determining feasibility of compliance with the performance standards of R315-8-15.4 and of determining adequate operating conditions under R315-8-15.6, the applicant for a permit for an existing hazardous waste incinerator shall prepare and submit a trial burn plan and perform a trial burn in accordance with R315-3-2.10(b) and R315-3-6.3(b)(2) through (b)(5) and (b)(7) through (b)(10) or, instead, submit other information as specified in R315-3-2.10(c). The Executive Secretary shall announce his or her intention to approve the trial burn plan in accordance with the timing and distribution requirements of R315-3-6.3(b)(6). The contents of the notice shall include: the name and telephone number of a contact person at the facility; the name and telephone number of a contact office at the Division; the location where the trial burn plan and any supporting documents can be reviewed and copied; and a schedule of the activities that are required prior to permit issuance, including the anticipated time schedule for agency approval of the plan and the time period during which the trial burn would be conducted. Applicants submitting information under R315-3-2.10(a) are exempt from compliance with R315-8-15.4 and R315-8-15.6 and, therefore, are exempt from the requirement to conduct a trial burn. Applicants who submit trial burn plans and receive approval before submission of a permit application shall complete the trial burn and submit the results, specified in R315-3-6.3(b)(7), with part B of the permit application. If completion of this process conflicts with the date set for submission of the part B application, the applicant shall contact the Executive Secretary to establish a later date for submission of the part B application or the trial burn results. Trial burn results shall be submitted prior to issuance of the permit. When the applicant submits a trial burn plan with part B of the permit application, the Executive Secretary will specify a time period prior to permit issuance in which the trial burn shall be conducted and the results submitted.

6.4 PERMITS FOR LAND TREATMENT DEMONSTRATIONS USING FIELD TEST OR LABORATORY ANALYSES

(a) For the purpose of allowing an owner or operator to meet the treatment demonstration requirements of R315-8-13.3, the Executive Secretary may issue a treatment demonstration permit. The permit shall contain only those requirements necessary to meet the standards in R315-8-13.3(c). The permit may be issued either as a treatment or disposal approval covering only the field test or laboratory analyses, or as a two-phase facility approval covering the field tests, or laboratory analyses, and design, construction, operation and maintenance of the land treatment unit.

(1) The Executive Secretary may issue a two-phase facility permit if they find that, based on information submitted in part B of the application, substantial, although incomplete or inconclusive, information already exists upon which to base the issuance of a facility permit.

(2) If the Executive Secretary finds that not enough information exists upon which they can establish permit conditions to attempt to provide for compliance with all the requirements of R315-8-13, he shall issue a treatment demonstration permit covering only the field test or laboratory analyses.

(b) If the Executive Secretary finds that a phased permit may be issued, he will establish, as requirements in the first phases of the facility permit, conditions for conducting the field tests or laboratory analyses. These permit conditions will include design and operating parameters, including the duration of the tests or analyses and, in the case of field tests, the horizontal and vertical dimensions of the treatment zone, monitoring procedures, post-demonstration cleanup activities, and any other conditions which the Executive Secretary finds may be necessary under R315-8-13.3(c). The Executive Secretary will include conditions in the second phase of the facility permit to attempt to meet all R315-8-13 requirements pertaining to unit design, construction, operation, and maintenance. The Executive Secretary will establish these conditions in the second phase of the permit based upon the substantial but incomplete or inconclusive information contained in the part B application.

(1) The first phase of the permit will be effective as provided in R315-4-1.15.

(2) The second phase of the permit will be effective as provided in R315-3-6.4(d).

(c) When the owner or operator who has been issued a two-phase permit has completed the treatment demonstration, he shall submit to the Executive Secretary certification, signed by a person authorized to sign a permit application or report under R315-3-2.2, that the field tests or laboratory analyses have been carried out in accordance with the conditions specified in phase one of the permit for conducting the tests or analyses. The owner or operator shall also submit all data collected during the field tests or laboratory

analyses within 90 days of completion of those tests or analyses unless the Executive Secretary approves a later date.

(d) If the Executive Secretary determines that the results of the field tests or laboratory analyses meet the requirements of R315-8-13.3, he will modify the second phase of the permit to incorporate any requirement necessary for operation of the facility in compliance with R315-8-13, based upon the results of the field tests or laboratory analyses.

(1) This permit modification may proceed under R315-3-4.3, which incorporates by reference 40 CFR 270.42, or otherwise will proceed as a modification under R315-3-4.2(a)(2). If such modifications are necessary, the second phase of the permit will become effective only after those modifications have been made.

(2) If no modification of the second phase of the permit are necessary, the Executive Secretary will give notice of his final decision to the permit applicant and to each person who submitted written comments on the phased permit or who requested notice of final decision on the second phase of the permit. The second phase of the permit then will become effective as specified in R315-4-1.15(b).

6.5 RESEARCH, DEVELOPMENT, AND DEMONSTRATION PERMITS

(a) The Executive Secretary may issue a research, development, and demonstration permit for any hazardous waste treatment facility which proposes to utilize an innovative and experimental hazardous waste treatment technology or process for which permit standards for any experimental activity have not been promulgated under R315-8 and R315-14. Any such permits shall include such terms and conditions as will assure protection of human health and the environment. These permits:

(1) Shall provide for the construction of these facilities as necessary, and for operation of the facility for not longer than one year unless renewed as provided in R315-3-6.5(d), and

(2) Shall provide for the receipt and treatment by the facility of only those types and quantities of hazardous waste which the Executive Secretary deems necessary for purposes of determining the efficiency and performance capabilities of the technology or process and the effects of the technology or process on human health and the environment; and

(3) Shall include all requirements as the Executive Secretary deems necessary to protect human health and the environment, including, but not limited to requirements regarding monitoring, operation, financial responsibility, closure, and remedial action, and all requirements as the Executive Secretary or Board or both deems necessary regarding testing and providing of information to the Executive Secretary with respect to the operation of the facility.

(b) For the purpose of expediting review and issuance of permit under this section, the Executive Secretary may, consistent with the protection of human health and the environment, modify or waive permit application and permit issuance requirements in R315-3 and R315-4 except that there may be no modification or waiver of regulations regarding financial responsibility, including insurance, or of procedures regarding public participation.

(c) The Executive Secretary or Board or both may order an immediate termination of all operations at the facility at any time they determine that termination is necessary to protect human health and the environment.

(d) Any permit issued under this section may be renewed not more than three times. Each renewal shall be for a period of not more than one year.

6.6 PERMITS FOR BOILERS AND INDUSTRIAL FURNACES BURNING HAZARDOUS WASTE

The requirements of 40 CFR 270.66, 200[~~0~~]2 ed., are adopted and incorporated by reference with the following exception:

Substitute "Executive Secretary" for all references made to "Director."

6.7 REMEDIAL ACTION PLANS

Remedial Action Plans (RAPs) are special forms of permits that are regulated under R315-3-8, which incorporates by reference 40 CFR 270, subpart H.

R315-3-9. Integration with Maximum Achievable Control Technology (MACT) Standards.

9.1 OPTIONS FOR INCINERATORS AND CEMENT AND LIGHTWEIGHT AGGREGATE KILNS TO MINIMIZE EMISSIONS FROM STARTUP, SHUTDOWN, AND MALFUNTION EVENTS

(a) Facilities with existing permits. (1) Revisions to permit conditions after documenting compliance with MACT. The owner or operator of a hazardous waste-permitted incinerator, cement kiln, or lightweight aggregate kiln may request that the Executive Secretary address permit conditions that minimize emissions from startup, shutdown, and malfunction events under any of the following options when requesting removal of permit conditions that are no longer applicable according to R315-8-15.1(b)
and R315-14-7, which incorporates by reference 40 CFR 266.100(b):

(i) Retain relevant permit conditions. Under this option, the Executive Secretary will:

(A) Retain permit conditions that address releases during startup, shutdown, and malfunction events, including releases from emergency safety vents, as these events are defined in the facility's startup, shutdown, and malfunction plan required under R307-214-2, which incorporates by reference 40 CFR 63.1206(c)(2); and

(B) Limit applicability of those permit conditions only to when the facility is operating under its startup, shutdown, and malfunction plan.

(ii) Revise relevant permit conditions.

(A) Under this option, the Executive Secretary will:

(1) Identify a subset of relevant existing permit requirements, or develop alternative permit requirements, that ensure emissions of toxic compounds are minimized from startup, shutdown, and malfunction events, including releases from emergency safety vents, based on review of information including the source's startup, shutdown, and malfunction plan, design, and operating history.

(2) Retain or add these permit requirements to the permit to apply only when the facility is operating under its startup, shutdown, and malfunction plan.

(B) Changes that may significantly increase emissions.

(1) You must notify the Executive Secretary in writing of changes to the startup, shutdown, and malfunction plan or changes to the design of the source that may
significantly increase emissions of toxic compounds from startup, shutdown, or malfunction events, including releases from emergency safety vents. You must notify the Executive Secretary of such changes within five days of making such changes. You must identify in the notification recommended revisions to permit conditions necessary as a result of the changes to ensure that emissions of toxic compounds are minimized
during these events.

(2) The Executive Secretary may revise permit conditions as a result of these changes to ensure that emissions of toxic compounds are minimized during startup, shutdown, or malfunction events, including releases from emergency safety vents either:

(i) Upon permit renewal, or, if warranted;

(ii) By modifying the permit under R315-3-4.2(a) or R315-3-4.3, which incorporates by reference 40 CFR 270.42.

(iii) Remove permit conditions. Under this option:

(A) The owner or operator must document that the startup, shutdown, and malfunction plan required under R307-214-2, which incorporates by reference 40 CFR 63.1206(c)(2), has been approved by the Board under R307-214-2, which incorporates by reference 40 CFR 63.1206(c)(2)(ii)(B); and

(B) The Executive Secretary will remove permit conditions that are no longer applicable according to R315-8-15.1(b) and R315-14-7, which incorporates by reference 40 CFR 266.100(b).

(2) Addressing permit conditions upon permit reissuance. The owner or operator of an incinerator, cement kiln, or lightweight aggregate kiln that has conducted a comprehensive performance test and submitted to the Board a Notification of Compliance documenting compliance with the standards of R307-214-2, which incorporates by reference 40 CFR 63, subpart EEE, may request in the application to reissue the permit for the combustion unit that the Executive Secretary control emissions from startup, shutdown, and malfunction events under any of the following options:

(i) RCRA option A.

(A) Under this option, the Executive Secretary will:

(1) Include, in the permit, conditions that ensure compliance with R315-8-15.6(a) and (c) or R315-14-7, which incorporates by reference 40 CFR 266.102(e)(1) and (e)(2)(iii), to minimize emissions of toxic compounds from startup, shutdown, and malfunction events, including releases from emergency safety vents; and

(2) Specify that these permit requirements apply only when the facility is operating under its startup, shutdown, and malfunction plan.; or

(ii) RCRA option B.

(A) Under this option, the Executive Secretary will:

(1) Include, in the permit conditions, that ensure emissions of toxic compounds are minimized from startup, shutdown, and malfunction events, including releases from emergency safety vents, based on review of information including the source's startup, shutdown, and malfunction plan, design, and operating history; and

(2) Specify that these permit requirements apply only when the facility is operating under its startup, shutdown, and malfunction plan.

(B) Changes that may significantly increase emissions.

(1) You must notify the Executive Secretary in writing of changes to the startup, shutdown, and malfunction plan or changes to the design of the source that may
significantly increase emissions of toxic compounds from startup, shutdown, or malfunction events, including releases from emergency safety vents. You must notify the Executive Secretary of such changes within five days of making such changes. You must identify in the notification recommended revisions to permit conditions necessary as a result of the changes to ensure that emissions of toxic compounds are minimized
during these events.

(2) The Executive Secretary may revise permit conditions as a result of these changes to ensure that emissions of toxic compounds are minimized during startup, shutdown, or malfunction events, including releases from emergency safety vents either:

(i) Upon permit renewal, or, if warranted;

(ii) By modifying the permit under R315-3-4.2(a) or R315-3-4.3, which incorporates by reference 40 CFR 270.42; or

(iii) CAA option. Under this option:

(A) The owner or operator must document that the startup, shutdown, and malfunction plan required under R307-214-2, which incorporates by reference 40 CFR 63.1206(c)(2), has been approved by the Board under R307-214-2, which incorporates by reference 40 CFR 63.1206(c)(2)(ii)(B); and

(B) The Executive Secretary will omit from the permit conditions that are not
applicable under R315-8-15.1(b) and R315-14-7, which incorporates by reference 40 CFR 266.100(b).

(b) Interim status facilities.

(1) Interim status operations. In compliance with R315-7-22 and R315-14-7, which incorporates by reference 40 CFR 266.100(b), the owner or operator of an incinerator, cement kiln, or lightweight aggregate kiln that is operating under the interim status standards of R315-7 or R315-14 may control emissions of toxic compounds during startup, shutdown, and malfunction events under either of the following options after conducting a comprehensive performance test and submitting to the Board a Notification of Compliance documenting compliance with the standards of R307-214-2, which incorporates by reference 40 CFR 63, subpart EEE:

(i) RCRA option. Under this option, the owner or operator continues to comply with the interim status emission standards and operating requirements of R315-7 or R315-14 relevant to control of emissions from startup, shutdown, and malfunction events. Those standards and requirements apply only during startup, shutdown, and malfunction events; or

(ii) CAA option. Under this option, the owner or operator is exempt from the interim status standards of R315-7 or R315-14 relevant to control of emissions of toxic compounds during startup, shutdown, and malfunction events upon submission of written notification and documentation to the Executive Secretary that the startup, shutdown, and malfunction plan required under R307-214-2, which incorporates by reference 40 CFR 63.1206(c)(2), has been approved by the Board under R307-214-2, which incorporates by reference 40 CFR 63.1206(c)(2)(ii)(B).

(2) Operations under a subsequent hazardous waste permit. When an owner or
operator of an incinerator, cement kiln, or lightweight aggregate kiln that is operating under the interim status standards of R315-7 or R315-14 submits a hazardous waste permit application, the owner or operator may request that the Executive Secretary control emissions from startup, shutdown, and malfunction events under any of the options provided by R315-3-9(a)(2)(i), (a)(2)(ii), or (a)(2)(iii).

KEY: hazardous waste
[~~July 20, 2001~~|2003
Notice of Continuation October 18, 2001
19-6-105
19-6-106

Environmental Quality, Solid and Hazardous Waste
R315-7-22
Incinerators

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 26374
FILED: 06/13/2003, 09:46

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This amendment adopts the equivalent federal regulations to maintain equivalency with EPA rules and retain authorization.

SUMMARY OF THE RULE OR CHANGE: In September of 1999, EPA promulgated regulations to control emissions of hazardous air pollutants from incinerators, cement kilns, and lightweight aggregate kilns that burn hazardous wastes. Portions of the rule were challenged and subsequently vacated by the U.S. Court of Appeals for the District of Columbia Circuit. This rule change temporarily amends the rule for hazardous air pollutant standards for combustors until final standards are promulgated.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 19-6-105 and 19-6-106; and 40 CFR 271.21(e)

ANTICIPATED COST OR SAVINGS TO:
❖ THE STATE BUDGET: Since the changes in the rule do not affect State entities and the enforcement of the rule will not change, there will be no cost or saving impact.
❖ LOCAL GOVERNMENTS: Since the changes in the rule do not affect local government and the enforcement of the rule will not change, there will be no cost or saving impact.
❖ OTHER PERSONS: The compliance costs for affected persons will not change since the rule change implements current statutory and regulatory requirements.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The compliance costs for affected persons will not change since the rule change implements current statutory and regulatory requirements.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The proposed changes in this rule will have no fiscal impact on businesses beyond the current statutory and regulatory impact. Dianne R. Nielson, Ph.D.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
ENVIRONMENTAL QUALITY
SOLID AND HAZARDOUS WASTE
288 N 1460 W
SALT LAKE CITY UT 84116-3231, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Susan Toronto at the above address, by phone at 801-538-6776, by FAX at 801-538-6715, or by Internet E-mail at storonto@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 08/01/2003.

THIS RULE MAY BECOME EFFECTIVE ON: 08/15/2003

AUTHORIZED BY: Dennis Downs, Director

R315. Environmental Quality, Solid and Hazardous Waste.
R315-7. Interim Status Requirements for Hazardous Waste Treatment, Storage, and Disposal Facilities.
R315-7-22. Incinerators.

22.1 INCINERATORS APPLICABILITY

(a) R315-7-22 applies to owners or operators of facilities that incinerate hazardous waste, except as R315-7-8.1 provides otherwise.

(b) Integration of the MACT standards.

(1) Except as provided by R315-7-22.1(b)(2) and (3), the standards of R315-7 no longer apply when an owner or operator demonstrates compliance with the maximum achievable control technology (MACT) requirements of R307-214-2, which incorporates by reference 40 CFR 63, subpart EEE, by conducting a comprehensive performance test and submitting to the Executive Secretary a Notification of Compliance under R307-214-2, which incorporates by reference 40 CFR 63.1207(j) and 63.1210([~~d~~]b), documenting compliance with the requirements of R307-214-2, which incorporates by reference 40 CFR 63, subpart EEE.

(2) The following requirements continue to apply even where the owner or operator has demonstrated compliance with the MACT requirements of R307-214-2, which incorporates by reference 40 CFR 63, subpart EEE: R315-7-22.5 (closure) and the applicable requirements of R315-7-8 through R315-7-15 , R315-7-27, and R315-7-30.

(3) R315-7-22.2 generally prohibiting burning of hazardous waste during startup and shutdown remains in effect if you elect to comply with R315-3-9(b)(1)(i) to minimize emissions of toxic compounds from startup and shutdown.

(c) Owners and operators of incinerators burning hazardous waste are exempt from all of the requirements of R315-7-22, except R315-7-22.5, Closure, provided that the owner or operator has documented, in writing, that the waste would not reasonably be expected to contain any of the hazardous constituents listed in R315-50-10, which incorporates by reference 40 CFR 261, Appendix VIII, and the documentation is retained at the facility, if the waste to be burned is:

(1) Listed as a hazardous waste in R315-2-10 and R315-2-11, solely because it is ignitable, Hazard Code I, corrosive, Hazard Code C, or both; or

(2) Listed as a hazardous waste in R315-2-10 and R315-2-11, solely because it is reactive, Hazard Code R, for characteristics other than those listed in R315-2-9(b), and will not be burned when other hazardous wastes are present in the combustion zone; or

(3) A hazardous waste solely because it possesses the characteristic of ignitability, corrosivity, or both, as determined by the tests for characteristics of hazardous wastes under R315-2-9, or

(4) A hazardous waste solely because it possesses the reactivity characteristics described by R315-2-9(f)(i), (ii), (iii), (vi), (vii), or (viii), and will not be burned when other hazardous wastes are present in the combustion zone.

22.2 GENERAL OPERATING REQUIREMENTS

During start-up and shut-down of an incinerator, the owner or operator shall not feed hazardous waste unless the incinerator is at steady state, normal, conditions of operation, including steady state operating temperature and air flow.

22.3 WASTE ANALYSIS

In addition to the waste analyses required by R315-7-9.4, which incorporates by reference 40 CFR 265.13, the owner or operator shall sufficiently analyze any waste which he has not previously burned in his incinerator to enable him to establish steady state, normal, operating conditions, including waste and auxiliary fuel feed and air flow, and to determine the type of pollutants which might be emitted. At a minimum, the analysis shall determine:

(a) Heating value of the waste;

(b) Halogen content and sulfur content in the waste; and

(c) Concentrations in the waste of lead and mercury, unless the owner or operator has written, documented data that show that the element is not present.

As required by R315-7-12.4, which incorporates by reference 40 CFR 265.73, the owner or operator shall place the results from each waste analysis, or the documented information, in the operating record of the facility.

22.4 MONITORING AND INSPECTIONS

The owner or operator shall conduct, at a minimum, the following monitoring and inspections when incinerating hazardous waste:

(a) Existing instruments which relate to combustion and emission control shall be monitored at least every 15 minutes. Appropriate corrections to maintain steady state combustion conditions shall be made immediately either automatically or by the operator. Instruments which relate to combustion and emission control would normally include those measuring waste feed, auxiliary fuel feed, air flow, incinerator temperature, scrubber flow, scrubber pH, and relevant level controls.

(b) The complete incinerator and associated equipment, pumps, valves, conveyors, pipes, etc., shall be inspected at least daily for leaks, spills and fugitive emissions, and all emergency shutdown controls and system alarms shall be checked to assure proper operation.

22.5 CLOSURE

At closure, the owner or operator shall remove all hazardous waste and hazardous waste residues, including but not limited to ash, scrubber waters, and scrubber sludges from the incinerator. At closure, as throughout the operating period, unless the owner or operator can demonstrate, in accordance with R315-2-1, that any solid waste removed from his incinerator is not a hazardous waste, the owner or operator becomes a generator of hazardous waste and shall manage it in accordance with all applicable requirements of these rules.

22.6 INTERIM STATUS INCINERATORS BURNING PARTICULAR HAZARDOUS WASTES

(a) Owners or operators of incinerators subject to R315-7-22 may burn EPA Hazardous Wastes F020, F021, F022, F023, F026, or F027 if they receive a certification from the Board that they can meet the performance standards of R315-8-15 when they burn these wastes.

(b) The following standards and procedures will be used in determining whether to certify an incinerator:

(1) The owner of operator will submit an application to the Board containing applicable information in R315-3 demonstrating that the incinerator can meet the performance standards in R315-8-15 when they burn these wastes.

(2) The Board will issue a tentative decision as to whether the incinerator can meet the performance standards in R315-8-15. Notification of this tentative decision will be provided by newspaper advertisement and radio broadcast in the jurisdiction where the incinerator is located. The Board will accept comment on the tentative decision for 60 days. The Board also may hold a public hearing upon request or at their discretion.

(3) After the close of the public comment period, the Board will issue a decision whether or not to certify the incinerator.

KEY: hazardous waste
[~~August 15, 2002~~]2003
Notice of Continuation October 18, 2001
19-6-105
19-6-106

Environmental Quality, Solid and Hazardous Waste
R315-8-15
Incinerators

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 26375
FILED: 06/13/2003, 09:47

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This amendment adopts the equivalent federal regulations to maintain equivalency with EPA rules and retain authorization.

SUMMARY OF THE RULE OR CHANGE: In September of 1999, EPA promulgated regulations to control emissions of hazardous air pollutants from incinerators, cement kilns and lightweight aggregate kilns that burn hazardous wastes. Portions of the rule were challenged and subsequently vacated by the U.S. Court of Appeals for the District of Columbia Circuit. This rule change temporarily amends the rule for hazardous air pollutant standards for combustors until final standards are promulgated. This changes also includes the amendment which makes improvements to the implementation of emission standards.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 19-6-105 and 19-6-106; and 40 CFR 271.21(e)

ANTICIPATED COST OR SAVINGS TO:
❖ THE STATE BUDGET: Since the changes in the rule do not affect State entities and the enforcement of the rule will not change, there will be no cost or saving impact.
❖ LOCAL GOVERNMENTS: Since the changes in the rule do not affect local government and the enforcement of the rule will not change, there will be no cost or saving impact.
❖ OTHER PERSONS: The compliance costs for affected persons will not change since the rule change implements current statutory and regulatory requirements.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The compliance costs for affected persons will not change since the rule change implements current statutory and regulatory requirements.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The proposed changes in this rule will have no fiscal impact on businesses beyond the current statutory and regulatory impact. Dianne R. Nielson, Ph.D.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
ENVIRONMENTAL QUALITY
SOLID AND HAZARDOUS WASTE
288 N 1460 W
SALT LAKE CITY UT 84116-3231, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Susan Toronto at the above address, by phone at 801-538-6776, by FAX at 801-538-6715, or by Internet E-mail at storonto@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 08/01/2003.

THIS RULE MAY BECOME EFFECTIVE ON: 08/15/2003

AUTHORIZED BY: Dennis Downs, Director

R315. Environmental Quality, Solid and Hazardous Waste.
R315-8. Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities.
R315-8-15. Incinerators.

15.1 APPLICABILITY

(a) The rules in this section apply to owners or operators of facilities that incinerate hazardous waste, as defined in 40 CFR 260.10, except as R315-8-1 provides otherwise.

(b) Integration of the MACT standards.

(1) Except as provided by R315-8-15.1(b)(2), (3), and (4) the standards of R315-8 no longer apply when an owner or operator demonstrates compliance with the maximum achievable control technology (MACT) requirements of R307-214-2, which incorporates by reference 40 CFR 63, subpart EEE, by conducting a comprehensive performance test and submitting to the Executive Secretary a Notification of Compliance under R307-214-2, which incorporates by reference 40 CFR 63.1207(j) and 63.1210([~~d~~]b), documenting compliance with the requirements of 307-214-2, which incorporates by reference 40 CFR 63, subpart EEE. Nevertheless, even after this demonstration of compliance with the MACT standards, hazardous waste permit conditions that were based on the standards of R315-8 will continue to be in effect until they are removed from the permit or the permit is terminated or revoked, unless the permit expressly provides otherwise.

(2) The MACT standards do not replace the closure requirements of R315-8-15.8 or the applicable requirements of R315-8-1 through R315-8-8, R315-8-18, which incorporates by reference 40 CFR 264 subpart BB, and R315-8-22, which incorporates by reference 40 CFR 264 subpart CC.

(3) The particulate matter standard of R315-8-15.4(b) remains in effect for incinerators that elect to comply with the alternative to the particulate matter standard of R307-214-2, which incorporates by reference to CFR 63.1206(b)(14).

(4) The following requirements remain in effect for startup, shutdown, and malfunction events if you elect to comply with R315-3-9(a)(1)(i) to minimize emissions of toxic compounds from these events:

(i) R315-8-15.6(a) requiring that an incinerator operate in accordance with operating requirements specified in the permit; and

(ii) R315-8-15.6(c) requiring compliance with the emission standards and operating requirements during startup and shutdown if hazardous waste is in the combustion chamber, except for particular hazardous wastes.

(c) After consideration of the waste analysis included with part B of the permit application, the Executive Secretary, in establishing the permit conditions, shall exempt the applicant from all requirements of this section except R315-8-15.2, Waste Analysis and R315-8-15.8, Closure[~~.~~],

(1) If the Executive Secretary finds that the waste to be burned is:

(i) Listed as a hazardous waste in R315-2-10 or R315-2-11 solely because it is ignitable, Hazard Code I, corrosive Hazard Code C, or both; or

(ii) Listed as a hazardous waste in R315-2-10 or R315-2-11 solely because it is reactive, Hazard Code R, for characteristics other than those listed in R315-2-9(f)(1)(iv) and (v), and will not be burned when other hazardous wastes are present in the combustion zone; or

(iii) A hazardous waste solely because it possesses the characteristics of ignitability, corrosivity, or both, as determined by the test for characteristics of hazardous wastes under R315-2-9, or

(iv) A hazardous waste solely because it possesses any of the reactivity characteristics described by R315-2-9(f)(1)(i), (ii), (iii), (vi), (vii), and (viii) and will not be burned when other hazardous wastes are present in the combustion zone; and

(2) If the waste analysis shows that the waste contains none of the hazardous constituents listed in R315-50-10, which incorporates by reference 40 CFR 261 Appendix VIII, which could reasonably be expected to be in the waste.

(d) If the waste to be burned is one which is described by R315-8-15.1([~~b~~]c)(1)(i), (ii), (iii), or (iv) and contains insignificant concentrations of the hazardous constituents listed in R315-50-10, which incorporates by [~~R~~]reference 40 CFR 261 Appendix VIII, then the Executive Secretary may, in establishing permit conditions, exempt the applicant from all requirements of this section except R315-8-15.2, Waste analysis and R315-8-15.8, Closure, after consideration of the waste analysis included with part B of the

permit application, unless the Executive Secretary finds that the waste will pose a threat to human health and the environment when burned in an incinerator.

(e) The owner or operator of an incinerator may conduct trial burns subject only to the requirements of R315-3-6.3.

15.2 WASTE ANALYSIS

(a) As a portion of the trial burn plan required by R315-3-6.3 or with part B of the permit the owner or operator shall have included an analysis of the waste feed sufficient to provide all information required by R315-3-6.3(b) or R315-3-2.10. Owners or operators of new hazardous waste incinerators shall provide the information required by R315-3-6.3(c) or R315-3-2.10 to the greatest extent possible.

(b) Throughout normal operation the owner or operator shall conduct sufficient waste analysis to verify that waste feed to the incinerator is within the physical and chemical composition limits specified in his permit, R315-8-15.6.

15.3 PRINCIPAL ORGANIC HAZARDOUS CONSTITUENTS (POHCS)

(a) Principal Organic Hazardous Constituents (POHCs) in the waste feed shall be treated to the extent required by the performance standard of R315-8-15.4.

(b)(1) One or more POHCs will be specified in the facility's permit, from among these constituents listed in R315-50-10, which incorporates by reference 40 CFR 261 Appendix VIII, for each waste feed to be burned. This specification will be based on the degree of difficulty of incineration of the organic constituents in the waste and on their concentration or mass in the waste feed, considering the results of waste analyses and trial burns or alternative data submitted with part B of the permit. Organic constituents which represent the greatest degree of difficulty of incineration will be those most likely to be designated as POHCs. Constituents are more likely to be designated as POHCs if they are present in large quantities or concentrations in the waste.

(2) Trial POHCs will be designated for performance of trial burns in accordance with the procedure specified R315-3-6.3 for obtaining trial burn permits.

15.4 PERFORMANCE STANDARDS

An incinerator burning hazardous waste shall be designed, constructed, and maintained so that, when operated in accordance with operating requirements specified under R315-8-15.6, it will meet the following performance standards:

(a)(1) An incinerator burning hazardous waste shall achieve a destruction and removal efficiency (DRE) of 99.99% for each principal organic hazardous constituent (POHC) designated, R315-8-15.3, in its permit for each waste feed. DRE is determined for each POHC from the following equation:

$DRE = (W_{in} - W_{out}) / W_{in} \times 100\%$

Where:

W_{in} = Mass feed rate of one principal organic hazardous constituent (POHC) in the waste stream feeding the incinerator, and

W_{out} = Mass emission rate of the same POHC present in exhaust emissions prior to release to the atmosphere.

(2) An incinerator burning hazardous waste and producing stack emissions of more than 1.8 kilograms per hour, 4 pounds per hour, of hydrogen chloride (HC1) shall control HC1 emissions so that the rate of emission is no greater than the larger of either 1.8 kilograms per hour or one percent of the HC1 in the stack gas prior to entering any pollution control equipment.

(b) An incinerator burning hazardous waste shall not emit particulate matter in excess of 180 milligrams per dry standard cubic meter, 0.08 grains per dry standard cubic foot, when corrected for the amount of oxygen in the stack gas according to the formula:

$P_c = P_m \times 14 / (21-Y)$

When P_c is correct concentration of particulate matter, P_m is the measured concentration of particulate matter, and Y is the measured concentration of oxygen in the stack gas, using the Orsat method for oxygen analysis of dry flue gas, as presented in 40 CFR 60 Appendix A Method 3. This correction procedure is to be used by all hazardous waste incinerators except those operating under conditions of oxygen enrichment. For these facilities, the Executive Secretary will select an appropriate correction procedure, to be specified in the facility permit.

(c) For purposes of permit enforcement, compliance with the operating requirements specified in the permit under R315-8-15.6 will be regarded as compliance with this section. However, evidence that compliance with those permit conditions is insufficient to ensure compliance with the performance requirements of this section may be "information" justifying modification, revocation, or reissuance of a permit under R315-3-4.2.

(d) An incinerator burning hazardous wastes F020, F021, F022, F023, F026, or F027 shall achieve a destruction and removal efficiency (DRE) of 99.9999% for each principal organic hazardous constituent (POHC) designated, under R315-8-15.3, in its permit. This performance shall be demonstrated on POHCs that are more difficult to incinerate than tetra-, penta-, and hexachlorodibenzo-p-dioxins and dibenzofurans. DRE is determined for each POHC from the equation in R315-8-15.4(a)(1). In addition, the owner or operator of the incinerator shall notify the Executive Secretary of his intent to incinerate hazardous wastes F020, F021, F022, F023, F026, or F027.

15.5 HAZARDOUS WASTE INCINERATOR PERMITS

(a) The owner or operator of a hazardous waste incinerator may burn only wastes specified in his permit and only under operating conditions specified for those wastes under 8.15.6., except:

(1) In approved trial burns, R315-3-6.3, or

(2) Under exemptions created by R315-8-15.1.

(b) Other hazardous wastes may be burned after operating conditions have been specified in a new permit or a permit modification, as applicable. Operating requirements for new wastes may be based on either trial burn results or alternative data included with part B of a permit under R315-3-2.10.

(c) The permit for a new hazardous waste incinerator shall establish appropriate conditions for each of the applicable requirements of this section including but not limited to allowable waste feeds and operating conditions necessary to meet the requirements of R315-8-15.6, sufficient to comply with the following standards:

(1) For the period beginning with initial introduction of hazardous waste to the incinerator and ending with initiation of the trial burn, and only for the minimum time required to establish operating conditions required in R315-8-15.5(c)(2), not to exceed a duration of 720 hours operating time for treatment of hazardous waste, the operating requirements shall be those most likely to ensure compliance with the performance standards in R315-8-15.4 based on the Executive Secretary's engineering judgement. The Executive Secretary may extend the duration of this period once for up to 720 additional hours when good cause for the extension is demonstrated by the applicant;

(2) For the duration of the trial burn, the operating requirements shall be sufficient to demonstrate compliance with the

performance standards of R315-8-15.4 and shall be in accordance with the approved trial burn plan;

(3) For the period immediately following completion of the trial burn, and only for the minimum period sufficient to allow sample analysis, data computation, and submission of the trial burn results by the applicant, and review of the trial burn results and modification of the facility permit by the Executive Secretary, the operating requirements shall be those most likely to ensure compliance with the performance standards of R315-8-15.4 based on the Executive Secretary's engineering judgement.

(4) For the remaining duration of the permit, the operating requirements shall be those demonstrated, in a trial burn or by alternative data specified in R315-3-2.10(c), as sufficient to ensure compliance with the performance standards of R315-8-15.4.

15.6 OPERATING REQUIREMENTS

(a) An incinerator shall be operated in accordance with operating requirements specified in the permit. These will be specified on a case-by-case basis as those demonstrated, in a trial burn or in alternative data as specified in R315-8-15.5(b), and included with part B of a facility's permit to be sufficient to comply with the performance standards of R315-8-15.4.

(b) Each set of operating requirements will specify the composition of the waste feed, including acceptable variations in the physical or chemical properties of the waste feed which will not affect compliance with the performance requirements of R315-8-15.4, to which the operating requirements apply. For each such waste feed, the permit will specify acceptable operating limits including the following conditions:

(1) Carbon monoxide (CO) level in the stack exhaust gas;

(2) Waste feed rate;

(3) Combustion temperature;

(4) An appropriate indicator of combustion gas velocity;

(5) Allowable variations in incinerator system design or operating procedures; and

(6) Any other operating requirements as are necessary to ensure that the performance standards of R315-8-15.4 are met.

(c) During start-up and shut-down of an incinerator, hazardous waste, except wastes exempted in accordance with R315-8-15.1, shall not be fed into the incinerator unless the incinerator is operating within the conditions of operation, temperature, air feed rate, etc., specified in the permit.

(d) Fugitive emissions from the combustion zone shall be controlled by:

(1) Keeping the combustion zone totally sealed against fugitive emissions; or

(2) Maintaining a combustion zone pressure lower than atmospheric pressure; or

(3) An alternative means of control demonstrated, with part B of the permit to provide fugitive emissions control equivalent to maintenance of combustion zone pressure lower than atmospheric pressure.

(e) An incinerator shall be operated with a functioning system to automatically cut off waste feed to the incinerator when operating conditions deviate from limits established under R315-8-15.6(a).

(f) An incinerator shall cease operation when changes in waste feed, incinerator design, or operating conditions exceed limits designated in its permit.

15.7 MONITORING AND INSPECTIONS

(a) The owner or operator shall conduct, as a minimum, the following monitoring while incinerating hazardous waste:

(1) Combustion temperature, waste feed rate, and the indicator of combustion gas velocity specified in the facility [~~plan~~]permit shall be monitored on a continuous basis.

(2) Carbon monoxide (CO) shall be monitored on a continuous basis at a point in the incinerator downstream of the combustion zone and prior to release to the atmosphere.

(3) Upon request by the Board, sampling and analysis of the waste and exhaust emissions shall be conducted to verify that the operating requirements established in the [~~plan~~]permit achieve the performance standards of R315-8-15.4.

(b) The incinerator and associated equipment, pumps, valves, conveyors, pipes, etc., shall be subjected to thorough visual inspection, at least daily, for leaks, spills, fugitive emissions, and signs of tampering.

(c) The emergency waste feed cutoff system and associated alarms shall be tested at least weekly to verify operability, unless the applicant demonstrates to the Board that weekly inspections will unduly restrict or upset operations and that less frequent inspections will be adequate. At a minimum, operational testing shall be conducted at least monthly.

(d) This monitoring and inspection data shall be recorded and the records shall be placed in the operating record required by R315-8-5.3, which incorporates by reference 264.73.

15.8 CLOSURE

At closure the owner or operator shall remove all hazardous waste and hazardous waste residues, including, but not limited to, ash, scrubber waters, and scrubber sludges, from the incinerator site.

At closure, as throughout the operating period, unless the owner or operator can demonstrate, in accordance with R315-2-3(d), that the residue removed from the incinerator is not a hazardous waste, the owner or operator becomes a generator of hazardous waste and shall manage it in accordance with applicable requirements. R315-4 - R315-9.

KEY: hazardous waste
[~~August 15, 2002~~]2003
Notice of Continuation October 18, 2001
19-6-105
19-6-106

Environmental Quality, Solid and Hazardous Waste
R315-13-1
Land Disposal Restrictions

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 26369
FILED: 06/13/2003, 09:39

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This amendment adopts the equivalent federal regulations to maintain equivalency with EPA rules and retain authorization.

SUMMARY OF THE RULE OR CHANGE: This rule change identifies land disposal restrictions for wastes K174 and K175 and three newly listed inorganic chemical manufacturing wastes, and

changes in the mixture and derived-from rules. This change also grants a national treatability variance from the land disposal restrictions treatment standards for radioactively contaminated cadmium-, mercury-, and silver-containing batteries by designating new treatment subcategories for these wastes.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 19-6-105 and 19-6-106; and 40 CFR 271.21(e)

THIS RULE OR CHANGE INCORPORATES BY REFERENCE THE FOLLOWING MATERIAL: 40 CFR 268, 2000 ed.; 65 FR 67068, November 8, 2000; 66 FR 27266, May 16, 2001; 66 FR 58258, November 20, 2001, 67 FR 17119, April 9, 2002; and 67 FR 62618, October 7, 2002

ANTICIPATED COST OR SAVINGS TO:
❖ THE STATE BUDGET: Since the changes in the rule do not affect State entities and the enforcement of the rule will not change, there will be no cost or saving impact.
❖ LOCAL GOVERNMENTS: Since the changes in the rule do not affect local government and the enforcement of the rule will not change, there will be no cost or saving impact.
❖ OTHER PERSONS: The compliance costs for affected persons will not change since the rule change implements current statutory and regulatory requirements.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The compliance costs for affected persons will not change since the rule change implements current statutory and regulatory requirements.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The proposed changes in this rule will have no fiscal impact on businesses beyond the current statutory and regulatory impact. Dianne R. Nielson, Ph.D.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
ENVIRONMENTAL QUALITY
SOLID AND HAZARDOUS WASTE
288 N 1460 W
SALT LAKE CITY UT 84116-3231, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Susan Toronto at the above address, by phone at 801-538-6776, by FAX at 801-538-6715, or by Internet E-mail at storonto@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 08/01/2003.

THIS RULE MAY BECOME EFFECTIVE ON: 08/15/2003

AUTHORIZED BY: Dennis Downs, Director

R315. Environmental Quality, Solid and Hazardous Waste.
R315-13. Land Disposal Restrictions.
R315-13-1. Land Disposal Restrictions.

The requirements as found in 40 CFR 268, 2000 ed., as amended by 65 FR 67068, November 8, 2000; 66 FR 27266, May 16, 2001; 66 FR 58258, November 20, 2001; 67 FR 17119, April 9, 2002; and 67 FR 62618, October 7, 2002, are adopted and incorporated by reference including Appendices IV, VI, VII, VIII, IX, and XI, with the exclusion of Sections 268.5, 268.6, 268.42(b), and 268.44(a) - (g) and with the following exceptions:

(a) Substitute "Board" for all federal regulation references made to "Administrator" or "Regional Administrator" except for 40 CFR 268.40(b).

(b) All references made to "EPA Hazardous Waste Number" will include P999, and F999.

(c) Substitute Utah Code Annotated, Title 19, Chapter 6 for all references to RCRA.

KEY: hazardous waste
[~~August 15, 2002~~]2003
Notice of Continuation October 5, 2001
19-6-106
19-6-105

Environmental Quality, Solid and Hazardous Waste
R315-14-7
Hazardous Waste Burned in Boilers and Industrial Furnaces

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 26373
FILED: 06/13/2003, 09:45

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This amendment adopts the equivalent federal regulations to maintain equivalency with EPA rules and retain authorization.

SUMMARY OF THE RULE OR CHANGE: In September of 1999, EPA promulgated regulations to control emissions of hazardous air pollutants from incinerators, cement kilns, and lightweight aggregate kilns that burn hazardous wastes. Portions of the rule were challenged and subsequently vacated by the U.S. Court of Appeals for the District of Columbia Circuit. This rule change temporarily amends the rule for hazardous air pollutant standards for combustors until final standards are promulgated.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 19-6-105 and 19-6-106; and 40 CFR 271.21(e)

THIS RULE OR CHANGE INCORPORATES BY REFERENCE THE FOLLOWING MATERIAL: 40 CFR 266, subpart H, 2002 ed.

ANTICIPATED COST OR SAVINGS TO:
❖ THE STATE BUDGET: Since the changes in the rule do not affect State entities and the enforcement of the rule will not change, there will be no cost or saving impact.
❖ LOCAL GOVERNMENTS: Since the changes in the rule do not affect local government and the enforcement of the rule will not change, there will be no cost or saving impact.
❖ OTHER PERSONS: The compliance costs for affected persons will not change since the rule change implements current statutory and regulatory requirements.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The compliance costs for affected persons will not change since the rule change implements current statutory and regulatory requirements.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The proposed changes in this rule will have no fiscal impact on businesses beyond the current statutory and regulatory impact. Dianne R. Nielson, Ph.D.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
ENVIRONMENTAL QUALITY
SOLID AND HAZARDOUS WASTE
288 N 1460 W
SALT LAKE CITY UT 84116-3231, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Susan Toronto at the above address, by phone at 801-538-6776, by FAX at 801-538-6715, or by Internet E-mail at storonto@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 08/01/2003.

THIS RULE MAY BECOME EFFECTIVE ON: 08/15/2003

AUTHORIZED BY: Dennis Downs, Director

R315. Environmental Quality, Solid and Hazardous Waste.
R315-14. Standards for the Management of Specific Hazardous Wastes and Specific Types of Hazardous Waste Management Facilities.
R315-14-7. Hazardous Waste Burned in Boilers and Industrial Furnaces.

The requirements as found in 40 CFR 266, Subpart H, 266.100 - 266.112, 200[~~0~~]2 ed., are adopted and incorporated by reference.

KEY: hazardous waste
[~~April 20, 2001~~]2003
Notice of Continuation October 18, 2001
19-6-105
19-6-106

▼ ▼

Environmental Quality, Solid and Hazardous Waste
R315-50
Appendices

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 26371
FILED: 06/13/2003, 09:43

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This amendment adopts the equivalent federal regulations to maintain equivalency with EPA rules and retain authorization.

SUMMARY OF THE RULE OR CHANGE: These rule changes add the wastes K174 and K175, generated by the chlorinated aliphatics industry, and three inorganic chemical manufacturing wastes to the lists of hazardous wastes.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 19-6-105 and 19-6-106; and 40 CFR 271.21(e)

THIS RULE OR CHANGE INCORPORATES BY REFERENCE THE FOLLOWING MATERIAL: 40 CFR 261, Appendices VII and VIII, 2002 ed.

ANTICIPATED COST OR SAVINGS TO:
❖ THE STATE BUDGET: Since the changes in the rule do not affect State entities and the enforcement of the rule will not change, there will be no cost or saving impact.
❖ LOCAL GOVERNMENTS: Since the changes in the rule do not affect local government and the enforcement of the rule will not change, there will be no cost or saving impact.
❖ OTHER PERSONS: The compliance costs for affected persons will not change since the rule change implements current statutory and regulatory requirements.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The compliance costs for affected persons will not change since the rule change implements current statutory and regulatory requirements.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The proposed changes in this rule will have no fiscal impact on businesses beyond the current statutory and regulatory impact. Dianne R. Nielson, Ph.D.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
ENVIRONMENTAL QUALITY
SOLID AND HAZARDOUS WASTE
288 N 1460 W
SALT LAKE CITY UT 84116-3231, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Susan Toronto at the above address, by phone at 801-538-6776, by FAX at 801-538-6715, or by Internet E-mail at storonto@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 08/01/2003.

THIS RULE MAY BECOME EFFECTIVE ON: 08/15/2003

AUTHORIZED BY: Dennis Downs, Director

R315. Environmental Quality, Solid and Hazardous Waste.
R315-50. Appendices.
R315-50-9. Basis for Listing Hazardous Wastes.

The requirements of 40 CFR 261, Appendix VII, 200[~~0~~]2 ed., are adopted and incorporated by reference, with the following additions, excluding the constituents for which K064, K065, K066, K090, and K091 are listed:

1. F999 - CX, GA, GB, GD, H, HD, HL, HN-1, HN-2, HN-3, HT, L, T, and VX.

R315-50-10. Hazardous Constituents.

The requirements of 40 CFR 261, Appendix VIII, 200[~~0~~]2 ed., are adopted and incorporated by reference.

KEY: hazardous waste
[~~April 20, 2001~~]2003
Notice of Continuation October 18, 2001
19-6-106
19-6-108
19-6-105

▼ ▼

Health, Community and Family Health Services, Children with Special Health Care Needs

R398-10

Early Intervention Services

NOTICE OF PROPOSED RULE
(New Rule)
DAR FILE NO.: 26348
FILED: 06/09/2003, 11:07

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this rule is to define eligibility for the Baby Watch Early Intervention Program and to establish service fees to participating families. This rule implements the sliding fee schedule required by the Appropriations Act in the 2003 General Session of the Legislature. (DAR NOTE: The Appropriations Bill is H.B. 1 which is found at UT L 2003 Ch 342, and Section 1, Item 119, covers this program, and the bill is effective July 1, 2003.)

SUMMARY OF THE RULE OR CHANGE: This is a new rule defining services provided by the program, fees for services, method of determining fees, and fee waivers.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 26-10-2

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: The cost is $50,800. One position in the Department of Health which includes salary and benefits, postage, photocopies, office supplies, and overhead. The Utah Department of Health will also have a cost savings of up to $1,300,000 by reducing the program caseload and increasing revenues from service fees.

❖ LOCAL GOVERNMENTS: The cost is $34,500 to 10 local government early intervention providers. The cost is based on $15 for staff time required to collect financial information from each family who receives service. Approximately 2,300 families are served by local government, making the aggregate cost approximately $34,500.

❖ OTHER PERSONS: The cost is $40,500 to 5 early intervention providers that are not local government. The cost is based on $15 for staff time required to collect financial information from each family who receive service. Approximately 2,700 families are served by providers that are not local government, making the aggregate cost approximately $40,500. An additional cost of $300,000 to families who will be charged a fee for early intervention services.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The cost is $15 per family for collecting financial information by local Government and nongovernment early intervention-contracted providers. The cost is $120-$1,200 annually for families charged a fee for early intervention services.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The Baby Watch Early Intervention Program (BWEI) provides early intervention and developmental services to young children under the age of three years with developmental delays or disabilities through the Individuals with Disabilities Education Act (Pub. L. No. 105-7). Children qualify for services based on their diagnosis or a measurable delay in development. A specified scope of services must be provided as necessary for all eligible children. The purpose of the program is to enhance the development of infants and toddlers with disabilities and to enhance the capacity of families to meet the special needs of their children. The program has experienced a caseload growth of 250-300 new cases per year over the past few years requiring an increase in funding to service all eligible children. Because additional funds (state and federal) may not be available to support future caseload growth, the BWEI Program may need to tighten eligibility for services and begin charging service fees to families. This rule is intended to define new eligibility requirements and to establish service fees to participating families. It is not anticipated that there will be a negative fiscal impact on business. Rod L. Betit

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

HEALTH
COMMUNITY AND FAMILY HEALTH SERVICES,
CHILDREN WITH SPECIAL HEALTH CARE NEEDS
44 N MEDICAL DR
SALT LAKE CITY UT 84113, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Susan Ord at the above address, by phone at 801-584-8441, by FAX at 801-584-8496, or by Internet E-mail at sord@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 07/31/2003.

THIS RULE MAY BECOME EFFECTIVE ON: 08/01/2003

AUTHORIZED BY: Rod L. Betit, Executive Director

R398. Health, Community and Family Health Services, Children with Special Health Care Needs.

R398-20. Early Intervention.

R398-20-1. Authority and Purpose.

This rule implements the early intervention program under Part C of the Individuals with Disabilities Education Act (IDEA) and implementing regulations found at 34 CFR 303.500 for children with disabilities under three years of age, and their families. It is authorized by Utah Code Section 26-10-2.

The Utah Department of Health is designated as the lead agency responsible for the administration of the program.

R398-20-2. Services.

(1) The Department provides the following services to eligible individuals and their families, based on individual assessment as required by the IDEA implementing regulations:

(a) Assistive technology;
(b) Audiology services;
(c) Family training, counseling, and home visits;
(d) Health services;
(e) Medical services, but only for diagnostic or evaluation purposes;
(f) Nursing services;
(g) Nutrition services;
(h) Occupational therapy;
(i) Physical therapy;
(j) Psychological services;
(k) Service Coordination;
(l) Social work services;
(m) Special instruction;
(n) Speech-language pathology services;
(o) Transportation; and
(p) Vision services.

(2) Infants and toddlers from birth through to thirty-six months who are classified according to IDEA requirements as a person with a disability are eligible to receive services. These include children with a diagnosed physical or mental condition that has a high probability of resulting in a developmental delay or who show delays at or below 1.5 Standard Deviations below the mean, or at or below the 7th percentile in one or more areas of development.

(3) Services must be based on the child's written Individualized Family Service Plan (IFSP) for providing services developed according to IDEA requirements.

R398-20-3. Fees.

(1) The parents of a eligible child shall pay a monthly fee for services according to the schedule established in the Fee Table. The monthly fee is applicable for any month in which a service is provided or scheduled and not timely canceled, except for the month in which the child attains 36 month of age. The Department shall not charge a fee for the following IDEA activities and services:

(a) implementation of child find, such as child developmental screening, or public awareness activities;
(b) evaluation and assessment;
(c) service coordination;
(d) activities to assist a child and the family to receive the rights, procedural safeguards, and authorized services;
(e) activities related to the development, review and evaluation of the Individual Family Service Plan;
(f) activities related to child and family rights, including the administrative complaint process and mediation; and
(g) specialized services related to sensory loss provided through the Utah Schools for the Deaf and Blind (USDB) Parent Infant Program or Deaf Blind services.

(2) The Department shall not charge a fee for services to a child if:

(a) the child receives services only though the USDB pursuant to an ISFP;
(b) the child is a ward of the state; or
(c) the child's family meets Head Start income eligibility guidelines.

(4) The Department shall not charge a fee for services if the child or the child's family receives benefits under any of the following programs:

(a) Medicaid;
(b) Temporary Assistance to Needy Families (TANF);
(c) Women Infants and Young Children (WIC);
(d) Refugee Resettlement Program (RCA); and
(e) Primary Care Network (PCN).

(3) The fee is a per family fee without regard to the number of eligible children receiving services.

(5) The monthly fee is as follows:

TABLE

FEES

Percent of poverty	186	200	250
Family fee	10.00	20.00	30.00
Family size	ANNUAL INCOME		
2	22,543.00 or less	22,543.01-24,240.00	24,240.01-30,300.00
3	28,384.00 or less	28,384.01-30,520.00	30,520.01-38,150.00
4	34,224.00 or less	34,224.01-36,800.00	36800.01-46,000.00

5	40,064.00 or less	40,064.01-43,080.00	43,080.01-53,850.00
6	45,905.00 or less	45,905.01-49,360.00	49,360.01-61,700.00
7	51,745.00 or less	51,745.01-55,640.00	55,640.01-69,550.00
8	57,586.00 or less	57,586.01-61,920.00	61,920.01-77,400.00
Add for each additional family member	5,840.00	6,280.00	7,850.00

PART TWO OF TABLE

Percent of poverty	300	400	500
Family fee	40.00	50.00	60.00
Family size	ANNUAL INCOME		
2	30,300.01-36,360.00	36,360.01-48,480.00	48,480.01-60,600.00
3	38,150.01-45,780.00	45,780.01-61,040.00	61,040.01-76,300.00
4	46,000.01-55,200.00	55,200.01-73,600.00	73,600.01-92,000.00
5	53,850.01-64,620.00	64,620.01-86,160.00	86,160.01-107,700.00
6	61,700.01-74,040.00	74,040.01-98,720.00	98,720.01-123,400.00
7	69,550.01-83,460.00	83,460.01-111,280.00	111,280.01-139,100.00
8	77,400.01-92,880.00	92,880.01-123,840.00	123,840.01-154,800.00
Add for each additional family member	9,420.00	12,560.00	15,700.00

PART THREE OF TABLE

Percent of poverty	600	700
Family fee	80.00	100.00
Family size	ANNUAL INCOME	
2	60,600.01-72,720.00	72,720.01-84,840.00
3	76,300.01-91,560.00	91,560.01-106,820.00
4	92,000.01-110,400.00	110,400.01-128,800.00
5	107,700.01-129,240.00	129,240.01-150,780.00
6	123,400.01-148,080.00	148,080.01-172,760.00
7	139,100.01-166,920.00	166,920.01-194,740.00
8	154,800.01-185,760.00	185,760.01-216,720.00
Add for each additional family member	18,840.00	21,980.00

R398-20-4. Income Reporting-Fee Determination.

(1) The child's family shall annually report the family income using the Fee Determination Form to determine the monthly family fee. The IFSP team shall review the form at its six-month review. The family may submit an updated form if there is a change in income.

(2) The Fee Determination Form provides guidelines to the family on what should be counted in its report of income.

(3) Completion of the form is voluntary. However, a child's parents who choose not to complete the Fee Determination Form must pay the maximum level on the fee schedule.

(4) Upon request, the family must provide a copy of the most recent federal income tax filing to the Department and its early intervention providers to verify family income as reported by the child's parents. If the federal income tax filing is unavailable, the parents may submit the prior three months' check stubs to extrapolate annual income.

R398-20-5. Hardship, Extenuating Circumstances.

(1) An eligible child shall not be denied service because of a family's inability to pay. If a family is able to pay, but chooses not to, the Department may withhold services.

(2) The Department may waive all or part of the fee if there are extenuating family circumstances that affect a family's ability to pay, such as long-term hospitalization of a family member, casualty loss, moving expense, or other unusual expenses.

KEY: early intervention, education, disability
2003
26-10-2

Health, Health Care Financing, Coverage and Reimbursement Policy
R414-307
Eligibility Determination and Redetermination

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 26349
FILED: 06/09/2003, 11:39

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rulemaking adds the Primary Care Network (PCN) program to the list of programs for which individuals may apply. This is a technical correction. It clarifies the ways a person may file an application and the requirement for a signature on an application. It defines the application date for applications, and how the Department handles an unsigned application. It clarifies that the Division of Child and Family Services (DCFS)

processes the medical assistance application for children in its custody. It clarifies that the Department will reinstate a medical case if a person completes a redetermination or provides requested verifications by the end of the month following the month of closure. This makes the process more efficient for the recipient and for workers. It adds a requirement, for individuals seeking coverage under the Medicaid Work Incentive, to verify that the income they receive is really earned income. It modifies language about the Qualifying Individuals (QI) (the QI programs pay either all or part of the Part B Medicare premium. They cover people who are not eligible for Medicaid coverage. They are not entitlement programs. To be eligible under the QI Group 1 program, an individual's income cannot exceed 135% of the poverty level. The program pays the Medicare Part B premium only.) program because only Group 1 of that program still exists. The Group 2 coverage of that program ended on December 31, 2002, according to federal law. Only Group 1 was continued by Congress in Pub. L. No. 108-7. To be eligible under the QI Group 2 Program, an individual's income must be between 135% and 175% of the federal poverty level. Individuals eligible for the QI-Group 2 program received a small refund of their Medicare Part B ($3.91 in 2002).

SUMMARY OF THE RULE OR CHANGE: In Subsection R414-307-1(3), the Primary Care Network program is added. The QI program is changed to just say Group 1 because the Group 2 coverage ended December 31, 2002, according to federal law, Pub. L. No. 108-7. In Subsection R414-307-1(3)(b), language is added to clarify what the application date is for mailed applications. It also clarifies the requirements for a signature on an application and what the Department does when it receives an unsigned application. Subsection R414-307-1(3)(d) is clarified to state that DCFS processes the applications for children in DCFS custody. Subsection R414-307-1(3)(f) clarifies when the Department will reinstate a closed case if the recipient completes the required redetermination or provides the required verifications by the end of the month after the closure month. This is also clarified in Section R414-307-3 for redeterminations. In Section R414-307-3, information about the QI program is modified to just reference the Group 1 program because the Group 2 program no longer exists. In Section R414-307-4, a requirement for verification that income is really earned income is added for individuals seeking coverage under the Medicaid Work Incentive program. Various citations are updated.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Title 26, Chapter 18

THIS RULE OR CHANGE INCORPORATES BY REFERENCE THE FOLLOWING MATERIAL: 42 CFR 435.907, 435.908, 435.911, 435.912, 435.916, 435.919, 435.945, 435.948, 435.952, 435.955, and 435.960, 2001 ed.

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: There are seven different elements to this rulemaking. Five of them are just clarifications which support the way that Medicaid is currently determined. For the Medicaid Work Incentive change, there will be a nominal savings of State funds (less than $2,500). For the QI-2 change, there are no state funds involved as all of the QI-2 money was federal.

❖ LOCAL GOVERNMENTS: There are no business, service, or reimbursement costs which are associated with the implementation of this rulemaking for local governments.

❖ OTHER PERSONS: There are seven different elements to this rulemaking. Five of them are just clarifications which support the way that Medicaid is currently determined. For the Medicaid Work Incentive change, there will be a cost to individuals who may no longer qualify for Medicaid. This will affect less than 10 individuals with anticipated costs of about $5,000. Providers of services to these individuals would also be impacted as they may end up providing unfunded care (less than $2,500). For the QI-2 change, individuals will no longer be getting the small annual refund they had been receiving under this program (less than $20 per person).

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are seven different elements to this rulemaking. Five of them are just clarifications which support the way that Medicaid is currently determined. For the Medicaid Work Incentive change, there will be a cost to individuals who may no longer qualify for Medicaid (average cost per individual $240). This will affect less than 10 individuals. Providers of services to these individuals would also be impacted as they may end up providing unfunded care. For the QI-2 change, individuals will no longer be getting the small annual refund they had been receiving under this program (less than $20).

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Changes in federal law mandate the substantive changes proposed in this rule. A class of persons known as QI-2 are no longer eligible for a refund related to Medicare costs. With fewer than 10 individuals affected by this change, the fiscal impact on business will be minimal. Rod L. Betit, Executive Director

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

HEALTH
HEALTH CARE FINANCING,
COVERAGE AND REIMBURSEMENT POLICY
CANNON HEALTH BLDG
288 N 1460 W
SALT LAKE CITY UT 84116-3231, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Ross Martin or Gayle M. Six at the above address, by phone at 801-538-6592 or 801-538-6895, by FAX at 801-538-6099 or 801-538-6952, or by Internet E-mail at rmartin@utah.gov or gaylesix@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 07/31/2003.

THIS RULE MAY BECOME EFFECTIVE ON: 08/01/2003

AUTHORIZED BY: Rod L. Betit, Executive Director

R414. Health, Health Care Financing, Coverage and Reimbursement Policy.
R414-307. Eligibility Determination and Redetermination.
R414-307-1. Application.

(1) The Department adopts 42 CFR 435.907 and 435.908, [~~1997~~]2001 ed., which are incorporated by reference.

(2) Definitions:

The definitions in R414-1 and R414-301 apply to this rule.

(3) The Department accepts any Department-approved application form for Medicaid, UMAP. PCN, QMB, SLMB, or QI-1 assistance.

(a) If [~~the~~]applicants cannot write, they must make their mark on the application form and have at least one witness to the signature.

(b) The date of application is the day the completed, signed application form is received by the local office.

(i) If a signed application is mailed to the Department, the application date is the date postmarked on the envelope.

(ii) If an unsigned application is received, including an application made over the telephone or electronically submitted, the applicant must return a signed signature page to the eligibility worker or come to the office and sign the application within the application processing time period. If a signature is received within the application processing time period, the date of application is the date the application form was received by the local office. Otherwise, the unsigned application is considered invalid, and the Department will not process the application.

(iii) A signed application form submitted via a FAX machine is a valid application and does not have be re-signed.

(c) If a legal guardian or power of attorney has been appointed, or there is a payee for the individual, the Department shall make all forms and other documents in the name of both the individual and the individual's representative.

(d) If the Division of Child and Family Services (DCFS) has custody of a child and the child is placed in foster care, DCFS shall complete the application[~~, and forward it to the local office~~]. DCFS shall determine eligibility for the child pursuant to written agreement with the Department.

(e) An authorized representative may apply for the client if unusual circumstances or death prevent an individual from appearing in person. The applicant must sign the application form if possible.

(f) The Department shall reinstate a medical case without requiring a new application if the case was closed in error. The Department shall not require a new application if the case was closed for failure to complete a review or comply with a request for verification if the client complies before the [~~effective date of the case closure~~]end of the month following the month of closure.

R414-307-2. Eligibility Decisions.

The Department adopts 42 CFR 435.911 and 435.912, [~~1997~~]2001 ed., which are incorporated by reference.

R414-307-3. Eligibility Period.

The Department adopts 42 CFR 435.916 and 435.919, [~~1997~~]2001 ed., which are incorporated by reference.

(1) The first month of eligibility is the first month for which assistance is approved.

(2) The last month of eligibility is the recertification month.

(3) The Department requires recertification at least once every 12 months.

(4) The Department may require recertification whenever necessary to ensure continued eligibility.

(5) [~~Clients must turn in completed recertification forms to the Department by the first working day of the recertification month.~~]Clients must complete the recertification process by the end of the recertification month, and continue to meet all eligibility criteria to receive benefits without interruption.

(6) If a client fails to complete the recertification process during the recertification month, but completes it by the end of the following month, benefits can be reinstated back to the first day of that month if the client meets all eligibility criteria.

([~~6~~]7) The Department shall issue notice of eligibility by the end of the month following the recertification month, provided the client completes the recertification process and is eligible for continued assistance.

([~~7~~]8) For individuals selected for coverage under the Qualifying Individuals Group 1 program, eligibility extends through the end of the calendar year if the individual continues to meet eligibility criteria.

R414-307-4. Verification.

(1) The Department adopts 42 CFR 435.945, 435.948, 435.952, 435.955, and 435.960, [~~1997~~]2001 ed., which are incorporated by reference.

(2) Applicants must verify all factors of eligibility in accordance with the CFR sections listed above.

(3) To be eligible under Section 1902(a)(10)(A)(ii)(XIII), the Medicaid Work Incentive program, the individual must provide verification of earned income such as paycheck stubs showing deductions of FICA tax; self-employment tax filing documents; or for newly self-employed individuals who have not filed tax forms yet, a written business plan.

KEY: public assistance programs, eligibility, Medicaid
[~~April 23, 1999~~]2003
Notice of Continuation January 31, 2003
26-18

Health, Health Systems Improvement, Emergency Medical Services

R426-11

Definitions and Quality Assurance Reviews

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 26350
FILED: 06/09/2003, 11:47

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The Department provides Critical Incident Stress Management (CISM) for emergency services personnel, at no cost to the provider. With the implementation of the Federal HIPAA rule, the CISM Team must either be a covered entity or have business associate agreements with agencies who use its service because the debriefing process shares protected health information which is regulated by HIPAA. By formally recognizing, in rule, the CISM Team as a public health function, the HIPAA privacy requirements that became effective April 14, 2003, will be met.

SUMMARY OF THE RULE OR CHANGE: This amendment changes the title of this rule to "General Provisions", and adds a section (Section R426-11-4) that establishes the CISM Team. The team will conduct stress debriefings for persons exposed to one or more stressful incidents in the course of providing emergency services. The rule will clearly state that the team members are acting on behalf of the Department while serving as a team member, the training requirements will be set, and reimbursement for team members clarified.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 26-8a-105

ANTICIPATED COST OR SAVINGS TO:
❖ THE STATE BUDGET: The Utah Department of Health can handle any added expenses imposed by this rule within current appropriations. State agencies will not pay for CISM services as defined in Subsection 26-8a-206(2)(b).
❖ LOCAL GOVERNMENTS: Local governments will not pay for CISM services as defined in Subsection 26-8a-206 (2)(b).
❖ OTHER PERSONS: Other persons will not pay for CISM services as defined in Subsection 26-8a-206(2)(b).

COMPLIANCE COSTS FOR AFFECTED PERSONS: As provided in Subsection 26-8a-106(2)(b), there is not cost for affected persons who use the services of the CISM team.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The Emergency Medical Services Act, Section 26-8a-206, requires the Department provide CISM for emergency services personnel, at no cost to the provider. The Federal HIPAA rule requires any CISM Team be a covered entity or have business associate agreements with agencies who use its service because the debriefing process shares information which raises HIPAA concerns. By formally recognizing, in rule, the CISM Team as a public health function, the HIPAA privacy requirements will be met.

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

HEALTH
HEALTH SYSTEMS IMPROVEMENT,
EMERGENCY MEDICAL SERVICES
CANNON HEALTH BLDG
288 N 1460 W
SALT LAKE CITY UT 84116-3231, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Paul Patrick at the above address, by phone at 801-538-6291, by FAX at 801-538-6808, or by Internet E-mail at paulpatrick@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 07/31/2003.

THIS RULE MAY BECOME EFFECTIVE ON: 08/01/2003

AUTHORIZED BY: Rod L. Betit, Executive Director

R426. Health, Health Systems Improvement, Emergency Medical Services.
R426-11. [~~Definitions and Quality Assurance Reviews~~]General Provisions.
R426-11-1. Authority and Purpose.

This rule establishes uniform definitions for all R426 rules. It also provides administration standards applicable to all R426 rules.

R426-11-2. General Definitions.

The definitions in Title 26, Chapter 8a are adopted and incorporated by reference into this rule, in addition:

(1) "Air Ambulance" means any privately or publicly owned air vehicle specifically designed, constructed, or modified, which is intended to be used for and is maintained or equipped with the intent to be used for, maintained or operated for the transportation of individuals who are sick, injured, or otherwise incapacitated or helpless.

(2) "Air medical personnel" means the pilot and patient care personnel who are involved in an air medical transport.

(3) "Air Medical Service" means any publicly or privately owned organization that is licensed or applies for licensure under R426-2.

(4) "Air Medical Service Medical Director" means a physician knowledgeable of potential medical complications which may arise because of air medical transport, and is responsible for overseeing and assuring that the appropriate air ambulance, medical personnel, and equipment are provided for patients transported by the air ambulance service.

(5) "Air Medical Transport Service" means the transportation and care of patients by air ambulance.

(6) "CAMTS" is the acronym for the Commission on Accreditation of Medical Transport Systems, which is a non-profit organization dedicated to improving the quality of air medical services.

(7) "Categorization" means the process of identifying and developing a stratified profile of Utah hospital trauma critical care capabilities in relation to the standards defined under R426-5-7.

(8) "Certify," "Certification," and "Certified" mean the official Department recognition that an individual has completed a specific level of training and has the minimum skills required to provide emergency medical care at the level for which he is certified.

(9) "Committee" or "EMS Committee" means the State Emergency Medical Services Committee created by Section 26-1-7.

(10) "Competitive grant" means a grant awarded through the Emergency Medical Services Grants Program on a competitive basis for a share of available funds.

(11) "Continuing Medical Education" means Department-approved training relating specifically to the appropriate level of certification designed to maintain or enhance an individual's emergency medical skills.

(12) "Course Coordinator" means an individual who has completed a Department course coordinator course and is certified by the Department as capable to conduct Department-authorized EMS courses.

(13) "Department" means the Utah Department of Health.

(14) "Emergency Medical Dispatcher" or "EMD" means an individual who has completed an EMD training program, approved by the Bureau, who is certified by the Department as qualified to render services enumerated in this rule.

(15) "Emergency Medical Dispatch Center" means an agency designated by the Department for the routine acceptance of calls for emergency medical assistance from the public, utilizing a selective medical dispatch system to dispatch licensed ambulance, and paramedic services.

(16) "EMS" means emergency medical services.

(17) "Field EMS Personnel" means a certified individual or individuals who are on-scene providing direct care to a patient.

(18) Grants Review Subcommittee means a subcommittee appointed by the EMS Committee to review, evaluate, prioritize and make grant funding recommendations to the EMS Committee.

(19) "Inclusive Trauma System means the coordinated component of the State emergency medical services (EMS) system composed of all general acute hospitals licensed under Title 26, Chapter 21, trauma centers, and prehospital providers which have established communication linkages and triage protocols to provide for the effective management, transport and care of all injured patients from initial injury to complete rehabilitation.

(19) "Individual" means a human being.

(20) "EMS Instructor" means an individual who has completed a Department EMS instructor course and is certified by the Department as capable to teach EMS personnel.

(21) "Level of Care" means the capabilities and commitment to the care of the trauma patient available within a specified facility.

(22) "Matching Funds" means that portion of funds, in cash, contributed by the grantee to total project expenditures.

(23) "Medical Control" means a person who provides medical supervision to an EMS provider as either:

(a) on-line medical control which refers to physician medical direction of prehospital personnel during a medical emergency; and

(b) off-line medical control which refers to physician oversight of local EMS services and personnel to assure their medical accountability.

(24) "Medical Director" means a physician certified by the Department to provide off-line medical control.

(25) "Net Income" - The sum of net service revenue, plus other operating revenue and subsidies of any type, less operating expenses, interest expense, and income.

(26) "Paramedic Rescue Service" means the provision of rescue, extrication and patient care by paramedic personnel, without actual transporting capabilities.

(27) "Paramedic Rescue Unit" means a vehicle which is properly equipped, maintained and used to transport paramedics to the scene of emergencies to perform paramedic rescue services.

(28) "Paramedic Tactical Rescue Service" means the retrieval and field treatment of injured peace officers or victims of traumatic confrontations by paramedics who are trained in combat medical response.

(29) "Paramedic Tactical Rescue Unit" means a vehicle which is properly equipped, maintained and used to transport paramedics to the scene of traumatic confrontations to provide paramedic tactical rescue services.

(30) "Patient" means an individual who, as the result of illness or injury, meets any of the criteria in Section 26-8a-305.

(31) "Per Capita grants" mean block grants determined by prorating available funds on a per capita basis as delineated in 26-8a-207, as part of the Emergency Medical Services Grants Program.

(32) "Permit" means the document issued by the Department that authorizes a vehicle to be used in providing emergency medical services.

(33) "Person" means an individual, firm, partnership, association, corporation, company, group of individuals acting together for a common purpose, agency or organization of any kind, public or private.

(34) "Physician" means a medical doctor licensed to practice medicine in Utah.

(35) "Pilot" means any individual licensed under Federal Aviation Regulations, Part 135.

(36) "Primary emergency medical services" means a for-profit organization that is the only licensed or designated service in a geographical area.

(37) "Quick Response Unit" means an organization that provides emergency medical services to supplement local ambulance services or provide unique services such as search and rescue and ski patrol.

(38) "Resource Hospital" means a facility designated by the EMS Committee to provide on-line medical control for the provision of prehospital emergency care.

(39) "Selective Medical Dispatch System" means a department-approved reference system used by a local dispatch agency to dispatch aid to medical emergencies which includes:

(a) systemized caller interrogation questions;

(b) systemized pre-arrival instructions; and

(c) protocols matching the dispatcher's evaluation of injury or illness severity with vehicle response mode and configuration.

(40) "Specialized Life Support Air Medical Service" means a level of care which requires equipment or speciality patient care by one or more medical personnel in addition to the regularly scheduled air medical team.

(41) "Training Officer" means an individual who has completed a department Training Officer Course and is certified by the Department to be responsible for an EMS provider organization's continuing medical education, recertification records, and testing.

R426-11-3. Quality Assurance Reviews.

(1) The Department may conduct quality assurance reviews of licensed and designated organizations and training programs on an annual basis or more frequently as necessary to enforce this rule;

(2) The Department shall conduct a quality assurance review prior to issuing a new license or designation.

(3) The Department may conduct quality assurance reviews on all personnel, vehicles, facilities, communications, equipment, documents, records, methods, procedures, materials and all other attributes or characteristics of the organization, which may include audits, surveys, and other activities as necessary for the enforcement of the Emergency Medical Services System Act and the rules promulgated pursuant to it.

(a) The Department shall record its findings and provide the organization with a copy.

(b) The organization must correct all deficiencies within 30 days of receipt of the Department's findings.

(c) The organization shall immediately notify the Department on a Department-approved form when the deficiencies have been corrected.

R426-11-4. Critical Incident Stress Management.

(1) The Department may establish a critical incident stress management (CISM) team to meet its public health responsibilities under Utah Code Section 26-8a-206.

(2) The CISM team may conduct stress debriefings and defusings upon request for persons who have been exposed to one or more stressful incidents in the course of providing emergency services.

(3) Individuals who serve on the CISM team must complete initial and ongoing training.

(4) While serving as a CISM team member, the individual is acting on behalf of the Department. All records collected by the CISM team are Department records. CISM team members shall maintain all information in strict confidence as provided in Utah Code Title 26, Chapter 3.

(5) The Department may reimburse a CISM team member for mileage expenses incurred in performing his or her duties in accordance with state finance mileage reimbursement policy.

KEY: emergency medical services
[~~October 1, 1999~~]2003
26-8a

Human Services, Recovery Services
R527-200
Administrative Procedures

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 26353
FILED: 06/11/2003, 11:27

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of the rule amendment is to address time frames that are not in statute for responding to a Notice of Agency Action, and time frames that are not in statute for requesting an agency action under Utah Administrative Procedures Act (UAPA). Changes are also being made to remove references to overpayments because overpayments are being moved to Department of Workforce Services as of July 1, 2003.

SUMMARY OF THE RULE OR CHANGE: The changes are: 1) adds to Section R527-200-6 which defines informal adjudicative proceedings, proceedings to establish an order for when payment schedules are contested, a lien-levy action is contested, or an obligation when physical custody changes is contested; 2) in Section R527-200-8, includes the time frame for requesting an adjudicative proceeding after receiving a Notice of Agency Action; 3) adds Section R527-200-9 which is time frames that are not in statute for proceedings initiate by a Request for Agency Action; 4) eliminates throughout the rule references to "administrative reviews" because administrative reviews are non-UAPA reviews and this rule does not address non-UAPA reviews; and 5) eliminates throughout the rule references to "overpayments" because they will not be part of ORS as of July 1, 2003.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 30-3-32 through 30-3-38, 62A-11-304.1, 62A-11-304.2, 62A-11-304.4, 62A-11-304.4, and 62A-11-307.2; and Title 63, Chapter 46b

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: The proposed rule changes may decrease the budget for the Office of Recovery Services (ORS) because ORS will no longer be working overpayment cases. However, this function is being moved to Workforce Services and their costs for doing it are unknown.

❖ LOCAL GOVERNMENTS: Administrative rules of ORS do not apply to local government. Therefore, there is no impact on local government.

❖ OTHER PERSONS: There may be minimal cost associated with requesting an adjudicative proceeding; such as obtaining documentation to support the request and mailing of the request.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There may be minimal cost in obtaining and providing ORS with supporting documentation.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule has never had an impact on businesses and the change to the rule does not create or cause an impact to businesses.

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

HUMAN SERVICES
RECOVERY SERVICES
515 E 100 S
SALT LAKE CITY UT 84102-4211, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Kristen Lowe at the above address, by phone at 801-536-0347, by FAX at 801-536-8833, or by Internet E-mail at klowe@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 07/31/2003.

THIS RULE MAY BECOME EFFECTIVE ON: 08/01/2003

AUTHORIZED BY: Emma Chacon, Director

R527. Human Services, Recovery Services.
R527-200. Administrative Procedures.
R527-200-1. Authority.

This rule establishes procedures for informal adjudicative proceedings as required by Section 63-46b-5 of the Administrative Procedures Act.

R527-200-2. Definitions.

1. Terms used in this rule are defined in Sections [~~62A-11-202,~~]62A-11-303[~~,~~] and 63-46b-2.

2. In addition,

a. "office" means the Office of Recovery Services;

b. "participate" means

(i) in a proceeding that was initiated by a notice of agency action, present relevant information to the presiding officer within the time period described by statute or rule for requesting a hearing; and

(ii) if a hearing is scheduled, participate means attend the hearing;

c. "party" means the Office of Recovery Services and the respondent.

d. in a proceeding to determine the noncooperation of a IV-A or Non-IV-A Medicaid recipient or applicant, the recipient or applicant is the respondent and is therefore a "party".

e. "location information" means the current, verified residential address of a custodial or noncustodial parent and, if different and known to the office, the current, verified residence of any child named in a parent-time order that specifies time periods during which the child shall be with the noncustodial parent as provided in Sections 30-3-32 through 30-3-38. If a current, verified residential address is not available, "location information" means an employment address if known.

f. "other location information" means a verified, non-residential mailing address such as a Post Office Box or Rural Route, at which a party whose location information is being sought receives mail.

g. "files" on custodial and noncustodial parents means records contained in open child support services cases, in which both paper and electronic case information may be stored.

R527-200-3. Purpose.

The purpose of this rule is to:

1. establish the form of proceedings;

2. provide procedures for requesting and obtaining a hearing when a proceeding is initiated by a notice of agency action;

3. provide procedures and standards for orders resulting from the administrative process;

4. provide procedures for informal proceedings;

5. provide procedures for the conduct of hearings[~~, conferences,~~] and [~~administrative reviews~~]other informal adjudicative proceedings;

6. provide procedures for requesting reconsideration;

7. provide procedures for a motion to set aside a default order;

8. provide procedures for amending an administrative order;

9. provide procedures for setting aside an administrative order; and

10. provide procedures for requesting judicial review.

R527-200-4. Designation of Presiding Officers.

The following persons are designated presiding officers in adjudicative proceedings:

1. agents;

2. senior agents;

3. team managers;

[~~4. program coordinators;~~

~~5. program specialists;~~

~~6~~]4. quality assurance specialists;

[~~7~~]5. associate regional directors;

[~~8~~]6. regional directors;

[~~9~~]7. directors;

[~~10~~]8. other persons designated by the director of the Office of Recovery Services.

R527-200-5. Form of Proceeding.

All adjudicative proceedings commenced by the office through a notice of agency action, or commenced by other persons affected by the office's actions through a request for agency action shall be informal adjudicative proceedings.

R527-200-6. Informal Adjudicative Proceedings.

The following [~~actions~~]adjudicative proceedings are considered to be informal[~~-adjudicative proceedings~~]:

1. [~~hearings, conferences, or administrative reviews~~]proceedings to establish or modify child support orders;

2. [~~conferences~~]proceedings to determine paternity;

3. [~~conferences or hearings~~]proceedings to establish a judgment for genetic testing costs;

4. [~~conferences or hearings~~]proceedings to establish a judgment for birth expenses;

5. [~~conferences or hearings~~]proceedings to establish or modify an order regarding liability for medical and dental expenses of a dependent child;

6. [~~administrative reviews~~]proceedings to establish an order when a notice to enroll a child in a medical insurance plan is contested;

7. [~~conferences or hearings~~]proceedings to establish an order against a garnishee enforcing an administrative garnishment;

8. [~~administrative reviews~~]proceedings to determine whether the information concerning a support debt which will be reported to consumer reporting agencies is accurate;

9. [~~conferences or hearings~~]proceedings to establish [~~the cause of an overpayment~~]a retained support obligation[~~, and to modify, or renew the obligation~~];

10. [~~hearings, conferences, or administrative reviews~~]proceedings to amend an administrative order;

11. [~~hearings, conferences, or administrative reviews~~]proceedings to set aside an administrative order;

12. [~~administrative reviews~~]proceedings to establish an order which determines past-due support following a request for agency action;

13. [~~administrative reviews~~]proceedings to establish an order when an office determination of noncooperation is contested by IV-A or Non-IV-A Medicaid recipients;

14. [~~conferences or hearings~~]proceedings to establish a judgment against a responsible party for costs and/or fees, and to impose penalties associated with legal action taken by the office;

15. [~~administrative reviews~~]proceedings to establish an order of non-disclosure when a determination is made not to disclose a parent's identifying information to another state in an interstate case action;

16. [~~conferences or hearings~~]proceedings to approve or deny requests for waiver or deferral of estate recovery for reimbursement of Medicaid;[~~ and~~]

17. [~~administrative reviews~~]proceedings to determine whether location information or other location information available in files on custodial or noncustodial parents may be released to the requesting party or to the requesting party's legal counsel in accordance with the provisions of Utah Code Title 62A, Chapter 11[~~-~~];

18. proceedings to establish an order when a payment schedule is contested;

19. proceedings to establish an order when a lien-levy action is contested; and

20. proceedings to establish an order when the obligation based on a change in the physical custody of a child is contested.

R527-200-7. Service of Notice and Orders.

Notices, orders, written decisions, or any other documents for which service is required or permitted to be made by Section 63-46b may be served using methods provided by Section 63-46b or the Utah Rules of Civil Procedure.

R527-200-8. Procedures for Informal Adjudicative Proceedings.

The procedures for informal adjudicative proceedings are as follows:

1. In proceedings initiated by a notice of agency action, the presiding officer will issue an order of default unless the respondent does one of the following within 30 days in response to service of the notice:

a. pays the entire amount in full; or,

b. participates as provided in R527-200-[~~12~~]13;[

~~c. or, for overpayment programs, requests a hearing as provided in R527-200-9.~~]

2. In proceedings initiated by a notice of agency action, the presiding officer shall schedule a hearing if available under R527-200-[~~9~~]10 and the office receives the respondent's written request:

a. within 30 days of service of notice of agency action; or

b. before an order is issued by the presiding officer.

[~~3. In administrative garnishment proceedings, the presiding officer shall schedule an administrative review if the office receives the obligor's written request for agency action within 10 days of the financial institution sending notice to the obligor of an administrative garnishment, or if the obligor requests the administrative review prior to any request by the garnishee for the issuance of an order to the garnishee to pay the office;~~

~~4~~]3. Within a reasonable time after the close of an informal adjudicative proceeding, the presiding officer shall issue a signed order in writing which states the following:

a. the decision;

b. the reason for the decision;

c. a notice of the right to request reconsideration and the right to petition for judicial review; and

d. the time limits for requesting reconsideration or filing a petition for judicial review.

[~~5~~]4. The presiding officer's order shall be based on the facts appearing in the agency's case records and on the facts presented in evidence at any hearings[~~, conferences,~~]or [~~administrative reviews~~]other adjudicative proceedings.

[~~6~~]5. A copy of the presiding officer's order shall be promptly mailed to each of the parties.

R527-200-9. Response time for Proceedings Initiated by a Request for Agency Action.

The respondent may request an informal adjudicative proceeding within the following timeframes:

1. within 30 calendar days of the date of the notice when contesting the amount of past-due support in the Annual Notice of Past-due Support;

2. within 15 calendar days of the date of this notice, or within 30 calendar days of the date of this notice if the non-requesting party resides outside of Utah and intervention is required from another IV-D agency to facilitate communication with the non-requesting party, when contesting whether location information or other location information may be released; and

3. within 15 calendar days of the date of the notice when contesting the obligation based on a change in physical custody of the child.

R527-200-[~~9~~]10. Availability of a Hearing [~~or Administrative Review~~]in Informal Adjudicative Proceedings.

1. A hearing before a presiding officer in the Office of Administrative Hearings, Department of Human Services is permitted in an informal adjudicative proceeding if:

a. the proceeding was initiated by a notice of agency action; and

b. the respondent in a properly filed request for hearing or in the course of participation raises a genuine issue as to a material fact as provided in R527-200-[~~10~~]11; and

c. for child support services, participates in a preliminary agency conference.

2. [~~An administrative review~~]A proceeding before a presiding officer in the Office of Recovery Services, Department of Human Services is permitted if an informal adjudicative proceeding is initiated by a request for agency action.

a. The presiding officer shall conduct a review of all documentation provided by the requesting party and in the agency files, and issue a Decision and Order stating the decision and the reasons for the decision.

b. The requesting party shall not be required to appear, either in person or through representation when the [~~administrative review~~]proceeding is conducted, but may choose to attend.

R527-200-[~~10~~]11. Hearings in Informal Adjudicative Proceedings.

1. In proceedings initiated by a notice of agency action, all hearing requests shall be referred to the presiding officer appointed to conduct hearings.

2. The presiding officer shall give timely notice of the date and time of the hearing to all parties.

3. Before granting a hearing in a case referred, the presiding officer appointed to conduct the hearing may decide whether the respondent raises a genuine issue as to a material fact. Upon determining there is no genuine issue as to a material fact, the presiding officer may deny the request for hearing, and close the adjudicative proceeding.

4. The respondent may object to the denial of a hearing as grounds for relief in a request for reconsideration.

5. There is no genuine issue as to a material fact if:

a. the evidence gathered by the office and the evidence presented for acceptance by the respondent are sufficient to establish the obligation of the respondent under applicable law; and

b. no other evidence in the record or presented for acceptance by the respondent in the course of respondent's participation conflicts with the evidence to be relied upon by the presiding officer in issuing an order.

6. Evidence upon which a presiding officer may rely in issuing an order when there has been no hearing:

a. documented wage information from employers or governmental sources;

b. failure of the respondent to produce upon request of the presiding officer canceled checks as evidence of payments made;

c. failure of the respondent to produce a record kept by the clerk of court, a financial institution, or the office, showing payments made;

d. failure of the respondent to produce a written agreement in a Non-IV-A case which was signed by both the absent parent and the custodial parent providing for an alternate means of satisfying a child support obligation;

e. birth certificates of the children whose support is sought from the respondent;

f. certified copies of the latest support orders;

g. other applicable documentation.

R527-200-[~~11~~]12. Telephonic Hearings.

Telephonic hearings will be held at the discretion of the Office of Administrative Hearings, Department of Human Services.

R527-200-[~~12~~]13. Procedures and Standards for Orders Resulting from Service of a Notice of Agency Action.

1. If the respondent agrees with the notice of agency action, he may stipulate to the facts and to the amount of the debt and current obligation to be paid. A stipulation, and judgment and order based on that stipulation is prepared by the office for the respondent's signature. Orders based on stipulation are not subject to reconsideration or judicial review.

2. If the respondent participates by attending a preliminary conference or otherwise presents relevant information to the presiding officer, but does not reach an agreement with the office or is unavailable to sign a stipulation, and does not request a hearing, the presiding officer shall issue a judgment and order based on that participation.

3. If the respondent participates in any way after receiving a notice of agency action to establish paternity and child support, but fails to appear for genetic testing or respond to the notice of test results, the presiding officer shall issue an order of paternity and child support based on existing information and circumstances.

4. If the respondent requests a hearing and participates by attending a preliminary agency conference, and after that conference the respondent does not agree with the notice of agency action, and participates by attending the hearing, the presiding officer who conducts the hearing shall issue an order based upon the hearing.

5. If the respondent fails to participate as follows, the appropriate presiding officer may issue an order of default and default judgment:

a. the respondent fails to respond to the notice of agency action and does not request a hearing;

b. after proper notice the respondent fails to attend a preliminary conference scheduled by the presiding officer to consider matters which may aid in the disposition of the action; or

c. after proper notice the respondent fails to attend a hearing scheduled by the presiding officer pursuant to a written request for a hearing.

6. The default judgment is taken for the same amount and for the same months specified in the notice of agency action which was served on the respondent. The judgment cannot be taken for more than the amount or time periods specified in the notice of agency action. If there is no previous court order and the best available information supports the amount, the judgment may be taken for less than the amount specified in the notice of agency action. The respondent may seek to have the default order set aside, in accordance with Section 63-46b-11.

7. If a respondent's request for a hearing is denied under R527-200-[~~10~~]11, the presiding officer issues a judgment and order based upon the information in the case record.

8. Notwithstanding any order which sets payments on arrearages, the office reserves the right to periodically report the total past-due support amount to consumer reporting agencies, intercept state and federal tax refunds, submit cases to the federal administrative offset program where permitted by federal regulation, levy upon real and personal property, and to reassess payments on arrearages.

R527-200-[~~13~~]14. Conduct of Hearings[~~, Conferences,~~] and [~~Administrative Reviews in~~]Other Informal Adjudicative Proceedings.

1. The hearing, or other proceeding[~~conference, or administrative review~~] shall be conducted by a duly qualified presiding officer. The presiding officer shall not have been involved in preparing the information alleged in the notice which is the basis of the adjudicative proceeding. No presiding officer shall conduct a hearing [~~, conference, or administrative review~~]or other adjudicative proceeding in a contested case if it is alleged and proved that good cause exists for the removal of the presiding officer assigned to the case. The party or representative requesting the change of presiding officer shall make the request in writing, and the request shall be filed and called to the attention of the presiding officer not less than 24 hours in advance of the hearing.

2. Duties of the presiding officer when conducting a hearing:

a. Based upon the notice of agency action, objections thereto, if any, and the evidence adduced at the hearing, the presiding officer shall determine the liability and responsibility, if any, of the respondent under Section 62A-11-304.2. Following determination of liability, the presiding officer shall refer the obligor to the team handling the case for determination of acceptable periodic payment or alternative means of satisfaction of any arrearage obligation.

b. The presiding officer conducting the hearing may:

(i) regulate the course of hearing on all issues designated for hearing;

(ii) receive and determine procedural requests, rule on offers of proof and evidentiary objections, receive relevant evidence, rule on the scope and extent of cross-examination, and hear argument and make determination of all questions of law necessary to the conduct of the hearing;

(iii) request testimony under oath or affirmation administered by the presiding officer;

(iv) upon motion, amend the notice of agency action to conform to the evidence.

3. Rules of Evidence in hearings:

a. Discovery is prohibited, but the office may issue subpoenas or other orders to compel production of necessary evidence.

b. Any person who is a party to the proceedings may call witnesses and present such oral, documentary, and other evidence and comment on the issues and conduct such cross-examination of

any witness as may be required for a full and true disclosure of all facts relevant to any issue designated for fact hearing and as may affect the disposition of any interest which permits the person participating to be a party.

c. Any evidence may be presented by affidavit rather than by oral testimony subject to the right of any party to call and examine or cross-examine the affiant.

d. All relevant evidence shall be admitted.

e. Official notice may be taken of all facts of which judicial notice may be taken in the courts of this state.

f. All parties shall have access to information contained in the office's files and to all materials and information gathered in the investigation, to the extent permitted by law and subject to R527-5.

g. Intervention is prohibited.

h. In child support cases the hearing shall be open to the obligee and all parties, as defined in R527-200-2.

4. Rights of the parties in hearings: A respondent appearing before the presiding officer for the purpose of a hearing may be represented by a licensed attorney, or, after leave of the presiding officer, any other person designated to act as the respondent's representative for the purpose of the hearing. The office's supporting evidence for the office's claim shall be presented at a hearing before a presiding officer by an agent or representative from the office. The supporting evidence may, at the office's discretion, be presented by a representative from the office of the Attorney General or by a staff attorney.

R527-200-[~~14~~]15. Agency Review.

Agency review shall not be allowed. Nothing in this rule prohibits a party from filing a request for reconsideration or for judicial review as provided in Sections 63-46b-13 and 63-46b-14.

R527-200-[~~15~~]16. Reconsideration.

Either the respondent or the office may request reconsideration in accordance with Section 63-46b-13 once during an informal adjudicative proceeding.

R527-200-[~~16~~]17. Setting Aside Administrative Orders.

1. The office may set aside an administrative order for reasons including the following:

a. A rule or policy was not followed when the order was taken.

b. The respondent was not properly served with a notice of agency action.

c. The respondent was not given due process.

d. The order has been replaced by a judicial order which covers the same time period.

2. The office shall notify the respondent of its intent to set the order aside by serving the respondent with a notice of agency action. The notice shall be signed by a presiding officer.

3. If after serving the respondent with a notice of agency action, the presiding officer determines that the order shall be set aside, the office shall notify the respondent.

R527-200-[~~17~~]18. Amending Administrative Orders.

1. The office may amend an order for reasons including the following:

a. A clerical mistake was made in the preparation of the order.

b. The time periods covered in the order overlap the time periods in another order for the same participants.

2. The office shall notify the respondent of its intent to amend the order by serving the respondent with a notice of agency action. The notice shall be signed by a presiding officer.

3. If after serving the respondent with a notice of agency action, the presiding officer determines that the order shall be amended, the office shall provide a copy of the amended order to the respondent.

R527-200-[~~18~~]19. Amending an Administrative Paternity Order.

1. If an administrative paternity order has been entered and the individual determined to be the father requests that paternity be disestablished based on genetic test results from an accredited lab which appear to exclude him as the biological father and genetic testing has not previously been completed, the presiding officer shall initiate an adjudicative proceeding to amend the paternity order prospectively.

2. The presiding officer shall notify the mother and the previously determined legal father of the intent to amend the order by sending notices of intent to amend based on the genetic test results.

3. If the mother or previously determined legal father do not present other evidence which calls into doubt the credibility of the genetic test results and the mother does not contest the administrative action, the presiding officer shall issue an order which amends the original order, finding the previously determined legal father to no longer be the legal father effective the date the amended order is issued. The presiding officer shall send a copy of the order to both the mother and the former legal father.

4. If other evidence is presented which calls into doubt the credibility of the genetic test results or the mother contests the administrative action, the presiding officer shall not amend the original paternity order. The presiding officer shall send notice of the decision to the mother and the father, which will inform the father of his right to administrative reconsideration of the decision and to appeal the decision to a court of competent jurisdiction.

KEY: administrative law, child support[~~, overpayment, welfare fraud~~]
[~~September 4, 2002~~]2003
Notice of Continuation May 7, 2001
30-3-32 through 30-3-38[
~~62A-11-203~~]
62A-11-304.1
62A-11-304.2
62A-11-304.4
62A-11-307.2
63-46b

Regents (Board Of), Administration
R765-685
Utah Educational Savings Plan Trust

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 26391
FILED: 06/16/2003, 12:17

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: A rule amendment is needed for the Utah Educational Savings Plan Trust (UESP) to reflect changes in fee structure and addition of more investment options. Other changes reflect accounting requirements for market adjustments.

SUMMARY OF THE RULE OR CHANGE: The changes are: 1) Subsection R765-685-2(2.3). is amended to eliminate reference to the State Board of Regents policy on Investments of Funds of Member Institutions of the State System of Higher Education. The mention of this policy in the old Subsection R765-685-2(12.4.15.2) has been eliminated, so the reference is no longer needed. The citation to the State Money Management Act (see Subsection R765-685-2(12.1.1) is substituted in its place; 2) Subsection R765-685-2(3.5) is amended to reflect changes in the fee structure and the addition of new investment options beyond options 2, 3, or 4; 3) Subsection R765-685-2(3.9) is amended to eliminate description of options 2, 3, or 4. There are now 9 options and their detailed description is not needed in the rule; 4) Subsection R765-685-2(8.2) is amended to state the obvious intent of the program that refunds are adjusted for capital appreciation or depreciation; 5) Subsection R765-685-2(8.3) is amended to state the obvious intent of the program that refunds based on the death or disability of the beneficiary, receipt of a scholarship, or rollover distribution is also to be adjusted for market loss, if any; 6) Subsection R765-685-2(12.4) is amended to coincide with the investment categories authorized by the State Money Management Act; 7) Subsection R765-685-2 (13.1) and (13.2) are amended to reflect accounting requirements for positive or negative market adjustments in the crediting to individual participant accounts and in quarterly statements, and also reflect the distinction that income includes dividends (where applicable) in addition to interest earned; and 8) Subsection R765-685-2(13.4) is amended to reflect accounting requirements for positive or negative adjustments to market value in the quarterly statements provided for each participant.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Title 53B, Chapter 8a

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: These changes have no effect on the State budget. There is no cost nor anticipated savings to the State budget.

❖ LOCAL GOVERNMENTS: This program does not involve local governments in any way. Consequently, there is no cost nor savings related to any local government as a result of this amendment.

❖ OTHER PERSONS: The rule allowed an initial enrollment fee of up to $75. However, no enrollment fee has ever been charged. Reference to this possible fee has been eliminated. This rule change deletes reference to an enrollment fee. Consequently, there is no cost nor savings to other persons as a result of this rule change.

COMPLIANCE COSTS FOR AFFECTED PERSONS: None of the proposed changes in this rule have any impact on the costs of compliance for affected persons. There are no compliance costs associated with this rule change for any other person.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule applies to individuals investing money in college savings plans and has no fiscal impact on businesses.

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

REGENTS (BOARD OF)
ADMINISTRATION
BOARD OF REGENTS BUILDING, THE GATEWAY
60 SOUTH 400 WEST
SALT LAKE CITY UT 84101-1284, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Ronell Crossley at the above address, by phone at 801-321-7291, by FAX at 801-321-7299, or by Internet E-mail at rcrossley@utahsbr.edu

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 07/31/2003.

THIS RULE MAY BECOME EFFECTIVE ON: 08/01/2003

AUTHORIZED BY: Chalmers Gail Norris, Associate Commissioner for Student Financial Aid

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R765. Regents (Board of), Administration.
R765-685. Utah Educational Savings Plan Trust.
R765-685-2. References.

2.1. Title 53B, Chapter 8a, Utah Code Annotated 1953

2.2. Title 67, Chapter 16, Utah Code Annotated 1953

2.3. [~~Utah Administrative Code, R614-2. Investment of Funds of Member Institutions of the State System of Higher Education.~~]Title 51, Chapter 7, Utah Code Annotated 1953

R765-685-3. Definitions.

Many terms used in this rule are defined in Section 53B-8a-102. In addition, the following terms are defined by this rule.

3.1. The term "academic period" shall mean one semester or one quarter or an equivalent period for a vocational technical institution.

3.2. The word "account" shall denote the account in the program fund established and maintained under the trust for a beneficiary.

3.3. The term "account balance" shall mean the fair market value of an account as of the accounting date.

3.4. The term "accounting date" shall mean the date, not later than the last business day of each quarter as determined by the program administrator.

3.5. The term "administrative fee or charge" shall mean a fee charged by the trust authorized by 53B-8a-103(k), consisting of [~~the following: (i) an enrollment fee of up to $75 for initial enrollment in the trust charged to participants selecting investment options 2, 3, or 4 (but not charged to participants selecting option 1), which may be waived if the participant selects direct deposit or annual payment of contributions; (ii)~~](i) an annual account maintenance fee payable to the administrative fund,

deducted from the account assets held under the participation agreements of participants [~~selecting investment options 2, 3, or 4~~](but not deducted from the account assets of participants selecting option 1), not to exceed $50 annually; [~~(iii)~~]and (ii) a daily charge deducted from the assets of participants [~~selecting investment options 2, 3, or 4~~](but not charged to accounts of participants selecting option 1) in the program fund at a rate equivalent to an annual effective rate of not more than 0.50% ,no more than 0.25% of which shall be payable to the administrative fund, and no more than 0.25% of which shall be payable to the investment advisor for the trust[~~; or (iv) the fee charged by the trust on cancellation specified in Section 8.2.2. and required by federal law~~].

3.6. The term "dependent person" shall mean a person who is unable to meet all of the criteria listed in subsection 3.8 of this rule.

3.7. The term "domicile" shall mean a person's true, fixed and permanent home. It is the place where the person intends to remain, and to which the person expects to return without intending to establish a new domicile elsewhere.

3.8. The term "independent person" shall mean a person who meets all of the following criteria. An independent person is one:

3.8.1. whose parent has not claimed such person as a dependent on federal or state income tax returns for the tax year preceding the date of a request to establish a vested participation agreement;

3.8.2. who demonstrates no financial dependence upon parent(s); and

3.8.3. whose parents' income is not taken into account by any private or governmental agency furnishing educational financial assistance to the person, including scholarships, loans, and other assistance.

3.9. "Investment options" shall mean the [~~four~~]investment options available for selection by a participant at the time of enrollment or change of option. Investment risk under the [~~four~~]options ranges from conservative to most aggressive. There are no guarantees regarding moneys invested under any option, either as to earnings or as to return of principal. The value of each participant account depends on the performance of the investments selected by the trust. Each participant assumes the investment risks associated with the investment option selected. Once an investment option is selected, a participant may not change to another investment option unless authorized by the Internal Revenue Service or Treasury as being in compliance with Section 529 of the Internal Revenue Code.[~~ Under Option 1, the most conservative, all contributions are invested in the pooled Public Treasurer's Investment Fund (safe and short-term). Under Options 2 and 3, the account portfolio mix will be automatically adjusted according to a beneficiary's age. When the child is ten or more years away from college age, the portfolio is heavily invested in equity mutual funds for growth of capital. As a child nears college age, the portfolio gradually shifts emphasis to bond and short-term funds to potentially preserve capital that will be readily available for college expenses. Under Option 4, the most aggressive, the account portfolio will be totally invested in equity mutual funds (stocks) for potential equity growth.~~]

3.10. "Notice to Delay Trust Benefits" shall mean the form which a participant submits to the program administrator of the trust to delay benefits under a participation agreement.

3.11. "Notice to Adjust Payments" shall mean the form which a participant submits to the program administrator of the trust to change the payment amount or payment schedule of the participation agreement.

3.12. "Request to Substitute Beneficiary" shall mean the form which a participant submits to the program administrator of the trust to request the substitution of a beneficiary.

3.13. "Notice to Terminate Agreement" shall mean the form which a participant submits to the program administrator of the trust to terminate a participation agreement under the trust.

3.14. "Notice to Use Trust Benefits" shall mean the form which a participant submits to the program administrator of the trust to notify the trust of the date benefits are to begin and level of benefits to be paid.

3.15. The term "parent" shall mean one of the following:

3.15.1. A person's father or mother; or

3.15.2. A court-appointed legal guardian. The term "parent" shall not apply if the guardianship has been established primarily for the purpose of conferring the status of resident on a person.

3.16. The word "payments" shall denote the money paid by the participant to the trust under the participation agreement.

3.17. The term "public treasurer" shall mean the Assistant Commissioner for Student Loan Finance who has the responsibility for the safekeeping and investment of all trust funds.

3.18. The term "qualified proprietary school approved by the board" shall mean a proprietary school which is fully accredited by a regional accrediting association or commission, the Accrediting Commission for Career Schools and Colleges of Technology, or the Accrediting Council for Independent Colleges and Schools, for which the student loan cohort default rate most recently published by the U.S. Department of Education is less than 20 percent, and which has not been placed on a reimbursement basis for financial aid programs by the U.S. Department of Education or under any limitation, suspension, or termination action or letter of credit requirement from the U.S. Department of Education or a guaranty agency under the Federal Family Education Loan Program.

R765-685-8. Cancellation and Payment of Refunds.

Purpose - Section 53B-8a-108 provides that any participant may cancel a participation agreement at will. This rule establishes the criteria for canceling participation agreements and providing refunds.

8.1. Cancellation - A participant may at any time cancel a participation agreement, without cause, by submitting to the program administrator notice to terminate agreement.

8.2. Payment of Refund - If the participation agreement is canceled, the participant is entitled to a refund. The refund shall be mailed or otherwise sent to the participant within sixty days after receipt by the program administrator of notice to terminate the participation agreement. The amount of the refund shall be the total of all contributions made plus actual investment income (including capital appreciation or depreciation) on the contributions, up to the current account balance as adjusted for any market change.

8.3. Death or Disability of the Beneficiary, Receipt of a Scholarship, or Rollover Distribution - The participant is entitled to a refund of one-hundred percent of all payments made under the participation agreement plus all investment income which has been credited to the participant's account less any market loss and any amount paid by the trust for educational expenses of the beneficiary upon the occurrence of, 1) death of the beneficiary, 2) permanent disability or mental incapacity of the beneficiary, 3) receipt of a scholarship (or allowance or payment described in section 135(d)(1)(B) or (C) of the Internal Revenue Code) by the designated beneficiary to the extent the amount of the distribution does not exceed the amount of the scholarship, allowance, or payment, or 4) a rollover distribution to another program or account qualifying under Section 529 of the Internal Revenue Code. Under such circumstances, no administrative fee shall be charged.

8.3.1. Before a cancellation and refund due to the death of a beneficiary is made, a participant must provide the trust a copy of the beneficiary's death certificate or other proof of death acceptable under state law.

8.3.2. Before a cancellation and refund due to the disability or mental incapacity of a beneficiary is made, a participant must provide to the trust

written certification from a qualified and licensed physician that the beneficiary cannot reasonably attend school.

8.3.3. Before a cancellation and refund due to the receipt of a scholarship, allowance or payment, a participant must provide to the trust written proof of the receipt by the beneficiary of a scholarship, allowance or payment and the amount thereof.

8.4. Refunds Reported - Funds that are refunded to a participant pursuant to this section shall be reported to the appropriate taxing authorities for the tax year in which such refund is made.

R765-685-12. Investment Policy.

Purpose - This rule is applicable to all investments by the Utah Educational Savings Plan Trust and to Trustees for funds covered by Trust agreements.

12.1. Investment Objectives - The primary objectives, in priority order, of investment activities shall be:

12.1.1. to provide compliance with the State Money Management Act and related Rules.

12.1.2. to provide adequate liquidity levels to meet Trust obligations.

12.1.3. to provide guidelines as to the types and maturities of investments while considering: (a) the availability of funds to cover current needs; (b) maximum yields on investments of funds, and (c) minimum exposure to risk of loss.

12.1.4. All fixed income investments will be suitable to be held to maturity; however, sale prior to maturity may be necessary and warranted in some cases. The Trust's investment portfolio will not be used for speculative purposes.

12.1.5. The public treasurer will consider and meet the following objectives when investing Trust funds:

12.1.5.1. safety of principal;

12.1.5.2. need for liquidity;

12.1.5.3. yield on investments;

12.1.5.4. recognition of the different investment objectives of Program, Endowment and Administrative Funds; and

12.1.5.5. maturity of investments, so that the maturity date of the investment does not exceed the anticipated date of the expenditure of funds.

12.2. Standards of Care - Standards of care include:

12.2.1. Prudence - Selection of investments as authorized by this policy shall be made with the exercise of that degree of judgment and care, under circumstances then prevailing, which a person of prudence, discretion, and intelligence would exercise in the management of his or her own affairs, not for speculation but for investment, considering the probable safety of capital, as well as the probable benefits to be derived and the probable duration for which such investment may be made, and considering the investment objectives specified in this policy.

12.2.2. Ethics and Conflicts of Interest - Officers and employees involved in the investment process shall refrain from personal business activity that could conflict with the proper execution and management of the investment program, or that could impair their ability to make impartial decisions. Employees and investment officials shall disclose any personal financial or investment positions that could be related to the performance of the investment in accordance with Utah Code Annotated 67-16-1, Utah Public Officer's and Employees' Ethics Act.

12.2.3. Delegation of Authority - Authority to manage the investment program is granted to the Trust's public treasurer who is responsible for the operation of the investment program and who shall carry out established written procedures and internal controls for the operation of the investment program consistent with this investment policy.

12.3. Safekeeping and Custody - Standards of safekeeping and custody shall include:

12.3.1. Internal Controls - The public treasurer is responsible for establishing and maintaining an internal control structure designed to ensure that the assets of the Trust are protected from loss, theft or misuse. The internal control structure shall be designed to provide reasonable assurance that these objectives are met.

12.3.1.1. Accordingly, the public treasurer shall establish a process for an annual independent review as provided by the state auditor to assure compliance with policies and procedures.

12.3.2. Custody -

12.3.2.1. The public treasurer shall have custody of all securities purchased or held and all evidence of deposits and investments of all funds. All securities shall be delivered versus payment to the public treasurer or to the treasurer's safekeeping bank.

12.3.2.2. The public treasurer may deposit any of these securities with a bank or trust company to be held in safekeeping by that custodian.

12.3.2.3. The provisions of this subsection apply to any book-entry-only security the ownership records of which are maintained with a securities depository, in the Federal Book Entry system authorized by the U.S. Department of Treasury, or in the book-entry records of the issuer, as follows:

12.3.2.3.1. the direct ownership of the security by the public treasurer shall be reflected in the book-entry records and represented by a receipt, confirmation, or statement issued to the public treasurer by the custodian of the book-entry system; or

12.3.2.3.2. the ownership of the security held by the public treasurer's custodial bank or trust company shall be reflected in the book-entry records and the public treasurer's ownership shall be represented by a receipt, confirmation, or statement issued by the custodial bank or trust company.

12.3.3. All investments shall be approved by the State Treasurer.

12.4. Authorized Investments - Investment transactions may be conducted only through qualified depositories, certified dealers, or directly with the issuers of the investment securities. The remaining term to maturity of investments may not exceed the period of availability of the funds to be invested. Deposits into the Trust's Administrative Fund and Program Fund may be invested only in [~~the following~~]assets that meet the Trust's investment objectives and criteria and the requirements of the State Money Management Act as amended, including the State Public Treasurer's Investment Fund, equity securities, such as common and preferred stock issued by corporations listed on a major securities exchange and mutual funds or such equity securities, and bonds or other fixed-income securities issued by domestic corporations rated A or higher or by the United States, the State of Utah, or a political subdivision thereof. [~~:~~

~~12.4.1. negotiable or nonnegotiable deposits of qualified depositories;~~

~~12.4.2. qualifying repurchase agreements and reverse repurchase agreements with certified dealers, permitted depositories, or qualified depositories using collateral consisting of:~~

~~12.4.2.1. Government National Mortgage Association mortgage pools;~~

~~12.4.2.2. Federal Home Loan Mortgage Corporation mortgage pools;~~

~~12.4.2.3. Federal National Mortgage Corporation mortgage pools;~~

~~12.4.2.4. Small Business Administration loan pools;~~

~~12.4.2.5. Federal Agriculture Mortgage Corporation pools; or~~

~~12.4.2.6. other deposits or investments of public funds authorized by the State Money Management Act;~~

~~12.4.3. commercial paper that is classified as "first tier" by two nationally recognized statistical rating organizations, one of which must be Moody's Investors Service, Inc. or Standard and Poor's Corporation, which has a remaining term to maturity of 270 days or less;~~
~~12.4.4. bankers' acceptances that;~~
~~12.4.4.1. are eligible for discount at a Federal Reserve bank; and~~
~~12.4.4.2. have a remaining term to maturity of 270 days or less;~~
~~12.4.5. fixed rate negotiable deposits issued by a permitted depository that have a remaining term to maturity of 365 days or less;~~
~~12.4.6. obligations of the United States Treasury, including United Sates Treasury bills, United States Treasury notes, and United States Treasury bonds;~~
~~12.4.7. obligations other than mortgage pools and other mortgage derivative products issued by, or fully guaranteed as to principal and interest by, the following agencies or instrumentalities of the United States in which a market is made by a primary reporting government securities dealer:~~
~~12.4.7.1. Federal Farm Credit banks;~~
~~12.4.7.2. Federal Home Loan banks;~~
~~12.4.7.3. Federal National Mortgage Association;~~
~~12.4.7.4. Student Loan Marketing Association;~~
~~12.4.7.5. Federal Home Loan Mortgage Corporation;~~
~~12.4.7.6. Federal Agriculture Mortgage Corporation; and~~
~~12.4.7.7. Tennessee Valley Authority;~~
~~12.4.8. fixed rate corporate obligations that;~~
~~12.4.8.1. are rated "A" or higher or the equivalent of "A" or higher, by two nationally recognized statistical rating organizations one of which must be Moody's Investors Service, Inc. or Standard and Poor's Corporation;~~
~~12.4.8.2. are publicly traded; and~~
~~12.4.8.3. have a remaining term to final maturity of 365 days or less or is subject to a hard put at par value or better, within 365 days;~~
~~12.4.9. tax anticipation and general obligation bonds of the state or of any county, incorporated city or town, school district, or other political subdivision of this state, including bonds offered on a when-issued basis.~~
~~12.4.10. bonds, notes, or other evidence of indebtedness of any county, incorporated city or town, school district, or other political subdivision of the state that are payable from assessments or from revenues or earnings specifically pledged for payment of the principal and interest on these obligations.~~
~~12.4.11. State Public Treasurer's Investment Fund;~~
~~12.4.12. shares or certificates in a money market mutual fund as defined in Section 51-7-3, et.seq., of the State Money Management Act;~~
~~12.4.13. variable rate negotiable deposits that:~~
~~12.4.13.1. are issued by a qualified depositor or a permitted depository;~~
~~12.4.13.2. are repriced at least semiannually; and~~
~~12.4.13.3. have a remaining term to final maturity not to exceed two years;~~
~~12.4.14. variable rate securities that:~~
~~12.4.14.1. are rated "A" or higher or the equivalent of "A" or higher by two nationally recognized statistical rating organizations, one of which must be Moody's Investors Service, Inc. or Standard and Poor's Corporation;~~
~~12.4.14.2. are publicly traded;~~
~~12.4.14.3. are repriced at least semiannually;~~
~~12.4.14.4. have a remaining term to final maturity not to exceed two years; or are subject to a hard put at par value or better, within 365 days; and~~
~~12.4.14.5. are not mortgages, mortgage-backed securities, mortgage derivative products, or any security making unscheduled periodic principal payments other than optional redemptions.~~
~~12.4.15. Deposits into the Trust's Endowment Fund may be invested in any of the following:~~
~~12.4.15.1. any deposit or investment authorized for the Trust's Administrative Fund or Program Fund; and~~
~~12.4.15.2. investments as described and set forth in the State Money Management Council Rule 2: Investment of Funds of Member Institutions of the State System of Higher Education. (Utah Administrative Code, R614-2.)~~]

12.5. Reporting - The public treasurer will prepare monthly and quarterly investment reports with appropriate assertions which will be submitted to the Utah State Board of Regents Student Finance Subcommittee for review and approval. The Subcommittee will determine the format and information to be reported.

R765-685-13. Earnings in Program Fund.

Purpose - Section 53B-8a-107 provides the Trust with authority to invest, via the program fund, payments made by a participant under a participation agreement. This rule establishes the terms for the payment of interest, dividends, and market adjustments to individual participant accounts within the program fund.

13.1. Quarterly Crediting - The trust shall credit interest or dividend earnings and make positive or negative market adjustments from the program fund to individual participant accounts at least on a quarterly basis.

13.2. Pro-rata Share - A pro-rata share of interest or dividends earned by the program fund during a given quarter shall be credited to each participant account at the end of the quarter. The pro-rata amount posted to each individual account shall be based on the average daily balance of the individual account compared to the average daily balance of the program fund during the quarter.

13.3. Transfers to Administrative Fund - Upon approval of the board, up to .5 percentage points of interest earned annually in the program fund may be transferred to the administrative fund for administrative purposes.

13.4. Quarterly Statement - At the close of each quarter, the Trust shall provide for each participant a statement listing the beginning balance, interest or dividends earned, positive or negative adjustments to market value, and closing balance of the participant's account held in the program fund.

KEY: higher education, educational savings trust
[~~May 20,~~]2003
Notice of Continuation November 30, 2001
53B-8a

FIVE-YEAR NOTICES OF REVIEW AND STATEMENTS OF CONTINUATION

Within five years of an administrative rule's original enactment or last five-year review, the responsible agency is required to review the rule. This review is designed to remove obsolete rules from the *Utah Administrative Code*.

Upon reviewing a rule, an agency may: repeal the rule by filing a PROPOSED RULE; continue the rule as it is by filing a NOTICE OF REVIEW AND STATEMENT OF CONTINUATION (NOTICE); or amend the rule by filing a PROPOSED RULE and by filing a NOTICE. By filing a NOTICE, the agency indicates that the rule is still necessary.

NOTICES are not followed by the rule text. The rule text that is being continued may be found in the most recent edition of the *Utah Administrative Code*. The rule text may also be inspected at the agency or the Division of Administrative Rules. NOTICES are effective when filed. NOTICES are governed by *Utah Code* Section 63-46a-9 (1998).

Agriculture and Food, Marketing and Conservation

R65-2

Utah Cherry Marketing Order

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 26383

FILED: 06/13/2003, 14:25

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsection 4-2-2(1)(e) authorizes the Department of Agriculture and Food to issue marketing orders for any designated agricultural product.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments have been received.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The Utah Cherry Marketing Order provides for uniform grading of cherries; advertising and sales promotion to create new or larger markets for cherries; standards for labeling, marking, or branding of cherries; and provides a Board of Control to cooperate with any other state or federal agency whose activities may be deemed beneficial to the purposes of this Order; and should be continued.

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

AGRICULTURE AND FOOD
MARKETING AND CONSERVATION
350 N REDWOOD RD
SALT LAKE CITY UT 84116-3087, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Marolyn Leetham or Randy Parker at the above address, by phone at 801-538-7114 or 801-538-7108, by FAX at 801-538-7126 or 801-538-7126, or by Internet E-mail at mleetham@utah.gov or rparker@utah.gov

AUTHORIZED BY: Cary G. Peterson, Commissioner

EFFECTIVE: 06/13/2003

Agriculture and Food, Marketing and Conservation

R65-5

Utah Red Tart and Sour Cherry Marketing Order

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 26386

FILED: 06/13/2003, 15:10

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsection 4-2-2(1)(e) authorizes the Department of Agriculture and Food to issue marketing orders for any designated agricultural product.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments have been received.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This Order provides for: the uniform grading of red tart and sour cherries offered for sale by producers or processors, advertising, and sales promotion to create new or larger markets for cherries grown in Utah;

standards for labeling, marketing or branding of cherries; and provides a Board of Control to cooperate with any other state or federal agency whose activities may be deemed beneficial to the purposes of the Order; and should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
AGRICULTURE AND FOOD
MARKETING AND CONSERVATION
350 N REDWOOD RD
SALT LAKE CITY UT 84116-3087, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Marolyn Leetham or Randy Parker at the above address, by phone at 801-538-7114 or 801-538-7108, by FAX at 801-538-7126 or 801-538-7126, or by Internet E-mail at mleetham@utah.gov or rparker@utah.gov

AUTHORIZED BY: Cary G. Peterson, Commissioner

EFFECTIVE: 06/13/2003

Agriculture and Food, Plant Industry
R68-5
Grain Inspection

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
DAR FILE NO.: 26385
FILED: 06/13/2003, 15:02

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsection 4-2-2(2) authorizes the Department of Agriculture and Food to adopt a schedule of fees assessed for services provided.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments have been received.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule establishes the standards for the grading of all types of Safflower produced in the State of Utah and the fees to be charged for such services; and should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
AGRICULTURE AND FOOD
PLANT INDUSTRY
350 N REDWOOD RD
SALT LAKE CITY UT 84116-3087, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Marolyn Leetham or Dick Wilson at the above address, by phone at 801-538-7114 or 801-538-7180, by FAX at 801-538-7126 or 801-538-7126, or by Internet E-mail at mleetham@utah.gov or dwilson@utah.gov

AUTHORIZED BY: Cary G. Peterson, Commissioner

EFFECTIVE: 06/13/2003

Agriculture and Food, Plant Industry
R68-9
Utah Noxious Weed Act

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
DAR FILE NO.: 26387
FILED: 06/13/2003, 15:22

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 4-2-2 authorizes the Department of Agriculture and Food to administer and enforce rules. Section 4-17-3 authorizes the Department to establish the powers and duties to control noxious weeds.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments have been received.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule establishes a list of noxious weeds and guidelines to prevent the spread of noxious weeds within the state and should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
AGRICULTURE AND FOOD
PLANT INDUSTRY
350 N REDWOOD RD
SALT LAKE CITY UT 84116-3087, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Marolyn Leetham or Stephen Burningham at the above address, by phone at 801-538-7114 or 801-538-7183, by FAX at 801-538-7126 or 801-538-7126, or by Internet E-mail at mleetham@utah.gov or stburningham@utah.gov

AUTHORIZED BY: Cary G. Peterson, Commissioner

EFFECTIVE: 06/13/2003

Agriculture and Food, Plant Industry
R68-14
Quarantine Pertaining to Gypsy Moth - Lymantria Dispar

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
DAR FILE NO.: 26388
FILED: 06/13/2003, 15:27

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Sections 4-2-2 and 4-35-9 authorize the Department of Agriculture and Food to adopt and enforce rules.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments have been received.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule establishes a quarantine to prevent the spread of Gypsy Moth within the state and should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
AGRICULTURE AND FOOD
PLANT INDUSTRY
350 N REDWOOD RD
SALT LAKE CITY UT 84116-3087, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Marolyn Leetham or Ed Bianco at the above address, by phone at 801-538-7114 or 801-538-7184, by FAX at 801-538-7126 or 801-538-7126, or by Internet E-mail at mleetham@utah.gov or ebianco@utah.gov

AUTHORIZED BY: Cary G. Peterson, Commissioner

EFFECTIVE: 06/13/2003

Agriculture and Food, Plant Industry
R68-16
Quarantine Pertaining to Pine Shoot Beetle, Tomicus piniperda

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
DAR FILE NO.: 26389
FILED: 06/13/2003, 15:35

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsection 4-2-2(1)(k) authorizes the Department of Agriculture and Food to make investigations, subpoena witnesses and records, conduct hearings, issue orders, and make recommendations concerning all matters related to agriculture; Subsection 4-2-2(1)(l)(ii) authorizes the Department to establish and enforce quarantines; and Section 4-35-9 authorizes the Department to adopt and enforce rules.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments have been received.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The Pine Shoot Beetle is a serious pest of pine trees which also damages fir, larch, and spruce trees by attacking the trunks and stems. This rule is established in order to maintain control of this beetle and should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
AGRICULTURE AND FOOD
PLANT INDUSTRY
350 N REDWOOD RD
SALT LAKE CITY UT 84116-3087, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Marolyn Leetham or Ed Bianco at the above address, by phone at 801-538-7114 or 801-538-7184, by FAX at 801-538-7126 or 801-538-7126, or by Internet E-mail at mleetham@utah.gov or ebianco@utah.gov

AUTHORIZED BY: Cary G. Peterson, Commissioner

EFFECTIVE: 06/13/2003

Agriculture and Food, Plant Industry
R68-17
Quarantine Pertaining to Necrotic Strain of the Potato Virus Y

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
DAR FILE NO.: 26390
FILED: 06/13/2003, 15:42

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsection 4-2-2(1)(k) authorizes the Department of Agriculture and Food to make investigations, subpoena witnesses and records, conduct hearings, issue orders, and make recommendations concerning all matters related to agriculture; and Subsection 4-2-2(1)(l)(ii) authorizes the Department to establish and enforce quarantines.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments have been received.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The Necrotic Strain of the Potato Virus Y is a disease of many plants, mostly in the family Solanacea. This rule is established in order to maintain control of this virus and should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
AGRICULTURE AND FOOD
PLANT INDUSTRY
350 N REDWOOD RD
SALT LAKE CITY UT 84116-3087, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Marolyn Leetham or Ed Bianco at the above address, by phone at 801-538-7114 or 801-538-7184, by FAX at 801-538-7126 or 801-538-7126, or by Internet E-mail at mleetham@utah.gov or ebianco@utah.gov

AUTHORIZED BY: Cary G. Peterson, Commissioner

EFFECTIVE: 06/13/2003

Education, Administration
R277-104
USOE ADA Complaint Procedure

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
DAR FILE NO.: 26340
FILED: 06/04/2003, 10:28

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: 28 CFR 35.107, 1992 adopts, defines, and publishes complaint procedures providing for prompt and equitable resolution of complaints filed in accordance with Title II of the Americans with Disabilities Act.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments have been received.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: It is necessary to continue to have a rule outlining complaint procedures in accordance with the Americans with Disabilities Act so this rule should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
EDUCATION
ADMINISTRATION
250 E 500 S
SALT LAKE CITY UT 84111-3272, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Carol Lear at the above address, by phone at 801-538-7835, by FAX at 801-538-7768, or by Internet E-mail at clear@usoe.k12.ut.us

AUTHORIZED BY: Carol Lear, Coordinator School Law and Legislation

EFFECTIVE: 06/04/2003

Education, Administration
R277-436
Gang Prevention and Intervention Programs in the Schools

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
DAR FILE NO.: 26341
FILED: 06/04/2003, 10:28

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsection 53A-1-401(3) allows the State Board of Education to adopt rules in accordance with its responsibilities; and Section 53A-15-601 provides funding for gang prevention and intervention programs in the public schools.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments have been received.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: State law continues to provide for gang prevention and intervention programs in the public schools. This rule is necessary to specify standards for the program and for distribution of funds and should be continued.

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

EDUCATION
ADMINISTRATION
250 E 500 S
SALT LAKE CITY UT 84111-3272, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Carol Lear at the above address, by phone at 801-538-7835, by FAX at 801-538-7768, or by Internet E-mail at clear@usoe.k12.ut.us

AUTHORIZED BY: Carol Lear, Coordinator School Law and Legislation

EFFECTIVE: 06/04/2003

Environmental Quality, Air Quality
R307-101
General Requirements

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 26345
FILED: 06/05/2003, 16:14

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsection 19-2-104(1)(a) authorizes the Air Quality Board to make rules "...regarding the control, abatement, and prevention of air pollution from all sources..." Other components of Section 19-2-104 authorize the Board to make rules affecting specific sources of air pollution. Rule R307-101 includes definitions used throughout all the R307 rules that are written under Section 19-2-104. Without these definitions, the remaining rules would be unintelligible and unenforceable.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: Rule R307-101 has been amended five times in the last five years, and only one written comment has been received. There were no comments on DAR No. 21588 (effective 01/07/1999), DAR No. 21782 (effective 04/08/1999), DAR No. 21851 (effective 05/06/1999), or DAR No. 22928 (effective 10/05/2002). The amendment under DAR No. 23759 (effective 07/12/2001), received one comment, noting that, in Subsection R307-101-2(1) of the definition of "Representative Actual Annual Emissions," the phrase including, but not limited to is a prospective incorporation. The recommendation from the Attorney General's Office is to only use the word including. Use of the word including should provide needed flexibility, without opening a prospective door. Leaving it as is, including but not limited to, must not be taken as a license to add other criteria at a later time without going through the rulemaking process. The Division of Air Quality (DAQ) responded to the comment as follows: It is true that providing a list of items under the heading "including but not limited to" may sometimes cause problems of inadequate notice of prohibited or required actions. However, the use of the phrase must be evaluated on a case-by-case basis to determine whether such a problem is raised. In this case, there is no such problem. In this case, DAQ already has the authority to review and use any relevant documents that assist in determining emission projections; notice is not an issue, although evidence must be disclosed and evaluated in the course of an administrative proceeding. Because there is no statutory or other requirement for notice to the regulated entity, prior to the initiation of an administrative proceeding, regarding which documents will be reviewed, the proposed language does not raise the problems of inadequate notice suggested by the commenter. The Air Quality Board left this provision in the rule because it is inextricably woven into the fabric of a rule resulting from a very complicated court settlement. Laura Lockhart of the Utah Attorney General's Office discussed this matter with the commenter, who was satisfied with this result.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Section R307-101-2 includes all the definitions that apply throughout all Title R307 rules. Without them, the remaining rules would be unintelligible and unenforceable so this rule should be continued.

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:
Jan Miller at the above address, by phone at 801-536-4042, by FAX at 801-536-4099, or by Internet E-mail at janmiller@utah.gov

AUTHORIZED BY: M. Cheryl Heying, Planning Branch Manager

EFFECTIVE: 06/05/2003

Environmental Quality, Air Quality
R307-102
General Requirements: Broadly Applicable Requirements

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
DAR FILE NO.: 26354
FILED: 06/11/2003, 13:49

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsection 19-2-104(1)(a) allows the Air Quality Board to make rules regarding emission of air pollutants, and Subsection 19-2-104(1)(c) sets forth the kinds of information that sources of air pollution must provide, as addressed in Section R307-102-1. Section R307-102-4 is authorized by Section 19-2-113, and sets forth conditions under which the Air Quality Board may authorize variances from Title R307. The federal Clean Air Act, 42 U.S.C. 7401, requires that sources of air pollution not reduce the pay of any employee under certain circumstances, as addressed in Section R307-102-5.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: R307-102 was amended twice. The first amendment was effective 08/03/2000 under DAR No. 22727, and the second amendment was effective 12/07/2000 under DAR No. 23092. No written comments have been received on Rule R307-102 in the past five years.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The rule is needed to specify the conditions for issuing variances, for confidentiality of information submitted, and to require that information be made available to the Air Quality Board; and should be continued.

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:
Jan Miller at the above address, by phone at 801-536-4042, by FAX at 801-536-4099, or by Internet E-mail at janmiller@utah.gov

AUTHORIZED BY: M. Cheryl Heying, Planning Branch Manager

EFFECTIVE: 06/11/2003

Environmental Quality, Air Quality
R307-107
General Requirements: Unavoidable Breakdown

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
DAR FILE NO.: 26367
FILED: 06/12/2003, 13:48

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsection 19-2-104(1)(a) allows the Air Quality Board to make rules "...regarding the control, abatement, and prevention of air pollution from all sources...," and Subsection 19-2-104(1)(c)(iii) allows the Board to write rules that require persons engaged in operation that result in air pollution to provide access to records relating to emissions that cause or contribute to air pollution. Thus, the Board may make rules such as Rule R307-107 that reduce the incidence of breakdowns that contribute to air pollution, and reduce the emissions that occur during breakdowns.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments have been received during the past five years.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Typically, startups and shutdowns in industrial operations cause more emissions of air pollutants than are emitted during normal operations. In addition, breakdowns in processing equipment can cause excess emissions. The rule is needed to ensure that excess emissions are promptly reported so that the Division of Air Quality can take action to protect public health, and to require that the operator do everything possible to reduce excess emissions and should be continued.

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:
Jan Miller at the above address, by phone at 801-536-4042, by FAX at 801-536-4099, or by Internet E-mail at janmiller@utah.gov

AUTHORIZED BY: M. Cheryl Heying, Planning Branch Manager

EFFECTIVE: 06/12/2003

Environmental Quality, Air Quality
R307-165
Emission Testing

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
DAR FILE NO.: 26359
FILED: 06/11/2003, 15:42

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsection 19-2-104(1)(a) allows the Air Quality Board to make rules "...regarding the control, abatement, and prevention of air pollution from all sources..." One component of preventing air pollution is testing to ensure that control equipment is working properly.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments have been received in the past five years.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Without periodic testing, there is no guarantee that pollution control equipment is working properly. This rule outlines the testing and should be continued.

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:
Jan Miller at the above address, by phone at 801-536-4042, by FAX at 801-536-4099, or by Internet E-mail at janmiller@utah.gov

AUTHORIZED BY: M. Cheryl Heying, Planning Branch Manager

EFFECTIVE: 06/11/2003

Environmental Quality, Air Quality
R307-201
Emission Standards: General Emission Standards

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
DAR FILE NO.: 26360
FILED: 06/11/2003, 16:33

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsection 19-2-104(1)(b) allows the Air Quality Board to make rules "establishing air quality standards." Standards are needed to ensure that emissions of air pollution do not harm public health.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments have been received in the last five years.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Standards are needed to ensure that emissions of air pollution do not harm public health. This rule outlines the standards and should be continued.

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:
Jan Miller at the above address, by phone at 801-536-4042, by FAX at 801-536-4099, or by Internet E-mail at janmiller@utah.gov

AUTHORIZED BY: M. Cheryl Heying, Planning Branch Manager

EFFECTIVE: 06/11/2003

Environmental Quality, Air Quality
R307-202
Emission Standards: General Burning

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
DAR FILE NO.: 26368
FILED: 06/12/2003, 14:05

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsection 19-2-104(1)(a) allows the Air Quality Board to make rules "...regarding the control, abatement, and prevention of air pollution from all sources..." Rule R307-202 sets forth the conditions under which burning of yard clippings is allowed, forbids burning at community waste disposal sites and the burning of trash or garbage, and does not regulate outdoor grills or fireplaces.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: The rule was amended in 1999 at the request of Washington County officials (effective 07/15/1999 under DAR No. 22043) to allow an earlier window for residential burning of yard waste. No comments have been received in the past five years.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The rule is necessary to specify time windows when local officials may allow burning for yard cleanup, and to set forth the kinds of burning for which permits are not needed; and should be continued.

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:
Jan Miller at the above address, by phone at 801-536-4042, by FAX at 801-536-4099, or by Internet E-mail at janmiller@utah.gov

AUTHORIZED BY: M. Cheryl Heying, Planning Branch Manager

EFFECTIVE: 06/12/2003

Environmental Quality, Drinking Water
R309-352
Capacity Development Program

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
DAR FILE NO.: 26392
FILED: 06/16/2003, 13:30

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsection 19-4-104(1)(a)(v) authorizes the Drinking Water Board to make rules in accordance with Title 63, Chapter 46a (Utah Administrative Rulemaking Act) and Section 1420 of the federal Safe Drinking Water Act governing capacity development and assessment in compliance with the Board's federal State Revolving Fund (SRF) loan program (Rule R309-705).

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments have been received.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule is required to provide criteria for assessing the capacity of a public drinking water system applying for financial assistance under the Board's federal SRF loan program, and should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
ENVIRONMENTAL QUALITY
DRINKING WATER
150 N 1950 W
SALT LAKE CITY UT 84116-3085, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Bill Birkes at the above address, by phone at 801-536-4201, by FAX at 801-536-4211, or by Internet E-mail at bbirkes@utah.gov

AUTHORIZED BY: Kevin Brown, Director

EFFECTIVE: 06/16/2003

Health, Children's Health Insurance Program
R382-1
Benefits and Administration

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
DAR FILE NO.: 26351
FILED: 06/09/2003, 13:05

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: The Children's Health Insurance Program was created by the Balanced Budget Act of 1997 under Title XXI of the Social Security Act and adopted by the State under Title 26, Chapter 40, of the Utah Code. It is authorized by Section 26-40-103, which requires adoption of rules for plan benefits.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments have been received. During review of the rule, it was discovered that references throughout the rule to the 1998 State Plan for the Children's Health Insurance Program need to be updated to 2002 which is the date of the amended State Plan. This will be done through regular rulemaking procedures.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Since it's inception, the Children's Health Insurance Program has provided high quality health care to many uninsured children in Utah. The program is viewed positively in both the public and private sectors of the state. This rule describes the benefits, limitations, providers, reimbursement, cost sharing, and grievances and appeals for the program, and should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
HEALTH
CHILDREN'S HEALTH INSURANCE PROGRAM
CANNON HEALTH BLDG
288 N 1460 W
SALT LAKE CITY UT 84116-3231, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Gayleen Henderson at the above address, by phone at 801-538-6135, by FAX at 801-538-6952, or by Internet E-mail at ghenderson@utah.gov

AUTHORIZED BY: Rod L. Betit, Executive Director

EFFECTIVE: 06/09/2003

Health, Children's Health Insurance Program
R382-10
Eligibility

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
DAR FILE NO.: 26352
FILED: 06/10/2003, 10:53

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: The Children's Health Insurance Program was created by the Balanced Budget Act of 1997 under Title XXI of the Social Security Act and adopted by the State under Title 26, Chapter 40, of the Utah Code. It is authorized by Section 26-40-105.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments have been received.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Since it's inception, the Children's Health Insurance Program has provided high quality health care to many uninsured children in Utah. The program is viewed positively in both the public and private sectors of the state. This rule describes the eligibility requirements for coverage in the Children's Health Insurance Program and should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
HEALTH
CHILDREN'S HEALTH INSURANCE PROGRAM
CANNON HEALTH BLDG
288 N 1460 W
SALT LAKE CITY UT 84116-3231, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Gayleen Henderson at the above address, by phone at 801-538-6135, by FAX at 801-538-6952, or by Internet E-mail at ghenderson@utah.gov

AUTHORIZED BY: Rod L. Betit, Executive Director

EFFECTIVE: 06/10/2003

Health, Health Care Financing, Coverage and Reimbursement Policy
R414-52
Optometry Services

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
DAR FILE NO.: 26347
FILED: 06/06/2003, 10:17

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 26-18-3 requires the Department of Health to develop implementing policy to administer the Medicaid program. In addition, Section 26-1-5 grants the Department of Health the authority to adopt, amend, or rescind rules that shall have the force and effect of law. Furthermore, 42 CFR 440.60 authorizes the Department of Health to provide optometry services for Medicaid clients, as long as a licensed practitioner performs the services.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: Comments have focused on the hardships caused by the elimination of services in the most recent amendments to this rule.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule needs to be continued because it is necessary to provide optometry services to eligible individuals okay.

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

HEALTH
HEALTH CARE FINANCING,
COVERAGE AND REIMBURSEMENT POLICY
CANNON HEALTH BLDG
288 N 1460 W
SALT LAKE CITY UT 84116-3231, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Ross Martin at the above address, by phone at 801-538-6592, by FAX at 801-538-6099, or by Internet E-mail at rmartin@utah.gov

AUTHORIZED BY: Rod L. Betit, Executive Director

EFFECTIVE: 06/06/2003

▼ ▼

Health, Health Care Financing, Coverage and Reimbursement Policy
R414-53
Eyeglasses Services

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
DAR FILE NO.: 26346
FILED: 06/06/2003, 10:12

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 26-18-3 requires the Department of Health to develop implementing policy to administer the Medicaid program. In addition, Section 26-1-5 grants the Department of Health the authority to adopt, amend, or rescind rules that shall have the force and effect of law. Furthermore, 42 CFR 440.120 authorizes the Department of Health to provide eyeglasses services as long as the lenses, frames, or other aids to vision are prescribed by a physician or optometrist skilled in diseases of the eye.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: Many recipients have expressed concern over the recent cuts to the vision program, which include an elimination of eyeglasses services for nonpregnant adult recipients ages 21 and older. In addition, other comments have expressed the concern of being able to receive a change of eyeglasses when necessary. For example, eyeglasses that become nonfunctional or break within two years of ownership may not be replaced. This could present a problem for someone whose vision worsens, but still does not meet the criteria necessary for a change of eyeglasses. Also, the rule may present a problem for someone whose eyeglasses are destroyed through no fault of his or her own.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule needs to be continued because it is necessary to provide eyeglasses services to eligible individuals.

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

HEALTH
HEALTH CARE FINANCING,
COVERAGE AND REIMBURSEMENT POLICY
CANNON HEALTH BLDG
288 N 1460 W
SALT LAKE CITY UT 84116-3231, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Ross Martin at the above address, by phone at 801-538-6592, by FAX at 801-538-6099, or by Internet E-mail at rmartin@utah.gov

AUTHORIZED BY: Rod L. Betit, Executive Director

EFFECTIVE: 06/06/2003

Human Services, Administration, Administrative Services, Licensing

R501-18

Abuse Background Screening

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
DAR FILE NO.: 26343
FILED: 06/05/2003, 15:12

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Sections 62A-2-121 and 62A-4a-116 provide that a review of the Management Information System shall be conducted on licensees and individuals associated with the licensees as part of the initial and annual licensing process.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments have been received during the past five years.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: There is a continued and increasing need for abuse background screening for the protection of children and vulnerable adults so this rule should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
HUMAN SERVICES
ADMINISTRATION, ADMINISTRATIVE SERVICES, LICENSING
120 N 200 W
SALT LAKE CITY UT 84103-1500, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Jan Bohi at the above address, by phone at 801-538-4153, by FAX at 801-538-4553, or by Internet E-mail at jbohi@utah.gov

AUTHORIZED BY: Ken Stettler, Director

EFFECTIVE: 06/05/2003

Workforce Services, Workforce Information and Payment Services

R994-306

Charging Benefit Costs to Employers

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
DAR FILE NO.: 26355
FILED: 06/11/2003, 15:21

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 35A-1-104 authorizes the Department to make rules to carry out its responsibilities. Sections 35A-4-303 and 35A-4-306 set the contribution rates for employers. This rule provides the procedure for appealing the contribution rate, when an employer will be relieved of charges and other notice provisions necessary to administer the act.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments have been received since the last five-year review.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule is necessary to inform employers of their rights to notice and the time limits for protesting a department decision. It also informs the employer of when it might be eligible for relief of charges. The rule also clarifies reduction in force separations and should be continued. The Department is currently rewriting all of Title R994. It is estimated that new rules will be filed within the next year.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
WORKFORCE SERVICES
WORKFORCE INFORMATION AND PAYMENT SERVICES
140 E 300 S
SALT LAKE CITY UT 84111-2333, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Suzan Pixton at the above address, by phone at 801-526-9645, by FAX at 801-526-9211, or by Internet E-mail at spixton@utah.gov

AUTHORIZED BY: Raylene G. Ireland, Executive Director

EFFECTIVE: 06/11/2003

Workforce Services, Workforce Information and Payment Services

R994-307

Social Costs -- Relief of Charges

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 26358
FILED: 06/11/2003, 15:36

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 35A-1-104 authorizes the Department to make rules to carry out its responsibilities. This rule is necessary to provide a uniform system to decide when an employer can be relieved of benefit costs.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments have been received since the last five-year review.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The rule is essential to explain the circumstances under which an employer may be relieved of benefit costs and should be continued. There are times when an employer should not be required to pay benefit costs. In those cases, the benefits are paid out of the social costs portion of the unemployment taxes and spread evenly amongst all employers.

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

WORKFORCE SERVICES
WORKFORCE INFORMATION AND
PAYMENT SERVICES
140 E 300 S
SALT LAKE CITY UT 84111-2333, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Suzan Pixton at the above address, by phone at 801-526-9645, by FAX at 801-526-9211, or by Internet E-mail at spixton@utah.gov

AUTHORIZED BY: Raylene G. Ireland, Executive Director

EFFECTIVE: 06/11/2003

Workforce Services, Workforce Information and Payment Services

R994-315

Centralized New Hire Registry Reporting

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 26362
FILED: 06/11/2003, 17:07

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 35A-1-104 authorizes the Department to make rules to carry out its responsibilities. Section 35A-7-101 et seq. establishes a new hire registry and requires the Department to maintain it.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments have been received since the last five-year review.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule explains the reporting formats employer are permitted to use, including instructions for multi-state employers who want to file in only one state. It is also necessary to establish a uniform procedure for waiving the penalty for failure to report and should be continued.

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

WORKFORCE SERVICES
WORKFORCE INFORMATION AND
PAYMENT SERVICES
140 E 300 S
SALT LAKE CITY UT 84111-2333, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Suzan Pixton at the above address, by phone at 801-526-9645, by FAX at 801-526-9211, or by Internet E-mail at spixton@utah.gov

AUTHORIZED BY: Raylene G. Ireland, Executive Director

EFFECTIVE: 06/11/2003

Workforce Services, Workforce Information and Payment Services

R994-508

Appeal Procedures

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 26356

FILED: 06/11/2003, 15:27

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 35A-1-104 authorizes the Department to make rules to carry out its responsibilities. The provisions of this rule explain the appeal process for all unemployment insurance appeals and is necessary to inform the parties of their procedural rights and responsibilities.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments have been received since the last five-year review.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The rule is essential to provide the parties and the department with notice of the procedural and due process requirements of the appellate process and should be continued. The department is currently in the process of rewriting all of the rules under Title R994. It is expected that a new Rule R994-508 will be filed within the next six weeks.

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

WORKFORCE SERVICES
WORKFORCE INFORMATION AND
PAYMENT SERVICES
140 E 300 S
SALT LAKE CITY UT 84111-2333, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Suzan Pixton at the above address, by phone at 801-526-9645, by FAX at 801-526-9211, or by Internet E-mail at spixton@utah.gov

AUTHORIZED BY: Raylene G. Ireland, Executive Director

EFFECTIVE: 06/11/2003

End of the Five-Year Notices of Review and Statements of Continuation Section

NOTICES OF FIVE-YEAR REVIEW EXTENSIONS

Rulewriting agencies are required by law to review each of their administrative rules within five years of the date of the rule's original enactment or the date of last review (*Utah Code* Section 63-46a-9 (1996)). If the agency finds that it will not meet the deadline for review of the rule (the five-year anniversary date), it may file an extension with the Division of Administrative Rules. The extension permits the agency to file the review up to 120 days beyond the anniversary date.

Agencies have filed extensions for the rules listed below. The "Extended Due Date" is 120 days after the anniversary date. The five-year review extension is governed by *Utah Code* Subsection 63-46a-9(4) and (5) (1996).

Regents (Board of)

University of Utah, Administration

No. 26394 (filed 06/16/2003 at 3:59 p.m.): R805-2. Government Records Access and Management Procedures.
Enacted or Last Five-Year Review: 06/17/98 (No. 21227, 5YR, filed 06/17/98 at 10:30 a.m., published 07/15/98)
Extended Due Date: 10/15/2003

End of the Notices of Five-Year Review Extensions Section

NOTICES OF RULE EFFECTIVE DATES

These are the effective dates of PROPOSED RULES or CHANGES IN PROPOSED RULES published in earlier editions of the *Utah State Bulletin*. These effective dates are at least 31 days and not more than 120 days after the date the following rules were published.

Abbreviations
AMD = Amendment
CPR = Change in Proposed Rule
NEW = New Rule
R&R = Repeal and Reenact
REP = Repeal

Agriculture and Food
Marketing and Conservation
No. 26083 (AMD): R65-7. Horse Racing.
Published: April 1, 2003
Effective: June 9, 2003

Commerce
Occupational and Professional Licensing
No. 26174 (AMD): R156-3a. Architect Licensing Act Rules.
Published: May 1, 2003
Effective: June 3, 2003

No. 26150 (AMD): R156-28. Veterinary Practice Act Rules.
Published: May 1, 2003
Effective: June 3, 2003

No. 26175 (AMD): R156-55a. Utah Construction Trades Licensing Act Rules.
Published: May 1, 2003
Effective: June 3, 2003

Real Estate
No. 26025 (AMD): R162-6-1. Improper Practices..
Published: March 1, 2003
Effective: June 5, 2003

Environmental Quality
Drinking Water
No. 26171 (AMD): R309-405. Compliance and Enforcement: Administrative Penalty.
Published: May 1, 2003
Effective: June 17, 2003

No. 26172 (AMD): R309-700. Financial Assistance: State Drinking Water Project Revolving Loan Program.
Published: May 1, 2003
Effective: July 1, 2003

Health
Administration
No. 26162 (NEW): R380-250. HIPAA Privacy Rule Implementation.
Published: May 1, 2003
Effective: June 9, 2003

Health Care Financing, Coverage and Reimbursement Policy
No. 26051 (AMD): R414-504. Nursing Facility Payments.
Published: March 15, 2003
Effective: June 9, 2003

Epidemiology and Laboratory Services, Laboratory Improvement
No. 26144 (AMD): R444-14. Rule for the Certification of Environmental Laboratories.
Published: May 1, 2003
Effective: June 12, 2003

Insurance
Administration
No. 26129 (AMD): R590-85. Filing of Rates for Individual Disability Insurance Forms and Individual and Group Medicare Rates.
Published: April 15, 2003
Effective: June 13, 2003

No. 26132 (AMD): R590-147. Annual Statement Instructions.
Published: April 15, 2003
Effective: June 13, 2003

No. 25958 (CPR): R590-219. Credit Scoring.
Published: May 1, 2003
Effective: June 13, 2003

No. 26158 (NEW): R590-223. Rule to Recognize the 2001 CSO Mortality Table for Use in Determining Minimum Reserve Liabilities and Nonforfeiture Benefits.
Published: May 1, 2003
Effective: June 13, 2003

Labor Commission
Occupational Safety and Health
No. 26149 (AMD): R614-1-4. Incorporation of Federal Standards.
Published: May 1, 2003
Effective: June 3, 2003

Safety
No. 26148 (AMD): R616-2-3. Safety Codes and Rules for Boilers and Pressure Vessels.
Published: May 1, 2003
Effective: June 3, 2003

Natural Resources
Parks and Recreation
No. 26170 (AMD): R651-611-2. Day Use Entrance Fees.
Published: May 1, 2003
Effective: June 3, 2003

Wildlife Resources
No. 26166 (AMD): R657-3. Collection, Importation, Transportation, and Possession of Zoological Animals.
Published: May 1, 2003
Effective: June 3, 2003

No. 26165 (AMD): R657-5-70. Chronic Wasting Disease - Infected Animals.
Published: May 1, 2003
Effective: June 3, 2003

No. 26169 (AMD): R657-26-8. Wildlife Board Review - Procedure.
Published: May 1, 2003
Effective: June 3, 2003

No. 26164 (AMD): R657-39-3. Memberships -- Terms of Office.
Published: May 1, 2003
Effective: June 3, 2003

No. 26168 (NEW): R657-53. Amphibian and Reptile Collection, Importation, Transportation, and Possession.
Published: May 1, 2003
Effective: June 3, 2003

School and Institutional Trust Lands
Administration
No. 26176 (AMD): R850-3. Applicant Qualifications, Application Forms, and Application Processing.
Published: May 1, 2003
Effective: June 3, 2003

No. 26177 (AMD): R850-50. Range Management.
Published: May 1, 2003
Effective: June 3, 2003

Tax Commission
Auditing
No. 26078 (AMD): R865-9I-39. Subtraction from Federal Taxable Income for a Handicapped Child or Adult Pursuant to Utah Code Ann. Section 59-10-114.
Published: April 1, 2003
Effective: June 10, 2003

Workforce Services
Workforce Information and Payment Services
No. 26135 (AMD): R994-303-104. Qualified Employer.
Published: April 15, 2003
Effective: June 5, 2003

End of the Notices of Rule Effective Dates Section

RULES INDEX
BY AGENCY (CODE NUMBER)
AND
BY KEYWORD (SUBJECT)

The *Rules Index* is a cumulative index that reflects all effective changes to Utah's administrative rules. The current *Index* lists changes made effective from January 2, 2003, including notices of effective date received through June 16, 2003, the effective dates of which are no later than July 1, 2003. The *Rules Index* is published in the *Utah State Bulletin* and in the annual *Index of Changes*. Nonsubstantive changes, while not published in the *Bulletin*, do become part of the *Utah Administrative Code (Code)* and are included in this *Index*, as well as 120-Day (Emergency) rules that do not become part of the *Code*. The rules are indexed by Agency (Code Number) and Keyword (Subject).

DAR NOTE: The index may contain inaccurate page number references. Also the index is incomplete in the sense that index entries for Changes in Proposed Rules (CPRs) are not preceded by entries for their parent Proposed Rules. These difficulties with the index are related to a new software package used by the Division to create the Bulletin and related publications; we hope to have them resolved as soon as possible. Bulletin issue information and effective date information presented in the index are, to the best of our knowledge, complete and accurate. If you have any questions regarding the index and the information it contains, please contact Nancy Lancaster (801 538-3218), Mike Broschinsky (801 538-3003), or Kenneth A. Hansen (801 538-3777).

A copy of the *Rules Index* is available for public inspection at the Division of Administrative Rules (4120 State Office Building, Salt Lake City, UT), or may be viewed online at the Division's web site (http://www.rules.utah.gov/).

RULES INDEX - BY AGENCY (CODE NUMBER)

ABBREVIATIONS

AMD = Amendment
CPR = Change in proposed rule
EMR = Emergency rule (120 day)
NEW = New rule
5YR = Five-Year Review
EXD = Expired
NSC = Nonsubstantive rule change
REP = Repeal
R&R = Repeal and reenact
* = Text too long to print in *Bulletin*, or repealed text not printed in *Bulletin*

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
Administrative Services					
Facilities Construction and Management					
R23-3	Authorization of Programs for Capital Development Projects	25639	R&R	01/02/2003	2002-23/3
R23-3	Planning and Programming for Capital Projects	25989	AMD	03/24/2003	2003-4/4
R23-4	Contract Performance Review Committee and Suspension/Debarment From Consideration for Award of State Contracts	25964	5YR	01/15/2003	2003-3/62
R23-4	Contract Performance Review Committee and Suspension/Debarment From Consideration for Award of State Contracts	25783	AMD	02/04/2003	2003-1/3
R23-5	Contingency Funds	25955	5YR	01/15/2003	2003-3/62
R23-6	Value Engineering and Life Cycle Costing of State-Owned Facilities Rules and Regulations	25956	5YR	01/15/2003	2003-3/63
R23-7	Utah State Building Board Policy Statement Master Planning (5YR EXTENSION)	25984	NSC	02/04/2003	Not Printed

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
R23-7	Utah State Building Board Policy Statement Master Planning	25770	REP	02/04/2003	2003-1/5
R23-8	Planning Fund Use	25640	REP	01/02/2003	2002-23/5
R23-9	Building Board State/Local Cooperation Policy	25957	5YR	01/15/2003	2003-3/63
R23-9	Building Board State/Local Cooperation Policy	25988	R&R	03/24/2003	2003-4/5
R23-10	Naming of State Buildings	25962	5YR	01/15/2003	2003-3/64
R23-10	Naming of State Buildings	25784	AMD	02/04/2003	2003-1/5
R23-11	Facilities Allocation and Sale Procedures	25771	REP	02/04/2003	2003-1/7
R23-11	Facilities Allocation and Sales Procedures (5YR EXTENSION)	25986	NSC	02/04/2003	Not Printed
R23-13	State of Utah Parking Rules for Facilities Managed by the Division of Facilities Construction and Management	26117	5YR	03/25/2003	2003-8/43
R23-14	Management of Roofs on State Buildings	26115	NEW	05/16/2003	2003-8/5
R23-21	Division of Facilities Construction and Management Lease Procedures	25959	5YR	01/15/2003	2003-3/64
R23-24	Capital Projects Utilizing Non-appropriated Funds	25960	5YR	01/15/2003	2003-3/65
Finance					
R25-6	Relocation Reimbursement	26206	5YR	05/01/2003	2003-10/150
R25-7	Travel-Related Reimbursements for State Employees	26203	5YR	05/01/2003	2003-10/150
Fleet Operations					
R27-3	Vehicle Use Standards	25879	AMD	05/15/2003	2003-2/5
Purchasing and General Services					
R33-2-102	Authority to Make Small Purchases	26136	AMD	05/27/2003	2003-8/6
R33-3	Source Selection and Contract Formation	26138	AMD	05/27/2003	2003-8/7
R33-5	Construction and Architect - Engineer Selection	26139	AMD	05/27/2003	2003-8/14
Agriculture and Food					
Marketing and Conservation					
R65-2	Utah Cherry Marketing Order	26383	5YR	06/13/2003	2003-13/64
R65-5	Utah Red Tart and Sour Cherry Marketing Order	26386	5YR	06/13/2003	2003-13/64
R65-7	Horse Racing	26083	AMD	06/09/2003	2003-7/4
Plant Industry					
R68-5	Grain Inspection	26385	5YR	06/13/2003	2003-13/65
R68-9	Utah Noxious Weed Act	26387	5YR	06/13/2003	2003-13/65
R68-14	Quarantine Pertaining to Gypsy Moth - Lymantria Dispar	26388	5YR	06/13/2003	2003-13/66
R68-16	Quarantine Pertaining to Pine Shoot Beetle, Tomicus piniperda	26389	5YR	06/13/2003	2003-13/66
R68-17	Quarantine Pertaining to Necrotic Strain of the Potato Virus Y	26390	5YR	06/13/2003	2003-13/67
Alcoholic Beverage Control					
Administration					
R81-1-17	Advertising	25886	AMD	02/26/2003	2003-2/5
R81-5-5	Advertising	25887	AMD	02/26/2003	2003-2/8
R81-7-3	Guidelines for Issuing Permits for Outdoor or Large-Scale Public Events	25650	AMD	01/24/2003	2002-24/6

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
Commerce					
Administration					
R151-14	New Automobile Franchise Act Rules	25624	AMD	01/02/2003	2002-23/6
R151-33	Pete Suazo Utah Athletic Commission Act Rule	25649	AMD	01/15/2003	2002-24/7
R151-35	Powersport Vehicle Franchise Act Rule	25724	NEW	01/15/2003	2002-24/9
R151-46b	Department of Commerce Administrative Procedures Act Rules	25822	AMD	02/18/2003	2003-1/8
Corporations and Commercial Code					
R154-2	Utah Uniform Commercial Code, Revised Article 9 Rules	25549	AMD	03/14/2003	2002-22/7
R154-10	Utah Digital Signatures Rules	25553	AMD	03/14/2003	2002-22/9
Occupational and Professional Licensing					
R156-3a	Architect Licensing Act Rules	26174	AMD	06/03/2003	2003-9/3
R156-22	Professional Engineers and Professional Land Surveyors Licensing Act Rules	25922	5YR	01/13/2003	2003-3/65
R156-22	Professional Engineers and Professional Land Surveyors Licensing Act Rules	25763	AMD	04/03/2003	2003-1/10
R156-22	Professional Engineers and Professional Land Surveyors Licensing Act Rules	25763	CPR	04/03/2003	2003-5/27
R156-28	Veterinary Practice Act Rules	26150	AMD	06/03/2003	2003-9/4
R156-31b	Nurse Practice Act Rules	26319	5YR	06/02/2003	2003-12/71
R156-46a	Hearing Instrument Specialist Licensing Act Rules	25987	AMD	03/18/2003	2003-4/7
R156-47b-202	Massage Therapy Education Peer Committee	26126	AMD	05/19/2003	2003-8/15
R156-47b-302a	Qualifications for Licensure as a Massage Therapist - Massage School Curriculum Standards - Equivalent Education and Training	25651	AMD	01/16/2003	2002-24/10
R156-53	Landscape Architects Licensing Act Rules	26320	5YR	06/02/2003	2003-12/71
R156-55a	Utah Construction Trades Licensing Act Rules	26175	AMD	06/03/2003	2003-9/6
R156-59	Professional Employer Organization Act Rules	25920	5YR	01/09/2003	2003-3/66
R156-59	Professional Employer Organization Act Rules	26116	REP	05/19/2003	2003-8/16
R156-60a	Social Worker Licensing Act Rules	25629	AMD	01/02/2003	2002-23/8
R156-68	Utah Osteopathic Medical Practice Act Rules	26321	5YR	06/02/2003	2003-12/72
Real Estate					
R162-6-1	Improper Practices.	26025	AMD	06/05/2003	2003-5/2
R162-8-9	Disclosure Requirements	25663	AMD	01/16/2003	2002-24/11
R162-9	Continuing Education	26118	AMD	05/21/2003	2003-8/18
R162-105	Scope of Authority	26024	AMD	04/23/2003	2003-5/4
R162-106	Professional Conduct	26060	AMD	04/23/2003	2003-6/3
R162-107	Unprofessional Conduct	25981	5YR	01/21/2003	2003-4/52
Community and Economic Development					
Community Development, History					
R212-1	Adjudicative Proceedings	25630	AMD	01/06/2003	2002-23/10
R212-1	Adjudicative Proceedings	25570	AMD	01/06/2003	2002-22/10
R212-4	Archaeological Permits	25787	AMD	03/11/2003	2003-1/13
Corrections					
Administration					
R251-110	Sex Offender Notification	25991	AMD	03/21/2003	2003-4/9

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
R251-304	Contract Procedures	25885	AMD	02/19/2003	2003-2/9
R251-304	Contract Procedures	26053	5YR	02/21/2003	2003-6/17
Education					
Administration					
R277-104	USOE ADA Complaint Procedure	26340	5YR	06/04/2003	2003-13/67
R277-436	Gang Prevention and Intervention Programs in the Schools	26341	5YR	06/04/2003	2003-13/68
R277-469	Instructional Materials Commission Operating Procedures	26157	5YR	04/04/2003	2003-9/135
R277-470	Charter Schools	25726	AMD	01/15/2003	2002-24/12
R277-483	Persistently Dangerous Schools	25965	NEW	03/07/2003	2003-3/5
R277-485	Loss of Enrollment	25966	NEW	03/07/2003	2003-3/7
R277-508	Employment of Substitute Teachers (5YR EXTENSION)	26073	NSC	04/25/2003	Not Printed
R277-508	Employment of Substitute Teachers	26188	5YR	04/25/2003	2003-10/151
R277-516	Library Media Certificates and Programs	25925	5YR	01/14/2003	2003-3/67
R277-518	Vocational-Technical Certificates	25926	5YR	01/14/2003	2003-3/67
R277-521	Professional Specialist Licensing	26030	NSC	03/01/2003	Not Printed
R277-600	Student Transportation Standards and Procedures	25928	5YR	01/14/2003	2003-3/68
R277-605	Coaching Standards and Athletic Clinics	25931	5YR	01/14/2003	2003-3/68
R277-610	Released-Time Classes for Religious Instruction	25932	5YR	01/14/2003	2003-3/68
R277-611	Medical Recommendations by School Personnel to Parents	25647	NEW	01/03/2003	2002-23/12
R277-615	Foreign Exchange Students	25933	5YR	01/14/2003	2003-3/69
R277-700	The Elementary and Secondary School Core Curriculum	25935	5YR	01/14/2003	2003-3/69
R277-702	Procedures for the Utah General Educational Development Certificate	25936	5YR	01/14/2003	2003-3/70
R277-705	Secondary School Completion and Diplomas	25648	AMD	01/03/2003	2002-23/13
R277-709	Education Programs Serving Youth in Custody	25937	5YR	01/14/2003	2003-3/70
R277-717	Math, Engineering, Science Achievement (MESA)	26087	AMD	05/02/2003	2003-7/6
R277-718	Utah Career Teaching Scholarship Program	25938	5YR	01/14/2003	2003-3/71
R277-721	Deadline for CACFP Sponsor Participation in Food Distribution Program	25929	5YR	01/14/2003	2003-3/71
R277-722	Withholding Payments and Commodities in the CACFP	25930	5YR	01/14/2003	2003-3/72
R277-730	Alternative High School Curriculum	25939	5YR	01/14/2003	2003-3/72
R277-746	Driver Education Programs for Utah Schools	26089	5YR	03/12/2003	2003-7/73
R277-747	Private School Student Driver Education	26090	5YR	03/12/2003	2003-7/73
R277-751	Special Education Extended School Year	26091	5YR	03/12/2003	2003-7/74
Applied Technology Education (Board for), Rehabilitation					
R280-200	Rehabilitation	26088	5YR	03/12/2003	2003-7/74
R280-203	Certification Requirements for Interpreters for the Hearing Impaired	25646	AMD	01/03/2003	2002-23/16
Environmental Quality					
Air Quality					
R307-101	General Requirements	26345	5YR	06/05/2003	2003-13/68
R307-102	General Requirements: Broadly Applicable Requirements	26354	5YR	06/11/2003	2003-13/69

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
R307-107	General Requirements: Unavoidable Breakdown	26367	5YR	06/12/2003	2003-13/70
R307-121	General Requirements: Eligibility of Vehicles That Use Cleaner Burning Fuels or Conversion of Vehicles and Special Fuel Mobile Equipment To Use Cleaner Burning Fuels for Corporate and Individual Income Tax Credits.	25495	AMD	01/09/2003	2002-21/6
R307-165	Emission Testing	26359	5YR	06/11/2003	2003-13/70
R307-201	Emission Standards: General Emission Standards	26360	5YR	06/11/2003	2003-13/71
R307-202	Emission Standards: General Burning	26368	5YR	06/12/2003	2003-13/71
R307-840	Lead-Based Paint Accreditation, Certification and Work Practice Standards	26249	5YR	05/05/2003	2003-11/96
Drinking Water					
R309-352	Capacity Development Program	26392	5YR	06/16/2003	2003-13/72
R309-405	Compliance and Enforcement: Administrative Penalty	26171	AMD	06/17/2003	2003-9/65
R309-700	Financial Assistance: State Drinking Water Project Revolving Loan Program	26172	AMD	07/01/2003	2003-9/67
R309-710	Drinking Water Source Protection Funding	25863	REP	03/05/2003	2003-2/10
Environmental Response and Remediation					
R311-207	Accessing the Petroleum Storage Tank Trust Fund for Leaking Petroleum Storage Tanks	25161	CPR	02/04/2003	2003-1/46
Radiation Control					
R313-12-3	Definitions	25785	AMD	03/14/2003	2003-1/22
R313-15	Standards for Protection Against Radiation	25943	5YR	01/14/2003	2003-3/73
R313-19-100	Transportation	26074	AMD	05/09/2003	2003-7/9
R313-25	License Requirements for Land Disposal of Radioactive Waste - General Provisions	26086	AMD	05/09/2003	2003-7/10
R313-28	Use of X-Rays in the Healing Arts	25786	AMD	03/14/2003	2003-1/27
Solid and Hazardous Waste					
R315-2	General Requirements - Identification and Listing of Hazardous Waste	25910	NSC	03/01/2003	Not Printed
R315-2-2	General Requirements - Identification and Listing of Hazardous Waste	26057	NSC	03/01/2003	Not Printed
R315-3	Application and Permit Procedures for Hazardous Waste Treatment, Storage, and Disposal Facilities	25915	NSC	03/01/2003	Not Printed
R315-4	Procedures for Decisionmaking	25912	NSC	03/01/2003	Not Printed
R315-7	Interim Status Requirements for Hazardous Waste Treatment, Storage, and Disposal Facilities	25913	NSC	03/01/2003	Not Printed
R315-8	Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities	25911	NSC	03/01/2003	Not Printed
R315-8-15	Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities	26058	NSC	03/01/2003	Not Printed
R315-12	Administrative Procedures	25914	NSC	03/01/2003	Not Printed
R315-14	Standards for the Management of Specific Hazardous Wastes and Specific Types	25918	NSC	03/01/2003	Not Printed
R315-15	Standards for the Management of Used Oil	26064	5YR	03/03/2003	2003-7/75
R315-16	Standards for Universal Waste Management	25916	NSC	03/01/2003	Not Printed
R315-301	Solid Waste Authority, Definitions, and General Requirements	26092	5YR	03/14/2003	2003-7/75
R315-302	Solid Waste Facility Location Standards, General Facility Requirements, and Closure Requirements	26093	5YR	03/14/2003	2003-7/76

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
R315-303	Landfilling Standards	26094	5YR	03/14/2003	2003-7/77
R315-305	Class IV and VI Landfill Requirements	26095	5YR	03/14/2003	2003-7/78
R315-306	Energy Recovery and Incinerator Standards	26096	5YR	03/14/2003	2003-7/79
R315-307	Landtreatment Disposal Standards	26097	5YR	03/14/2003	2003-7/79
R315-308	Ground Water Monitoring Requirements	26098	5YR	03/14/2003	2003-7/80
R315-309	Financial Assurance	26100	5YR	03/14/2003	2003-7/81
R315-310	Permit Requirements for Solid Waste Facilities	26099	5YR	03/14/2003	2003-7/82
R315-311	Permit Approval for Solid Waste Disposal, Waste Tire Storage, Energy Recovery, And Incinerator Facilities	26101	5YR	03/14/2003	2003-7/82
R315-312	Recycling and Composting Facility Standards	26102	5YR	03/14/2003	2003-7/83
R315-313	Transfer Stations and Drop Box Facilities	26103	5YR	03/14/2003	2003-7/84
R315-314	Facility Standards for Piles Used for Storage and Treatment	26104	5YR	03/14/2003	2003-7/84
R315-315	Special Waste Requirements	26105	5YR	03/14/2003	2003-7/85
R315-316	Infectious Waste Requirements	26106	5YR	03/14/2003	2003-7/86
R315-317	Other Processes, Variances, and Violations	26107	5YR	03/14/2003	2003-7/87
R315-318	Permit by Rule	26108	5YR	03/14/2003	2003-7/87
Water Quality					
R317-1	Definitions and General Requirements	25636	AMD	01/30/2003	2002-23/17
R317-4-3	Onsite Wastewater Systems General Requirements	25203	AMD	01/10/2003	2002-18/43
R317-4-3	Onsite Wastewater Systems General Requirements	25635	AMD	01/30/2003	2002-23/21
R317-6-6	Implementation	25632	AMD	01/30/2003	2002-23/25
R317-7-13	Public Participation	25631	AMD	01/30/2003	2002-23/32
R317-8	Utah Pollutant Discharge Elimination System (UPDES)	25634	AMD	01/30/2003	2002-23/33
R317-9	Administrative Procedures	25633	NEW	02/05/2003	2002-23/74
R317-10	Certification of Wastewater Works Operators.	25638	AMD	01/30/2003	2002-23/78
R317-11	Certification Required to Design, Inspect and Maintain Underground Wastewater Disposal Systems, or Conduct Percolation and Soil Tests for Underground Wastewater Disposal Systems	25637	AMD	01/30/2003	2002-23/80
R317-101	Utah Wastewater Project Assistance Program	26183	5YR	04/22/2003	2003-10/151
Health					
Administration					
R380-250	HIPAA Privacy Rule Implementation	26161	EMR	04/14/2003	2003-9/131
R380-250	HIPAA Privacy Rule Implementation	26162	NEW	06/09/2003	2003-9/72
Children's Health Insurance Program					
R382-1	Benefits and Administration	26351	5YR	06/09/2003	2003-13/72
R382-10	Eligibility	26352	5YR	06/10/2003	2003-13/73
Epidemiology and Laboratory Services, Epidemiology					
R386-702	Communicable Disease Rule	26290	EMR	05/16/2003	2003-12/67
Community and Family Health Services, Immunization					
R396-100	Immunization Rule for Students	26187	5YR	04/24/2003	2003-10/152
Health Care Financing, Coverage and Reimbursement Policy					
R414-1-5	State Plan	26244	EMR	05/02/2003	2003-11/74
R414-5	Reduction in Outlier Reimbursements	25889	EMR	01/03/2003	2003-2/55

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
R414-5	Reduction in Hospital Payments	25948	EMR	01/15/2003	2003-3/52
R414-5	Reduction in Hospital Payments	25967	NEW	05/13/2003	2003-3/8
R414-6	Reduction in Certain Targeted Case Management Services	25969	EMR	01/15/2003	2003-3/53
R414-6	Reduction in Certain Targeted Case Management Services	25974	NEW	05/13/2003	2003-3/9
R414-10	Physician Services	26010	EMR	02/01/2003	2003-4/45
R414-10	Physician Services	26036	EMR	02/11/2003	2003-5/33
R414-10	Physician Services	26008	AMD	04/07/2003	2003-4/11
R414-13	Psychology Services	25907	5YR	01/03/2003	2003-3/74
R414-13	Psychology Services (5YR EXTENSION)	25192	NSC	01/03/2003	Not Printed
R414-21	Physical Therapy	25968	EMR	01/15/2003	2003-3/54
R414-21	Physical Therapy	25973	AMD	04/07/2003	2003-3/10
R414-27	Medicare Nursing Home Certification	25982	5YR	01/21/2003	2003-4/52
R414-51	Dental, Orthodontia	26318	5YR	05/30/2003	2003-12/73
R414-52	Optometry Services	25970	EMR	01/15/2003	2003-3/57
R414-52	Optometry Services	25976	AMD	04/09/2003	2003-3/14
R414-52	Optometry Services	26347	5YR	06/06/2003	2003-13/73
R414-53	Eyeglasses Services	25971	EMR	01/15/2003	2003-3/59
R414-53	Eyeglasses Services	25972	AMD	04/07/2003	2003-3/15
R414-53	Eyeglasses Services	26346	5YR	06/06/2003	2003-13/74
R414-60	Medicaid Policy for Pharmacy Copayment Procedures	26011	EMR	02/01/2003	2003-4/50
R414-60	Medicaid Policy for Pharmacy Copayment Procedures	26009	AMD	04/07/2003	2003-4/16
R414-63	Medicaid Policy for Pharmacy Reimbursement	25898	AMD	04/07/2003	2003-2/12
R414-301	Medicaid General Provisions	26004	5YR	01/31/2003	2003-4/53
R414-302	Eligibility Requirements	26005	5YR	01/31/2003	2003-4/53
R414-303	Coverage Groups	26012	5YR	01/31/2003	2003-4/54
R414-304	Income and Budgeting	26017	5YR	01/31/2003	2003-4/55
R414-305	Resources	26018	5YR	01/31/2003	2003-4/55
R414-306	Program Benefits	26019	5YR	01/31/2003	2003-4/56
R414-307	Eligibility Determination and Redetermination	26020	5YR	01/31/2003	2003-4/56
R414-308	Record Management	26021	5YR	01/31/2003	2003-4/57
R414-504	Nursing Facility Payments	25897	AMD	02/17/2003	2003-2/21
R414-504	Nursing Facility Payments	26051	AMD	06/09/2003	2003-6/4
Health Systems Improvement, Emergency Medical Services					
R426-100	Emergency Medical Services Do Not Resuscitate	25864	AMD	03/14/2003	2003-2/24
Center for Health Data, Health Care Statistics					
R428-11	Health Data Authority Ambulatory Surgical Data Reporting Rule	26080	5YR	03/10/2003	2003-7/88
R428-13	Health Data Authority. Audit and Reporting of HMO Performance Measures	26079	5YR	03/10/2003	2003-7/89
Health Systems Improvement, Child Care Licensing					
R430-6	Criminal Background Screening	25921	5YR	01/10/2003	2003-3/74
R430-6	Criminal Background Screening	25865	AMD	03/13/2003	2003-2/25
R430-100	Child Care Center	25944	5YR	01/15/2003	2003-3/75

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
Health Systems Improvement, Licensing					
R432-3	General Health Care Facility Rules Inspection and Enforcement	25868	AMD	03/13/2003	2003-2/29
R432-5	Nursing Facility Construction	25452	AMD	01/15/2003	2002-21/92
R432-13	Freestanding Ambulatory Surgical Center Construction	25791	AMD	03/13/2003	2003-1/32
R432-14	Birthing Center Construction	25792	AMD	03/13/2003	2003-1/34
R432-16	Hospice Inpatient Facility Construction	26038	5YR	02/12/2003	2003-5/39
R432-35	Background Screening	25866	AMD	03/13/2003	2003-2/30
R432-100-38	Emergency and Disaster Plan	25867	AMD	03/13/2003	2003-2/33
Epidemiology and Laboratory Services, Laboratory Improvement					
R444-14	Rule for the Certification of Environmental Laboratories	26144	AMD	06/12/2003	2003-9/76
Human Services					
Administration					
R495-881	HIPAA Privacy Rule Implementation	26160	EMR	04/14/2003	2003-9/133
Administration, Administrative Services, Licensing					
R501-1	General Provisions	25652	AMD	01/30/2003	2002-24/15
R501-2	Core Standards	26071	AMD	05/06/2003	2003-7/19
R501-8	Outdoor Youth Programs	25707	AMD	01/17/2003	2002-24/19
R501-8	Outdoor Youth Program	25978	NSC	03/01/2003	Not Printed
R501-11	Social Detoxification Programs	25660	AMD	01/30/2003	2002-24/25
R501-12	Child Foster Care	25644	AMD	01/30/2003	2002-23/82
R501-16	Intermediate Secure Treatment Programs for Minors (5YR EXTENSION)	25703	NSC	02/26/2003	Not Printed
R501-16	Intermediate Secure Treatment Programs for Minors	26055	5YR	02/26/2003	2003-6/17
R501-17	Adult Foster Care	26084	5YR	03/11/2003	2003-7/89
R501-18	Abuse Background Screening	26343	5YR	06/05/2003	2003-13/74
Aging and Adult Services					
R510-100	Funding Formulas	26052	AMD	05/21/2003	2003-6/6
R510-100-2	In-Home Services	26259	EMR	05/15/2003	2003-11/75
R510-105	Out and About Homebound Transportation Assistance Fund Rules	25552	NEW	03/14/2003	2002-22/14
R510-401	Utah Caregiver Support Program	25557	CPR	04/16/2003	2003-5/28
Child and Family Services					
R512-100	Home Based Services	26258	EMR	05/06/2003	2003-11/77
R512-200	Child Protective Services, Intake Services	26256	EMR	05/06/2003	2003-11/79
R512-201	Child Protective Services, Investigation Services	26255	EMR	05/06/2003	2003-11/81
R512-202	Allegations Categories	26254	EMR	05/06/2003	2003-11/83
R512-300	Out of Home Services	26252	EMR	05/06/2003	2003-11/85
R512-301	Out of Home Services, Responsibilities Pertaining to a Parent or Guardian	26253	EMR	05/06/2003	2003-11/87
R512-302	Out of Home Services, Responsibilities Pertaining to an Out of Home Caregiver	26250	EMR	05/06/2003	2003-11/90
R512-305	Out of Home Services, Independent Living Services	26257	EMR	05/06/2003	2003-11/92
R512-500	Kinship Services	26251	EMR	05/06/2003	2003-11/94
Mental Health, State Hospital					
R525-1	Medical Records	26298	5YR	05/20/2003	2003-12/73

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
R525-2	Patient Rights	26299	5YR	05/20/2003	2003-12/74
R525-3	Medication Treatment of Patients	26300	5YR	05/20/2003	2003-12/74
R525-4	Visitors	26302	5YR	05/20/2003	2003-12/75
R525-5	Background Checks	26303	5YR	05/20/2003	2003-12/75
R525-7	Complaint/Suggestions/Concerns	26304	5YR	05/20/2003	2003-12/76
Recovery Services					
R527-3	Definitions	25977	AMD	03/19/2003	2003-4/26
R527-39	Applicant/Recipient Cooperation	25979	5YR	01/17/2003	2003-4/57
R527-39	Applicant/Recipient Cooperation	26061	AMD	04/21/2003	2003-6/8
R527-56	In-Kind Support	26075	5YR	03/10/2003	2003-7/90
R527-201	Medical Support Services	25869	AMD	03/05/2003	2003-2/34
R527-305	High-Volume, Automated Administrative Enforcement in Interstate Child Support Cases	26076	5YR	03/10/2003	2003-7/91
R527-430	Administrative Notice of Lien-Levy Procedures	25980	5YR	01/21/2003	2003-4/57
Services for People with Disabilities					
R539-3	Service Coordination	25975	AMD	05/05/2003	2003-3/16
R539-3-2	The Individual Plan	26062	AMD	05/20/2003	2003-6/13
R539-8-3	Supported Employment	25949	AMD	05/05/2003	2003-3/20
Insurance					
Administration					
R590-76	Health Maintenance Organization and Limited Health Plans	25870	AMD	02/26/2003	2003-2/35
R590-76-9	Quality Assurance	26059	NSC	03/01/2003	Not Printed
R590-85	Filing of Rates for Individual Disability Insurance Forms and Individual and Group Medicare Rates	26129	AMD	06/13/2003	2003-8/24
R590-94	Rule Permitting Smoker/Nonsmoker Mortality Tables for Use in Determining Minimum Reserve Liabilities and Nonforfeiture Benefits	26182	5YR	04/17/2003	2003-10/153
R590-124	Loss Information Rule	25990	5YR	01/24/2003	2003-4/58
R590-147	Annual Statement Instructions	26132	AMD	06/13/2003	2003-8/29
R590-154	Unfair Marketing Practices Rule	26181	5YR	04/17/2003	2003-10/153
R590-155	Disclosure of Life and Health Guaranty Association Limitations	25993	5YR	01/24/2003	2003-4/59
R590-157	Taxation of Surplus Lines Premiums	26033	5YR	02/10/2003	2003-5/39
R590-160	Administrative Proceedings	25643	AMD	01/09/2003	2002-23/86
R590-172	Notice to Uninsurable Applicants for Health Insurance	25626	AMD	01/09/2003	2002-23/91
R590-183	Title Plant Rule (EXPIRED RULE)	25908	NSC	01/02/2003	Not Printed
R590-199	Plan of Orderly Withdrawal Rule Relating to Health Benefit Plans	25628	CPR	03/14/2003	2003-3/50
R590-199	Plan of Orderly Withdrawal Rule Relating to Health Benefit Plans	25628	AMD	03/14/2003	2002-23/92
R590-215	Permissible Arbitration Provisions for Individual and Group Health Insurance	25093	NEW	01/09/2003	2002-15/65
R590-215	Permissible Arbitration Provisions for Individual and Group Health Insurance	25093	CPR	01/09/2003	2002-23/100
R590-215	Permissible Arbitration Provisions for Individual and Group Health Insurance	25919	NSC	03/01/2003	Not Printed
R590-215	Permissible Arbitration Provisions for Individual and Group Health Insurance	26133	AMD	05/20/2003	2003-8/33
R590-215-5	Permissible Arbitration Provisions for Individual and Group Health Insurance	25963	NSC	03/01/2003	Not Printed

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
R590-218	Permitted Language for Reservation of Discretion Clauses	25670	NEW	03/21/2003	2002-24/28
R590-219	Credit Scoring	25958	CPR	06/13/2003	2003-9/128
R590-219	Credit Scoring	25958	NEW	06/13/2003	2003-3/23
R590-223	Rule to Recognize the 2001 CSO Mortality Table for Use in Determining Minimum Reserve Liabilities and Nonforfeiture Benefits	26158	NEW	06/13/2003	2003-9/89
Labor Commission					
Administration					
R600-1	Declaratory Orders	26313	5YR	05/28/2003	2003-12/76
Industrial Accidents					
R612-2	Workers' Compensation Rules - Health Care Providers	26315	5YR	05/28/2003	2003-12/77
R612-3	Workers' Compensation Rules - Self-Insurance	26316	5YR	05/28/2003	2003-12/77
R612-5	Employee Leasing Company Workers' Compensation Insurance Policy Endorsements	26317	5YR	05/28/2003	2003-12/78
R612-7	Impairment Ratings for Industrial Injuries and Diseases	26314	5YR	05/28/2003	2003-12/78
Occupational Safety and Health					
R614-1-4	Incorporation of Federal Standards	25940	NSC	03/01/2003	Not Printed
R614-1-4	Incorporation of Federal Standards	25941	AMD	03/04/2003	2003-3/26
R614-1-4	Incorporation of Federal Standards	26149	AMD	06/03/2003	2003-9/92
Safety					
R616-1	Coal Mine Rules	26312	5YR	05/28/2003	2003-12/79
R616-2-3	Safety Codes and Rules for Boilers and Pressure Vessels	26148	AMD	06/03/2003	2003-9/93
R616-3-3	Safety Codes for Elevators	26109	AMD	05/08/2003	2003-7/52
Natural Resources					
Administration					
R634-1	Americans With Disabilities Complaint Procedure	25950	5YR	01/15/2003	2003-3/76
R634-1	Americans With Disabilities Complaint Procedure	25951	AMD	03/04/2003	2003-3/27
Parks and Recreation					
R651-102	Government Records Access Management Act	26039	5YR	02/13/2003	2003-5/40
R651-102-4	Government Records Access Management Act	26041	NSC	03/01/2003	Not Printed
R651-227	Boating Safety Course Fees	26173	5YR	04/15/2003	2003-9/135
R651-301	State Recreation Fiscal Assistance Programs	26040	5YR	02/13/2003	2003-5/40
R651-301	State Recreation Fiscal Assistance Programs	26127	AMD	05/19/2003	2003-8/34
R651-408	Off-Highway Vehicle Education Curriculum Standards	26026	AMD	04/01/2003	2003-5/7
R651-410	Off-Highway Vehicle Safety Equipment	26028	NEW	04/01/2003	2003-5/8
R651-410	Off-Highway Vehicle Safety Equipment	26128	AMD	05/19/2003	2003-8/36
R651-602	Aircraft and Powerless Flight	26029	AMD	04/01/2003	2003-5/9
R651-611	Fee Schedule	25837	AMD	03/31/2003	2003-2/38
R651-611-2	Day Use Entrance Fees	26170	AMD	06/03/2003	2003-9/94
Water Rights					
R655-5	Maps Submitted to the Division of Water Rights	26195	5YR	04/29/2003	2003-10/154

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
R655-7	Administrative Procedures for Notifying the State Engineer of Sewage Effluent Use or Change in the Point of Discharge for Sewage Effluent	25550	NEW	02/10/2003	2002-22/39
Wildlife Resources					
R657-3	Collection, Importation, Transportation and Possession of Zoological Animals	26167	5YR	04/15/2003	2003-9/136
R657-3	Collection, Importation, Transportation, and Possession of Zoological Animals	26166	AMD	06/03/2003	2003-9/95
R657-5	Taking Big Game	25720	AMD	01/15/2003	2002-24/29
R657-5-70	Chronic Wasting Disease - Infected Animals	26165	AMD	06/03/2003	2003-9/104
R657-17	Lifetime Hunting and Fishing License	25721	AMD	01/15/2003	2002-24/46
R657-23	Process for Providing Proof of Completion of Hunter Education	25890	AMD	02/16/2003	2003-2/41
R657-26-8	Wildlife Board Review - Procedure	26169	AMD	06/03/2003	2003-9/105
R657-33	Taking Bear	25892	AMD	02/16/2003	2003-2/43
R657-33-6	Firearms and Archery Permits	26056	AMD	04/15/2003	2003-6/15
R657-34	Procedures for Confirmation of Ordinances on Hunting Closures	26274	5YR	05/14/2003	2003-11/96
R657-37	Cooperative Wildlife Management Units for Big Game	26275	5YR	05/14/2003	2003-11/97
R657-38	Dedicated Hunter Program	25722	AMD	01/15/2003	2002-24/48
R657-39-3	Memberships -- Terms of Office	26164	AMD	06/03/2003	2003-9/106
R657-42	Accepted Payment of Fees, Late Fees, Exchanges, Surrenders, Refunds and Reallocation of Licenses, Certificates of Registration and Permits	25723	AMD	01/15/2003	2002-24/52
R657-42	Accepted Payment of Fees, Exchanges, Surrenders, Refunds and Reallocation of Licenses, Certificates of Registration and Permits	26278	5YR	05/14/2003	2003-11/98
R657-44	Big Game Depredation	25894	R&R	02/16/2003	2003-2/46
R657-45	Wildlife License, Permit, Certificate of Registration, Habitat Authorization and Heritage Certificate Forms	26280	5YR	05/14/2003	2003-11/98
R657-53	Amphibian and Reptile Collection, Importation, Transportation, and Possession	26168	NEW	06/03/2003	2003-9/108
Pardons (Board Of)					
Administration					
R671-102	Americans with Disabilities Act Complaint Procedure Rule	25345	AMD	02/12/2003	2002-20/102
R671-201	Original Parole Grant Hearing Schedule and Notice	26120	AMD	05/16/2003	2003-8/37
R671-202	Notification of Hearings	25350	AMD	02/12/2003	2002-20/104
R671-308	Offender Hearing Assistance	25394	AMD	02/12/2003	2002-20/110
R671-311	Special Attention Hearings and Reviews	25398	AMD	02/12/2003	2002-20/112
R671-403	Restitution	26050	5YR	02/18/2003	2003-6/18
Professional Practices Advisory Commission					
Administration					
R686-100	Professional Practices Advisory Commission, Rules of Procedure: Complaints and Hearings	26032	5YR	02/07/2003	2003-5/41
Public Safety					
Driver License					
R708-39	Physical and Mental Fitness Testing	25645	NEW	01/24/2003	2002-23/97

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
Fire Marshal					
R710-1	Concerns Servicing Portable Fire Extinguishers	25954	AMD	03/06/2003	2003-3/29
R710-4	Buildings Under the Jurisdiction of the State Fire Prevention Board	26006	AMD	03/18/2003	2003-4/28
R710-7	Concerns Servicing Automatic Fire Suppression Systems	25961	AMD	03/06/2003	2003-3/36
R710-7	Concerns Servicing Automatic Fire Suppression Systems	26001	AMD	03/18/2003	2003-4/32
R710-9	Rules Pursuant to the Utah Fire Prevention Law	26003	AMD	03/18/2003	2003-4/38
Criminal Investigations and Technical Services, Criminal Identification					
R722-300	Concealed Firearm Permit Rule	25999	5YR	01/28/2003	2003-4/59
R722-300	Concealed Firearm Permit Rule (5YR EXTENSION)	25683	NSC	01/28/2003	Not Printed
R722-320	Undercover Identification	25998	5YR	01/28/2003	2003-4/60
R722-340	Emergency Vehicles	25996	5YR	01/28/2003	2003-4/60
R722-340	Emergency Vehicles (5YR EXTENSION)	25684	NSC	01/28/2003	Not Printed
Peace Officer Standards and Training					
R728-409	Refusal, Suspension, or Revocation of Peace Officer Certification	26072	EMR	03/07/2003	2003-7/62
R728-411	Guidelines Regarding Administrative Action Taken Against Individuals Functioning as Peace Officers without Peace Officer Certification or Powers	26067	5YR	03/04/2003	2003-7/91
R728-505	Service Dog Program Rules	26337	5YR	06/02/2003	2003-12/79
Public Service Commission					
Administration					
R746-330	Rules for Water and Sewer Utilities Operating in Utah	26081	5YR	03/10/2003	2003-7/92
R746-331	Exemption of Mutually Owned Water Companies from Commission Regulation	26142	5YR	04/02/2003	2003-9/137
R746-332	Depreciation Rates for Water Utilities	26143	5YR	04/02/2003	2003-9/137
R746-342	Rule on One-Way Paging	26145	5YR	04/02/2003	2003-9/138
R746-347	Extended Area Service (EAS)	25578	NEW	03/10/2003	2002-22/44
R746-402	Rules Governing Reports of Accidents by Electric, Gas, Telephone, and Water Utilities	26146	5YR	04/02/2003	2003-9/138
R746-405	Rules Governing the Filing of Tariffs for Gas, Electric, Telephone, Water and Heat Utilities	26147	5YR	04/02/2003	2003-9/139
Regents (Board Of)					
Administration					
R765-136	Language Proficiency in the Utah System of Higher Education (USHE)	26034	NEW	05/29/2003	2003-5/14
R765-171	Postsecondary Proprietary School Act Rules (5YR EXTENSION)	25712	NSC	03/31/2003	Not Printed
R765-171	Postsecondary Proprietary School Act Rules	25704	REP	03/31/2003	2002-24/55
R765-254	Secure Area Hearing Rooms	25906	NEW	05/29/2003	2003-3/42
R765-555	Providing Facilities, Goods and Services in Competition with Private Enterprise	26141	5YR	04/02/2003	2003-9/139
R765-660	Utah State Student Incentive Grant Program	26134	5YR	04/01/2003	2003-8/43
R765-660	Utah State Student Incentive Grant Program (5YR EXTENSION)	25713	NSC	04/01/2003	Not Printed
R765-685	Utah Educational Savings Plan Trust	26085	AMD	05/20/2003	2003-7/54

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
School and Institutional Trust Lands					
Administration					
R850-3	Applicant Qualifications, Application Forms, and Application Processing	26176	AMD	06/03/2003	2003-9/123
R850-50	Range Management	26177	AMD	06/03/2003	2003-9/124
R850-120	Beneficiary Use of Institutional Trust Land	25953	AMD	03/04/2003	2003-3/43
Tax Commission					
Administration					
R861-1A-20	Time of Appeal Pursuant to Utah Code Ann. Sections 59-1-301, 59-1-401, 59-1-501, 59-2-1007, 59-7-517, 59-10-533, 59-12-114, 59-13-210, and 63-46b-3	25823	AMD	03/11/2003	2003-1/39
Auditing					
R865-9I-26	Petition For Redetermination of a Deficiency Pursuant to Utah Code Ann. Section 59-10-533	25829	AMD	03/11/2003	2003-1/40
R865-9I-27	Redetermination of Tax Deficiency by Tax Commission Pursuant to Utah Code Ann. Section 59-10-525	25828	AMD	03/11/2003	2003-1/41
R865-9I-28	Petition For Redetermination of Tax Commission Action On Claim For Refund Pursuant to Utah Code Ann. Section 59-10-533	25826	AMD	03/11/2003	2003-1/42
R865-9I-29	Action of Tax Commission on Redetermination Claim For Refund Pursuant to Utah Code Ann. Section 59-10-535	25819	AMD	03/11/2003	2003-1/43
R865-9I-39	Subtraction from Federal Taxable Income for a Handicapped Child or Adult Pursuant to Utah Code Ann. Section 59-10-114	26078	AMD	06/10/2003	2003-7/60
R865-19S-61	Meals Furnished Pursuant to Utah Code Ann. Section 59-12-104	25924	AMD	04/23/2003	2003-3/44
Property Tax					
R884-24P-60	Age-Based Uniform Fee on Tangible Personal Property Required to be Registered with the State Pursuant to Utah Code Ann. Section 59-2-405.1	25917	EMR	01/06/2003	2003-3/60
R884-24P-60	Age-Based Uniform Fee on Tangible Personal Property Required to be Registered with the State Pursuant to Utah Code Ann. Section 59-2-405.1	26044	AMD	04/23/2003	2003-5/15
Transportation					
Administration					
R907-1	Administrative Procedure	26035	AMD	04/23/2003	2003-5/17
Operations, Traffic and Safety					
R920-50-11	Fees	26295	EMR	05/16/2003	2003-12/69
Workforce Services					
Employment Development					
R986-400-404	Participation Requirements	25827	AMD	02/06/2003	2003-1/43
R986-700-703	Client Rights and Responsibilities	26042	AMD	04/01/2003	2003-5/23
R986-700-709	Employment Support (ES) CC	26043	AMD	04/01/2003	2003-5/24
Workforce Information and Payment Services					
R994-201	Definition of Terms in Employment Security Act	26306	5YR	05/23/2003	2003-12/80
R994-202	Employing Units	26309	5YR	05/23/2003	2003-12/80
R994-208	Definition of Wages	26307	5YR	05/23/2003	2003-12/81
R994-303-104	Qualified Employer	26135	AMD	06/05/2003	2003-8/41

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
R994-306	Charging Benefit Costs to Employers	26355	5YR	06/11/2003	2003-13/75
R994-307	Social Costs -- Relief of Charges	26358	5YR	06/11/2003	2003-13/75
R994-315	Centralized New Hire Registry Reporting	26362	5YR	06/11/2003	2003-13/76
R994-406-311	Reschedule and Adjournment of Hearings	25946	AMD	03/04/2003	2003-3/46
R994-406-315	Finality of Decision	25947	AMD	03/04/2003	2003-3/48
R994-508	Appeal Procedures	26356	5YR	06/11/2003	2003-13/76
R994-600	Dislocated Workers	26308	5YR	05/23/2003	2003-12/81

RULES INDEX - BY KEYWORD (SUBJECT)

ABBREVIATIONS

AMD = Amendment
CPR = Change in proposed rule
EMR = Emergency rule (120 day)
NEW = New rule
5YR = Five-Year Review
EXD = Expired
NSC = Nonsubstantive rule change
REP = Repeal
R&R = Repeal and reenact
* = Text too long to print in *Bulletin*, or repealed text not printed in *Bulletin*

KEYWORD AGENCY	FILE NUMBER	CODE REFERENCE	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
accidents					
Public Service Commission, Administration	26146	R746-402	5YR	04/02/2003	2003-9/138
accreditation					
Education, Administration	25925	R277-516	5YR	01/14/2003	2003-3/67
adjudicative proceedings					
Community and Economic Development, Community Development, History	25570	R212-1	AMD	01/06/2003	2002-22/10
	25630	R212-1	AMD	01/06/2003	2002-23/10
administrative procedures					
Commerce, Administration	25822	R151-46b	AMD	02/18/2003	2003-1/8
Community and Economic Development, Community Development, History	25570	R212-1	AMD	01/06/2003	2002-22/10
	25630	R212-1	AMD	01/06/2003	2002-23/10
	25787	R212-4	AMD	03/11/2003	2003-1/13
Environmental Quality, Drinking Water	26171	R309-405	AMD	06/17/2003	2003-9/65
Environmental Quality, Water Quality	25633	R317-9	NEW	02/05/2003	2002-23/74
School and Institutional Trust Lands, Administration	26176	R850-3	AMD	06/03/2003	2003-9/123
	26177	R850-50	AMD	06/03/2003	2003-9/124
	25953	R850-120	AMD	03/04/2003	2003-3/43
	26035	R907-1	AMD	04/23/2003	2003-5/17
adult education					
Education, Administration	25936	R277-702	5YR	01/14/2003	2003-3/70

KEYWORD AGENCY	FILE NUMBER	CODE REFERENCE	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
air pollution					
Environmental Quality, Air Quality	26345	R307-101	5YR	06/05/2003	2003-13/68
	26354	R307-102	5YR	06/11/2003	2003-13/69
	26367	R307-107	5YR	06/12/2003	2003-13/70
	25495	R307-121	AMD	01/09/2003	2002-21/6
	26359	R307-165	5YR	06/11/2003	2003-13/70
	26360	R307-201	5YR	06/11/2003	2003-13/71
	26368	R307-202	5YR	06/12/2003	2003-13/71
	26249	R307-840	5YR	05/05/2003	2003-11/96
air travel					
Administrative Services, Finance	26203	R25-7	5YR	05/01/2003	2003-10/150
alcoholic beverages					
Alcoholic Beverage Control, Administration	25886	R81-1-17	AMD	02/26/2003	2003-2/5
	25887	R81-5-5	AMD	02/26/2003	2003-2/8
	25650	R81-7-3	AMD	01/24/2003	2002-24/6
alternative onsite wastewater systems					
Environmental Quality, Water Quality	25203	R317-4-3	AMD	01/10/2003	2002-18/43
alternative schools					
Education, Administration	25939	R277-730	5YR	01/14/2003	2003-3/72
amphibians					
Natural Resources, Wildlife Resources	26168	R657-53	NEW	06/03/2003	2003-9/108
animal protection					
Natural Resources, Wildlife Resources	26167	R657-3	5YR	04/15/2003	2003-9/136
	26166	R657-3	AMD	06/03/2003	2003-9/95
appellate procedures					
Workforce Services, Workforce Information and Payment Services	25946	R994-406-311	AMD	03/04/2003	2003-3/46
	25947	R994-406-315	AMD	03/04/2003	2003-3/48
	26356	R994-508	5YR	06/11/2003	2003-13/76
applications					
Natural Resources, Water Rights	26195	R655-5	5YR	04/29/2003	2003-10/154
appraisals					
Tax Commission, Property Tax	25917	R884-24P-60	EMR	01/06/2003	2003-3/60
	26044	R884-24P-60	AMD	04/23/2003	2003-5/15
archaeology					
Community and Economic Development, Community Development, History	25787	R212-4	AMD	03/11/2003	2003-1/13
architects					
Commerce, Occupational and Professional Licensing	26174	R156-3a	AMD	06/03/2003	2003-9/3
assistance					
Natural Resources, Parks and Recreation	26040	R651-301	5YR	02/13/2003	2003-5/40
	26127	R651-301	AMD	05/19/2003	2003-8/34

KEYWORD AGENCY	FILE NUMBER	CODE REFERENCE	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
automobiles					
Commerce, Administration	25624	R151-14	AMD	01/02/2003	2002-23/6
background checks					
Human Services, Mental Health, State Hospital	26303	R525-5	5YR	05/20/2003	2003-12/75
banking					
Commerce, Corporations and Commercial Code	25549	R154-2	AMD	03/14/2003	2002-22/7
beam limitation					
Environmental Quality, Radiation Control	25786	R313-28	AMD	03/14/2003	2003-1/27
bear					
Natural Resources, Wildlife Resources	25892	R657-33	AMD	02/16/2003	2003-2/43
	26056	R657-33-6	AMD	04/15/2003	2003-6/15
beneficiaries					
School and Institutional Trust Lands, Administration	25953	R850-120	AMD	03/04/2003	2003-3/43
benefits					
Health, Health Care Financing, Coverage and Reimbursement Policy	26005	R414-302	5YR	01/31/2003	2003-4/53
Labor Commission, Industrial Accidents	26316	R612-3	5YR	05/28/2003	2003-12/77
big game					
Natural Resources, Wildlife Resources	25894	R657-44	R&R	02/16/2003	2003-2/46
big game seasons					
Natural Resources, Wildlife Resources	25720	R657-5	AMD	01/15/2003	2002-24/29
	26165	R657-5-70	AMD	06/03/2003	2003-9/104
boating					
Natural Resources, Parks and Recreation	26173	R651-227	5YR	04/15/2003	2003-9/135
boilers					
Labor Commission, Safety	26148	R616-2-3	AMD	06/03/2003	2003-9/93
boxing					
Commerce, Administration	25649	R151-33	AMD	01/15/2003	2002-24/7
breakdown					
Environmental Quality, Air Quality	26367	R307-107	5YR	06/12/2003	2003-13/70
budgeting					
Administrative Services, Facilities Construction and Management	25640	R23-8	REP	01/02/2003	2002-23/5
Health, Health Care Financing, Coverage and Reimbursement Policy	26017	R414-304	5YR	01/31/2003	2003-4/55
budgets					
Administrative Services, Facilities Construction and Management	25960	R23-24	5YR	01/15/2003	2003-3/65
building names					
Administrative Services, Facilities Construction and Management	25962	R23-10	5YR	01/15/2003	2003-3/64

KEYWORD AGENCY	FILE NUMBER	CODE REFERENCE	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
buildings					
Administrative Services, Facilities Construction and Management	25955	R23-5	5YR	01/15/2003	2003-3/62
	25956	R23-6	5YR	01/15/2003	2003-3/63
	25957	R23-9	5YR	01/15/2003	2003-3/63
	25962	R23-10	5YR	01/15/2003	2003-3/64
	25784	R23-10	AMD	02/04/2003	2003-1/5
	25986	R23-11	NSC	02/04/2003	Not Printed
	25771	R23-11	REP	02/04/2003	2003-1/7
	25960	R23-24	5YR	01/15/2003	2003-3/65
capacity development					
Environmental Quality, Drinking Water	26392	R309-352	5YR	06/16/2003	2003-13/72
care receiver					
Human Services, Aging and Adult Services	25557	R510-401	CPR	04/16/2003	2003-5/28
career education					
Education, Administration	25938	R277-718	5YR	01/14/2003	2003-3/71
caregiver					
Human Services, Aging and Adult Services	25557	R510-401	CPR	04/16/2003	2003-5/28
case management					
Health, Health Care Financing, Coverage and Reimbursement Policy	25969	R414-6	EMR	01/15/2003	2003-3/53
certificate of registration					
Natural Resources, Wildlife Resources	26280	R657-45	5YR	05/14/2003	2003-11/98
certification					
Education, Applied Technology Education (Board for), Rehabilitation	25646	R280-203	AMD	01/03/2003	2002-23/16
Labor Commission, Safety	26312	R616-1	5YR	05/28/2003	2003-12/79
	26109	R616-3-3	AMD	05/08/2003	2003-7/52
Public Safety, Peace Officer Standards and Training	26072	R728-409	EMR	03/07/2003	2003-7/62
certifications					
Labor Commission, Safety	26148	R616-2-3	AMD	06/03/2003	2003-9/93
charities					
Tax Commission, Auditing	25924	R865-19S-61	AMD	04/23/2003	2003-3/44
charter schools					
Education, Administration	25726	R277-470	AMD	01/15/2003	2002-24/12
child abuse					
Human Services, Child and Family Services	26256	R512-200	EMR	05/06/2003	2003-11/79
	26255	R512-201	EMR	05/06/2003	2003-11/81
	26254	R512-202	EMR	05/06/2003	2003-11/83
	26252	R512-300	EMR	05/06/2003	2003-11/85
	26253	R512-301	EMR	05/06/2003	2003-11/87

KEYWORD AGENCY	FILE NUMBER	CODE REFERENCE	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
child care					
Health, Health Systems Improvement, Child Care Licensing	25921	R430-6	5YR	01/10/2003	2003-3/74
	25865	R430-6	AMD	03/13/2003	2003-2/25
	25944	R430-100	5YR	01/15/2003	2003-3/75
Workforce Services, Employment Development	26042	R986-700-703	AMD	04/01/2003	2003-5/23
	26043	R986-700-709	AMD	04/01/2003	2003-5/24
child support					
Human Services, Recovery Services	25977	R527-3	AMD	03/19/2003	2003-4/26
	25979	R527-39	5YR	01/17/2003	2003-4/57
	26061	R527-39	AMD	04/21/2003	2003-6/8
	26075	R527-56	5YR	03/10/2003	2003-7/90
	25869	R527-201	AMD	03/05/2003	2003-2/34
	26076	R527-305	5YR	03/10/2003	2003-7/91
	25980	R527-430	5YR	01/21/2003	2003-4/57
child welfare					
Human Services, Child and Family Services	26258	R512-100	EMR	05/06/2003	2003-11/77
	26256	R512-200	EMR	05/06/2003	2003-11/79
	26255	R512-201	EMR	05/06/2003	2003-11/81
	26254	R512-202	EMR	05/06/2003	2003-11/83
	26252	R512-300	EMR	05/06/2003	2003-11/85
	26253	R512-301	EMR	05/06/2003	2003-11/87
	26250	R512-302	EMR	05/06/2003	2003-11/90
	26257	R512-305	EMR	05/06/2003	2003-11/92
	26251	R512-500	EMR	05/06/2003	2003-11/94
children's health benefits					
Health, Children's Health Insurance Program	26351	R382-1	5YR	06/09/2003	2003-13/72
	26352	R382-10	5YR	06/10/2003	2003-13/73
civil rights					
Natural Resources, Administration	25950	R634-1	5YR	01/15/2003	2003-3/76
	25951	R634-1	AMD	03/04/2003	2003-3/27
client rights					
Health, Health Care Financing, Coverage and Reimbursement Policy	26004	R414-301	5YR	01/31/2003	2003-4/53
commerce					
Commerce, Corporations and Commercial Code	25553	R154-10	AMD	03/14/2003	2002-22/9
communicable diseases					
Health, Epidemiology and Laboratory Services, Epidemiology	26290	R386-702	EMR	05/16/2003	2003-12/67
competition with private enterprise					
Regents (Board Of), Administration	26141	R765-555	5YR	04/02/2003	2003-9/139

KEYWORD AGENCY	FILE NUMBER	CODE REFERENCE	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
complaints					
Education, Administration	26340	R277-104	5YR	06/04/2003	2003-13/67
Human Services, Mental Health, State Hospital	26304	R525-7	5YR	05/20/2003	2003-12/76
concealed firearm permits					
Public Safety, Criminal Investigations and Technical Services, Criminal Identification	25999	R722-300	5YR	01/28/2003	2003-4/59
	25683	R722-300	NSC	01/28/2003	Not Printed
concerns					
Human Services, Mental Health, State Hospital	26304	R525-7	5YR	05/20/2003	2003-12/76
conduct					
Commerce, Real Estate	26060	R162-106	AMD	04/23/2003	2003-6/3
Professional Practices Advisory Commission, Administration	26032	R686-100	5YR	02/07/2003	2003-5/41
confidentiality of information					
Environmental Quality, Air Quality	26354	R307-102	5YR	06/11/2003	2003-13/69
construction					
Administrative Services, Facilities Construction and Management	25964	R23-4	5YR	01/15/2003	2003-3/62
	25783	R23-4	AMD	02/04/2003	2003-1/3
	25988	R23-9	R&R	03/24/2003	2003-4/5
construction costs					
Administrative Services, Facilities Construction and Management	25956	R23-6	5YR	01/15/2003	2003-3/63
construction disputes					
Administrative Services, Facilities Construction and Management	25964	R23-4	5YR	01/15/2003	2003-3/62
	25783	R23-4	AMD	02/04/2003	2003-1/3
contamination					
Environmental Quality, Radiation Control	25943	R313-15	5YR	01/14/2003	2003-3/73
contests					
Commerce, Administration	25649	R151-33	AMD	01/15/2003	2002-24/7
contingency					
Administrative Services, Facilities Construction and Management	25955	R23-5	5YR	01/15/2003	2003-3/62
continuing education					
Commerce, Real Estate	26118	R162-9	AMD	05/21/2003	2003-8/18
contractors					
Commerce, Occupational and Professional Licensing	26175	R156-55a	AMD	06/03/2003	2003-9/6
contracts					
Administrative Services, Facilities Construction and Management	25964	R23-4	5YR	01/15/2003	2003-3/62
	25783	R23-4	AMD	02/04/2003	2003-1/3
Corrections, Administration	25885	R251-304	AMD	02/19/2003	2003-2/9
	26053	R251-304	5YR	02/21/2003	2003-6/17

KEYWORD AGENCY	FILE NUMBER	CODE REFERENCE	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
cooperative wildlife management unit					
Natural Resources, Wildlife Resources	26275	R657-37	5YR	05/14/2003	2003-11/97
corrections					
Corrections, Administration	25885	R251-304	AMD	02/19/2003	2003-2/9
	26053	R251-304	5YR	02/21/2003	2003-6/17
costs					
Administrative Services, Finance	26206	R25-6	5YR	05/01/2003	2003-10/150
course					
Natural Resources, Parks and Recreation	26173	R651-227	5YR	04/15/2003	2003-9/135
coverage groups					
Health, Health Care Financing, Coverage and Reimbursement Policy	26012	R414-303	5YR	01/31/2003	2003-4/54
credit enhancements					
Environmental Quality, Drinking Water	26172	R309-700	AMD	07/01/2003	2003-9/67
credit scoring					
Insurance, Administration	25958	R590-219	NEW	06/13/2003	2003-3/23
	25958	R590-219	CPR	06/13/2003	2003-9/128
criminal investigation					
Public Safety, Criminal Investigations and Technical Services, Criminal Identification	25998	R722-320	5YR	01/28/2003	2003-4/60
curricula					
Education, Administration	25935	R277-700	5YR	01/14/2003	2003-3/69
	25648	R277-705	AMD	01/03/2003	2002-23/13
declaratory orders					
Labor Commission, Administration	26313	R600-1	5YR	05/28/2003	2003-12/76
definitions					
Environmental Quality, Air Quality	26345	R307-101	5YR	06/05/2003	2003-13/68
Environmental Quality, Radiation Control	25785	R313-12-3	AMD	03/14/2003	2003-1/22
Workforce Services, Workforce Information and Payment Services	26306	R994-201	5YR	05/23/2003	2003-12/80
dental					
Environmental Quality, Radiation Control	25786	R313-28	AMD	03/14/2003	2003-1/27
depreciation					
Public Service Commission, Administration	26143	R746-332	5YR	04/02/2003	2003-9/137
depredation					
Natural Resources, Wildlife Resources	25894	R657-44	R&R	02/16/2003	2003-2/46
design					
Administrative Services, Facilities Construction and Management	25639	R23-3	R&R	01/02/2003	2002-23/3
	25989	R23-3	AMD	03/24/2003	2003-4/4
developmentally disabled					
Tax Commission, Administration	25823	R861-1A-20	AMD	03/11/2003	2003-1/39

KEYWORD AGENCY	FILE NUMBER	CODE REFERENCE	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
digital signature					
Commerce, Corporations and Commercial Code	25553	R154-10	AMD	03/14/2003	2002-22/9
dirt bikes					
Commerce, Administration	25724	R151-35	NEW	01/15/2003	2002-24/9
disabilities					
Pardons (Board Of), Administration	25345	R671-102	AMD	02/12/2003	2002-20/102
disabled					
Human Services, Aging and Adult Services	25552	R510-105	NEW	03/14/2003	2002-22/14
disabled persons					
Education, Administration	26340	R277-104	5YR	06/04/2003	2003-13/67
Human Services, Services for People with Disabilities	25975	R539-3	AMD	05/05/2003	2003-3/16
	26062	R539-3-2	AMD	05/20/2003	2003-6/13
	25949	R539-8-3	AMD	05/05/2003	2003-3/20
discharge permits					
Environmental Quality, Water Quality	25634	R317-8	AMD	01/30/2003	2002-23/33
disciplinary problems					
Education, Administration	26341	R277-436	5YR	06/04/2003	2003-13/68
disclosure requirements					
Tax Commission, Administration	25823	R861-1A-20	AMD	03/11/2003	2003-1/39
discretion clauses					
Insurance, Administration	25670	R590-218	NEW	03/21/2003	2002-24/28
do not resuscitate					
Health, Health Systems Improvement, Emergency Medical Services	25864	R426-100	AMD	03/14/2003	2003-2/24
domestic violence					
Human Services, Child and Family Services	26256	R512-200	EMR	05/06/2003	2003-11/79
	26255	R512-201	EMR	05/06/2003	2003-11/81
	26254	R512-202	EMR	05/06/2003	2003-11/83
	26252	R512-300	EMR	05/06/2003	2003-11/85
	26253	R512-301	EMR	05/06/2003	2003-11/87
drinking water					
Environmental Quality, Drinking Water	26392	R309-352	5YR	06/16/2003	2003-13/72
	26171	R309-405	AMD	06/17/2003	2003-9/65
	25863	R309-710	REP	03/05/2003	2003-2/10
driver education					
Education, Administration	26089	R277-746	5YR	03/12/2003	2003-7/73
	26090	R277-747	5YR	03/12/2003	2003-7/73
education					
Education, Administration	25726	R277-470	AMD	01/15/2003	2002-24/12
	26030	R277-521	NSC	03/01/2003	Not Printed

KEYWORD AGENCY	FILE NUMBER	CODE REFERENCE	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
	25937	R277-709	5YR	01/14/2003	2003-3/70
	25938	R277-718	5YR	01/14/2003	2003-3/71
	25939	R277-730	5YR	01/14/2003	2003-3/72
	25712	R765-171	NSC	03/31/2003	Not Printed
	25704	R765-171	REP	03/31/2003	2002-24/55
educational savings trust Regents (Board Of), Administration	26085	R765-685	AMD	05/20/2003	2003-7/54
educational testing Education, Administration	25936	R277-702	5YR	01/14/2003	2003-3/70
effluent standards Environmental Quality, Water Quality	25636	R317-1	AMD	01/30/2003	2002-23/17
elderly Human Services, Aging and Adult Services	26052	R510-100	AMD	05/21/2003	2003-6/6
	26259	R510-100-2	EMR	05/15/2003	2003-11/75
	25557	R510-401	CPR	04/16/2003	2003-5/28
electronic commerce Commerce, Corporations and Commercial Code	25553	R154-10	AMD	03/14/2003	2002-22/9
electronic communication Commerce, Corporations and Commercial Code	25553	R154-10	AMD	03/14/2003	2002-22/9
elevators Labor Commission, Safety	26109	R616-3-3	AMD	05/08/2003	2003-7/52
eligibility Health, Health Care Financing, Coverage and Reimbursement Policy	26020	R414-307	5YR	01/31/2003	2003-4/56
emergency medical services Health, Health Systems Improvement, Emergency Medical Services	25864	R426-100	AMD	03/14/2003	2003-2/24
emergency vehicle Public Safety, Criminal Investigations and Technical Services, Criminal Identification	25684	R722-340	NSC	01/28/2003	Not Printed
emergency vehicles Public Safety, Criminal Investigations and Technical Services, Criminal Identification	25996	R722-340	5YR	01/28/2003	2003-4/60
emission testing Environmental Quality, Air Quality	26359	R307-165	5YR	06/11/2003	2003-13/70
employer Labor Commission, Industrial Accidents	26317	R612-5	5YR	05/28/2003	2003-12/78
employment Workforce Services, Workforce Information and Payment Services	26309	R994-202	5YR	05/23/2003	2003-12/80
	26308	R994-600	5YR	05/23/2003	2003-12/81
enforcement (administrative) Transportation, Administration	26035	R907-1	AMD	04/23/2003	2003-5/17

KEYWORD AGENCY	FILE NUMBER	CODE REFERENCE	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
engineering					
Education, Administration	26087	R277-717	AMD	05/02/2003	2003-7/6
engineers					
Commerce, Occupational and Professional Licensing	25922	R156-22	5YR	01/13/2003	2003-3/65
	25763	R156-22	AMD	04/03/2003	2003-1/10
	25763	R156-22	CPR	04/03/2003	2003-5/27
English proficiency					
Regents (Board Of), Administration	26034	R765-136	NEW	05/29/2003	2003-5/14
enrollment					
Education, Administration	25966	R277-485	NEW	03/07/2003	2003-3/7
enterprise					
Tax Commission, Auditing	25829	R865-9I-26	AMD	03/11/2003	2003-1/40
	25828	R865-9I-27	AMD	03/11/2003	2003-1/41
	25819	R865-9I-29	AMD	03/11/2003	2003-1/43
	26078	R865-9I-39	AMD	06/10/2003	2003-7/60
environmental health					
Environmental Quality, Drinking Water	25863	R309-710	REP	03/05/2003	2003-2/10
environmental protection					
Environmental Quality, Drinking Water	26171	R309-405	AMD	06/17/2003	2003-9/65
equipment leasing					
Commerce, Corporations and Commercial Code	25549	R154-2	AMD	03/14/2003	2002-22/7
exceptional children					
Education, Administration	26091	R277-751	5YR	03/12/2003	2003-7/74
excess emissions					
Environmental Quality, Air Quality	26367	R307-107	5YR	06/12/2003	2003-13/70
exemptions					
Environmental Quality, Radiation Control	25785	R313-12-3	AMD	03/14/2003	2003-1/22
	26074	R313-19-100	AMD	05/09/2003	2003-7/9
expelled					
Education, Administration	25965	R277-483	NEW	03/07/2003	2003-3/5
extended area service					
Public Service Commission, Administration	25578	R746-347	NEW	03/10/2003	2002-22/44
extinguishers					
Public Safety, Fire Marshal	25954	R710-1	AMD	03/06/2003	2003-3/29
extracurricular activities					
Education, Administration	25931	R277-605	5YR	01/14/2003	2003-3/68
fees					
Labor Commission, Industrial Accidents	26315	R612-2	5YR	05/28/2003	2003-12/77
Natural Resources, Parks and Recreation	26173	R651-227	5YR	04/15/2003	2003-9/135

KEYWORD AGENCY	FILE NUMBER	CODE REFERENCE	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
	25837	R651-611	AMD	03/31/2003	2003-2/38
	26170	R651-611-2	AMD	06/03/2003	2003-9/94
filing documents					
Commerce, Corporations and Commercial Code	25549	R154-2	AMD	03/14/2003	2002-22/7
finance					
Administrative Services, Finance	26206	R25-6	5YR	05/01/2003	2003-10/150
financial aid					
Regents (Board Of), Administration	26134	R765-660	5YR	04/01/2003	2003-8/43
	25713	R765-660	NSC	04/01/2003	Not Printed
financial disclosures					
Health, Health Care Financing, Coverage and Reimbursement Policy	26017	R414-304	5YR	01/31/2003	2003-4/55
financial responsibility					
Environmental Quality, Environmental Response and Remediation	25161	R311-207	CPR	02/04/2003	2003-1/46
fire marshal					
Environmental Quality, Air Quality	26368	R307-202	5YR	06/12/2003	2003-13/71
fire prevention					
Public Safety, Fire Marshal	25954	R710-1	AMD	03/06/2003	2003-3/29
	26006	R710-4	AMD	03/18/2003	2003-4/28
	25961	R710-7	AMD	03/06/2003	2003-3/36
	26001	R710-7	AMD	03/18/2003	2003-4/32
	26003	R710-9	AMD	03/18/2003	2003-4/38
fireplace					
Environmental Quality, Air Quality	26360	R307-201	5YR	06/11/2003	2003-13/71
fiscal					
Natural Resources, Parks and Recreation	26040	R651-301	5YR	02/13/2003	2003-5/40
	26127	R651-301	AMD	05/19/2003	2003-8/34
food aid programs					
Education, Administration	25929	R277-721	5YR	01/14/2003	2003-3/71
	25930	R277-722	5YR	01/14/2003	2003-3/72
foreign students					
Education, Administration	25933	R277-615	5YR	01/14/2003	2003-3/69
foster care					
Human Services, Administration, Administrative Services, Licensing	25644	R501-12	AMD	01/30/2003	2002-23/82
Human Services, Child and Family Services	26253	R512-301	EMR	05/06/2003	2003-11/87
	26257	R512-305	EMR	05/06/2003	2003-11/92
franchises					
Commerce, Administration	25624	R151-14	AMD	01/02/2003	2002-23/6
	25724	R151-35	NEW	01/15/2003	2002-24/9

KEYWORD AGENCY	FILE NUMBER	CODE REFERENCE	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
franchises historic preservation					
Tax Commission, Auditing	25826	R865-9I-28	AMD	03/11/2003	2003-1/42
freedom of information					
Natural Resources, Parks and Recreation	26041	R651-102-4	NSC	03/01/2003	Not Printed
funding					
Administrative Services, Facilities Construction and Management	25960	R23-24	5YR	01/15/2003	2003-3/65
Environmental Quality, Drinking Water	26392	R309-352	5YR	06/16/2003	2003-13/72
funding formula					
Human Services, Aging and Adult Services	26052	R510-100	AMD	05/21/2003	2003-6/6
	26259	R510-100-2	EMR	05/15/2003	2003-11/75
game laws					
Natural Resources, Wildlife Resources	25720	R657-5	AMD	01/15/2003	2002-24/29
	26165	R657-5-70	AMD	06/03/2003	2003-9/104
	25721	R657-17	AMD	01/15/2003	2002-24/46
	25890	R657-23	AMD	02/16/2003	2003-2/41
	25892	R657-33	AMD	02/16/2003	2003-2/43
	26056	R657-33-6	AMD	04/15/2003	2003-6/15
	26274	R657-34	5YR	05/14/2003	2003-11/96
gangs					
Education, Administration	26341	R277-436	5YR	06/04/2003	2003-13/68
general assistance					
Workforce Services, Employment Development	25827	R986-400-404	AMD	02/06/2003	2003-1/43
government documents					
Natural Resources, Parks and Recreation	26041	R651-102-4	NSC	03/01/2003	Not Printed
government hearings					
Commerce, Administration	25822	R151-46b	AMD	02/18/2003	2003-1/8
	26050	R671-403	5YR	02/18/2003	2003-6/18
government purchasing					
Administrative Services, Purchasing and General Services	26136	R33-2-102	AMD	05/27/2003	2003-8/6
	26138	R33-3	AMD	05/27/2003	2003-8/7
	26139	R33-5	AMD	05/27/2003	2003-8/14
grievance procedures					
Tax Commission, Administration	25823	R861-1A-20	AMD	03/11/2003	2003-1/39
ground water					
Environmental Quality, Water Quality	25632	R317-6-6	AMD	01/30/2003	2002-23/25
hardship grants					
Environmental Quality, Drinking Water	26172	R309-700	AMD	07/01/2003	2003-9/67
hazardous waste					
Environmental Quality, Solid and Hazardous Waste	25910	R315-2	NSC	03/01/2003	Not Printed

KEYWORD AGENCY	FILE NUMBER	CODE REFERENCE	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
	26057	R315-2-2	NSC	03/01/2003	Not Printed
	25915	R315-3	NSC	03/01/2003	Not Printed
	25912	R315-4	NSC	03/01/2003	Not Printed
	25913	R315-7	NSC	03/01/2003	Not Printed
	25911	R315-8	NSC	03/01/2003	Not Printed
	26058	R315-8-15	NSC	03/01/2003	Not Printed
	25914	R315-12	NSC	03/01/2003	Not Printed
	25918	R315-14	NSC	03/01/2003	Not Printed
	26064	R315-15	5YR	03/03/2003	2003-7/75
	25916	R315-16	NSC	03/01/2003	Not Printed
health					
Health, Center for Health Data, Health Care Statistics	26080	R428-11	5YR	03/10/2003	2003-7/88
	26079	R428-13	5YR	03/10/2003	2003-7/89
health facilities					
Health, Health Systems Improvement, Licensing	25868	R432-3	AMD	03/13/2003	2003-2/29
	25452	R432-5	AMD	01/15/2003	2002-21/92
	25791	R432-13	AMD	03/13/2003	2003-1/32
	25792	R432-14	AMD	03/13/2003	2003-1/34
	26038	R432-16	5YR	02/12/2003	2003-5/39
	25866	R432-35	AMD	03/13/2003	2003-2/30
	25867	R432-100-38	AMD	03/13/2003	2003-2/33
health insurance					
Human Services, Recovery Services	25869	R527-201	AMD	03/05/2003	2003-2/34
Insurance, Administration	25628	R590-199	CPR	03/14/2003	2003-3/50
health insurance arbitration					
Insurance, Administration	25093	R590-215	NEW	01/09/2003	2002-15/65
	25093	R590-215	CPR	01/09/2003	2002-23/100
	25919	R590-215	NSC	03/01/2003	Not Printed
	26133	R590-215	AMD	05/20/2003	2003-8/33
	25963	R590-215-5	NSC	03/01/2003	Not Printed
health planning					
Health, Center for Health Data, Health Care Statistics	26080	R428-11	5YR	03/10/2003	2003-7/88
	26079	R428-13	5YR	03/10/2003	2003-7/89
health policy					
Health, Center for Health Data, Health Care Statistics	26079	R428-13	5YR	03/10/2003	2003-7/89
hearing aids					
Commerce, Occupational and Professional Licensing	25987	R156-46a	AMD	03/18/2003	2003-4/7
hearings					
Environmental Quality, Water Quality	25633	R317-9	NEW	02/05/2003	2002-23/74
Professional Practices Advisory Commission, Administration	26032	R686-100	5YR	02/07/2003	2003-5/41

KEYWORD AGENCY	FILE NUMBER	CODE REFERENCE	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
higher education					
Regents (Board Of), Administration	26034	R765-136	NEW	05/29/2003	2003-5/14
	26134	R765-660	5YR	04/01/2003	2003-8/43
	25713	R765-660	NSC	04/01/2003	Not Printed
	26085	R765-685	AMD	05/20/2003	2003-7/54
HIPAA					
Health, Administration	26161	R380-250	EMR	04/14/2003	2003-9/131
	26162	R380-250	NEW	06/09/2003	2003-9/72
	26160	R495-881	EMR	04/14/2003	2003-9/133
historic preservation					
Tax Commission, Auditing	25829	R865-9I-26	AMD	03/11/2003	2003-1/40
	25828	R865-9I-27	AMD	03/11/2003	2003-1/41
	25819	R865-9I-29	AMD	03/11/2003	2003-1/43
	26078	R865-9I-39	AMD	06/10/2003	2003-7/60
HMO insurance					
Insurance, Administration	26059	R590-76-9	NSC	03/01/2003	Not Printed
HMO insurance					
Insurance, Administration	25870	R590-76	AMD	02/26/2003	2003-2/35
horses					
Agriculture and Food, Marketing and Conservation	26083	R65-7	AMD	06/09/2003	2003-7/4
hospital					
Health, Health Care Financing, Coverage and Reimbursement Policy	25889	R414-5	EMR	01/03/2003	2003-2/55
	25948	R414-5	EMR	01/15/2003	2003-3/52
hospital policy					
Health, Center for Health Data, Health Care Statistics	26080	R428-11	5YR	03/10/2003	2003-7/88
hospitals					
Health, Health Care Financing, Coverage and Reimbursement Policy	25967	R414-5	NEW	05/13/2003	2003-3/8
human services					
Human Services, Administration, Administrative Services, Licensing	25652	R501-1	AMD	01/30/2003	2002-24/15
	26071	R501-2	AMD	05/06/2003	2003-7/19
	25707	R501-8	AMD	01/17/2003	2002-24/19
	25978	R501-8	NSC	03/01/2003	Not Printed
	25660	R501-11	AMD	01/30/2003	2002-24/25
	25644	R501-12	AMD	01/30/2003	2002-23/82
	26055	R501-16	5YR	02/26/2003	2003-6/17
	25703	R501-16	NSC	02/26/2003	Not Printed
	26084	R501-17	5YR	03/11/2003	2003-7/89
	26343	R501-18	5YR	06/05/2003	2003-13/74
hunter education					
Natural Resources, Wildlife Resources	25890	R657-23	AMD	02/16/2003	2003-2/41

KEYWORD AGENCY	FILE NUMBER	CODE REFERENCE	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
hunting					
Natural Resources, Wildlife Resources	25722	R657-38	AMD	01/15/2003	2002-24/48
hunting and fishing licenses					
Natural Resources, Wildlife Resources	25721	R657-17	AMD	01/15/2003	2002-24/46
hunting closures					
Natural Resources, Wildlife Resources	26274	R657-34	5YR	05/14/2003	2003-11/96
immunization					
Health, Community and Family Health Services, Immunization	26187	R396-100	5YR	04/24/2003	2003-10/152
impairment ratings					
Labor Commission, Industrial Accidents	26314	R612-7	5YR	05/28/2003	2003-12/78
import restrictions					
Natural Resources, Wildlife Resources	26167	R657-3	5YR	04/15/2003	2003-9/136
	26166	R657-3	AMD	06/03/2003	2003-9/95
	26168	R657-53	NEW	06/03/2003	2003-9/108
income					
Health, Health Care Financing, Coverage and Reimbursement Policy	26005	R414-302	5YR	01/31/2003	2003-4/53
	26012	R414-303	5YR	01/31/2003	2003-4/54
	26017	R414-304	5YR	01/31/2003	2003-4/55
income tax					
Tax Commission, Auditing	25829	R865-9I-26	AMD	03/11/2003	2003-1/40
	25828	R865-9I-27	AMD	03/11/2003	2003-1/41
	25819	R865-9I-29	AMD	03/11/2003	2003-1/43
	26078	R865-9I-39	AMD	06/10/2003	2003-7/60
industrial waste					
Environmental Quality, Water Quality	25636	R317-1	AMD	01/30/2003	2002-23/17
inmates					
Pardons (Board Of), Administration	26120	R671-201	AMD	05/16/2003	2003-8/37
	25350	R671-202	AMD	02/12/2003	2002-20/104
	25394	R671-308	AMD	02/12/2003	2002-20/110
	25398	R671-311	AMD	02/12/2003	2002-20/112
inspection					
Administrative Services, Facilities Construction and Management	25957	R23-9	5YR	01/15/2003	2003-3/63
inspections					
Agriculture and Food, Plant Industry	26385	R68-5	5YR	06/13/2003	2003-13/65
Environmental Quality, Radiation Control	25785	R313-12-3	AMD	03/14/2003	2003-1/22
instructional materials					
Education, Administration	26157	R277-469	5YR	04/04/2003	2003-9/135
insurance					
Insurance, Administration	26132	R590-147	AMD	06/13/2003	2003-8/29

KEYWORD AGENCY	FILE NUMBER	CODE REFERENCE	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
	26181	R590-154	5YR	04/17/2003	2003-10/153
	25993	R590-155	5YR	01/24/2003	2003-4/59
	26033	R590-157	5YR	02/10/2003	2003-5/39
	25643	R590-160	AMD	01/09/2003	2002-23/86
	25626	R590-172	AMD	01/09/2003	2002-23/91
	25908	R590-183	NSC	01/02/2003	Not Printed
	25628	R590-199	AMD	03/14/2003	2002-23/92
	25670	R590-218	NEW	03/21/2003	2002-24/28
	25958	R590-219	NEW	06/13/2003	2003-3/23
	25958	R590-219	CPR	06/13/2003	2003-9/128
Labor Commission, Industrial Accidents	26317	R612-5	5YR	05/28/2003	2003-12/78
insurance companies					
Insurance, Administration	25990	R590-124	5YR	01/24/2003	2003-4/58
insurance law					
Insurance, Administration	26129	R590-85	AMD	06/13/2003	2003-8/24
	26182	R590-94	5YR	04/17/2003	2003-10/153
insurance reserves and nonforfeitures					
Insurance, Administration	26158	R590-223	NEW	06/13/2003	2003-9/89
interest buy-downs					
Environmental Quality, Drinking Water	26172	R309-700	AMD	07/01/2003	2003-9/67
interpreters					
Education, Applied Technology Education (Board for), Rehabilitation	25646	R280-203	AMD	01/03/2003	2002-23/16
interstate					
Human Services, Recovery Services	26076	R527-305	5YR	03/10/2003	2003-7/91
investigations					
Public Safety, Peace Officer Standards and Training	26072	R728-409	EMR	03/07/2003	2003-7/62
jurisdiction					
Workforce Services, Workforce Information and Payment Services	25946	R994-406-311	AMD	03/04/2003	2003-3/46
	25947	R994-406-315	AMD	03/04/2003	2003-3/48
juvenile courts					
Education, Administration	25937	R277-709	5YR	01/14/2003	2003-3/70
K-9 training					
Public Safety, Peace Officer Standards and Training	26337	R728-505	5YR	06/02/2003	2003-12/79
kinship					
Human Services, Child and Family Services	26251	R512-500	EMR	05/06/2003	2003-11/94
labor					
Labor Commission, Safety	26312	R616-1	5YR	05/28/2003	2003-12/79
labor commission					
Labor Commission, Administration	26313	R600-1	5YR	05/28/2003	2003-12/76

KEYWORD AGENCY	FILE NUMBER	CODE REFERENCE	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
laboratories					
Health, Epidemiology and Laboratory Services, Laboratory Improvement	26144	R444-14	AMD	06/12/2003	2003-9/76
land use					
School and Institutional Trust Lands, Administration	25953	R850-120	AMD	03/04/2003	2003-3/43
landscape architects					
Commerce, Occupational and Professional Licensing	26320	R156-53	5YR	06/02/2003	2003-12/71
language proficiency					
Regents (Board Of), Administration	26034	R765-136	NEW	05/29/2003	2003-5/14
law					
Public Safety, Fire Marshal	26003	R710-9	AMD	03/18/2003	2003-4/38
law enforcement					
Public Safety, Criminal Investigations and Technical Services, Criminal Identification	25998	R722-320	5YR	01/28/2003	2003-4/60
law enforcement officers					
Public Safety, Peace Officer Standards and Training	26072	R728-409	EMR	03/07/2003	2003-7/62
lead-based paint					
Environmental Quality, Air Quality	26249	R307-840	5YR	05/05/2003	2003-11/96
leasing					
Administrative Services, Facilities Construction and Management	25959	R23-21	5YR	01/15/2003	2003-3/64
liberties					
Natural Resources, Administration	25950	R634-1	5YR	01/15/2003	2003-3/76
	25951	R634-1	AMD	03/04/2003	2003-3/27
libraries					
Education, Administration	25925	R277-516	5YR	01/14/2003	2003-3/67
license					
Education, Administration	26030	R277-521	NSC	03/01/2003	Not Printed
Environmental Quality, Radiation Control	26074	R313-19-100	AMD	05/09/2003	2003-7/9
Natural Resources, Wildlife Resources	26280	R657-45	5YR	05/14/2003	2003-11/98
licensing					
Commerce, Administration	25649	R151-33	AMD	01/15/2003	2002-24/7
Commerce, Occupational and Professional Licensing	26174	R156-3a	AMD	06/03/2003	2003-9/3
	26150	R156-28	AMD	06/03/2003	2003-9/4
	26319	R156-31b	5YR	06/02/2003	2003-12/71
	25987	R156-46a	AMD	03/18/2003	2003-4/7
	26126	R156-47b-202	AMD	05/19/2003	2003-8/15
	25651	R156-47b-302a	AMD	01/16/2003	2002-24/10
	26320	R156-53	5YR	06/02/2003	2003-12/71
	26175	R156-55a	AMD	06/03/2003	2003-9/6
	25920	R156-59	5YR	01/09/2003	2003-3/66

KEYWORD AGENCY	FILE NUMBER	CODE REFERENCE	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
	26116	R156-59	REP	05/19/2003	2003-8/16
	25629	R156-60a	AMD	01/02/2003	2002-23/8
	26321	R156-68	5YR	06/02/2003	2003-12/72
Human Services, Administration, Administrative Services, Licensing	25652	R501-1	AMD	01/30/2003	2002-24/15
	26071	R501-2	AMD	05/06/2003	2003-7/19
	25707	R501-8	AMD	01/17/2003	2002-24/19
	25978	R501-8	NSC	03/01/2003	Not Printed
	25660	R501-11	AMD	01/30/2003	2002-24/25
	25644	R501-12	AMD	01/30/2003	2002-23/82
	26055	R501-16	5YR	02/26/2003	2003-6/17
	25703	R501-16	NSC	02/26/2003	Not Printed
	26084	R501-17	5YR	03/11/2003	2003-7/89
	26343	R501-18	5YR	06/05/2003	2003-13/74
loans					
Environmental Quality, Drinking Water	26172	R309-700	AMD	07/01/2003	2003-9/67
Environmental Quality, Water Quality	26183	R317-101	5YR	04/22/2003	2003-10/151
long-term care ombudsman					
Human Services, Aging and Adult Services	26052	R510-100	AMD	05/21/2003	2003-6/6
	26259	R510-100-2	EMR	05/15/2003	2003-11/75
mammography					
Environmental Quality, Radiation Control	25786	R313-28	AMD	03/14/2003	2003-1/27
maps					
Natural Resources, Water Rights	26195	R655-5	5YR	04/29/2003	2003-10/154
massage therapy					
Commerce, Occupational and Professional Licensing	26126	R156-47b-202	AMD	05/19/2003	2003-8/15
	25651	R156-47b-302a	AMD	01/16/2003	2002-24/10
mathematics					
Education, Administration	26087	R277-717	AMD	05/02/2003	2003-7/6
Medicaid					
Health, Health Care Financing, Coverage and Reimbursement Policy	26244	R414-1-5	EMR	05/02/2003	2003-11/74
	25889	R414-5	EMR	01/03/2003	2003-2/55
	25948	R414-5	EMR	01/15/2003	2003-3/52
	25967	R414-5	NEW	05/13/2003	2003-3/8
	25969	R414-6	EMR	01/15/2003	2003-3/53
	25974	R414-6	NEW	05/13/2003	2003-3/9
	26010	R414-10	EMR	02/01/2003	2003-4/45
	26036	R414-10	EMR	02/11/2003	2003-5/33
	26008	R414-10	AMD	04/07/2003	2003-4/11
	25192	R414-13	NSC	01/03/2003	Not Printed
	25907	R414-13	5YR	01/03/2003	2003-3/74
	25968	R414-21	EMR	01/15/2003	2003-3/54
	25973	R414-21	AMD	04/07/2003	2003-3/10

KEYWORD AGENCY	FILE NUMBER	CODE REFERENCE	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
	25982	R414-27	5YR	01/21/2003	2003-4/52
	26318	R414-51	5YR	05/30/2003	2003-12/73
	25970	R414-52	EMR	01/15/2003	2003-3/57
	25976	R414-52	AMD	04/09/2003	2003-3/14
	26347	R414-52	5YR	06/06/2003	2003-13/73
	25971	R414-53	EMR	01/15/2003	2003-3/59
	25972	R414-53	AMD	04/07/2003	2003-3/15
	26346	R414-53	5YR	06/06/2003	2003-13/74
	26011	R414-60	EMR	02/01/2003	2003-4/50
	26009	R414-60	AMD	04/07/2003	2003-4/16
	25898	R414-63	AMD	04/07/2003	2003-2/12
	26004	R414-301	5YR	01/31/2003	2003-4/53
	26018	R414-305	5YR	01/31/2003	2003-4/55
	25897	R414-504	AMD	02/17/2003	2003-2/21
	26051	R414-504	AMD	06/09/2003	2003-6/4
Human Services, Recovery Services	25869	R527-201	AMD	03/05/2003	2003-2/34
medical practitioner					
Labor Commission, Industrial Accidents	26315	R612-2	5YR	05/28/2003	2003-12/77
medical recommendations					
Education, Administration	25647	R277-611	NEW	01/03/2003	2002-23/12
medical records					
Human Services, Mental Health, State Hospital	26298	R525-1	5YR	05/20/2003	2003-12/73
medication treatment					
Human Services, Mental Health, State Hospital	26300	R525-3	5YR	05/20/2003	2003-12/74
mining					
Labor Commission, Safety	26312	R616-1	5YR	05/28/2003	2003-12/79
minority education					
Education, Administration	26087	R277-717	AMD	05/02/2003	2003-7/6
motor vehicles					
Commerce, Administration	25624	R151-14	AMD	01/02/2003	2002-23/6
Environmental Quality, Air Quality	25495	R307-121	AMD	01/09/2003	2002-21/6
motorcycles					
Commerce, Administration	25724	R151-35	NEW	01/15/2003	2002-24/9
mutual water corporations					
Public Service Commission, Administration	26142	R746-331	5YR	04/02/2003	2003-9/137
naming process					
Administrative Services, Facilities Construction and Management	25784	R23-10	AMD	02/04/2003	2003-1/5
new hire registry					
Workforce Services, Workforce Information and Payment Services	26362	R994-315	5YR	06/11/2003	2003-13/76

KEYWORD AGENCY	FILE NUMBER	CODE REFERENCE	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
notification					
Corrections, Administration	25991	R251-110	AMD	03/21/2003	2003-4/9
nurses					
Commerce, Occupational and Professional Licensing	26319	R156-31b	5YR	06/02/2003	2003-12/71
occupational licensing					
Commerce, Occupational and Professional Licensing	26175	R156-55a	AMD	06/03/2003	2003-9/6
Environmental Quality, Water Quality	25637	R317-11	AMD	01/30/2003	2002-23/80
off road vehicles					
Commerce, Administration	25724	R151-35	NEW	01/15/2003	2002-24/9
off-highway vehicles					
Natural Resources, Parks and Recreation	26026	R651-408	AMD	04/01/2003	2003-5/7
	26028	R651-410	NEW	04/01/2003	2003-5/8
	26128	R651-410	AMD	05/19/2003	2003-8/36
onsite wastewater systems					
Environmental Quality, Water Quality	25203	R317-4-3	AMD	01/10/2003	2002-18/43
	25635	R317-4-3	AMD	01/30/2003	2002-23/21
open burning					
Environmental Quality, Air Quality	26368	R307-202	5YR	06/12/2003	2003-13/71
operator certification					
Environmental Quality, Water Quality	25638	R317-10	AMD	01/30/2003	2002-23/78
osteopathic physician					
Commerce, Occupational and Professional Licensing	26321	R156-68	5YR	06/02/2003	2003-12/72
osteopaths					
Commerce, Occupational and Professional Licensing	26321	R156-68	5YR	06/02/2003	2003-12/72
overpayments					
Workforce Services, Workforce Information and Payment Services	25946	R994-406-311	AMD	03/04/2003	2003-3/46
	25947	R994-406-315	AMD	03/04/2003	2003-3/48
paint					
Environmental Quality, Air Quality	26249	R307-840	5YR	05/05/2003	2003-11/96
parking facilities					
Administrative Services, Facilities Construction and Management	26117	R23-13	5YR	03/25/2003	2003-8/43
parks					
Natural Resources, Parks and Recreation	26039	R651-102	5YR	02/13/2003	2003-5/40
	26028	R651-410	NEW	04/01/2003	2003-5/8
	26128	R651-410	AMD	05/19/2003	2003-8/36
	26029	R651-602	AMD	04/01/2003	2003-5/9
	25837	R651-611	AMD	03/31/2003	2003-2/38
	26170	R651-611-2	AMD	06/03/2003	2003-9/94

KEYWORD AGENCY	FILE NUMBER	CODE REFERENCE	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
parole					
Pardons (Board Of), Administration	26120	R671-201	AMD	05/16/2003	2003-8/37
	25350	R671-202	AMD	02/12/2003	2002-20/104
	25394	R671-308	AMD	02/12/2003	2002-20/110
	25398	R671-311	AMD	02/12/2003	2002-20/112
	26050	R671-403	5YR	02/18/2003	2003-6/18
patient rights					
Human Services, Mental Health, State Hospital	26299	R525-2	5YR	05/20/2003	2003-12/74
paying standards					
Public Service Commission, Administration	26145	R746-342	5YR	04/02/2003	2003-9/138
penalties					
Environmental Quality, Drinking Water	26171	R309-405	AMD	06/17/2003	2003-9/65
per diem allowance					
Administrative Services, Finance	26203	R25-7	5YR	05/01/2003	2003-10/150
permit					
Natural Resources, Wildlife Resources	26280	R657-45	5YR	05/14/2003	2003-11/98
permits					
Community and Economic Development, Community Development, History	25787	R212-4	AMD	03/11/2003	2003-1/13
Natural Resources, Wildlife Resources	25723	R657-42	AMD	01/15/2003	2002-24/52
	26278	R657-42	5YR	05/14/2003	2003-11/98
persistently dangerous schools					
Education, Administration	25965	R277-483	NEW	03/07/2003	2003-3/5
personal property					
Tax Commission, Property Tax	25917	R884-24P-60	EMR	01/06/2003	2003-3/60
	26044	R884-24P-60	AMD	04/23/2003	2003-5/15
petroleum					
Environmental Quality, Environmental Response and Remediation	25161	R311-207	CPR	02/04/2003	2003-1/46
physical and mental fitness testing					
Public Safety, Driver License	25645	R708-39	NEW	01/24/2003	2002-23/97
planning					
Administrative Services, Facilities Construction and Management	25639	R23-3	R&R	01/02/2003	2002-23/3
	25989	R23-3	AMD	03/24/2003	2003-4/4
	25984	R23-7	NSC	02/04/2003	Not Printed
	25988	R23-9	R&R	03/24/2003	2003-4/5
planning-programming-budgeting					
Administrative Services, Facilities Construction and Management	25984	R23-7	NSC	02/04/2003	Not Printed
	25770	R23-7	REP	02/04/2003	2003-1/5
	25640	R23-8	REP	01/02/2003	2002-23/5

KEYWORD AGENCY	FILE NUMBER	CODE REFERENCE	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
police dog training rules					
Public Safety, Peace Officer Standards and Training	26337	R728-505	5YR	06/02/2003	2003-12/79
police training					
Public Safety, Peace Officer Standards and Training	26067	R728-411	5YR	03/04/2003	2003-7/91
postsecondary proprietary school					
Regents (Board Of), Administration	25704	R765-171	REP	03/31/2003	2002-24/55
	25712	R765-171	NSC	03/31/2003	Not Printed
prescriptions					
Health, Health Care Financing, Coverage and Reimbursement Policy	25898	R414-63	AMD	04/07/2003	2003-2/12
privacy					
Health, Administration	26161	R380-250	EMR	04/14/2003	2003-9/131
	26162	R380-250	NEW	06/09/2003	2003-9/72
	26160	R495-881	EMR	04/14/2003	2003-9/133
private schools					
Education, Administration	26090	R277-747	5YR	03/12/2003	2003-7/73
procurement					
Administrative Services, Facilities Construction and Management	25639	R23-3	R&R	01/02/2003	2002-23/3
	25989	R23-3	AMD	03/24/2003	2003-4/4
	25959	R23-21	5YR	01/15/2003	2003-3/64
professional competency					
Education, Administration	26188	R277-508	5YR	04/25/2003	2003-10/151
	26073	R277-508	NSC	04/25/2003	Not Printed
	25925	R277-516	5YR	01/14/2003	2003-3/67
Public Safety, Peace Officer Standards and Training	26067	R728-411	5YR	03/04/2003	2003-7/91
professional education					
Education, Administration	25926	R277-518	5YR	01/14/2003	2003-3/67
professional employer organization					
Commerce, Occupational and Professional Licensing	26116	R156-59	REP	05/19/2003	2003-8/16
professional employer organizations					
Commerce, Occupational and Professional Licensing	25920	R156-59	5YR	01/09/2003	2003-3/66
professional engineers					
Commerce, Occupational and Professional Licensing	25922	R156-22	5YR	01/13/2003	2003-3/65
	25763	R156-22	CPR	04/03/2003	2003-5/27
	25763	R156-22	AMD	04/03/2003	2003-1/10
professional land surveyors					
Commerce, Occupational and Professional Licensing	25922	R156-22	5YR	01/13/2003	2003-3/65
	25763	R156-22	CPR	04/03/2003	2003-5/27
	25763	R156-22	AMD	04/03/2003	2003-1/10

KEYWORD AGENCY	FILE NUMBER	CODE REFERENCE	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
program benefits					
Health, Health Care Financing, Coverage and Reimbursement Policy	26019	R414-306	5YR	01/31/2003	2003-4/56
promotions					
Agriculture and Food, Marketing and Conservation	26383	R65-2	5YR	06/13/2003	2003-13/64
	26386	R65-5	5YR	06/13/2003	2003-13/64
proof					
Natural Resources, Water Rights	26195	R655-5	5YR	04/29/2003	2003-10/154
property tax					
Tax Commission, Property Tax	25917	R884-24P-60	EMR	01/06/2003	2003-3/60
	26044	R884-24P-60	AMD	04/23/2003	2003-5/15
public assistance programs					
Health, Health Care Financing, Coverage and Reimbursement Policy	26020	R414-307	5YR	01/31/2003	2003-4/56
	26021	R414-308	5YR	01/31/2003	2003-4/57
public buildings					
Administrative Services, Facilities Construction and Management	25639	R23-3	R&R	01/02/2003	2002-23/3
	25989	R23-3	AMD	03/24/2003	2003-4/4
	25955	R23-5	5YR	01/15/2003	2003-3/62
	25956	R23-6	5YR	01/15/2003	2003-3/63
	25984	R23-7	NSC	02/04/2003	Not Printed
	25770	R23-7	REP	02/04/2003	2003-1/5
	25640	R23-8	REP	01/02/2003	2002-23/5
	25957	R23-9	5YR	01/15/2003	2003-3/63
	25962	R23-10	5YR	01/15/2003	2003-3/64
	26115	R23-14	NEW	05/16/2003	2003-8/5
	25959	R23-21	5YR	01/15/2003	2003-3/64
	25960	R23-24	5YR	01/15/2003	2003-3/65
Public Safety, Fire Marshal	26006	R710-4	AMD	03/18/2003	2003-4/28
public meetings					
Natural Resources, Wildlife Resources	26164	R657-39-3	AMD	06/03/2003	2003-9/106
public records					
Natural Resources, Parks and Recreation	26041	R651-102-4	NSC	03/01/2003	Not Printed
public schools					
Education, Administration	26341	R277-436	5YR	06/04/2003	2003-13/68
public utilities					
Public Service Commission, Administration	26081	R746-330	5YR	03/10/2003	2003-7/92
	26142	R746-331	5YR	04/02/2003	2003-9/137
	26143	R746-332	5YR	04/02/2003	2003-9/137
	26145	R746-342	5YR	04/02/2003	2003-9/138
	25578	R746-347	NEW	03/10/2003	2002-22/44
	26146	R746-402	5YR	04/02/2003	2003-9/138

KEYWORD AGENCY	FILE NUMBER	CODE REFERENCE	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
	26147	R746-405	5YR	04/02/2003	2003-9/139
quarantine					
Agriculture and Food, Plant Industry	26388	R68-14	5YR	06/13/2003	2003-13/66
	26389	R68-16	5YR	06/13/2003	2003-13/66
	26390	R68-17	5YR	06/13/2003	2003-13/67
radiation					
Environmental Quality, Radiation Control	26086	R313-25	AMD	05/09/2003	2003-7/10
radioactive material					
Environmental Quality, Radiation Control	25943	R313-15	5YR	01/14/2003	2003-3/73
radioactive waste disposal					
Environmental Quality, Radiation Control	26086	R313-25	AMD	05/09/2003	2003-7/10
range management					
School and Institutional Trust Lands, Administration	26177	R850-50	AMD	06/03/2003	2003-9/124
rates					
Workforce Services, Workforce Information and Payment Services	26135	R994-303-104	AMD	06/05/2003	2003-8/41
	26355	R994-306	5YR	06/11/2003	2003-13/75
	26358	R994-307	5YR	06/11/2003	2003-13/75
real estate appraisal					
Commerce, Real Estate	26024	R162-105	AMD	04/23/2003	2003-5/4
real estate appraisals					
Commerce, Real Estate	26060	R162-106	AMD	04/23/2003	2003-6/3
	25981	R162-107	5YR	01/21/2003	2003-4/52
real estate business					
Commerce, Real Estate	26025	R162-6-1	AMD	06/05/2003	2003-5/2
	25663	R162-8-9	AMD	01/16/2003	2002-24/11
reciprocity					
Environmental Quality, Radiation Control	26074	R313-19-100	AMD	05/09/2003	2003-7/9
records					
Health, Health Care Financing, Coverage and Reimbursement Policy	26021	R414-308	5YR	01/31/2003	2003-4/57
Human Services, Administration	26160	R495-881	EMR	04/14/2003	2003-9/133
recreation					
Natural Resources, Parks and Recreation	26040	R651-301	5YR	02/13/2003	2003-5/40
	26127	R651-301	AMD	05/19/2003	2003-8/34
Natural Resources, Wildlife Resources	25722	R657-38	AMD	01/15/2003	2002-24/48
recreational vehicles					
Commerce, Administration	25624	R151-14	AMD	01/02/2003	2002-23/6
regional advisory councils					
Natural Resources, Wildlife Resources	26164	R657-39-3	AMD	06/03/2003	2003-9/106

KEYWORD AGENCY	FILE NUMBER	CODE REFERENCE	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
regionalization					
Environmental Quality, Drinking Water	26392	R309-352	5YR	06/16/2003	2003-13/72
registration					
Regents (Board Of), Administration	25704	R765-171	REP	03/31/2003	2002-24/55
	25712	R765-171	NSC	03/31/2003	Not Printed
rehabilitation					
Education, Applied Technology Education (Board for), Rehabilitation	26088	R280-200	5YR	03/12/2003	2003-7/74
reimbursements					
Administrative Services, Finance	26206	R25-6	5YR	05/01/2003	2003-10/150
religious activities					
Tax Commission, Auditing	25924	R865-19S-61	AMD	04/23/2003	2003-3/44
religious education					
Education, Administration	25932	R277-610	5YR	01/14/2003	2003-3/68
relocation benefits					
Administrative Services, Finance	26206	R25-6	5YR	05/01/2003	2003-10/150
reptiles					
Natural Resources, Wildlife Resources	26168	R657-53	NEW	06/03/2003	2003-9/108
residency requirements					
School and Institutional Trust Lands, Administration	26176	R850-3	AMD	06/03/2003	2003-9/123
respite					
Human Services, Aging and Adult Services	25557	R510-401	CPR	04/16/2003	2003-5/28
restitution					
Pardons (Board Of), Administration	26050	R671-403	5YR	02/18/2003	2003-6/18
roofs					
Administrative Services, Facilities Construction and Management	26115	R23-14	NEW	05/16/2003	2003-8/5
ropeways					
Transportation, Operations, Traffic and Safety	26295	R920-50-11	EMR	05/16/2003	2003-12/69
rules and procedures					
Health, Epidemiology and Laboratory Services, Epidemiology	26290	R386-702	EMR	05/16/2003	2003-12/67
Health, Community and Family Health Services, Immunization	26187	R396-100	5YR	04/24/2003	2003-10/152
Public Safety, Peace Officer Standards and Training	26072	R728-409	EMR	03/07/2003	2003-7/62
Public Service Commission, Administration	26143	R746-332	5YR	04/02/2003	2003-9/137
	26145	R746-342	5YR	04/02/2003	2003-9/138
	26146	R746-402	5YR	04/02/2003	2003-9/138
	26147	R746-405	5YR	04/02/2003	2003-9/139
safety					
Environmental Quality, Radiation Control	25943	R313-15	5YR	01/14/2003	2003-3/73

KEYWORD AGENCY	FILE NUMBER	CODE REFERENCE	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
Labor Commission, Occupational Safety and Health	25940	R614-1-4	NSC	03/01/2003	Not Printed
	25941	R614-1-4	AMD	03/04/2003	2003-3/26
	26149	R614-1-4	AMD	06/03/2003	2003-9/92
Labor Commission, Safety	26148	R616-2-3	AMD	06/03/2003	2003-9/93
	26109	R616-3-3	AMD	05/08/2003	2003-7/52
Natural Resources, Parks and Recreation	26173	R651-227	5YR	04/15/2003	2003-9/135
sales tax					
Tax Commission, Auditing	25924	R865-19S-61	AMD	04/23/2003	2003-3/44
school buses					
Education, Administration	25928	R277-600	5YR	01/14/2003	2003-3/68
school choice					
Education, Administration	25965	R277-483	NEW	03/07/2003	2003-3/5
school personnel					
Education, Administration	26073	R277-508	NSC	04/25/2003	Not Printed
	26188	R277-508	5YR	04/25/2003	2003-10/151
	25925	R277-516	5YR	01/14/2003	2003-3/67
school transportation					
Education, Administration	25928	R277-600	5YR	01/14/2003	2003-3/68
school year					
Education, Administration	26091	R277-751	5YR	03/12/2003	2003-7/74
science					
Education, Administration	26087	R277-717	AMD	05/02/2003	2003-7/6
secure area hearing rooms					
Regents (Board Of), Administration	25906	R765-254	NEW	05/29/2003	2003-3/42
security					
Administrative Services, Facilities Construction and Management	26115	R23-14	NEW	05/16/2003	2003-8/5
self insurance plans					
Labor Commission, Industrial Accidents	26316	R612-3	5YR	05/28/2003	2003-12/77
seniors					
Human Services, Aging and Adult Services	25552	R510-105	NEW	03/14/2003	2002-22/14
septic tanks					
Environmental Quality, Water Quality	25203	R317-4-3	AMD	01/10/2003	2002-18/43
	25635	R317-4-3	AMD	01/30/2003	2002-23/21
sewage effluent use					
Natural Resources, Water Rights	25550	R655-7	NEW	02/10/2003	2002-22/39
sewage treatment					
Environmental Quality, Water Quality	26183	R317-101	5YR	04/22/2003	2003-10/151
sewerage					
Public Service Commission, Administration	26081	R746-330	5YR	03/10/2003	2003-7/92

KEYWORD AGENCY	FILE NUMBER	CODE REFERENCE	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
sex crimes					
Corrections, Administration	25991	R251-110	AMD	03/21/2003	2003-4/9
social services					
Human Services, Child and Family Services	26256	R512-200	EMR	05/06/2003	2003-11/79
	26255	R512-201	EMR	05/06/2003	2003-11/81
	26254	R512-202	EMR	05/06/2003	2003-11/83
	26252	R512-300	EMR	05/06/2003	2003-11/85
	26257	R512-305	EMR	05/06/2003	2003-11/92
Human Services, Services for People with Disabilities	25975	R539-3	AMD	05/05/2003	2003-3/16
	26062	R539-3-2	AMD	05/20/2003	2003-6/13
	25949	R539-8-3	AMD	05/05/2003	2003-3/20
social workers					
Commerce, Occupational and Professional Licensing	25629	R156-60a	AMD	01/02/2003	2002-23/8
solid waste management					
Environmental Quality, Solid and Hazardous Waste	26092	R315-301	5YR	03/14/2003	2003-7/75
	26093	R315-302	5YR	03/14/2003	2003-7/76
	26094	R315-303	5YR	03/14/2003	2003-7/77
	26095	R315-305	5YR	03/14/2003	2003-7/78
	26096	R315-306	5YR	03/14/2003	2003-7/79
	26097	R315-307	5YR	03/14/2003	2003-7/79
	26098	R315-308	5YR	03/14/2003	2003-7/80
	26100	R315-309	5YR	03/14/2003	2003-7/81
	26099	R315-310	5YR	03/14/2003	2003-7/82
	26101	R315-311	5YR	03/14/2003	2003-7/82
	26102	R315-312	5YR	03/14/2003	2003-7/83
	26103	R315-313	5YR	03/14/2003	2003-7/84
	26104	R315-314	5YR	03/14/2003	2003-7/84
	26105	R315-315	5YR	03/14/2003	2003-7/85
	26106	R315-316	5YR	03/14/2003	2003-7/86
	26107	R315-317	5YR	03/14/2003	2003-7/87
	26108	R315-318	5YR	03/14/2003	2003-7/87
space utilization					
Administrative Services, Facilities Construction and Management	25986	R23-11	NSC	02/04/2003	Not Printed
	25771	R23-11	REP	02/04/2003	2003-1/7
state employees					
Administrative Services, Finance	26203	R25-7	5YR	05/01/2003	2003-10/150
state office buildings					
Administrative Services, Facilities Construction and Management	25984	R23-7	NSC	02/04/2003	Not Printed
	25770	R23-7	REP	02/04/2003	2003-1/5

KEYWORD AGENCY	FILE NUMBER	CODE REFERENCE	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
state planning Administrative Services, Facilities Construction and Management	25770	R23-7	REP	02/04/2003	2003-1/5
state vehicle use Administrative Services, Fleet Operations	25879	R27-3	AMD	05/15/2003	2003-2/5
stove Environmental Quality, Air Quality	26360	R307-201	5YR	06/11/2003	2003-13/71
student competency Education, Administration	25936	R277-702	5YR	01/14/2003	2003-3/70
student financial aid Education, Administration	25938	R277-718	5YR	01/14/2003	2003-3/71
students Education, Administration	25966	R277-485	NEW	03/07/2003	2003-3/7
	25647	R277-611	NEW	01/03/2003	2002-23/12
	25937	R277-709	5YR	01/14/2003	2003-3/70
students at risk Education, Administration	26341	R277-436	5YR	06/04/2003	2003-13/68
substance abuse Human Services, Administration, Administrative Services, Licensing	25660	R501-11	AMD	01/30/2003	2002-24/25
suggestions Human Services, Mental Health, State Hospital	26304	R525-7	5YR	05/20/2003	2003-12/76
surveyors Commerce, Occupational and Professional Licensing	25922	R156-22	5YR	01/13/2003	2003-3/65
	25763	R156-22	CPR	04/03/2003	2003-5/27
	25763	R156-22	AMD	04/03/2003	2003-1/10
suspensions Natural Resources, Wildlife Resources	26169	R657-26-8	AMD	06/03/2003	2003-9/105
system Public Safety, Fire Marshal	25961	R710-7	AMD	03/06/2003	2003-3/36
systems Public Safety, Fire Marshal	26001	R710-7	AMD	03/18/2003	2003-4/32
tariffs Public Service Commission, Administration	26147	R746-405	5YR	04/02/2003	2003-9/139
tax exemption Environmental Quality, Air Quality	25495	R307-121	AMD	01/09/2003	2002-21/6
tax exemptions Tax Commission, Auditing	25924	R865-19S-61	AMD	04/23/2003	2003-3/44
tax returns Tax Commission, Auditing	25829	R865-9I-26	AMD	03/11/2003	2003-1/40

KEYWORD AGENCY	FILE NUMBER	CODE REFERENCE	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
	25828	R865-9I-27	AMD	03/11/2003	2003-1/41
	25819	R865-9I-29	AMD	03/11/2003	2003-1/43
	26078	R865-9I-39	AMD	06/10/2003	2003-7/60
taxation					
Tax Commission, Administration	25823	R861-1A-20	AMD	03/11/2003	2003-1/39
Tax Commission, Auditing	25826	R865-9I-28	AMD	03/11/2003	2003-1/42
Tax Commission, Property Tax	25917	R884-24P-60	EMR	01/06/2003	2003-3/60
	26044	R884-24P-60	AMD	04/23/2003	2003-5/15
teacher certification					
Education, Administration	25926	R277-518	5YR	01/14/2003	2003-3/67
	26032	R686-100	5YR	02/07/2003	2003-5/41
teachers					
Education, Administration	26073	R277-508	NSC	04/25/2003	Not Printed
	26188	R277-508	5YR	04/25/2003	2003-10/151
telecommunications					
Public Service Commission, Administration	26145	R746-342	5YR	04/02/2003	2003-9/138
	25578	R746-347	NEW	03/10/2003	2002-22/44
terms of office					
Natural Resources, Wildlife Resources	26164	R657-39-3	AMD	06/03/2003	2003-9/106
training programs					
Workforce Services, Workforce Information and Payment Services	26308	R994-600	5YR	05/23/2003	2003-12/81
tramway permits					
Transportation, Operations, Traffic and Safety	26295	R920-50-11	EMR	05/16/2003	2003-12/69
tramways					
Transportation, Operations, Traffic and Safety	26295	R920-50-11	EMR	05/16/2003	2003-12/69
transportation					
Administrative Services, Finance	26203	R25-7	5YR	05/01/2003	2003-10/150
Environmental Quality, Radiation Control	26074	R313-19-100	AMD	05/09/2003	2003-7/9
Human Services, Aging and Adult Services	25552	R510-105	NEW	03/14/2003	2002-22/14
transportation law					
Administrative Services, Facilities Construction and Management	26117	R23-13	5YR	03/25/2003	2003-8/43
transportation safety					
Transportation, Operations, Traffic and Safety	26295	R920-50-11	EMR	05/16/2003	2003-12/69
trucking industries					
Tax Commission, Auditing	25826	R865-9I-28	AMD	03/11/2003	2003-1/42
undercover identification					
Public Safety, Criminal Investigations and Technical Services, Criminal Identification	25998	R722-320	5YR	01/28/2003	2003-4/60

KEYWORD AGENCY	FILE NUMBER	CODE REFERENCE	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
underground injection control					
Environmental Quality, Water Quality	25631	R317-7-13	AMD	01/30/2003	2002-23/32
underground storage tanks					
Environmental Quality, Environmental Response and Remediation	25161	R311-207	CPR	02/04/2003	2003-1/46
unemployed workers					
Workforce Services, Workforce Information and Payment Services	26308	R994-600	5YR	05/23/2003	2003-12/81
unemployment					
Workforce Services, Workforce Information and Payment Services	26308	R994-600	5YR	05/23/2003	2003-12/81
unemployment compensation					
Workforce Services, Workforce Information and Payment Services	26306	R994-201	5YR	05/23/2003	2003-12/80
	26309	R994-202	5YR	05/23/2003	2003-12/80
	26307	R994-208	5YR	05/23/2003	2003-12/81
	26135	R994-303-104	AMD	06/05/2003	2003-8/41
	26355	R994-306	5YR	06/11/2003	2003-13/75
	26358	R994-307	5YR	06/11/2003	2003-13/75
	25946	R994-406-311	AMD	03/04/2003	2003-3/46
	25947	R994-406-315	AMD	03/04/2003	2003-3/48
	26356	R994-508	5YR	06/11/2003	2003-13/76
units					
Environmental Quality, Radiation Control	25785	R313-12-3	AMD	03/14/2003	2003-1/22
used oil					
Environmental Quality, Solid and Hazardous Waste	26064	R315-15	5YR	03/03/2003	2003-7/75
utility regulation					
Public Service Commission, Administration	26147	R746-405	5YR	04/02/2003	2003-9/139
variances					
Environmental Quality, Air Quality	26354	R307-102	5YR	06/11/2003	2003-13/69
veterinary medicine					
Commerce, Occupational and Professional Licensing	26150	R156-28	AMD	06/03/2003	2003-9/4
violations					
Natural Resources, Wildlife Resources	26169	R657-26-8	AMD	06/03/2003	2003-9/105
visitors					
Human Services, Mental Health, State Hospital	26302	R525-4	5YR	05/20/2003	2003-12/75
vocational education					
Education, Administration	25926	R277-518	5YR	01/14/2003	2003-3/67
Education, Applied Technology Education (Board for), Rehabilitation	26088	R280-200	5YR	03/12/2003	2003-7/74
wages					
Workforce Services, Workforce Information and Payment Services	26307	R994-208	5YR	05/23/2003	2003-12/81

KEYWORD AGENCY	FILE NUMBER	CODE REFERENCE	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
waste disposal					
Environmental Quality, Radiation Control	25943	R313-15	5YR	01/14/2003	2003-3/73
Environmental Quality, Solid and Hazardous Waste	26092	R315-301	5YR	03/14/2003	2003-7/75
	26094	R315-303	5YR	03/14/2003	2003-7/77
	26095	R315-305	5YR	03/14/2003	2003-7/78
	26096	R315-306	5YR	03/14/2003	2003-7/79
	26097	R315-307	5YR	03/14/2003	2003-7/79
	26098	R315-308	5YR	03/14/2003	2003-7/80
	26100	R315-309	5YR	03/14/2003	2003-7/81
	26099	R315-310	5YR	03/14/2003	2003-7/82
	26101	R315-311	5YR	03/14/2003	2003-7/82
	26102	R315-312	5YR	03/14/2003	2003-7/83
	26104	R315-314	5YR	03/14/2003	2003-7/84
	26105	R315-315	5YR	03/14/2003	2003-7/85
	26106	R315-316	5YR	03/14/2003	2003-7/86
	26107	R315-317	5YR	03/14/2003	2003-7/87
	26108	R315-318	5YR	03/14/2003	2003-7/87
Environmental Quality, Water Quality	25636	R317-1	AMD	01/30/2003	2002-23/17
waste management					
Environmental Quality, Solid and Hazardous Waste	26093	R315-302	5YR	03/14/2003	2003-7/76
waste water					
Environmental Quality, Water Quality	25203	R317-4-3	AMD	01/10/2003	2002-18/43
	25635	R317-4-3	AMD	01/30/2003	2002-23/21
	25637	R317-11	AMD	01/30/2003	2002-23/80
wastewater					
Environmental Quality, Water Quality	26183	R317-101	5YR	04/22/2003	2003-10/151
wastewater treatment					
Environmental Quality, Water Quality	25638	R317-10	AMD	01/30/2003	2002-23/78
water					
Public Service Commission, Administration	26081	R746-330	5YR	03/10/2003	2003-7/92
	26142	R746-331	5YR	04/02/2003	2003-9/137
	26143	R746-332	5YR	04/02/2003	2003-9/137
water pollution					
Environmental Quality, Water Quality	25636	R317-1	AMD	01/30/2003	2002-23/17
	25634	R317-8	AMD	01/30/2003	2002-23/33
	25633	R317-9	NEW	02/05/2003	2002-23/74
	25638	R317-10	AMD	01/30/2003	2002-23/78
water quality					
Environmental Quality, Water Quality	25632	R317-6-6	AMD	01/30/2003	2002-23/25
	25631	R317-7-13	AMD	01/30/2003	2002-23/32
	26183	R317-101	5YR	04/22/2003	2003-10/151
Public Service Commission, Administration	26081	R746-330	5YR	03/10/2003	2003-7/92

KEYWORD AGENCY	FILE NUMBER	CODE REFERENCE	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
water rights					
Natural Resources, Water Rights	26195	R655-5	5YR	04/29/2003	2003-10/154
weed control					
Agriculture and Food, Plant Industry	26387	R68-9	5YR	06/13/2003	2003-13/65
welfare					
Human Services, Recovery Services	25977	R527-3	AMD	03/19/2003	2003-4/26
wildlife					
Natural Resources, Wildlife Resources	26167	R657-3	5YR	04/15/2003	2003-9/136
	26166	R657-3	AMD	06/03/2003	2003-9/95
	25720	R657-5	AMD	01/15/2003	2002-24/29
	26165	R657-5-70	AMD	06/03/2003	2003-9/104
	25721	R657-17	AMD	01/15/2003	2002-24/46
	25890	R657-23	AMD	02/16/2003	2003-2/41
	26169	R657-26-8	AMD	06/03/2003	2003-9/105
	25892	R657-33	AMD	02/16/2003	2003-2/43
	26056	R657-33-6	AMD	04/15/2003	2003-6/15
	26274	R657-34	5YR	05/14/2003	2003-11/96
	26275	R657-37	5YR	05/14/2003	2003-11/97
	25722	R657-38	AMD	01/15/2003	2002-24/48
	25723	R657-42	AMD	01/15/2003	2002-24/52
	26278	R657-42	5YR	05/14/2003	2003-11/98
	25894	R657-44	R&R	02/16/2003	2003-2/46
	26168	R657-53	NEW	06/03/2003	2003-9/108
wildlife conservation					
Natural Resources, Wildlife Resources	25722	R657-38	AMD	01/15/2003	2002-24/48
woodburning					
Environmental Quality, Air Quality	26360	R307-201	5YR	06/11/2003	2003-13/71
workers' compensation					
Labor Commission, Industrial Accidents	26315	R612-2	5YR	05/28/2003	2003-12/77
	26316	R612-3	5YR	05/28/2003	2003-12/77
	26317	R612-5	5YR	05/28/2003	2003-12/78
	26314	R612-7	5YR	05/28/2003	2003-12/78
working toward employment					
Workforce Services, Employment Development	25827	R986-400-404	AMD	02/06/2003	2003-1/43
x-ray					
Environmental Quality, Radiation Control	25786	R313-28	AMD	03/14/2003	2003-1/27
youth					
Human Services, Administration, Administrative Services, Licensing	25707	R501-8	AMD	01/17/2003	2002-24/19
	25978	R501-8	NSC	03/01/2003	Not Printed
	25703	R501-16	NSC	02/26/2003	Not Printed
	26055	R501-16	5YR	02/26/2003	2003-6/17

KEYWORD AGENCY	FILE NUMBER	CODE REFERENCE	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
zoning					
Administrative Services, Facilities Construction and Management	25957	R23-9	5YR	01/15/2003	2003-3/63
	25988	R23-9	R&R	03/24/2003	2003-4/5
zoological animals					
Natural Resources, Wildlife Resources	26167	R657-3	5YR	04/15/2003	2003-9/136
	26166	R657-3	AMD	06/03/2003	2003-9/95